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MEMORANDUM OF MARCH 1, 1974

Memorandum for the Secretary of State, the Secretary of Defense

THE WHITE HOUSE,
Washington, March 1, 1974.

You are hereby designated and empowered to exercise the following functions vested in the President by Public Law 93–199, the Emergency Security Assistance Act of 1973, without the approval, ratification, or other action of the President. Functions not expressly delegated herein are reserved to the President.

1. Functions delegated to the Secretary of State:

   (a) the function of reporting to the Congress any determinations made by the President under Section 2 of the Act;
   (b) the function conferred in Section 6 of the Act.

2. Functions delegated to the Secretary of Defense:

   the function of providing military assistance or foreign military sales credits as determined by the President.

Pursuant to the authority contained in Public Law 93–240, the Foreign Assistance and Related Programs Appropriation Act, 1974, I hereby allocate from the appropriation for "Emergency Security Assistance for Israel" to the Secretary of Defense, $2,200,000,000.00. This allocation is subject to the limitations imposed by the provisos in the provision appropriating these funds and subject to apportionment of the necessary funds by the Office of Management and Budget. I direct the Secretary of Defense to allocate to the Secretary of State such sums from the $2,200,000,000.00 as may be necessary from time to time for payment by the United States of its share of the expenses of the United Nations Emergency Force in the Middle East, as apportioned by the United Nations in accordance with article 17 of the United Nations Charter as authorized in Section 6 of Public Law 93–199, the Emergency Security Assistance Act of 1973.

This memorandum shall be published in the FEDERAL REGISTER.

[FR Doc.74–6402 Filed 3–18–74;8:45 am]

Rules and Regulations

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

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

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Miscellaneous Revocations

Subpart C of Part 213 is amended to show that under the provisions of § 213.3101b, 26 positions are no longer excepted under Schedule C.

Effective March 19, 1974, Subpart C of Part 213 is amended as set out below.

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.* * * *

(8) One Private Secretary to each of two Assistant Directors.

* * * * *

(d) *Office of the Special Representative for Trade Negotiations.* (1) [Revoked]

* * * * *

§ 213.3305 Treasury Department.

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

(35) [Revoked]

* * * * *

(49) [Revoked]

* * * * *

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* (1) One Special Assistant and two Private Secretaries to the Secretary.

* * * * *

§ 213.3310 Department of Justice.

* * * * *

(v) *Office of Legislative Affairs.* * * *

(2) [Revoked]

* * * * *

§ 213.3312 Department of the Interior.

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

(2) Five Special Assistants to the Secretary.

(3) Five Special Assistants (Field Representatives).

* * * * *

(i) *Bonneville Power Administration.* * * *

(4) [Revoked]

* * * * *

§ 213.3314 Department of Commerce.

* * * * *

(n) *Office of the Assistant Secretary for Science and Technology.* * * *

(3) [Revoked]

* * * * *

(q) *Office of the Assistant Secretary for Economic Development.* (1) [Revoked]

§ 213.3315 Department of Labor.

* * * * *

(b) *Office of the Solicitor.* * * *

(2) [Revoked]

* * * * *

§ 213.3318 Environmental Protection Agency.

* * * * *

(b) *Office of Legislation.* * * *

(5) [Revoked]

* * * * *

§ 213.3329 Federal Power Commission.

* * * * *

(f) Two Technical Assistants to each of four Commissioners.

* * * * *

§ 213.3337 General Services Administration.

* * * * *

(f) *Property Management and Disposal Service.* * * *

(2) Two Confidential Assistants to the Commissioner.

* * * * *

§ 213.3342 Export-Import Bank of the United States.

* * * * *

(j) [Revoked]

* * * * *

§ 213.3384 Department of Housing and Urban Development.

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

(11) [Revoked]

* * * * *

(14) [Revoked]

* * * * *

(26) Three Senior Assistants for Legislative Affairs.

(27) Ten Assistants for Legislative Affairs.

* * * * *

(40) [Revoked]

(41) [Revoked]

* * * * *

(d) *Office of the Assistant Secretary for Community Planning and Management.* * * *

(3) Three Special Assistants to the Assistant Secretary.

* * * * *

§ 213.3394 Department of Transportation.

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

(20) [Revoked]

* * * * *

(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.74-6225 Filed 3-18-74;8:45 am]

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 Printing, Publishing, Broadcasting, and Related Services

The purpose of these amendments is to add an exemption under the Phase IV price regulations applicable to the prices charged by firms in the communications industry and the publishing and printing industries and by firms engaged in providing related services. A related exemption is being added under the Phase IV pay regulations. The pay exemption does not extend to employees of newspaper establishments.

In accordance with the Council's objective to remove controls selectively where conditions permit, the Council has decided to exempt the prices charged for products and services by firms in the communications industry, publishing and printing industry, and related service activities. The price exemption extends to prices charged by firms for activities listed in the Standard Industrial Classification Manual, 1972 Edition, under Major Group No. 27, Group Nos. 483, 489, 731, 733 and 735, Industry No. 7395, and public relations services listed under Industry No. 7392. The affected industries include printing and publishing and allied industries; radio and television broadcasting; communication services; advertising; mailing, reproduction, commercial art and photography, and stenographic services; news syndicates; public relations services; and photofinishing laboratories.

As a group, these industries are not highly concentrated, being composed of many small, highly competitive firms. Advertising is a principal source of revenue for most of these firms, with 1974 revenues projected at $28.3 billion. Of that amount, newspapers will account for about 40%, television 26%, direct mail 18%, and magazines and radio 8% each.

Price increases during the period of controls have been relatively moderate,

and the Council expects this pattern of moderate price increases to continue after decontrol.

Of the individual industries affected, only television broadcasting is characterized by a high degree of concentration, as it is dominated by the three major networks. Except for these networks, radio and television broadcasting firms are generally small establishments serving local and regional communities. Revenues for the industry are derived from advertising and are related to audience size and program popularity. The television and radio broadcasting industry is highly competitive with newspapers, magazines and other printed media. Advertising rates are currently very flexible and no wide variations in charges are likely to occur following decontrol.

The printing industry, including publishing, commercial printing, and related activities, is composed of a large number of firms. Its products (newspapers, magazines, books and greeting cards) and its services are generally discretionary items so that the impact of this industry on the economy is not large. Newspaper and magazine prices are generally set in relation to advertising revenues and do not always directly follow changes in cost. Many activities of this industry are dominated by small firms, most of which have not been subject to the Phase IV program because of their small size. These activities include bookbinding, printing trade services, and commercial printing. This exemption will put all firms in the industry on an equal footing.

The advertising and public relations industries are included in this exemption because of their importance to the advertising revenues of the communications and publishing and printing industries. Firms in these industries produce specialty services which are not greatly affected by price controls, as they are generally produced to customer specifications and needs. These services are performed for producers of discretionary products and services; therefore, prices in these industries have little direct effect on the economy as a whole.

Because this exemption covers the broadcasting industry, the special regulation for broadcasting (§ 150.206) is no longer necessary. Section 150.206 is deleted under these amendments.

Under §§ 150.11(e) and 150.161(b), a firm remains subject to the profit margin constraints and reporting provisions of the Phase IV program unless in its most recent fiscal year 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.

As a complementary action, the Council has also exempted pay adjustments affecting employees engaged on a regular and continuing basis in the operation of an establishment in most of the industries affected by the price exemption described above. However, because a number of important collective bargaining agreements are scheduled to be negotiated after the date of this regulation, a pay exemption has not been provided for employees working at newspaper establishments.

"Establishment in the printing, publishing, and publishing related industry" is defined in § 152.40x(b) as an establishment classified in the Standard Industrial Classification Manual, 1972 edition, under Major Group 27, except that establishments in Industry Number 2711 (Newspapers: Publishing; Publishing and Printing) are not within the scope of the exemption. "Establishment in the communications industry" is defined in § 152.40y(b) as an establishment under Group Number 483 (Radio and Television Broadcasting) or Group Number 489 (Communications Services Not Elsewhere Classified). "Establishment primarily engaged in providing certain business services" is defined in § 152.40z(b) as an establishment under Group Number 731 (Advertising); 733 (Mailing, Reproduction, Commercial Art and Photography, and Stenographic Services); 735 (News Syndicates); or Industry Number 7395 (Photofinishing Laboratories); the primary activity of which is providing a service described under such classifications. The business services pay exemption also applies to an establishment the primary activity of which is providing public relations services under Industry Number 7392.

The foregoing pay exemptions are not applicable to an employee who would otherwise be exempt, but receives an item of incentive compensation, or is a member of an executive control group. The exemptions are also inapplicable to any such employee whose duties and responsibilities are not of a type exclusively performed in or related to the particular industry exempted and whose pay adjustments are historically related to the pay adjustments of employees performing such duties outside such particular industry exempted and are not related to the pay adjustments of other employees that are within the particular industry exempted. The exemptions are further inapplicable to employees who are part of an appropriate employee unit where 25% 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 particular industry exempted or in support thereof. Because of an unsettled labor situation, the printing, publishing, and publishing related industry exemption is inapplicable to any appropriate employee unit subject to (a) a Decision and Order of the Council; (b) a Notice of Challenge issued by the Council pursuant to § 152.53 prior to [date of issuance of this regulation]; or (c) a prenotification requirement imposed by the Council pursuant to § 152.24 prior to [date of issuance of this regulation]. (However, the Council may by order withdraw any such limitations).

In cases of uncertainty of application, inquiries concerning the scope or coverage of any one of these pay exemptions 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 firm 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 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 15, 1974.

Issued in Washington, D.C., on March 15, 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 (ww) to read as follows:

§ 150.54 Certain price adjustments.

* * * * *

(ww) *Communications, Publishing, Printing and Related Services.* The prices which manufacturers of the following products and providers of the following services charge for those products and services are exempt: Products and services listed in the SIC Manual, 1972 edition, under Major Group No. 27; Group Nos. 483, 489, 731, 733, and 735; Industry

No. 7395, and public relations services listed in Industry No. 7392.

§ 150.206 [Deleted]

2. In 6 CFR Part 150, § 150.206 is deleted.

3. In 6 CFR Part 152, Subpart D is amended by adding thereto new §§ 152.40x, 152.40y, and 152.40z to read as follows:

§ 152.40x Printing, publishing, and publishing related industry.

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

(b) *Establishment in the printing, publishing, and publishing related industry.* For purposes of this section, "Establishment in the printing, publishing, and publishing related industry" means an establishment classified in the Standard Industrial Classification Manual, 1972 edition, under Major Group 27 (Printing, Publishing, and Allied Industries) (but not including establishments classified under Industry Number 2711 (Newspapers: Publishing, Publishing and Printing)), and primarily engaged in activities traditionally associated with establishments classified under Major Group 27.

(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 printing, publishing, and publishing related industry or in support of such operation only if such employee is employed at an establishment in the printing, publishing, and publishing related 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) Pay adjustments with respect to an appropriate employee unit which is subject to—

(i) A Decision and Order of the Council for the period covered by such Decision and Order;

(ii) A Notice of Challenge issued by the Council pursuant to § 152.53 prior to March 15, 1974; or

(iii) A prenotification requirement imposed by the Council pursuant to § 152.24 prior to March 15, 1974; although the Council may by order withdraw any of the limitations set forth in this subparagraph.

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

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

(4) Employees whose occupational duties and responsibilities are of a type not exclusively performed in or related to the printing, publishing, and publishing related industry and whose pay adjustments are—

(i) Historically related to the pay adjustments of employees performing such duties outside the printing, publishing and publishing related 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 printing, publishing, and publishing related industry or in support of such operation within the meaning of paragraph (c) of this section.

(5) Employees who are members of an appropriate employee unit if 25% 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 printing, publishing, and publishing related 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 15, 1974.

§ 152.40y Communications industry.

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

(b) *Establishment in the communications industry.* For purposes of this section, "Establishment in the communications industry" means an establishment classified in the Standard Industrial Classification Manual, 1972 edition, under Group Number 483 (Radio and Television Broadcasting) or Group Number 489 (Communication Services Not Elsewhere Classified) and primarily engaged in providing any of the communication services listed under such classifications.

(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 communications industry or in support of such operation only if such employee is employed at an establishment in the communications 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 communications industry and whose pay adjustments are—

(i) Historically related to the pay adjustments of employees performing such duties outside the communications 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 communications 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% 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 communications 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 15, 1974.

§ 152.40z Certain business services.

(a) *Exemption.* Pay adjustments affecting employees engaged on a regular and continuing basis in the operation of an establishment which is primarily engaged in providing certain business services referred to in paragraph (b) of this section or in support of such operation are exempt from and not limited by the provisions of this title.

(b) *Exempted business services.* For purposes of this section, "Establishment primarily engaged in providing certain business services" means an establishment classified in the Standard Industrial Classification Manual, 1972 edition, under Group Number 731 (Advertising); 733 (Mailing, Reproduction Commercial Art and Photography, and Stenographic Services); 735 (News Syndicates); or Industry Number 7395 (Photofinishing Laboratories); the primary activity of which is providing a service listed under such classifications. Such term also means an establishment the primary activity of which is providing public relations services under Industry Number 7392.

(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 that provides the business services referred to in paragraph (b) of this section of in support of such operation only if such employee is employed at an establishment referred to in paragraph (b) of this section 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 business services referred to in paragraph (b) of this section and whose pay adjustments are—

(i) Historically related to the pay adjustments of employees performing such duties outside the industry within which such establishment is classified; 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 such 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 which is primarily engaged in providing the business services referred to in paragraph (b) of this section 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 15, 1974.

[FR Doc.74-6436 Filed 3-15-74;4:00 pm]

Title 9—Animals and Animal Products

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

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

PART 73—SCABIES IN CATTLE

Areas Quarantined

This amendment quarantines portions of Cimarron County in Oklahoma because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the area quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies is hereby amended as follows:

In § 73.1a, a new paragraph (d) relating to the State of Oklahoma is added to read:

§ 73.1a Notice of quarantine.

* * * * *

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

(1) That portion of Cimarron County comprised of section 14, T. 4 N., R. 6 E.

(2) That portion of Cimarron County comprised of section 11, T. 3 N., R. 7 E.

(Sec. 4–7, 23 Stat. 32 as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

Effective date. The foregoing amendment shall become effective on March 14, 1974.

The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 14th day of March 1974.

J. M. HEJL,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.74-6310 Filed 3-18-74;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY OFFICE

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Monthly Reports by Refiners and Importers

Subpart L of the Mandatory Petroleum Allocation Regulations, concerning reports and recordkeeping, is revised to require that prime suppliers file their monthly reports with the Federal Energy Office at least ten (10) days prior to the commencement of the month to which the report related. This revision is made to assure that the Federal Energy Office will have sufficient time to complete the calculations necessary to establish the volumes of the several State set-asides described in Part 211. Therefore, the prime suppler's monthly report for the month of April is due in Box 2980, Washington, D.C. 20013, or in Room 512, Winder Building, 17th and F Streets NW., Washington, D.C., before the close of business March 21, 1974. The report itself is simplified, in that it is to be aggregated to the refiner, not the refinery, level.

Because the purpose of this revision is to provide immediate guidance and information with respect to the mandatory petroleum allocation and price regulations, the Federal Energy Office finds that normal rule-making procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, E.O. 11748, 38 FR 33575; Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11730, 38 FR 19345; Cost of Living Council Order 47, 39 FR 24)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations is revised as set forth below, effective immediately.

Issued in Washington, D.C., March 18, 1974.

WILLIAM N. WALKER,
General Counsel, Federal Energy Office.

Section 211.222 is revised in paragraph (b) to read as follows:

§ 211.22 Monthly report by refiners and importers.

* * * * *

(b) Beginning with the month of March 1974 and thereafter, prime suppliers shall report monthly to the National FEO, appropriate Regional FEO, and appropriate State offices items (4) through (10) of § 211.222(a) by refiner, not by refinery. This report will be the basis of the State set-aside program. Notwithstanding the provisions of § 205.4 concerning constructive receipt of documents submitted by registered or certified mail, the prime supplier's monthly report must be delivered to the National FEO in Washington, D.C., on or before the tenth day prior to the commencement of the month described as "the following month" in § 211.222(a)(5).

[FR Doc.74-6501 Filed 3-18-74;10:57 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 225—BANK HOLDING COMPANIES

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Bank Acquisitions by Holding Companies

The purpose of this amendment is to grant to the Federal Reserve Banks authority to approve under delegated authority the *retention* of bank stock acquired in a fiduciary capacity where a bank holding company undertakes unconditionally to dispose of such shares or the sole discretionary authority to vote such shares within a two-year period. This delegation provides that such applications shall be deemed to be approved 45 days after the application has been accepted by the Reserve Bank. To accompish this delegation, § 265.2(f)(29) is added and § 225.3 of Regulation Y is amended as set forth below.

1. Section 265.2(f)(29) is added to read as follows:

§ 265.2 Specific functions delegated to Board employees and Federal Reserve Banks.

* * * * *

(f) *Each Federal Reserve Bank* is authorized, as to member banks or other indicated organizations headquartered in its district, or under paragraph (f)(25) of this section as to its officers:

* * * * *

(29) Under the provisions of section 3(a) of the Bank Holding Company Act (12 U.S.C. 1842), to approve by a letter of notification without compliance with § 262.3(h) of the Board's Rules of Procedures, the retention of shares of bank stock acquired in a fiduciary capacity (with sole voting rights) for a two-year period from the date of such acquisition, provided that the Applicant undertakes unconditionally to dispose of such shares or its sole discretionary voting rights with respect to such shares within two years from the date of such acquisition.

2. Section 225.3 of Regulation Y (concerning acquisition of bank shares) is amended by adding § 225.3(c) to read as follows:

§ 225.3 **Acquisition or retention of bank shares or assets.**

* * * * *

(c) *Applications to retain shares acquired in a fiduciary capacity.* Applications under this subsection are processed on the basis of a letter of notification without compliance with section 262.3(h) of the Board's Rules of Procedure. Any application for the Board's approval to retain shares of bank stock acquired in a fiduciary capacity (with sole voting rights), which is accompanied by an unconditional undertaking by the Applicant to dispose of such shares or its sole discretionary voting rights with respect to such shares within two years from the date of such acquisition, shall be deemed to be approved 45 days after the Applicant has been informed by the Reserve Bank that said application has been accepted, unless the Applicant is notified to the contrary within that time or is granted approval at an earlier date.

* * * * *

3. The provisions of section 553 of title 5, United States Code, relating to notice and public participation and to deferred effective dates, are not followed in connection with the adoption of § 225.3(c), because the rule involved therein is procedural in nature and accordingly does not constitute a substantive rule subject to the requirements of such section.

Effective date. This amendment is effective with respect to applications received by the Reserve banks on and after March 19, 1974 and also to applications pending before the Board.

By order of the Board of Governors, March 14, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-6335 Filed 3-18-74;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

[Docket No. C-2059]

PART 13—PROHIBITED TRADE PRACTICES

Procter & Gamble Co.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Modifying order, The Procter & Gamble Company, Cincinnati, Ohio, Docket C-2C59, February 26, 1974.]

In the matter of The Procter & Gamble Company, a corporation. Order reopening proceeding and modifying cease and desist order, 36 F.R. 22149, 79 F.T.C. 589, by deleting two (2) paragraphs of the order which require respondent to disclose the approximate numerical odds of winning each prize awarded in its promotional "sweepstakes" contests or the approximate number of recipients to whom the offer is directed where odds are not reasonably capable of calculation.

The modifying order is as follows:

The Commission, on January 22, 1974, having issued an order against respondent to show cause why the proceedings herein should not be reopened for the purpose of modifying the consent order to cease and desist entered on October 8, 1971; and

Respondent having answered that it has no objection to the reopening of the proceedings and the modification of the consent order, as set forth in the order to show cause.

Accordingly, *It is ordered*, That the matter be reopened, and that the order herein be modified in the following manner: strike section A(2); renumber sections A(3), A(4), A(5), and A(6) as, respectively, A(2), A(3), A(4), and A(5); strike section B(3); renumber sections B(4) and B(5) as, respectively, B(3) and B(4).

By the Commission.

Issued: February 26, 1974.

CHARLES A. TOBIN,
Secretary.

[FR Doc.74-6220 Filed 3-18-74;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5466, 34-10673, 35-18315, 40-8265]

PART 231—INTERPRETIVE RELEASE RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

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

Corporation Finance Division; Views on Disclosure of Illegal Campaign Contributions

The Commission has noted that it has received a number of inquiries from issuers, stockholders, and other persons relating to whether disclosure should be made where the issuer and/or its officers or directors have been charged in an information or indictment with, or convicted of, making illegal campaign contributions in violation of 18 U.S.C. section 610. "Contributions or Expenditures by National Banks, Corporations or Labor Organizations." That section makes it unlawful, among other things, for "any corporation whatever * * * to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in * * * Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices * * *" and imposes a penalty of up to $5000 on the corporation making the contribution. 18 U.S.C. Section 610 also makes every officer or director who consents to the contribution guilty of a misdemeanor if the violation is not willful, and guilty of a felony if the violation is willful. In view of such inquiries, the Commission determined today to publish views and comments of its Division of Corporation Finance relating to these matters.

In the Division's view, the conviction of a corporation and/or its officers or directors for having made illegal campaign contributions in violation of 18 U.S.C. Section 610 is a material fact that should be disclosed to the public and specifically to shareholders, particularly in the context of a proxy statement where shareholders are being asked to vote for management. Such a conviction is material to an evaluation of the integrity of the management of the corporation as it relates to the operation of the corporation and the use of corporate funds.

It is the Division's position that disclosure of such a conviction, or of a plea of guilty or *nolo contendere* to an indictment or information alleging a violation of 18 U.S.C. section 610, should be made in a proxy or information statement relating to the election of directors, in the annual report on Form 10-K (17 CFR 249.310) under the Securities Exchange Act of 1934 (Exchange Act) in response to Item 5 or 12,[1] in a report filed on Form 8-K (17 CFR 249.308) under the Exchange Act in response to Items 3 or 13, and in response to appropriate items in the relevant form used for registration of any of the corporation's securities.[2] Such disclosure should include, in addition to a description of the details of the conviction or plea and the penalty imposed, and as appropriate, information as to whether any funds of the corporation used to make the contribution, directly or indirectly, will be paid back by the officer or director or by the contributee, whether the corporation or its insurers have paid or reimbursed, or intend to pay or reimburse, any officer or director for any fines imposed or legal fees or other expenses of his defense, whether the use of corporate funds for the illegal contributions involves any undisclosed tax consequences to the corporation, whether the corporation will seek reimbursement from the officer or director for its fines or expenses, and what steps, if any, the corporation is taking or will take to avoid recurrence of such activity.

The Division is also of the view that any pending indictment or information alleging violations of 18 U.S.C. section 610 should be disclosed. Questions have been raised about disclosure of campaign contributions that may be illegal but have not yet become the subject of a formal proceeding. In such cases, management is usually in the best position to inquire into, to examine and weigh

[1] In the case of issuers who file annual reports on different forms, see the corresponding item on such forms.

[2] Notwithstanding the absence of a required item of information in a particular form, see Rules 408 (17 CFR 230.408) under the Securities Act of 1933 and Rules 12b-20 (17 CFR 240.12b-20) and 14a-9 (17 CFR 240.14a-9) under the Exchange Act as to general requirements for additional disclosure of material information.

the facts and circumstances and to determine whether disclosure is necessary.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

MARCH 8, 1974.

[FR Doc.74-6290 Filed 3-18-74;8:45 am]

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Registration of Certain Offerings of Outstanding Securities; Correction

In Release No. 33-5265 dated June 27, 1972, which was published in the FEDERAL REGISTER for August 9, 1972 (37 FR 15989), the Commission announced certain revisions in the Instructions and items to Form S-16 (17 CFR 239.27). The effect of such revisions was not reflected in an amendment to § 239.27 in Chapter II of Title 17 of the Code of Federal Regulations through an oversight. Accordingly, current editions of Title 17 of the Code of Federal Regulations should be corrected by revising § 239.27 of Chapter II thereof to read as follows:

§ 239.27 Form S-16, optional form for registration of certain offerings of outstanding securities and for offerings to holders of certain convertible securities or for offerings to holders of certain outstanding warrants.

(a) Form S-16 may be used for registration under the Securities Act of 1933 of the following securities of any issuer which at the time of filing the registration statement meets the requirements for the use of Form S-7 (§ 236.26):

(1) Outstanding securities to be offered for the account of any person other than the issuer, if securities of the same class are listed and registered on a national exchange or are quoted on the automated quotation system of a national securities association;

(2) Securities to be offered upon the conversion of outstanding convertible securities of the issuer of the securities to be offered, or of an affiliate of such issuer, provided no commission or other remuneration is paid for soliciting the conversion of the convertible securities; or

(3) Securities to be offered upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, provided no commission or other remuneration is paid for soliciting the exercise of such warrants.

(b) Form S-16 may be used by closed end management investment companies for the registration of outstanding securities under the Securities Act of 1933 for the purposes specified in paragraph (a)(1) only (above) and subject to the applicable requirements of section 18(d) of the Investment Company Act of 1940. The form is available to a closed end management investment company provided that such company: (1) Is registered as a closed end management investment company under the Investment Company Act of 1940, (2) has been subject to and has complied in all respects including the timeliness of filings, with the requirements of sections 20(a) and 30 (a) and (b) of the Investment Company Act of 1940 for a period of at least three fiscal years prior to the filing of the registration statement on this form, and (3) meets the requirements of paragarphs (c) through (f) of the Rule as to the use of the Form S-7.

For the Commission pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

MARCH 11, 1974.

[FR Doc.74-6291 Filed 3-18-74;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 74-94]

PART 6—AIR COMMERCE REGULATIONS

Permission for First Landing

On December 17, 1973, there was published in the FEDERAL REGISTER (38 FR 34668), a notice of a proposed amendment to § 6.2(a) of the Customs regulations to provide that permission for first landing of scheduled aircraft operated by scheduled airlines elsewhere than at an international airport shall be granted by the regional commissioner of Customs, or his designee, of the region where the place of first landing will occur.

After careful consideration of the comments received in response to the notice of the proposed amendment, no substantive changes in the proposed amendment were deemed necessary.

Accordingly, the third, fourth, and fifth sentences of § 6.2(a) of the Customs regulations are amended to read as follows:

§ 6.2 Landing requirements.

(a) *Place of landing.* * * *. In the case of scheduled aircraft operated by scheduled airlines, such permission shall be granted by the regional commissioner of Customs, or his designee, of the region where the place of first landing will occur, and in all other cases by the district director or other Customs officer in charge at the port of entry or Customs station nearest the intended place of first landing. For procedure to be followed in the case of emergency or forced landing, see paragraph (g) of this section. When permission is granted to land elsewhere than at an international airport, the Public Health Service, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, and any other Agency likely to be concerned with the landing shall be immediately notified by the Customs officer granting the permission. * * *.

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 1109, 72 Stat. 799, as amended; 19 U.S.C. 66, 1624 (49 U.S.C. 1509))

Effective date. This amendment shall be effective April 18, 1974.

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

Approved: March 8, 1974.

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

[FR Doc.74-6246 Filed 3-18-74;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 22, further amended]

PART 422—ORGANIZATION AND PROCEDURES

Subpart B—General Procedures

ISSUANCE OF SOCIAL SECURITY NUMBERS

On August 7, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 21271-21274) regarding the issuance of social security numbers. The proposed rules would implement that part of section 137 of the Social Security Amendments of 1972 (Pub. L. 92-603) which (1) directs the Secretary to take affirmative measures to assign social security numbers to aliens at the time of their lawful admission to the United States for permanent residence or under conditions permitting them to engage in employment in the United States, and (2) directs the Secretary to require applicants for social security numbers to furnish evidence to establish their age, true identity, citizenship or alien status. The proposed amendments to the regulations provided for the issuance of social security numbers to aliens who are not permanent residents but who need numbers for nonwork purposes. They also provided that the Social Security Administration would furnish to the Immigration and Naturalization Service, under specified conditions, certain information obtained in connection with an application for a social security number by an alien.

The period for comments ended on September 6, 1973, and 11 letters of comments were received in response to the proposal. While comments were varied, most were concerned with proposals for the issuance of numbers to aliens. There follows a discussion of the comments and the disposition thereof.

In the proposed § 422.103(c), it was set out that an applicant for a number will be required to furnish evidence to assist the Social Security Administration in establishing his age, citizenship, alien status, true identity, and previously assigned social security number(s), if any. One writer noted that it is not clear if, or how, an application submitted by mail can be processed. The applicant can submit his evidence by mail or by messenger, provided he is willing to relinquish the evidence. The Social Security Administration will cooperate, so far as possible; however, the evidence must be submitted.

There are no present requirements, either of statute or of regulations, of methods to be used by an individual to submit applications or evidence to the Social Security Administration. This is a matter the Social Security Administration considers better left to the discretion of the individual.

The same section notes that the completed application will be forwarded to the central office of the Social Security Administration for checking against the Administration's files. However, if the applicant requests a social security number card immediately, a temporary unnumbered card will be issued. One writer suggested that the issuance of the unnumbered card seems unnecessary and constitutes a nonproductive administrative effort and an unwise expenditure of trust fund moneys. Unnumbered cards are issued in those situations where a newly employed person must demonstrate to his employer that he has applied for a social security number. The issuance is done as a matter of public convenience with a minimum of administrative effort and costs. Therefore, there is no real reason to discontinue this procedure.

In § 422.104, there were set out certain groups to which the Social Security Administration shall assign numbers. Three such groups are:

(a) To aliens at the time of their lawful admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States;

(b) Upon request, to aliens who are legally in the United States but not under authority of law permitting them to engage in employment, but only for a nonwork purpose; and

(c) To other aliens already in the United States at such time as their status is so changed as to make it lawful for them to engage in employment in the United States.

One writer suggested that numbers should not be assigned to persons in the first two categories unless prefixes or suffixes were included to identify the special status of the account number holder. He further suggested that numbers should not be assigned to persons in the third category until such time as they become citizens of the United States. It should be noted that the Congress has specifically directed the Secretary to take affirmative measures to assign numbers to persons in the first and third categories. Therefore, the suggestion that numbers not be assigned to persons in these categories is rejected. It must be recognized that aliens may need a social security number for purposes other than employment. As one example, section 6109 of the Internal Revenue Code provides in part that any person required to make a tax return shall include in the return the prescribed identifying number. This number has been set out in Internal Revenue Service regulations to be the social security number. Section 6109 has not been repealed, and thus there remains an obligation to assign a social security number to an alien who requires it for tax purposes. Further, section 137 of Pub. L. 92–603 does not contain an express prohibition against the issuance of numbers to aliens who are not permitted to work in this country. It is assumed that specific words of prohibition would have been used had Congress so intended.

The suggestion that distinctive prefixes or suffixes be used to identify aliens is not accepted. With minor exceptions, an alien employed in this country has the same obligation to contribute to the social security program as does a citizen. That being so, there is no reason to issue "second-class" numbers to the alien.

Several writers were concerned that the proposed regulations did not more precisely define aliens who were admitted under authority of law permitting them to engage in employment in the United States. The concern centered around students, temporary workers, and exchange visitors. Temporary workers are, of course, admitted to the United States specifically to engage in employment. Students are authorized to be employed on campus, and exchange visitors are authorized to accept work which is part of their program. Both may work in other circumstances, if authorized by the Immigration and Naturalization Service. Further, other persons are admitted to the United States specifically for employment purposes. Examples of such are treaty traders, entertainers, and representatives of foreign information media. In drafting the original proposals, it was not considered necessary to specify those nonimmigrants who were considered as admitted to the United States with authority to engage in employment. To alleviate public concern, though, there is set out in the final regulations a statement of presumptions regarding authority of certain nonimmigrants to accept employment. Under such presumptions, students and teachers need not demonstrate that they have specific authority to work.

Under arrangements with the Department of State, consular officers will obtain applications for social security numbers from immigrants entering the United States for permanent residence, from fiances of U.S. citizens, and from children of these fiances. One writer suggested that the regulations be amended to state that consular officers will obtain applications from nonimmigrant aliens who are authorized to work in the United States. This suggestion cannot be adopted due to the terms of the present understanding with the Department of State.

Several writers requested that this section be clarified as to where a nonimmigrant alien should apply for a social security number as it was implied that applications must be made through the Immigration and Naturalization Service. Language has been added to emphasize that the Immigration and Naturalization Service will be involved only when the status of an individual changes from nonimmigrant to alien lawfully admitted for permanent residence.

Applicants for social security numbers are required to submit evidence of their age, identity, and citizenship or alien status. The proposed § 422.107 deals with evidentiary requirements. One writer noted that some persons would not possess any of the documents listed as acceptable evidence of age and identity and asked whether the Department would accept affidavits from persons having first-hand knowledge of the facts in question. Affidavits will be accepted for consideration, but whether they would be regarded as convincing would depend upon the individual case. However, it is not proposed to revise the regulations to include affidavits among the examples of evidence. The omission of a piece of evidence from the examples does not preclude its consideration, and it is possible that the specific inclusion of affidavits might create an impression that an affidavit would be preferred over other types of evidence which were not included. The comment did cause a reexamination of the proposed language to ascertain whether a literal reading would convey an impression that the pro forma presentation of documents would satisfy the evidentiary requirement. There is no indication that the proposed regulations were so interpreted; nevertheless, the opening sentence of the section has been revised to refer to "evidence as the Secretary may regard as convincing." Two writers objected to the acceptance of a driver's license or voter registration card as evidence of identity. Since they gave no specific reasons for objecting to the use of these documents for such purpose, their objections are not accepted. In passing, it is noted that a driver's license is a preferred identity document in this country, often to the virtual exclusion from consideration of any other document.

The proposed § 422.107(d) deals with evidence of United States citizenship and notes that an allegation of citizenship by birth will generally be supported by the evidence of age and identity prescribed in the regulations. Upon request, however, additional evidence must be supplied. The meaning of the prior sentence was questioned by one writer who noted that a native-born citizen who had presented evidence of age and identity might be requested in any instance when that initially presented is not convincing; however, additional evidence of citizenship must be requested only in those instances where the evidence of age or identity does not show place of birth or disagrees with the applicant's allegation of birth in the United States. The section has been revised accordingly.

The same section refers to use of U.S. district court records to confirm the status of naturalized citizens. Several writers pointed out that State courts also have authority to grant naturalization. Therefore, the phrase "U.S. district" is deleted.

Section 422.107(d) deals with evidence of alien status. One writer objected to the term "alien status" and stated that this would require the individual to

establish his particular foreign nationality. There is nothing in the text that imposes such requirement, so no change in language has been made on this account. Another writer noted a restriction of acceptable evidence to possession of an Alien Registration Receipt Card (Form I–151) or an Arrival-Departure Record (Form I–94). It was stated that an alien might not be issued an I–151 until he had been in the United States for several months and that he might need a social security number before the document could be issued. It may have been overlooked that henceforth immigrants will apply for social security numbers as part of the visa process. Forms I–151 will be presented by those people who have already immigrated to the United States but who have had no previous need for a social security number. Sufficient time will have elapsed for those people to be in possession of Form I–151.

In various subsections of § 422.107, provisions were made for notice to Immigration and Naturalization Service in certain circumstances. Several writers objected to this. One felt that it violated the confidential nature of Social Security Administration records. Section 1106 of the Social Security Act directs the records in the possession of the Department shall not be disclosed, except as the Secretary may by regulations prescribe. Present regulations provide for disclosure of information to other Federal agencies and to agencies of State governments when such disclosure is reasonably related to the administration of the various programs authorized by the Social Security Act. It is considered that disclosure of information to the Immigration and Naturalization Service is reasonably necessary when verification of the alien status of an applicant for a social security number is at issue. Further, § 422.107(d)(5) requires that each applicant for a social security number be advised in advance of his executing an application that information may be referred to the Immigration and Naturalization Service. The applicant is then free to choose whether he wishes his application processed under those conditions. Another writer argued that the Social Security Administration should not take on the additional burden of enforcement of immigration laws. To an extent, the Social Security Administration already has this responsibility as section 290(c) of the Immigration and Nationality Act directs the Administration to supply information needed to locate certain aliens. Further, it is proposed to forward information to the Immigration and Naturalization Service only when the proper status of the applicant is at issue. Congress has specifically directed that affirmative action be taken to ascertain the citizenship or alien status of every applicant for a social security number, and notice will be given to the Immigration and Naturalization Service pursuant to this directive.

In § 422.107(d)(3), it is provided that the Immigration and Naturalization Service will be notified when an alien applicant refuses to comply with a request for evidence or where he furnished invalid or expired Immigration and Naturalization Service documents. One writer noted that the opening sentence of the section directed immediate referral while a subsequent sentence afforded the applicant a reasonable opportunity to submit the evidence. The point is well taken. The reference to immediate referral has been removed. Notice will be given to the Service only after the applicant has been given a reasonable time to submit evidence and only after the Social Security Administration has made an attempt to contact him to obtain the evidence.

Another writer suggested that more emphasis should be placed upon referrals for submission of invalid or expired documents. The Department agrees. A separate section now deals with this subject and is numbered § 422.107(d)(4); the proposed § 422.107(d)(4) is renumbered § 422.107(d)(5).

Another writer suggested that the term "invalid or expired Immigration and Naturalization Service documents" needed fuller definition. The term was intended to encompass forged documents purportedly issued by the Service, properly issued documents which were subsequently altered, and documents whose terms of validity have expired.

Accordingly, with these changes and additions, the proposed amendments are adopted as set forth below.

(Secs. 204 and 1102, 53 Stat. 1368, as amended, and 49 Stat. 647, as amended; 42 U.S.C. 405 and 1302)

Effective date. These amendments shall become effective on March 13, 1974.

(Catalog of Federal Domestic Assistance Program Nos. 13.800–13.807, Social Security)

Dated: November 20, 1973.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: March 8, 1974.

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

Subpart B of Regulation No. 22 is amended as set forth below.

1. Section 422.103 is revised to read as follows:

§ 422.103 Social security numbers for employees and self-employed persons.

(a) *General.* The Social Security Administration maintains a record of the earnings reported for each individual. (When an individual obtains a social security number card, a social security earnings record is set up.) The individual's name, together with the number on the card, identifies the record so that the wages or self-employment income reported for or by the individual can be properly posted to such individual's record. Additional procedures concerning social security numbers may be found in Internal Revenue Service, Department of the Treasury regulation 26 CFR 31.-6011(b)–2.

(b) *Applying for a number.* Every individual needing a social security number may apply for one by filing Treasury Department Form SS–5, "Application for Social Security Number," at any local social security office, or, if the individual is in the Philippines, at the Veterans' Administration Regional Office, Manila, Philippines. (See § 422.105 for special procedures for immigrants and certain nonimmigrants.) Form SS–5 may be obtained at:

(1) Any local social security office;

(2) The Social Security Administration, Baltimore, Maryland 21235;

(3) Offices of District Directors of Internal Revenue;

(4) U.S. Postal Service offices (except the main office in cities having a social security office);

(5) U.S. Employment Service offices in cities which do not have a social security office; and

(6) The Veterans' Administration Regional Office, Manila, Philippines.

Upon request, the social security office will distribute a quantity of application forms SS–5 to labor unions, employers, or other representative organizations.

(c) *Assignment procedure.* Social security numbers are assigned by the Central Office of the Social Security Administration in Baltimore, Maryland. Upon receipt of a completed form SS–5, the local social security office, or the Veterans' Administration Regional Office, Manila, Philippines, will require the applicant to furnish evidence, as necessary, to assist the Social Security Administration in establishing his or her age, citizenship, alien status, true identity, and previously assigned social security number(s), if any. (See § 422.107 for evidence requirements.) Upon satisfactory establishment of the pertinent items, the social security office or Veterans' Administration Regional Office forwards the application to the Social Security Administration Central Office for checking against the Administration's files. If the applicant requests a social security number card immediately, a temporary unnumbered card (form OAAN–5028) will be issued. If the investigation does not disclose a previously assigned number, the Central Office assigns a number and forwards to the applicant Form OA–702, "Social Security Number Card." If the investigation discloses a previously assigned number, a duplicate social security number card is issued to the applicant. For issuance of social security numbers to aliens and other groups or categories, see § 422.104.

(d) *Replacement of lost or damaged social security number card.* In case of loss of or damage to the social security number card, a duplicate card bearing the same number will be issued. If the individual has the "stub" portion of the card or the damaged card in legible condition, any local social security office or the Veterans' Administration Regional Office, Manila, Philippines will issue the duplicate card. In all other instances the individual should submit a properly completed application for a social security number (form SS–5).

2. Sections 422.104 and 422.104a are added to read as follows:

§ 422.104 Assignment of social security numbers.

Social security numbers may be assigned to the following:

(a) U.S. citizens, upon request;

(b) Aliens lawfully admitted to the United States for permanent residence or under other authority of law permitting them to engage in employment in the United States (see § 422.104a regarding presumption of authority of nonimmigrant alien to engage in employment); and

(c) Aliens who are legally in the United States but not under authority of law permitting them to engage in employment, but only for a nonwork purpose (see § 422.107(d) (1) and (2)).

§ 422.104a Presumption of authority of nonimmigrant alien to accept employment.

The nonimmigrant visa classifications assigned by the Department of State shall be used to determine whether a nonimmigrant alien is authorized to engage in employment. (See 22 CFR 41.12 for these classifications.) Permission to engage in employment shall not be presumed in the case of an alien who has not been issued a visa or whose visa shows any one of the following classification symbols: B–1, B–2, B–1 and B–2, C–1, C–2, C–3, F–2, H–4, and L–2. Holders of visas bearing other classifications will be presumed to have authorization to work.

3. Section 422.105 is added to read as follows (present §§ 422.105 and 422.110 are renumbered §§ 422.110 and 422.112 respectively):

§ 422.105 Obtaining applications from immigrants and certain nonimmigrant classes.

As a part of the visa process, United States consular offices throughout the world obtain applications for social security numbers from immigrants entering the United States for permanent residence, from fiances or fiancees of U.S. citizens and children of these fiances or fiancees. The consular office also verifies the age, identity, and alien status of these individuals. After verification of the age, identity, and alien status of the individual, the consular office forwards the application to the Central Office of the Social Security Administration. If investigation does not disclose a previously assigned number, the Central Office assigns a number and forwards a social security number card to the applicant at the United States address given on the application. The Immigration and Naturalization Service performs a similar function with respect to aliens who entered this country without immigration visas and who, subsequent to entry, acquired status as lawful permanent residents of the United States. The Immigration and Naturalization Service obtains from each such alien an application for a social security number and, after verifying the alien's age and identity, forwards the application to the Central Office of the Social Security Administration. If investigation does not disclose a previously assigned number, the Central Office assigns a number and forwards a social security number card to the applicant.

4. Section 422.107 is added to read as follows:

§ 422.107 Evidence requirements.

Applicants for social security numbers are required to submit such evidence as the Secretary may regard as convincing of their age, citizenship, or alien status, and true identity. An applicant is also required to submit evidence to assist the Administration in determining the existence and identity of any previously assigned number(s). In the case of a noncitizen, evidence is also required to establish whether the applicant, because of his alien status, is prohibited from engaging in employment in the United States. A social security number will not be assigned unless all of the evidence requirements are met. (For verification of age, identity, and alien status of immigrants and certain nonimmigrant classes entering the United States, see § 422.105.)

(a) *Evidence of age.* Upon request, all applicants for a social security number are required to submit evidence of age to support the date of birth alleged. Examples of the types of evidence which may be submitted are birth or baptismal certificates, school and church records, census records, insurance policies, marriage records, employment records, and passports.

(b) *Evidence of identity.* Upon request, all applicants for a social security number are required to submit corroborative evidence of their identity. Corroborative evidence of identity may consist of a driver's license, a voter registration card, a birth certificate, a passport, or other similar document serving to identify the individual. It is preferable that the document contain the applicant's signature for comparison with his signature on the application for a social security number.

(c) *Evidence of U.S. citizenship.* Generally, an allegation of U.S. citizenship by birth will be supported by the evidence of age and identity described in paragraphs (a) and (b) of this section. Additional evidence must be supplied when the evidence of age or identity does not show place of birth or where such evidence of age or identity does not agree with the applicant's allegation of birth in the United States. Where an applicant indicates that he is foreign born and that he is a U.S. citizen, he is required to present documentary evidence of U.S. citizenship. Any of the following is acceptable evidence of U.S. citizenship:

(1) Certificate of naturalization;

(2) Certificate of citizenship;

(3) U.S. passport;

(4) U.S. citizen identification card (INS form I–179 or I–197); or

(5) Consular report of birth (State Department form FS–240). If such required evidence is not available, and court records do not confirm the allegation of U.S. citizenship, the Immigration and Naturalization Service will be contacted. If the Service has no record of the applicant's citizenship, a social security number will not be assigned until satisfactory evidence of U.S. citizenship is furnished.

(d) *Evidence of alien status*—(1) *Citizen of country other than Canada or Mexico.* Where the applicant is a foreign citizen (of a country other than Canada or Mexico), such applicant is required to have an Alien Registration Receipt Card (I–151) or an Arrival-Departure Record (I–94) and will be asked to produce such document. If the applicant fails to do so, a social security number will not be issued and the Immigration and Naturalization Service will be notified of these circumstances. If the applicant produces an Alien Registration Receipt Card, or produces an Arrival-Departure Record which contains an authorization to work, a social security number card will be issued. However, if the Arrival-Departure Record does not contain authorization to work and the social security number is for a work purpose, it will not be issued and the Immigration and Naturalization Service will be notified of the circumstances. If the applicant requests the number for a nonwork purpose, e.g., an Internal Revenue Service purpose, the number will be issued and the record will be annotated. In the latter case, if earnings are later reported to the Administration, the Immigration and Naturalization Service will be notified of such report.

(2) *Mexican or Canadian citizen.* If a Canadian or Mexican citizen has an Alien Registration Receipt Card or an Arrival-Departure Record, the rules in paragraph (d) (1) of this section apply. If a Canadian or Mexican citizen is legally in the United States with a border crossing card, a border visitor's permit (or, in the case of a Canadian citizen, without documentation), but does not have an Alien Registration Receipt Card or an Arrival-Departure Record, and wishes a social security number for a nonwork purpose, e.g., an Internal Revenue Service purpose, the Administration will assign a number to the applicant and issue a number card, except that the record will be annotated and, in addition, the Immigration and Naturalization Service will be notified if earnings are reported to the earnings record.

(3) *Failure to submit evidence.* If the applicant does not comply with a request for evidence or other information regarding alien status within a reasonable time, the Administration will again attempt to contact him. If there is still no response, the Immigration and Naturalization Service will be notified.

(4) *Invalid or expired documents.* The Administration will immediately notify the Immigration and Naturalization Service when an applicant presents invalid or expired Immigration and Naturalization Service documents. Invalid documents are forged documents purportedly issued by the Immigration and Naturalization Service or properly issued documents which were altered subsequent to issue. An expired document is one whose term of validity has expired.

(5) *Notice to alien applicant.* An alien who applies for a social security number will be advised that information obtained by the Social Security Administration in connection with his application for, and issuance of, a social security number might be transmitted to the Immigration and Naturalization Service. If a number is to be issued for nonwork purposes, the applicant will be advised that the Immigration and Naturalization Service will be notified should earnings be reported to his earnings record.

5. Section 422.108 is added to read as follows:

§ 422.108 Criminal penalties.

A person may be subject to criminal penalties for furnishing false information in connection with earnings records or for wrongful use or misrepresentation in connection with social security numbers, pursuant to section 208 of the Social Security Act and sections of Title 18 of the United States Code (42 U.S.C. 408; 18 U.S.C. 1001 and 1546).

6. Renumbered § 422.110 (former § 422.105) is revised to read as follows:

§ 422.110 Individual's request for change in record.

Form OAAN-7003, "Request for Change in Social Security Records," should be completed by any person who wishes to change the name or other personal identifying information previously submitted. This form may be obtained from any local social security office or from one of the sources noted in § 422.103(b). The completed request for change in records may be submitted to any office of the Social Security Administration, or, if the individual is in the Philippines, to the Veterans' Administration Regional Office, Manila, Philippines. If the request is for a change in name, a new social security number card will be issued to the person making the request bearing the same number previously assigned.

7. Present § 422.110 is renumbered § 422.112 as follows:

§ 422.112 Employer identification numbers.

* * * * *

[FR Doc.74-6169 Filed 3-18-74;8:45 am]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 70—EXAMINATION AND COPYING OF DEPARTMENT OF LABOR DOCUMENTS

Cost of Transcripts of Departmental and Advisory Committee Hearings

Section 11 of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770, 5 U.S.C. App.) provides that except where prohibited by contractual agreements entered into prior to the effective date of the Act (January 5, 1973), agencies and advisory committees shall make available to any person at the actual cost of duplication, copies of transcripts of agencies' proceedings or advisory committee meetings. Paragraph (g) of § 70.62 is revised to reflect this change in the law.

As this amendment reflects the present Departmental practice in connection with charges made for transcripts, and further it publicizes a benefit conferred upon the public by the Federal Advisory Committee Act, neither notice of proposed rulemaking nor delay in the effective date is necessary. Accordingly, this amendment shall be effective March 19, 1974.

Paragraph (g) of § 70.62 is hereby revised to read as follows:

§ 70.62 Special searching and copying services.

* * * * *

(g) *Transcripts of proceedings.* Copies of transcripts of hearings and other proceedings pertaining to matters within the purview of the Department of Labor or any of its programs or advisory committees and available for inspection and copying pursuant to the provisions of this part will be furnished upon payment of the actual cost of duplication. If however, the transcript was furnished to this Department under the provisions of a contract executed prior to January 5, 1973, the effective date of the Federal Advisory Committee Act, under contractual provisions which prohibit the Department from reproducing the transcript, copies of such transcripts prepared by persons or firms reporting the proceedings may be obtained upon application to the reporter and payment of the reporter's fees at the rate provided in the contract. The foregoing fees are not applicable to the furnishing of any copies of such transcripts to any person entitled to receive such copies without charge pursuant to a regulation or order issued by the Secretary or his authorized representative.

Signed at Washington, D.C. this 14th day of March, 1974.

PETER J. BRENNAN,
Secretary of Labor.

[FR Doc.74-6279 Filed 3-18-74;8:45 am]

Title 32A—National Defense, Appendix

CHAPTER X—OFFICE OF OIL AND GAS, DEPARTMENT OF THE INTERIOR

[O. I. Reg. 1 (Rev. 5), Amdt. 64]

O. I. REG. 1—OIL IMPORT REGULATIONS

Miscellaneous Amendments

There appeared in the Federal Register on February 11, 1974 (39 FR 5193) a proposal to amend several sections of Oil Import Regulation 1 (Revision 5), as amended. A total of twenty six (26) responses were received each commenting on one or more of the changes proposed. The changes to the individual sections that were proposed are discussed below.

In addition to the changes related to the proposed rulemaking, a number of technical changes are being made at this time in preparation for the allocation period beginning May 1, 1974. Except for sections 9B and 32 all sections which have been changed for either substantive or technical reasons are published in their entirety. As an aid to the public several sections that are not changed in this amendment are also published in their entirety to update them through the many amendments that have been made to Oil Import Regulation 1 (Revision 5).

SECTIONS 9, 10, AND 11

It was proposed that for the allocation period beginning May 1, 1974 refiners and petrochemical plant operators would have the option of claiming either the inputs to their facilities during the 1973 calendar year or the inputs reported in their 1973 application. The comments received on this proposal were all favorable. Therefore the language of the proposal is incorporated into this amendment.

SECTIONS 12 AND 28

It was proposed that sections 12 and 28, which set forth the method of allocating imports of residual fuel oil into District I and District V respectively, be amended to make such allocations on the basis of terminal inputs. The comments on this proposal were almost completely negative with none taking a firm affirmative position. Therefore, in accordance with the comments, sections 12 and 28 are amended to allocate the levels of imports set by Presidential Proclamation 3279, as amended, on the same prorata basis as the allocations were made pursuant to these sections for the allocation period beginning January 1, 1973.

SECTION 29

It was proposed that section 29 be amended to abandon the historical basis for allocating imports from Canada in favor of a three tier system under which a facility would earn an allocation at a rate set by the percentage of Canadian inputs processed during the calendar year 1973. The comments were generally favorable but many persons expressed reservations about the exact method chosen for computing the allocations, about the effects either a change in the Canadian export program or the Federal mandatory crude oil allocation program would have on the proposed import allocations. The Federal Energy Office has published proposed rulemaking affecting the mandatory crude oil allocation program. In addition, a meeting has been scheduled for March 19, 1974 between representatives of the United States and Canadian governments to discuss the question of imports of Canadian oil into the United States. In view of these developments it has been decided to defer amendment of section 29 until after the meeting with the Canadians.

SECTION 30

It was proposed that section 30 be amended to abandon the historical basis for allocation of imports of No. 2 fuel oil into District I in favor of an allocation system based on terminal inputs. With one exception, comments on this proposal were negative and advocated continuation of the present historical pattern of allocation. Accordingly, only technical amendments are made to section 30.

SECTION 33

It was proposed that section 33 be amended to make allocation of Canadian imports into District V on the same pro rata basis that each applicant received in the calendar year 1973 allocation period. The only comment received on the proposal suggested that "Refiners located in District V should be treated the same as refineries located in Districts I–IV for allocation of Canadian crude." As with section 29 amendment of section 33 will be deferred until after the March 19, 1974 meeting referred to in the discussion of section 29.

This Amendment 64 shall become effective on March 19, 1974.

WILLIAM A. VOGELY,
Acting Deputy Assistant Secretary of the Interior.

WILLIAM E. SIMON,
Deputy Secretary of the Treasury.

Sections 1 and 2 are not amended and shall continue to read as follows:

Section 1. Purpose.

These regulations implement Presidential Proclamation 3279, "Adjusting Imports of Petroleum and Petroleum Products into the United States," dated March 10, 1959, as amended, by providing for the discharge of the responsibilities imposed upon the Secretary of the Interior.

Sec. 2. Administration of program.

The Director, Office of Oil and Gas has been empowered to exercise, pursuant to regulations, the authority conferred upon the Secretary by Proclamation 3279, as amended.

Paragraphs (a), (b), (c), and (d) of Section 3 are amended so that Section 3 in its entirety reads as follows:

Sec. 3. Allocation periods.

(a) Except for allocations made pursuant to section 9A all allocation periods beginning on or after January 1, 1973, but before December 31, 1973 shall be extended to expire April 30, 1974.

(b) Supplemental allocations not subject to license fees will be made by the Director for the extended portion of the allocation period for which an allocation has not been made. Such supplemental allocations shall be computed so as to provide allocations for the extended portion of the allocation period at the same daily average as the base allocations.

(c) Effective May 1, 1974, the allocation periods for all allocations except allocations issued pursuant to section 9A will be made for periods of twelve months beginning May 1 of each year.

(d) Allocation periods for allocations made pursuant to section 9A will be as provided for in that section.

(e) Notwithstanding the provisions of paragraph (1) of section 9B the initial allocation period pursuant to section 9B will be for a period of twelve months beginning May 1, 1974. Subsequent allocations will be made for periods of twelve months beginning May 1 of each year.

Section 4 is amended in its entirety to read as follows:

Sec. 4. Eligibility for allocations not subject to license fees.

(a) To be eligible for an allocation not subject to license fees of imports into Districts I–IV, into District V, Puerto Rico, Guam, American Samoa, the Virgin Islands, or a foreign trade zone of crude oil and unfinished oils, a person must (1) have either refinery capacity or a petrochemical plant in the respective districts, Puerto Rico, territories or foreign trade zone and (2) have had refinery inputs or petrochemical plant inputs in the respective districts, Puerto Rico, territories, or foreign trade zone for the year ending three months prior to the beginning of the allocation period for which the allocation is requested.

(b) To be eligible for an allocation not subject to license fees of imports into Puerto Rico of crude oil and unfinished oils pursuant to section 15, a person must have had refinery capacity in Puerto Rico during the calendar year 1964.

(c) [This paragraph revoked by Amendment 26.]

(d) [This paragraph revoked by Amendment 26.]

(e) To be eligible for an allocation not subject to license fees of imports into Puerto Rico of finished products, other than residual fuel oil to be used as fuel, a person must have imported such products into Puerto Rico during the last half of the calendar year 1958.

(f) To be eligible for an allocation not subject to license fees of imports into Puerto Rico of residual fuel oil to be used as fuel, a person must have imported residual fuel oil used as fuel into Puerto Rico during the last half of the calendar year 1958.

(g) A person is not eligible individually for an allocation not subject to license fees of imports of crude oil and unfinished oils or finished products if the person is a subsidiary or affiliate owned or controlled, by reason of stock ownership or otherwise, by any other individual, corporation, firm, or other business organization or legal entity. The controlling person and the subsidiary or affiliate owned or controlled will be regarded as one. Allocations will be made to the controlling person on behalf of itself and its subsidiary or affiliate but, upon request, licenses will be issued to the subsidiary or affiliate.

Section 5 is amended in its entirety to read as follows:

Sec. 5. Applications for allocations and licenses.

(a) Applications for all allocations not subject to license fee of imports of crude oil, unfinished oils, or finished products for the allocation period May 1, 1974 through April 30, 1975, except for applications made pursuant to section 9A, must be filed with the Director in such form as he may prescribe, not later than March 31, 1974.

(b) Applications for allocation pursuant to section 9A must be filed as provided for in paragraph (c) of section 9A.

Sections 6, 7, and 8 are not amended and shall continue to read as follows:

Sec. 6. Records and inspections.

All persons receiving allocations pursuant to these regulations shall maintain complete records of imports, refinery inputs, petrochemical plant inputs and the outputs of such plants. These records shall be maintained on a current basis so that they will be available for inspection by a representative of the Office of Oil and Gas. All records required to be maintained pursuant to this section shall be retained for a period of three (3) years. In connection with the performance of the Office of Oil and Gas' responsibility for assuring full compliance with these regulations and Proclamation 3279, as amended, the person shall permit representatives of the Office of Oil and Gas to enter upon his office, property, plants and facilities to examine such records and, if deemed necessary in order to verify such records, to inspect the refinery, petrochemical plant, or terminal and all operations being performed within the facilities which include, but are not necessarily limited to refining, receiving, shipping, testing and storage. If requested by the Office of Oil and Gas representatives, the person shall be required to assign an employee to accompany the representatives of the Office of Oil and Gas in all inspections, record evaluations, and verification operations. The Office of Oil and Gas representatives shall not be required to sign any releases prior to entering upon a person's property or installation.

Section 7. Licenses.

(a) When an allocation has been made to a person under this regulation, the Director shall issue a license or licenses based on the allocation; specifying the amount of crude oil and unfinished oils or finished products which may be imported, the period of time such license shall be in effect, and the districts (District I, Districts I–IV, Districts II–IV, District V or Puerto Rico) into which the importation may be made. The director may amend such licenses.

(b) No license issued pursuant to this section may be sold, assigned, or otherwise transferred.

Sec. 8. Small quantities.

(a) District Directors of Customs are authorized to permit without a license an entry for consumption of not to exceed 550 U.S. gallons of crude oil, unfinished oils, or finished products which are certified as samples for testing or analysis or which are included in shipments of machinery or equipment and are certified as intended for use in connection therewith, and baggage entries. Unless notified by the Director to the contrary, District Directors of Customs are authorized to permit without a license the entry for consumption of bonded fuel aboard an aircraft diverted from an international flight.

(b) A person desiring to import small quantities of crude oil, unfinished oils, or finished products in circumstances not covered by paragraph (a) of this section shall file with the Director a written request for authorization for entry without a license for each shipment, describing the oil and the quantity thereof proposed to be imported and the circumstances which would justify an entry without a license, the date when the shipment is scheduled to arrive or upon which it has arrived, and the port of entry. If the Director determines that the entry without a license is consonant with the purposes of Proclamation 3279, as amended, he may authorize such an entry.

Section 9 is amended in its entirety to read as follows:

Sec. 9. Allocations; petrochemical plants; District I–IV, District V.

(a) For the allocation period May 1, 1974, through April 30, 1975, each eligible person with a petrochemical plant in Districts I–IV shall receive an allocation not subject to license fee of imports of crude oil and unfinished oils equal to the average barrels per day of petrochemical plant inputs to his petrochemical plants in these districts during the calendar year 1973 or the year ending September 30, 1972, whichever is greater, multiplied by 11.2 percent × .90.

(b) For the allocation period May 1, 1974, through April 30, 1975, each eligible person with a petrochemical plant in District V shall receive an allocation not subject to license fee of imports of crude oil and unfinished oils equal to the average barrels per day of petrochemical plant inputs to his petrochemical plants in this district during the calendar year 1973 or the year ending September 30, 1972, whichever is greater, multiplied by 11.9 percent × .90.

(c) No allocation for Districts I–IV made pursuant to this section shall entitle a person to a license which will allow the importation of unfinished oils in excess of 15 percent of the allocation, and no allocation for District V made pursuant o this section shall entitle a person to a license which will allow the importation of unfinished oils in excess of 25 percent of the allocation However, a person obtaining an allocation of imports of crude oil and unfinished oils pursuant to this section may petition the Director to adjust the percentage of imports of unfinished oils upward to 100 percent of such person's allocation if the petitioner certifies that the additional imported unfinished oils will not be exchanged, that the additional unfinished oils will be processed entirely in the petitioner's own petrochemical plant, and that more than 50 percent of the yields (by weight) from the unfinished oils will be petrochemicals or that more than 75 percent (by weight) of recovered product output will consist of petrochemicals.

(d) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

(e) Applications for allocations pursuant to this section must be filed in accordance with provisions of section 5.

(f) Pursuant to section 3A of Presidential Proclamation 3279, as amended by Proclamation 4175, interim allocations were made for the allocation period January 1, 1973 through December 31, 1973 to all persons who had received an allocation under section 9 for the allocation period January 1, 1972 through December 31, 1972. To the extent that such interim allocations were not charged against and deducted from the regular allocation made to a person pursuant to section 9 for the allocation period starting January 1, 1973 and extending through April 30, 1974, such interim allocation will be charged against and deducted from the allocation made under this section for the period May 1, 1974 through April 30, 1975.

Subparagraphs (a)(3), (e)(2) and paragraphs (b) of Section 9A are amended so that Section 9A in its entirety will read as follows:

Sec. 9A. Allocations based on exports.

(a) For the purposes of this section:

(1) "Eligible petrochemicals" means the following materials produced in the person's facilities in Districts I–IV or District V and falling into the following Trade Classification of Schedule B of the current Department of Commerce Statistical Classifications of Domestic and Foreign Commodities Exported from the United States.

Trade Classification Schedule B Number	*Description*
231.2	Synthetic rubber and rubber substitutes except compounded, semiprocessed, and manufactures; e.g., SBR type rubber, butyl rubber.
266.2–266.3	Manmade fibers suitable for spinning except glasses, e.g., nylon staple, polyester staple.
	CHEMICAL ELEMENTS AND COMPOUNDS
512	Organic chemicals; e.g., ethylene glycol, acetic acid.
513.27	Carbon black.
521.4024	Ortho-Xylene.
521.4025	Para-Xylene.
521.4027	Mixed Xylenes.
554.2022–554.2026	Detergents, synthetic organic bulk; e.g., alkyl aryl sulfonate, sodium toluene sulfonated.
554.2032–544.2036	Surface-active agents, except detergents, acid type cleaners, and textile and leather-finishing agents.
581.1005–581.1055 581.2002–581.2058	Plastic materials and artificial resins; e.g., polyamide, phenolic, polyethylene.
581.3230	Cellulose ester molding and extrusion compositions; e.g., cellulose acetate.
581.3242	Cellulose esters (except molding and extrusion compositions) in unfinished forms; e.g., granules, powder.
581.3260	Chemical derivatives of cellulose unplasticized e.g., cellulose acetate-butyrate (flake, powder, waste or scrap).
599.7100	Artificial waxes e.g., solidified polyethylene glycol, glyceryl . tri-(12 Hydroxy stearate).
599.7505–599.7507	Antiknock mixtures.
599.7515–599.7530	Additives for lubricating oils, fuel oils, liquid gum inhibitors.
599.9960	Reagents for ore recovery.
621.0105	Carbon black masterbatch.
629.1010–629.1050	Rubber tires for vehicles and aircraft.
651.6–651.7	Yarn (including monofil and strip), thread, tire cord, and tire cord fabric of noncellulosic and cellulosic manmade fibers.

(2) "Broker" and "Export Agent" mean a person whose occupation includes the transaction of business relating to the exportation of goods.

(3) Each six months of a calendar year (e.g. January to June) shall constitute a base period.

(b) Subject to provisions of this section a person who holds an allocation of imports into Districts I–IV or into District V under section 9 or section 25A during all or part of the base period to which the application for an allocation under this section 9A relates shall also be entitled to receive under this section 9A an allocation of imports of crude oil into Districts I–IV or into District V (as the case may be) based on his exports during the base period of eligible petrochemicals produced by him.

(c) An application for an allocation under this section must be filed with the Director no later than 60 days after the last day of the base period to which the application relates. Amendments to applications resulting in upward adjustments of allocations under this section must be filed with the Director no later than the last day of the base period following the base period to which the allocation applies. An application shall be in such form as the Director may prescribe.

(d) Licenses issued under an allocation made pursuant to this section shall expire 12 months after the respective base period ends.

(e)(1) The Director shall determine the weight (in pounds) of eligible petrochemicals (i) which were produced in the

person's facilities in Districts I–IV or in District V, and (ii) which were exported from the Customs territory of the United States during the base period whether by the person, another person, a broker or an export agent or a domestic or a foreign purchaser thereof in the form produced by and without value added and without further processing. The producer shall furnish such evidence as the Director may require to establish that the export was, in fact, made including a letter from the exporter that his records may be inspected by the Director or his agents for the purpose of verifying that the export was made.

(2) The Director shall ascertain the hydrogen and carbon content (in pounds) of that part of the weight of the eligible petrochemicals determined pursuant to paragraph (e)(1) of this section, which was (i) produced by chemical reaction in the person's facilities and (ii) derived from crude oil or unfinished oils produced or manufactured in Districts I–IV or in District V or imported into Districts I–IV or District V pursuant to an allocation. The weight thus ascertained shall be divided by 200; and the applicant shall receive an allocation of barrels of imports of crude and unfinished oils equal to the resulting quotient. Where a person produced an eligible petrochemical from a combination of inputs which qualify under clause (ii) of this subparagraph (2) and inputs which do not so qualify, and a portion of such eligible petrochemical was exported, the hydrogen and carbon content of the exported portion shall be deemed to have been derived entirely from the qualified inputs to the full extent of such qualified inputs except that such hydrogen and carbon shall not be deemed to have been derived from a qualified input from which the hydrogen and carbon could not actually have been derived.

(f) A shipment of eligible petrochemicals from Districts I–IV or from District V to a foreign country or to the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands constitutes an export for the purposes of this section. A shipment of eligible petrochemicals from Districts I–IV or from District V to Puerto Rico or to a foreign trade zone shall not constitute an export for the purposes of this section. If eligible petrochemicals are returned after having been exported, the total weight of such eligible petrochemicals so returned, whatever the form of the import, shall either be excluded or deducted as appropriate from the applicant's base in computing an allocation under paragraph (e) of this section.

(g) An allocation made pursuant to this section shall entitle a person to a license or licenses which will allow the importation of unfinished oils in an amount not exceeding, in the aggregate, 15 percent of the person's allocation. However, the Director shall permit a person holding such an allocation to import unfinished oils in an amount up to 100 percent of such person's allocation upon certification by him to the Director that such imported unfinished oils will not be exchanged, that such unfinished oils will be processed entirely in the person's petrochemical plant, and that more than 50 percent by weight of the yields from such unfinished oils will be converted into petrochemicals of which petrochemicals methane is not more than 50 percent by weight or that more than 75 percent by weight of recovered product output will consist of petrochemicals but of which output not more than 50 percent by weight is methane.

(h) A person who imports crude oil or unfinished oils under an allocation made under this section may, except as provided in paragraph (g) of this section, exchange his imported crude oil either for domestic crude oil or for domestic unfinished oils or exchange his imported unfinished oils for domestic unfinished oils or for domestic crude oil. All such exchanges shall be governed by the provisions of paragraph (b) (2), (3), (5), and (6) of section 17 of this regulation.

(i) No allocation made pursuant to this section may be sold, assigned or otherwise transferred.

Paragraph (a)(6), paragraph (b) and paragraph (d) of Section 9B are amended to read as follows:

Sec. 9B. Allocations of imports of crude oil and unfinished oils for conversion of heavy liquid feedstocks to petrochemicals—Districts I–IV and District V.

(a) * * * (6) The term "base period" means the period of 12 months ending on December 31 preceding the allocation period for which an application for an allocation under this section 9B is filed.

* * * * *

(b) Except as provided in paragraph (1) allocations under this section shall be made for periods of twelve months beginning May 1.

* * * * *

(d) A person who receives an allocation under this section 9B may not receive an allocation pursuant to section 9 based on any feedstock stream processed in the person's heavy liquid plant or plants. The hydrocarbon content of materials upon which an allocation under section 9, section 9A, or section 25A of this regulation is based will not qualify as a basis for an allocation under this section 9B. Hydrocarbon materials upon which an allocation under this section 9B is based will not qualify as a basis for an allocation under section 9, section 9A, or section 25A of this regulation. No hydrocarbon material upon which an allocation under this section 9B is based may serve as a basis for another allocation under this section 9B.

Paragraph (a), (b), and (e) of Section 10 are amended and paragraph (g) of Section 10 is deleted so that Section 10 in its entirety reads as follows:

Sec. 10. Allocation; refiners; Districts I–IV.

(a) For the allocation period May 1, 1974 through April 30, 1975, the Director shall make allocations not subject to license fee as provided in paragraph (b) of this section and within the quantities available under applicable levels established in Proclamation 3279, as amended, of imports into Districts I–IV among eligible persons having refinery capacity in these districts or the Virgin Islands. With respect to the Virgin Islands qualified refinery inputs shall be limited to crude oil charged to the refinery.

(b) Each eligible applicant shall receive an allocation not subject to license fee of imports of crude oil based on refinery inputs for the calendar year ending December 31, 1973, or the 12 month period ending September 30, 1972, whichever is greater. The allocation shall be computed according to the following schedule:

Average barrels per day input	Percent of input		Number of days
0 to 10,000	21.7	×	365
10 to 30,000	13.0		
30 to 100,000	7.6		
100,000 plus	3.8		

In addition, any imports of crude oil available for allocation pursuant to this section but not allocated pursuant to the above schedule shall be allocated to each eligible applicant in the same proportion that each eligible applicant's allocation as determined pursuant to the above schedule bears to the total of imports of crude oil allocated pursuant to the above schedule; however, no person shall receive an allocation in excess of 100 percent of such person's refinery inputs.

(c) Except as provided for allocations based on inputs to refineries located in the Virgin Islands, under an allocation made pursuant to paragraph (b) of this section, unfinished oil may be imported, but imports of such oils shall not exceed 15 percent of the allocation. Within such 15 percent, a maximum quantity of imports not exceeding one percent of the total allocation may be imported in the form of finished products, provided that prior written notification is given to the Director of each entry proposed to be made. Finished products imported pursuant to this paragraph may not be exchanged.

(d) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred, and except as this regulation may provide otherwise no license issued under such an allocation shall permit the importation of Canadian imports as defined in section 15(j) of Proclamation 3279, as amended.

(e) Pursuant to section 3A of Presidential Proclamation 3279, as amended by Proclamation 4175, interim allocations were made for the allocation period January 1, 1973 through December 31, 1973 to all persons who had received an allocation under section 10 for the allocation period January 1, 1972 through December 31, 1972. To the extent that such interim allocations were not charged against and deducted from the regular allocation made to a person pursuant to section 10 for the allocation period starting January 1, 1973 and

extending through April 30, 1974, such interim allocation will be charged against and deducted from the allocation made under this section for the period May 1, 1974 through April 30, 1975.

(f) (1) For the purpose of allocating imports of unfinished oils and unfinished products produced by refineries in the Virgin Islands, allocations claimed on account of such refineries shall be computed in accordance with the sliding scale set out in paragraph (b) of this section but inputs to such refineries shall be treated as the last increment of the aggregate of inputs at the highest applicable level in the sliding scale.

(2) Allocations made pursuant to this section 10 to persons for refinery capacity located in the Virgin Islands shall be for import into Districts I–IV or Puerto Rico of unfinished oils or finished products manufactured in the facility earning the allocation. Unfinished oils imported from the Virgin Islands pursuant to an allocation granted under this section 10 cannot be counted as qualified refinery inputs in Districts I–IV or District V.

(g) Applications for allocations pursuant to this section must be filed in accordance with provisions of section 5.

Paragraphs (a), (b), (e) and (g) of Section 11 are amended so that Section 11 in its entirety reads as follows:

Sec. 11. Allocations, refiners, District V.

(a) For the allocation period May 1, 1974, through April 30, 1975, the Director shall allocate, as provided in paragraph (b) of this section and within the quantities available under applicable levels established in Proclamation 3279, as amended, imports into District V among eligible persons having refinery capacity in that district, Guam or American Samoa. With respect to Guam or American Samoa qualified refinery inputs shall be limited to crude oil charged to the refinery.

(b) Each eligible applicant shall receive an allocation not subject to license fee of imports of crude oil based on refinery inputs for the calendar year ending December 31, 1973, or the 12 month period ending September 30, 1972, whichever is greater. The allocation shall be computed according to the following schedule:

Average barrels per day input	Percent of input	Number of days
0 to 10,000 10 to 30,000 30,000 plus	× { 67.5 16.9 5.6 } ×	365

In addition, any imports of crude oil available for allocation pursuant to this section but not allocated pursuant to the above schedule shall be allocated to each eligible applicant in the same proportion that each eligible applicant's allocation as determined pursuant to the above schedule bears to the total of imports of crude oil allocated pursuant to the above schedule; however, no person shall receive an allocation in excess of 100 percent of such person's refinery inputs.

(c) Except as provided for, allocations based on inputs to refiners located in Guam or American Samoa, under an allocation made pursuant to paragraph (b) of this section, unfinished oils may be imported, but imports of such oils shall not exceed 25 percent of the allocation. Within such 25 percent, a maximum quantity of imports not exceeding one percent of the total allocation may be imported in the form of finished product, provided that prior written notification is given to the Director of each entry proposed to be made. Finished products imported pursuant to this paragraph may not be exchanged.

(d) No allocations made pursuant to this section may be sold, assigned, or otherwise transferred.

(e) Pursuant to section 3A of Presidential Proclamation 3279, as amended by Proclamation 4175 interim allocations were made for the allocation period January 1, 1973 through December 31, 1973 to all persons who had received an allocation under section 11 for the allocation period January 1, 1972 through December 31, 1972. To the extent that such interim allocations were not charged against and deducted from the regular allocation made to a person pursuant to section 11 for the allocation period starting January 1, 1973 and extending through April 30, 1974, such interim allocation will be charged against and deducted from the allocation made under this section for the period May 1, 1974 through April 30, 1975.

(f) (1) For the purpose of allocating imports of unfinished oils and finished products produced by refineries in Guam or American Samoa, allocations claimed on account of such refineries shall be computed in accordance with sliding scale set out in paragraph (b) of this section, but inputs to such refineries shall be treated as the last increment of the aggregate of inputs at the highest applicable level in the sliding scale.

(2) Allocations made pursuant to this section 11 to persons for refinery capacity located in Guam or American Samoa shall be for import into District V of unfinished oils or finished products manufactured in the facility earning the allocation. Unfinished oils imported from Guam or American Samoa pursuant to an allocation granted under section 11 cannot be counted as qualified inputs in Districts I–IV or District V.

(g) Applications for an allocation pursuant to this section must be filed in accordance with the provisions of section 5.

Section 12 is amended in its entirety to read as follows:

Sec. 12. Allocations of residual fuel oil—District I.

(a) This section provides for the making of import allocations not subject to license fee for the allocation period bebinning May 1, of each year, of imports into District I of residual fuel oil to be used as fuel in District I.

(b) To be eligible for an import allocation not subject to license fee of residual fuel oil pursuant to this section a person must:

(1) Be in the business in District I of selling residual fuel oil to be used as fuel and have under his management and operational control a deepwater terminal located in District I into which there has been delivered residual fuel oil to be used as fuel which he owned at the time of delivery, or

(2) Be in the business in District I of selling residual fuel oil to be used as fuel and have a throughput agreement (warehouse agreement) with a deepwater terminal operator under which agreement the person has delivered to the terminal residual fuel oil to be used as fuel which he owned when it was so delivered. For the purpose of this section, "throughput agreement" means an agreement which provides for the delivery to a deepwater terminal by a person of residual fuel oil which he owns and for a right in such person to withdraw on call an identical quantity of such oil from the terminal. A bona fide throughput agreement will be deemed to exist only if the person operating under the agreement owns the oil at the time it is delivered to the terminal.

(c) A person seeking an import allocation not subject to license fee pursuant to this section must file an application with the Director on such form as he may prescribe. The application shall disclose such information as the Director may deem necessary in such detail as he may require. Applications must be filed in accordance with the provisions of section 5 of this regulation.

(d) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this section shall receive an allocation not subject to license fee to import residual fuel oil into District I to be used as fuel in District I computed according to the following formula:

$$\frac{\text{Applicant's average B/D allocation made pursuant to section 12 for the allocation period April 1, 1973 through April 30, 1974}}{\text{Average B/D allocations made pursuant to section 12 to all applicants for the allocation period April 1, 1973 through April 30, 1974.}} \times 2{,}610{,}000 \text{ B/D}$$

(e) No allocation made pursuant to this section may be sold, assigned or otherwise transferred. Licenses issued under allocations made pursuant to this section shall permit the importation only of residual fuel oil into District I for use as fuel oil in District I.

Section 13 is amended in its entirety to read as follows:

Sec. 13. Finished products.

(a) For the allocation period May 1, 1974 through April 30, 1975 there is allocated to the Department of Defense 18,000 average barrels per day of imports of finished products not subject to license fee into Districts I–IV and 6,750 average barrels per day of imports of finished products not subject to license fee into

District V. For the same allocation period there is allocated 15,000 average barrels per day of imports of finished products not subject to license fee into Districts I–IV pursuant to paragraph (b) of section 12 of Presidential Proclamation 3279, as amended.

(b) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

Section 14 is amended in its entirety to read as follows:

Sec. 14. Maximum levels of imports—Puerto Rico.

The levels are those established in Proclamation 3279, as amended.

Section 15 is amended in its entirety to read as follows:

Sec. 15.—Allocations of crude oil and unfinished oils—Puerto Rico.

(a)(1) This paragraph provides for the making of import allocations not subject to license fees other than those described as "long-term allocations" in paragraphs (k) (1), (2), (3), and (4) of Proclamation 3279, as amended, for the allocation period beginning May 1, of each year, of imports into Puerto Rico of crude oil and unfinished oils.

(2) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this paragraph shall receive an allocation not subject to license fees to import crude and unfinished oils into Puerto Rico computed according to the following formula:

$$\frac{\text{Applicant's Allocation pursuant to Section 15(a) Not Subject To License Fees of Imports of Crude and Unfinished Oils Into Puerto Rico for the Allocation Period April 1, 1973, to April 30, 1974, Expressed in B/D}}{\text{Total Allocations pursuant to Section 15(a) Not Subject to License Fees of Imports of Crude and Unfinished Oils Into Puerto Rico for the Allocation Period April 1, 1973, to April 30, 1974, Expressed in B/D}} \times 204{,}499 \text{ B/D}$$

(b) No allocation made pursuant to this section may be sold, assigned or otherwise transferred.

Section 16 is amended in its entirety to read as follows:

Sec. 16. Allocations of finished products—Puerto Rico.

(a)(1) This paragraph provides for the making of import allocation not subject to license fees for the allocation period beginning May 1, of each year, of imports into Puerto Rico of finished products (other than residual fuel oil to be used as fuel in Puerto Rico).

(2) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this paragraph shall receive an allocation not subject to license fees to import finished products, other than residual fuel oil to be used as fuel in Puerto Rico, into Puerto Rico, computed according to the following formula:

$$\frac{\text{Applicant's Allocation pursuant to Section 16(a) Not Subject To License Fees of Imports Into Puerto Rico of Finished Products (Other Than Residual Fuel Oil To Be Used As Fuel in Puerto Rico) During the Calendar Year 1973, Expressed in B/D}}{\text{Total Allocations pursuant to Section 16(a) Not Subject To License Fees of Imports Into Puerto Rico of Finished Products (Other Than Residual Fuel Oil To Be Used As Fuel in Puerto Rico) During the Calendar Year 1973, Expressed in B/D}} \times 1{,}293 \text{ B/D}$$

(b)(1) This paragraph provides for the making of import allocations not subject to license fees for the allocation period beginning May 1, of each year, into Puerto Rico of residual fuel oil to be used as fuel in Puerto Rico.

(2) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this paragraph shall receive an allocation not subject to license fees to import residual fuel oil to be used as fuel in Puerto Rico, into Puerto Rico, computed according to the following formula:

$$\frac{\text{Applicant's Allocation pursuant to Section 16(b) Not Subject to License Fees of Imports Into Puerto Rico of Residual Fuel Oil to be Used as Fuel in Puerto Rico During the Calendar Year 1973, Expressed in B/D}}{\text{Total Allocations pursuant to Section 16(b) Not Subject to License Fees of Imports Into Puerto Rico of Residual Fuel Oil to be Used As Fuel in Puerto Rico During the Calendar Year 1973, Expressed in B/D.}} \times 1{,}484 \text{ B/D}$$

(c) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

Paragraphs (a), and (b) (1) and (4) of Section 17 are amended, and a new paragraph (c) is added so that Section 17 in its entirety reads as follows:

Sec. 17. Use of imported crude oil and unfinished oils.

(a) Except as provided in paragraphs (b) and (c) of this section, each person who imports crude oil or unfinished oils under a license issued pursuant to an allocation made under sections 9, 10, 11, 15, 25, or 25A of this regulation must process the oils so imported in his own refinery, petrochemical plant, or petrochemical capacity.

(b)(1) Subject to the provisions of this paragraph (b), a person who imports crude oil or unfinished oils under an allocation made under sections 9, 10, 11, 25, 25A, or paragraph (a) of section 15 of this regulation, may exchange his imported crude oil either for domestic crude oil for domestic unfinished oils or exchange his imported unfinished oils either for domestic unfinished oils or for domestic crude oil. However, a person receiving an allocation under section 9 or 25A may be restricted in the exchange of imported unfinished oils, as provided in paragraph (c) of section 9 and paragraph (j) of section 25A.

(2) A proposed agreement for each such exchange must be reported to the Director before any action involved in the exchange is taken.

(3) Each such exchange must be effected on a ratio of not less than 1 barrel of domestic oil for each barrel of imported oil unless a different exchange ratio is approved by the Director.

(4) In any such exchange, the person who is exchanging oil imported pursuant to an allocation under sections 9, 10, 11, 15, 25, or 25A for domestic oil must take delivery of the domestic oil and process it in his own refinery or petrochemical plant, located in the same district for which the allocation is granted, not later than 150 days after the end of the allocation period in which the exchange is made. If requested the Director may extend this period if it is shown that the person receiving the domestic oil cannot process the oil in the allotted time.

(5) Each such exchange must be on an oil-for-oil basis; however, settlements, credits, monetary, or accounting adjustments reflecting the relative values of the oils involved in the exchange are permissible.

(6) Any such exchange must not be otherwise unlawful.

(c) Imported crude oil or unfinished oils which are sold to meet the requirements of other Regulations published by the Federal Energy Office shall not be subject to the provisions of paragraph (a) of this section.

Paragraph (b), (e)(3) and (4), and (l) of section 25 are amended so that section 25 in its entirety reads as follows:

Sec. 25. Allocations of crude oil, unfinished oils and finished products—Districts I–IV, District V, Puerto Rico, the Virgin Islands, Guam, American Samoa, and Foreign Trade Zones—new, expanded or reactivated refinery capacity based upon estimated and actual inputs.

(a)(1) The Director may make allocations not subject to license fees of imports of crude oil, unfinished oils, and finished products with respect to new, expanded or reactivated refinery capacity as provided in this section.

The plant additions and modifications which have resulted in the new, expanded, or reactivated refinery capacity need not when taken independently meet the definition of refinery capacity as defined in section 22 of this Regulation: *Provided*, That such additions and modifications are an integral part of a facility that does qualify as refinery capacity.

(2) A person seeking such an allocation must file an application in the form prescribed by the Director. The applica-

tion shall disclose in detail such information as the Director may require, including—

(i) The nature of the facility,

(ii) The location of the facility,

(iii) The products and the quantity of each product to be produced,

(iv) The capital outlay involved,

(v) The expected average barrels per day of qualified feedstocks inputs of such facility,

(vi) The identification of the feedstocks, and the source thereof,

(vii) The date that the facility went on-stream, or is scheduled to go on-stream,

(viii) Whether the application is for a new facility, an expansion or reactivation,

(ix) Whether this facility will replace an existing facility which is to be or has been shut down,

(x) In the case of an expansion, the certified inputs for the last three years to the particular refinery or identifiable crude processing facility for which the expansion is claimed.

(b)(1) Each increment of new, expanded or reactivated refinery capacity will be treated as a separate entity under this paragraph (b) for a total of sixty months.

(2) If the new, expanded or reactivated refinery capacity is scheduled to come on-stream during the allocation period for which the allocation is requested, the allocation shall be computed on the basis of inputs (divided by 365), which it is estimated will be made to such capacity during that allocation period. In the event the new, expanded or reactivated refinery capacity comes on-stream after January 31 of the allocation period for which the allocation is requested, the Director may, if requested by the applicant, extend the expiration date of the license or licenses to 120 days after the start-up date. An applicant who receives an allocation for a particular allocation period pursuant to this subparagraph (2) may be eligible for an allocation pursuant to paragraph (b)(3), (4), or (5) of this section for the succeeding allocation periods.

(3) If the new, expanded or reactivated refinery capacity has come on-stream during the allocation period immediately preceding the allocation period for which the allocation is requested, the allocation shall be computed on the basis of the sum (divided by 365) of (i) the refinery inputs actually made to the new, expanded or reactivated refinery capacity during the first eight months of the allocation period immediately preceding the allocation period for which the allocation is requested and (ii) the inputs which it is estimated will be made to such capacity during the next number of months which, when combined with the months in clause (i), will constitute a period of twelve months.

(4) If the new, expanded or reactivated refinery capacity has been on-stream for at least one year as of December 31, of the allocation period immediately preceding the allocation period for which the allocation is requested, the allocation shall be based on actual inputs (divided by 365) to the facility during the preceding twelve months ending December 31; *Provided*, That the facility will not have been on-stream in excess of sixty months during the allocation period for which the allocation is requested.

(5) If the new, expanded or reactivated refinery capacity has not been on-stream for a period of sixty months after earning an allocation under paragraph (b)(4) of this section, an allocation will be made for the next allocation year based on actual inputs (divided by 365) for the year ending December 31 of the previous allocation year. In computing the allocation, the Director will determine the number of days which, when added to the actual operating period in the previous allocation years, will constitute a period of sixty months. The facility will, for this number of days, earn an allocation under this section 25.

(c) Allocation with respect to new, expanded or reactivated refinery capacity shall be computed at seventy-five percent of estimated or actual qualified inputs to such facility as determined in paragraph (b)(2), (3), (4), or (5) of this section 25.

(d) With regard to the Virgin Islands, Guam, American Samoa, and foreign trade zones "qualified inputs" shall be limited to crude oil charged to the refinery.

(e)(1) If an allocation based in whole or in part on estimated inputs is made to an applicant pursuant to this section, the actual inputs submitted by the applicant as a basis for allocations in the next succeeding allocation period or periods for which the applicant applies for an allocation or allocations under this regulation shall be adjusted upward or downward to compensate for the difference between the estimated inputs and the actual inputs made during the period for which inputs were estimated.

(2) If the estimated inputs upon which an allocation is based exceed the actual inputs made by more than five percent of the estimated inputs, then, in addition to the adjustment downward provided by paragraph (e)(1) of this secton, the applicant shall be penalized for the overestimate as provided in this subparagraph (2). As a penalty, the actual inputs submitted by the applicant as a basis for allocation for the next succeeding period or periods for which the applicant applies for an allocation or allocations under this regulation shall be further reduced by the number of barrels by which the estimated inputs exceed the actual inputs by more than five percent. However, to the extent that an applicant demonstrates to the satisfaction of the Director that the excess of estimated inputs over actual inputs was attributable to acts of God, fire, government action, explosion, labor disputes, or other similar circumstances beyond the applicant's control, the Director may waive the penalty or reduce the number of barrels of excess for which the penalty will be imposed. Persons applying for and receiving allocations under this section whose new, expanded or reactivated refinery fails to come on-stream within the allocation period may be denied any allocation for the next succeeding period. The Director may elect not to apply this penalty in those cases where the applicant demonstrates to the satisfaction of the Director that a substantial effort was made to complete and to start-up such a facility and that the person's failure was attributable to acts of God, fire, government action, explosion, labor disputes, or other similar circumstances beyond the applicant's control.

(3)(i) Any person who has been granted an allocation for a new, expanded or reactivated refinery in Districts I–IV may avoid the penalty prescribed in paragraph (e)(2) of this section by returning on or before January 31 of the period for which the allocation was granted such a license or licenses, for a downward adjustment, or, in lieu of returning such license or licenses, returning for downward adjustment a license issued to the person under section 10.

(ii) Any person who has been granted an allocation for a new, expanded, or reactivated refinery in District V may avoid the penalty prescribed in paragraph (e)(2) of this section by returning on or before January 31 of the allocation period for which the allocation and license were granted such a license for a downward adjustment, or, in lieu of returning such license, returning for downward adjustment a license issued in District V to the person under section 11.

(iii) Any person who has been granted an allocation for a new, expanded, or reactivated refinery in Puerto Rico, the Virgin Islands, Guam, American Samoa or a foreign trade zone may avoid the penalty prescribed in subparagraph (2) by returning on or before January 31 of the allocation period for which the allocation and license were granted such a license for a downward adjustment.

(iv) A request by an applicant who has received an allocation and license under this section for a downward adjustment shall be made in writing to the Director on or before January 31 of the allocation period for which the allocation and license were granted.

(4) The Director shall not issue a license under an allocation made pursuant to this section until (i) an on-the-spot evaluation of the new, expanded or reactivated refinery capacity has been conducted by the compliance representatives of the Office of Oil and Gas and (ii) a written determination has been made by the Director that the facility is a bona fide refinery capacity as certified in the application, and that construction or reactivation has so far progressed that, in the Director's judgment, the plant will within the calendar quarter following the date of such determination be ready for start-up and trials.

(f) No license issued for allocations made under this section may be sold, assigned, or otherwise transferred.

(g)(1) As used in this section 25, "expanded refinery capacity" includes expansion of existing facilities by the addition of equipment, such as, but not

limited to, stills, towers, pumps, and conversion units, or such additions to or modification of an existing refinery or identifiable crude processing capacity within an existing refinery as have resulted in an increased processing capability of not less than fifteen percent above the base capacity established for the particular refinery capacity under consideration. This base capacity will be the average certified inputs to the particular refinery or identifiable crude processing facility being expanded for the highest two of the last three input years.

(2) As used in this section 25, "reactivated refinery capacity" means restoration to operation of refinery capacity which had been shut down for not less than twelve months immediately preceding its reactivation.

(h) An applicant to whom an allocation is made under this section shall not receive an allocation for the same refinery capacity under section 10 or 11.

(i) (1) Except as provided in subparagraph (2) of this paragraph, an allocation made pursuant to this section 25 will be for crude oil only.

(2) Allocations made pursuant to this section 25 to persons for new, expanded or reactivated refinery capacity located in American Samoa, Guam, the Virgin Islands or foreign trade zones shall be for import into Districts I–V or Puerto Rico of unfinished oils or finished products. Such unfinished oils or finished products must have been manufactured in the facility earning the allocation. Unfinished oils imported pursuant to an allocation covered by this subparagraph cannot be counted as qualified refinery inputs in Districts I–IV, District V, or Puerto Rico.

(j) An applicant may not receive an allocation under this section 25 for new, expanded, or reactivated refinery capacity for which inputs were included in applications filed pursuant to section 10 or 11 for allocation periods beginning on or before January 1, 1973.

(k) An applicant may not receive an allocation under this section 25 for new, expanded or reactivated refinery capacity if the same refinery capacity is subject to a long term allocation as defined in Presidential Proclamation 3279, as amended.

(l) Persons wishing to qualify for an allocation under this section 25 must file an application in accordance with the provisions of section 5.

Paragraphs (a) (1), and (3), (e) (2), (3), (4), and (5), (g) (3), and (4), (i) (1), and (k) of section 25A are amended so that section 25A in its entirety reads as follows:

Sec. 25A. Allocations of crude oil and unfinished oils—Districts I–IV, District V, and Puerto Rico—new, expanded or reactivated "petrochemical capacity" based upon estimated and actual inputs.

(a) (1) The Director may make allocations not subject to license fees of imports of crude oil and unfinished oils with respect to new, expanded or reactivated "petrochemical capacity" as provided in this section. The plant additions and modifications which have resulted in the new, expanded, or reactivated "petrochemical capacity" need not when taken independently meet the definition of "petrochemical capacity" as defined in paragraph (b) of this section: *Provided*, That such additions and modifications are an integral part of the facility that does qualify as "petrochemical capacity."

(2) A person seeking such an allocation must file an application in the form prescribed by the Director. The application shall disclose in detail such information as the Director may require, including—

(i) The nature of the facility.

(ii) The location of the facility.

(iii) The petrochemicals and the pounds of each petrochemical produced or to be produced.

(iv) The pounds of carbon and hydrogen in the petrochemicals produced from qualified "petrochemical capacity" inputs.

(v) The capital outlay involved.

(vi) The identification of each feedstock and the source thereof.

(vii) The date that the facility went onstream or is scheduled to go onstream.

(viii) Whether the application is for a new facility, an expansion, or reactivation.

(ix) Whether this facility will replace an existing facility which is to be or has been shut down.

(x) In the case of an expansion, the certified pounds of each petrochemical produced for the last three years in the particular "petrochemical capacity" for which the expansion is claimed.

(3) Applications for allocations under paragraph (e) of this section must be filed in accordance with the provisions of section 5.

(b) For purposes of this section "petrochemical capacity" means a facility or plant complex:

(1) Which includes equipment for converting hydrocarbons to petrochemicals.

(2) Which manufactures for plant use or sale one or more separate and distinct petrochemicals by conversion of each separate "petrochemical capacity input" feedstock stream which is claimed by an applicant as a basis for obtaining an allocation.

(c) For purposes of this section "petrochemical capacity inputs" means feedstocks charged to a "petrochemical capacity."

(1) And include only:

(i) Crude oil,

(ii) Unfinished oils (except those unfinished oils specifically excluded in paragraph (e) (2) of this section) produced in Districts I–IV and District V and Puerto Rico and unfinished oils imported pursuant to an allocation.

(2) But do not include:

(i) Unfinished oils which are produced in a "petrochemical capacity" or petrochemical plant in the manufacture of petrochemicals and subsequently charged to a unit which is part of the same "petrochemical capacity" or petrochemical plant in which they were produced or to any other "petrochemical capacity" or petrochemical plant which is owned or controlled by the same person who claims the initial "petrochemical capacity inputs" or petrochemical plant inputs from which the unfinished oils are derived.

(ii) Unfinished oils which are obtained by transactions such as sales, purchases, or exchanges which are designed to avoid the exclusion specified in paragraph (c) (2) (i) of this section, and

(iii) Benzene which met the ASTM standards for nitration grade or cumene, ethylbenzene, isoprene, meta-xylene, ortho-xylene or para-xylene which had a purity of 95 percent or more by weight but which subsequently has been recycled and mixed with other hydrocarbons, commingled, or purposely debased.

(d) For purposes of this section each item on the schedule in paragraph (k) of section 9B of this regulation with the exception of changes in the "condition" of several items listed and additions made, as noted below, is a petrochemical if and only if, it conforms to any notation opposite the item in column 2 and to the condition specified opposite the item in column 3. The "conditions" amended and additions made to the schedule in paragraph (k) of section 9B are as follows:

D—ASTM nitration grade.
E—Petrochemical must be recovered in a state of 95 percent purity or more.

Petrochemical	Limitations	Conditions
Benzene		D
Cumene		E
Ethylbenzene		E
Isoprene		E
Meta-xylene		E
Ortho-xylene		E
Para-xylene		E

(e) (1) Each increment of new, expanded or reactivated "petrochemical capacity" which has come onstream on or after January 1, 1972, will be treated as a separate entity under this paragraph (e) for a total of sixty months.

(2) If the new, expanded or reactivated "petrochemical capacity" is scheduled to come onstream during the allocation period for which the allocation is requested, the allocation shall be computed on the basis of inputs (divided by 365), calculated as in paragraph (f) (1) of this section, which it is estimated will be made to such capacity during the allocation period. In the event the new, expanded or reactivated "petrochemical capacity" comes onstream after January 31, of the allocation period for which the allocation is requested, the Director may, if requested by the applicant, extend the expiration date of the license or licenses to 120 days after the start-up date. An applicant who receives an allocation for a particular allocation period pursuant to this subparagraph (2) may be eligible for an allocation pursuant to paragraph (e) (3), (4), or (5) of this section for the succeeding allocation periods.

(3) If the new, expanded or reactivated "petrochemical capacity" has come onstream during the allocation period immediately preceding the allocation

period for which the allocation is requested, the allocation shall be computed on the basis of the sum (divided by 365) of (i) the "petrochemical capacity inputs" calculated as in paragraph (f)(1) of this section, actually made to the new, expanded or reactivated "petrochemical capacity" during the first eight months of the allocation period immediately preceding the allocation period for which the allocation is requested and (ii) the inputs, calculated as in paragraph (f)(1) of this section which it is estimated will be made to such capacity during the next number of months which, when combined with the months in paragraph (e)(3)(i) of this section, will constitute a period of twelve months.

(4) If the new, expanded or reactivated "petrochemical capacity" has been onstream for at least one year as of December 31, of the allocation period immediately preceding the allocation period for which the allocation is requested, the allocation shall be based on actual inputs (divided by 365), calculated as in paragraph (f)(1) of this section, to the facility during the preceding twelve months ending September 30: *Provided*, That the facility will not have been onstream in excess of sixty months during the allocation period for which the allocation is requested.

(5) If the new, expanded or reactivated "petrochemical capacity" has not been onstream for a period of sixty months after earning an allocation under subparagraph (4) of this paragraph (e), an allocation will be made for the next allocation year based on actual inputs (divided by 365), calculated as in paragraph (f)(1) of this section, for the year ending December 31 of the previous allocation year. In computing the allocation, the Director will determine the number of days which, when added to the actual operating period in the previous allocation years, will constitute a period of sixty months. The facility will for this number of days, earn an allocation under this section 25A.

(f)(1) The Director shall issue allocations with respect to new, expanded or reactivated "petrochemical capacity" based on inputs which will be calculated in the following manner:

$$\frac{\text{Total weight in pounds of actual and estimated carbon and hydrogen from qualified "petrochemical capacity inputs" contained in petrochemicals produced during any applicable allocation period}}{200} = \text{Qualified inputs for the allocation period in barrels}$$

(2) The allocation shall be equal to the qualified inputs, calculated as in paragraph (f)(1) of this section, to such facilities as determined in paragraph (e)(2), (3), (4) or (5) of this section 25A, whichever is applicable.

(3) For purposes of this section, where a person produced a petrochemical from a combination of inputs which qualify, under paragraph (c) of this section and inputs which do not so qualify, the hydrogen and carbon content of the produced petrochemical shall be deemed to have been derived entirely from the qualified inputs to the full extent of such qualified inputs except that such hydrogen and carbon shall not be deemed to have been derived from a qualified input from which the carbon and hydrogen could not actually have been derived.

(g)(1) If an allocation based in whole or in part on estimated inputs, calculated as in paragraph (f)(1) of this section, is made to an applicant pursuant to this section, the actual inputs calculated as a basis for allocations in the next succeeding allocation period or periods for which the applicant applies for an allocation or allocations under this regulation shall be adjusted upward or downward to compensate for the difference between the calculated estimated inputs and actual inputs made during the period for which inputs were estimated.

(2) If the calculated estimated inputs upon which an allocation is based exceed the calculated actual inputs made by more than ten percent of the calculated estimated inputs, then, in addition to the adjustment downward provided by paragraph (g)(1) of this section, the applicant shall be penalized for the overestimate as provided in this subparagraph (2). As a penalty, the calculated actual inputs submitted by the applicant as a basis for allocation for the next succeeding period or periods for which the applicant applies for an allocation or allocations under this regulation shall be further reduced by the number of barrels by which the calculated estimated inputs exceeded the calculated inputs by more than ten percent. However, to the extent that an applicant demonstrates to the satisfaction of the Director that the excess of calculated estimated inputs over calculated actual inputs was attributable to acts of God, fire, government action, explosion, labor disputes, or other similar circumstance beyond the applicant's control, the Director may waive the penalty or reduce the number of barrels of excess for which the penalty will be imposed. Persons applying for and receiving allocations under this section whose new, expanded or reactivated "petrochemical capacity" fails to come on stream within the allocation period may be denied any allocation for the next succeeding period. The Director may elect not to apply this penalty in those cases where the applicant demonstrates to the satisfaction of the Director that a substantial effort was made to complete and to start up such facility and that the person's failure was attributable to acts of God, fire, government action, explosion, labor disputes or other similar circumstance beyond the applicant's control.

(3)(i) Any person who has been granted an allocation for a new expanded or reactivated "petrochemical capacity" in Districts I–IV, District V or Puerto Rico may avoid the penalty prescribed in paragraph (g)(2) of this section by returning on or before January 31 of the period for which the allocation was granted such a license or licenses for a downward adjustment, or, in lieu of returning such license or licenses, returning for downward adjustment a license issued to the person under section 9.

(ii) A request by an applicant who has received an allocation and license under this section for a downward adjustment shall be made in writing to the Director on or before January 31 of the allocation period for which the allocation and license were granted.

(4) The Director shall not issue a license under an allocation made pursuant to this section until (i) an on-the-spot evaluation of the new, expanded or reactivated "petrochemical capacity" has been conducted by compliance representatives of the Office of Oil and Gas and (ii) a written determination has been made by the Director that the facility is a bona fide "petrochemical capacity" as certified in the application, and that construction or reactivation has so far progressed that, in the Director's judgment, the plant will within the calendar quarter following the date of such determination be ready for start-up and trials.

(h) No license issued for allocation made under this section may be sold, assigned, or otherwise transferred.

(i)(1) As used in this section 25A "expanded petrochemical capacity" includes expansion of existing facilities by the addition of equipment, such as, but not limited to, stills, towers, pumps, and conversion units, or such additions to or modification of existing "petrochemical capacity" or petrochemical plant or identifiable "petrochemical capacity" or petrochemical plant capacity within an existing "petrochemical capacity" or petrochemical plant as have resulted in an increased petrochemical production capability of not less than fifteen percent above the base capacity established for the particular "petrochemical capacity" or petrochemical plant under consideration. The base capacity will be the average of the sums of the certified production of each petrochemical produced in the particular "petrochemical capacity" or petrochemical plant or identifiable "petrochemical capacity" or petrochemical plant capacity being expanded for the highest two of the last three input years.

(2) As used in this section 25A, "reactivated petrochemical capacity" means restoration to operation of "petrochemical capacity" which had been shut down for not less than twelve months immediately preceding its reactivation.

(j) An allocation made pursuant to this section shall entitle a person to a license or licenses which will allow the importation of unfinished oils in an amount not exceeding, in the aggregate, 15% of the person's allocation. However, the Director shall permit a person holding such an allocation to import unfinished oils in an amount up to 100% of the

allocation upon certification by him to the Director that such imported unfinished oils will not be exchanged, that such unfinished oils will be processed entirely in the petitioner's "petrochemical facilities," that the person will not charge to anyone of his plants a quantity of such unfinished oils in excess of the allocation made with respect to each such plant. The Director may, in special circumstances, permit a person holding such an allocation to import up to 100% of his allocation in the form of unfinished oils and to exchange such imports for like domestic material to be run entirely in the petitioner's "petrochemical facilities" in an amount not in excess of the allocation made with respect to each such plant. Annually beginning May 1, 1974, the maximum amount of the person's allocation which may be imported under this section as unfinished oil will be reduced by the following percentage.

For Year Commencing	Percent Reduction of Person's Allocation of Unfinished Oils Imported Under This Section
May 1, 1974	10
May 1, 1975	20
May 1, 1976	35
May 1, 1977	50
May 1, 1978	65
May 1, 1979	80
May 1, 1980	100

(k) A person who imports crude oil or unfinished oils under an allocation made under this section, except as provided in paragraph (j) of this section, may exchange his imported crude oil either for domestic crude oil or for domestic unfinished oils or exchange his imported unfinished oils either for domestic unfinished oils or for domestic crude oil. All such exchanges shall be governed by the provisions of sevtion 17 of this regulation.

(l) The hydrocarbon content of materials upon which an allocation under section 9 or section 9B of this regulation is based will not qualify as a basis for an allocation under this section.

(m) An applicant may not receive an allocation under this section 25A for new, expanded or reactivated "petrochemical capacity" for which inputs have been included in applications fined pursuant to section 9.

Section 28 is amended in its entirety to read as follows:

Sec. 28. Allocations of low sulphur residual fuel oil—District V.

(a) This section provides for the making of allocations of imports, not subject to license fee, into District V of low sulphur residual fuel oil to be used as fuel in District V. As used in this section 28, "low sulphur residual fuel oil" means (1) residual fuel oil to be used as fuel which is manfactured or produced in a foreign area and which contains not more than five-tenths of one percent (0.5%) sulphur by weight, or (2) residual fuel oil to be used as fuel which is manufactured by facilities in a foreign trade zone located in District V and which has a sulphur content not exceeding the percent by weight required by local government requirements.

(b) To be eligible for an allocation not subject to license fee of low sulphur residual fuel oil under this section a person must:

(1) Be in the business in District V of selling residual fuel oil to be used as fuel and have under his management and operational control a deepwater terminal located in District V into which there has been delivered low sulphur residual fuel oil to be used as fuel which he owned at the time of delivery, such delivery being the first delivery of that oil into a deepwater terminal in District V; or

(2) Be in the business in District V of selling residual fuel oil to be used as fuel and have a throughput agreement (warehouse agreement) with a deepwater terminal operator under which agreement the person has delivered to the terminal low sulphur residual fuel oil to be used as fuel which he owned when it was so delivered, such delivery being the first delivery of that oil into a deepwater terminal in District V. For the purposes of this section, "throughput agreement" means an agreement which provides for the delivery to a deepwater terminal by a person of residual fuel oil

(ii) Is on waterways that permit the which he owns and for a right in such person to withdraw on call an identical quantity of such oil from the terminal. A bona fide throughput agreement will be deemed to exist only if the person operating under the agreement owns the oil at the time it is delivered to the terminal and only if that delivery is the first delivery of that oil into a deepwater terminal in District V.

(c) A person seeking an import allocation not subject to license fee pursuant to this section must file an application with the Director on such form as he may prescribe. The application shall disclose such information as the Director may deem necessary in such detail as he may require. Applications must be filed in accordance with the provisions of section 5 of this regulation.

(d) For the allocation period May 1, 1974, through April 30, 1975, each eligible applicant under this section shall receive an allocation not subject to license fee to import low sulphur residual fuel oil into District V to be used as fuel in District V computed according to the following formula:

$$\frac{\text{Applicant's average B/D allocation made pursuant to section 28 for the allocation period January 1, 1973 through April 30, 1974}}{\text{Average B/D allocations made pursuant to section 28 to all applicants for the allocation period January 1, 1973 through April 30, 1974}} \times 68{,}040 \text{ B/D}$$

(e) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred. Licenses issued under allocations made pursuant to this section shall permit the importation only of residual fuel oil into District V for use as fuel oil in District V.

Paragraphs (b), (d) and (e) of Section 30 are amended so that Section 30 in its entirety reads as follows:

Sec. 30. Allocations of No. 2 fuel oil—District I.

(a) For the purposes of this section:

(1) The term "No. 2 fuel oil" means a finished product which has the following physical and chemical characteristics:

Closed cup flashpoint, degrees Fahrenheit.	Minimum 100.
Pour point, degrees Fahrenheit.	Maximum 20.
Water and sediment, percent.	Maximum 0.10.
Carbon residue on 10 percent residuum percent.	Maximum 0.35.
Distillation temperature degrees Fahrenheit, 90 percent point.	Maximum 675, Minimum 540.
Viscosity, Saybolt Universal seconds at 100° F.	Maximum 40.0, Minimum 33.0.
Gravity API	Minimum 30.0.

(2) The term "Western Hemisphere" means North America, Central America, South America, and the West Indies.

(3) The term "deepwater terminal" means a permanent land installation which:

(i) Consists of bulk storage tanks having not less than 100,000 barrels of operational capacity, pumps and pipelines used for storage, transfer and handling of No. 2 fuel oil;

safe passage to the installation of a tanker rated 15,000 cargo deadweight tons, drawing not less than 25 feet of water; and

(iii) Has a berth that will permit the delivery of No. 2 fuel oil into the installation by direct connection from a tanker rated at 15,000 cargo deadweight tons, drawing not less than 25 feet of water, and moored in berth. Cargo deadweight tons represent the carrying capacity of a tanker, in tons of 2,240 pounds, less the weight of fuel, water, stores and other items necessary for use on a voyage.

(4) The term "throughput agreement" means a written agreement which provides for the delivery to a deepwater terminal by a person of No. 2 fuel oil which he owns at the time of delivery to the terminal and for a right in such person to withdraw on call an identical quantity of such oil from the terminal. Any transaction between persons involving sales, purchases, or exchanges of No. 2 fuel oil which were designed to gain allocation benefits for a person who would not otherwise be eligible shall not be deemed to constitute a throughput agreement.

(b) For the allocation period May 1, 1974, through April 30, 1975, 45,000 barrels per day of imports of No. 2 fuel oil, which is manufactured in the Western Hemisphere from crude oil produced in

the Western Hemisphere,[1] will be available for allocations in District I to eligible persons having qualified terminal inputs of No. 2 fuel oil in this district.

(c)(1) Except as provided in paragraph (c)(2) of this section, a person shall be eligible for an allocation of imports into District I of No. 2 fuel oil under paragraph (e) of this section:

(i) If he is in the business in District I of selling No. 2 fuel oil, has under his management and operational control a deepwater terminal which is located in District I and in which No. 2 fuel oil is handled, does not have a crude oil import allocation into Districts I–V or Puerto Rico under sections 9, 10, 11, 15, 25 or 25A of this Regulation and who, in the allocation period beginning prior to January 1, 1973, had received from the Secretary an allocation of imports into District I of No. 2 fuel oil.

(ii) If he is in the business in District I of selling No. 2 fuel oil and has a throughput agreement with a deepwater terminal operator in District I who does not have a crude oil import allocation into Districts I–V or Puerto Rico under sections 9, 10, 11, 15, 25, or 25A of this Regulation and who in the allocation period beginning prior to January 1, 1973, had received from the Secretary an allocation of imports into District I of No. 2 fuel oil.

(2) No person who has an allocation of imports into Districts I–V or Puerto Rico of crude oil under sections 9, 10, 11, 15, 25 or 25A of this Regulation shall be eligible for an allocation under paragraph (e) of this section.

(d) Persons seeking an allocation under this section must file an application with the Director on such form as he may prescribe. Applications must be filed in accordance with the provision of section 5 of this Regulation.

(e) For the allocation period May 1, 1974 through April 30, 1975, each eligible applicant under this section shall receive an allocation of imports into District I of No. 2 fuel oil equal to 90 percent of the quantity allocated to him during the allocation period beginning January 1, 1973. Any volume of No. 2 fuel oil available for allocation but not allocated pursuant to the first sentence of this subparagraph shall be allocated among eligible applicants in the proportion each eligible applicant's allocation bears to the total allocated pursuant to the first sentence of this subparagraph.

(f)(1) An eligible applicant may count as qualified terminal inputs quantities of No. 2 fuel oil:

(i) Which were delivered during the period into a deepwater terminal in District I which was under his management and operational control or into a deepwater terminal with which the eligible applicant had a throughput agreement before the oil was delivered if he owned the oil when it was placed in the terminal and if the delivery constituted the first delivery of that oil to a deepwater terminal in District I, or;

(ii) Which the applicant owned, sold to a Federal agency or to an agency of a State or a political subdivision of a State, and delivered during the base period to a deepwater terminal in District I for the account of such agency, providing such delivery constituted the first delivery of that oil to a deepwater terminal in District I; or

(iii) Which was delivered to applicant's deepwater terminal in District I as a first delivery into a deepwater terminal in District I under a written agreement to purchase such oil and to which, pursuant to such agreement, the applicant took title, during the base period upon its withdrawal by him from the terminal.

(2) For the purpose of this paragraph (f), storage of No. 2 fuel oil at a refinery in which the oil was produced or delivery of No. 2 fuel oil into a deepwater terminal under the management and operational control of a person who has an allocation of imports of crude oil into Districts I–IV, District V or Puerto Rico under sections 9, 10, 11, 15, 25, or 25A of this regulation shall not be deemed to be a first delivery to a deepwater terminal in District I.

(g) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred. Except as provided in paragraph (h) of this section, licenses issued under allocations made pursuant to this section shall permit the importation only of No. 2 fuel oil. No. 2 fuel oil imported under an allocation made pursuant to this section shall be sold for use as fuel in District I.

(h) A person holding an allocation under this section may obtain from the Director a license which will permit him to import crude oil into Districts I–IV in quantity not exceeding the amount of such allocation, upon a certification to the Director, in such form as he may prescribe, that the allocation holder has entered into an agreement with a refiner in Districts I–IV under which the allocation holder will receive No. 2 fuel oil (in a ratio of not less than 1 barrel of No. 2 fuel oil for each barrel of crude oil) in exchange for such crude oil so that an amount of No. 2 fuel oil at least equal to that covered by the license will be used in District I. Any license so issued shall be charged against the allocation made under this section. No such crude oil license may be sold, assigned, or otherwise transferred. However, settlements, credits, and accounting adjustments reflecting the relative values of No. 2 fuel oil and the crude oil involved in the exchange are permissible.

Paragraph (c) of section 32 is amended to read as follows:

Sec. 32. Allocations and fee-paid licenses for imports of crude oil, unfinished oils, and finished products—Districts I–IV, District V, Puerto Rico.

* * * * *

(c)(1) Except as provided in paragraph (c)(2) of this section applications for allocations and licenses under this section, to be issued at the rates prescribed in this section for a particular period and postmarked not later than midnight of the date in which such period expires, will qualify for issuance at the rate for the period in effect at the time the application was mailed. Any application for an allocation under this section postmarked later than midnight of the date upon which such period expires may at the option of the applicant be subject to the license fee applicable during the following license fee period or withdrawn. If the date upon which the period expires is a Saturday, Sunday, or holiday, the application will nevertheless qualify if it is postmarked not later than midnight of the next succeeding business day.

(2) With respect to imports from Canada of finished products made from Canadian crude or natural gas produced in Canada no import license is required and no license will be issued for the period prior to May 1, 1974. Persons wishing to import such finished products from Canada in the period beginning May 1, 1974 may file applications with the Director at any time beginning April 1, 1974. The effective date of licenses issued pursuant to such applications filed in April shall be May 1, 1974 or the actual date of issue, whichever is later, and the applicable license fees will be as shown in paragraph (i)(1)(ii) of this section for the period beginning May 1, 1974.

* * * * *

Paragraphs (a) and (c) of Section 34 are amended so that Section 34 in its entirety reads as follows:

Sec. 34. Mexican imports, Districts I–IV and District V.

(a) For the allocation period May 1, 1974 through April 30, 1975, the Director shall allocate, as provided in paragraph (c) of this section, approximately 29,250 average barrels daily of Mexican imports into Districts I–IV and District V.

(b) As used in this section, the term "Mexican imports" means imports from Mexico of crude oil which has been produced in Mexico and unfinished oils except ethane, propane, and butanes which have been derived from crude oil or natural gas liquids produced in Mexico.

(c) The Director shall make allocations to each eligible applicant for the al-

[1] The Chairman of the Oil Policy Committee has advised that, because of supply, price, and other considerations, he finds that the requirement, contained in section 2(a)(1) of Proclamation 3279, as amended, that No. 2 fuel oil be manufactured in the Western Hemisphere from crude oil produced in the Western Hemisphere, is unduly restricting the availability of such oil for importation into District I and is not required for the national security. Accordingly, such requirement is hereby suspended. On September 1 of each year that this suspension continues, the Deputy Secretary of the Treasury, in accordance with his surveillance responsibilities, shall examine the imports by deepwater terminal operators to determine whether Western Hemisphere imports have equalled 16,425,000 total barrels or exceeded the equivalent of 45,000 barrels per day on an annual basis, and, if not, whether supply, price, and other considerations warrant reimposition of the Western Hemisphere preference requirements. He shall so advise the Secretary who shall then take such steps as are necessary to insure that, to the extent available, license fee-exempt imports of No. 2 fuel oil from Western Hemisphere sources shall equal the annual equivalent of this amount.

location period May 1, 1974 through April 30, 1975 and subsequent allocation periods on the basis of the pro rata share of Mexican imports made by each applicant during the calendar year 1972, relative to the total of all Mexican imports made by all applicants during the calendar year 1972.

(d) Each eligible applicant shall make applications for an allocation under this section by letter only signed by an officer of the company. Applications will be in accordance with the provisions of section 5.

(e) No allocation made pursuant to this section shall be sold, assigned, or otherwise transferred.

Section 35 is amended in its entirety to read as follows:

Sec. 35. Imports of Canadian natural gas products—Districts I–IV.

(a) For each twelve month allocation period beginning May 1, of each year the Director shall in accordance with paragraph (c) of this section make allocations for the importation into Districts I–IV of natural gas products derived from Canadian natural gas.

(b) To be eligible for an allocation of imports under paragraph (c) of this section, a person must have imported Canadian natural gas products into Districts I–IV during the calendar year 1973.

(c) For the allocation period May 1, 1974, through April 30, 1975, the Director shall make allocations not subject to license fees to eligible applicants in accordance with the following formula:

$$\frac{\text{Eligible applicant's imports of Canadian natural gas products imported in 1973}}{\text{Total of Canadian natural gas products imported by all eligible applicants in 1973}} \times 101{,}700 \text{ B/D}$$

(d) Applications for an allocation under this section must be filed in accordance with section 5.

[FR Doc.74-6428 Filed 3-15-74;3:52 pm]

Title 45—Public Welfare

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

PART 248—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

Medicaid Eligibility

Correction

In FR Doc. 74-5349 for the issue of Monday, March 1, 1974 appearing on page 9512, § 248.80, paragraph (c), second sentence should read as follows:

"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 permanent total disability, except 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.

CHAPTER X—OFFICE OF ECONOMIC OPPORTUNITY

PART 1068—COMMUNITY ACTION PROGRAM GRANTEE FINANCIAL MANAGEMENT

Subpart—Valuation of Volunteered Personal Services for Purposes of Computing the Non-Federal Share

BACKGROUND. Since 1967 OEO has required the use of nationally-set rates for various skills and professions when computing the non-Federal share. In the early years of OEO, these rates were an administrative benefit to both grantees and OEO, i.e., each grantee could use the OEO rates as a ready reference and thus was not required to produce a time-consuming comparability study; and this system demanded the least amount of time for a limited OEO staff to administer. The prior policy statement on this subject was issued as OEO Instruction 6802-1, dated December 28, 1971.

However, in keeping with the practices of other relevant Federal agencies and the Office of Management and Budget's proposed policy on this subject, OEO's policy on valuation of volunteered personal services, as stated in OEO Instruction 6802-1, is superseded by this subpart. The new policy eliminates the requirement that grantees use the nationally-set rates and now requires them to use rates consistent with those regular rates paid for similar work in the local labor market in which they compete for the kind of services involved.

Sec.
1068.9-1 Applicability of this subpart.
1068.9-2 Policy.
1068.9-3 Procedures.
1068.9-4 Maintenance of effort.
1068.9-5 Required documentation.

AUTHORITY: Sec. 602(n), 78 Stat. 530 (42 U.S.C. 2942).

§ 1068.9-1 Applicability of this subpart.

This subpart applies to all grants and contracts under Titles II and VII of the Economic Opportunity Act, as amended, in which non-Federal share is required.

§ 1068.9-2 Policy.

As of the effective date of this subpart, all rates for volunteers should be consistent with those regular rates paid for similar work in the labor market in which the grantee competes for the kind of services involved. However, if OEO has already approved rates for an existing grant and the rates are higher than the rates would be if the grantee implemented this new policy, the grantee has the option of using the old rates.

§ 1068.9-3 Procedures.

(a) *Valuation of volunteered services—general.* Each hour of volunteered services may be counted as non-Federal share if the service is an integral and necessary part of the OEO-approved program (e.g., the time donated by a lawyer who voluntarily contributes his services free-of-charge in a Legal Services program). Applicants must demonstrate in their budget documents that the in-kind services volunteered will make a meaningful and desirable contribution to the grant program. Applicants covered by OEO Instruction 6710-1, Change 6, need only to maintain such budget documentation on file for OEO review as requested.

(b) *Valuation of volunteer services—grantee staff and members of boards and advisory committees.* (1) Services of persons regularly employed by grantees may not be counted as non-Federal share.

(2) Time spent by members of a governing board, administering board, area board or council, county board, or advisory committee of the grantee or delegate agency may or may not be included as a contribution to the non-Federal share as follows:

(i) it may not be included when the time is spent on the development, conduct, and administration of the program; and

(ii) when the board or committee members are acting in their capacity as members of such bodies.

(iii) It may be included if they are volunteering their services for work on the program which someone would otherwise have to be hired to perform.

§ 1068.9-4 Maintenance of effort.

Voluntary services for which non-Federal share is claimed must be in addition to similar services that were volunteered before the inauguration of assisted activity and must not be diverted from other services to the poor.

§ 1068.9-5 Required documentation.

All volunteered services claimed as non-Federal share must be substantiated by time cards or records that are signed by both the volunteer and his supervisor as is required for all other employees. Such records must show the actual hours worked and the specific duties performed. They should also indicate the basis for determining the rate of volunteer's contribution and such documentation must be available for audit.

This subpart is effective April 18, 1974.

ALVIN J. ARNETT,
Director.

[FR Doc.74-6202 Filed 3-15-74;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[Ex Parte Nos. MC–5, 159]

PART 1043—SURETY BONDS AND POLICIES OF INSURANCE

PART 1084—SURETY BONDS AND POLICIES OF INSURANCE

Limits of Liability

Order. At a session of the Interstate Commerce Commission, the Insurance Board, held at its office in Washington, D.C., on the 11th day of March 1974.

It appearing, that notice was given by notice of proposed rulemaking, dated January 7, 1974, published in FR page 2276, dated January 18, 1974, pursuant to section 4(a) of the Administrative Procedure Act (60 Stat. 237, 5 U.S.C. 1003) of the proposed amendment of § 1043.2(a) of Part 1043 (49 CFR 1043.2 (a) of the Code of Federal Regulations governing the filing of insurance or other security for the protection of the public, under the authority contained in Section 215 of the Interstate Commerce Act (49 Stat. 557, as amended; 49 U.S.C. 315), and the proposed amendment of § 1084.3 (b) of Part 1084 (49 CFR 1084.3(b)) of the Code of Federal Regulations governing the filing of insurance or other security for the protection of the public, under the authority contained in section 403(d) of the Interstate Commerce Act (56 Stat. 285; 49 U.S.C. 1003);

It further appearing, that interested parties were requested to file with the Commission, within thirty days from the publication of the notice of proposed rulemaking, written statements of facts, opinions, or arguments concerning the proposed amendments;

It further appearing, that a statement was received from Auto Driveaway Company within thirty days from the publication date opposing the proposed amendments and requesting that they not be adopted;

And it further appearing, that the petition of Auto Driveaway Company has been given consideration and has not been found to warrant any change in the amendments as proposed and good cause appearing therefor;

It is ordered, that § 1043.2(a) of Title 49 of the Code of Federal Regulations be, and it is amended to read as follows:

§ 1043.2 Insurance, minimum amounts.

* * * * *

(a) *Motor carriers: bodily injury liability, property damage liability.*

(1) Kind of equipment	(2) Limit for bodily injuries to or death of one person	(3) Limit for bodily injuries to or death of all persons injured or killed in any one accident (subject to a maximum of $100,000 for bodily injuries to or death of one person)	(4) Limit for loss or damage in any one accident to property of others (excluding cargo)
Passenger equipment (seating capacity): 12 passengers or less	$100,000	$300,000	$50,000
More than 12 passengers	100,000	500,000	50,000
Freight equipment: All motor vehicles used in the transportation of property	100,000	300,000	50,000

* * * * *

(Sec. 215, 49 Stat. 557, as amended (49 U.S.C. 315))

It is further ordered, That § 1084.3(b) of Title 49 of the Code of Federal Regulations be, and it is hereby, amended to read as follows:

§ 1084.3 Limits of liability.

* * * * *

(b) Public liability and property damage. Limits for bodily injury to or death of any person, or loss of or damage to property, except property referred to in paragraph (a) of this section:

(1) For bodily injuries to or death of one person—$100,000.

(2) For bodily injuries to or death of all persons injured or killed in any one accident subject to a maximum of $100,000 for bodily injuries to or death of one person—$300,000.

(3) For loss of or damage in any one accident to property, excluding cargo, of others—$50,000.

(Sec. 403(c), 56 stat. 285; (49 U.S.C. 1003))

It is further ordered, That the rules herein prescribed, are hereby prescribed to become effective July 1, 1974;

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 for inspection, and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Insurance Board.

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

[FR Doc.74–6289 Filed 3–18–74;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 COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 922]

MARINE SANCTUARIES

Program Guidelines

The following guidelines setting forth the procedures by which areas may be nominated as marine sanctuaries and the policies and procedures for the selection, designation, and operation of a marine sanctuary are proposed by the Administrator of the National Oceanic and Atmospheric Administration pursuant to the authority of Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (Pub. L. 92–532; 86 Stat. 1061) hereinafter referred to as the Title, and the delegation of authority of the Secretary of Commerce dated March 13, 1974, authorizing the Administrator of the National Oceanic and Atmospheric Administration to exercise the authority under the Title.

The Title recognizes that certain areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, or other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters need to be preserved or restored for their conservation, recreational, ecological or esthetic values.

The Secretary of Commerce, after consultation with the Secretaries of State, Defense, the Interior, Transportation, the Administrator of the Environmental Protection Agency, other interested Federal Agencies, the State(s) involved and with the approval of the President, may designate a marine sanctuary.

Prior to designating a marine sanctuary which includes waters lying within the territorial limits of any state or subjacent to the subsoil and seabed within the seaward boundary of a coastal state, the Secretary shall consult with and give due consideration to the view of the responsible state officials involved. A designation under this section shall become effective sixty days after it is published, unless the governor of any state involved shall, before the expiration of the sixty day period, certify to the Secretary that the designation, or a specified portion thereof, is unacceptable to his state, in which case the designated sanctuary shall not include the area certified as unacceptable until such time as the governor withdraws his certification of unacceptability.

Where areas outside the territorial sea are involved, the State Department is to take whatever action is necessary to negotiate with other Governments to assure protection of a sanctuary.

Prior to a designation of a marine sanctuary, public hearings must be held in the coastal areas most affected by the designation. Regulations are to be promulgated for each such designation.

These guidelines set forth the concepts and procedures under which marine sanctuaries will be designated and managed.

Pursuant to the Office of Management and Budget (OMB) memorandum of October 5, 1971, which established a procedure for improving interagency coordination of proposed agency regulations, standards and guidelines pertaining to environmental quality, the following guidelines have been circulated to all interested Federal agencies for their review and comment. Comments submitted will be reviewed before final guidelines are published.

Prior to adoption of the proposed guidelines as final guidelines, consideration will be given to comments which are submitted in writing to the Office of Coastal Environment, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Maryland 20852, before May 1, 1974.

ROBERT M. WHITE,
Administrator.

March 14, 1974.

Subpart A—General

Sec.
922.1 Policy and Objectives.
922.2 Programmatic Objectives.

Subpart B—Classifications of Marine Sanctuaries

922.10 Classifications.
922.11 Definitions.
922.12 Effect of Marine Sanctuary Designation for Waters Outside of U.S. Jurisdictional Limits.
922.13 Effect on International Principles Involving Freedom of the Seas.

Subpart C—Nomination of Candidates

922.20 Nomination of Candidates.
922.21 Analysis of Nomination.
922.22 Hearings.
922.23 Consultation Process.
922.24 Designation.
922.25 Operation.

Subpart A—General

§ 922.1 Policy and objectives.

(a) The Marine Sanctuaries Program shall be conducted under the expressed policy of the Title which is to designate areas from the near high tide line to the outer edge of the continental shelf, as defined in the Convention of the Continental Shelf (IS U.S.T. 74; TIAS SS78), of other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters, which the Administrator determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values.

(b) Multiple use of marine sanctuaries as defined in this subpart will be permitted to the extent the uses are compatible with the primary purpose of the sanctuary.

(c) It is anticipated that the marine sanctuaries program will be conducted in close cooperation with section 312 of the Coastal Zone Management Act of 1972, Pub. L. 92–583, which recognizes that the coastal zone is rich in a variety of natural, commercial, recreational, industrial and esthetic resources of immediate and potential value to the present and future well-being of the nation and which authorizes the Secretary of Commerce to make available to a coastal State grants of up to 50 percent of the costs of acquisition, development and operation of estuarine sanctuaries.

§ 922.2 Programmatic objectives.

Marine Sanctuaries may be designated to preserve or restore areas for their conservational, recreational, ecological, or esthetic values in coastal waters. Anticipated examples include:

(a) Areas necessary to protect valuable, unique or endangered marine life, geological features, and oceanographic features.

(b) Areas to complement and enhance public areas such as parks, national seashores and national or state monuments and other preserved areas.

(c) Areas important to the survival and preservation of the nation's fisheries and other ocean resources.

(d) Areas to advance and promote research which will lead to a more thorough understanding of the marine ecosystem and the impact of man's activities.

Subpart B—Classifications of Marine Sanctuaries

§ 922.10 Classifications.

Marine sanctuaries will be established for one, or a combination of, the following purposes:

(a) *Habitat Preserves.* Preserves established under this concept are for the preservation, protection and management of essential or specialized habitats representative of important marine systems. Management emphasis will be toward preservation or restrictive use. This does not necessarily mean all human activity will be prohibited. However, the quantity and type of public use will be limited and controlled to protect the

values for which the preserve was created.

(b) *Species Preserves.* Preserves established under this concept are for conservation of genetic resources. Management emphasis will be to maintain species, populations and communities for restocking other areas and for reestablishment purposes in the future. The result will be a contribution to the goal stated by the Council on Environmental Quality, that is, "the widest possible diversity of and within species should be maintained for ecological stability of the biosphere and for use as natural resources." The orientation envisaged will be toward species preservation by protection of such areas as migratory pathways, spawning grounds, nursery grounds, and the constraints on these areas will be those necessary to achieve these purposes. Uses which are compatible with protection of the selected species will be permitted.

(c) *Research Areas.* Areas established under this concept will exist for scientific research and education and will be of two types: natural areas and field laboratories. Research natural areas will be left essentially undisturbed.

(1) In field laboratories certain manipulative research to ascertain the response to specific human modification may be permitted.

(2) The purpose of both types of research areas is to establish ecological baselines against which to compare and predict the effect of man's activities, and to develop an understanding of natural processes. Research areas will be chosen according to the biota they support and to include representative samples of the significant ecosystems in the nation. The use of the marine sanctuary authority for research purposes will insure that the area will be relatively unaffected for a long period of time, thus adding a measure of stability to a research program.

(d) *Recreational and Esthetic Areas.* Areas established under this concept will be based on esthetic or recreational value. These may be used to augment public lands already set aside by local, state or Federal government.

§ 922.11 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(b) "Marine Sanctuary" means those areas of the ocean waters as far seaward as the outer edge of the Continental Shelf, as defined in the Convention of the Continental Shelf (IS U.S.T. 74, TIAS SS78), of other coastal waters where the tide ebbs and flows, of the Great Lakes and their connecting waters for the purpose of preserving or restoring such areas for their conservation, recreational, ecological or esthetic values.

(c) The term "multiple use" as used in this section shall mean the contemporaneous utilization of an area of resource for a variety of compatible purposes or to provide more than one benefit. The term implies the long-term, continued uses of such resources in such a fashion that one use will not interfere with, diminish, or prevent other permitted uses.

(d) "Ocean waters" means those waters of the open seas lying seaward of the baseline from which the territorial sea is measured, as provided for in the Convention of the Territorial Sea and the Contiguous Zone (IS U.S.T. 1606, TIAS S639).

(e) "Person" means any private person or entity, or any officer, employee, agent, department, agency, or instrumentality of the Federal Government, or any state or local unit of government.

(f) "Secretary" means the Secretary of Commerce.

§ 922.12 Effect of Marine Sanctuary Designation for Waters Outside of U.S. Jurisdictional Limits.

The designation of a marine sanctuary and the regulations pertaining to it will be binding on United States citizens. In accordance with international law, the United States has exclusive jurisdiction over resources within the territorial sea and the contiguous zone and exercises sovereignty in the territorial sea subject only to the right of innocent passage. As to marine sanctuaries beyond the contiguous zone, U.S. regulations would be binding on foreign citizens in accordance with international law, including the 1958 Geneva Convention on the Continental Shelf. The extent that foreign citizens would otherwise be bound to follow regulations relating to sanctuaries beyond the contiguous zone would be dependent upon the State Department reaching agreements with the foreign nation involved. It is not anticipated by the Administrator that use restrictions would be imposed on U.S. citizens beyond the contiguous zone without also restricting the use of the same area to foreign citizens who have access to such use.

§ 922.13 Effect on International Principles involving Freedom of the Seas.

The designation of a marine sanctuary will not infringe upon the normal rights of innocent passage in territorial waters, the rights of navigation through international straits, or the freedoms of the high seas, including freedom of navigation.

Subpart C—Nomination of Candidates

§ 922.20 Nomination of Candidates.

The nomination of a given marine area for consideration as a designated marine sanctuary may result from studies carried out by Federal, State or local officials or from any other interested persons. Nominations should be addressed to:

Director, Office of Coastal Environment
National Oceanic and Atmospheric Administration
U.S. Department of Commerce
Rockville, Maryland 20852

The nomination for designation as a marine sanctuary must contain the following information:

(a) A general description of the area including the following information:

(1) Purpose for which the nomination is made;

(2) Geographic coordinates of the site;

(3) Plant and animal life in the area;

(4) Geological characteristics of the area;

(5) Present and prospective uses and impacts on the area.

§ 922.21 Analysis of Nomination.

(a) If a preliminary review demonstrates the feasibility of the nomination a more in depth study will be required. Factual information will be gathered to obtain an understanding of the:

(1) Animal and plant life;

(2) Geological features;

(3) Weather and oceanographic conditions and features;

(4) Present and potential recreational and economic uses;

(5) Present and potential adjacent land uses;

(6) Laws and programs of Federal, State and local government that apply to the area.

(b) An analysis will be made of how the sanctuary will impact on the present and potential uses and *vice versa* how these uses will impact on the primary purpose for which the sanctuary is being considered.

(c) The factual information and the results of the analysis activity will be used in preparation of a draft environmental impact statement and proposed regulations.

§ 922.22 Hearings.

(a) Before a marine sanctuary is designated under this section, the Administrator shall hold public hearings in the coastal areas which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the views of any interested party. Such hearings shall be held no earlier than thirty days after the publication of a public notice thereof.

(b) The purpose of this section is to ensure that all interested parties have the opportunity to express their views. Public hearings need not be held on each proposal or nomination but only when sufficient facts and data are available to the Administrator which indicate that designation action appears to be feasible.

§ 922.23 Consultation Process.

The consultation process is designed to coordinate the interests of the state and various Federal departments and agencies, including the management of fisheries resources, the protection of national security and transportation interests, and the recognition of responsibility for the exploration and exploitation of mineral resources. All interests will be considered, and no sanctuary will be designated without complete coordination in this regard. In case of serious disagreement, among Federal departments, the Secretary, in cooperation with the Executive Office of the President, will seek to mediate the differences.

§ 922.24 Designation.

Subsequent to completion of the in depth study by the Administrator, a draft Environmental Impact Statement will be prepared and circulated for review in

compliance with the Natural Environmental Policy Act of 1969 and implementing CEQ guidelines. The designation by the Administrator will clearly state the purpose for which the sanctuary is designated and regulations and guidelines promulgated under which it will operate.

§ 922.25 Operation.

The designation of a marine sanctuary establishes the basis for a continuous operating program designed to maintain the purpose for which the sanctuary is designated. This involves a program of continuous scientific evaluation, surveillance, and enforcement to insure the integrity of the system. An interpretative program may be conducted to aid in public understanding and enjoyment of the sanctuary. The mechanisms for this will be specific regulations established for each designated marine sanctuary.

[FR Doc.74-6226 Filed 3-18-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 127]

GRANTS FOR DEMONSTRATION PROJECTS TO IMPROVE SCHOOL HEALTH AND NUTRITION SERVICES FOR CHILDREN FROM LOW-INCOME FAMILIES

Notice of Proposed Rule Making

In accordance with section 503 of the Education Amendments of 1972 (P.L. 92-318) and pursuant to the authority contained in section 808 of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 887a, the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to add a new part 127 to Title 45 of the Code of Federal Regulations to read as set forth below.

1. *Program purpose.* The proposed regulations govern a program of grants to local educational agencies and under extraordinary circumstances, to nonprofit private educational organizations, to support demonstration projects designed to improve health, nutrition and related educational services provided to elementary school children from low-income families. The projects, funded at yearly intervals for up to 36 months, would coordinate already available federally-funded health and nutrition services in the area, and provide supplementary services not otherwise available.

2. *Section 503 procedures and effect.* Section 503 of the Education Amendments of 1972 requires the Commissioner to study all rules, regulations, guidelines, or other published interpretations or orders issued by him or by the Secretary after June 30, 1965, in connection with, or affecting, the administration of Office of Education programs; to report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives concerning such study; and to publish in the FEDERAL REGISTER such rules, regulations, guidelines, interpretations, and orders, with an opportunity for public hearing on the matters so published. The regulations proposed below reflect the results of this study as it pertains to the program under Section 808 of the Elementary and Secondary Education Act. Upon publication of Part 127 in final form, after comments and hearings, all preceding rules, regulations, guidelines, and other published interpretations and orders issued in connection with or affecting the program will be superseded effective thirty days after such publication. At present there will be no guidelines for the program. If guidelines should be issued in the future, they will be limited to recommendations and suggestions for program operation and management.

3. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)) and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations has been placed in parentheses on the line following the text of the section.

On occasion, a citation appears at the end of a subdivision of the section. In that case, the citation applies to all that appears in that section between the citation and the next preceding citation. When the citation appears only at the end of the section it applies to the entire section.

4. *Opportunity for public hearing.* Pursuant to section 503(c) of the Education Amendments of 1972, the Commissioner will provide interested parties an opportunity for a public hearing on these regulations as follows:

A hearing will take place at the U.S. Office of Education on April 16, 1974, in the auditorium of Regional Office Building Three (ROB-3) located at 7th and D Streets, SW., Washington, D.C. beginning at 10 a.m.

The purpose of the hearing is to receive comments and suggestions on the published materials.

Parties interested in attending the hearing should notify the Chairman of the Office of Education Task Force on section 503, 400 Maryland Avenue, SW., Room 2079-G of Federal Office Building Six (FOB-6), Washington, D.C. 20202, and are urged to submit a written copy of their comments with such notification. Each party planning to make oral comments at the hearing is urged to limit his presentation to a maximum of fifteen minutes.

Interested parties may also submit written comments and recommendations to the Chairman of the Education Task Force on section 503 at the above address. All relevant material received prior to the date of the hearing will be considered. Comments and suggestion submitted in writing will be available for review in the above office between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week.

(Catalog of Federal Domestic Assistance Program Number 13.523, Demonstration Projects in School Health and Nutrition Services for Children from Low-Income Families.)

Dated: January 24, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: March 8, 1974.

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

PART 127—GRANTS FOR DEMONSTRATION PROJECTS TO IMPROVE SCHOOL HEALTH AND NUTRITION SERVICES FOR CHILDREN FROM LOW-INCOME FAMILIES

Sec.
127.1 Scope and purpose.
127.2 Definitions.
127.3 Eligibility for grants.
127.4 Children who may be served.
127.5 Applications.
127.6 Review and disposition of applications.
127.7 Advisory committee.
127.8 Use of funds.
127.9 Health services.
127.10 Mental health services.
127.11 Nutritional services.
127.12 Educational services.

AUTHORITY: Sec. 164 of P.L. 91-230, 84 Stat. 153 (20 U.S.C. 887a), unless otherwise noted.

§ 127.1 Scope and purpose.

(a) The regulations set forth in this part are applicable to demonstration project grants under Section 808 of the Elementary and Secondary Education Act of 1965, as amended, to improve school health and nutrition services and activities for children from low-income families.

(b) Grants may be made under this part to local educational agencies and, under exceptional circumstances, to nonprofit private educational organizations to support demonstration projects designed to improve health and nutrition services in public and private schools serving areas with high concentrations of children from low-income families.

(c) Projects assisted under this part shall be designed to demonstrate exemplary methods of organizing a system of health, nutrition and related educational services,

(1) By more effectively coordinating programs providing such services so that:

(i) Project target school personnel, parents, and community service providers jointly develop a comprehensive school based system of assessment and response to the health, nutrition and related educational needs of children from low-income families;

(ii) The school plays a major role in implementing a design for the early detection and removal of health- and nutrition-related barriers to a child's optimum development; and

(iii) The community service providers, particularly federally-assisted health, mental health, and nutrition programs, become an integral part of the response system by more effectively focusing the delivery of their services to children from low-income families; and

(2) By providing supplemental health and nutrition services when necessary.

(d) Projects assisted under this part shall be designed for continuous operation throughout the calendar year, except where local conditions warrant a partial reduction of services under the program during the summer months.

(e) Assistance provided under this part is subject to applicable provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(20 U.S.C. 887a; Sen. Rept. No. 634, 91st Cong. 2d Sess. 60 (1970))

§ 127.2 Definitions.

As used in this part:

"Children and Youth Project" means a center providing pediatric services supported by the Department of Health, Education, and Welfare under the authority of section 509 of Title V of the Social Security Act, 42 U.S.C. 709.

(20 U.S.C. 887a; Sen. Rept. No. 634, 91st Cong. 2d Sess. 60 (1970))

"Community Mental Health Center" means community mental health service providers supported by Federal, State or local agencies, university departments of medicine, psychiatry, psychology or special education, or learning disability clinics.

(20 U.S.C. 887a; Sen. Rept. No. 634, 91st Cong. 2d Sess. 60 (1970))

"Comprehensive Health Center" means a health center supported by the Department of Health, Education, and Welfare under the authority of 42 U.S.C. 246.

(20 U.S.C. 887a; Sen. Rept. No. 634, 91st Cong. 2d Sess. 60 (1970))

"Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or the performance of a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combinations of school districts and counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. The term also includes any public institution or agency having administrative control and direction of a public elementary or secondary school.

(20 U.S.C. 881f)

"Neighborhood Health Center" means a health center supported by the Office of Economic Opportunity or the Department of Health, Education, and Welfare under the authority of section 222(a)(4) of Title II of the Economic Opportunity Act of 1964, 42 U.S.C. 2809.

(20 U.S.C. 887a; Sen. Rept. No. 634, 91st Cong. 2d Sess. 60 (1970))

"Project target school" means a public elementary school serving an area with high concentrations of children from low-income families, which school is eligible to be served by a project under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241a, *et seq.*)

(20 U.S.C. 887a; Sen. Rept. No. 634, 91st Cong. 2nd Sess. 60 (1970))

"Service area" means the geographic area served by a Neighborhood Health Center, Comprehensive Health Center, Children and Youth Project Center, Community Mental Health Center, or other federally supported comprehensive health program.

(20 U.S.C. 887a; Sen. Rept. No. 634, 91st Cong. 2nd Sess. 60 (1970))

§ 127.3 Eligibility for grants.

(a) The Commissioner may award grants to local educational agencies and under exceptional circumstances to nonprofit private educational organizations to organize a system of health, nutrition and related educational services which shall serve at least one project target school. That system shall effectively coordinate various Federal, State, local, and private health, mental health and nutrition services available to those children. The project services shall also be made available to children eligible under § 127.4, who are attending nonpublic elementary schools and reside in the attendance area of a project target school to be served by the project proposed for assistance under this part. A project shall be designed to serve during its first period of support no more than four project target schools and no more than 1500 students.

(b) The project target schools shall be—

(1) Located in the service area of at least one of the following:

(i) A Neighborhood Health Center,

(ii) A Comprehensive Health Center,

(iii) A Children and Youth Project, or

(iv) A similar federally supported comprehensive health program; and

(2) Capable of providing free and/or reduced priced food programs which assist in meeting the nutritional needs of the students in attendance at that school.

(c) The exceptional circumstances under which a grant under this part may be awarded to a nonprofit private educational organization rather than to a local educational agency include, but are not necessarily limited to—

(1) Those circumstances, ordinarily occurring in rural areas, where a single organization can better serve children attending the schools of two or more local educational agencies, or

(2) Those circumstances where a local educational agency wishes to be served by a private organization. In this event, the application of the private organization shall include a statement by the appropriate local educational agency to that effect.

(20 U.S.C. 887a; Sen. Rept. No. 634, 91st Cong. 2d Sess. 60 (1970))

§ 127.4 Children who may be served.

A child attending a project target school or a nonpublic school serving an area with high concentrations of children from low-income families shall be eligible to participate in a project assisted under this part if, at the time such project is to be carried out such child is determined to be a member of a family whose income is at or below the low-income level established under one of the following standards which has been designated by the grantee in its application as the standard to be applied for the purpose of its project under this part—

(a) The Office of Economic Opportunity Income Poverty Guidelines (45 CFR 1060.2–1060.3);

(b) The income level established by the State under Title XIX of the Social Security Act, (42 U.S.C. 1396 *et seq.*); or

(c) The appropriate statewide standard for financial assistance adopted by the appropriate State welfare agency.

(20 U.S.C. 887a)

§ 127.5 Applications.

(a) An applicant for a grant under this part shall submit a preapplication containing such information as may be required by the Commissioner. An applicant whose preapplication has been approved will be invited to submit an application meeting the requirements of paragraph (b) of this section. The cutoff dates for submission of preapplications and applications for initial grants will be published in the FEDERAL REGISTER.

(b) An application for assistance under this part shall include:

(1) Evidence that the project proposal has been developed in consultation with representatives of appropriate community health agencies, the local educational agency (if the applicant is a nonprofit private educational organization) and the local educational agency advisory group described in § 127.7;

(2) A description of the health, mental health and nutrition services in the target area, evidence that the application has the concurrence of those agencies and organizations providing the health, mental health and nutrition services under agreements described in §§ 127.9–127.11, and evidence of the extent to which such services will become available to the applicant if a grant is awarded (including letters of intent);

(3) A description of the manner in which the applicant proposes to use the funds under this part for which application is made;

(4) A description of the manner in which the applicant proposes to coordinate, or provide for the coordination of, the available health care facilities and resources and nutrition resources in the target area in order to insure that a comprehensive program of physical and mental health and nutrition services are available to children from low-income families in the area to be served, including a description of the arrangements which the applicant proposes to make in accordance with §§ 127.9–127.11.

(5) A description of the applicant's plan to develop new or utilize existing health and nutrition curriculum materials related to the specific needs of per-

sons involved with the project and to new and improved approaches to health services and food technology;

(6) A description of the plans of the applicant to train, or provide for the training of:

(i) School administrators, teachers, and school health and nutrition personnel in order to assist them in meeting the health and nutritional needs of children from low-income families, and

(ii) Professional and subprofessional personnel for service in school health and nutrition programs;

(7) A description of a plan to evaluate the project as required by Part 100a of this chapter;

(8) A description of plans to include eligible private school children in the project;

(9) The standard of income selected by the applicant in accordance with § 127.4.

(c) Applications for grantees to continue an existing project are to be submitted in accordance with the Reports Schedule contained in the current grant award document.

(d) Assistance under this part will not be provided for a period in excess of 36 months.

(20 U.S.C. 887a)

§ 127.6 Review and disposition of applications.

(a) All preapplications and applications will be reviewed by a panel of Office of Education personnel, by representatives of other appropriate Federal agencies and by a panel of experts who are not employees of the Federal Government.

(b) Final decisions on preapplications and applications will be made by the Commissioner and will be based on consideration of the following criteria (in addition to the criteria set forth in § 100a.26(B) of this chapter):

(1) The degree to which the proposed project will achieve the delivery of services through the coordination of community resources and thus minimize the need for direct purchase of services;

(2) The adequacy of the proposed relationship between the regular education programs in the project target school or schools to be served by the project, and the health and nutrition needs of the project target children;

(3) The adequacy of plans for effective and meaningful parental involvement; and

(4) The likelihood of the continuation of project activities beyond the end of the funding period.

(20 U.S.C. 887a)

§ 127.7 Advisory committee.

(a) An applicant shall, prior to the submission of an application under the program, consult with a district-wide advisory committee formed in accordance with paragraph (b) of this section and shall afford such committee (1) a reasonable opportunity to participate in the designation of project target schools for that school district and (2) at least 15 days in which to review and comment upon such application. In connection with the review, such agency shall furnish to each member of such committee: a copy of the statute and regulations applicable to the program, and all other pertinent information necessary for involvement of the committee in the planning, operation, and evaluation of the project.

(b) Membership of the committee shall consist of either:

(1) The local parent council if one has been established pursuant to § 116.17(o) of this chapter or a subcommittee of that group, or

(2) parents of eligible public and private schoolchildren, school personnel from the project target school or schools, representatives from the affected health and nutrition agencies, and representatives from civic or community organizations from the community at large.

(c) If the committee is to consist of the local parent council, a technical advisory committee shall be established to advise the committee. The technical advisory committee shall consist of professional personnel from the project target school or schools, and representatives from the affected health, nutrition, and other interested agencies.

(d) The applicant shall involve the committee in—

(1) The planning of the project from its initial phase;

(2) The establishment of criteria for the selection of project personnel;

(3) The establishment of priorities for the delivery of services;

(4) The ongoing operations of the project through such steps as conducting periodic committee meetings with project personnel;

(5) The evaluation of suggestions and complaints from parents of eligible children;

(6) The evaluation of the project; and

(7) The design of future plans for the project if the project is to be continued with assistance under this part.

(20 U.S.C. 1231d; 20 U.S.C. 887a)

§ 127.8 Use of funds.

Funds made available under a grant pursuant to this part shall be used for—

(a) Coordination of the nutrition and health resources in the area to be served by the approved project;

(b) The provision of supplemental health, nutrition, and mental health services (as described in § 127.9–127.11) to children to be served by such project, where:

(1) The service in question is designed to overcome specifically identified health- and nutrition-related problems of such children;

(2) The service is not ordinarily provided by an agency serving the school attendance area of the appropriate project target school;

(3) The service is not provided under the regular school program in that project target school, and

(4) Funds for the provision of the service are not available under any other program;

(c) The planning, establishment, and carrying out of nutrition and health education programs designed to train professional and other school personnel to provide health and nutrition services to meet the needs of children from low-income families for those services where such training programs are not ordinarily provided by another agency serving the school attendance area of the project target school or as part of the regular school program;

(d) Evaluation of the project in accordance with § 100a.276 of this chapter; and

(e) Supplementing funds presently available for health, mental health, nutrition and related educational services for the target population from Federal, State, local and private agencies, and in no case to supplant such funds.

(20 U.S.C. 887a)

§ 127.9 Health services.

(a) (1) The grantee shall, upon receipt of the grant, enter into agreements in accordance with the applicable provisions of subchapter A of this chapter with Neighborhood Health Centers' Comprehensive Health Centers, Children and Youth Projects, or other similar federally supported comprehensive health programs whose service areas include the project target schools, for the provision of health services to children eligible to participate in this program.

(2) These health services shall include—

(i) Complete physical examinations for all children upon entering school, for incoming transferring students, and for others whenever necessary;

(ii) Follow-up treatment including ambulatory and, where necessary, inpatient hospital care;

(iii) Consultation; and

(iv) Periodic dental examinations and care.

(3) These health services may include—

(i) Placement of additional health staff in the school; and

(ii) In-service training of professional and para-professional personnel.

(b) An agreement specified in this section shall provide that where possible the expenses of the health services shall be borne by the agency providing the services or by payments under the Medicaid program, Title XIX of the Social Security Act, or other third party payment mechanisms.

(20 U.S.C. 887a)

§ 127.10 Mental health services.

(a) (1) The grantee shall, upon receipt of the grant, enter into agreements in accordance with the applicable provisions of Subchapter A of this chapter with community mental health service providers, whose service area includes the project target school, for the provision of mental health services.

(2) These services shall include—

(i) Diagnostic services;

(ii) Consultation with educational personnel concerning the emotional problems of the children;

(iii) Counseling; and

(iv) Preventive mental health education or psychological education.

(3) These services may include—

(i) Individual treatment;

(ii) Special programs for children with psychological, or behavioral problems;

(iii) Placement of mental health workers in the schools; and

(iv) In-service training and workshops for professional and paraprofessional personnel.

(b) An agreement specified in this section shall provide that where possible the expenses for providing the mental health services shall be borne by the agency providing the services or by payments under the Medicaid program, Title XIX of the Social Security Act, or other third party payment mechanisms.

(20 U.S.C. 887a)

§ 127.11 Nutritional services.

A project target school served under this part shall participate in the Department of Agriculture Child and Family Feeding programs, shall provide to those children participating in the project free or reduced price breakfasts and lunches, and shall develop nutrition education curricula that are integrated into the school feeding programs. The grantee may provide food or dietary supplements for meeting special dietary needs and may institute programs to educate, families obout nutrition and inform them of Federal food programs.

(20 U.S.C. 887a)

§ 127.12 Educational services.

The grantee shall require that the project target schools, in consultation with professional staff members from appropriate community agencies—

(a) Develop learning activties designed to assist eligible children having health and nutrition problems to participate more fully in the regular instructional program;

(b) Provide assistance for eligible children with diagnosed health-related learning disabilities;

(c) Provide sequenced nutrition education experiences at each grade level;

(d) Provide sequenced health education experiences at each grade level; and

(e) Develop ways to improve the emotional climate of schools, including preventive mental health education.

(20 U.S.C. 887a)

[FR Doc.74-6308 Filed 3-18-74;8:45 am]

Social Security Administration

[20 CFR Part 405]

[Reg. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Limitations on Coverage of Costs Under Medicare

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to the regulations set forth in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. Pursuant to section 223 of P.L. 92-603, the proposed amendments to Regulations No. 5 of the Social Security Administration (20 CFR Part 405), provide for the establishment of limitations on reasonable cost reimbursement based on estimates of the costs necessary for the efficient delivery of covered services. Limitations for various types of providers will be separately published in the Federal Register prior to the reporting period for which the limits are effective. References in the proposed regulations to § 405.455 are to such section as published with a notice of proposed rulemaking on September 13, 1973 (38 FR 25448) but which has not been promulgated in final as yet.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any views and comments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue, SW., Washington, D.C. 20201, on or before April 18, 1974.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

The prosposed amendments are issued under the authority contained in sections 1102, 1861(v), 1866(a), and 1871; 49 Stat. 647, as amended; 79 Stat. 313, as amended; 79 Stat. 327, as amended; 79 Stat. 331; 42 U.S.C. 1302, 1395x, 1395cc, and 1395hh.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

Dated: January 28, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: March 12, 1974.

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

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. In § 405.401, paragraph (a) is revised to read as follows:

§ 405.401 Introduction.

(a) Under the health insurance program for the aged and disabled, the amount paid to any provider of services—i.e., hospital, skilled nursing facility, or home health agency—for the covered services furnished to beneficiaries is required by section 1814(b) and section 1833(a)(2) of the Act to be the reasonable cost of such services subject to the provisions of §§ 405.455 and 405.460. Nothing in this part shall be construed as precluding the application of regulations issued by the Cost of Living Council (or other Government agency) pursuant to the Economic Stabilization Act.

* * * * *

2. In § 405.402, paragraph (a) is revised to read as follows:

§ 405.402 Cost reimbursement: General.

(a) In formulating methods for making fair and equitable reimbursement for services rendered beneficiaries of the program, payment is to be made on the basis of current costs of the individual provider, rather than costs of a past period or a fixed negotiated rate. All necessary and proper expenses of an institution in the production of services, including normal standby costs, are recognized. Furthermore, the share of the total institutional cost that is borne by the program is related to the care furnished beneficiaries so that no part of their cost would need to be borne by other patients. Conversely, costs attributable to other patients of the institution are not to be borne by the program. Thus, the application of this approach, with appropriate accounting support, will result in meeting actual costs of services to beneficiaries as such costs vary from institution to institution. However, payments to providers of services for services rendered health insurance program beneficiaries are subject to the provisions of §§ 405.455 and 405.460.

3. In § 405.455, paragraph (d) is revised to read as follows:

§ 405.455 Amount of payments where customary charges for services furnished are less than reasonable cost.

* * * * *

(d) *Accumulation of unreimbursed costs and carryover to subsequent periods.* To determine the accumulation of unreimbursed costs and carryover to subsequent periods, see § 405.462.

4. Section 405.460 is added to read as follows:

§ 405.460 Limitations on coverage of costs.

(a) *Principle.* In the determination of the allowability of provider costs, costs estimated to be in excess of those necessary in the efficient delivery of needed health services are excluded. Such estimates may be made with respect to direct or indirect overall costs or costs of specific items or services, or groups of items or services and upon publication in the FEDERAL REGISTER will constitute limits on amounts otherwise payable under the program. These limits may be imposed prospectively on a per diem, per visit, or other basis.

(b) *Application.* In determining the limits to be applied, providers may be classified by type of provider (e.g., hospitals, skilled nursing facilities, and home health agencies) and within each provider class by such factors as the Secretary shall find appropriate and practical, such as:

(1) Type of services rendered;

(2) Geographical area where services are rendered, allowing for grouping of noncontiguous areas having similar demographic and economic characteristics;

(3) Size of institution;

(4) Nature and mix of services rendered; or

(5) Type and mix of patients treated.

(c) *Data.* In establishing limits, the estimates of the costs necessary for efficient delivery of health services may be based on cost reports or other data providing indicators of current costs, with current and past period data being adjusted to arrive at estimated costs for the prospective periods to which limits shall be applied.

(d) *Notice of limits to be imposed.* Prior to the onset of a cost period to which a limit shall be applied, a notice shall be published in the Federal Register establishing the limits to be applied to an identified cost and type and class of provider of service.

(e) *Provider rights to review.* A request by a provider for review of the determination of an intermediary concerning classification for, exceptions to, or exemptions from the cost limits imposed under the provisions of this section shall be made to the intermediary under the provisions of §§ 405.490–405.499.

(f) *Exceptions, exemptions, and adjustments.* The following types of exceptions, exemptions, and classification adjustments may be granted under this section but only upon the provider's demonstration that the conditions indicated are present:

(1) *Reclassification.* A provider shall be entitled to obtain adjustment of its classification by the intermediary for the purpose of cost limits applied under this section on the basis of evidence that such a classification is at variance with the criteria specified in promulgating limits under paragraph (d) of this section.

(2) *Exception of cost of atypical services.* Where the actual cost of items or services furnished by a provider exceeds the applicable limit by reason of the provision of items or services that are atypical in nature and scope as compared to the services generally provided by institutions similarly classified and appropriate reason exists for the provision of such items or services, the limits may be adjusted upward to reflect any added costs flowing from the delivery of such items or services. Such adjustments may only be made where the provider demonstrates: (i) The provision of the atypical items or services were by reason of the special needs of the patients treated and necessary in the efficient delivery of needed health care, or (ii) the added costs flow from approved educational activities (as described in § 405.421) to the extent such costs are atypical (although reasonable) for providers in the comparison group. In addition, such adjustments may be made only to the extent that such justified costs are separately identified by the provider and can be verified by the intermediary.

(3) *Exception because of extraordinary circumstances.* Where a provider's costs exceed the limits due to extraordinary circumstances beyond the control of the provider, the provider may request an exception from the cost limits to the extent that the provider shows such higher costs result from the extraordinary circumstances. These circumstances may include increased costs attributable to strikes, fire, earthquake, flood, or similar unusual occurrences with substantial cost effects.

(4) *Exemption as sole community provider.* The limitation on costs imposed under this section shall not be applicable where a provider by reason of factors such as isolated location or absence of other providers of the same type, is the sole source of such care reasonably available to beneficiaries.

(g) *Carryover of unreimbursed costs to subsequent periods for new providers.* Where costs of a new provider exceed the cost limits and are (1) unreimbursed under this section, and (2) are not charged to patients, such costs may be reimbursed in subsequent cost reporting periods. For purposes of this section a new provider is defined as one which has furnished services at its certified level of participation for less than 3 years, taking account of present and previous ownership. For application of carryover of costs to such a provider, see § 405.462.

5. Section 405.461 is added to read as follows:

§ 405.461 Limitation on coverage of costs; charges to beneficiaries where cost limits are applied to services.

(a) *Principle.* Where a provider of services customarily furnishes an individual items or services which in accordance with § 405.460, are more expensive than the items or services determined to be necessary in the efficient delivery of needed health services under title XVIII of the Act, such provider may charge such individual or other person for such more expensive items or services, whether or not requested by the individual, to the extent that the costs of (or, if less, the customary charges for) such more expensive items or services experienced by such provider in the second fiscal period immediately preceding the fiscal period in which such charges are imposed (except in the case of new providers, see paragraph (b) of this section) exceed the cost of such items or services determined to be necessary in the efficient delivery of needed health services, but only if:

(1) The intermediary has approved such charges; and

(2) The services are not emergency services as defined in paragraph (d) of this section; and

(3) The admitting physician has no direct or indirect financial interest in such provider; and

(4) The Social Security Administration has provided notice to the public of any charges the provider is authorized to impose on individuals entitled to benefits under title XVIII of the Act on account of costs in excess of the costs determined to be necessary in the efficient delivery of needed health services under such title; and

(5) The provider has, in the manner described in paragraph (e) of this section, identified such charges to such individual or person acting on his behalf as charges to meet the costs in excess of the costs determined to be necessary in the efficient delivery of needed health services under title XVIII of the Act; and

(6) The provider makes such charges as described in paragraph (a)(4) of this section or their equivalents to all individuals utilizing the related services.

(b) *Provider request to charge beneficiaries for costs in excess of limits.* Where a provider's actual costs (or, if less, the customary charges) in the second preceding cost period exceed the prospective limits established for such costs, the intermediary may, at the provider's request, approve charges to the beneficiaries for the excess. Where a provider does not have a second preceding cost period and is a new provider, as defined in § 405.460(g), the provider, subject to approval by the intermediary, will estimate the current cost of the service to which a limit is being applied. Such amount (or, if less, the customary charge) shall be adjusted to an amount equivalent to costs in the second preceding year by use of a factor to be developed actuarially based on cost increases during the preceding 2 years and published in the FEDERAL REGISTER. The amount thus derived will be used in lieu of the second preceding cost period amount in determining the charge to the beneficiary. To obtain consideration of such a request, the provider must submit to the intermediary a statement indicating the charge for which it is seeking approval and providing the data and method used to determine the amount. Such statement should include:

(1) Provider name and number;

(2) Identity of class and prospective cost limit for the class in which the provider has been included;

(3) Amount of charge and cost period in which the charge is to be imposed; and

(4) The cost of and customary charge for services rendered to beneficiaries; and

(5) The cost period ending date of the second reporting period immediately preceding the cost period in which the charge is to be imposed. The intermediary may request such additional information as it finds necessary to make a determination with respect to the request.

(c) *Provider charges*—(1) *Establishing the charges.* If the actual cost incurred (or, if less, the customary charges) in the prior period determined under paragraph (a) of this section exceeds the limits applicable to the pertinent period, the provider may charge the patient an amount not to exceed such excess. (Data from the most recently submitted appropriate cost report will be used in determining the actual cost.) For example, if a limit of $58 per day is applied to the cost of general routine services, for the provider's cost reporting period starting in calendar year 1975 and if the provider's actual general routine cost in the second preceding reporting period, i.e.,

the reporting period starting in calendar year 1973, was $60 per day, the provider (upon intermediary approval and subject to the considerations and requirements specified in paragraph (a) of this section) may charge hospital insurance beneficiaries $2 per day for general routine services.

(2) *Adjusting cost.* Program reimbursement for the costs to which limits imposed under § 405.460 are applied in any cost reporting period shall not exceed the lesser of the provider's actual cost or the limits imposed under § 405.460. If program reimbursement for items or services to which such limits are applied plus the charges to beneficiaries for such items or services imposed under this section exceed the provider's actual cost for such items or services, the amount of program reimbursement to the provider will be reduced by this excess. For example, in the situation described in paragraph (c) (1) of this section, if the provider's actual cost for general routine services in 1975 was $57,000 and billed charges to hospital insurance beneficiaries were $2,000, the provider would receive $55,000 from the program ($57,000 actual cost minus the $2,000 in charges to the beneficiaries).

(d) *Definition of emergency services.* For purposes of paragraph (a) (2) of this section, emergency services are those services which are necessary to prevent the death or serious impairment of the health of the individual, and which, because of the threat to the life and health of the individual, necessitate immediate treatment. Where an individual has been admitted to a provider as an inpatient because of an emergency, the emergency is deemed to continue throughout his confinement.

(e) *Identification of charges to individual.* For purposes of paragraph (a) (5) of this section, a provider shall give or send to the individual or his representative, a schedule of all items and services which the individual might need and for which the provider imposes charges under this section, and the charge for each. Such schedule shall specify that the charges are necessary to meet the costs in excess of the costs determined to be necessary in the efficient delivery of needed health services under title XVIII of the Act and shall include such other information as the Social Security Administration considers necessary to protect the individual's rights under this section. The provider, in arranging for the individual's admission, first service, or start of care, shall give or send this schedule to the individual or his representative when arrangements are being made for his admission, or if this is not feasible, as soon thereafter as is practicable.

6. Section 405.462 is added to read as follows:

§ 405.462 Carryover of unreimbursed costs to subsequent periods.

(a) *General.* Under the provisions of §§ 405.455 and 405.460, certain costs of providers in a cost reporting period may be unreimbursed. Under circumstances described in this section, such unreimbursed costs may be recovered by a participating provider in subsequent cost reporting periods.

(b) *Carryover of unreimbursed costs for new providers.* A new provider of services (as defined in §§ 405.455(b) (5) and 405.460(g) may carry forward for five succeeding cost reporting periods costs attributable to program beneficiaries which are unreimbursed under the provisions of §§ 405.455 and 405.460. If such five succeeding cost reporting periods combined include fewer than 60 full calendar months, the provider may carry forward such unreimbursed costs for one additional reporting period.

Example. A provider begins its operations on March 5, 1973. However, it begins to participate in the health insurance program as of January 1, 1974, and reports on a calendar year basis. The provider would be permitted to accumulate any unreimbursed costs incurred during reporting periods ending prior to March 5, 1976. Because the calendar year 1975 cost reporting period ends before the end of the third year of operation, its carryover period will be the succeeding five cost reporting periods ending with December 31, 1980. (Had this provider begun its operations on July 1, 1973, and become a participating provider as of the same date (with a fiscal year ending June 30), it would have been able to accumulate any unreimbursed costs for the two cost reporting periods ending June 30, 1975, and June 30, 1976. Its carryover period would then be the five cost reporting periods ending no later than June 30, 1981, in the case of costs unreimbursed in either of the reporting periods ending June 30, 1975, or June 30, 1976.)

(c) *Carryover of unreimbursed costs for other providers.* A provider of services (except a new provider as defined in § 405.455(b) (5)) that has unreimbursed costs resulting from the application of § 405.455 in any cost reporting period, may carry forward costs attributable to health insurance program beneficiaries which are unreimbursed under the provisions of § 405.455 for the two succeeding reporting periods. If such two succeeding cost reporting periods combined include fewer than 24 full calendar months, the provided may carry forward costs unreimbursed under this section for one additional reporting period.

(d) *Limitations on recovery of unreimbursed amounts.* The amounts of unreimbursed costs which a provider may recover during any cost reporting period in the carry-forward period is limited to the lesser of the amount by which the provider's cost ceiling exceeds the provider's actual costs of operation during such period or the amount by which the customary charges applicable to health insurance program beneficiaries during any such period exceeds the costs applicable to such beneficiaries during that period.

7. In § 405.607, paragraph (a) is revised to read as follows:

§ 405.607 Essentials of agreements with providers of services.

Under the terms of the agreement (see § 405.606) the provider agrees:

(a) Not to charge any individual, or other person (except as described in §§ 405.608–405.610 and 405.461):

* * * * *

[FR Doc.74–6248 Filed 3–18–74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Low Rent Public Housing

[24 CFR Part 1278]

[Docket No. R–74–260]

SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM; STATE AGENCY PARTICIPATION

Notice of Proposed Rulemaking

Notice is hereby given that the Department of Housing and Urban Development proposes to amend 24 CFR Chapter VIII by adding a new Part 1278. The proposed amendments sets forth the policies and procedures applicable to State housing finance and development agencies participating in the Section 23 Housing Assistance Payments Program. Because such agencies constitute a special class of participants having unique statewide capacities and functions to meet statewide housing needs, the policies and procedures applicable to the Section 23 Housing Assistance Payments Programs for New Construction, Existing Housing (Without Substantial Rehabilitation), and Substantial Rehabilitation, 24 CFR Parts 1272, 1274 and 1276, respectively, are modified in this regulation as applied to such agencies.

Interested parties are invited to submit written comments, suggestions and objections regarding the proposed amendment by April 19, 1974, addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

It is accordingly proposed to amend Title 24 by adding Part 1278 as set forth below.

PART 1278—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM—STATE AGENCY PARTICIPATION

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Appendix I. Section 23 Housing Assistance Payments Program—New Construction—Applicability of Appendices to State Agencies.

Appendix II. Section 23 Housing Assistance Payments Program—Existing Housing—Applicability of Appendices to State Agencies.

Appendix III. Section 23 Housing Assistance Payments Program—Substantial Rehabilitation—Applicability of Appendices to State Agencies.

AUTHORITY: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); sec. 10(b) of the U.S. Housing Act of 1937 (42 U.S.C. 1410(b)); sec. 23 of the U.S. Housing Act of 1937 (42 U.S.C. 1421(b)).

Subpart A—Applicability and Scope

§ 1278.1 Purpose.

Various States have established statewide agencies to encourage the provision of housing for low and moderate income persons and families. To enable State agencies to effectively develop programs to meet statewide housing needs, set-asides under the section 23 Housing Assistance Payments Program may be provided to these agencies. Some State agencies also finance the construction and rehabilitation of housing and assume the risks of default and foreclosure on developments they finance. To allow these agencies flexibility in developing programs to meet statewide housing needs, the policies and procedures of the Housing Assistance Payments Programs for New Construction, Existing Housing, and Substantial Rehabilitation, 24 CFR Parts 1272, 1274 and 1276, respectively, are modified as provided in this Part.

§ 1278.2 Eligibility for set-asides under section 23 Housing Assistance Payments Programs.

State agencies with statewide responsibility for housing development, and qualified to act as "public housing agencies" as denfied in the U.S. Housing Act of 1937, as amended, are eligible to receive set-asides under a Section 23 Housing Assistance Payments Program.

§ 1278.3 Applicability of modified procedures.

(a) *Eligible State Agencies.* The procedures set forth in Subparts B, C, and D of this part apply solely to State agencies which (1) will provide permanent financing for housing projects without Federal mortgage insurance and (2) are qualified to act as "public housing agencies."

(b) *Other State Agencies.* State agencies other than those qualifying under paragraph (a) above may apply for a set-aside but may not use the processing procedures set forth in Subparts B, C, and D of this part. Such agencies shall proceed under the procedures contained in the Housing Assistance Payments Program Regulations for New Construction, Existing Housing, and Substantial Rehabilitation, 24 CFR Parts 1272, 1274 and 1276, respectively.

§ 1278.4 Participation.

In order to qualify for a set-aside, or for a set-aside and the modified procedures set forth in this part, a State agency must qualify as a public housing agency, as defined in the U.S. Housing Act of 1937 (see 24 CFR §§ 1272.3(h), 1274.3(d), and 1276.3(h)) and shall submit a letter requesting participation to HUD. Enclosed with the letter shall be two copies of: (a) the relevant enabling legislation, (b) any rules and regulations adopted or to be adopted by the agency to govern its operation, and (c) an opinion from the agency counsel that the agency is legally qualified and authorized to participate in the Section 23 program. This opinion shall include an explanation of the basis and extent of the State agency's legal authority, if any, for housing development and administration (covering all aspects including authority to establish income limits) in the areas of operation of any existing Local Housing Authorities. After prompt review, State agencies shall be notified whether or not, and in what respects, they are qualified to participate in the Section 23 program. Copies of the notification shall be provided to the HUD Regional Office and appropriate field office(s).

§ 1278.5 Set-asides.

(a) *Notification of Availability of Contract Authority.* Upon receipt of an allocation of contract authority for Section 23 Housing Assistance Payments Programs, HUD shall notify eligible participating State agencies that set-aside will be available if a State agency submits a request for such set-aside in accordance with paragraph (b) below.

(b) *Applying for Set-Asides.* In order to receive a set-aside, a participating State agency must submit a letter to HUD requesting a set-aside. Such letter shall include information sufficient to enable a determination of the amount of the set-aside upon the basis of the criteria outlined in paragraph (c) below. The letter shall indicate any changes in the scope of the agency's legal authority to participate.

(c) *HUD Allocation of Set-Asides.* HUD shall set aside a portion of the contract authority not required for prior commitments for use by participating State agencies. The set-aside for each agency shall indicate the portion of the set-aside to be used for: (1) new construction and substantial rehabilitation, which may be apportioned between these two programs as the State agency deems appropriate, and (2) existing housing (without substantial rehabilitation). Any allocation to a State agency shall be made by HUD within fifteen business days after State agencies have been notified of the availability of set-asides (see paragraph (a) above).

(d) *Determination of Amount of Set-Asides.* The amount of the set-aside shall be determined on the basis of the following criteria:

(1) the extent to which statewide housing needs have been evaluated, a program has been developed to provide housing in those localities with the most critical needs, and the State agency is prepared to use the set-aside to implement that program;

(2) the agency's ability and willingness to serve both central city and rural non-farm housing needs;

(3) the degree of the agency's expertise in connection with the development of housing;

(4) the agency's ability and willingness to provide permanent financing without Federal mortgage insurance;

(5) the agency's ability and willingness to limit the number of units leased by assisted families of 20 percent or less of the units in any single multifamily structure or complex of five or more dwelling units in the projects to be undertaken using Section 23 set-asides; and

(6) the extent to which the agency's program complements the allocation system established by HUD.

(e) *Additional Set-Aside Authority.* It is expected that, wherever possible, State agencies will limit the percentage of subsidized families in a single multifamily structure or in a complex of five or more dwelling units. If this percentage is 20 percent or less, the State agency will receive an additional set-aside when subsequent allocations of contract authority are made. This additional set-aside shall be determined as follows: HUD will authorize a set-aside of one additional unit for every four units which were committed for leasing by assisted families as of

the preceding June 30 of each fiscal year in accordance with the 20 percent guideline. A unit shall be deemed committed if (1) in the case of existing housing, an owner-family lease and a Housing Assistance Payments Contract have been executed with respect to such unit and (2) in the case of new construction or substantial rehabilitation, an Agreement to Enter Into Housing Assistance Payments Contract has been executed with respect to such unit: For example, if a State agency has entered into an Agreement to Enter Into Housing Assistance Payments Contract (see § 1278.113) with a developer for a structure of 100 units, of which 20 units are to be leased by assisted families, the set-aside for the next fiscal year will include an additional five units. A unit may be counted only once in determining the amount of additional set-aside.

(f) *Termination of Set-Asides.* Set-asides not committed to projects on or before May 31st of each fiscal year[1] are automatically terminated as of that date. For purposes of this paragraph, set-aside authority is deemed committed on the date HUD issues a notification of application approval for a specific number of units and a specific amount of annual contributions for new construction or substantial rehabilitation projects or, in the case of existing housing programs, when an annual contributions contract list is approved by HUD. However, with respect to any new construction or substantial rehabilitation project, unless an Agreement to Enter Into Housing Assistance Payments Contract is executed within six months of the date of notification of application approval, the Notification shall expire and the units not covered by such Agreement(s) are automatically cancelled.

Subpart B—Program Development—New Construction Programs

§ 1278.101 General.

The procedures of this chapter apply only to participating State agencies as defined in § 1278.3(a) this part, (herein referred to as "State agencies"), and except as specifically modified by this Part, such State agencies shall be subject to the policies and procedures of the Housing Assistance Payments Program—New Construction, 24 CFR Part 1272.

§ 1278.102 Responsibility for program development.

Subject to certain HUD reviews to ensure compliance with basic national objectives, State agencies will assume primary responsibility for program development. Housing will be privately owned and owners will be responsible for all management and maintenance functions. In submitting a program, the State agency shall include any special procedures for tenant selection.

[1] No set-aside shall be automatically terminated prior to May 31, 1975.

§ 1278.103 Equal opportunity requirements.

Each State agency shall submit to HUD on or before March 31 of each year signed assurances of compliance with Title VI of the Civil Rights Act of 1964, Executive Order 11063, Title VIII of the Civil Rights Act of 1968 and where appropriate, certifications required pursuant to Executive Order 11246. Such assurances and certifications shall specifically be made applicable to all projects assisted under Section 23 Housing Assistance Payments Programs. In addition, each agency shall submit (a) a statement describing the actions taken or to be taken by the agency to comply with the above statutes and executive orders and (b) schedules indicating the minority composition in each of the agency's projects.

§ 1278.104 Preapplication.

(a) *Determination of need and survey of housing market.* For each locality for which it plans to submit an application, the State agency shall make a determination that there is a need for housing assistance for low-income families and survey the housing market of the locality to determine whether there is a sufficient supply of dwelling units that are suitable or may be made suitable to meet all or part of this need.

(b) *Conditions for submitting an application for new construction.* A State agency may apply for a Section 23 new construction project:

(1) if there is not, and there is not likely soon to be, an adequate supply of existing housing which, with the aid of housing assistance payments, can meet the housing needs of low-income families; or

(2) in certain areas in which the proposed housing is required and the project is specifically approved by HUD in accordance with priorities established from time to time by the Secretary.

§ 1278.105 Submission of application.

(a) *Application.* A separate application for each new construction project shall be submitted by the State agency to HUD in accordance with the requirements of § 1272.102(a)(1) (Submission of Application) of 24 CFR Part 1272.

(b) *Income limits and rent schedules* must be submitted with the application. In communities in which an LHA has established income limits for Section 23 leased housing, those limits, or limits as amended by the LHA, should be used. If the State agency has grounds for seeking a modification of the established income limits, it shall submit its proposal for modified income limits together with justification to HUD. In communities in which there is no LHA or the LHA has not established income limits in connection with the Section 23 program, the State agency may establish such income limits if it is within its statutory authority to do so.

(c) *Local governing body approval.* § 1272.3(i) (Local governing body approval) of 24 CFR 1272 is applicable to participating State agencies. However, evidence of local governing body approval shall be submitted with the development proposal (see § 1278.109 below) rather than with the application.

§ 1278.106 HUD review and approval of application.

(a) *Review of Application.* HUD shall review the application in accordance with the procedures set forth in § 1272.103(a) (Review of Application) of 24 CFR Part 1272. However, the unit limitation described in § 1272.3(k)(2) (Limitation on number of units in single structure) of 24 CFR 1272 is inapplicable with respect to priorities for approval of applications from State agencies.

(b) *Notification to State Agency.* Upon completion of its review, HUD shall notify the State agency, in the manner prescribed in § 1272.103(b) (Approval or disapproval of applications) of 24 CFR 1272 as to whether its application is approved. However, if the application is approved, the "notification of application approval" shall not include a provision requiring the State agency to prepare an invitation for proposals.

§ 1278.107 Obtaining development proposals.

Because State agencies will be financing the housing development and assuming responsibility for the risks of default and foreclosure, such agencies shall not be required to invite proposals or submit such proposals to HUD for review prior to developer selection. State agencies should establish their own procedures for obtaining development proposals. The following sections of 24 CFR 1272 are inapplicable to participating State agencies:

§ 1272.104	Preparation and contents of developer's packet.
§ 1272.105	Invitation for proposals.
§ 1272.106	Submission of proposals.

Although § 1272.104 is inapplicable, each agency should carefully consider furnishing prospective developers with the type and scope of information set forth in that section.

§ 1278.108 Selection of developer.

The State agency shall select the proposed developer and site in accordance with its own procedures. However, in selecting a developer or site, the State agency shall make the following determinations:

(a) that the site and neighborhood standards set forth in § 1272.108 (Site and Neighborhood Standards) of 24 CFR 1272 are satisfied;

(b) that all applicable equal opportunity and affirmative action requirements, including Section 3 of the Housing and Urban Development Act of 1968 and the regulations issued pursuant thereto, can be satisfied;

(c) that the design and construction quality will satisfy the standards set forth in § 1278.112, below;

(d) that the rents to the owner are reasonable and that the maximum gross rents do not exceed the HUD established fair market rents, except where approved by HUD in accordance with § 1272.3(e) of 24 CFR 1272;

(e) that the developer, builder, and owner are responsible for purposes of meeting all the obligations of the prescribed agreement to enter into housing assistance payments contract.

§ 1278.109 Development proposals.

(a) *Proposal contents.* Once a developer and site have been chosen by the State agency, the agency shall submit to HUD a proposal which shall contain the following:

(1) The names of the developer, builder and owner/lessor.

(2) A description of the housing proposed.

(3) A neighborhood map showing the location(s) of the site(s).

(4) A statement as to whether the proposed project will displace site occupants and the number of families, individuals, and business concerns to be displaced (identified by race or minority group status) and a statement that the owner and/or developer recognizes the relocation requirements that apply if the proposed project will cause displacement and will assume full responsibility for the funding of all costs incurred in providing to displaced persons the full relocation payments and services authorized by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(5) The gross rents required by unit size, the portion of such rents attributable to each utility, and which utilities, if any, are to be paid directly by the families.

(6) The anticipated date for completion of construction.

(7) An Affirmative Fair Housing Marketing Plan on the form prescribed by HUD.

(8) A completed HUD Environmental Information Form.

(9) An affirmative action plan pursuant to Section 3 of the Housing and Urban Development Act of 1968 and regulations issued pursuant thereto with regard to utilization of project area businesses and residents.

(10) Evidence of local governing body approval as described in § 1272.3(i) (Local governing body approval) of 24 CFR 1272.

(b) *Certifications.* The State agency shall submit, with the proposal, a certification that the proposed site(s) meets the conditions specified in § 1272.108(b) (accessibility to facilities and services) and § 1272.108(c) (commutation to employment) of 24 CFR 1272.

§ 1278.110 HUD evaluation of proposals.

(a) *Evaluation criteria.* HUD's evaluation of proposals submitted by State agencies shall be limited to determining whether the following requirements are satisfied:

(1) The proposal submission contains all elements required in § 1278.109 above.

(2) The proposed maximum gross rents do not exceed the HUD-established fair market rents, except as approved by HUD as provided in § 1272.3(e) of 24 CFR 1272.

(3) The proposed site meets the site and neighborhood requirements of § 1272.108(a) (equal opportunity and environmental aspects) and § 1272.108(d) (relocation requirements) of 24 CFR 1272.

(4) The proposal satisfies the requirements of the National Environmental Policy Act. In determining whether this requirement is met, HUD shall complete all appropriate environmental reviews as required pursuant to the HUD regulation "Protection and Enhancement of Environmental Quality," 24 CFR 50.

(5) The affirmative action plan, required by § 1278.109(a)(9), satisfies the requirements of Section 3 of the Housing and Urban Development Act of 1968 and regulations issued pursuant thereto.

(b) The following sections of 24 CFR Part 1272 are inapplicable to State agencies:

§ 1272.109 Evaluation of proposals.
§ 1272.110 Notification of developer selection.
§ 1272.111 Submission of architect's certificate.

§ 1278.111 Notification of acceptability of proposal.

HUD shall advise the State agency by letter as to the acceptability of the proposal. The letter of acceptability shall be conditioned upon the agency's submission of the certification required in § 1278.112 below.

§ 1278.112 Design and construction quality.

Before an Annual Contributions Contract may be executed, working drawings and specifications shall be prepared and HUD must receive a certification from the design architect of the project, who must be a registered architect, that the working drawings and specifications meet the following:

(a) all applicable State and local laws, codes, ordinances, and regulations as modified by any waivers obtained from the apropriate officials;

(b) the appropriate HUD Minimum Property Standards (see § 1272.104(d)(2) of 24 CFR 1272.

§ 1278.113 Execution of annual contributions contract and agreement.

After receipt of the certification required in § 1278.112 above, HUD shall prepare: (i) the Annual Contributions Contract, in accordance with Appendix III of 24 CFR 1272, as modified by Appendix I of this part which shall be transmitted by HUD to the State agency for execution and return to HUD and (ii) an Agreement to enter into Housing Assistance Payments Contract, which shall be prepared in conformance with § 1272.112 (Agreement to enter into Housing Assistance Payments Contract) of 24 CFR 1272, as modified by Appendix I of this part. After receipt of the executed Annual Contributions Contract from the State agency, HUD shall transmit to the State agency an executed copy, together with the Agreement. A copy of the Agreement, executed by the State agency and the owner, shall be returned to HUD.

§ 1278.114 Project completion.

Upon completion of the project, the State agency shall transmit to HUD a certification that the completed project has been inspected by a representative of the State agency and that (a) there are no defects or deficiencies in the project; (b) all work has been completed in accordance with the requirements of the Agreement; and (c) the project is in good and tenantable condition. If HUD determines that the State agency's certification is in conformance with the requirements of this paragraph, it will authorize execution of the Housing Assistance Payments Contract.

§ 1278.115 HUD review of contract compliance.

No later than six months after execution of the Housing Assistance Payments Contract for the project and periodically thereafter, not less than annually, HUD will review project operations to ensure that the State agency and the owner/lessor are in full compliance with the terms and conditions of the Contract, in accordance with HUD processing procedures for the New Construction Program.

Subpart C—Program Development—Existing Housing

§ 1278.201 Program development.

The policies and procedures of the Section 23 Housing Assistance Payments Program—Existing Housing, 24 CFR 1274, are applicable to participating State agencies, with the exceptions of § 1274.3(g)(2) as it applies to priority for application approval and the modifications described in Appendix II of this part.

Subpart D—Program Development—Substantial Rehabilitation Programs

§ 1278.301 General.

The procedures of this chapter apply only to participating State agencies as defined in § 1278.3(a) of this part, (herein referred to as "State agencies") and except as specifically modified by this part, such State agencies shall be subject to the policies and procedures of the Housing Assistance Payments Program—Substantial Rehabilitation, 24 CFR 1276.

§ 1278.302 Responsibility for program development.

Subject to certain HUD reviews to ensure compliance with basic national objectives, participating agencies will assume primary responsibility for program development. Housing will be privately owned and owners will be responsible for all management and maintenance functions. In submitting a program, the State agency shall include any special procedures for tenant selection.

§ 1278.303 Equal opportunity requirements.

Each agency shall submit to HUD on or before March 31 of each year signed assurances of compliance with Title VI of the Civil Rights Act of 1964, Executive Order 11063, Title VIII of the Civil Rights Act of 1968, and, where appropriate, certifications required pursuant to Executive Order 11246. Such assurances and certifications shall specifically be made applicable to all projects assisted under Section 23 Housing Assistance Payments Programs. In addition, each agency shall submit (a) a statement describing the actions taken or to be taken by the agency to comply with the above statutes and executive orders and (b) schedules indicating the minority composition in each of the agency's projects.

§ 1278.304 Preapplication.

(a) *Determination of need and survey of housing market.* For each locality for which it plans to submit an application, the State agency shall make a determination that there is a need for housing assistance for low-income families and survey the housing market of the locality to determine whether there is a sufficient supply of dwelling units that are suitable or may be made suitable to meet all or part of this need.

(b) *Conditions for submitting an application for substantial rehabilitation.* A State agency may apply for a Section 23 substantial rehabilitation project:

(1) If there is not, and there is not likely soon to be, an adequate supply of existing housing which, with the aid of housing assistance payments, can meet the housing needs of low-income families; or

(2) In certain areas in which the proposed housing is required and the project is specifically approved by HUD in accordance with priorities established from time to time by the Secretary.

§ 1278.305 Submission of application.

(a) *Application.* A separate application for each substantial rehabilitation project shall be submitted by the State agency to HUD in accordance with the requirements of § 1276.102(a)(1) (Submission of application) of 24 CFR 1276.

(b) *Income limits and rent schedules* must be submitted with the application. In communities in which an LHA has established income limits for Section 23 leased housing, those limits, or limits as amended by the LHA, should be used. If the State agency has grounds for seeking a modification of the established income limits, it shall submit its proposal for modified income limits together with justification to HUD. In communities in which there is no LHA or the LHA has not established income limits in connection with the Section 23 program, the State agency may establish such income limits, if it is within its statutory authorization to do so.

(c) *Local governing body approval.* § 1276.3(i) (Local governing body approval) of 24 CFR 1276 is applicable to State agencies. However, evidence of local governing body approval shall be submitted with the development proposal (see § 1278.309 below) rather than with the application.

§ 1278.306 HUD review and approval of application.

(a) *Review of application.* HUD shall review the application in accordance with the procedures set forth in § 1276.103(a) (Review of application) of 24 CFR 1276. However, the unit limitation described in § 1276.3(k)(2) (Limitation on number of units in single structure) of 24 CFR 1276 is inapplicable with respect to priorities for approval of applications from participating State agencies.

(b) *Notification to State Agency.* Upon completion of its review, HUD shall notify the State agency, in the manner prescribed in § 1276.103(b) (Approval or disapproval of application) of 24 CFR 1276 as to whether its application is approved. However, if the application is approved, the "Notification of application approval" shall not include any provision requiring the State agency to prepare an invitation for proposals.

§ 1278.307 Obtaining proposals.

State agencies shall not be required to invite proposals for rehabilitation or to submit such proposals to HUD for review prior to selection of a proposal. State agencies should, however, establish their own procedures for obtaining proposals if they consider it necessary. The following sections of 24 CFR 1276 are inapplicable to participating State agencies:

§ 1276.104 Invitation for proposals.
§ 1276.105 Submission of proposals.

Although § 1276.104 is inapplicable to State agencies, each agency should carefully consider furnishing prospective participants in a substantial rehabilitation program with the type and scope of information set forth in that paragraph.

§ 1278.308 Selection of rehabilitator.

The State agency shall select the proposed rehabilitator and structure or structures in accordance with its own procedures. However, in selecting a rehabilitator and structure or structures, the State agency should make the following determinations:

(a) that the site and neighborhood standards set forth in § 1276.107 (Site and neighborhood standards) of 24 CFR 1276 are satisfied;

(b) That all applicable equal opportunity and affirmative action requirements, including Section 3 of the Housing and Urban Development Act of 1968 and the regulations issued pursuant thereto, can be satisfied;

(c) That the quality of rehabilitation will satisfy the standards set forth in § 1278.312;

(d) That the rents to the owner are reasonable and that the maximum gross rents do not exceed the HUD established fair market rents, except where approved by HUD in accordance with § 1276.3(e) of 24 CFR 1276; and

(e) That the rehabilitator, prime contractor, and owner are responsible for purposes of meeting all the obligations of the prescribed Agreement to enter into housing assistance payments contract.

§ 1278.309 Rehabilitation proposal.

(a) *Proposal contents.* Once a rehabilitator and the location of an existing structure or structures have been chosen by the State agency, the agency shall submit to HUD a proposal which shall contain the following:

(1) The names of the rehabilitator/prime contractor and owner/lessor.

(2) The number of units, by unit size (number of bedrooms), proposed to be rehabilitated and made available for leasing by eligible families.

(3) A map showing the location of the housing.

(4) A description of the rehabilitation proposed.

(5) The anticipated date for completion of the rehabilitation.

(6) The gross rents required by unit size, the portion of such rents attributable to each utility, and which utilities, if any, are to be paid directly by the families.

(7) A statement as to whether the proposed project is expected to displace site occupants and, if so, the number of families, individuals, and business concerns to be displaced (identified by race or minority) and a statement that the owner and/or rehabilitator recognizes the relocation requirements that apply if the proposed project will cause displacement and will assume full responsibility for the funding of all costs incurred in providing to displaced persons the full relocation payments and services authorized by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(8) A completed Affirmative Fair Housing Marketing Plan on the form prescribed by HUD.

(9) A completed HUD Environmental Information Form.

(10) An affirmative action plan pursuant to Section 3 of the Housing and Urban Development Act of 1968 and regulations issued pursuant thereto with regard to utilization of project area businesses and residents.

(11) Evidence of local governing body approval as described in § 1276.3(i) (Local governing body approval) of 24 CFR 1276.

(b) *Certifications.* The State agency shall submit, with the proposal, a certification that the proposed site(s) meets the conditions specified in § 1276.107(b) (accessibility to facilities and services) and § 1276.107(c) (commutation to employment) of 24 CFR 1276.

§ 1278.310 HUD evaluation of proposals.

(a) *Evaluation criteria.* HUD's evaluation of proposals submitted by State agencies shall be limited to determining whether the following requirements are satisfied:

(1) The proposal submission contains all elements required in § 1278.309 above.

(2) The maximum gross rents do not exceed the HUD-established fair market rents, except as approved by HUD as provided in § 1276.3(e) of 24 CFR 1276.

(3) The site and neighborhood requirements of § 1276.107(a) (equal opportunity and environmental aspects) and § 1276.107(d) (relocation requirements) of 24 CFR 1276 are met.

(4) The proposal satisfies the requirements of the National Environmental Policy Act. In determining whether this requirement is met, HUD shall complete all appropriate environmental reviews as required pursuant to the HUD regulation "Protection and Enhancement of Environmental Quality," 24 CFR 50.

(5) The affirmative action plan, required by § 1278.309(a)(10), satisfies the requirements of Section 3 of the Housing and Urban Development Act of 1968 and regulations issued pursuant thereto.

b. The following sections of 24 CFR Part 1276 are inapplicable to participating State agencies:

§ 1276.108 Invitation for proposals.
§ 1276.109 Submission of proposals.

§ 1278.311 Notification of acceptability of proposal.

HUD shall advise the State agency by letter as to the acceptability of the proposal(s). The letter of acceptability shall be conditioned upon submission by the agency of the certification required in § 1278.312.

§ 1278.312 Standards for rehabilitation.

Before an annual contributions contract may be executed, HUD must receive a certification from the State agency that the proposed rehabilitation meets all applicable State and local laws, codes, ordinances, and regulations as modified by any waivers obtained from the appropriate officials. In cases where working drawings and specifications have been prepared, the State agency shall also certify that the proposed rehabilitation meets the appropriate HUD Minimum Property Standards (see § 1276.104(b)(2) of 24 CFR 1276).

§ 1278.313 Execution of annual contributions contract and agreement.

After receipt of the certification required in § 1278.312 above, HUD shall prepare: (a) the annual contributions contract, in accordance with Appendix II of 24 CFR 1276, as modified by Appendix III of this part, which shall be transmitted by HUD to the State agency for execution and return to HUD, and (b) an agreement to enter into housing assistance payments contract, which shall be prepared in conformance with § 1276.111 (Agreement to enter into housing assistance payments contract) of 24 CFR 1276, as modified by Appendix III of this part. After receipt of the executed annual contributions contract from the State agency, HUD shall transmit to the State agency an executed copy, together with the Agreement. A copy of the Agreement, executed by the State agency and the owner, shall be returned to HUD by the State agency.

§ 1278.314 Project completion.

Upon completion of the rehabilitation, the State agency shall transmit to HUD a certification that the completed project has been inspected by a representative of the State agency and that (a) there are no defects or deficiencies in the project; (b) all work has been completed in accordance with the requirements of the Agreement; and (c) the project is in good and tenantable condition. If HUD determines that the State agency's certification is in conformance with the requirements of this paragraph, it will authorize execution of the housing assistance payments contract.

§ 1278.315 HUD review of contract compliance.

No later than six months after execution of the Housing Assistance Payments Contract for the project and periodically thereafter, not less than annually, HUD will review project operations to ensure that the State agency and the owner/lessor are in full compliance with the terms and conditions of the contract, in accordance with HUD processing procedures for the substantial rehabilitation program.

APPENDIX I.—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM NEW CONSTRUCTION

APPLICABILITY OF APPENDICES TO STATE AGENCIES

Appendices I–VII of the New Construction Regulation, 24 CFR 1272, are applicable to State agencies as defined in § 1278.3(a) of this part, except as provided below:

1. Appendix I, Invitation for proposals, is not applicable.

2. Appendix II, Notification of developer selection, is not applicable.

3. Appendix III, Annual contributions contract, is modified as follows:

a. Delete Part II, Section 2.12(d)

b. Delete Part II, Section 2.13 and substitute the following:

"2.13 *Procurement.* In the purchasing of equipment, materials, and supplies, and in the award of contracts for services, the State Agency shall comply with all applicable State Laws."

4. Appendix IV, Agreement to enter into housing assistance payments contract is modified as follows:

Delete Section 4 and substitute the following:

"4. *Project Completion.* Upon completion of the Project, the LHA shall transmit to the Government a certification that the completed Project has been inspected by a representative of the LHA and that (a) there are no defects or deficiencies in the Project, (b) all work has been done in accordance with the requirements of the Agreement, and (c) the project is in good and tenantable condition. If the Government determines that the certification is in conformance with the requirements of this paragraph, it will authorize execution of the Housing Assistance Payments Contract."

5. With respect to all prescribed forms which are utilized by State agencies, as defined in § 1278.3(a) of this part, the term "State Agency" may be substituted for the following terms: "Local housing authority," "LHA," "Local Housing Authority."

APPENDIX II.—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM; EXISTING HOUSING

APPLICABILITY OF APPENDICES TO STATE AGENCIES

Appendices I–IV of the Existing Housing Regulation, 24 CFR 1274, are applicable to State agencies as defined in § 1278.3(a) of this part, except as provided below:

1. Appendix I, Annual contributions contract, is modified as follows:

a. Delete Part II, Section 2.12(d)

b. Delete Part II, Section 2.13 and substitute the following:

"2.13 *Procurement.* In the purchasing of equipment, materials, and supplies, and in the award of contracts for services, the State Agency shall comply with all applicable State Laws."

2. With respect to all prescribed forms which are utilized by State agencies, as defined in § 1278.3(a) of this Part, the term "State Agency" may be substituted for the following terms: "Local housing authority," "LHA," "Local Authority."

APPENDIX III.—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM; SUBSTANTIAL REHABILITATION

APPLICABILITY OF APPENDICES TO STATE AGENCIES

Appendices I–VI of the Substantial Rehabilitation Regulation, 24 CFR 1276, are applicable to State agencies as defined in § 1278.3(a) of this part, except as provided below:

1. Appendix I, Notification of developer selection, is not applicable.

2. Appendix II, Annual contributions contract, is modified as follows:

a. Delete Part II, Section 2.12(d)

b. Delete Part II, Section 2.13 and substitute the following:

"2.13 *Procurement.* In the purchasing of equipment, materials, and supplies, and in the award of contracts for services, the State Agency shall comply with all applicable State Laws."

3. Appendix III, Agreement to enter into housing assistance payments contract, is modified as follows:

Delete Section 4 and substitute the following:

"4. *Project Completion.* Upon completion of the project, the LHA shall transmit to the Government a certification that the completed Project has been inspected by a representative of the LHA and that (a) there are no defects or deficiencies in the Project, (b) all work has been done in accordance with the requirements of the Agreement, and (c) the project is in good and tenantable condition. If the Government determines that the certification is in conformance with the requirements of this paragraph, it will authorize execution of the Housing Assistance Payments Contract."

4. With respect to all prescribed forms which are utilized by State agencies, as defined in § 1278.3(a) of this Part, the term "State Agency" may be substituted for the following terms: "Local housing authority," "LHA," "Local Authority."

Issued at Washington, D.C., March 12, 1974.

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

[FR Doc.74-6177 Filed 3-18-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 230]

[Docket No. LI-4, Notice 2]

LOCOMOTIVE SPEED INDICATORS, SPEED RECORDERS AND WHEEL SLIP/SLIDE INDICATORS

Notice of Extension of Comment Period

On February 4, 1974, the Federal Railroad Administration (FRA) issued an

Advance Notice of Proposed Rule Making to require additional safety equipment on locomotives (39 FR 4929). Written comments responding to that notice were requested by March 18, 1974.

At the request of the Association of American Railroads, the period for filing of written comments has been extended to April 30, 1974. Communications received by that date will be considered in development of a Notice of Proposed Rule Making. Comments received after that date will be considered only as far as practicable.

This notice is issued under authority of sections 2, 5, 36 Stat. 913, 914, 45 U.S.C. 23, 28, section 6(e) and (f), 80 Stat. 939, 940, 49 U.S.C. 1655, 49 CFR 1.49(c)(5), and sections 202, 209, 84 Stat. 975, 45 U.S.C. 431, 438, 49 CFR 1.49(n).

Issued in Washington, D.C. on March 14, 1974.

DONALD W. BENNETT,
Chief Counsel.

[FR Doc.74-6217 Filed 3-18-74;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 74-13; Notice 1]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Seating Systems

This notice proposes the amendment of Standard 207, *Seating systems*, 49 CFR 571.207, to establish barrier crash testing for passenger car, multipurpose passenger vehicle (MPV), and light truck seating systems manufactured after September 1, 1976, and to extend the applicability of Standard 202, *Head restraints*, 49 CFR 571.202, to MPV's, light trucks, and bus driver seats by incorporation of that standard, with several changes, in Standard 207.

Consolidation of Standards 202 and 207 logically reflects the relationship of the seat and its head restraint and would improve the possibilities of eventually testing the whole seating system with dynamic test procedures. It also has the beneficial effect of extending the head restraint standard to MPV's, trucks, and buses whose broad and increasing use as passenger vehicles on the highway requires that they be well-equipped with passenger-car-type safety systems.

The head restraint requirement would be modified to ensure proper utilization, by preventing its misadjustment and removal. Permanent attachment to the seat, minimum height and several minor modifications would be added to guarantee the benefits of a well-designed and adjusted device. The NHTSA recognizes the need to maintain a balance between head restraint height and driver visibility by permitting an adjustable head restraint on the right outboard seat. Docket No. 70-7, Fields of Direct View, addressed the effect of head restraint design on driver visibility, noting that some current designs of bulky head restraints can adversely affect the driver's view to the sides and rear and can interfere with visibility through the inside rearview mirror. Comments on the rearward visibility problem inherent in higher head restraints is solicited.

At the same time an alternative test procedure found in the present Standard 202 (the acceleration test in S4) would be eliminated. This would avoid possible enforcement problems, by ensuring that NHTSA compliance test results and manufacturer certification test results refer to the same basic requirements, and therefore are directly comparable.

The seat system requirements of present Standard 207 would remain a part of the standard except for the acceleration test, of the seat back latch mechanism. There would be a new test of forward-facing seat backs that measures the seat back's resistance to collapse under front-end impact. The proposal groups the tests together to specify clearly how many of the test requirements a particular vehicle or seating component must meet. In addition to these changes, a new moving barrier crash test would be established to test the forward-facing seats in passenger cars, and in MPV's and trucks having a gross vehicle weight rating of 10,000 pounds or less. Unlike a static test, the crash test measures the forces exerted on the seat by impact transmitted through the vehicle, permitting the different crush rates of vehicles to be utilized in the design of seats.

The rear moving barrier crash test would be conducted in the same way as that proposed for Standard 301, *Fuel system integrity*, 49 CFR 571.301. The similar loading, test conditions, and test procedures would permit simultaneous testing which lowers the cost and complexity of certification programs. This test and one other utilize mannikin installation procedures proposed in an earlier NHTSA notice on the vehicle seating reference point (38 F.R. 1645, January 17, 1973) with minor modifications in response to that docket. Further comment on the installation procedure is solicited as it applies to the determination of torso line for seating systems tests.

The present requirement that components simply "withstand" an amount of force would be clarified by assigning quantifiable measures where possible to the concept.

A proposed effective date of September 1, 1976, allows 18 months of lead time following issuance of the final rule.

In consideration of the foregoing, it is proposed that Part 571 of Title 49, Code of Federal Regulations, be amended by revising Standard 202, *Head restraints*, 49 CFR 571.202, and Standard 207, *Seating systems*, 49 CFR 571.207, as a consolidated standard to read as set forth below.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: June 17, 1974.

Proposed effective date: September 1, 1976.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.51 and 49 CFR 501.6.)

Issued on March 14, 1974.

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

§ 571.207 Standard 207-76; seating systems.

S1. *Scope.* This standard establishes performance and labeling requirements for seats, head restraints, seat back latch mechanisms and seat anchorages.

S2. *Purpose.* The purpose of this standard is to reduce the number of deaths and the severity of injuries that result from the failure of seats and seat components to withstand crash forces.

S3. *Applicability.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses.

S4. *Definitions.*

"Occupant seat" means a seat that provides at least one designated seating position.

"Head restraint" means a device that limits rearward displacement of the occupant's head relative to his torso line.

S5. *Requirements.* Each vehicle shall be capable of meeting any of the requirements set forth under this heading, when tested in accordance with the procedures of S6. and the conditions of S7., except that any vehicle which is capable of meeting the requirements of S5.3(e) is not required to be capable of meeting S5.3(b), S5.5.1(b), or S5.3(c) as applied to forward-facing seats. However, a particular vehicle (i.e., a test specimen) need not meet further requirements after having been subjected to any one of the following groups of requirements:

Group I: S5.2, S5.3(a), S5.3(b), S5.3(d), S5.5.1(b), and S5.5.1(a).
Group II: S5.2, S5.3(c), and S5.3(e).
Group III: S5.2 and all S5.4 requirements.

S5.1 *Driver's seat.* Each vehicle shall be equipped with an occupant seat for the driver.

S5.2 *Seat adjustment requirements.* Each occupant seat shall remain in the position to which it was adjusted prior

to testing during the application of forces specified in S5.3, S5.4, and S5.5, except for vertical movement of non-locking suspension-type occupant seat components in trucks and buses.

S5.3 *Seat performance requirements.* Each occupant seat other than a side-facing seat and a passenger seat in a bus shall be capable of withstanding the following forces, applied in accordance with the procedures noted in parentheses:

(a) 20 times the weight of the seat applied in a forward longitudinal direction, plus, in the case of forward-facing seats to which seat belt assemblies are attached, the additional force specified for testing seat belt assemblies by S4.2 of Standard No. 210 (49 CFR 571.210), applied simultaneously at the belt anchorage points, without release or failure of the seat adjusters or anchorages (S6.1.1, S6.1.2, S6.1.3);

(b) 20 times the weight of the seat applied in a rearward longitudinal direction, plus, in the case of rearward-facing seats to which seat belt assemblies are attached, the additional force specified for testing seat belt assemblies by S4.2 of Standard No. 210 (49 CFR 571.210), applied simultaneously at the belt anchorage points, without release or failure of the seat adjusters or anchorages (S6.1.1, S6.1.2, S6.1.3);

(c) A force that produces a 3,300-inch-pound moment about the seating reference point for each designated seating position that the seat provides, applied to the upper seat back or to the upper cross-member of the seat back in a rearward longitudinal direction for forward-facing seats and in a forward longitudinal direction for rearward facing seats, with not more than 40° displacement of the seat back line (B–B) rearward of the vertical established in accordance with S6.1.5.2 (S6.2.1).

(d) In the case of front forward-facing seats, 20 times the weight of the seat back applied in a forward longitudinal direction to the seat back with not more than 10° displacement of the seat back line (B–B) forward of the vertical established in accordance with S6.1.5.2 (S6.1.5); and

(e) In the case of forward-facing seats in passenger cars, and in multipurpose passenger vehicles and trucks having a gross vehicle weight rating of 10,000 pounds or less, a force exerted on the occupied seat by the impact of a moving barrier perpendicularly against the rear of the vehicle at any speed up to 30 mph without release or failure of the seat adjusters or anchorages and with not more than 40° of displacement of the seat back line (B–B) rearward of the vertical established in accordance with S6.1.5.2 (S6.2.2).

S5.4 *Head restraint requirements.* Except in vehicles whose gross vehicle weight rating exceeds 10,000 pounds, the front outboard designated seating positions of each vehicle shall be equipped with a head restraint.

S5.4.1 *Head restraint performance requirements.*

S5.4.1.1 When a force that produces a moment about the seating reference point in accordance with S6.3 is applied through a head form to a head restraint adjusted to its fully-extended design position, the rearmost portion of the head form shall not move more than 4 inches perpendicularly rearward of the extended torso line before—

(a) The seat or seat back fails; or

(b) 200 pounds is applied (S6.3).

S5.4.1.2 Each head restraint shall withstand any force up to 50 pounds applied in a horizontal rearward longitudinal direction by a 6½ inch diameter sphere at any point more than 2½ inches below the top of the head restraint in its fully-extended design position, and within 3 inches of its vertical centerline.

S5.4.1.3 Each adjustable head restraint shall be equipped with a latch mechanism and latch release control that restrains movement of the head restraint without operation of the latch release control. The latch mechanism shall not release or fail when any force up to 10 times the movable weight of the head restraint is applied to the head restraint in any direction in which it is adjustable.

S5.4.2 *Head restraint height.* The top of the head restraint in its fully-depressed design position shall not be less than—

(a) In the case of the left front outboard designated seating position (driver's seat), 31 inches above the seating reference point measured parallel to the torso line;

(b) In the case of the right front outboard designated seating position, 27.5 inches above the seating reference point measured parallel to the torso line. The head restraint shall be capable of adjustment to a height of not less than 31 inches above the seating reference point measured parallel to the torso line.

S5.4.3 *Head restraint width.* The lateral width of each head restraint, when measured 2.5 inches below the top of the head restraint shall be—

(a) Not less than 10 inches in the case of bench-type occupant seats; and

(b) Not less than 8 inches in the case of occupant seats other than bench-type seats.

S5.4.4 *Head restraint attachment.* Each head restraint shall be attached to the seat so that it can be removed only by disassembly of the seat back, or shearing of metal.

S5.5 *Seat back restraint requirements.* Each occupant seat with a hinged or folding seat back other than a side-facing seat or a seat back adjustable only for the comfort of its occupants shall be equipped with a latch mechanism and latch release control that restrains movement of the seat back without operation of the latch release control.

S5.5.1 The latch mechanism shall not release or fail when—

(a) In the case of a forward facing seat, 20 times the weight of the hinged or folding seat back is applied in a forward longitudinal direction (S6.1.5); or

(b) In the case of a rearward facing seat, 8 times the weight of the hinged or folding seat back is applied in a rearward longitudinal direction relative to the vehicle longitudinal centerline (S6.1.4).

S5.5.2 The latch release control shall be accessible to the occupant of the seat equipped with the latch mechanism and to the occupant of the designated seating position immediately behind the seat if operation of the control is required for that occupant's exit from the vehicle. The release control shall be located on the side of the seat, facing and next to the exit door within 2 inches of a horizontal plane passing through the H point of a seated SAE manikin. The latch release control shall protrude at least one-half inch from the surrounding surface and be operable by a force of not more than 20 pounds applied in an upward or inward direction.

S5.6 *Labeling of non-designated seating.* Any vehicle seating other than an occupant seat shall be conspicuously marked with the following in letters three-eighths of an inch high:

NOT FOR OCCUPANCY WHILE VEHICLE IS IN MOTION

S6. *Test procedures.* Each vehicle shall be capable of meeting the requirements of S5. when tested in accordance with the procedures and in the sequence set forth below.

S6.1 *Group I.* With the occupant seat in the vehicle and only as much padding, cushions, and upholstery removed as is necessary to secure struts and cross-members used in testing, apply in sequence the forces specified in S5.3(a), S5.3(b), S5.3(d), and S5.5.1(a) and S5.5.1(b) as follows:

S6.1.1 If the seat back and the seat bench are attached to the vehicle by the same attachments, secure a strut on each side of the seat from a point on the outside of the seat frame in the horizontal plane of the seat's center of gravity to a point on the frame as far forward as possible of the seat anchorages. Between the upper ends of the struts place a rigid cross-member, in front of the seat back frame for the application of rearward force and behind the seat back frame for the application of forward force. Apply the force specified by S5.3(a) and S5.3(b) horizontally through the rigid cross-member as shown in Figure 1. In the case of seats to which seat belt assemblies are attached, apply simultaneously at the belt anchorage points the additional force specified by S4.2 of Standard No. 210 (49 CFR 571.210).

S6.1.2 If the seat back and the seat bench are attached to the vehicle by different attachments, attach to each component a fixture capable of transmitting a force to that component. Apply force equal to 20 times the weight of the seat back horizontally through the center of gravity of the seat back, as shown in Figure 2, and apply force equal to 20 times the weight of the seat bench horizontally through the center of gravity of the seat bench, as shown in Figure 3. In the case of seats to which seat belt assemblies are attached, apply simultaneously, at the belt anchorage points, the additional force specified by

S4.2 of Standard No. 210 (49 CFR 571.-210).

S6.1.3 In the case of pedestal-type seats with a center of gravity below the level of the seat bench—

(a) If the seat is non-adjustable or only vertically adjustable, apply the forces specified by S5.3(a) or S5.3(b) at the entire seat's center of gravity without the attachment of struts;

(b) If the seat is horizontally adjustable above its center of gravity, apply the forces specified by S5.3(a) and S5.3 (b) at the entire seat's center of gravity without attachment of struts and apply 20 times the weight of the horizontally adjustable portion at its center of gravity in the manner specified in S6.1.1.

S6.1.4 In the case of rearward-facing hinged or folding seats, remove the struts and cross members used in S6.1.1 through S6.1.3, secure a rigid cross-member behind the seat back frame in the horizontal plane of the seat back's center of gravity as shown in Figure 4, and apply the forces specified in S5.5.1 (b) in a rearward longitudinal direction.

S6.1.5 In the case of forward-facing front seats, remove the struts and cross members used in S6.1.1 through S6.1.3 and secure a rigid cross-member behind the seat back frame in the horizontal plane of the seat back's center of gravity as shown in Figure 4.

S6.1.5.1 Establish the H point and the torso line of a weighted SAE manikin installed in any front outboard designated seating position as follows:

(a) Place the vehicle on a level surface at unloaded vehicle weight with the tires at the vehicle manufacturer's specified cold tire pressure.

(b) Place the driver's seat in the manufacturer's rearmost and lowest design riding position. If the seat has an adjustable back, place the seat back in the manufacturer's nominal design riding position. If the seat has independently adjustable bottom pad angles and vertical positioning, place the bottom pad at the lowest angle and elevation.

(c) Place two pieces of 20-gauge stainless steel plate on the floor carpet in front of the driver's seat to permit the manikin's heels to slide on them throughout the remainder of the procedure.

(d) Place muslin cloth over the seat area and seat back directly behind the steering wheel.

(e) Adjust the thigh and leg segments of the manikin to the length of the 95th percentile. Adjust the foot angle of the manikin's feet to 87 degrees.

(f) Attach the right foot and lower leg assembly to the manikin's T-bar. Place the manikin in the driver's seating position and center the assembly laterally on the longitudinal centerline of the seating position. If the steering wheel has more than one operating position, place the steering wheel in the locked position nearest the middle of its adjustment range. Attach the left foot and lower leg assembly to the manikin's T-bar.

(g) Elevate the leg segment to release friction on the floor, and lower the leg segments until the manikin's heels make contact with the stainless steel plates. No attempt should be made to prevent the manikin's foot from depressing the accelerator and/or brake pedal throughout S6.

(h) Pull the manikin's back and pan assembly away from the seat back, using the T-bar, and tilt the back pan forward. Maintain the rearmost portion of the manikin at approximately 1 inch from the seat back through step (1).

(i) Attach the lower leg and thigh weights.

(j) Adjust the knee separations so that the manikin's right foot is laterally midway between the centers of the accelerator and brake pedal, and the right edge of the left foot is one-half inch outboard of the outermost extremity of the brake pedal, or the clutch pedal if so equipped. Adjust the stainless steel plates as needed.

(k) Place the forward lateral portion of the T-bar parallel to the ground and perpendiculwar to the vehicle's vertical longitudinal plane to assure that the H point buttons on the seat pan assembly are properly aligned.

(l) Repeat the procedure specified in step (g) to release friction on the floor.

(m) Reposition the manikin assembly by sliding the seat pan rearward, gradually applying a force of 50 pounds in the direction of the thigh bar longitudinal centerline, then gradually removing the force.

(n) Move the back pan rearward so that the upper portion of the back pan contacts the seat.

(o) Repeat the procedure specified in step (k).

(p) Move the head probe forward and install the right and left buttock weights. Place the eight torso weights, one by one on alternate sides.

(q) While maintaining the seat pan level in a lateral direction, tilt the back pan forward until the torso weights are over the H point to release any seat back friction. Without changing the position of the manikin, tilt the back pan forward and hold the thigh bar to prevent the manikin from sliding forward. Reposition the back pan and the head probe to their original positions.

(r) Gradually, apply a horizontal force of 5 pounds in a rearward direction to the back pan at the screw located at the base of the graduated scale on the headroom probe with the probe in full down position to vertically reposition the manikin, and gradually remove the force. Repeat once. Level the manikin assembly laterally.

(s) Determine the longitudinal and vertical location of the manikin's H point.

S6.1.5.2 Determine the seat back line and the vertical as shown in Figure 5 by locating a point B1 2.5 inches below the top of the head restraint or seat back, constructing a horizontal plane A–A through the H point, constructing the seat back line B–B parallel to the manikin torso reference line and through B1, and constructing a vertical plane through the intersection of A–A and B–B, designated B2.

S6.1.5.3 Apply the forces specified in S5.3(d) and S5.5.1(a) in a forward longitudinal direction to the rigid cross-member.

S6.2 *Group II test procedure.* Use one of the two following test procedures as specified in S5.3(c) and S5.3(e).

S6.2.1 *3,300 inch-pound moment test procedure.*

S6.2.1.1 With the seat in the vehicle, establish the H point and torso reference line of a weighted SAE manikin in accordance with the procedures of S6.1.5.1 installed in any front outboard designated seating position of the vehicle.

S6.2.1.2 Establish points B1 and B2 in accordance with S6.1.5.2.

S6.2.1.3 Remove the manikin and apply the force specified in S5.3(c) to a rigid cross-member secured to the seat back as shown in Figure 6.

S6.2.2 *Rear moving barrier crash test procedures.*

S6.2.2.1 Establish the H point and torso reference line of a weighted SAE manikin in accordance with the procedures of S6.1.5.1 installed in any front outboard designated seating position of a vehicle conditioned in accordance with S7.1.

S6.2.2.2 Establish points B1 and B2 in accordance with S6.1.5.2.

S6.2.2.3 Remove the manikin and load the vehicle in accordance with S8.1 of Standard 208, *Occupant crash protection,* including a 50th percentile anthropormorphic test device that conforms to Part 572 of this chapter positioned at each front outboard designated seating position, restrained only by means that require no action by the vehicle occupant.

S6.2.2.4 Impact the rear end of the test vehicle with the moving crash barrier at 30 mph so that the face of the moving barrier is perpendicular to the longitudinal centerline of the vehicle, and a vertical plane through the geometric center of the barrier impact surface and perpendicular to that surface coincides with the longitudinal centerline of the vehicle.

S6.3 *Group III test procedures.*

S6.3.1 Following the test of the seat's head restraint mechanism in accordance with the requirements of S5.4.1.3 in the case of adjustable head restraints, and the test of the head restraint's configuration by the application of a 6½-inch-diameter sphere in accordance with S5.4.1.2, establish the H point and torso line of a weighted SAE manikin installed in the seat in accordance with the procedures of S6.1.5. Position the centerline of the head room probe in full back position and, in the case of an adjustable head restraint, position the head restraint in its fully extended design position.

S6.3.2 Establish the displaced torso line by applying a rearward moment of 3,300 inch-pounds about the H point to the seat back through the test device back pan.

S6.3.3 Remove the back pan and, using a cylindrical head form having a 6.5-inch diameter in plan view and a 6-

inch height in profile view, apply a rearward initial load perpendicular to the displaced torso reference line and 2.5 inches below the top of and displaced 3 inches laterally from, the vertical centerline of the head restraint or upper seat back, that produces a 3,300 inch-pound moment about the seating reference point.

S6.3.4 Gradually increase the initial load to 200 pounds or until the seat or seat back fails.

S7. *Test conditions.* The following conditions apply to the tests conducted in satisfaction of the requirements specified in S5.

S7.1 Test conditions for the rear moving barrier crash specified in S5.2 (e) are in accordance with S8.2 of Standard No. 208, *Occupant Crash Protection*, 49 CFR 571.208, except for the positioning of the barrier and the vehicle. The barrier and test vehicle are positioned so that at impact—

(a) The vehicle is at rest in its normal attitude.

(b) The barrier is traveling at 30 mph with its face perpendicular to the longitudinal centerline of the vehicle; and

(c) A vertical plane through the geometric center of the barrier impact surface and perpendicular to the surface coincides with the longitudinal centerline of the vehicle.

S7.2 Static loading is applied as follows—

(a) The specified load is reached in 5 seconds.

(b) The load is held for 5 seconds.

(c) The specified load is released to zero load in 5 seconds.

S7.3 The center of gravity of a seat or seat component is determined with all cushions and upholstery in place and with all adjustable head restraints in their fully extended design position.

S7.4 The seat back is in the manufacturer's nominal design riding position and the seat is in any horizontally adjusted position. Seats adjustable with electromechanical, vacuum or hydraulic adjusters are in the most upright position, fully down, and in any horizontal position.

S7.5 The weight of a seat or component is the weight of seat structure, cushions, adjusters, and head restraints that constitute the assembled seat or component installed in the vehicle.

S7.6 The ambient temperature is any level between 15° F. and 110° F.

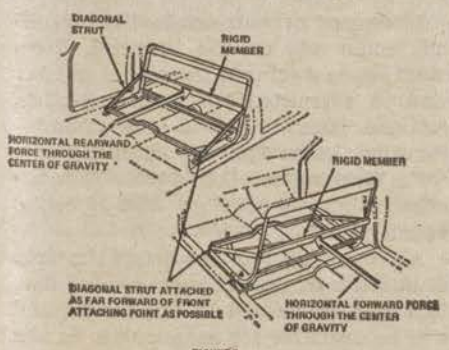

FIGURE 1

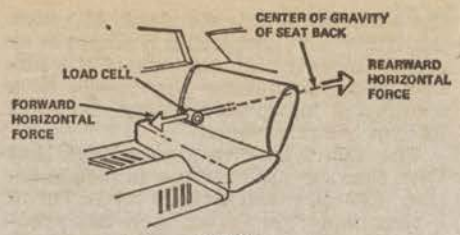

FIGURE 2

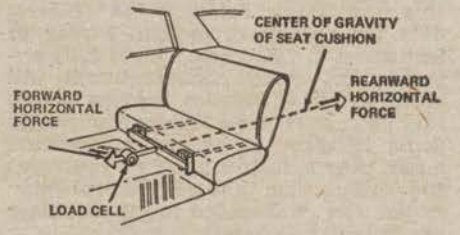

FIGURE 3

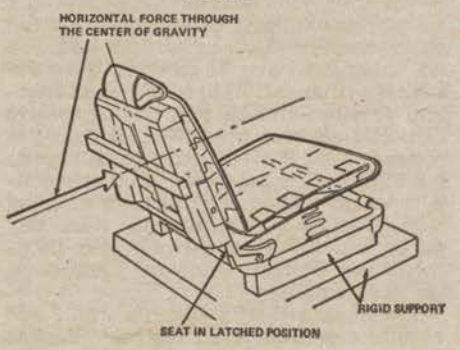

FIGURE 4

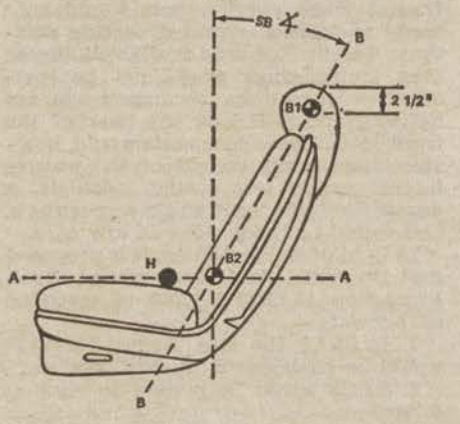

FIGURE 5

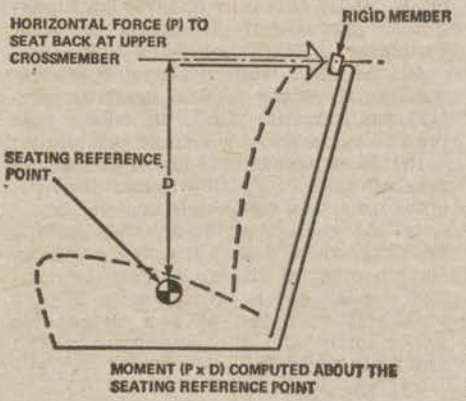

FIGURE 6

[FR Doc.74-6241 Filed 3-18-74;8:45 am]

[49 CFR Part 571]

[Docket No. 74-14; Notice 1]

MOTOR VEHICLE SAFETY STANDARDS

Occupant Crash Protection

This notice proposes new occupant crash protection requirements for the period beginning September 1, 1976, and proposes to extend the present three options, including the belt interlock system requirements, until that date.

Standard No. 208, *Occupant Crash Protection*, 49 CFR 571.208, has in its present form been in effect since January 1, 1972. It requires either the furnishing of seat belts with or without use-inducing systems, or the meeting of quantitative injury criteria in crash tests performed with instrumented dummies, or both. The requirements have been imposed in sequential phases, with the current phase for passenger cars beginning on September 1, 1973, and extending until August 15, 1975. On that date, as the standard was issued, all passenger cars were to have crash protection that was "passive," i.e., required no action by vehicle occupants such as the fastening of a seat belt.

On December 5, 1972, the U.S. Court of Appeals for the Sixth Circuit in *Chrysler v. DOT*, 472 F.2d 659 (6th Cir. 1972) upheld the basic validity of Standard 208, but required the agency to issue more specific dummy specifications, and suspended the mandatory passive requirements that were to come into effect on August 15, 1975. New dummy specifications were published on August 1, 1973 (38 FR 20449) as Part 572 of Title 49, Code of Federal Regulations. In this notice, the NHTSA proposes requirements for occupant crash protection that will begin when the current phase is over and extend indefinitely, thus completing the action made necessary by the *Chrysler* decision.

The action proposed would extend the current options for passenger cars 1 year to August 31, 1976. After that date, passenger cars would be required to provide passive protection in frontal and angular (in the front designated seating positions) and lateral crash modes, by the same criteria as in the present "first option." If they could meet the rollover test by passive means, no front-seat belt systems would be required, although they would of course be available as options, with anchorages provided. If they could not meet the passive rollover test, they would be required to have lap belts at all designated seating positions, meet the crash-test criteria additionally with the belts fastened, and have a sequential warning system for the belts at all frontal positions. Vehicles other than passenger cars would essentially be phased 2 years behind passenger cars as at present.

The experience to date with lap-and-shoulder belts continues to bear out this agency's judgment, as set forth in the rulemaking actions that were contested in *Chrysler v. DOT*, that such systems fall short of providing the best universal crash protection that can be practicably

achieved with today's technology. Public resistance to the belt-starter interlock system currently required (except on vehicles providing passive protection) has been substantial, with current tallies of proper lap-shoulder belt usage on 1974 models running at or below the 60% level. Even that figure is probably optimistic as a measure of results to be achieved, in light of the likelihood that as time passes the awareness that the forcing systems can be disabled, and the means for doing so, will become more widely disseminated, and also that accident-prone drivers tend to be overconcentrated in the non-user group.

The accumulating field experience with air-cushion restraint systems, on the other hand, continues to bear out earlier indications that they provide excellent frontal and angular crash protection with reliability extremely close to 100%. Passive belt systems that show promise of achieving close to 100% usage are also in advanced stages of development. The NHTSA therefore finds on the basis of this evidence that passive systems, which do not depend on the knowledge or cooperation of the driving public, are practicable and will provide substantially greater levels of life- and injury-saving protection than active belt systems.

Of course, crash protection technology involves much more than the interior restraint system. Lateral crash protection, for example, depends mainly on vehicle structure and glazing characteristics, and other aspects covered in other standards such as seat strength and configuration and fuel system integrity are also critically important. Rollover protection can also be provided as part of vehicle structure, and the NHTSA is of the opinion that much can yet be achieved in this area. Where passive rollover protection is provided, as evidenced by meeting the standard's dynamic rollover test without allowing any part of the test dummies to move outside the passenger compartment, lap belt wearing would not be so critical, and under the proposed requirements belt systems would not have to be provided in the front seating positions. Where it is not provided, there would be front-seat belts with sequential warning systems, whereby a visible and audible warning would activate if, after sitting in the vehicle, a person did not operate the lap belt by the time the vehicle was started and placed in forward gear. NHTSA tests indicate that such a system should be an effective inducement to belt usage, and it would avoid some of the interlock's inconveniences.

It is proposed that the Part 572 dummy presently in effect be retained for testing these requirements. As noted in the notice issuing that part (August 1, 1973, 38 FR 20449), the specification and the drawings incorporated into it constitute a very detailed description of the test dummy, which is further elaborated by set-up procedures and calibrating performance tests. The NHTSA finds that this dummy fully qualifies as an objective measuring instrument as required by the Court in *Chrysler v. DOT*, and that it remains the best available dummy for the purposes of this standard. Although the NHTSA is sponsoring a program to create improved simulations of the human body, no dummy that would be a significant improvement over Part 572 has yet been developed.

The Court in *Chrysler* ordered that "the effective date for the implementation of passive restraints be delayed until a reasonable time after such test specifications are issued." The NHTSA in this proposal is delaying the effective date for passive protection 1 year to September 1, 1976. Although it fully expects that many manufacturers will begin to install passive systems before that date, as General Motors is presently doing in three of its makes, the 1977 model year is in this agency's judgment the earliest time that passive protection system can be installed in all passenger cars sold in this country.

The *Chrysler* Court gave specific relief to "sports cars and convertibles," citing the difficulties that convertibles would in its judgment have in meeting the rollover requirement. In light of the alternative provided in this proposal to passive dynamic rollover protection, it does not appear on the basis of evidence before the NHTSA that sports cars and convertibles would have more difficulty meeting these proposed requirements than any other vehicles of comparable size. Comments and data are specifically requested on this point.

The proposed amendments would not require crash-deployed restraint devices for rear-seat occupants, since the passive frontal crash requirements would only apply to front designated seating positions. The limited data available indicate that such devices would not be cost-effective for rear-seat occupants, who are naturally protected by the back of the front seats. These occupants would, however, receive the benefit of the passive lateral crash test, which requires a dummy in both front and rear positions, and would have lap belts in any case.

In light of the foregoing, it is proposed that Standard No. 208, *Occupant Crash Protection*, 49 CFR 571.208, be amended as follows:

1. In S4.1.2, the date "August 14, 1975" would be changed to "August 31, 1976".

2. S4.1.3 would be revised to read as follows:

S4.1.3 *Passenger cars manufactured on or after September 1, 1976.* Each passenger car manufactured on or after September 1, 1976, shall—

(a) At each front designated seating position meet the frontal crash protection requirements of S5.1 by means that require no action by vehicle occupants;

(b) Meet the lateral crash protection requirements of S5.2 by means that require no action by vehicle occupants;

(c) At each rear designated seating position have a Type 1 seat belt assembly (which may, at the manufacturer's option, be the pelvic portion of a Type 2 seat belt assembly with a detachable upper torso belt) that conforms to S7.1 and S7.2; and

(d) Either—

(1) Meet the rollover crash protection requirements of S5.3 by means that require no action by vehicle occupants; or

(2) At each front designated seating position have a Type 1 seat belt assembly that conforms to S7.1 and S7.2 with a sequential belt warning system that conforms to S7.5, and meet the requirements of S5.1 and S5.2 with front test dummies restrained by the Type 1 seat belt assemblies.

3. A new S7.5 would be added to read as follows:

S7.5 *Sequential belt warning system.* A sequential belt warning system shall activate a continuous or intermittent audible signal and a continuous or flashing warning light, visible to the driver, displaying the words "Fasten Seat Belts" or "Fasten Belts" when the following conditions (a) and (b) exist simultaneously:

(a) The vehicle's engine is operating and the transmission gear selector is in any forward position.

(b) The seat belt assembly for a seating position has not been operated after a person at least as heavy as a 50th-percentile adult male has been seated at that position. Belt operation for the purpose of this requirement shall be, at the manufacturer's option, either the extension of the belt assembly at least 4 in from its stowed position, or the fastening of the belt latch mechanism.

S7.5.1 A sequential belt warning system shall conform to S7.3.3 and S7.3.4, and shall not activate when the belt operation specified in S7.5(b) is performed after an occupant is seated.

4. In the second sentence of S5.3, the date "August 15, 1977" would be changed to "September 1, 1976".

5. S8.1.8 would be amended by changing the words "S4.1.2.1 and S4.1.2.2" to "S4.1.2.1, S4.1.2.2, or S4.1.3".

6. In S4.2.2, the date "August 14, 1977" would be changed to "August 31, 1978".

7. S4.2.3 would be revised to read as follows:

§4.2.3 *Trucks and multipurpose passenger vehicles, with GVWR of 10,000 pounds or less, manufactured on or after September 1, 1978.* Each truck and multipurpose passenger vehicle with a gross vehicle weight rating of 10,000 lb or less manufactured on or after September 1, 1978, shall meet the requirements of § 4.1.3 (as specified for passenger cars), except that forward control vehicles may instead meet the requirements of § 4.2.-1.2, and convertibles, open-body vehicles, walk-in van-type trucks, motor homes, and vehicles carrying chassis-mounted campers may instead meet the requirements of § 4.1.2.2.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before

and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: May 3, 1974.

Proposed effective date: August 15, 1975.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51.)

Issued on March 15, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-6329 Filed 3-18-74;8:45 am]

[49 CFR Part 571]

[Docket No. 74-15; Notice 1]

MOTOR VEHICLE SAFETY STANDARDS

Advance Notice Concerning Higher Speed Protection Requirements

This is an advance notice of proposed rulemaking, to advise the public that the NHTSA is considering upgrading the requirements of Standard No. 208 to provide protection for occupants in crashes at higher speeds. No rule on this subject will be issued without further notice and opportunity for comment.

In a notice published today, 39 FR 10271, the NHTSA proposes requirements for passive protection in all passenger cars manufactured on or after September 1, 1976. The frontal and angular barrier crash speeds at which vehicles would have to meet the injury criteria as measured with test dummies are up to 30 mi/h.

Based on the research conducted to date on occupant crash protection and vehicle structure, which is extensively documented in the dockets on Standard No. 208, the NHTSA is of the opinion that the relevant technology has advanced to the point where protection can be afforded occupants in crashes equivalent to those into a fixed barrier at more than, 40 mi/h. Such a range of crash severities would include a large percentage of those experienced in the field, and that level of protection would work a manifold increase in the lifesaving capability of occupant crash protection systems.

This agency is therefore considering amending Standard No. 208, effective September 1, 1980, to require either 45 or 50-mi/h crash protection. Comments are invited from the interested public. Specific areas of interest are the injury criteria that would be most effective for protection across the wider range of speeds; the levels of lateral, rollover, and rear-end crash protection that would be most appropriate to accompany a 45 or 50-mi/h frontal and angular capability; detail changes in the procedures that would be desirable in testing systems with such higher speed capabilities; changes in other standards or corollary requirements in other areas that would be called for; the projected costs and benefits of meeting the higher-speed requirements, including the costs correlated with the suggested effective date of September 1980 as contrasted with earlier or later dates; and projected collateral effects of the higher-speed protective capability on consumption of energy, cost of operation, and environmental protection factors.

Interested persons are invited to submit comments on this advance notice. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: September 19, 1974.

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

Issued on March 15, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-6328 Filed 3-18-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

PROPOSED COMPLIANCE SCHEDULES FOR TENNESSEE

Approval and Promulgation of State Implementation Plans

Section 110 of the Clean Air Act, as amended, and the implementing regulations of 40 CFR Part 51 require each State to submit a plan which provides for the attainment and maintenance of the national ambient air quality standards throughout the State. On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of Tennessee's State Implementation Plan.

On March 23, May 15, July 3, July 18, July 20, October 15, and October 16, 1973, pursuant to 40 CFR § 51.15 and § 51.6, the State of Tennessee submitted for the Environmental Protection Agency's approval additional compliance schedules. This publication proposes that certain of the revisions be approved. Each proposed revision establishes a new date by which an individual air pollution source must attain compliance with an emission limitation of the State implementation plan. This date is indicated in the succeeding table under the heading "Final Compliance Date." In many cases the schedule includes incremental steps toward compliance, with interim dates for achieving those steps. While the tables below do not list these interim dates, the actual compliance schedules do.

The schedules in table (c)(1) of this notice are additions to the table published in the FEDERAL REGISTER of June 20, 1973 (38 FR 16144) as satisfying the compliance schedule requirements for State implementation plans. This list of June 20 is also amended in this publication by the addition of certain schedules for which the State has granted a variance. This group of schedules is here presented in a new table (e) as satisfying the requirements for revisions in State implementation plans. All of the compliance schedules listed here are available for public inspection at the following locations:

Air Programs Office
Environmental Protection Agency
Region IV
1421 Peachtree Street, N.E.
Atlanta, Georgia 30309

Division of Air Pollution Control
Tennessee Department of Public Health
C2-212 Cordell Hull Building
Nashville, Tennessee 37219

City of Memphis-Shelby County Health Department
814 Jefferson Avenue
Memphis, Tennessee 38105

Chattanooga-Hamilton County Air Pollution Control Bureau
Room 201
City Hall Annex
Chattanooga, Tennessee 37402

Air Pollution Control Division
Metropolitan Health Department of Nashville and Davidson County
311-23rd Avenue
Nashville, Tennessee 37203

Each compliance schedule has been adopted by the Tennessee Air Pollution Control Board or by the local agency authority and submitted to EPA after notice and public hearing in accordance with the procedural requirements of 40 CFR Part 51. Each also satisfies the substantive requirements of 40 CFR Part 51 pertaining to compliance schedules, and has been determined to be consistent with the approved control strategies for the State of Tennessee.

An evaluation of the Tennessee compliance schedule submittal is available for public inspection at the Atlanta location listed above.

All interested parties are encouraged to submit written comments on the proposed plan revisions. These comments will be weighed carefully by EPA before the agency decides to approve or disapprove these changes in the Tennessee Plan. Comments will be accepted through April 18, 1974. These should be addressed to the Director, Air and Water Programs Division, Environmental Protection Agency, Region IV, 1421 Peachtree Street NE., Atlanta, Georgia 30309.

Attention: Mr. Thomas A. Strickland.

(42 U.S.C. 1857c–5)

Dated: March 11, 1974.

RUSSELL E. TRAIN,
Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 Code of Federal Regulations as follows:

Subpart RR—Tennessee

Section 52.2223 is amended by adding new lines to the table in paragraph (c)(1) and by adding a new paragraph (e), as follows:

§ 52.2223 Compliance schedules.

* * * * *

(c)(1) * * *

Tennessee

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
Bowaters Southern Paper Corp. State order No. 44–0073.	Calhoun	CH. VII–9(f)	June 19, 1973	Immediately	June 1, 1975
General Shale, State order No. 45–0073.	Kingsport	CH. VII–8(b)	do	do	June 1, 1974
Holston Army Ammunition Plant, State order No 54–0073.	do	CH. VII–9(c)	do	do	Dec. 1, 1973
Tennessee River Pulp & Paper Co., State order No. 93–00073.	Counce	CH. VI–2 CH. V–2(b)	do	do	
Tennessee Valley Authority, Kingston Steam Plant, Unit 1, State order No. 47–0073.	Kingston	CH. VI–2(a)(2) CH. V–2(b)	June 19, 1973	do	July 1, 1975
Tennessee Valley Authority, Johnsonville Steam Plant:					
(a) Unit 1, State order No. 50–0073.	New Johnsonville	CH. VI–2(a)(2) CH. V–2(b)	Oct. 9, 1973	do	April 1, 1975
(b) Unit 2, State order No. 49–0073.	do	CH. VI–2(a)(2) CH. V–2(b)	do	do	July 1, 1975
(c) Unit 7, State order No. 48–0073.	do	CH. VI–2(a)(2) CH. V–2(b)	do	do	Mar. 1, 1974
(d) Unit 8, State order No. 52–0073.	do	CH. VI–2(a)(2) CH. V–2(b)	do	do	June 1, 1974
(e) Unit 9, State order No. 51–0073.	do	CH VI–2(a)(2) CH. V–2(b)	do	do	Sept 1, 1974
(f) Unit 10, State order No. 53–0073.	do	CH. VI–2(a)(2) CH. V–2(b)	do	do	Dec 1, 1974

* * * * * * *

(e) The compliance schedules for the sources identified below are approved as meeting the requirements of § 51.15 and § 51.6 of this chapter. All regulations cited are air pollution control regulations of the State or those of a local air pollution control agency as noted.

(1) Statewide compliance schedules:

Tennessee

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
Aluminum Co. of America, State order No. 79-00073.	Alcoa	CH. V-2(b) CH. VII-2	Oct. 9, 1973	Immediately	Aug. 9, 1974
American Enka, State order No. 64-00073:					
(a) Boilers 1, 2, 3	Morristown, Tennessee	CH. V-2(b) CH. VI-2(a)	do	do	July 1, 1975
(b) Boilers 4, 5, 6	do	CH. V-2(b) CH. VI-2(a)	do	do	Dec. 30, 1974
(c) Boiler 9	do	CH. V-2(b) CH. VI-2(a)	do	do	June 30, 1974
Athens Plow Co., State order No. 4-00073.	Athens	CH. V-2(b) CH. VII-9(b)	Mar. 20, 1973	do	Aug. 9, 1974
Athens Stove Works, State order No. 55-0073.	do	CH. V-2(b) CH. VII-9(b)	June 19, 1973	do	July 2, 1974
Beaunit Fibers, State order No. 56-0073:					
(a) Stacks 1 and 2	Elizabethton	CH. V-2(a) CH. VI-2(a)	do	do	Mar. 30, 1975
(b) Stack 3	do	CH. V-2(a) CH VI-2(a)	do	do	Nov. 30, 1974
Bedford Lumber Co.:					
State order No. 87-00073	Shelbyville	CH. V-2(b) CH. VI-2(a)(2)	Oct. 9, 1973	do	Mar. 1, 1974
State order No. 88-00073	do	CH. V-2(b) CH. VI-2(a)(2)	do	do	Oct. 9, 1974
Bristol Foundry & Machine Co., State order No. 71-00073.	Bristol	CH. V-2(b) CH. VII-9(b)	do	do	Nov. 9, 1973
Bruce Flooring State order No. 72-00073.	Jackson	CH. V-2(b) CH. VII-2	do	do	Aug. 9, 1974
Burroughs-Ross-Colville Co.:					
State order No. 65-00073:					
(a) Boiler 1	McMinnville	CH. V-2(b) CH. VI-2(a)2	do	do	Do.
State order No. 66-00073:					
(a) Collectors C-1, C-3	do	CH. V-2(b) CH. VII-2(a)	do	do	Do.
(b) Collector C-7	do	CH. V-2(b) CH. VII-2(a)	do	do	Oct. 1, 1973
Celotex Corp., State Order No. 61-0073:					
(a) Collectors A1-2, B-3, B-4, and E-22.	Paris	CH. V-2(b) CH. VII-2(a)	June 19, 1973	do	May 1, 1974
(b) Collectors D-12, D-13, and D-14.	do	CH. V-2(b) CH. VII-2(a)	do	do	Apr. 1, 1974
(c) Collectors C-0, C-10, and C-11.	do	CH. V-2(b) CH. VII-2(a)	do	do	Oct. 30, 1973
Clarksville Foundry & Machine Works, State order No. 73-00073.	Clarksville	CH. V-2(b) CH. VII-9(b)	Oct. 9, 1973	do	Jan. 30, 1974
Dover Corp., State order No. 74-00073.	Middleton	CH. V-2(b) CH. VI-2(d)	do	do	July 9, 1974
Farrar Construction, State order No. 75-00073.	McMinnville	CH. V-2(b) CH. VII-9(g)	do	do	Oct. 9, 1973
Harris Manufacturing Co., State order No. 62-0073.	Johnson City	CH. V-2(b) CH. VII-2(a)	June 19, 1973	do	June 1, 1974
Holston Army Ammunition Plant, State order No. 67-00073.	Kingsport	CH. V-2(b) CH. VI-2(a)	Oct. 9, 1973	do	July 1, 1975
Kingsport Foundry & Manufacturing Corp., State order No. 57-0073.	do	CH. V-2(b) CH. VII-9(b)	June 19, 1973	do	Feb. 28, 1974
Koh-i-noor Radiograph, Inc., State order No. 58-0073.	Lewisburg	CH. V-2(b) CH. VII-2(a)	do	do	Mar. 29, 1974
Lenior Car Works, State order No. 76-00073.	Lenoir City	CH. V-2(b) CH. VII-2	Oct. 9, 1973	do	Dec. 9, 1973
Marquette Cement Manufacturing Co., State order No. 5-0073.	Cowan	CH. V-2(b) CH. VII-2	Mar. 20, 1973	do	Aug. 9, 1974
Mead Corp., State order No. 59-0073.	Kingsport	CH. V-2(b) CH. VI-2(a)(1)	June 19, 1973	do	July 1, 1975
Monsanto Co., State order No. 6-0073:					
(a) Source 4	Columbia	CH. V-2 CH. VII-2	Mar. 20, 1973	do	Mar. 9, 1974
(b) Source 5	do	CH. V-2 CH. VII-2	do	do	Dec. 9, 1973
Royal Oak Charcoal Co.:					
State order No. 77-00073	Jamestown	CH. V-2(b) CH. VII-2	Oct. 9, 1973	do	July 31, 1974
State order No. 78-00073	do	CH. V-2(b) CH. VII-2	do	do	Mar. 1, 1974
Stokely-Van Camp, Inc., State order No. 63-0073.	Tellico Plains	CH. V-2(b) CH. VI-2(a)(2)	June 19, 1973	do	Jan. 30, 1974
Tennessee Asphalt Co., State order No. 79-00073.	LaFollette	CH. V-2(b) CH. VII-9(g)	Oct. 9, 1973	do	Dec. 30, 1973
Tennessee Eastman Co.:					
State order No. 80-00073	Kingsport	CH. V-2(b) CH. VII-2	do	do	June 1, 1974
State order No. 81-00073	do	CH. V-2(b) CH. VII-2	do	do	Aug. 9, 1974
State order No. 82-00073	do	CH. V-2(b) CH. VII-2	do	do	Nov. 1, 1974
State order No. 83-00073	do	CH. V-2(b) CH. VII-2	do	do	July 1, 1975
State order No. 84-00073:					
(a) Units 18-22	do	CH. V-2(b) CH. VI-2(a)(1)	do	do	Mar. 1, 1975
(b) Units 11-17	do	CH. V-2(b) CH. VI-2(a)(1)	do	do	June 1, 1975
Tennessee Forging Steel Co., State order No. 85-00073.	Harriman	CH. V-2(b) CH. VII-2	do	do	Oct. 30, 1973
Tennessee Metallurgical, State order No. 89-00073:					
(a) Furnace No. 2	Kimball	CH. V-2(b) CH. VII-2	do	do	Mar. 1, 1974
(b) Furnace No. 1	do	CH. V-2(b) CH. VII-2	do	do	Jan. 15, 1974
Union Carbide Corp., State order No. 86-00073.	Columbia	CH. V-2(b) CH. VII-2	do	do	Aug. 9, 1974
United States Stove Co., State order No. 3-0073.	South Pittsburg.	CH. V-2(b)	Mar. 20, 1973	do	Feb. 9, 1974

(2) Chattanooga-Hamilton County compliance schedules:

Tennessee

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
Chattanooga Public Schools:					
(a) Elbert Long School	Chattanooga	Sec. 9(8)	Feb. 8, 1973	Immediately	July 1, 1974
(b) Charles A. Bell School	do	do	do	do	Do.
(c) G. Russel Brown School	do	do	do	do	Do.
(d) Calvin Donaldwon School	do	do	do	do	Do.
(e) East Chattanooga School	do	do	do	do	Do.
(f) Highland Park School	do	do	do	do	Do.
(g) Normal Park School	do	do	do	do	Do.
(h) Piney Woods School	do	do	do	do	Do.
(i) Ridgedale School	do	do	do	do	Do.
(j) Frank H. Trotter School	do	do	do	do	Do.
(k) Woodmore School	do	do	do	do	Do.
(l) Rivermont School	do	do	do	do	Do.
(m) St. Elmo School	do	do	do	do	Do.
E.I. DuPont de Nemours & Co.:					
(a) Nylon 66 evaporator Nos. 1-5.	do	Sec. 9	do	do	Do.
(b) Nylon auto clave Nos. 1-17	do	do	do	do	Do.
(c) Continuous polymerization lines I-III.	do	do	do	do	Do.
(d) Continuous polymerization line IV.	do	do	do	do	Sept. 1, 1973
(e) Lindburg furnace type 364830-E12-S.	do	do	do	do	Aug. 1, 1973
(f) Lindburg furnace type 243624-E12-S.	do	do	do	do	Feb. 1, 1974
(g) Trent furnace model 862640A.	do	do	do	do	Mar. 1, 1974
(h) Lindburg furnace type 364830E12-S.	do	do	do	do	Apr. 1, 1974
(i) Riley boiler	do	do	do	do	July 1, 1974
(j) B & W boiler	do	do	do	do	Do.
Farmers Chemical Association, Inc.	do	do	do	do	June 15, 1973
General Tire Service	do	do	do	do	Jan. 31, 1974
Randolph Manufacturing Co., Inc.	do	do	do	do	Do.
Southern Foundry Supply, Inc.	do	do	do	do	Mar. 31, 1973
Tennessee Awning & Tent Co.	do	do	Feb. 9, 1973	do	June 1, 1973
United States Pipe & Foundry Co.	do	do	Feb. 8, 1973	do	Nov. 1, 1973

(3) Memphis-Shelby County compliance schedules:

Tennessee

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
Anderson-Tully Co.:					
Sawmill cyclone 1	Memphis	Secs. 3-17, 3-2	May 3, 1973	Immediately	Dec. 31, 1974
Sawmill cyclones 2, 3, 4	do	do	do	do	Do.
Boiler	do	Secs. 3-17, 3-22	May 3, 1974	do	Feb. 1, 1974
E. L. Bruce Co.:					
Phase 1	do	Secs. 3-17, 3-20	Nov. 2, 1972	do	Sept. 1, 1973
Phase 2	do	do	do	do	Mar. 1, 1975
Buckeye Cellulose Corp	do	do	Apr. 5, 1973	do	July 1, 1974
Buckman Laboratories	do	do	May 3, 1973	do	Apr. 30, 1974
Cargill, Inc., Nutrena Division	do	do	do	do	Do.
Celotex Corp	do	do	Dec. 7, 1972	do	Do.
Chromium Mining & Smelting Corp.	do	do	Nov. 2, 1972	do	July 1, 1973
Continental Grain Co	do	do	May 3, 1973	do	Oct. 1, 1974
Desoto Hardwood Flooring Co.:					
Phase 1	do	do	Apr. 5, 1973	do	May 1, 1974
Phase 2	do	do	do	do	Oct. 1, 1974
Phase 3	do	do	do	do	Mar. 1, 1975
Excel Smelting Co	do	do	May 3, 1973	do	Dec. 31, 1974
Fiberfine of Memphis	do	do	Mar. 31, 1973	do	Mar. 1, 1974
W. R. Grace & Co	do	do	Dec. 7, 1972	do	Apr. 1, 1975
Memphis Furniture Manufacturing Co.	do	Secs. 3-17, 3-20, 3-22.	May 3, 1973	do	Dec. 31, 1973
Memphis Lead Co	do	Secs. 3-17, 3-24	do	do	Dec. 31, 1974
M. B. Parker Co	do	Secs. 3-17, 3-21	do	do	Apr. 30, 1974
Prest Manufacturing Co	do	Secs. 3-17, 3-20	Apr. 5, 1973	do	Dec. 1, 1974
Ray Sharp Lumber Co	do	do	May 3, 1973	do	Dec. 31, 1973
Southern Cotton Oil Co	do	do	do	do	May 31, 1975
Standard Brake Shoe & Foundry Co.	do	do	Nov. 2, 1972	do	Oct. 1, 1974
Tennessee Fabricating Co	do	Secs. 3-17, 3-21	May 3, 1973	do	Apr. 30, 1974
Wabash, Inc.:					
Phase 1	do	Secs. 3-17, 3-20	do	do	Apr. 1, 1974
Phase 2	do	do	do	do	Jan. 1, 1975

(4) Nashville-Davidson County compliance schedules:

Tennessee

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
Bruce Flooring	Nashville	Sec. 4-1-9	Feb. 7, 1973	Immediately	Dec. 31, 1973
State of Tennessee Central Steam Plant.	do	Secs. 4-1-2, 4-1-7.	June 6, 1973	do	Oct. 1, 1974

[FR Doc.74-5972 Filed 3-18-74;8:45 am]

[40 CFR Part 52]

KENTUCKY

Approval and Promulgation of Implementation Plans

On February 8, 1972, the Governor of Kentucky initially submitted to the Administrator of the Environmental Protection Agency the State's "Implementation Plan for the Attainment and Maintenance of the National and State Ambient Air Quality Standards." This plan has been adopted by the State following a public hearing held on January 11, 1972, in Frankfort, Kentucky. The plan was submitted pursuant to section 110 of the Clean Air Act, as amended, and the implementing regulations of 40 CFR Part 51, which require States to adopt implementation plans to achieve and maintain the national ambient air quality standards set forth in 40 CFR Part 50.

On May 31, 1972 (37 FR 10842), the Administrator approved the Kentucky plan with one exception, which arose from a deficiency in the State's legal authority to allow public release of emission data. This deficiency was subsequently resolved on July 27, 1972 (37 FR 15080), when the Administrator delegated to the State the required legal authority.

On June 28, 1973, a decision of the U.S. Court of Appeals for the Sixth Circuit in the case of *Buckeye Power Co., et al.*, v. *Environmental Protection Agency*, 481 F.2d 162, and two related cases, vacated the Administrator's approval of the Kentucky plan and remanded the case to the Agency for compliance with Section 553 of the Administrative Procedure Act, as articulated in the court's opinion, viz., to take comments, data, or other evidence from interested parties, and to express the basis for administrative actions.

Consequently, on December 5, 1973, Governor Wendell Ford resubmitted to the Administrator the Kentucky implementation plan. In accordance with the court's order, the Administrator is hereby setting forth this plan as a proposed rulemaking, and is providing opportunity for public comment. The Administrator's decision to approve or disapprove the plan will be based on his determination as to whether the plan's control strategies and associated emission limits meet the requirements of section 110(a)(2)(A)-(H) of the Clean Air Act and of 40 CFR Part 51.

The Kentucky plan presents a control strategy to achieve the national standards for particulate matter. Two example Air Quality Control Regions were used in developing the strategy, the Louisville Interstate AQCR (Priority I) and the Appalachian AQCR (Priority II). The governing emission standards developed pursuant to this control strategy exercise apply to fuel combustion sources, industrial processes, solid waste disposal (including control of open burning), and fugitive dust control.

To develop a control strategy to achieve national standards for sulfur oxides, two example AQCR's were chosen, the Louisville Interstate AQCR (Priority I) and the Paducah-Cario Interstate AQCR (Priority II). The governing emission standards developed apply principally to fuel combustion sources and to industrial processes.

With respect to carbon monoxide, the plan indicates that the major contributing sources are in the area of transportation. All the State's AQCR's are classified Priority III for this pollutant. The plan, which considered the Louisville Interstate and Metropolitan Cincinnati AQCR's, indicates further that the Federal Motor Vehicle Control Program is more than adequate to meet the national standard for carbon monoxide. However, regulations for the control of carbon monoxide from stationary sources were included to provide additional protection and enhancement of air quality. These apply to grey iron cupolas, blast furnaces, basic oxygen furnaces, and petroleum refining processes.

The plan demonstrates the attainment of the national standards for hydrocarbons and photochemical oxidants by 1975, but both mobile and stationary sources must be controlled in order to meet this goal. Again, the control strategy exercise was developed for the Metropolitan Cincinnati Interstate and the Louisville Interstate AQCR's, the only regions classified Priority I for these pollutants.

With respect to the nitrogen oxides control strategy, the plan indicates that emissions of this pollutant will increase by 1975 because of increased automobile emissions. This is true in both the Louisville Interstate and Metropolitan Cincinnati AQCR's. To comply with Federal guidelines, emission limiting regulations were applied to such stationary sources as gas and oil-fired fuel-burning installations and nitric acid plants.

All of the emission limiting regulations implementing the control strategies discussed above are the same regulations which were submitted in the original Kentucky plan.

These emission limits are immediately effective except for sections of AP-4, which defer dates for final compliance with sulfur oxide emission limits as follows: Priority I AQCR's—July 1, 1977; Priority II AQCR's—July 1, 1978; and Priority III AQCR's—July 1, 1979.

Individually negotiated compliance schedules submitted by the State will be offered for public comment in a subsequent publication.

The plan also describes procedures which the Kentucky Department of Natural Resources and Environmental Protection will follow in air quality monitoring and surveillance, emission surveillance, review of new sources and modifications to existing ones, emergency episode control, and intergovernmental relations.

The Administrator's initial approval of the Kentucky plan included the granting of two-year extensions for attainment of the national primary standards for sulfur dioxides in the Louisville and Cincinnati Interstate Air Quality Control Regions, pursuant to section 110(e) of the Act and 40 CFR 51.30, in response to a formal request by the Governor. The Agency considers the Governor's request to continue in effect. In connection with this resubmission of the plan for approval, the Agency specifically invites comment on the issue of extensions of the attainment date for up to two years for the two air quality control regions involved.

On June 18, 1973 (38 FR 15834), pursuant to an order of the U.S. Court of Appeals for the District of Columbia Circuit in the case of *National Resources Defense Council, Inc. et al.*, v. *Environmental Protection Agency*, 475 F.2d 968, and seven related cases, the Administrator promulgated additional implementation plan requirements with respect to the maintenance of the national standards. To satisfy these new requirements, Kentucky held a public hearing on October 23, 1973, and subsequently adopted a new regulation, AP-11, providing for the review of new or modified sources of air pollution. This regulation, with supportive information, was submitted to the Administrator on December 5, 1973, as a proposed portion of the State plan. It is hereby proposed for public comment as the indirect source review provision of the Kentucky plan.

Kentucky's indirect source regulation requires that State approval be obtained prior to construction or modification of any of the following sources or classes of sources:

(1) Any new indirect source which:

(a) Is a new unenclosed parking lot with a parking capacity of 1500 or more motor vehicles, or has a new associated unenclosed single level parking area with a capacity of 1500 or more motor vehicles; or

(b) Is a new partially or completely enclosed parking area with a parking capacity of 750 or more motor vehicles, or has a new associated partially or completely enclosed parking area with a capacity of 750 or more motor vehicles; or

(c) Induces an additional 2000 or more vehicle trips per hour in an existing roadway.

(2) Any modified indirect source which:

(a) Increases existing parking capacity in an unenclosed single level parking area from less than 1500 motor vehicles to 1500 or more

motor vehicles, or has an associated unenclosed parking area being modified to increase parking capacity by more than 1500 motor vehicles, or

(b) Increases existing parking capacity in a partially or completely enclosed parking area from less than 750 motor vehicles to 750 or more motor vehicles, or has an associated partially or completely enclosed parking area being modified to increase parking capacity by more than 750 motor vehicles;

(c) Is an existing unenclosed single level parking area which has a capacity of 1500 motor vehicles being modified to increase parking capacity by more than 25 percent or by 1500 or more motor vehicles, whichever is less, or has an existing associated unenclosed single level parking area which is in excess of 1500 motor vehicles being modified to increase parking capacity by more than 25 percent or by 1500 or more motor vehicles, whichever is less;

(d) Is an existing partially or completely enclosed parking area which is in excess of 750 motor vehicles being modified to increase parking capacity by more than 25 percent, or by 750 or more motor vehicles, whichever is less, or has an existing associated partially or completely enclosed parking area which is in excess of 750 motor vehicles being modified to increase parking capacity by more than 25 percent or by 750 or more motor vehicles, whichever is less; or

(e) Induces an additional 2000 or more vehicle trips per hour in an existing roadway.

(3) Airports served by a regularly scheduled commercial air carrier(s).

(4) New or modified roads located in one of the standard metropolitan statistical areas identified by the U.S. Bureau of the Census or in a County with a city of 20,000 or more inhabitants, and expected to have within ten years a design traffic volume of:

(a) 2,000 or more vehicles per hour, in the case of a new road;

(b) 2,000 or more vehicles per hour, in the case of modification of an existing road with a current volume of less than 2,000 vehicles per hour; or

(c) 2,000 or more vehicles per hour in excess of the current volume or an increase of 25 percent over the current volume, whichever is less, in the case of modification of an existing road with a current volume of more than 2,000 vehicles per hour.

The State will approve the construction or modification of the foregoing sources only after the applicant provides information adequate to show that the facility involved will not indirectly interfere with the attainment and maintenance of the national ambient air quality standards.

Copies of Kentucky's proposed implementation plan, including the indirect source regulation, are available for public inspection during normal business hours at the locations given below:

Freedom of Information Center
Environmental Protection Agency
Waterside Mall West Tower, Room 232
401 M Street, S.W.
Washington, D.C. 20460

Air Programs Office
Environmental Protection Agency
1421 Peachtree Street, N.E.
Atlanta, Georgia 30309

Louisville-Jefferson County Air Pollution Control Board
400 Reynolds Building
2500 South Third Street
Louisville, Kentucky 40208

Hardin County Clerk's Office
Public Square
Elizabethtown, Kentucky 42701

Kentucky Department for Natural Resources and Environmental Protection
Division of Air Pollution
311 East Main Street
Frankfort, Kentucky 40601

Regional Offices of the Kentucky Division of Air Pollution:

Starr Building, Room 22
501 High Street
Hazard, Kentucky 40701

c/o Boyd County Health Department
1409 Blackburn Avenue
Ashland, Kentucky 41101

231 Elm Street
Ludlow, Kentucky 41016

c/o Owensboro-Daviess County Health Department
1316 West Fourth Street
Owensboro, Kentucky 42301

1609 Kentucky Avenue
Paducah, Kentucky 42001

1032 College Street, Suite 202
Bowling Green, Kentucky 42101

Interested persons may participate in this rulemaking by submitting written comments to the Director, Air Programs Office, Environmental Protection Agency, Region IV, 1421 Peachtree Street, NE., Atlanta, Georgia 30309 Attention: Mr. Helms. All relevant comments received on or before April 18, 1974, will be weighed carefully by EPA before the agency makes a decision with regard to the approval or disapproval of the Kentucky plan or portions thereof.

AUTHORITY: 42 U.S.C. 1857c-5(a)

Dated: March 12, 1974.

JOHN QUARLES,
Acting Administrator.

[FR Doc.74-6281 Filed 3-18-74;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 340]

PUBLIC ISSUANCE OF BANK SECURITIES

Offering Circular Requirements

Correction

In FR Doc. 74-4499 appearing at page 7434 of the issue of Tuesday, February 26, 1974, the 14th line of § 340.4(c)(2), now reading "ments of the Securities Exchange Act of", should read "ments which are substantially identical to".

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 231]

[Release Nos. 33-5465, 34-10663]

PREPARATION AND FILING OF REPORTS AND REGISTRATION STATEMENTS

Proposed Guides

The Commission today published for comment proposed Guide 60, "Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships," of the Guides for Preparation and Filing of Registration Statements under the Securities Act of 1933 ("Act"). The Commission noted the significant number of registration statements relating to public offerings of interests in limited partnerships that intend to invest in real estate that have been filed under the Act and the questions that have arisen in connection with processing such filings.[1] Processing of some of these filings has been time consuming for both registrants and the Commission's staff.

The proposed Guide 60 is intended to minimize delays in the review of registration statements relating to real estate limited partnerships and also to assist issuers, accountants, attorneys and others in the preparation of such filings. The proposed Guide contains comments and suggestions that the Division of Corporation Finance has developed in its processing of such registration statements. Attention is particularly directed to the paragraphs of the proposed Guide dealing with conflicts of interest, specifically where the proceeds of the offering are not committed to properties at the effective date (paragraph 5), sales literature (paragraph 20) and the undertakings to file reports after effectiveness (paragraph 21). The Division of Corporation Finance has been applying the substance of the proposed Guide and will continue to apply said substance during the comment period and thereafter, unless the Guide is adopted in an amended form.

The staff of the Commission is considering the feasibility of drafting guidelines relating to financial statements required in real estate limited partnership filings. If such guidelines are developed, they would be published for comment at a later date.

The text of the proposed Guide 60 is as follows:

GUIDE 60. PREPARATION OF REGISTRATION STATEMENTS RELATING TO INTERESTS IN REAL ESTATE LIMITED PARTNERSHIPS

References to the General Partner and its affiliates are intended to include references to the General Partner(s), promoters of the partnership, and all persons that directly or indirectly, through one or more intermediaries, control or are controlled by or are under common control with, such General Partner(s) or promoters.

It is suggested that the information in the prospectus be presented in the same order as the following comments.

1. COVER PAGE

A. The cover page should set forth, in addition to basic information about the offering (see Guide 5), the termination date of the offering, any minimum required purchase and any arrangements to place the funds received in an escrow, trust or similar arrangement.

B. The cover page should contain a tabular presentation of the per partnership interest cost, and the total maximum and minimum interests to be offered, with price to the public, selling commissions and proceeds to the partnership clearly indicated.

C. The cover page should also contain, as noted in Guide 5(g), a brief identification of the material risks involved in the purchase of the securities with cross-reference to further discussion in the prospectus. The following

[1] In the calendar year 1973, 67 registration statements covering over $700,000,000 of interests in real estate limited partnerships were filed with the Commission.

risk factors should be identified, where applicable:

(i) *Tax status.* (a) If the program has not applied for a tax ruling from the Internal Revenue Service (IRS) as to partnership tax status, or is otherwise relying on opinion of counsel as to tax status, the following disclosure is suggested: The program has received an opinion of counsel as to its status as a partnership for tax purposes and intends to rely upon such opinion. The opinion of counsel is not binding on the Internal Revenue Service. There can be no assurance that the program will not at some later date be found to be an association taxable as a corporation, in which case the tax benefits associated with this offering would not be available.

(b) If the program has requested a ruling, but the IRS proposes not to rule, or has notified registrant that it will rule adversely to the program, this should be disclosed and should be discussed in the opinion of counsel.

(c) If the program has applied for a ruling from the Internal Revenue Service as to partnership tax status, but the ruling has not been received prior to effectiveness, the cover page should disclose that there is a pending ruling request before the IRS as to partnership tax status, that without such tax status there can be no tax shelter, and that the registrant will proceed with the offering without a favorable ruling, or will put the funds received in an escrow, trust or similar arrangement pending receipt of the ruling, or whatever else the registrant proposes to do.

(ii) *Use of Proceeds.* If the proceeds of the offering are insufficient to meet the requirements for funds as set forth in the program's investment objectives, disclosure of this fact should be made.

(iii) *Conflicts of Interest.* If this offering involves transactions between the partnership and the General Partner or its affiliates which involve conflicts of interest, disclosure should be made.

2. SUITABILITY STANDARDS

Standards to be utilized by the registrant ("suitability standards") in determining the acceptance of subscription agreements should be described immediately following the cover page. Suitability standards should include those established by the registrant, self-regulatory organizations or state agencies having jurisdiction over the offering of the securities. Registrant should disclose the method(s) it intends to employ to assure adherence to the suitability standards by persons selling the interests and should briefly discuss the factors pertaining to the need for such standards, such as lack of liquidity (resale or assignment of securities), importance of the investor's Federal income tax bracket in terms of the tax benefits to be derived, the long term nature of the investment and adverse tax consequences of premature sale. If suitability standards apply to resale of the interests, this restriction should be discussed.

3. SUMMARY OF THE PROGRAM AND USE OF PROCEEDS

A two part, concise outline summary relating to the program and a tabular summary of use of proceeds should follow the Suitability section of the prospectus. These summaries may replace the Introductory Statement and Use of Proceeds sections required by the relevant Form if such sections would merely repeat the information in the summaries. In connection with this and other tabular presentations, registrant may want to consider obtaining copies of recent effective prospectuses.

A. *Summary of the program.* The following information should be disclosed in outline form with apropriate cross-references, where applicable:

(i) Name, address and telephone number of the General Partner and name of persons making investment decisions for the program;

(ii) The termination date of the program;

(iii) Compensation and fees: State, if true, that the General Partner and its affiliates will receive substantial fees and profits in connection with the offering;

(iv) Investment objectives and policies: If current distributions are an investment objective, state the estimated maximum time from the closing date that the investor must wait to receive such distributions;

(v) Properties: Describe briefly the properties to be purchased. If a material portion of the minimum net proceeds of the offering (allowing for reserves) is not committed to specific properties, so indicate;

(vi) Depreciation: Describe the depreciation method to be used;

(vii) Leverage: State the maximum leverage to be used; and

(viii) Glossary: Include a cross-reference to the Glossary.

B. *Use of proceeds.* The use of proceeds tabular summary will vary according to the program but should include, where appropriate, estimates of the public offering expenses (both organizational and sales), the amount available for investment, non-recurring initial investment fees, prepaid items and financing fees, cash down payments, and reserves. Amounts to be paid to the General Partner and its affiliates should be identified. The summary should include both dollar amounts and percentages of the maximum and minimum proceeds of the offering.

4. COMPENSATION AND FEES

A. This section should include a summary tabular presentation, itemizing by category and specifying dollar amounts where possible, of all compensation, fees, profits and other benefits (including reimbursement of out-of-pocket expenses) which the General Partner and its affiliates may earn or receive in connection with the offering or operation of the program. If more detailed information is required, it should be located in the Summary of Partnership Agreement section, with cross-reference to that Summary. The presentation should identify the person, including any affiliation with the General Partner, who will receive such compensation, fees, profits or benefits and the services to be performed by such person.

The summary should be organized so as to indicate clearly whether the compensation relates to the offering and organizational stage, the developmental or acquisition stage, the operational stage or the termination and liquidation stage of the program. Separate subcaptions are recommended.

The type of compensation, fees, profits or other benefits that should be disclosed includes but is not limited to, the following: Fees and disbursements incident to the purchase and sale of the limited partnership interests, including sales commissions and reimbursements for expenses; real estate commissions; finders fees; property acquisition fees; fees for "marketing" or renting up of properties; financing or refinancing fees; management fees; insurance and miscellaneous service fees; commissions and other fees to be paid upon sale of the partnership's properties; participation by the General Partner in cash flow or profits and losses or capital gains and losses arising out of the operation, refinancing or sale of properties; fees or builder's profits, overhead absorption, and/or land write-ups; and all profits on the purchase of investments for the program from the General Partner or its affiliates. If the partnership agreement limits the losses the General Partner and its affiliates can sustain, this should be discussed.

B. Maximum aggregate dollar front end fees to be paid during the first fiscal year of operation should be disclosed based upon the assumption that the program's maximum leverage is utilized.

C. If material amounts of compensation or fees are to be paid to persons not affiliated with the General Partner, a separate heading should be provided entitled "Fees and Compensation Arrangements with Unaffiliated Persons," and a tabular presentation describing such fees presented.

D. Where compensation arrangements are based upon a formula or percentage, the assumptions underlying the dollar figures should be disclosed and the calculations underlying the figures should be submitted to the staff supplementally with the initial filing. Compensation based upon a given return (percentage of contributed investor capital) to investors should disclose whether such return is cumulative or non-cumulative.

E. Where the General Partner or an affiliate receives a disproportionate interest in the program in relation to its own contribution, registrant's attention is directed to Guide 6. A bar chart comparison of the various interests and contributors should be provided.

5. CONFLICTS OF INTEREST

A. This section should include a summary of each type of transaction which may result in a conflict between the interests of the public investors and those of the General Partner and its affiliates, and of the proposed method of dealing with such conflict. The types of conflicts of interest which should be disclosed and discussed, if appropriate, include, but are not limited to:

(i) The General Partner is a general partner or an affiliate of the general partner in other investment entities (public and/or private) engaged in making similar investments or otherwise makes or arranges for similar investments.

(ii) The General Partner has the authority to invest the program's funds in other programs in which the General Partner or an affiliate is the general partner or has an interest.

(iii) Properties in which the General Partner or its affiliates have an interest are bought from or partnership properties are sold to the General Partner or its affiliates or entities in which they have an interest. Where appraisals are used in connection with any such transactions, it should be made clear that appraisals are only estimates of value and should not be relied on as measures of realizable value. If the General Partner might buy for the partnership any properties in which it or any of its affiliates have a material interest prior to the effective date, such properties should be appropriately described in the prospectus along with the investment objectives of the partnership (see paragraph 10, Investment Objectives and Policies). If it is disclosed in the prospectus that the partnership may purchase properties in which the General Partner or its affiliates have a material interest, but no properties are described, and such properties are thereafter purchased for the partnership, the General Partner will have the heavy burden of demonstrating that it did not intend to purchase such property at the time the registration statement became effective.

(iv) Affiliates of the General Partner who act as underwriters, real estate brokers or managers for the program, act in such capacities for other programs or entities.

(v) The same counsel will represent both the partnership and the General Partner after the closing of the offering.

(vi) An affiliate of the General Partner receives compensation as insurance agent for placing insurance on the program's properties.

(vii) An affiliate of the General Partner places mortgages for the program or otherwise acts as a finance broker, receiving commissions for such services.

(viii) An affiliate of the General Partner acts as underwriter for the offering, creating conflicts in performance of the underwriter's due diligence obligations under the Securities Act.

B. An organization chart should be included in this section showing the relationship between the various organizations managed or controlled by the General Partner or its affiliates that will do business with the program where the relationships are so complex that a graphic display would assist investors in understanding such relationsips.

6. FIDUCIARY RESPONSIBILITY OF THE GENERAL PARTNER

A. A discussion of the fiduciary obligation owned by the General Partner to the Limited Partners should be set forth. The following disclosure is suggested with appropriate modification for the laws of the state of organization:

A General Partner is accountable to a limited partnership as a fiduciary and consequently must exercise good faith and integrity in handling partnership affairs. This is a rapidly developing and changing area of the law and Limited Partners who have questions concerning the duties of the General Partner should consult with their counsel.

B. Where the limited partnership agreement contains an exculpatory provision, the following disclosure is suggested, as modified to reflect the substance of the exculpatory provision:

The General Partner may not be liable to the Partnership or Limited Partners for errors in judgment or other acts or omissions not amounting to wilful misconduct or gross negligence, since provision has been made in the Agreement of Limited Partnership for indemnification of the General Partner. Therefore, purchasers of the interests may have a more limited right of action than they would have absent the limitation in the Partnership Agreement. To the extent that the exculpatory provisions purport to include indemnification for liabilities arising under the Securities Act of 1933, in the opinion of the Securities and Exchange Commission, such indemnification is contrary to public policy and therefore unenforceable.

Registrant's attention is also directed to Note A of Rule 460 under the Act relating to disclosure of indemnification agreements.

7. RISK FACTORS

A. This section should include a carefully organized series of short, concise subcaptioned paragraphs, with cross-references to fuller discussion where appropriate, summarizing the principal risk factors applicable to the offering and to the program's particular plan of operation. See Guide 6 of the Guides. The risk factor section should be no more than two pages of the prospectus.

B. Risk factors relating to the specific program should be discussed first. Such risks might include, where applicable:

(i) where a ruling has been applied for, but not received as of the effective date, and an escrow or similar arrangement has been established, the fact that the investor's money cannot be put to productive use and the risk that such situation may continue for an indefinite period;

(ii) where registrant has been advised by the IRS that it is going to rule adversely, the increased risk that the investor may lose all tax benefits associated with the investment;

(iii) where no ruling from the IRS as to partnership tax status is sought, the greater risk resulting from the greater uncertainty as to the tax status of the partnership and as to the availability of tax benefits to the investor;

(iv) management's lack of relevant experience, or management's lack of success with similar programs or other real estate investments;

(v) where the proceeds of the offering will be insufficient to meet the requirements of the program's investment objectives, a discussion of the additional sources of capital for the program and of the risk of not being able to satisfy the program's objectives as a result of not obtaining additional necessary funds;

(vi) where the program has high risk investment objectives, including high leveraging, these should be explained;

(vii) risks associated with contemplated rent stabilization programs, fuel or energy requirements or regulations, and construction in areas that are subject to environmental or other federal, state or local regulations, actual or pending;

(viii) where a material portion of the minimum net proceeds of the offering is not committed to specific properties, disclosure of the particular risks associated with an investment in such an offering, including the increased uncertainty and risk to investors since they are unable to evaluate the manner in which the proceeds are to be invested and the economic merit of the particular real estate projects prior to investment, and since there may be a substantial period of time before the proceeds of the offering are invested, and therefore a delay to investors in receiving a return on their investment;

(ix) the potential exposure of the Limited Partners to unlimited liability as general partners in situations where the partnership agreement provides certain rights (majority votes) to Limited Partners, such as the right to remove the General Partner, the right to cause dissolution of the partnership, the right to amend the partnership agreement, the right to sell all or substantially all the partnership assets, and other specified rights.

C. Risk factors relating to real estate limited partnership offerings in general should be briefly discussed after those relating to the specific program. Such risks might include, where applicable:

(i) the risks associated with the ownership of real estate, including: uncertainty of cash flow to meet fixed and maturing obligations; adverse local market conditions; risks of "leveraging," and uninsured losses.

(ii) the principal federal income tax risks, including (a) the investor's likely exposure to substantial taxes upon a disposition of his interest (whether voluntary, as in a sale, or involuntary, as in a bankruptcy or other insolvency or on foreclosure), (b) that under certain circumstances an investor's tax liabilities may exceed his share of cash proceeds upon a sale of program property, (c) that an audit of the partnership information return may result in an audit of an investor's tax return.

8. PRIOR PERFORMANCE OF THE GENERAL PARTNER AND AFFILIATES

A. A tabular presentation providing a reasonable summary of the experience of the General Partner and its affiliates during the last five years in the investment of investor funds (all registered or exempted offerings, including private placements and intrastate offerings) in real estate. Where the investment objectives of any such prior programs were different from those of the program being registered, this should be disclosed.

B. The information required by Item 16(e) of Form S–1 as it applies to the General Partner (its officers and directors, if a corporation) or any of its affiliates who may be doing business with the partnership should be included.

C. Where any of such prior programs is experiencing an operating cash flow deficit, the "Annualized Deficit" for such program (the shortage of cash flow to pay for operating expenses and debt service before any cash distributions to participants) should be disclosed.

D. The amount of and reason for any contingent liabilities of the General Partner with regard to prior programs now in existence should be disclosed.

9. MANAGEMENT

If a material portion of the maximum net proceeds (allowing for reserves) is not committed to specific properties, disclosure should be made of the identity of the individuals who will make the investment decisions, with appropriate background information, including that required by Item 16(e) of Form S–1.

10. INVESTMENT OBJECTIVES AND POLICIES

A. If a material portion of the maximum net proceeds (allowing for reserves) is not committed to specific properties, disclosure should be made of the nature of the property intended to be purchased (e.g., commercial, residential) and the criteria (e.g., cash return objective, method of depreciation, location) to be utilized in evaluating proposed investments.

B. Disclosure should be made of any provisions of the partnership agreement, or any other agreement, which would allow a change in management or in investment objectives. A description of how such change could be made should be included.

C. If a program has as an investment objective a specific yield on the invested proceeds, such yield figures should be qualified to reflect the fact that they represent yield to the partnership, not on the cash investment of the issuer. It should be pointed out that the yield to the investor will be reduced substantially by the fees and expenses incurred prior to the purchase of properties and by the expenses of operation and maintenance of the properties. Where practical, the effective yield to the investor should be quantified. (See Guide 25.)

11. DESCRIPTION OF REAL ESTATE INVESTMENTS

A. Risks associated with specified properties, such as competitive factors, environmental regulation, rent control regulation, fuel or energy requirements and regulation should be noted.

B. If a material portion of the maximum net proceeds (allowing for reserves) is not committed to specific properties, registrant should clearly indicate in the prospectus that the promoters have not identified any specific investments (other than any described in the prospectus). In the event specific property has been identified and there is a letter of intent, deposit agreement, or other agreement in principle to purchase the property, appropriate disclosure should be made. Further, if there is a written or oral plan to proceed with purchase of specific identifiable properties after effectiveness, appropriate disclosure should be made.

12. FEDERAL TAX CONSEQUENCES

A. *General instructions.* This section should summarize under a series of appropriate headings all relevant federal and state tax aspects of the program. Proper citations should be used whenever reference is made to sections of the Internal Revenue Code ("The Code"), the Treasury of Regulations, decided cases or other sources. Any opinion of tax counsel should be supported by an appropriate legal memorandum and should be filed as an exhibit to the original filing. Tax counsel

should be aware that their opinion speaks as of the effective date. Such opinion should be updated for any material tax changes or events occurring subsequent to filing and prior to the effective date. Ruling requests (including amendments) and rulings should also be filed as exhibits with the original filing, or by amendment as soon thereafter as available. If in response to a request for ruling, the IRS proposes not to rule or to rule adversely, this must be disclosed. Any tax risk that has been disclosed in the risk factor section should be explained under the appropriate heading in this section.

B. *Partnership status.* This subsection should state whether an IRS ruling has been requested as to the entity's classification as a partnership for Federal income tax purposes. The contents of any ruling, including any conditions therein, should be summarized. It should be disclosed how the General Partner proposes in the future to maintain the net worth and other requirements which must be maintained in order for an entity to preserve its partnership tax status. (IRS Rev. Proc. 72–13). If no IRS ruling has been requested, the opinion of counsel as to partnership tax status should be summarized, and the risk of reclassification on audit by the IRS should be disclosed.

C. *Taxation of limited partners.* This subsection should summarize basic rules of partnership taxation, e.g., that a partnership is not a taxable entity, that each partner will be required to report on his Federal income tax return his distributive share of partnership income, gain, loss, deduction or credit and that a partner may be subject to tax on his distributive share of partnership income even if no cash is distributed. If the partnership agreement provides a special allocation among partners with respect to their distributive shares of any item of (1) income, gain, loss, deduction or credit or (2) overall taxable income or loss, an opinion of counsel should be submitted that the principal purpose of the special allocation is not tax avoidance or evasion under Section 704(b)(2) of the Code.

D. *Basis.* This subsection should explain how the adjusted basis of a limited partner's partnership interest is computed. The importance to basis of a partner's proportionate share of the partnership's nonrecourse loans should be explained. Whether or not the indebtedness incurred or to be incurred by the partnership will be nonrecourse should be stated. If there is a question as to whether particular nonrecourse loans will enter into basis of the partnership interest because they may be treated as capital rather than debt, or for other reasons, this should be disclosed. The limitation under Code Section 704(d) on the allowance of partnership losses should also be explained.

Where appropriate, the treatment of a reduction of partnership liabilities as a distribution of money to the partners should be noted.

If a partnership acquires real estate from its General Partner, it should be disclosed that the mortgage indebtedness may be unavailable to step-up the basis of the Limited Partner's interest even though the partnership purchased the real estate without assuming any personal liability on the indebtedness, if the General Partner assumed personal liability thereon when he purchased the real estate and retains such liability upon its sale to the partnership.

If a nonrecourse loan to the partnership is guaranteed by the General Partner or its affiliates, disclosure should be made that such loan may on audit be treated as a nonrecourse loan which does not enter into basis of the partnership interests.

E. *Depreciation and recapture.* This subsection should explain the method or methods, of depreciation to be used by the partnership on its depreciable property. Depreciation recapture may be explained here with appropriate cross-reference to sections on Sale of Partnership Property and Sale of Partnership Interests.

F. *Deductibility of prepaid and other expenses.* As to prepaid interest, Rev. Rul. 68–643 should be summarized to the extent applicable. It should be explained that if a partnership takes a large deduction for prepaid interest in its first year of operation, having little or no income in such year, the IRS may determine that the prepayment created a material distortion of income at the partnership level and require that it be allocated over the term of the loan.

As to construction expenses for real estate, it should be explained which expenses are deductible (e.g., interim commitment fees, rent up fees, FHA mortgage insurance premiums). Similarly, the nondeductibility of certain permanent mortgage fees should be disclosed. As to management fees, it should be explained to what extent they are deductible by the partnership.

G. *Section 183.* The possible impact of this Code section on investors lacking a profit objective in investing in any tax shelter program which is expected to generate annual net losses for tax purposes for a period of years should be discussed. The discussion should note that the section may apply to the Limited Partners of a partnership notwithstanding any profit objective the partnership itself may be deemed to have.

H. *Sale or foreclosure of partnership property.* There should be an explanation of the tax treatment of a sale, at a gain or loss, of partnership property, including appropriate reference to depreciation recapture.

If appropriate, the tax treatment of dealer property should be explained. Should the sale of condominium units in which the partnership has an interest be contemplated, it should be pointed out that such units may be treated as dealer property.

Where appropriate, it should be emphasized that the amount realized on a sale of partnership property includes liabilities encumbering the property from which the partnership is relieved as a result of the sale, and that the partner's tax liabilities resulting from such sale may exceed any cash proceeds distributed from the sale.

The tax treatment of a foreclosure of partnership property should be explained.

In the case of subsidized housing, it should be noted that the partnership may elect nonrecognition of gain under Code Sec. 1039 on a sale to approved tenant groups.

I. *Sale or redemption of partnership interests.* The frequently adverse tax consequences to a selling Limited Partner resulting from the ordinary income treatment of any sales proceeds attributable to unrealized receivables or substantially appreciated inventory under Code Sec. 751 should be explained. It should be noted that depreciation recapture is an unrealized receivable.

The tax treatment of sales by a transferee Limited Partner should also be explained. Whether or not the partnership will make the election under Code Section 754 should be stated, together with the possible adverse tax consequences to a transferee Limited Partner should the Section 754 election not be made.

J. *Distribution or liquidation of the partnership.* The tax consequences to a Limited Partner of partnership dissolution should be explained.

K. *State and local taxes.* It should be disclosed whether nonresident Limited Partners will be subject to tax and/or have to file tax returns in the State or States where the partnership will be registered or where it owns properties. In the event that nonresident investors may be subject to tax in such State or States, the tax rates which may be applicable should be noted.

L. *Tax returns and tax information.* It should be disclosed what kind of tax information will be supplied to Limited Partners and when, and whether the same kind of information will also be supplied to assignees who are not substitute limited partners.

It should be explained that the information return filed by the partnership may be audited and that such audit may result in adjustments. Any adjustment of the partnership information return would at a minimum require a partner to file an amended return and possibly may result in an audit of the partner's own return. Any audit of a partner's return could result in adjustments of nonpartnership as well as partnership income and losses.

13. GLOSSARY

Definitions should be provided for all terms that are used in the prospectus which are technical in nature or which are susceptible to varying methods of computation, e.g., acquisition fees, book value, capital contribution, cash flow, cash available for distribution, construction fees, cost of property, development fee, net worth, organizations and offering expenses, profit, program management fee and property management fee. For purposes of uniformity, it is suggested that these definitions conform to those that appear in the *Rules for the Offer and Sale of Real Estate Programs of the Midwest Securities Commissioners' Association*, or that any variations, and the economic effect thereof, be disclosed.

14. SUMMARY OF PARTNERSHIP AGREEMENT AND REPORTS TO INVESTORS

A brief summary of the material provisions of the Limited Partnership Agreement should be included.

15. REPORTS TO INVESTORS

The registrant should disclose all reports and other documents that will be furnished to Limited Partners as required by the program's Limited Partnership Agreement and the undertakings to the registration statement. In particular, registrant should disclose: (1) Whether the financial information contained in such reports will be prepared on an accrual basis in accordance with generally accepted accounting principles, with a reconciliation with respect to information furnished to investors for income tax purposes; (2) whether certified independent public accountants will certify the annual report; (3) whether the annual report will be provided to investors within 90 days following the close of the partnership's fiscal year; (4) that a detailed statement of any transactions with the General Partner or its affiliates, and of fees, commissions, compensation and other benefits paid, or accrued to the General Partner or its affiliates for the fiscal year completed, showing the amount paid or accrued to each recipient and the services performed, will be furnished to each investor at least on an annual basis pursuant to the registrant's undertaking; (5) that the information specified by Form 7–Q (if such report is required to be filed with the Commission) will be furnished to investors within 45 days of the close of each quarterly fiscal period pursuant to the registrant's undertaking; and (6) if the registrant has applied for, but not received an IRS ruling as to the tax status at the time of effectiveness of the registration statement, that the registrant will promptly notify each investor, in writing, pursuant to its undertaking, of the receipt of the ruling or of an adverse ruling or refusal to rule by the IRS.

16. THE OFFERING—DESCRIPTION OF THE UNITS

In addition to the disclosure required by the relevant items of Form S–1 or S–11, disclosure should be made of all restrictions on transfer of the interests, including those in the Partnership Agreement, those imposed by state suitability standards or blue sky laws, and those resulting from the tax laws.

17. REDEMPTION, REPURCHASE AND RIGHT OF PRESENTMENT AGREEMENTS

There should be a discussion of any provisions in the program that allow the General Partner or its affiliates to redeem or repurchase the offered security or that allow the investor to seek redemption or repurchase. The conditions or formulae used, e.g., purchase price less capital returns, should also be disclosed. Registrant should be careful to appropriately describe the investor's right—whether it be redemption, repurchase, or merely a right of presentment. The discussion should include the following factors:

(1) That appraisals are simply estimates of value and may not necessarily correspond to realizable value;

(2) The order in which redemption requests will be honored (post mark or other objective standard);

(3) Whether the General Partner and its affiliates will defer their redemption requests until requests for redemption by the Limited Partner public investors have been met;

(4) The source and amount of funds (together with any legal or practical limitations) available for this purpose;

(5) The circumstances under which a later request will be honored, while an earlier request is still pending;

(6) Tax consequences related to redemption;

(7) The period of time during which a redemption request may be pending prior to its being granted or rejected;

(8) Whether there is to be an allocation of funds among partners requesting redemption in circumstances where redemption requests exceed funds available for this purpose;

(9) Whether the Limited Partner must hold an interest in the partnership for a specified period prior to making a redemption request; and

(10) A detailed statement of the procedure that must be followed in order to redeem or seek repurchase of the interest, including the forms that must be presented, and whether signature guarantees will be required.

18. CAPITALIZATION

Disclosure should be made in accordance with Form S–1 (17 CFR 239.11) or S–11, (17 CFR 239.18) as appropriate.

19. PLAN OF DISTRIBUTION

A. If there is an understanding or arrangement, whether written or oral, between the registrant and any broker or dealer, relating to the distribution of the interests, which is intended to be finalized after effectiveness of the registration statement, such understanding or arrangement should be disclosed.

B. If, after the registration statement becomes effective, the registrant enters into any selling arrangement which calls for the payment of more than the usual and customary compensation, a sticker supplement (Rule 424(c)) (17 CFR 230.424(c)) describing such arrangement should be filed.

C. It should be disclosed whether registrant intends to pay referral or similar fees to any accountants, attorneys, or other persons in connection with the distribution of the interests.

D. If the General Partner or its affiliates intend to purchase interests, and such interests will be included in satisfying the minimum offering requirements, it should be disclosed whether such interests will be held for investment or resold.

20. SUMMARY OF PROMOTIONAL AND SALES MATERIAL

A. The sales material should present a balanced discussion of both risk and reward.

B. A section which identifies all selling materials proposed to be transmitted to prospective investors should be included. The selling material should be appropriately identified by title and character and should be separately categorized either as the registrant's material or that of another person. If material provided by the latter is to be used, state the name of the author and publication and the date of prior publication, if any, identify any persons who are quoted without being identified, and, except in the case of a public official document or statement, state whether or not the consent of the author and publication have been obtained for the use of the material as sales literature. Selling materials include memoranda, summary descriptions, graphics, supplemental exhibits, media advertising, charts and pictures relating to the offering of the security.

C. For material developed subsequent to the effective date, a "sticker" supplement (424(c) prospectus) should be filed to describe any new sales material.

D. Any material that is intended to be furnished to investors orally or in writing, other than that which is used for internal purposes of the registrant, and including all material described in paragraph B above, should be submitted to the staff supplementally, prior to its use. For purposes of this paragraph, the definition of sales material includes all marketing memoranda that are sent to broker/dealers or other sales personnel. Staff comments, if any, will be made orally. Registrant is advised to check with the staff before using sales material that has been submitted to the staff.

E. Wherever public sales meetings or seminars are to be employed to discuss the offering, individually or in conjunction with other tax sheltered offerings, the staff should be provided, as supplemental information, copies of any written scripts or outlines which are prepared for use in such meetings a reasonable time prior to their use.

F. The contents of the above sales material or sales meetings should be consistent with the representations in the prospectus. Reference in such sales material or at such sales meetings to Federal income tax treatment of the program and its investors should refer to either a ruling of the IRS or an opinion of counsel. Counsel should be named, his acknowledgment furnished with respect to such use, and any qualification contained in counsel's opinion included in such material. Where the program has not sought a ruling as to the tax status (partnership) from the IRS and is relying on an opinion of counsel, it should be clearly indicated that an opinion of counsel is not binding on the IRS and that the absence of a ruling may expose an investor to greater risk than would be in the case if a ruling had been obtained.

21. UNDERTAKINGS

A. The following undertaking with appropriate modifications to suit the particular case should be included in the registration statement if the securities to be registered are to be offered in a continuous offering over an extended period of time:

The registrant undertakes (a) to file any prospectuses required by section 10(a)(3) as post-effective amendments to the registration statement, (b) that for the purpose of determining any liability under the Act each such post-effective amendments may be deemed to be a new registration statement relating to the securities offered therein and the offering of such securities at that time may be deemed to be the initial bona fide offering thereof, (c) that all post-effective amendments will comply with the applicable forms, rules and regulations of the Commission in effect at the time such post-effective amendments are filed, and (d) to remove from registration by means of a post-effective amendment any of the securities being registered which remain at the termination of the offering.

B. The following undertaking should be included in every registration statement:

The registrant undertakes to send to each limited partner at least on an annual basis a detailed statement of any transactions with the General Partner or its affiliates, and of fees, commissions, compensation and other benefits paid, or accrued to the General Partner or its affiliates for the fiscal year completed, showing the amount paid or accrued to each recipient and the services performed.

C. The following undertaking should be included in every registration statement:

The registrant undertakes to send to the limited partners, within 45 days of the close of each quarterly fiscal period, the information specified by Form 7–Q (17 CFR 249.307a), if such report is required to be filed with the Commission.

D. The following undertaking relating to investment of the proceeds of an offering in which a material portion of the maximum net proceeds (allowing for reserves) is not committed to specific properties should be included in the registration statement:

The registrant undertakes to file a current report on Form 8–K to reflect each commitment involving the use of 15% or more (on a cumulative basis) of the net proceeds of the offering and to provide the information contained in such report to the Limited Partners at least once each quarter. The report to Limited Partners will contain the full financial statements required by Form 8–K, or, at the discretion of the registrant, a summary of the full financial statements with a statement that the full financials will be sent upon request.

The registrant should undertake to file a sticker supplement pursuant to Rule 424(c) under the Act to reflect each such commitment made during the offering period and to consolidate all such stickers into a post-effective amendment filed at least once every three months. Such sticker suppplement should also disclose all compensation and fees received by the General Partner(s) or its affiliates in connection with any such acquisition.

NOTE: Offers and sales of the interests may continue after the filing of a post-effective amendment containing information previously disclosed in sticker supplements to the prospectus, as long as the information disclosed in the sticker supplements was complete.

E. If the registrant has applied for a ruling from the IRS as to tax status, and has not received it at the time of effectiveness:

The registrant undertakes to promptly notify each investor, in writing, of the receipt of the ruling or of an adverse ruling or refusal to rule by the IRS, and undertakes to file with the Commission a Form 8–K describing such event.

The Commission hereby proposes Guide 60, "Preparation of Registration Statements Relating to Interests in Real Estate Limited Partnerships," for comment pursuant to sections 7 and 10 of the Act. All interested persons are

invited to submit their views and comments on the foregoing proposal in writing to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before April 15, 1974. Such communications should refer to File No. S7-517 and will be available for public inspection.

(Sections 7, 10, 48 Stat. 78, 81; sec. 205, 48 Stat. 906; sec. 8, 68 Stat. 685; (15 U.S.C. 77g, 77j.))

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

MARCH 1, 1974.

[FR Doc.74-6292 Filed 3-18-74;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.

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19544; FCC 74-195]

PUBLIC COAST RADIOTELEGRAPH STATIONS

Second Notice of Inquiry

1. The proceeding in Docket No. 19544 was initiated pursuant to section 403 of the Communications Act of 1934 by the Commission's notice of inquiry (37 FR 15197, 38 FR 3003, 36 FCC 2d 620) released July 20, 1972. The purpose of this proceeding is to conduct an overall review of the operations of public coast radio stations providing common carrier radiotelegraph services with the view towards the establishment of a policy framework in which to resolve the matters described in the Notice of Inquiry which are presently pending before the Commission.

2. As requested in Appendix A to the notice of inquiry, the major carriers presently operating public coast radiotelegraph stations (ITT World Communications Inc., RCA Global Communications, Inc., and TRT Telecommunications Corporations) have submitted a substantial amount of useful detailed information concerning the operations of their existing coast stations. Comments and reply comments have also been filed by other interested parties. In addition, a study contract was entered into by the Commission with Advanced Technology Systems, Inc. (ATS) so that we could have the benefit of an independent analysis of the problems facing the industry, as contrasted to the comments filed in response to the Notice of Inquiry. The final report resulting from this study, which was completed and submitted to the Commission in December 1973, is attached as the Appendix to this document.

3. The findings and recommendations in the ATS study are extensive as well as being novel in some respects to the present operations of public coast radiotelegraph stations. While we have not completed our review of the contents of this report, we do believe that its usefulness will be enhanced with the filing of comments by other parties interested in this proceeding. In particular, the three alternative coast station configurations listed in the ATS report are not the only ones that will be examined in the course of this proceeding. The examination of any potentially feasible alternative and decisions relating to the final arrangement of public coast radiotelegraph stations will be based primarily on the quality and scope of the maritime services to be rendered by the particular configuration and will not be limited solely to cost-revenue considerations. With respect to the landline system described by ATS to interconnect coast stations, there are a number of policy and practical questions relating to assuring the nondiscriminatory distribution of traffic between stations and to the equitable distribution between users of the costs of such a system which have to be resolved before the Commission can decide if such a system should be implemented.

4. The pending applications of the major carriers for authority to discontinue the services presently provided at certain of their public coast stations constitute one of the most pressing matters with which this proceeding is concerned. These carriers take the position that the closure of these stations will improve the financial viability of the remaining stations and that the current demand for maritime radiotelegraph services can be adequately satisfied by the remaining coast stations. The ATS report points to certain deficiencies in the cost-revenue data submitted by these carriers, and certain portions of the financial statements submitted by the carriers have been challenged by the Communications Workers of America in its reply comments to which these carriers have not had an opportunity to respond. Since the financial viability of the industry is one of the most basic of the issues in this proceeding, an accurate picture of the current financial status of the industry should be further developed. Variations in the accounting procedures and cost allocations employed by the different carriers preclude the direct comparison of cost-revenue relationships between coast stations or carriers. Therefore, for each coast station which is collocated with another radio station in a different service, such as point-to-point, we request that the carrier provide as part of this proceeding the following information for each such station by service for each year from 1966 through 1973: The revenue derived for each service, the direct costs of each service, the allocated cost for each service, the allocated net book value for each service, and the methodology used to arrive at these costs. We also request that each carrier specify for each coast station for the years 1966 through 1973 the revenues derived from the landline charges associated with the receipt and forwarding of marine messages and whether these amounts were included in the revenue figures previously submitted in this docket. Finally, in this regard and after receipt of the above information, we are directing the staff to pursue any matters relating to the financial aspects of coast stations which have not been clarified in this proceeding and to request the carriers to provide such additional information or clarification as may be necessary for a detailed examination of the financial statements submitted in this inquiry. This information will be placed in the official file of this docket and will be available for inspection by all interested parties.

5. Of equal concern in this proceeding is the technical updating and operational improvement of public coast radiotelegraph stations to improve the quality and efficiency of the maritime services provided to ships at sea, as well as the upgrading of coast stations necessary for the implementation of a high quality radioteleprinter service and the introduction of a selective calling system. We do not believe that the closure of certain coast stations as presently requested is in and of itself an achievement of these goals. Therefore, we are requesting that proposals be prepared by carriers seeking closures and submitted to the Commission for the implementation of an improved public coast radiotelegraph service with fewer stations from the standpoint of their remaining facilities. In this context, information regarding new equipment, services and/or facilities that would be required, the additional staffing required at the remaining stations, and methods to be employed in providing an improved quality of service to maritime users should be examined by the current licensees in light of the total system concept and other improvements discussed in the ATS report. The resulting coast station configuration must not only have the capability to handle the volume of maritime traffic currently handled by a carrier's existing coast stations on a coast-by-coast basis, but must also be capable of providing a higher quality of present maritime service offerings with greater efficiency, as well as providing for the implementation of a high quality radioteleprinter service. Such an affirmative plan, together with supporting technical and financial information, should be submitted to the Commission as a part of this inquiry.

6. It appears to be the general tenor of the comments filed in this proceeding to date, that competition on each coast with stations capable of handling comparable volumes of maritime radiotelegraph traffic is the most desirable of the feasible industry structures. We have no reason at this time to believe that the public interest in high quality maritime radiotelegraph services could be better served either by establishing a monopoly by selecting, either by choice or by default, a

single licensee to operate all public coast radiotelegraph stations on each or all coasts, or through the entry of limited coast radiotelegraph stations. We also believe it desirable for maritime users and shipboard operators to have available a meaningful choice of coast stations from which to obtain service and that messages be routed through the coast station which can provide the quickest and most efficient service at any particular time. In this connection, we will examine the extent to which the existing ship station licensing arrangement of granting ship licenses to RCA Global Communications and ITT World Communications, instead of the ship owners, restricts the availability of such a freedom of choice in actual practice. Comments regarding this matter are requested.

7. In this regard, it is also noted that, apart from some general statements that there is a need for high quality maritime radiotelegraph services, there is no clear definition of the desired volume or quality of the services wanted by the customers of the existing public coast stations. Without such a clear definition of maritime user requirements, we cannot be in a position to assure that any affirmative plans proposed by the major carriers for the reconfiguration of their existing coast station networks will in fact provide the type, quality, and level of the services actually desired by the maritime users. We therefore urge the users or user associations to submit their requirements in terms of desired volume and quality of service that should be provided by public coast radiotelegraph stations at specific ports or by geographic area.

8. The Commission considers this proceeding a matter of urgency and feels that the public interest requires our prompt resolution of this matter. The time afforded for the filing of comments on the ATS report and the filing of the affirmative plans of the major carriers and a definition of user requirements appears sufficient for interested parties to prepare and submit the necessary items. The reply comment period may be utilized to modify carrier plans to accommodate stated requirements not previously addressed. Any request for extension of time to file these items or reply comments must clearly establish that the comments to be filed are of such consequence to the resolution of the problems in the proceeding that the public interest requires us to extend the time period.

9. In view of the foregoing, a second notice of inquiry in Docket No. 19544 is hereby adopted. Authority for this action is contained in sections 4(i) and 403 of the Communications Act of 1934, as amended. Interested persons may file comments on or before April 15, 1974 and reply comments on or before May 1, 1974. Comments and reply comments shall be filed pursuant to § 1.419(b) which requires, among other things, an original and 14 copies of all filings. All relevant and timely comments and reply comments filed in this Docket will be considered by the Commission before further action is taken. The Commission may also take into account other pertinent information before it in addition to specific comments elicited by the notice in this proceeding. 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. Service of comments and reply comments on other parties to the proceeding as required in the first notice of inquiry will not be required with respect to filings in the second notice of inquiry.

Adopted: February 27, 1974.

Released: March 8, 1974.

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

FINAL REPORT

THE PUBLIC COAST RADIO TELEGRAPH STATION STUDY

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SECTION O

EXECUTIVE SUMMARY

A. *Background.* The study was initiated by the FCC to review the wide spectrum of replies to Docket No. 19544 which sought comments from companies operating the public coastal radiotelegraph (PCRT) stations, labor unions, those served by this industry and other interested parties. The comments covered financial statements, quality of service, and recommendations on how to continue and improve the service. A specific question facing the FCC was whether it should permit certain stations to be closed, as requested by three major carriers. A second question was the disposition of waivers of outstanding requirements imposed by the FCC on the carriers to make technical improvements in the existing facilities. These were the specific questions that prompted the FCC to issue its Notice of Inquiry. These questions, however, were symptomatic of a much more fundamental problem—the financial viability of the industry.

Advanced Technology Systems, Inc. (ATS) was selected as the FCC contractor to perform the review and analyze the industry's replies to the docket. ATS considered the specific issues of current and future operations, closure and technical improvements and evaluated these issues relative to the more basic issues that relate to the viability of the service as a whole. The study examined the requirements of the Maritime Industry and identified reasonable improvements that will bring about financial viability and operational effectiveness. ATS followed an approach which emphasized a detailed analysis of maritime radiotelegraph operations. Its objective was the identification of ways and means by which the carriers, the vessel owners, and operators may cooperate in the establishment of a system that benefits all through improved communications.

B. *The stature of the coastal telegraph industry.* The present coastal telegraph service is provided by 18 stations. Thirteen are operated by 3 major communications carriers, ITT, RCA, and TRT, and 5 independent carriers have one station each. Two of the independents are located on the Great Lakes—and have no real pertinence to this study. The concern of this study is service to vessels on the high seas.

The traffic handled by the stations of interest totals about one million messages per year for a total revenue of about $5 million per year.

The breakdown in percentage of traffic handled (1972) by individual stations and by each coastal area is given in the Table which follows. Figure 1 shows the location of each station and the volume of traffic each handled in 1972.

DISTRIBUTION OF PRESENT TELEGRAPH TRAFFIC

EAST COAST

Station	*Percentage of 1972 traffic (percent)*
RCA—Chatham (WCC)	22
RCA—Tuckerton (WSC)	3+
ITT—Long Island (WSL)	16
ITT—New York City (WSF)	0
MPA—Baltimore (WMH)	1+
Percent of Industry Total	43

WEST COAST

ITT—Seattle (KLB)	2
ITT—San Francisco (KFS)	10
ITT—Los Angeles (KOK)	5
RCA—San Francisco (KPH)	16
Percent of Industry Total	33

GULF COAST

TRT—Hialeah (WAX)	5
TRT—New Orleans (WNU)	6
RCA—Lantana (WOE)	5
ITT—Arcadia (KLC)	3
MMR—Mobile (WLO)	1
Wood—Tampa (WPD)	½
RCA—Port Arthur (WPA)	3
Percent of Industry Total	24

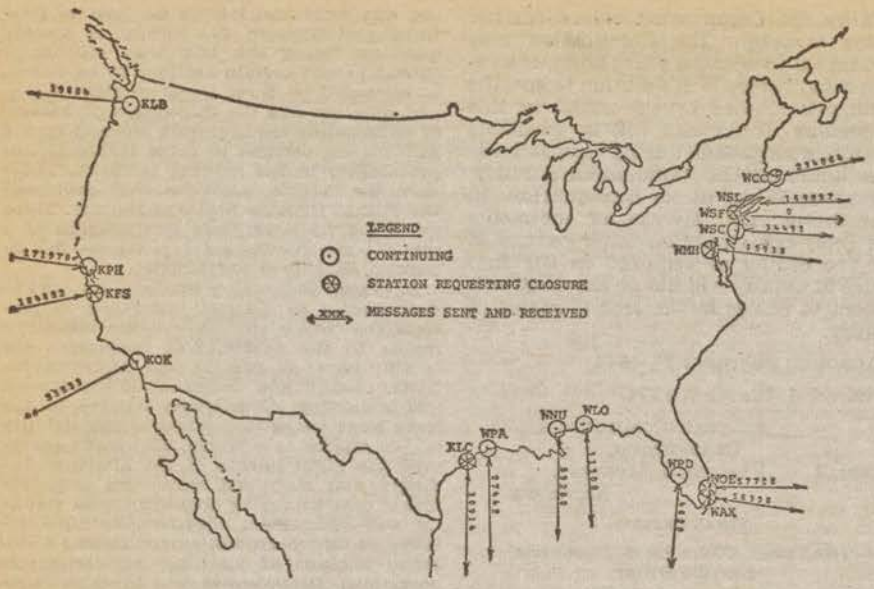


FIGURE 1

COASTAL STATION TRAFFIC PATTERN (1972)

From the preceding tabulation, it can be seen that 64 percent of the total traffic is handled by four stations: These are East Coast stations WCC(RCA), WSL(ITT), and West Coast stations KPH(RCA), KFS(ITT). Only 12 percent of traffic is handled by the remaining five stations on the East and West Coasts. The Gulf-Florida area has 24 percent of the total traffic—which is spread among seven stations, none of which has more than 6 percent of the total traffic.

The three major carriers, ITT, RCA, TRT, have expressed concern with the financial structure of the present coastal telegraph service. All three have requested the right to close stations to improve their financial position. While the best stations to close would be the smaller stations this conclusion does not appear to be supported by some of the applications for closure now on file. It must, however, be recognized that the present requests for closure differ from earlier requests. Thus, the principal objective of the applications on file is to emphasize the need for this form of relief. The notice of inquiry and this study have been accepted by the carriers and interested parties as an appropriate way to establish a basis for planning. It is to be expected that the carriers will welcome an opportunity to modify their applications should this study provide a better basis for accomplishing their fundamental objective—improved financial viability.

C. *A plan for restructuring the coastal telegraph service.* It is the opinion of ATS, based upon its study, that ITT and RCA should each retain their best station on both the East and West Coasts, and that TRT should retain its best station on the Gulf. This approach would retain the five best sited and best equipped stations in operation today. This would also provide for competition among major carriers on the East and West Coasts—a feature that vessel operators favor. The Gulf Coast presents a more complex problem. All of the stations operated by either ITT or RCA on the Gulf Coast are small, poorly equipped stations. Both carriers would like to close these stations. TRT, on the other hand, has a very good station at New Orleans and is interested in continuing this station provided it can close its station in Florida.

It would be beneficial to the financial viability of WNU (New Orleans) to allow ITT and RCA to close their stations in this area. It would also be helpful to the development of two independents in the Gulf area; WLO at Mobile and WPD at Tampa. Both of these stations are in a position to provide additional coverage and competition for traffic in the Gulf-Florida area. Thus, there is merit in allowing RCA and ITT to close their Gulf-Florida stations, and to favor expansion of the capabilities of stations operated by TRT at New Orleans and the independents at Mobile and Tampa.

ATS recognizes that there may be concern on the part of some interested parties in permitting the closure of both major carrier stations in Florida and both major carrier stations in Texas. Accordingly, it has in this study analyzed a configuration of stations which includes retention of one major carrier station in Florida (RCA's) and one in Texas (ITT's). Such a plan would differ from the one described above in that it would retain competition among all three major carriers in the Gulf-Florida area. This would detract from the opportunity for expansion of TRT and independent operators, otherwise presented by closure of ITT and RCA Gulf operations.

ATS recognizes the importance of restructuring the coastal telegraph service to permit an improvement in financial viability. However, it is of the strong opinion that the most important improvement to the coastal telegraph service will derive from a networking of stations into a common carrier maritime communications network. This network would have the purpose of making available to the maritime community, the capabilities of all stations and all services. It would assure a means of access to the system for all maritime areas, including those that would lose a "local" station due to closure.

The common carrier landline network concept proposed in this report would solve another problem that exists at the present time. This is the lack of a properly tariffed procedure or procedures for handling of messages over landlines. It is estimated by ATS that better than 85 percent of the revenue accruing from the use of land lines covers handling of messages by the coastal stations or carriers over carrier provided landlines and/or TWX, TELEX, or telephone. Western Union is used as a connecting domestic carrier in less than 15 percent of the cases. The proposed common carrier maritime network would treat all carriers and coastal station operators as connecting carriers. It would take advantage of the highly modern landline and message handling capabilities of the three major carriers, ITT, RCA, and TRT. These facilities are used today by each carrier to handle its own traffic. A system that would take advantage of these facilities on a common carrier system basis would be more economical and would have the advantage of providing for exchange of traffic among stations and carriers to facilitate delivery.

This report presents a concept of operation under which traffic lists for vessels would be transmitted on a common channel by all stations. Each station would give priority to the traffic it holds; but it would also broadcast lists for traffic being held (for example, 4 hours or more) at other stations. Thus, if a vessel cannot reach a station that has its traffic, it could request its traffic from a station with which it has contact without waiting for conditions that would permit it to get through directly to the station holding that traffic. Similarly, a vessel originating traffic could transmit it to any station it chooses, on the basis of availability, and be assured that the message will reach it destination expeditiously. At the present time, there is a tendency for vessels to use those stations and/or carriers with which it has made special arrangements for message handling. The common system would not preclude the exercise of a preference for use of a particular station and/or carrier but would permit a customer a means for clearing traffic expeditiously over the best, or only routing available at any time.

The establishment of a common landline network is considered essential to the development and use of improved system techniques. It is also essential to the establishment of a system that will utilize other modes of transmission. For example, there would be provision for transmission of messages by radiotelephony or in the future by satellite. The proposed network should be a common means for serving all of the communication needs of vessels and those that communicate with vessels. It should be possible through a common maritime network to utilize any of the available means for establishing contact with a vessel. This is not to preclude the opportunity provided by the telephone company for direct telephone contact, but rather to extend on a positive service basis the availability of such circuits for use by a communications center of the common system. The combination of a restructuring of stations to improve financial viability, and the establishment of a common carrier landline network are considered to be necessary features of an improved maritime communications system.

The following is a list of specific findings, conclusions and recommendations that derive from this study.

D. *Summary of findings.* 1. The PCRT industry has not improved the technical characteristics of its equipment to comply with the FCC standards identified in Docket No. 18577. The industry position is that the revenue derived from coastal telegraph operations does not support the substantial investments in equipment required to meet the FCC standards being "imposed" on them.

2. Industry traffic volume, and hence revenue, has remained at essentially the same level (1,000,000 messages and $5,000,000 per year) for the four years 1969–1972.

3. A reduction of staff and operating personnel has occurred at many of the stations due to attrition. Because of increases in cost of labor, this reduction has not resulted in a decrease in operating costs.

4. The PCRT industry has made only minimal use of technological improvements (teleprinters and other forms of data transmissions) in station operations. The industry

is highly dependent upon manual operation.

5. The PCRT industry does not report direct costs and allocated expenses on a uniform FCC approved basis. Wide variances in some important cost items occur from company to company in the industry. For example, ITT's allocated costs, as a percent of direct cost, greatly exceed those of other companies in the industry. RCA's salary costs at station KPH, as a percentage of direct cost, greatly exceeds that of any other similar sized station in the industry.

6. Substantial revenues accrue to the carriers from collection and delivery of messages over landlines.

7. The charges for the collection and delivery of coastal telegraph messages over landlines are handled differently by the PCRT principals. RCA and TRT do not include such charges in the revenue they report from operation of coastal stations; ITT does.

8. Financial statements submitted by the industry indicate, on face value, that the industry is not financially viable.

9. In recent years, increased costs have been allocated to coastal station operations at sites shared with point-to-point facilities. This is attributable in part, at least, to the removal of revenue producing point-to-point operations to other sites that are not shared. This is in accord with a management program to shift point-to-point operations from the use of radio to the use of cable and satellite.

10. An analysis of costs that are directly related to maritime communications indicates that the industry would be financially viable, though on a marginal basis, if the costs of facilities shared with point-to-point operations were reallocated to show only costs that are actually required for maritime.

11. The industry would be financially viable and could provide improvements in equipment and service if certain small stations were allowed to close.

E. *Conclusions.* 1. The closure of small stations by the major carriers would permit the industry an opportunity to establish viability and to provide improvements in equipment and service.

2. There will be a continuing need for manual telegraphy into the foreseeable future even though other forms of communications are made available. Existing terrestrial facilities should be improved to provide additional forms of communications, particularly printing and data. Voice grade channels should be utilized to provide facsimile and high speed data as well as voice.

3. The closing of stations should be conditional upon the restructuring of the public telegraph service into a common carrier network of landlines and message handling facilities that will assure service to all maritime areas from the remaining stations.

4. Three communication centers (one for each coast) should be established to handle the exchange of traffic within the coastal telegraph system. These should also provide an interface that facilitates the use of radiotelephony through terrestrial or satellite facilities when use of these will best serve the communication needs of the maritime service.

5. The FCC should encourage the public maritime carriers to cooperate as connecting carriers in providing a total common communications service to the maritime industry.

6. Coastal stations participating in the restructured coastal telegraph service should be required by the FCC to install new equipment complying with standards identified in Docket No. 18577, and should be encouraged in installing such equipment to include the capability for providing both telegraph and teleprinter operation.

7. The promotion of satellite communications services for commercial ships at sea by MARAD and COMSAT should not be allowed to become a deterrent to the immediate improvement in viability and services offered by terrestrial facility operators.

8. The international point-to-point carriers should be required to restructure the cost allocation procedures for shared radio facilities so as to relieve the coastal stations of a burden that now results from removal of point-to-point service from these sites. The point-to-point carriers should be encouraged to organize their landline and message handling capabilities to provide a common maritime network that effectively ties together the various coastal stations (including satellite terminals) as a maritime communications system.

9. The FCC should require the establishment of standard procedures for the handling of messages over landlines and make it the responsibility of the international carriers, subject to FCC approval, to utilize domestic carriers or the systems of domestic carriers when such can be used to the benefit of the customers being served.

F. *Recommendations.* It is recommended that: 1. Pending its decision in Docket No. 19544, the Federal Communications Commission (FCC), establish a moratorium for complying with Docket No. 18577 and, during this period, not allow the opening of any new public or limited coast station.

2. The FCC initiate a study leading to an FCC approved cost allocations manual for the PCRT industry.

3. The FCC ask the carriers, vessel operators, and representatives of operators to review this report and comment on the feasibility of cooperating in the development of a program for implementing the total system concept and/or other improvements discussed in this report.

4. The FCC hold such meetings or establish such procedures as may be appropriate to develop and implement a program for improvement.

SECTION I

INTRODUCTION

A. *Background: Basic question is how to achieve a viable coastal telegraph system.* The study seeks to answer the fundamental objective of Docket No. 19544, which is to continue and improve the service now provided by public radiotelegraph stations. A specific question facing the FCC is whether it should permit certain stations to be closed, as requested by three major carriers. A second question is the disposition of waivers of outstanding requirements imposed by the FCC on the carriers to make technical improvements in the existing facilities. These are the specific questions that prompted the FCC to issue its Notice of Inquiry. These questions, however, are symptomatic of a much more fundamental problem—the viability of the industry.

The responses to the notice of inquiry reflect some of the more fundamental questions. They clearly indicate differences in opinion as to the adequacy of service and what should be done to improve the situation. Serious criticisms are made of the carriers by the vessel owners and radio operators. The carriers emphasize data that supports their positions for closure.

ATS considered the specific issues of closure and technical improvements and evaluated these issues relative to the more basic issues that relate to the viability of the service as a whole. The study examined the requirements of the Maritime Industry and identified reasonable improvements that will bring about financial viability and operational effectiveness. ATS followed an approach which emphasized a detailed analysis of maritime radiotelegraph operations. Its objective was the identification of ways and means by which the carriers, the vessel owners, and operators may cooperate in the establishment of a system that benefits all through improved communications.

Fundamental weakness in radiotelegraph service is its inability to accommodate improvements. The existing radiotelegraph service is structured around a dependence upon the manual transmission of morse code. The structure reflects an era of labor abundance. It has fostered an historic competition among manned telegraph stations that operate without the benefit of modern technology and without a coordinated industry structure. The industry is aware that it is facing an increasing competition from those who offer new technologies in the form of voice and data systems that emphasize automatic operation. Yet the existing public telegraph structure is not financially strong enough or properly organized to support the changes that are necessary to counter the new competition by offering new services to its customers. This lack of action by the PCRT industry is encouraging the formulation of new competitive entities which plan to introduce improvements that derive from improved technology and hence capture some of the maritime traffic currently handled by the public coast stations.

FCC has recognized a need for the implementation of satellite service. An example of the application of new technology to the maritime mobile service is reflected in current planning for the use of satellite technology. The world is anxious to develop this new technology for maritime use. In this country COMSAT would like to be the supplier of such service. The Maritime Administration (MARAD) is supporting an experimental program for development of a maritime satellite communications system. There are fundamental differences between the U.S. and others as to who should own and operate an international satellite. Within the U.S. there is a serious question as to what effect satellites will have on the operations of the existing carriers. The FCC has attempted to alleviate the immediate problem in the U.S. by requiring COMSAT to permit existing carriers to participate with it on an ownership basis in the establishment of a maritime service. The outcome of this venture is not yet clear. It is, however, quite clear that there is a problem in programming improvements in maritime communications so as to accommodate the needs of the present PCRT industry structure.

Competition exists between modes of communication. The issue of competition between new and old in providing services to the maritime industry includes an increasing need for accommodating the use of different modes of communications; Telephone, printer, data and telegraph. Radiotelegraph, using public coast stations, is still the workhorse for providing high seas communications, and hand-keyed international morse code the mode of transmission most relied upon. While some segments of the PCRT industry have offered improvements in telegraph technology that point to the use of teleprinters, and other forms of data transmission, these techniques have not achieved a significant degree of use up to the present. There is no correlation of service or planning for improvements among the telegraph carriers or among the telephone and telegraph carriers. As already mentioned, there is some recognition of need for correlation among carriers in the planning for use of satellites—but the mechanism for such coordinated planning of improvements to the PCRT service does not yet exist.

Implementation of system changes or improvements in the PCRT industry have been difficult to achieve. The accomplishment of

improvements in existing PCRT communication services have been difficult due to the lack of agreement among carriers and users on the changes to be made and on the precise form in which to make the changes. This is particularly true when the changes require an investment in new equipment and/or new service offerings. Without an indication from the users that they will equip their ships to take advantage of the new service offerings, it is difficult for any of the PCRT industry leaders to justify the investment that is necessary on their part to bring about the changes. This difficulty is more pronounced by the fact that the change must occur within a regulated industry that is subject to international agreement. Foreign vessels are recipients of a substantial part of the service provided by U.S. radiotelegraph carriers. Planning improvements in consort with foreign shipping interests under these circumstances has been extremely difficult and time consuming.

The difficulties encountered in achieving standardization on a selective-calling and on printer systems illustrative of the problem. Representatives of the Maritime Industry have been trying for many years to achieve a standardized selective-calling system. The tone system now favored by International Agreement is not acceptable to the U.S. For this reason, an important U.S. program is presently being sponsored by the Maritime Administration (MARAD) to develop a different system based on the use of digital techniques. It is the hope of U.S. interests that the MARAD program will produce data in time to encourage international support of the U.S. position at the forthcoming Maritime Conference (1974).

The U.S. has no specific system that it recommends for use of printers. There are several different systems in use throughout the world. Systems used in other countries are different from the one system which is receiving limited use by U.S. carriers. There has not been adequate progress in the development of either an international position or a national position. Such progress is needed before there can be substantial progress in implementation of printers by U.S. carriers and/or U.S. vessel operators.

Delays in planning improvements in the present coastal telegraph system has encouraged the implementation of private systems. There is an increasing interest in the use of private systems by some vessel companies. Better than 90 percent of the ship-shore traffic is business related. The personal traffic of the crew and passengers makes up the remaining portion of the traffic. Vessel companies are attracted to private operation because it provides direct company control over the large percentage of their ship related communications and the right to use a selective-calling system of their own choice. The use of private stations for radiotelephony is now authorized under the FCC rules. There is an outstanding request for authorization of a privately operated teleprinter and/or data service. The argument is made that private systems are necessary and desirable to afford operators the opportunity for implementing improvements on their own—thus relieving them of dependence upon common carriers, and the problems involved in achieving national and international acceptance.

The proliferation of private systems using HF could become a problem on the high seas just as it has been a problem on the inland rivers. Without coordination of usage there will be an increasing potential for interference as the number of private systems increases. There is in addition the danger (cited by the FCC in its notice of inquiry) that widespread use of private systems will detract from the revenue base needed by the PCRT industry to assure adequate services to those commercial interests remaining dependent upon the PCRT carriers for radiotelegraph communications. Both the common carriers and those they serve can be harmed by the widespread use of private systems. These are questions that confront the FCC as it proceeds toward a solution of the fundamental problems of concern in this study.

The FCC must consider closure and other improvements in the light of the effect which such changes will or could have on viability of the industry. The FCC and the PCRT industry are aware that they are responsible for assuring the continued availability of maritime communications. Both concern themselves with the fundamental problems that confront the industry as a whole. Both seek solutions that will satisfy more than the single question of closure of specific stations or the requirement for technological improvement. What is needed is an answer to the fundamental question of how to provide adequate service to the user in a business environment that has viability in adapting to new needs and opportunities for improvement.

The question of what constitutes financial viability is readily answered and is discussed more fully in later sections. It will be shown that a proper allocation of costs to marine communications would show the present PCRT industry to be financially viable though a marginal operation. With appropriate closures and realignment of stations, the industry can be made financially strong and capable of supporting needed programs to improve operations and service. The question of what constitutes adequate service has not been clearly specified within the industry. Those who serve attest to the adequacy of their services. Those who are served comment on the inadequacies of the services provided. ATS has considered the question of service adequacy and suggests the following criteria subject to refinements which reflect the many possible communication situations under which service must be provided.

Basically, using present day maritime radiotelegraph communication methods and techniques, shore-to-ship service should be deemed adequate if the shore station can make contact with 95 percent of the ship stations on its traffic list within two transmissions of the traffic list (4 hours under present tariffs), provided the traffic lists are broadcast during a period when the ship's radio operator is on watch. Ship-to-shore service should be deemed adequate provided any ship with adequate radio facilities can make contact and start message transmission on 95 percent of its calls within 30 minutes of their initiation of the calls.

Naturally these guidelines will and can become more stringent as new methods and technologies become operational in the industry. And they should be relaxed to cover communication situations which encounter transmission difficulties over long distances.

B. *ATS approach to a solution.* ATS approached its study with a full recognition of the background discussed in section I A. It has been sensitive to the importance of establishing factual data on both industry operations and the financial viability of coastal station operations. Thus it set forth at the outset to establish a clear and factual understanding of both the operational and financial status of individual stations and of the industry as a whole. Its preliminary analyses of responses to the FCC Inquiry indicated that data on facilities and operational matters was reasonably complete. Data on cost and revenue were less than adequate. It was determined that the industry profile in both areas—operations and finances—should be prepared on a comparative basis and that data from the responses to the FCC Inquiry should be supplemented by (1) a comprehensive survey of facilities, and (2) a request for more information on cost/revenue relationships, followed by personal contacts with management.

ATS visited[1] five radio sites on the West Coast, eight on the East Coast, and five sites on the Gulf Coast. This provided an extensive coverage of radio sites operated by the three major carriers, ITT, RCA, and TRT. It included in addition a survey of sites operated by WLO in the area of Mobile. Operating centers in San Francisco and New York were also visited. Several meetings were held with carrier management personnel, and representatives of operator unions. Contact was made with the U.S. Coast Guard and Maritime Administration as well as the FCC. The attitude of all those contacted was cooperative. While the carriers did not provide all of the supplementary data requested of them, they made available sufficient information to provide a good basis for making the most important judgments relative to station operations and financial viability. Each financial statement submitted was reviewed for completeness and conformity. The important cost categories in all financial statements were analyzed to uncover operating norms from which typical financial models of typical station operations could be constructed. These models were used as a basis for determining unusual costs in specific financial statements. The financial model was also used to estimate operating costs and return on revenues in the PCRT industry for the various station realignments analyzed in Section IV of this report as a basis for evaluating the effect of closures on system viability.

Section II contains the results of analyses of present operations of the coastal telegraph stations. Section III is an overview of the existing operations and the opportunities that exist for introducing improvements. Section IV compares the effect of granting outstanding requests for closure with alternative plans for achieving system viability. Since it became clear from the survey that the applications for closure do not reflect the only alternatives considered reasonable by the various parties, several other alternative system configurations were also analyzed. For example, RCA suggests that one large PCRT station on each coast may be the best answer to the industry's problems. ITT Worldcom believes that industry costs could be reduced—without adversely affecting the availability of the service to the public—by closing redundant stations and by consolidating stations serving the same area. On the other hand there was an expression of a need for competition by representatives of vessel operators. The analyses of alternatives in section IV take account of these views, and also include certain other important changes. These are modifications in operating procedures and a plan for the networking of stations. Particular emphasis is given to the need for introduction of a network that would tie all coastal stations together in a single common carrier system.

ATS recognized from the outset that the handling of traffic over landlines within the U.S. and the accounting for costs and revenue related thereto differ from station to station and among carriers. This was recognized to be a particularly complex area that would require special attention in the study. The study has considered a modification of the coastal telegraph service that would make the telegraph carriers responsible for the entire process of handling messages including the responsibility for collection and delivery in the U.S. This would not preclude the use of other carrier facilities but would put such use at the discretion of the maritime radio carriers.

[1] See Appendix A for a list of the stations visited and the industry personnel contracted.

As indicated in its proposal for conduct of this study, ATS has felt it desirable to explore the possibility of providing a common interface between users and all of the radio systems that are available for communication with vessels. Accordingly, the study identifies a network structure that is susceptible to such expansion, a structure that affords the PCRT industry an opportunity for future improvement in the handling of overall maritime operations. The network would utilize a common landline network and common communication centers as the means for distribution and reception of radio traffic by means of telegraph, printer, data, or voice through either the media of terrestrial or satellite radio. Sections III and IV discuss the networking arrangements in more detail. Appendix B lists twenty Marine Radiotelegraph Public and Limited Coast Stations.

SECTION II

INDUSTRY PROFILES—PRESENT

A. *Traffic patterns.* The response to the Commissions notice of inquiry, Docket No. 19544, indicates that the existing 18 PCRT stations handled a total of approximately one million messages sent and received for the year of 1972. Of the one million total, approximately one-fourth was sent and the remaining three-fourths received. The traffic was distributed in the ratio of one to three to five between the Gulf, West and East Coasts, respectively, with the bulk going to the large stations. Figure 1 shows the location of the coastal stations and total number of messages sent and received at each station. Graph 1 shows the total number of messages sent and received for the period of 1966 through 1972, and the estimate for the year 1973. The message traffic total handled by each of the principal carriers is also indicated. Graph 2 shows the distribution of total message traffic sent and received for each of the coastal areas. As indicated, there has been very little, if any, increase in message traffic during the period 1966 through 1972. Two opposing factors contribute to this stagnancy in traffic volume. The first is that the world's merchant vessel population is decreasing. The second is that the number of larger ships (over 10,000 gross tons) is increasing. The larger ships have a vital need for more communications. The two factors, up to this point in time, have been offsetting each other to yield a constant traffic level. By the year 1980, the communication needs for the larger number of larger ships will more than offset the decrease in merchant vessel population. The larger oil tankers, containerized cargo vessels, fishing vessels, etc. will have a vital need for voice and data communications to improve the vessels utilization factor through reduced in-port time. If this service is not offered by the PCRT industry, the merchant vessels will look to private systems and satellite services to satisfy their increased communication needs.

It is safe to predict, based on past communication experiences, that any new service offering in voice and data will capture a fair share of the existing maritime traffic and induce an increased use of this preferred form (by the user) of communications. The Automated Marine International Study on Maritime Mobile Satellites anticipates at least a doubling in maritime traffic by 1980 through improved satellite service offerings.

The current PCRT industry can be characterized as being widely dispersed with respect to locations and fractionated in distribution of traffic carried by the various stations. For example, one station carries 22.3 percent of the total messages, while four stations each carry 2 percent or less of the total volume. Figure 2 is illustrative of the traffic distribution by stations in the PCRT industry. A redistribution of traffic to a fewer number of larger stations is indicated to meet the communication needs of a changing but more demanding user.

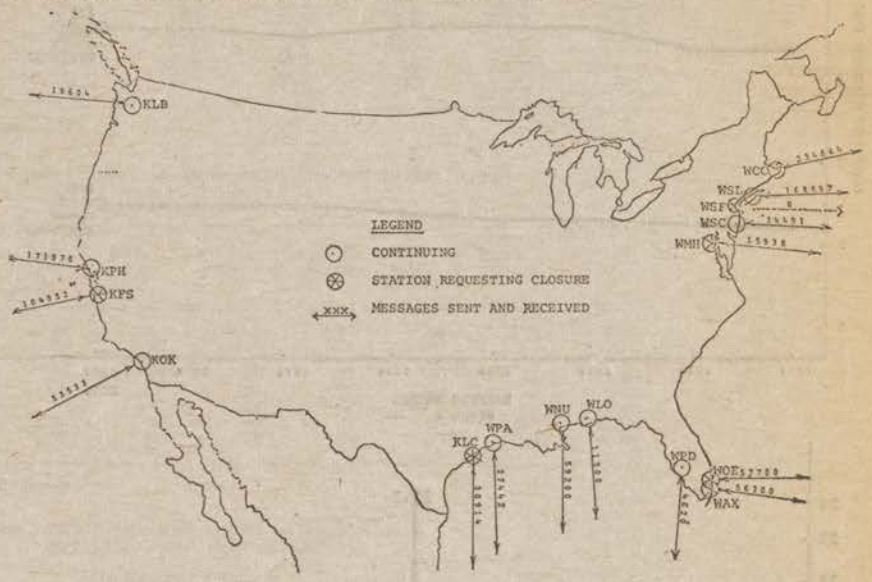
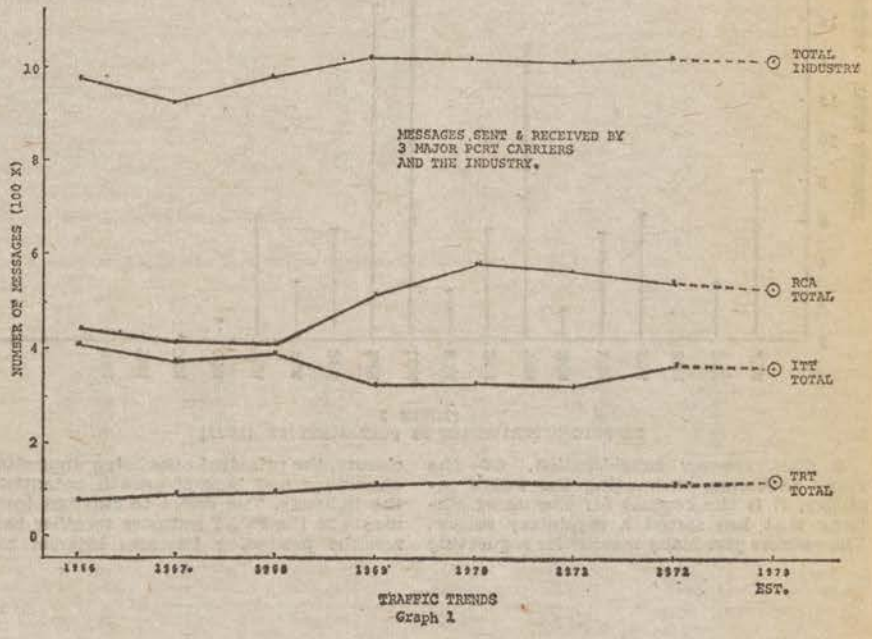
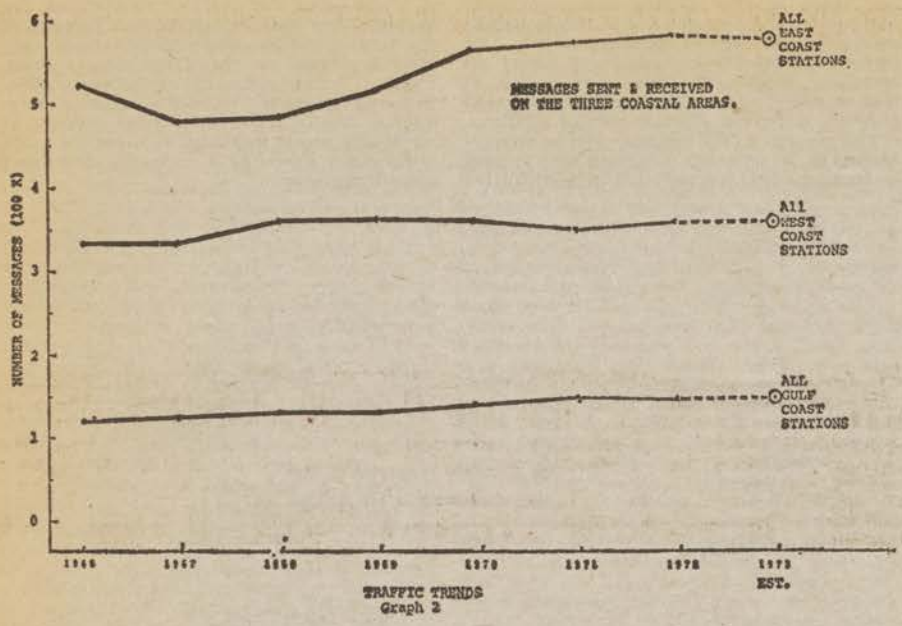


FIGURE 1

COASTAL STATION TRAFFIC PATTERN (1972)



TRAFFIC TRENDS
Graph 1



TRAFFIC TRENDS
Graph 2

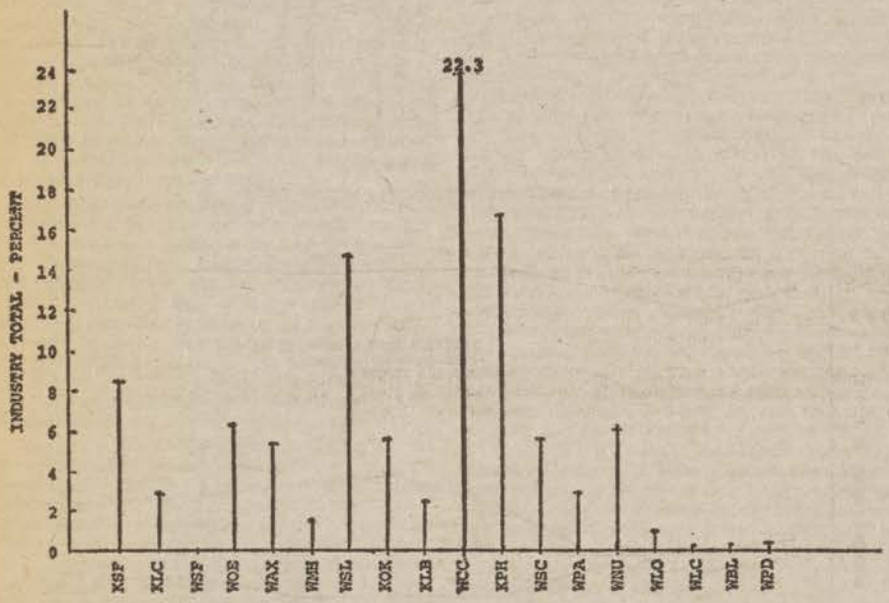


FIGURE 2
TRAFFIC DISTRIBUTION BY PCRT STATIONS (1972)

B. *Cost/revenue consideration.* Of the many problems confronting the PCRT industry, it is the request for closure of stations that has forced a regulatory review. The carriers give many reasons for requesting closure, the principal ones being unprofitable operations and lack of growth potential in the industry. The desire to reassign investments in the PCRT industry to other better revenue producing business interest must also be recognized as a factor. As stated previously, indiscriminate closure of PCRT stations without consequential benefits in the form of improved service is not in the best interests of the public. However, selected station closures, in consort with provisions for the remaining stations to provide improved service, could have considerable merit.

Before it can be determined whether closures of Coastal Stations are in the public interest, the reasons for and alternatives to closure must be identified and analyzed with regard to many factors. These include the effect of such changes upon:

1. Financial viability of stations and industry.
2. Opportunity to provide improvements in station and system characteristics.
3. Improvement in services provided.
4. Increased operational efficiency.
5. Opportunities for Federal and Industry support for improvements.

This section describes the *existing financial condition* of the PCRT industry and its impact on the closure problem now facing the industry. The other factors listed are covered in other sections of this report.

The current financial condition of the PCRT industry is reflected in the financial statements submitted by them for fiscal year 1972 (FY72). The financial statements provided by RCA, ITT, and TRT are given in Tables 1, 2, and 3, respectively. Financial statements from the remaining PCRT stations are not included since these stations account for only a small percentage of the industry's total revenue and do not materially change the observations made or conclusions drawn.

All financial submissions to FCC Docket No. 19544 were reviewed. The four submissions of most significance in the determination of financial viability are ITT's Summary of Annual Costs, RCA's Profit and Loss Statement Summary, and the Profit and Loss Statement for the individual RCA stations WCC and KPH. These statements are reproduced here as Tables 4, 5, 6, and 7, respectively.

A comparative financial analysis of all station operations based upon the submissions by the carriers in FCC Docket No. 19544 and subsequent letter requests, dated August 22, 1973, results in the following observations:

1. WCC, which is an exclusively maritime station operated by RCA, is the only station which the carriers show to be meeting revenue requirements as defined in the FCC's letter of August 22, 1973. Its excess revenue is $240,000. See Table 1.

2. The combined operations for FY72 of all RCA PCRT stations meet revenue requirements with a total revenue of $2,362,000. Because of the high amount of excess revenue received from WCC, this revenue for all RCA stations is $81,000 in excess of the revenue requirement ($2,282,000) for an adequate return (6.5 percent) on investment. See Table 1.

TABLE 1.—*RCA Global Communications, public coast stations financial data, fiscal year 1972*

[In thousands of dollars]

Account name	Chatham, WCC	Tuckerton, WSC	Lantana, WOE	Port Arthur, WPA	San Francisco, KPH	Total
Station revenue	$1,086.8	$153.8	$228.3	$121.8	$772.1	$2,362.8
Operating costs	626.6	181.2	199.8	121.2	608.6	1,737.4
Allocated costs	155.3	36.0	42.7	25.1	133.8	392.9
Net book value	232.9	40.9	52.7	35.2	194.5	555.9
Rate base	339.2	60.1	86.9	56.3	255.7	798.2
Gross return [1]	64.4	11.4	16.5	10.7	48.6	151.6
Revenue required	846.3	228.6	259.0	157.0	791.0	2,281.9
Excess (deficit) revenue	240.5	(74.8)	(30.7)	(35.2)	(18.9)	80.9

[1] Figured for 6.5% on rate base after taxes.

TABLE 2.—*ITT World Communications, Inc., public coast stations financial data, fiscal year 1972*

[In thousands of dollars]

Account name	Long Island, WSL	New York, WSF	Arcadia, KLC	San Francisco, KFS	Los Angeles, KOK	Seattle, KLB	Total
Station revenue	$934	----------	$155	$561	$291	$108	$2,049
Operating costs	625	$26	123	387	201	112	1,473
Allocated costs	417	17	82	258	134	75	987
Net book value	761	198	89	192	103	45	1,386
Rate base	893	204	115	273	144	68	1,699
Gross return [1]	178	41	23	55	29	14	333
Revenue required	1,221	85	230	701	365	201	2,807
Excess (deficit) revenue	(287)	(85)	(74)	(140)	(74)	(93)	(753)

[1] Figured for 10% on rate base after taxes.

TABLE 3.—*TRT Telecommunications, public coast stations financial data, Fiscal year 1972*

[In thousand of dollars]

Account name	Hialeah, WAX	New Orleans, WNU	Total
Station revenue	$209	$241	$450
Operating costs	260	223	483
Allocated costs	117	104	221
Net book value	26	26	52
Rate base	63	59	122
Gross return [1]	12	11	23
Revenue required	389	338	727
Excess (deficit) revenue	(180)	(97)	(277)

[1] Figured for 10% on rate base after taxes.

TABLE 4.—*ITT World Communications, Inc., public coast stations summary of annual costs, 1966–78*

	1966	1967	1968	1969	1970	1971	1972	1973
Manpower:								
Regular	$569,632	$535,885	$554,693	$528,393	$533,279	$532,769	$553,119	$619,270
Overtime	352,516	382,081	385,079	322,207	316,579	339,903	382,285	403,650
Fringe benefits	111,676	103,205	110,817	163,757	91,394	106,554	110,624	123,854
Rentals	23,393	25,659	28,274	37,977	47,016	49,789	46,275	43,913
Utilities	49,558	50,517	54,456	44,228	53,440	51,226	50,821	51,960
Materials and supplies	23,267	46,371	28,221	21,531	24,561	22,818	20,383	24,430
Commercial news	4,778	3,413	11,489	8,249	8,268	8,314	8,364	8,400
All other	32,609	24,755	43,191	29,120	22,980	20,358	18,950	27,040
Commissions	36,659	50,305	116,943	110,785	120,107	132,015	139,872	149,040
Provision for bad debts	6,000	6,750	6,600	6,600	6,600	6,600	6,600	6,600
Other taxes	15,624	14,536	14,527	15,609	15,000	15,000	15,000	15,000
Depreciation	117,000	117,000	117,000	117,700	118,500	101,000	100,900	100,900
Total direct expenses	1,342,712	1,360,477	1,471,290	1,406,156	1,357,724	1,386,346	1,453,193	1,574,057
Allocated expenses	969,854	982,686	1,062,727	1,015,681	980,699	1,001,372	1,049,656	1,136,957
Total expenses	2,312,566	2,343,163	2,534,017	2,421,837	2,338,423	2,387,718	2,502,849	2,711,014

TABLE 5.—*RCA global communications, coast station inquiry—docket 19544, profit and loss statement summary*

[In thousands of dollars]

	1966	1967	1968	1969	1970	1971	1972 [1]	1973 [1]
Revenue	$1,498.3	$1,518.7	$1,529.0	$1,943.6	$2,170.8	$2,313.2	$2,359.1	$2,335.4
Operating costs:								
Locally controlled:								
Salary	816.9	836.3	846.5	1,071.7	1,200.4	1,223.6	1,331.9	1,344.1
Travel	2.7	6.7	2.6	1.4	2.6	2.0	5.9	1.4
Telegraph and telephone	12.9	20.1	28.5	17.1	25.9	12.5	41.6	12.4
Maintenance	24.4	25.7	26.4	29.7	30.1	19.4	28.5	19.3
Power	37.0	38.4	34.4	47.5	49.2	50.4	58.7	49.2
Rent—office space and equipment		.2	.8	.6	.7	1.0	.7	.9
Radiomarine news service	3.0	5.0	5.8	5.4	5.4	6.6	6.7	6.0
Materials and supplies	6.4	7.3	6.9	8.3	10.9	13.1	14.8	20.3
House service	2.3	3.6	5.1	4.3	5.9	5.2	7.8	8.3
Other local	12.8	24.3	58.1	20.3	21.3	18.8	19.2	15.0
Total locally controlled	918.4	967.6	1,015.1	1,206.3	1,352.4	1,352.6	1,515.8	1,475.9
Insurance	4.6	5.1	4.7	4.4	5.6	5.6	3.4	6.0
Depreciation	37.0	58.4	58.2	59.0	59.2	61.0	61.3	62.0
Operating taxes	14.9	14.9	15.0	15.6	16.1	17.0	21.2	20.5
Employee benefits	85.8	84.5	92.3	109.3	150.1	197.0	239.7	255.5
Subtotal	162.3	162.9	170.2	188.3	231.0	280.6	327.6	344.0
Total operating costs	1,080.7	1,130.5	1,185.3	1,394.6	1,583.4	1,633.2	1,843.4	1,820.9
Marine administration:								
General administration	100.0	101.9	124.4	97.4	112.1	73.6	46.8	43.6
Marine sales	63.6	57.8	66.1	100.1	88.5	62.6	36.0	46.8
Marine accounting	17.3	17.6	22.0	22.7	26.5	33.4	38.1	31.2
Share of RCA frequency bureau	10.8	10.8	10.8	10.8	10.8	10.8	10.8	10.8
Total marine administration	191.7	188.1	223.3	231.0	237.9	180.4	131.7	132.4
Gross margin before system overhead	225.9	200.1	120.4	318.0	349.5	499.6	384.0	382.1
General and administration	174.8	184.4	194.3	226.2	255.2	251.9	281.5	274.5
Pre-tax profit	51.1	15.7	(73.9)	91.8	94.3	247.7	102.5	107.6

[1] Estimated.

TABLE 6.—*Coast station inquiry—Docket 19544, profit and loss statement, Chatham—WCC*

	1966	1967	1968	1969	1970	1771	1972	1973
Revenue	$692,191	$700,080	$650,838	$834,882	$955,132	$1,043,272	$1,098,766	$1,087,778
Operating costs:								
Locally controlled:								
Salary	334,063	332,475	317,501	374,252	409,362	390,267	422,636	451,002
Travel	442	4,334	988	542	1,228	449	253	300
Telegraph and telephone	2,017	3,671	6,092	5,342	9,379	5,140	18,726	2,400
Maintenance	9,442	8,034	10,406	10,266	9,418	9,602	11,392	7,800
Power	20,325	20,015	17,635	18,890	19,672	20,452	25,851	21,600
Rent—office space and equipment		165	765	569	723	878	728	900
Radiomarine news service	2,100	3,480	4,230	3,645	3,915	4,620	6,652	6,000
Materials and supplies	2,566	2,883	3,301	4,201	5,786	7,138	8,355	12,000
House services	1,621	2,601	3,135	2,399	3,179	2,218	3,868	3,600
Other local	2,972	2,142	11,557	2,740	1,771	1,115	1,640	1,200
Total locally controlled	375,548	379,800	375,610	422,846	464,433	441,879	500,121	506,612
Insurance	2,941	3,243	2,846	2,579	3,653	3,677	3,524	3,792
Depreciation	30,421	30,638	30,815	30,436	30,221	30,438	30,647	30,700
Operating taxes	7,357	7,357	7,952	7,654	8,648	9,367	10,397	10,300
Employee benefits	35,077	33,580	34,607	38,174	51,170	62,833	76,074	85,690
Subtotal	75,796	74,818	76,220	78,843	93,692	106,315	120,642	130,462
Total operating costs	451,344	454,618	451,830	501,689	558,125	548,194	620,763	637,284
Coast station gross margin	240,847	245,462	199,008	333,193	397,007	495,078	478,003	450,494

TABLE 7.—*RCA global communications, coast station inquiry—docket 19544, profit and loss statement, San Francisco—KPH*

	1966	1967	1968	1969	1970	1971	1972	1973
Revenue	$414,177	$448,005	$523,137	$596,357	$628,645	$687,208	$752,116	$744,595
Operating costs:								
Locally controlled:								
Salary	206,415	232,602	259,717	385,771	442,708	475,920	552,373	500,489
Travel	1,206	971	813	368	745	776	1,000	600
Telegraph and telephone	6,010	5,829	9,837	6,049	9,363	5,065	8,000	7,200
Maintenance	5,310	4,904	4,097	12,991	9,703	3,558	12,000	5,700
Power	7,990	8,989	8,180	19,979	20,085	20,315	24,000	18,000
Radiomarine news service	900	1,485	1,620	1,755	1,485	1,980		
Materials and supplies	1,383	2,144	2,224	2,258	2,598	2,627	1,800	2,400
House services	22		34	274	825	1,234	1,800	2,400
Other local	5,450	7,639	30,593	14,063	14,536	15,617	15,400	11,311
Total locally controlled	234,686	264,563	317,115	443,508	502,048	527,092	615,373	548,100
Insurance	256	323	323	323	320	320	320	408
Depreciation	11,887	12,028	12,193	12,318	13,173	13,968	14,018	14,037
Operating taxes	1,452	1,617	1,594	1,656	1,050	1,296	1,188	1,200
Employee benefits	21,674	23,493	28,309	39,349	55,339	76,623	99,427	95,098
Subtotal	35,269	37,461	42,419	53,646	69,882	92,207	114,953	110,738
Total operating costs	269,955	302,024	359,534	497,154	571,930	619,299	731,326	658,837
Coast station gross margin	144,222	145,981	163,603	99,203	56,715	67,909	20,790	85,758

3. The salary and employee benefit cost of $553,000 against a revenue of $772,000 for RCA station KPH in FY72 is at variance with the employee costs versus revenue ratio for comparable RCA stations. For example, from Table 5, we see that WCC had $508,000 in employee related costs against a revenue of $1,087,000 for FY72. From Table 5 it can be seen that the salary anamoly at KPH occurred during the period FY68 to FY69 when KPH reported a revenue increase of $73,000 and a salaries and benefits increase of $147,000. It should be noted that KPH—unlike WCC which is exclusively Maritime—is used for point-to-point operations which have shown a substantial reduction in the use of radio facilities in recent years.

4. ITT's FY72 submission, Table 2, indicates that none of ITT PCRT stations meet revenue requirements. A deficit of $753,000 in required revenue is reported from the operations of all stations with stations WSL and KFS being the two largest detractors. It should be noted that both of these stations like RCA's station KPH have point-to-point operations. Like RCA, ITT has shifted revenue producing point-to-point operations from the use of radio to the use of cable and satellites in recent years.

5. In their original submission to the FCC Docket 19544, ITT reported Allocated Marine Costs as 72.23 percent of their Direct Marine Cost using as a basis a 1970 Cost Separation Study having no official standing with the FCC. See Table 4. In their response to the letter request of August 22, 1973, ITT reported for FY72 an Allocated Expense of $986,000 against Direct Costs of $1,477,000. See Table 8. This percentage is approximately 67 percent.

6. RCA's Allocated Costs (Marine Administration and General Administration) totalled $393,000 against Direct Costs of $1,737,000. The RCA ratio of Allocated Costs to Direct Costs is 23 percent compared with the 72.23 percent and 67 percent reported by ITT and identified in 5 above.

7. TRT's reply to the FCC's letter request gave a Comparison of Revenue and Operating Expenses for FY 72. This submission has been restated and reordered by ATS for direct comparison with the RCA and ITT submissions. The restatement is given in Table 3. This statement shows that operating costs exceed revenue at station WAX. Operating Costs are covered marginally at WNU.

8. Allocated Costs for the total TRT operation is stated at $221,000 against operating costs of $483,000 resulting in an operating ratio of approximately 45 perecnt. This is 22 percent above RCA's but at least 21 percent below ITT's reported ratio. TRT also uses stations with point-to-point service. As with RCA and ITT, TRT has shifted revenue producing fixed operations from the use of radio to the use of cable and/or satellite.

TABLE 8.—*ITT World Communications Inc., public coast stations, 1972 annual costs (1)*

	Public coast station						
	WSL	WSF	KLC	KFS	KOK	KLB	Total
Manpower:							
Regular	$238,509	----------	$53,155	$141,090	$68,799	$44,849	$546,402
Overtime	153,850	----------	33,379	104,545	57,052	32,343	381,169
Fringe benefits (2)	47,702	----------	10,631	28,218	13,760	8,970	109,281
Rentals	20,671	8,233	1,272	5,959	5,489	3,284	44,908
Utilities	9,322	2,000	3,892	18,329	11,194	2,853	47,590
Material and supplies	2,439	----------	1,815	9,086	3,024	4,308	20,672
Commercial news	9,042	----------	----------	----------	----------	----------	9,042
All other	8,606	2,000	2,616	2,503	1,362	606	17,693
Commissions	61,193	----------	8,296	44,489	19,432	5,511	138,921
Provision for bad debts	20,976	----------	3,496	12,604	6,532	2,392	46,000
Other taxes	5,200	----------	----------	4,500	4,600	700	15,000
Depreciation	47,700	14,500	5,400	16,500	10,200	6,600	100,900
Total direct costs	625,210	26,733	123,952	387,823	201,444	112,416	1,477,578
Allocated costs (3)	417,205	17,841	82,715	258,796	134,426	75,017	986,000
Total annual costs	1,042,415	44,574	206,667	646,619	335,870	187,433	2,463,578

9. The ratio of salaries and benefits for operating personnel to revenue are high at TRT station WAX (90 percent) when compared with TRT station WNU and other RCA or ITT stations. RCA's salary and benefits to revenue ratio is 60 percent for FY71. RCA did not report salary and benefit figures for FY72. ITT reports a ratio of 53 percent for FY71 and 50 percent for FY72.

10. Marine revenue has had a modest upward trend for the three major carriers in the industry. A graph of this trend is shown in figure 3 for the three major carriers. A major factor contributing to direct cost is employee salaries and benefits. As figure 3 shows, this factor has remained essentially level at ITT indicating a reduction of personnel related expenses to account for increases in salaries and benefits. The cost of salaries and benefits at RCA follows the upward trend with revenue except for FY68–69 when FPH was heavily burdened with employee costs, and in FY71–72 when revenue remained level but employee costs increased $151,000.

The employee costs at TRT have grown in concord with revenue growth until FY72. In FY 72, revenue at TRT stations increased by $68,000 but salaries and benefits increased by $208,000.

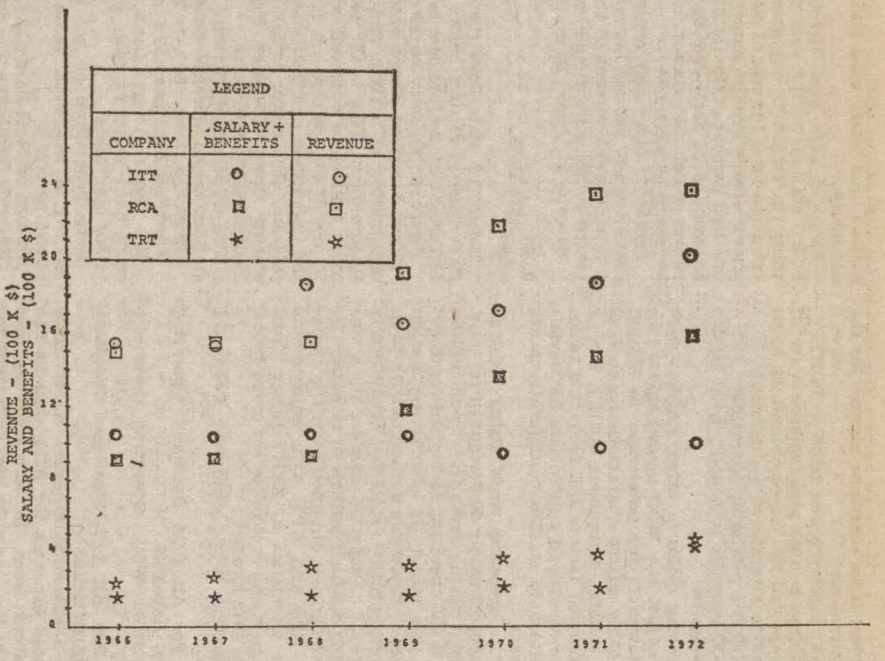


FIGURE 3
COST AND REVENUE TRENDS

11. Of much importance in the analyses of cost/revenue data is a distinct difference in the manner in which different carriers handle revenues and costs associated with the use of land line for collection and delivery of messages. ITT shows for its stations those revenues and costs for messages that it handles in lieu of Western Union. RCA does not. TRT's practice is not clearly indicated. For purposes of this Section the data is used just as provided by the carrier. Accordingly, RCA data reflects no revenue or costs for its handling of landline services. ITT includes both revenue and costs associated with this service. Indications are that TRT follows a practice more closely related to the RCA practice than the ITT practice. The subject of landline revenue and costs will be discussed in more detail in later Sections (particularly Section IV) of this report.

Areas warranting special attention are identifiable. From the comparative analysis of the cost/revenue information submitted by the carriers, certain factors affecting the financial viability of the individual stations and the industry as a whole become evident. Briefly, these are:

1. The industry is labor intensive and the cost of labor is increasing faster than revenue. Reduction in personnel to reduce labor costs is no longer possible without materially degrading an already questionable quality of service. Increases in productivity per personnel dollar are required.

2. There is no industry or FCC approved standard for the allocation of costs to investment and operation accounts. There appear

to be no procedures for relieving maritime of burdens that result from decrease in point-to-point operations at shared sites.

3. Large variances exist in costs from station-to-station and carrier-to-carrier. Largest variances occur in salary and benefit costs and allocated costs at stations shared with the international fixed service.

4. If the cost/revenue submissions of the carriers are accepted at face value, the industry, as it currently operates, is not financially viable. However, a question exists as to whether or not the carriers are in effect placing a burden on the maritime service in those cases where maritime shares sites with a point-to-point service that has shifted its revenue producing operation from the use of radio at those sites to the use of other facilities at other sites. Analyses performed in this study indicate that the present method of allocating costs to marine is burdensome and that a more appropriate allocation of costs would result in a showing that the industry is viable.

5. It appears that too many PCRT stations (18) are competing for the PCRT industry revenue base of approximately $5,000,000. This leads to operating inefficiencies and a fractionalization of service provided. Implementation of improvement is discouraged. The closure of carefully selected stations and the realignment of others to improve service and financial viability is indicated.

Section IV provides a comparative analyses of the financial aspects of three alternative schemes for reconfiguring the coastal telegraph station complement. To provide a basis for such comparative analysis of different alternatives, the following model of a PCRT station has been prepared using costs considered appropriate for Marine only stations. The costs for operation of WCC provide the best source of such data as is explained below.

Financial model of cost/revenue factors for a viable PCRT station. To compare the financial viability of those PCRT stations which survive a realignment and closure program, it is desirable to have a financial model of station costs and related revenues. From the financial data provided in the Docket 19544, this is not easy to do. First, many anomalies exist in the data. For example, ITT allocated costs are high relative to the industry and allegedly include costs from other operations which are not contributory to PCRT station operations. Similarly, the salary and benefit costs quoted for Maritime at RCA's station KPH, which is a combined Maritime and Point-to-Point Station, are high (since FY69) when compared with these items for WCC which is exclusively Marine.

The procedure employed in this study to obtain estimates for the major financial factors which enter into the operations of a PCRT station include the following steps:

(1) A review of all submissions to the Docket 19544;

(2) A determination of normal operating factors for Marine operations;

(3) A separating out of anomalies in the financial statements, due to burdens from non-marine, and

(4) An estimation of percentages for operating ratios which would be typical for PCRT stations under new station alignments or combinations.

The operation of WCC was used as a primary guide for obtaining operating ratios for a typical large maritime station for the following reasons:

(1) WCC facility is dedicated to PCRT.

(2) Volume is high and representative of volume expected for the combinations to be considered in alternative realignments.

(3) WCC is a profitable operation.

(4) WCC provides reasonably good service to its customers.

The operating ratios of other stations were used to adjust the WCC figures upward to make allowances for differences in station size and other related characteristics such as revenue, staffing, equipment quality, etc.

The financial factors and operating ratios which are considered appropriate for modeling of alternate station configurations are as follows:

Factor 1: operating costs. Using WCC as a basis, approximately 60 percent of revenue, for stations having revenues of one million or more, is the operating ratio used for direct costs in this report. If a surviving station has a revenue below one million dollars, then this operating ratio is scaled upward linearly to 70 percent of expected revenue for a station having one-half million in revenue. The 70 percent figure is obtained from the operations of KFS and KPH with adjustments made for anomalies in KPH's salary costs. Typical operating cost ratios are given below (based on 1972 figures):

RCA Station WCC: Operating Costs=56% Revenue.

Total For All RCA Stations: Operating Costs=73% Revenue.

ITT Station WSL: Operating Costs=66% Revenue.

Total For All ITT Stations: Operating Costs=72% Revenue.

Factor 2: allocated expenses. An estimate of allocated expenses for RCA stations has been derived from the allocated expenses reported in the summary P&L statement for all of RCA's stations. This operating ratio, which includes marine administration and G&A, is 17 percent of Revenue (1972). The RCA operating ratio for allocated expenses is the ratio used in the financial model employed in section IV. The allocated expenses derived from ITT data were considered but not used since they contained allocations which were taken under a non-FCC approved allocation manual. They are not considered representative for the type of PCRT station operations considered in the model. A comparison of typical ranges of allocated expenses for RCA and ITT as reported in 1971 is as follows:

RCA Station WCC: Allocated Costs=14% Revenue.

RCA Station KPH: Allocated Costs=17% Revenue.

RCA Station—Total Allocated Costs=17% Revenue.

Each ITT Station Allocated Costs=54% Revenue.

Factor 3: net book value. This factor is estimated directly from the net land, building and equipment values provided by the carriers. The Net Book value for the combined operations of stations is obtained by apportioning, on the basis of the revenue to be transferred to the surviving station, the value of the land, building and equipment needed to operate the surviving station at the resulting revenue level. There is no representative Net Book operating ratio (factor) which will serve all stations. Hence, this factor must be obtained specifically for each station and each combination of stations considered.

Factor 4: rate base. The rate base for the PCRT stations is the sum of the net book value (investment), one percent of Net Book value (to cover the cost of materials and supplies normally kept on hand), and twelve and one-half percent of Operating Costs (to cover an average of forty-five day operating expenses which the station must carry prior to receipt of revenues).

Factor 5: taxes and return on rate base. Assuming a 52 percent tax rate on profits and a return of 8.5 percent of the rate base, the return before taxes should be:

$$\text{Return on Rate Base, (before taxes)} = \frac{0.085}{0.480}\text{Rate Base.}$$

Return on Rate Base (before taxes) = 17.7 Rate Base. A return, before taxes, equal to 18 percent of the rate base is assumed.

Factor 6: revenue requirement. The five factors described above enter into the determination of a sixth factor, the Revenue Requirement. This is the revenue a station must achieve to cover all costs and make a return of 8½ percent on its investment in the operations and facilities producing the revenue. This factor is the sum of the Operating Costs, Allocated Expenses and the Return on the Rate Base.

The six principal operating ratios for PCRT stations are summarized below:

Operating Costs=60% to 70% of Revenue.

Allocated Expenses=17% of Revenue.

Net Book Value=Land, Building and equipment value at each station. No fixed factor applicable.

Rate Base=Sum of net book value, one percent of net book value and 12½% of operating costs.

Return on Rate Base=18% of rate base.

Revenue Requirement=Sum of Operating Costs, Allocated Expenses, and Return on Rate Base.

The six operating ratios described provide a basis for structuring an estimated financial statement for any alternative PCRT station configuration. For example, Table 9 shows the results of estimating the cost/revenue relationship for West Coast station operations if KFS (ITT station at San Francisco) were closed and resulting traffic redistributed among the remaining stations. KPH (RCA San Francisco), KOK (ITT Los Angeles), and KLB (ITT Seattle) would be the remaining stations. It is assumed that 75 percent of the traffic handled by KFS will be handled by KPH after the closure. KOK (ITT) and KLB (ITT) will handle 15 percent and 10 percent respectively. With these percentages operative, the estimated revenue and operating ratios are summarized in Table 9.

The effect of restructuring the West Coast Stations in the manner described above can be illustrated by the improvement that would be realized at KPH. The financial statement for the enhanced operations at KPH indicates a revenue requirement of $958,000 to provide a rate of return of 8.5 percent on the investment in the operation. The excess revenue for the enhanced operations is $129,000 compared to an $18,900 debit shown for existing operations in Table 1. The excess revenue could be applied to improvement of equipment, facilities, and/or services.

TABLE 9.—*Proposed alternative combination public coast stations financial data*

[In thousands of dollars]

Account name	Operating ratio basis	Station combination (docket) KPH and 75 percent revenue from KFS	KLB and 10 percent revenue from KFS	KOK and 15 percent revenue from KFS
Station revenue		$1,150	$163	$375
Operating costs	60 percent revenue: KPH, 70 percent revenue: KLB, 70 percent revenue: KOK.	690	114	263
Allocated costs	17 percent revenue	196	28	64
Net book value	100 percent KFS to KPH	311	45	103
Rate base	101 percent net book plus 12½ percent operating costs.	400	60	137
Gross return	18 percent rate base	72	11	25
Revenue requirement		958	153	360
Excess (deficit) revenue		192	10	15

The effect of investing a portion of the estimated excess in revenue from the enhanced operation of KPH can be seen from the following example in which it is assumed that $500,000 is invested in a station improvement program.

Assume a $500,000 station improvement program that has a 20 year depreciation schedule. For the first year, $25,000 will be assigned to depreciation charges under operating costs and Net Book value will be increased by $475,000. The financial statement listed in Table 9 is modified to reflect these changes and is repeated below:

	Thousands of dollars
Resulting Revenue	1150
Operating Costs	715
Allocated Costs	196
Net Book Value	786
Rate Base	883
Gross Return	159
Revenue Requirement	1070
Excess Revenue	80

From this example it may be concluded that the enhanced KPH could stand an investment of $500,000 and still meet a rate of return requirement of (8.5 percent) with an excess in revenue of $80,000.

The preceding example illustrates how the factors described in this Section may be used for financial analyses of alternate station configurations. These factors and this procedure for analyses are used to evaluate specific alternatives considered in section IV.

C. *Operations—present.* Coastal radiotelegraph stations have been providing radio service to and from ships for many years using Morse code. The dependence upon the manual transmission of ship-shore and shore-ship message traffic is a contributing factor to the problems confronting the PCRT industry today. This type of operation, at its best, is a slow, tedious process requiring that the message from the ship operator be received and transcribed by the station operator and then manually prepared for delivery to the addressee. Delivery to the addressee may involve transmission over a landline network provided by the carrier to a message center or direct delivery from the PCRT stations using Western Union, TELEX, or Telephone. There are some cases where the message is placed upon a terminal equipment provided by the customer at the PCRT station.

The present method of operation of coastal telegraph traffic is dependent upon the proficiencies of the radio operators at both ends of the circuit and the effectiveness of the procedures used for message handling on shore. In the opposite direction—that of delivering messages to ships, there are additional factors. Of major importance is the problem of contacting a vessel without undue delay. The proficiency of the ships radio operator, the condition of shipboard equipment, the location of the ship in relation to the shore station, radio propagation and interference from other stations on the circuit, are all factors that effect the efficiency of message handling on the radio circuit. The information submitted by the carriers in response to Docket 19544 indicates that a coastal station operator can handle an average of eight messages per hour and the average speed of transmission is twelve words per minute. However, only 3 to 4 messages per hour are currently being handled at the larger coastal station.

All coastal station message traffic received by landline from its customers is filed at the coastal station until the next period for the transmission of the traffic list occurs. This list, which is transmitted every two hours in accordance with international regulations, contains the call signs arranged in alphabetical order of all ships for which the coastal station has traffic. At the conclusion of the transmission, the various ship calling channels in each band are scanned by the shore operator for response from the called ship stations. Calls relating to messages originating from aboard ship are also received through use of this scanning procedure. Since a vessel may use any one of several calling channels, the system requires that the coastal stations scan through a band of calling frequencies to select calls for them from individual ships. The present method of using traffic lists and the requirement for scanning of the ship calling frequencies are the major reasons, according to the radio operators, for dissatisfaction with establishment of contact and delivery of messages to and from ships at sea.

The carriers report three phases in the handling of traffic which introduce delay in the receipt, transmission and delivery of messages from coastal stations to ships at sea. Messages originating on shore for ships at sea and delivered by TWX, TELEX, or Telephone from a land point to a coastal station for transmission normally reach the coast station immediately or within an hour of origination. Those sent from a land point to a coast station by Western Union meet with an average delay in handling of several hours to a maximum delay of a few days.

The second delay is the time elapsed between receipt of the message at a coast station and its first transmission on the traffic list. This normally is less than the two hour interval between transmission of traffic lists. The average delay is less than an hour. On the other hand the first listing of a message in a traffic list occasionally gets no response from the ship. The period between traffic lists then increases the delay an additional two hours for each traffic list that is missed by a ship station operator.

The third delay is the time elapsed from the receipt of a call on a traffic list to the actual reception of the message by the ship's station. This time delay has two components. The first component is the time it takes the ship's station to establish contact with the coast station that has its message. This delay normally runs less than one hour if the ship operator carefully monitors the working channel of the shore station holding the traffic. However, the delay is dependent upon the availability of the coastal station. If the coastal station is handling traffic, it will not be receptive to a call from a ship. The second component delay is the time required for the shore station operator to send the message after receiving the ship's call. This too depends upon traffic conditions at the shore station and can involve a queing up procedure if traffic is backed up.

In summary, there are delays in practice that result from a failure of the operator to hear a call on the first traffic list and then in clearing traffic with the shore station. These delays are affected by many factors including the fact that a shipboard operator is on duty only eight hours of the day. Thus, on the average, it takes anywhere from fifteen minutes to many hours to make contact and exchange traffic. Total delays of several days have been noted. For example, station KFS (ITT) reports a maximum delay of fifteen days. Some exceptional cases at WSL required several weeks.

Messages originating at the ship's station for delivery to shore meet with two delays. The first delay results from the fact that the radio operator is on watch for only eight hours a day. When on watch, the radio operator will attempt to make radio contact within a few minutes of receipt of a message and continues his attempts until contact with the shore station is made. In this regard, he meets with the same delays as those described above. However, the delays may be accentuated since the shore station is not expecting the call.

Very little delay is introduced in the handling of messages by shore stations when special landline procedures for delivery are specified by the customer. This is the general case for regular customers, in which case ship messages received by shore stations are dispatched over landline to their destinations within an average time of twenty minutes. However, stations such as WCC (RCA) have noted delays of several days in cases where delivery instructions have not been specified. This class of message is normally assigned to Western Union for delivery.

Improvement in the techniques and procedures for establishing contact between coast station and vessel and in delivery of messages by radio is essential if there is to be significant improvement in service. Good methods of achieving improved service would increase the productivity of manpower and expand the capabilities of existing operators.

A serious technical problem facing the PCRT carriers is that of conforming to the technical standards prescribed in the FCC's decision in Docket No. 18577 for coastal stations. (Scheduled to be effective on January 1, 1973). These have the purpose of providing improved emission characteristics. They are prescribed by the FCC to reduce interference. All of the carriers are presently operating non-conforming equipment on the basis of waivers. Most of the equipments now in service range in age from 20 to 30 years. The transmitters have been modified many times. Replacement parts are becoming more difficult to obtain. Some equipments have been modified to substitute a new circuitry and components since replacements are not available.

Specifically, the transmitting equipments have been improved in the areas of frequency stability and spurious emission. Station operators state that most of the equipment either meets or can be modified to meet the technical standards for point-to-point equipment defined in Part 23 of the International Regulations. However, further improvement to meet the standards prescribed for coastal telegraph equipment in Docket 18577 will require a completely new engineering approach or new equipment.

In the opinion of the carriers such modification and improvement alone will not increase the efficiency of the operation of the public coast stations. They claim that replacement would entail an expenditure of approximately one million dollars for a station such as WCC or WSL. This is the figure for replacement with new equipment, and presumably involves the use of equipment that has additional operational features as well as technical improvement. Since it is desirable to incorporate certain new features in replacement equipment, the cost of such additional features should be attributed to the overall improvements in operations as well as to the technical requirements imposed by the FCC Docket.

Another area of concern that affects financial viability is the trend, discussed in section I, towards increased use of private shore stations by vessel operators. Private (Limited) Coastal Telephone stations are already in operation. Requests exist for licensing of Private Coastal Telegraph Stations. There is a serious question as to the desirability of permitting the operation of such stations and also a related question as to the advisability of effecting a deregulation of the services rendered by public coast stations. The common carriers generally agree with the statement by ITT, which states; "deregulation of the services rendered by radiotelegraph coastal stations would not, in our view assure any service improvements". They are also concerned that "authorizations for limited marine radiotelegraph coast stations could be expected to destroy the traffic base for common carrier coast stations, and would probably result in higher rates for the remaining customers of the general common carriers"; relative to satellites they feel that "pending further development of low-cost satellite or other facilities to serve ships at sea (each carrier) believes that service to and from ships can best be met by the radiotelegraph and marine telex services, or, where specialized services are required, through negotiations between interested carriers and customers".

The next section is an overview of the PCRT industry taking account of the status of operations and requirements discussed herein. It sets forth certain suggestions for improvement of operations and leads to an analysis of alternative system configurations carried out in section IV.

SECTION III

OVERVIEW—CONSIDERATIONS RELATING TO IMPROVEMENTS

A. *Improved viability is realizable—programmed improvements are warranted.* It is clear that the operations of the coastal telegraph service has been at a status quo for many years. While some exploration of teleprinter operation has been made, this has been on a limited operation basis—and has not had the benefit of a coordinated industry approach. There has been no industry coordinated approach to improvement in telegraph operations.

The recognition of a status quo situation is clearly indicated by the filings in response to the FCC Inquiry. In fact the shipboard operators claim a deterioration in service due to attrition in shore-based operating personnel. The carriers are not satisfied with the lack of response by the FCC to their requests to close stations. They claim that they operate on a marginal or loss basis. Some vessel operators would like to see new service offerings. They, like their operators, claim that the coast stations are poorly and/or inadequately manned.

The comments to the FCC, the observations by ATS of existing operations and its evaluation of the cost/revenue data presented by the carriers are indicative of an industry that is weary and sluggish. This is not to say that those who are responsible for maritime telegraph operations want this to be the situation nor to agree that it needs to continue. However, one should recognize that the condition does exist. There is evidence that the status quo will continue unless there is a coordinated program for improvement.

The specific actions that stimulated the FCC to sponsor an analysis of coastal telegraph operations are the requests for closure of several stations. The carriers claim that the subject stations are unnecessary and unprofitable. The FCC has recognized that these requests for closure are symptomatic of more serious problems—including the very basic and important question of industry viability—and the ability of the telegraph industry to effectively meet the needs of the maritime industry it serves.

ATS feels that the closure of one or more stations will not of itself serve the public interest. However, there is good reason to feel that the public interest can be served if such closure or closures are made a part of a positive program to improve both industry viability and service to the public. It is this latter question that must be examined and evaluated before there can be a proper basis for decision on the closure question.

Just as the FCC cannot reasonably decide the closure question without examining that question in the context of related improvements to the system as a whole, so also is it difficult or impossible for individual users, carriers or operators to justify or accomplish improvements unless the improvements are planned in consort with other interested parties.

The problem of coordinating improvements to coastal telegraph operations is complicated enough when one considers national interests alone. It is further complicated by the fact that this service is an international service. While other countries must face the same operational and technical problems as those faced by U.S. companies, the question of financial viability is quite different. In general, other maritime nations use stations that are operated or subsidized by the government—whereas U.S. companies are privately owned and operated. This is an important difference that explains why other countries can more easily maintain a service that is "begging" for financial relief in this country. This distinction between a government and a private enterprise mode of operation has led some to suggest that the U.S. should consider the conversion of the maritime telegraph system from a private enterprise operation to a public operation.

There are many factors that contribute to the complexity of the present coastal telegraph situation. These fall into two closely related categories, those that relate to operational matters and those that relate to financial matters.

Operationally:

(1) The Coastal Telegraph service is highly dependent upon manual operation.

(2) It is inherently difficult to introduce system improvements into the maritime mobile service.

(3) The principal efforts toward improvement in maritime communications contemplate the use of techniques that are different from manual telegraphy.

(4) There will be a continuing need for manual telegraphy into the foreseeable future even though other forms of communication are made available.

(5) The collection and delivery of coastal telegraph messages involves practices that are not clearly covered in tariffs or regulations.

Financially:

(6) The cost of labor is increasing faster than revenue from telegraph traffic.

(7) Technological improvements required by national and international regulations necessitate substantial investments to continue existing manual telegraph service.

(8) Technological improvements to provide other modes of communication will require substantial investments in Coast Station and Shipboard equipment.

(9) Government support is being provided to finance the development of improvements that relate to selective calling, printer communications, and all modes of communications via satellite.

(10) No government support is provided for financing the development of an improved coastal telegraph system.

(11) There is growing competition from non-regulated operators who offer other services to the exclusion of manual telegraphy.

(12) The international point-to-point carriers treat coastal telegraphy as a service that must share the cost of radio sites and facilities with the point-to-point service. The allocation of costs for such facilities reflects an increasing burden on maritime that stems from a substantially reduced use of the facilities for point-to-point. Of significance, the reduced use of radio sites is caused by a shift of point-to-point operations to cable and satellite—not to a reduction in revenue from this service.

(13) There is no adequate basis for evaluating the costs and revenues associated with the use of non-radio facilities for collection and distribution of messages.

It is essential to a proper evaluation of the viability of the coastal telegraph service that the cost of its operation be separated out from the cost attributable to other services that share the same facilities. This is particularly true with respect to the sharing of radio facilities with the point-to-point service. There is good reason to conclude that the coastal telegraph service is being burdened with costs that result from its sharing of facilities that were built to serve the international fixed service. There is need for a careful examination of the allocation procedures used when the sharing of plant facilities involves sharing with a service that is retiring its use of the shared plant facilities and shifting revenue-providing operations from the use of those facilities to the use of substitute facilities that are non-radio and non-sharing.

There is also a need for evaluating the procedures used for allocating costs and revenues associated with the collection and delivery of messages when Western Union is not involved, and when Western Union is involved. There is also an important need for determining what the involvement of Western Union should be under present day requirements, and whether the present practices relative to the use of Western Union are either proper or in the public interest. There is a need for the establishment of regulations and/or tariffs that prescribe clearly the collection and delivery services that are available for handling coastal telegraph messages—and the cost of such service.

The problems cited above with respect to the use of financial data provided by the various carriers are complicated by the fact that the carriers have not used uniform pro-

cedures for reporting cost/revenue relationships.

It is the existence of these problems that led ATS to adopt the modelling technique described in section II for analyzing station costs for Maritime only operations. The modelling procedures are used in section IV to provide a common basis for evaluating alternative schemes for improving viability through closure and restructuring of station configurations.

The remainder of this section discusses certain improvements in operating procedures that are considered desirable in any restructured system.

B. *Improvements needed in message handling.* From an operational viewpoint, it appears that the practice, which prevails among all carriers, of excluding Western Union from the collection and delivery function has the purpose and the effect of expediting the handling of messages between customer and carriers. This conclusion is supported by the fact that many regular customers have standing instructions that request the carrier to make direct contact by some other means. Also terminal equipment is available at coastal telegraph stations to facilitate delivery by TWX, TELEX, carrier operated landline and/or by telephone.

It is significant that the collection and delivery of messages over carrier operated landlines involves a sharing of facilities that are designed for the highest degree of economy in transmission and message handling. The networks are automated. Printer and tape are used over these networks—not manual telegraphy. Computers replace people in handling and routing of messages. There can be no doubt that this use of modern technology makes it operationally and financially beneficial for carriers to prefer this method of handling collection and delivery. It is reasonable to conclude that the revenue derived from the allocation of a message charge on a per word basis ($.07) can and does provide an adequate rate of return for this service. However, the present accounting practices for the coastal telegraph service do not provide sufficient data to evaluate fully the cost/revenue relationship for this service.

Since much of the outgoing traffic arriving at Coastal Telegraph Stations arrives by printer, there is good reason to question why such traffic should not be sent over radio circuits by automatic tape conversion to morse code. This would eliminate the need for a completely manual operation and would lend itself to the use of transmission speeds that are optimum for circuit quality existing at the time of transmission. The use of tape and standardized speeds of transmission would also make feasible the use of automatic means for identification of call signs or other distinctive means of identification.

Similarly, the use of tape aboard ship would facilitate the transmission and reception of incoming messages, and the automatic handling of such messages.

An improved terminal at the coastal station would permit the receiving operator to type, edit, and cut-tape automatically so as to facilitate immediate dispatch of a message as soon as it is received. The use of conventional modern Cathode Ray Tube (CRT) terminals would permit the radio operator to exploit this mode of operation, thus eliminating the need for retyping of messages once received.

The introduction of improvements such as are suggested above involves a requirement for time and money. More important, it requires agreement among the interested parties. Those who serve and those who are served must cooperate in the improvement program. The suggestions which have been made above relate to the use of telegraphy, and do not necessarily require any regulatory changes. The U.S. carriers and U.S. vessel operators could realize these improvements by agreement alone, and without upsetting the accomplishment of traffic on a regular basis.

Since a substantial portion (about 50 percent) of traffic handled by U.S. carriers is with U.S. vessels, a program for improvement in handling of such traffic should be worth investigating. Presumably an improvement that serves the U.S. better would have sufficient attraction to encourage other countries to make similar provision.

Perhaps the most serious need that exists for improvement in present practice relates to the establishment of contact between coastal station and vessel. For handling traffic in either direction the burden is on the vessel to initiate a call when it is ready to handle traffic with a particular coast station. The burden is on the station to hear that call. The call should be made at a time when the coast station is prepared to handle traffic—as indicated by its transmission of a signal to that effect on its working channel or channels. The call should and generally is made by the vessel operator on one of several ship calling channels in the same portion of the spectrum as a working channel that can be clearly heard by the vessel operator. The vessel operator can determine the best band by monitoring the transmissions being made by coast stations, and choosing that band (and that station) which has the best signal.

One of the difficulties experienced in establishing contact results from the fact that a shipboard operator may choose any one of several specific calling channels (frequencies) within each calling band. The vessel selects the one it wants to use and the coast station must scan the entire band to detect those calls that are being made to it. Under this practice a vessel must continue to call for a period that is long enough to permit the desired coast station to hear it during its scanning process. If the coast station gets a call from a different vessel first, it may discontinue its scan for other calls. Thus the vessel that fails to get through on its first attempt must try again, repeating this procedure until contact is made.

C. Substantial improvement can derive from networking of an implemented system. The above procedure for making contact is complicated by the fact that vessels often call a particular station rather than the station that has the best circuit and best circuit availability at the time. This is despite the fact that the cost for the message under present regulations and coastal telegraph tariffs is not affected by routing. The message charge is the same irrespective of station used or location of contact within the U.S. The concept of a flat rate is based upon the use of Western Union for collection and delivery. The carriers do not use Western Union if a customer prefers other means of contact, such as TWX, TELEX, or other specified means. Thus in practice there may be a differential that occurs as a result of the use of special customer instructions and willingness to pay. This will vary depending upon the customer instructions and agreement as to the handling of messages by different stations—or by different carriers.

The best utilization of coastal telegraph stations and radio channels would occur if a message could be routed to utilize whatever channel and station is available with adequate quality when a vessel is ready to handle traffic. For ship originated traffic this would require only that the vessel operator select the most appropriate station and channel, provided it could be assured that the coastal station would route the message to its destination for delivery effectively, expeditiously, and at no extra cost. For coastal station originated traffic this would require that a vessel have the option of taking traffic from the station that transmits its call on its traffic list or if that station is busy to request another station to obtain and handle its message. For this procedure to work, it would be necessary that there be a means for any station to obtain and transmit traffic for any vessel that requests such traffic. It would be necessary that there be a landline network connecting stations and a system of centralized message store facilities. This practice would work best if all stations could have access to a common message store and if traffic lists were sent on a common "traffic list" channel (at least for each geographic area). The traffic list could be correlated alphabetically so that a vessel operator would be alerted to listen for its place in the list. Arrangement could be made for identification of a particular station as having first priority for handling the traffic. Only if the station holding the traffic is busy and cannot be reached would the vessel ask another station to retrieve and send its traffic. Other alternatives for use of a common traffic list channel(s) can be conceived. For example—a station may first list traffic designated for it (by message center or customer) to handle, thus treating this as its priority traffic. Following such listing of priority traffic, it might then broadcast traffic referred to it as available for delivery by any station. The system could prescribe that traffic not delivered within four hours be so designated. In this way, the users would be served in a manner that encourages fast delivery, using routine handling, with system back-up for traffic that experiences delays.

The problem of establishing contact between ship and shore is so critical as to justify special channels, special procedures, and/or special equipment. International plans are being made to facilitate the implementation of teleprinters. Special provisions are also required for improvement in the handling of telegraph traffic. Delays in receipt of calls aboard ship would be substantially reduced if the common traffic list channel, suggested above were assigned exclusively for this purpose plus the broadcast of important notices to mariners. Each station sharing a channel could have a time allotted to it. With such a procedure, vessels could listen on a single channel in each band and hear all calls from all stations. The traffic lists could be repeated continually and updated from the common message store facility using computer and modern data processing techniques. Selective-calling could employ the same channel when procedures for automatic calling are implemented.

Improved procedures for establishing contact should include improved practices relative to coast station monitoring of the calling bands. For example, it would seem reasonable as a minimum for a station to indicate on its working channel the particular channel that it is presently monitoring for calls and to continue to identify the channel as it searches across the calling band. WLO at Mobile has used this technique with much success. A vessel could establish contact immediately on hearing its call on the traffic list. Since its traffic would be available in central store, it could make its call first to the station having priority for handling the traffic. If it is unsuccessful, then it can call any station that indicates it is available for handling traffic. The present practice of searching all station working channels for calls would be eliminated.

It is felt that the development of improved procedures should consider the designation of certain (very few) ship-to-shore frequencies for calling only and others for working.

The procedure would involve the establishment of contact by a vessel on a calling channel—and a shift by it to a working channel for handling of traffic. The coast station should keep track of the traffic on ship-to-shore channels and designate one that is most appropriate for use at a given time. In this way it should be extremely simple to establish contact—traffic could be spread over working channels at the discretion of coastal stations. Conflict between the use of a channel for calling and working would be eliminated.

With a suitable landline network that interconnects message centers with stations and port areas on the Gulf, the East Coast and the West Coast, there would be no need for locating coastal telegraph radio stations at various centers of shipping activity so long as there is radio coverage of vessels in those areas and landline service to such centers of activity. That service should be at least as good as is provided today—and preferably better. It should ideally include a means for local coverage via radio telegraph and VHF data and voice. MF/HF radiotelephone should not be overlooked as an alternative means for contact. If VHF coverage is used, it should be on a wide-area coverage basis using channels that are dedicated to a wide-area service. Contact should be available through and with the same operations center that handles telegraph. Provisions should be available for patching a radio circuit into the public network by remote control from the area control center. This anticipates the time when the same center that provides telegraph service would also provide operator handling of service to vessels using printer, voice, or data over radiotelephone circuits. Ideally this common center would be the location of marine operators who would serve all the needs of vessels—at least of commercial vessels. Vessels should have available the services of a facility that is operated by persons that are skilled in serving all of the communication needs of vessel operators by whatever modes of transmission there are available to serve a particular need.

In summary what is suggested in this report is the establishment of a network of coastal telegraph stations with two degrees of centralized control. There would be a central control for each area, Gulf, East Coast, and West Coast. These would be tied together into a national network that ties together the maritime stations and the maritime public.

Each area communication center (message control center) would be the clearing house for exchange of calls between areas. The area centers and the national center would provide for collection and delivery of messages domestically by whatever means is best suited to the customers needs—and for interchange of messages among carriers for forwarding over international circuits. Intra-carrier exchanges of marine and international point-to-point traffic would be handled directly by the carrier unless it chooses to use the national message center for such exchange.

The present configuration of stations operated by the three major carriers lends itself to a division of responsibility and control that it quite attractive from a system planner's viewpoint. For example, the stations in the Gulf could be consolidated through a control center at TRT station WNU. This is the location of a major message center for international point-to-point traffic. TRT and WLO might be encouraged to form a consortium in which WLO would provide for operation of a combined system of facilities for voice and telegraph on MH, HF, VHF, TRT could provide a communication control center that utilizes a landline network for serving maritime centers in the Gulf area including Florida. It could be the means for tying coastal stations in this area into the message center at New Orleans and thence to maritime control centers for the East Coast and West Coast.

For the West Coast, it makes sense to encourage ITT and RCA to install new transmitting and receiving equipment at the sites now occupied by RCA. This would permit ITT to shut down its sites and make more effective use of the RCA sites. It would also permit RCA and ITT to compete for operations on the East and West Coasts. Since each of these companies has a landline system across the country—it would be reasonable to combine East and West Coast operations of each at its main message center in New York. Responsibility for the West Coast traffic should nonetheless be assigned to one company—ITT, and for the East Coast to a different company—RCA. Thus the two company centers in New York would continue to be used—a tie-in between these centers would be facilitated and result in improvements for both. The two area centers in New York and the one in New Orleans with their interconnecting landlines would comprise a common network. ITT, RCA and TRT would each be responsible for message control for one of three Coasts, and for serving the public in designated areas of the country.

The above concept would permit the three carriers to provide an international service—including store and forward—with full responsibility for service between vessels and shore locations. The principal benefit that would derive from the concept established above is an integrated maritime communications network that would require a sharing of responsibilities as connecting carriers while fostering competition for service over the radio channels. Full advantage could be derived from the use of efficient and effective means for handling both radio and landline portions of the service.

It should be recognized that the network described above revolves around the use of existing landline facilities that have been highly developed by ITT, RCA, and TRT for internal company handling of point-to-point and maritime traffic. What is suggested amounts to a recognition of the benefits that now derive from the use of such facilities to serve both types of operations, and an extension of this service to provide further benefits.

SECTION IV

INDUSTRY PROFILES—ALTERNATIVE STATION CONFIGURATIONS

A. *Three alternative station reconfigurations.* This section analyzes three alternate configurations of PCRT stations as follows:

Alternate 1 assumes the closure of stations for which applications are presently on file; no other change in practices or procedures.

Alternate 2 assumes that ITT, RCA, and TRT each maintain their major stations on the East Coast, West Coast and Gulf—but reduce the coverage of the major carriers to one station in Florida and to one station in Texas. The independents, WMH at Baltimore, WLO at Mobile and WPD at Tampa will continue to compete against the three major carriers.

Alternate 3 assumes that the three major carriers reduce their operations to only their major stations on the East Coast, West Coast, and Gulf—and that the independents at Baltimore, Tampa and Mobile provide expanded coverage. This is the same as alternative 2 except that the major carriers would cease operations in Florida and Texas—thus placing the independents in a better position to compete for coverage in these areas.

For analysis purposes comparisons are made as though realignment of stations is carried out with no change in practices relating to use of landlines for receipt and delivery of messages. It is considered appropriate to separate out the problem of revenue from landline usage and to assume that the proposed common network can be supported from such revenue. This conclusion is based upon the data provided by ITT on its revenue from landlines. Using that data to estimate revenue for RCA and TRT, it is estimated that the present traffic handled by the PCRT carriers provides a landline revenue total in the order of $1.5 million on one million messages. This amounts to an average of $1.50 per message which is considered more than adequate to cover the costs of landline message that average 20–25 words. Thus, this portion of the service should be quite viable and add to any improvement in viability that derives from a restructuring of coastal stations.

The following comparisons also do not take account of any improvement in efficiency that should result from introduction of new equipment or improvements in operations.

B. *Traffic patterns under the alternatives.* It is assumed for purposes of analysis that any realignment of stations would require that the total message traffic currently handled by existing stations would still be handled by the realigned complement of stations (Great Lakes excluded). The restructuring of traffic for each alternative is shown in Figures 4, 5, and 6.

Traffic growth patterns by coastal areas indicate only a small percentage increase for the next few years. Unless improved services are provided the marine industry by the PCRT stations, one can expect this trend to continue until other modes and means for providing marine communications attract traffic away from the PCRT stations. Thus, it is assumed for this comparative analysis that the industry can expect to be handling slightly over a million messages a year for the next few years. This does not take into account increases due to new types of traffic that might be generated from the introduction of radiotelephone, printers or data. It is considered that the opportunities for expansion in these areas from within the PCRT system will follow—or at least be contingent upon—the establishment of a viable PCRT structure. This viability should obtain from an improvement in the effectiveness for handling telegraph traffic and thus provide a basis for further improvement through the offering of new services.

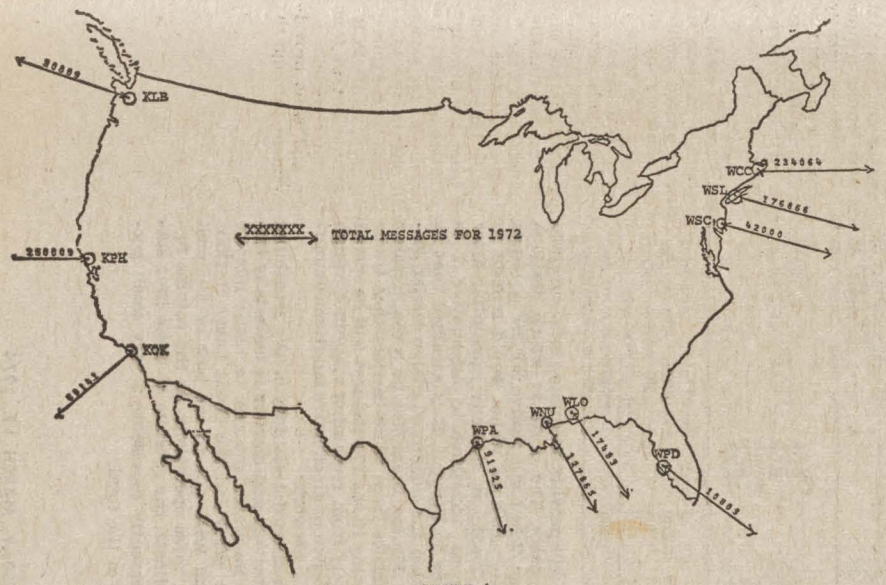


FIGURE 4

FIRST ALTERNATIVE TRAFFIC MODEL

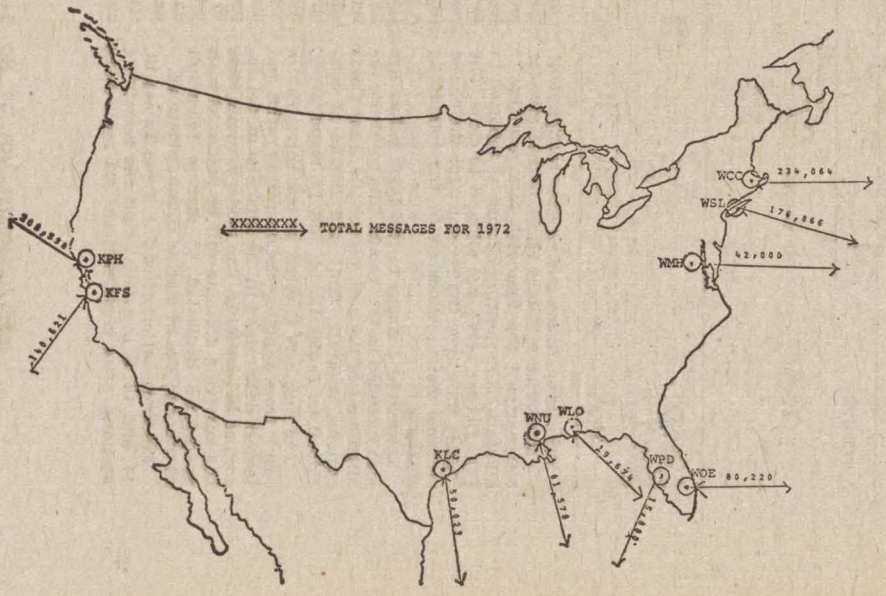


FIGURE 5

SECOND ALTERNATIVE TRAFFIC MODEL

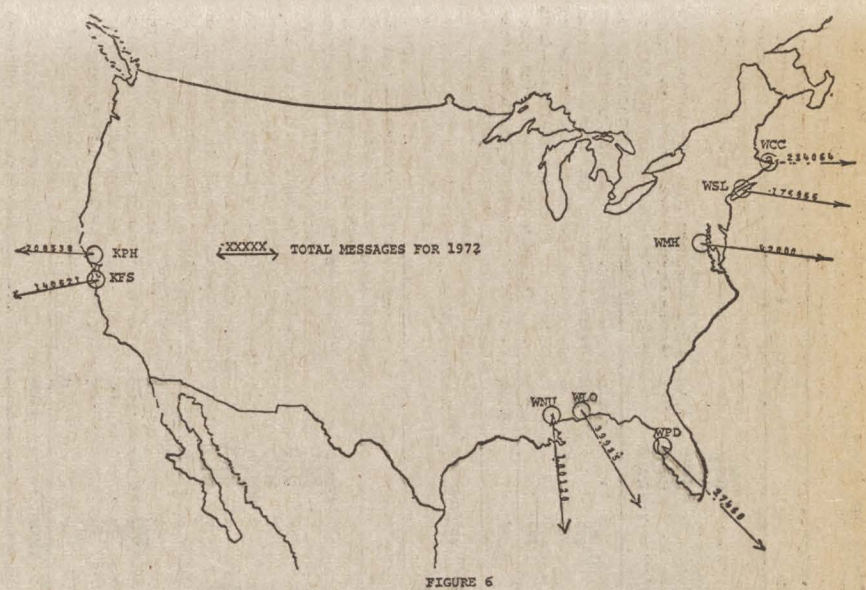


FIGURE 6

THIRD ALTERNATIVE TRAFFIC MODEL

C. *Cost/revenue considerations.* Under present industry operations the 18 PCRT stations compete for marine revenue which amounts to approximately $5,000,000. This revenue figure includes the landline revenue of ITT but not that of RCA and TRT. The latter amounts are estimated to total an additional $700,000. The column labelled "present" in Tables 10, 11, and 12 gives the breakdown in revenues, by stations, for the three coastal areas. The revenues by station are restated in columns labelled 1, 2 and 3 for the alternatives 1, 2 and 3 to be considered. The Florida stations WOE and WAX, although located on the Atlantic Coast, are considered in the Tables as Gulf Coast stations since the majority of their traffic is in the Gulf, Carribean, and South American Areas. For alternative 2 it is considered that the redistribution of traffic will tend to be among the remaining stations of the three major carriers—whereas under alternative 3 there will be a substantial increase in traffic carried by the independents at Baltimore, Tampa, and Mobile.

Realignment of revenues after closures. Included in Tables 10, 11, and 12 under separate columns are the revenues, by stations, which result from the closure of stations and the reassignment of their traffic to the remaining stations on a rational basis. It is assumed that the majority of revenue from a closed station will be gained by other stations within the same coastal area. Under alternative 2 the tendency would be for vessels to favor continued use of the three major carriers—whereas under alternative 3 there would be more opportunity for the independents to develop competition with the major carriers. WLO Mobile in particular would have a better environment in which to develop its concept of total communications services. Under all alternatives, the closure of WSC (Tuckerton) would have the effect of expanding the operations of WMH (Baltimore) as the principal station for the port of Baltimore and Philadelphia.

TABLE 10.—*Station revenue, fiscal year 1972, Atlantic coast stations*

[In thousands of dollars]

Alternatives	Present	1	2	3	4
Station	No changes	The docket Close: WSF WMH Retain: WCC WSC WSL	Close: WSF WSC Retain: WCC WSL WMH	Close: WSF WSC Retain: WSL WCC WMH	
WCC (RCA)	$1,087	$1,087	$1,087	$1,087	
WSL (ITT)	934	970	970	970	
WSC (RCA)	154	190	0	0	
WSF (ITT)	0	0	0	0	
WMH[1] (MPA)	72	0	190	190	
Total	2,247	2,247	2,247	2,247	

TABLE 11.—*Station revenue, fiscal year 1972 (1971)[1], gulf coast stations*

[In thousands of dollars]

Alternatives	Present	1	2	3	4
Station	No changes	The docket Close: KLC WOE WAX Retain: WLO WPD WNU WPA	Close: WPA WAX Retain: KLC WNU WLO WPD WOE	Close: KLC WPA WOE WAX Retain: WLO WPD WNU	
WPA (RCA)	$121	$411	0	0	
KLC (ITT)	155	0	$240	0	
WNU (TRT)	241	497	328	$752	
WLO[2] (MMR)	37	68	70	152	
WPD (WOOD)	13	29	55	100	
WOE (RCA)	228	0	311	0	
WAX (TRT)	209	0	0	0	
Total	1,004	1,005	1,004	1,004	

TABLE 12.—*Station revenue, fiscal year 1972, Pacific coast stations*

[In thousands of dollars]

Alternatives	Present	1	2	3	4
Station	No changes	The docket Close: KFS Retain: KPH KLB KOK	Close: KOK KLB Retain: KPH KFS	Close: KOK KLB Retain: KPH KFS	
KLB (ITT)	$107	$163	0	0	
KPH (RCA)	772	1,153	$970	$970	
KFS (ITT)	561	0	760	760	
KOK (ITT)	291	375	0	0	
Total	1,731	1,731	1,730	1,730	

Results of station and revenue realignment—alternative 1. Tables 13, 14, and 15 give for alternative 1 the financial data resulting if all stations requesting closure, as reported in FCC Docket 19544, are allowed to close. The Tables show how the revenues for the closed stations were reallocated to the remaining stations.

Estimated changes in Net Book values are also included in the Tables. The resulting realignment of the stations for the three Coast regions, Atlantic, Gulf and Pacific is contained in Tables 13, 14, and 15, respectively.

The numbers entered in the three Tables result from applying the operating ratios and factors determined in the financial model described in section II. The model assumes that the surviving stations will be managed with operations dedicated to marine telegraph or other modes of marine communications.

Findings—alternative 1. 1. From Tables 13, 14, and 15, it is evident that the remaining stations, after closure of the six requesting closure, will provide adequate traffic coverage for all coasts. The ports at which stations have been closed will receive MF/HF coverage from other stations which would remain in service. Traffic at stations remaining after realignment according to alternative 1 is illustrated in figure 4. It is assumed that as a condition for closure of major carrier stations in Florida there will be a requirement for assurance from these carriers that traffic terminating in the Florida area will be served adequately from remaining stations through the provision of an effective landline communications network.

2. The financial viability of the remaining major stations and carriers is materially improved. No statement can be made relative to WLO, WPD and the Great Lakes stations WLC and WBL due to the lack of financial data on these operations. As the volume figures indicate, the revenue at these four stations presently represents a very small percentage of the total.

TABLE 13.—*First alternative combination Atlantic coast stations, financial data*

[In thousands of dollars]

Account name	Station combinations			
	Chatham, WCC	Long Island, WSL	Tuckerton, WSC	Conditions on combinations
Station revenue	$1,089	$970	$190	WMH revenue is allocated: 50 percent to WSC, 50 percent to WSL.
Operating costs	652	582	133	
Allocated costs	185	164	32	
Net book value	233	760	40	All unused radio equipment at remaining stations written off books.
Rate base	317	840	56	
Gross return	61	151	10	Net book values of remaining stations are not changed.
Revenue requirement	873	897	175	
Excess (deficit) revenue	189	73	15	

TABLE 14.—*First alternative combination gulf coast stations, financial data*

[In thousands of dollars]

Account name	Station combinations				
	New Orleans, WNU	Mobile, WLO	Tampa, WPD	Port Arthur, WPA	Conditions on combinations
Station revenue	$497	$68	$29	$411	WAX revenue is allocated 100 percent WNU.
Operating costs	348	(1)	(1)	288	
Allocated costs	85	(1)	(1)	70	WOE revenue is allocated 100 percent WPA.
Net book value	52	(1)	(1)	86	KLC revenue is allocated: 40
Rate base	96	(1)	(1)	123	percent to WPA, 10 percent to
Gross return	17	(1)	(1)	22	WPD, 30 percent to WNU, 20 percent to WLO.
Revenue requirement	450	(1)	(1)	380	Net book value increased: 100 per-
Excess (deficit) revenue	47	(1)	(1)	31	cent at WNU, 150 percent at WPA.

[1] Insufficient data provided.

TABLE 15.—*First alternative combination Pacific coast stations, financial data*

[In thousands of dollars]

Account name	Station combinations			
	San Francisco, KPH	Seattle, KLB	Los Angeles, KOK	Conditions on combinations
Station revenue	$1,153	$163	$375	KFS revenue is allocated: 75 percent to KPH, 10 percent to KLB, 15 percent to KOK.
Operating costs	690	114	263	
Allocated costs	196	28	64	
Net book value	311	45	103	
Rate base	400	60	137	100 percent net book value increase at KPH.
Gross return	72	11	25	
Revenue requirement	958	153	360	No change at KLB and KOK.
Excess (deficit) revenue	192	10	15	

3. Revenue in excess of that required for an adequate return on investment would be available for improvements in facilities, equipment and operations at all remaining major carrier stations.

4. The Net Book value at WSL is high relative to comparable size stations but does not significantly affect the operating results for WSL.

Results of station and revenue realignment —alternative 2. Tables 16, 17, and 18 summarize the financial statements of stations remaining after certain closures under alternative 2. Alternative 2 is suggested as a means to accomplish the following: (1) Retain at least a two company competition on the three coasts with a minimum of major stations remaining in operation, (2) provide coverage from at least one major carrier station location in Florida, and in Texas, (3) have the retained stations operate at higher traffic levels to effect economies resulting from increased revenue and (4) encourage cooperation in providing better service through an effective network connecting the smaller number of remaining stations.

The Tables include the conditions used in reallocating revenue from the closed stations to the remaining stations. The Net Book values of remaining stations are increased in proportion to the amount of increased traffic handled. It is assumed that these stations will expand as appropriate to operate at the higher traffic levels.

TABLE 16.—*Second alternative combination Atlantic coast stations, financial data*

[In thousands of dollars]

Account name	Station combinations			Conditions on combinations
	Chatham, WCC	Long Island, WSL	Baltimore, WMH	
Station revenue	$1,087	$970	$190	WSC and WMF combined revenue is allocated: 75 percent to WMH, 25% to WSL.
Operating costs	653	582	(1)	
Allocated costs	185	164	(1)	
Net book value	233	760	(1)	Net book values increased: 150 percent at WMH.
Rate base	317	840	(1)	
Gross return	61	151	(1)	
Revenue requirement	873	897	(1)	
Excess (deficit) revenue	189	73	(1)	

[1] Insufficient data provided.

TABLE 17.—*Second alternative combination gulf coast stations, financial data*

[In thousands of dollars]

Account name	Station combinations					Conditions on combinations
	New Orleans, WNU	Arcadia, KLC	Mobile, WLO	Lantana, WOE	Tampa, WPD	
Station revenue	$328	$240	$70	$311	$55	WPA revenue allocated: 70 percent TO KLC, 20 percent TO WNU 10 percent TO WLO.
Operating costs	230	168	(1)	218	(1)	
Allocated costs	56	41	(1)	53	(1)	Wax revenue allocated: 30 percent TO WNU, 10 percent TO WLO, 20 percent TO WPD, 40 percent TO WOE.
Net book value	63	89	(1)	53	(1)	
Rate base	93	111	(1)	81	(1)	
Gross return	17	20	(1)	15	(1)	
Revenue requirement	303	229	(1)	286	(1)	
Excess (deficit) revenue	25	11	(1)	25	(1)	

[1] Insufficient data provided.

TABLE 18.—*Second alternative combination Pacific coast stations, financial data*

[In thousands of dollars]

Account name	Station combinations		Conditions on combinations
	San Francisco, KFS	San Francisco, KPH	
Station revenue	$760	$970	KLB and KOK combined revenue allocated: 50 percent to KFS, 50 percent to KPH.
Operating costs	494	582	
Allocated costs	129	155	Net book value increased 70 percent for both KFS and KPH.
Net book value	288	260	
Rate base	353	336	
Gross return	64	60	
Revenue requirement	687	797	
Excess (deficit) revenue	73	173	

Findings—alternative 2. 1. Tables 16, 17, and 18 show ten stations of the PCRT carriers remaining after closure of WSF (New York), KLB (Seattle), KOK (Los Angeles), WSC (Tuckerton), WAX (Hialeah), and WPA (Port Arthur). Traffic, at the remaining stations, after realignment according to alternative 2, is illustrated in figure 5.

It would be necessary to compensate for the loss of local connections to stations KLB (Seattle) and KOK (Los Angeles) by providing landline connections from these locations to the common system network that serves the remaining coastal stations at San Francisco. In this manner these locations would be connected to the message (communications) center serving the West Coast, making the entire coastal station structure available to these cities. Also, it is anticipated that the future will see an increased use of radiotelephony (either MF or VHF) which are available locally at both Seattle and Los Angeles.

All other maritime areas presently provided with coverage from a local station. Baltimore (WMH) would pick up substantial traffic from the closure of Tuckerton (WSC).

2. The financial viability of the remaining stations and carriers is improved in alternative 2 over the present situation but the improvement is not as good as for alternative 1. This is primarily due to the continued operation of major carrier stations in Texas and Florida. The financial condition of independent stations at Mobile (WLO) and Tampa (WPD) might be improved, but competition from the major carriers to these stations would continue to be substantial.

3. As stated in alternative 1, revenue in excess of that required for an adequate return on investment would be available to the major carriers. Use of this revenue to improve operations, equipment and facilities should be a condition imposed by the FCC for its acceptance of this alternative.

4. The moderate increases in traffic resulting at WNU (New Orleans), WOE (Lantana) and KLC (Arcadia) should not require a considerable increase in investment at these stations. These stations should be able to handle the additional traffic with their present physical plant or with a modest plant improvement program.

Results of station and revenue realignment—alternative 3. Tables 19, 20, and 21 summarize the financial statements of stations remaining after certain closures under

alternative 3. Alternative 3 is suggested as a means to accomplish the following:

(1) Retain only the principal stations of the three major carriers

(2) Provide an environment for expansion of operations by independents who wish to compete by remaining open. These are WLO (Mobile), WPD (Tampa), and WMH (Baltimore)

(3) Provide for the use of landline facilities of carriers as a means for establishing a common carrier maritime network that treats all coast station operations as connecting carriers in an integrated system. The system rather than individual stations or carriers would be the interface between ship and shore.

Alternative 3 differs from alternative 2 primarily in the reliance placed upon the independents to supplement major station coverage of the three major carriers. Of particular significance, it would encourage WLO to enhance its involvement in Coastal Telegraph and more important, it would permit WLO through its participation to provide for radiotelephone and radioprinter services as services integral to the common maritime network.

TABLE 19.—*Third alternative combination Atlantic coast stations, financial data*

[In thousands of dollars]

Account name	Station combinations			
	Chatham, WCC	Long Island, WSL	Baltimore, WMH	Conditions on combinations
Station revenue	$1,087	$970	$190	WSC revenue allocated: 25 percent to WSL, 75 percent to WMH.
Operating costs	652	582	(1)	
Allocated costs	185	164	(1)	WSF—no revenue.
Net book value	233	760	(1)	
Rate base	317	840	(1)	
Gross return	61	151	(1)	
Revenue requirement	873	897	(1)	
Excess (deficit) revenue	189	73	(1)	

[1] Insufficient data provided.

TABLE 20.—*Third alternative combination gulf coast stations, financial data*

[In thousands of dollars]

Account name	Station combinations			
	New Orleans, WNU	Mobile, WLO	Tampa, WPD	Conditions on combinations
Station revenue	752	152	100	WPA revenue allocated: 90 percent
Operating costs	451	(1)	(1)	to WNU, 10 percent to WLO.
Allocated costs	128	(1)	(1)	KLC revenue allocated: 90 percent
Net book value	78	(1)	(1)	to WNU, 10 percent to WLO.
Rate base	125	(1)	(1)	WAX and WOE revenue allocated:
Gross return	23	(1)	(1)	60 percent to WNU, 20 percent to WLO, 20 percent to WPD.
Revenue requirement	602	(1)	(1)	Net book of WNU increased: 200
Excess (deficit) revenue	150	(1)	(1)	percent.

[1] Insufficient data provided.

TABLE 21.—*Third alternative combination Pacific coast stations, financial data*

[In thousands of dollars]

Account name	Station combinations		
	San Francisco, KFS	San Francisco, KPH	Conditions on combinations
Station revenue	760	970	KLB and KOK combined revenue allocated: 50 percent to KFS, 50 percent TO KPH.
Operating costs	494	582	
Allocated costs	129	155	
Net book value	288	260	Net book value increased 70 percent for both KFS and KPH.
Rate base	353	336	
Gross return	64	60	
Revenue requirement	687	797	
Excess (deficit) revenue	73	173	

The three tables for the three coastal areas show the basis under which the revenue for the closed stations are reallocated to the stations remaniing in operation. Net Book values of remaining stations are increased in proportions to the amount of increased traffic handled. Significant changes in revenue accruing to small stations on the Gulf Coast have been made in alternative 3 relative to alternative 2. The changes in financial data, as given in Tables 19, 20, and 21 will be significant. Excess revenue for WNU (New Orleans), WLO (Mobile), and WPD (Tampa) will be substantially increased for this alignment of Gulf Coast stations. The alternative cuts the number of stations remaining to eight from the ten remaining in alternative 2 thus yielding a further reduction of two stations.

Findings—alternative 3. 1. The station selection and distribution for alternative 3 insures that eight stations which remain after closure of all other coastal stations provides adequate coverage of all three coasts in spite of a loss of local stations at Seattle, Los Angeles, Houston, and Hialeah. As suggested under Alternative 2 these areas must be served through effective use of the proposed landline network.

2. Alternative 3 differs from alternative 2 only in that ITT and RCA would have no stations in the Gulf-Florida Area. TRT (WNU) and the independents (WMH, WLO, and WPD) should benefit from the realignment. The differences in revenue at these three stations, while small relative to the industry, are significant relative to their current revenues.

3. The financial viability of the alternative 3 alignment of stations is improved over that achieved in alternative 2. Thus, revenue in excess of that required for an adequate return on investment is available to the carriers. Use of this excess revenue (approximately $700,000) to improve operations, equipment and facilities is indicated. Increases in traffic at the smaller stations may require increases in investment in physical plant in order to handle the increased traffic. Capital derived from excess revenue should be sufficient to support the financing of such investment programs.

Comparison of alternatives. 1. The three alternatives to future alignments of the PCRT industry which are described above serve only as a guide to what can be done with the industry to improve its financial viability while providing more than adequate service.

2. The alternatives consider one PCRT industry structure which reflects the closures requested by the industry (alternative 1) and two structures considered reasonable from the point of view of financial viability, healthy competition, and adequate service.

3. The financial viability of the Gulf Coast stations is the main economic problem in the three alternatives. The larger number of stations competing for the lower levels of traffic in the Gulf area relative to the other two coast areas, results in marginal operations at the smallest stations.

4. Alternatives 2 and 3 have the greatest potential for providing the services desired by the users of PCRT services.

5. Alternative 2 provides minimal relief for stations on the Gulf and includes two stations one in Florida and one in Texas which the major carriers would like to close.

6. Alternative 3 yields the best financial structure for the industry.

7. An important need for any PCRT industry structure is a control network consisting of three control stations, one for each coast. The principal functions of the control centers are described in detail in section III. Basically, the control network will arrange for the reception and delivery of ship-to-shore traffic in the most expeditious manner. Shore-to-ship traffic will also be distributed to shore stations for delivery in a manner which will insure prompt and reliable service to the recipients at sea.

APPENDIX

PARTIES CONTACTED DURING STUDY

(Stations Visited Are Also Indicated)

Licensees of Public Radiotelegraph Stations

ITT World Communications Inc.:
- New York, N.Y.
  - Valerian Pudmalik, Exec. V.P. and Genl. Mgr.
  - S. Stein, Ass't. Comptroller.
  - W. C. Taylor, Ass't. V.P.
  - John Levine, Attorney.
  - M. Headberg.
  - E. Pulley.
- Long Island, N. Y.: Station WFS.
- San Francisco, California:
  - N. F. Smaha, Senior Facilities Planning Egnr., Station KFS.
- Seattle, Washington: Station KLB.

Radio Corporation of America:
- New York, N. Y.:
  - J. McKenna, V.P. Services Development.
  - J. Regnaud, Finance.
  - R. Angliss, Engineer.
  - E. F. Doherty, Manager, Radio Engineering.

Chatham, Massachusetts: Station WCC.
Lantana, Florida: Station WOE.
Port Arthur, Texas: Station WPA.
San Francisco, California:
E. J. Brennan, Mgr., Traffic Operations, Station KPH.
Washington, D.C.
R. E. Simonds, Mgr., RCA Frequency Bureau.
F. Gherkin, Mgr. Station WSC, Tuckerton.
TRT Telecommunications Corporation:
Washington, D.C.:
F. W. Morris Jr., Pres. & Chief Exec. Officer.
R. K. Lewis Jr., Director Tech. Oper.
D. Lubetzky.
Hialeah, Florida: Station WAX.
New Orleans, Louisiana: Station WNU.
Maryland Port Administration: Baltimore, Maryland: Capt. R. Wilcox, Director Port Operations.
Clara Lee Warner Wood: Tampa, Florida: D. Berger, Station Manager.
Mobile Marine Radio, Inc.: Mobile, Alabama: J. Dezauche, Station Owner & Manager, Station WLO.
Central Radio Telegraph Company: Rogers City, Michigan, visited previously.
Great Lakes Marine Radio: North Tonawanda, N.Y., visited previously.
Employee and Radio Officer Interests:
American Communications Association: New York, N.Y.: J. P. Selly, President.
Communications Workers of America: Washington, D.C.: J. Morgan, Adm. Ass't. to President.
American Radio Association: New York, N.Y.: H. Strichartz.
User Groups:
American Institute of Merchant Shipping: Washington, D.C.: J. P. Yoest, Coordinator Telecommunications.
Pacific Far East Line, Inc.: San Francisco, California: W. N. Nations, Port Radio Officer.
United States Lines: New York, N.Y.: Capt. Wm. Kolbe.
Other Interested Parties:
American Telephone & Telegraph Company: New York, N.Y.: V. H. Cramer, Long Lines.
The Western Union Telegraph Company: New York, N.Y.:
Nestor Ortiz), Contacted by phone.
O. D. Stovall), No meeting.
Maritime Administration: Washington, D.C.: H. Feigelson.
U.S. Coast Guard:
Washington, D.C.: Lt. J. Pierson, Office of Communications.
San Francisco, California: Comdr. Lane, Point Reyes Station.
Federal Communications Commission:
Washington, D.C.:
Safety and Special Services Bureau:
G. Hempton.
C. Fisher.
Other members of Marine Staff.
Common Carrier Bureau:
W. Naleszkiewicz.
R. Lepkowski.
Other members of Common Carrier Staff.

APPENDIX B

Twenty Marine Radiotelegraph Public and Limited Coast Stations are listed below. The stations are identified by area, call sign, location, and licensee. Included are two stations who have applications with the FCC for permits to construct new stations, and six stations who have applications for station closure pending with the FCC.

MARINE RADIOTELEGRAPH

PUBLIC AND LIMITED COAST STATIONS

Area and call	Location	Licensee or Applicant [1]	Kind of Application	File No.
North Atlantic coast:				
WCC	Chatham, Mass	RCA		
WSL	Amagansett, L.I., N.Y	ITT		
WSF	New York, N.Y	ITT	Close	T-D-17509
WSC	Tuckerton, N.J	RCA		
WMH	Baltimore, Md	MPA	Close	P-D-216
South Atlantic coast:				
(2)	Savannah, Ga	Martin	Construct	939-M-L-80
WOE	Lantana, Fla	RCA	Close	T-D-17603
WAX	Hialeah, Fla	TRT	Close	T-D-21178
Gulf coast:				
WPD	Tampa, Fla	Wood		
WLO	Mobile, Ala	MMR		
WNU	New Orleans, La	TRT		
(3)	Harvey, La	McDermott	Construct	990-M-L-6
WPA	Port Arthur, Tex	RCA		
KLC	Arcadia, Tex	ITT	Close	T-D-18395
Pacific coast:				
KOK	Los Angeles, Calif	ITT		
KFS	San Francisco, Calif	ITT	Close	T-D-18394
KPH	San Francisco, Calif	RCA		
KLB	Seattle, Wash	ITT		
Great Lakes:				
WLC	Rogers City, Mich	CRT		
WBL	Buffalo, N.Y	GLM		

[1] RCA=RCA Global Communications, Inc.; ITT=ITT World Communications Inc.; MPA=Maryland Port Authority; Martin=Alpha Martin; Wood=Clara Lee Warner Wood; MMR=Mobile Marine Radio; TRT=Tropical Radio Telegraph Co.; McDermott=J. Ray McDermott & Co., Inc.; CRT=Central Radio Telegraph Co.; GLM=Great Lakes Marine Radio.
[2] No call sign has been assigned since the application for the station construction permit is pending.
[3] No call sign has been assigned since the application for the station construction permit is pending. This station is different from the others in that it is proposed to be limited rather than common carrier.

[FR Doc.74-5902 Filed 3-18-74;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority No. 89]

PRINCIPAL DIPLOMATIC OFFICER IN CAMBODIA

A.I.D. Delegation of Authority No. 89, dated January 22, 1971 (36 FR 1488), is hereby rescinded.

Date: March 8, 1974.

DANIEL PARKER,
Administrator.

[FR Doc.74-6251 Filed 3-18-74;8:45 am]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

NOTICE OF GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C., section 925(c), the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Ball, John Phillip, 4760 South Whitnal Avenue, Cudahy, Wisconsin, convicted on June 25, 1970, in the Circuit Court, Outagamie County, Wisconsin.

Beck, Elvis Ray, 5331 Quartz Road, Rockford, Illinois, convicted on August 12, 1964, in the Riverside County Superior Court, California.

Borchert, Michael D., Lot 64 Jackson Heights Tr. Ct., Shakopee, Minnesota, convicted on October 7, 1963, in the St. Croix County Court, St. Croix, Wisconsin, and on October 23, 1967, in the District Court, Second Judicial District, Ramsey County, Minnesota.

Clark, Jr., John W., R.D. 2, Frog Hollow Road, Painted Post, New York, convicted on September 26, 1950, in the Steuben County Court, New York.

Curtiss, Jr., Paul K., Route 1—Hidden Valley Road, Savage, Minnesota, convicted on May 22, 1961, in the Superior Court of the State of California in and for the County of San Diego.

Darkow, Larry A., 504th Military Police Co., Ft. Eustis, Virginia, convicted on August 11, 1963, in the Hennepin County District Court, Minneapolis, Minnesota.

Hicks, Charles E., Rt. 3, Box 300, Mineral, Virginia, convicted on January 28, 1972, in the Henrico County Circuit Court, Virginia.

Hunt, Ernest, Box 10, Kimper, Kentucky, convicted on May 9, 1941, in the Pike County Circuit Court, Kentucky.

Kaplan, Gary L., 902 East Clay, O'Neill, Nebraska, convicted on September 26, 1967, in the District Court of Holt County, Nebraska.

Klatt, Gary L., 5117 Bernard Avenue, North, Crystal, Minnesota, convicted on July 8, 1969, in the Circuit Court, Third Judicial Circuit, Clark County, South Dakota.

McClendon, Eddie F., 141 Valencia, El Paso, Texas, convicted on June 2, 1949, and January 14, 1950, in the District Court of Hale County, Texas, and on November 19, 1949, in the District Court of Randall County, Texas.

Madewell, Lon E., 8643 North Nebraska Avenue, Tampa, Florida, convicted on Au-

gust 31, 1964, and on May 10, 1965, in the Criminal Court of Record, Hillsborough County, Florida.

Paetz, Richard C., 6845 Sonia Drive East, Tacoma, Washington, convicted on December 2, 1952, in the Superior Court, Pierce County, Washington.

Phillips, Mercer E., 1205 Aaron Court, Chesapeake, Virginia, convicted on June 13, 1963, in the Court of Hustings, Portsmouth, Virginia.

Reeves, Robert, 124 West 108th Place, Chicago, Illinois, convicted on or about October 16, 1933, in the Cuyahoga County Criminal Court, Ohio.

Schwabenbauer, Stephen M., R.D. 1, Box 69, Shippenville, Pennsylvania, convicted on October 12, 1972, in the Court of Common Pleas, Clarion, Pennsylvania.

Sherman, August R., 225 W. 16th Street, Maryville, Missouri, convicted on September 27, 1970, in the United States District Court, Western District of Missouri.

Stereiff, Dean L., Box 782, Pine Island, Minnesota, convicted on November 13, 1968, in the First Judicial District Court, Red Wing, Minnesota.

Valentine, Peter C., 113 East 17th Street, Olympia, Washington, convicted on July 27, 1970, Superior Court, Thurston County, Washington.

Wheat, James A., 12300 Valley Wood Drive, Wheaton, Maryland, convicted on December 23, 1964, in the Peoples Court, Montgomery County, Maryland.

Signed at Washington, D.C., this 8th day of March, 1974.

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

[FR Doc.74-6247 Filed 3-18-74;8:45 am]

Fiscal Service

[Dept. Circ. 570, 1973 Rev., Supp. No. 14]

HALLMARK INSURANCE CO., INC.

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 $124,000 has been established for the company.

Name of company, location of principal executive office, and state in which incorporated:

Hallmark Insurance Company Inc.
Madison, Wisconsin
Wisconsin

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 13, 1974.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.74-6245 Filed 3-18-74;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD TACTICAL PANEL

Notice of Meeting

MARCH 13, 1974.

The USAF Scientific Advisory Board Tactical Panel will hold a closed meeting on March 25, 1974, from 10 a.m. until 4 p.m., at the Pentagon, Washington, D.C.

The Panel will receive classified briefings from Air Force Systems Command on AFSC activities in support of tactical air requirements.

For further information, please contact the Scientific Advisory Board Secretariat at 202-697-8845.

STANLEY L. ROBERTS,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.74-6221 Filed 3-18-74;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

CRIMINAL JUSTICE INFORMATION SYSTEMS

Notice of Hearings

Notice is hereby given that the Department of Justice will hold the following hearings on the proposed Criminal Justice Information Systems Regulations published in the FEDERAL REGISTER, 39 FR 5636, February 14, 1974:

March 22, 1974, at 10:00 a.m. at 633 Indiana Avenue, N.W., Washington, D.C. to consider the views of the National Conference of State Criminal Justice Planning Administrators.

May 1, 1974, and May 2, 1974, at Juro Assembly Room, 19th Floor, Federal Building, 450 Golden Gate, San Francisco, California. Interested parties who wish to testify should notify Thomas J. Madden, General Counsel, Law Enforcement Assistance Administration, 633 Indiana Avenue, N.W., Washington, D.C. 20530 no later than April 22, 1974.

The time for submission of written views on the proposed regulations is hereby extended to May 2, 1974.

March 12, 1974.

WILLIAM B. SAXBE,
Attorney General.

March 12, 1974.

DONALD E. SANTARELLI,
Administrator, Law Enforcement Assistance Administration.

[FR Doc.74-6255 Filed 3-18-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE

Postponement of Public Meeting

The meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905) originally scheduled for March 19, 1974, in the auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 a.m., local time, is postponed until March 27, 1974, and will be held in the Conference Room of the Florida Citrus Mutual Building at 10:30 a.m., local time. This notice is issued pursuant to the provisions of section 10(a)(2) of Public Law 92-463. Marketing Order No. 905 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 need for postponement of the meeting of the Shippers Advisory Committee results from recent changes in the demand situation for citrus fruits produced in Florida.

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.

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 15, 1974.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc.74-6440 Filed 3-15-74;4:21 pm]

[Amendment 7]

Commodity Credit Corporation

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Fiscal Year Ending June 30, 1974)

The CCC Monthly Sales List for the fiscal year ending June 30, 1974, published in 38 FR 19259 is amended as follows:

1. The last sentence of section 1(b) entitled "General" published in 38 FR 19259 as amended in 38 FR 22808 and 26012 is revised to read as follows:

Interest at 9½ percent will be charged for delinquent payments on consignment and track sales of grain from the date of sale to the date payment is received.

2. The sixth sentence of section 1(c) entitled "General" published in 38 FR

19259 as amended in 38 FR 22808 and 26102 is revised to read as follows:

"Interest to date of payment will be at 9½ percent."

Effective Date. 2:30 p.m., e.d.t., February 28, 1974.

Signed at Washington, D.C. on March 12, 1974.

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

[FR Doc.74-6232 Filed 3-18-74;8:45 am]

Forest Service

COOPERATIVE SPRUCE BUDWORM SUPPRESSION 1974 PROJECT

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for suppression of the spruce budworm in Minnesota in 1974. Forest Service Report Number USDA-FS-NA-DES(Adm.)-2.

The environmental statement concerns a proposed cooperative aerial spray project on approximately 3,500 acres of forest lands within Finland State Forest, in Lake County, Minnesota to prevent or minimize tree mortality and reduce high spruce budworm populations until the mature timber can be harvested. To accomplish these objectives, the insecticide mexacarbate (Zectran®) will be applied by aircraft. The impacts, both beneficial and adverse, available alternative actions, and the purposes and objectives of the cooperative spruce budworm suppression program are discussed in detail.

This draft environmental statement was filed with CEQ on March 12, 1974.

Copies are available for inspection during regular working hours at the following locations:

U.S.D.A., Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave. SW.
Washington, D.C. 20250

U.S.D.A., Forest Service
Northeastern Area
State and Private Forestry
6816 Market Street, Room 207
Upper Darby, Pennsylvania 19082

A limited number of single copies are available upon request to:

Robert D. Raisch, Area Director
Northeastern Area
State and Private Forestry
6816 Market Street
Upper Darby, Pennsylvania 19082

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, state and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agenices having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Robert D. Raisch, U.S. Forest Service, Northeastern Area, State and Private Forestry, 6816 Market Street, Upper Darby, PA 19082. Telephone 215/597-3760. Comments must be received by April 26, 1974 in order to be considered in preparation of the final environmental statement.

Dated March 7, 1974.

PHILIP L. ARCHIBALD,
Acting Director, Northeastern Area State and Private Forestry.

[FR Doc.74-6229 Filed 3-18-74;8:45 am]

ENTERPRISE PLANNING UNIT

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Enterprise Planning Unit, Dixie National Forest, Utah. The Forest Service report number is USDA-FS-DES (Adm) R4-74-3.

The environmental statement identifies and evaluates the probable effects of the Land Use Plan for the Enterprise Planning Unit on the Dixie National Forest in Utah. The purpose of the plan is to allocate National Forest lands within the unit to specific resource uses and activities; establish management objectives; document management direction, decisions, and necessary coordination between resource uses and activities; and provide for the protection, use, and development of the various resources within the planning unit. The plan provides for minimization of adverse effects and maximization of desirable effects.

This draft environmental statement was transmitted to CEQ on March 8, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW.
Washington, D.C. 20250

Regional Planning Office
USDA, Forest Service
Federal Building, Room 2025
324-25th Street
Ogden, Utah 84401

Forest Supervisor
Dixie National Forest
500 South Main
Cedar City, Utah 84720

District Forest Ranger
Pine Valley Ranger District
Federal Building
St. George, Utah 84770

A limited number of single copies are available upon request to Forest Supervisor Merlin I. Bishop, Dixie National Forest, 500 South Main, Cedar City, Utah 84720.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Dixie National Forest, 500 South Main, Cedar City, Utah 84720. Comments must be received by May 29, 1974, in order to be considered in the preparation of the final environmental statement.

Dated: March 8, 1974.

P. M. REES,
Acting Regional Forester.

[FR Doc.74-6301 Filed 3-18-74;8:45 am]

[1352-4]

UMATILLA NATIONAL FOREST GRAZING ADVISORY BOARD

Notice of Meeting

The Umatilla National Forest Grazing Advisory Board will meet at 1 p.m. at the Forest Supervisor's Office April 8, 1974.

The purpose of this meeting is to discuss permittee involvement and responsibility in planning and administration efforts on Forest Service allotments, and to explore long-range management objectives and goals. The Board will examine Regional commensurability standards and discuss whether there is a need to expand on these standards for the Umatilla National Forest.

The committee has established the following rules for public participation: A time period will be set up for the public to participate and time limits may be set on individual public participation.

Dated: March 11, 1974.

HERBERT B. RUDOLPH,
Forest Supervisor.

[FR Doc.74-6223 Filed 3-18-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

FORDHAM UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scien-

tific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74–00028–98–77065. Applicant: Fordham University, Physics Department, Bronx, New York 10458. Article: Mossbauer Spectrometer, Model AME–30. Manufacturer: Elscint, Ltd., Irsael. Intended use of article: The article will be used to study the magnetic fields, electric field gradients, isomer shifts, curie temperatures, and phase transitions of materials containing iron, tin, and other Mossbauer isotopes by means of high resolution Mossbauer transmission and scattering experiments.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a velocity capability of at least 20 centimeters per second (cm/s). The most closely comparable domestic instrument is the Mossbauer spectrometer manufactured by Austin Science Associates. This domestic instrument does not provide velocities above the order of 5 cm/s. The National Bureau of Standards (NBS) advised in its memorandum dated February 19, 1974 that a velocity capability of at least 20 cm/s is pertinent to the purposes for which the article is intended to be used. NBS also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

A. H. STUART,
Director,
Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.74–6267 Filed 3–18–74;8:45 a.m.]

MILLARD FILLMORE HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74–00188–33–90000. Applicant: Millard Fillmore Hospital, 3 Gates Circle, Buffalo, New York 14209. Article: Computerized Axial Tomography System (EMI-Scanner). Manufacturer: EMI Limited, United Kingdom. Intended Use of Article: The article is intended to be used for diagnosis of brain tumors, cerebral hemorrhages, subdural hematomas and traumatic injuries to the brain. Research will be conducted to develop the capability of the article to diagnose different types of tumors of all sizes in all areas of the central nervous system and to compare results with conventional techniques. Stroke patients will be evaluated with the equipment to develop improved diagnosis and prognostic capability through serial studies. Investigation will be conducted as to the capability of the article to identify the plaques in multiple sclerosis patients. The article will also be used to evaluate the role of hyper osmolar treatment of subdural hematomas and for the study of patients who have already undergone stereotaxi surgery for Parkinsonism.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (June 14, 1973).

Reasons: The foreign article is a newly developed system which is designed to provide precise transverse axial x-ray tomography. We find that the speed and accuracy of the article are pertinent to the applicant's use in neurological studies and in teaching wherein the article's potential is to be assessed through evaluations of patients with tumors, stroke, plaques of multiple sclerosis and those having undergone stereotaxic surgery. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated February 8, 1974 that it knows of no domestic instrument of equivalent scientific value to the article for the applicant's intended uses which was available at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

A. H. STUART,
Director,
Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.74–6271 Filed 3–18–74;8:45 am]

NATIONAL INSTITUTES OF HEALTH

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 73–00035–33–90000. Applicant: National Institutes of Health, Bethesda, Md. 20014. Article: X-ray diffraction equipment, Model GX6. Manufacturer: Elliott Automation Radar Systems, United Kingdom. Intended use of Article: The article is intended to be used to investigate filament spacings and crossbridge configurations in muscle cells to discover the mechanism of muscular contraction.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides an X-ray micro source with a power level of one kilowatt. The most closely comparable domestic instrument manufactured by Philips Electronic Instruments provides an X-ray micro source with a power level of 500 watts. The National Bureau of Standards (NBS) advised in its memorandum dated February 4, 1974 that the highest power level available is pertinent to the applicant's intended low angle scattering diffraction measurements of muscle tissue. NBS also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended uses.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

A. H. STUART,
Director,
Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.74–6270 Filed 3–18–74;8:45 am]

ST. LUKE'S HOSPITAL CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural

Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74–00187–33–43780. Applicant: St. Luke's Hospital Center, 114 Street & Amsterdam Avenue, New York, New York 10025. Article: Cannulating Duodenoscope. Manufacturer: Olympus Company, Japan. Intended Use of Article: The article is intended to be used for the following investigative purposes:

1. Visualization of the biliary duct—to evaluate its usefulness in the exclusion of extra-hepatic obstructive jaundice;
2. Visualization of the pancreatic ducts—to evaluate its usefulness in the exclusion of obstruction to pancreatic outflow;
3. Studies of the normal variation in biliary and pancreatic duct anatomy;
4. To evaluate whether collection of pancreatic secretions is useful in the diagnosis of pancreatic disease.

The article will also be used for the teaching of postgraduate Research Fellows of Columbia University in the advantages of duct cannulation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant's use of the article in teaching and study of hepatic and pancreatic structure and function will require a fiber optic device of small diameter and long length, that is guidable, flexible and has a means for collecting secretions underview. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated February 8, 1974 that the small diameter of the article (2 mm) is pertinent to the purposes for which the article is intended to be used. HEW also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as this article is intended to be used. HEW cited as a precedent its prior recommendation relating to Docket Number 73–00510–33–02700 which conforms in certain particulars with this application.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

A. H. STUART,
Director,
Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

[FR Doc.74–6269 Filed 3–18–74;8:45 am]

UNIVERSITY OF CALIFORNIA—DAVIS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74–00127–33–46040. Applicant: University of California, Davis Campus, Davis, California 95616. Article: Electron Microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, West Germany. Intended Use of Article: The article is intended to be used for studies of insect tissues, plant and animal viruses and mycoplasma (in relation to the insects that transmit them) and viruses and other microorganisms affecting insects. The experiments to be undertaken are as follows:

(a) A morphological study of aphid symbiotes to determine their systematic status and physiological function.

(b) Study of the effect of plant virusfes, plant mycoplasma and insect pathogens on insect cells in a monolayer culture.

(c) Observation of certain plant viruses after purification procedure to determine the validity of the procedures.

(d) Study of insect mitochondria to observe the aging process on these organelles.

(e) Several projects involving the general observation of insect and mite ultrastructure.

The article will also be used for instructional purposes in the following courses:

A. Insect Morphology-Entomology 101.
B. Insect Physiology-Entomology 102.
C. Insect Vectors of Plant Pathogens-Entomology 125.
D. Medical Entomology-Entomology 153.
E. Electron Microscopy in Entomological Research-Entomology 298.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States at the time the article was ordered (February 28, 1973).

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument available at the time the article was ordered was the Model EMU–4C electron microscope which was formerly manufactured by the Forgflo Corporation and which is currently supplied by the Adam David Company. The Model EMU–4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated January 10, 1974 that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU–4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

A. H. STUART,
Director,
Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.74–6264 Filed 3–18–74;8:45 am]

UNIVERSITY OF CALIFORNIA—SAN FRANCISCO ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74–00319–33–90000. Applicant: University of California, San Francisco, 1438 South Tenth Street, Richmond, California 94804. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended

Use of Article: The article is intended to be used to obtain cross sectional pictures of the brain using noninvasive techniques. Patients with suspected brain abnormalities will be studied with the article and the findings will be correlated with those of the standard neuroradiologic and isotopic diagnostic techniques. This technique will be of educational value in teaching the anatomical details of the normal and abnormal brains in the transaxial tomographic mode. Application Received by Commissioner of Customs: February 12, 1974.

Docket Number: 74–00320–85–43000. Applicant: Lamont-Doherty Geological Observatory of Columbia University, Palisades, New York 10964. Article: Magnetometer. Manufacturer: Digico Ltd., United Kingdom. Intended Use of Article: The article is intended to be used for the measurement of weakly magnetized rocks for paleomagnetic studies of general type in limestones, deep-sea sediments and lavas, and terrestrial rocks. Application Received by Commissioner of Customs: February 2, 1974.

Docket Number 74–00329–33–22400. Applicant: University of Rochester, School of Medicine and Dentistry, Division of Genetics, 260 Crittenden Blvd., Rochester, N.Y. 14642. Article: MSE 150 Watt Ultrasonic Disintegrator, PG–100 and Titanium Exponential Micro Probe, 34041. Manufacturer: Measuring & Scientific Equipment, United Kingdom. Intended Use of Article: The foreign article is to be used to reproducibly disrupt extremely small quantities of human white blood cells in order to determine inherited differences in PGM_3, a sensitive labile enzyme contained in such cells. Application Received by Commissioner of Customs: February 12, 1974.

Docket Number: 74–00305–33–46040. Applicant: Mount Sinai School of Medicine of the City University of New York, Fifth Avenue and 100th Street, New York, New York 10029. ARTICLE: Electron Microscope, Model JEM 100B. Manufacturer: JEOL Ltd., Japan. Intended Use of Article: The article is intended to be used in the following investigations:

1. A multifaceted approach concerning the differentiation, regulation of cell division and induction of cell proliferation; and an analysis of the interrelationship of these 3 processes.
2. A study of differentiation of epithelial cells in the mouse colon in normal animals and in experimental carcinogenesis and polypogenesis such as that induced by 1,2-dimethyl-hydrizine.
3. Comparison of the morphological aspects of development, growth, and repair of *striated muscle* of both normal and dystrophic mice, including precise measurements of microfilaments found in all cells of the myoblastic line.
4. The study of the hormonal control of spermatogenesis and particularly the roles of Sertoli cells and the "blood-testis barrier" in this process.
5. The study of a "Stertoli-only" tubule after partial dissociation.
6. The observation and interpretation of subtle alterations of the fibrillar and filamentous components of the neck, mid-piece and tail of the spermatozoa during maturation.
7. The determination of the role of (a) the tight junction between endothelial cells and (b) low frequency of pinocytotic vesicles in the "barrier" phenomenon (anatomical barriers to the movement of protein tracers from blood to cerebral parenchyma), and
8. The investigation of the possibility that connective tissue cells and smooth muscle cells are different modalities of the same type.

In addition, the article will be used for formal teaching to graduate students through "Advanced Study in Anatomy" courses and to medical students in "Basics of Electron Microscopy". These courses are intended to provide the student with a working knowledge of the principles and techniques employed in electron microscopy.

Application Received by Commissioner of Customs: January 24, 1974.

Docket Number: 74–00307–33–46040. Applicant: Lafayette College, Easton, Pa. 18042. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended Use of Article: The article is intended to be used in two major areas of research: host-parasite interrelationships and interactions; cytological effects of exposure to various agents, e.g., herbicides, in both animals and plants. Normal and pathological invertebrate tissues will be studied with particular emphasis upon developmental stages of parasites and upon the tissues of their host. Another area of study concerns the ultrastructural pathology of the gerbil testis and epididymis after administration of antifertility drugs. A botanical study concerns the fine structure of plant cell organelles treated with herbicides. The article will also be used for educational purposes in the following courses:

General physiology
Advanced Genetics
Microbiology
Biology of Vascular Plants
Parasitology
Developmental Biology
Independent Study
Thesis (Honors)

Application Received by Commissioner of Customs: January 21, 1974.

A. H. STUART,
Director,
Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.74–6272 Filed 3–18–74;8:45 am]

UNIVERSITY OF MAINE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74–00158–33–46040. Applicant: University of Maine, Department of Zoology, Murray Hall, Orono, Maine 04473. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended Use of Article: The article is intended to be used for research in the following projects entitled:

(1) Study of chloroplast growth and inheritance, and control of cell division in *Euglena gracilis*.
(2) An ultrastructural and chemical evaluation of the effects of freezing on Atlantic Salmon Sperm,
(3) A comparative ultrastructural study of gamete morphology and fertilization in echinoderms,
(4) Influence of herbicides, chlorinated hydrocarbons, PCB's and growth rhythm phenomena on the fine structure of *Platymonas subcordiformis*,
(5) A fine structural investigation of growth and sexual maturation in gametophytes and young sporophytes of the bull kelp *Nereocystis cuetkeana* (Mertens) Postels and Ruprecht,
(6) Thin films Environmental Detector,
(7) Anatomy and fundamental properties of Maine Woods, and
(8) Electrical and optical properties of amorphous semiconductors.

In addition the article will be used in ten (10) courses at the University as a teaching tool or as a secondary teaching aid. Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (April 13, 1973).

Reasons: The foreign article is equipped with an eucentric goniometer stage (with 360° rotation and ±60° eucentric tilting plus heating and cooling capabilities). At the time the foreign article was ordered, the most closely comparable domestic instrument was the Model EMU–4C, formerly produced by Forgflo Corporation and currently supplied by Adam David Company. The Model EMU–4C provided only 30° of noneucentric tilt. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated January 31, 1974 that (1) the high degree of articulation of the article's goniometer stage is pertinent to the applicant's studies of a thin film environmental detector and properties of amorphous semoconductor and (2) the stages available in the EMU–4C did not match the articulation of the article's stage. HEW cited as a precedent its recommendation relating to Docket Number 73–00350–33–46040 which conforms in certain particulars with this application. For the foregoing reasons, we find that the EMU–4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article

is intended to be used, which was being manufactured in the United States at the time the article was ordered.

A. H. STUART,
Director,
Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.74-6268 Filed 3-18-74;8:45 am]

UNIVERSITY OF MARYLAND

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00190-75-77065. Applicant: University of Maryland, Baltimore County Campus, 5401 Wilkens Avenue, Baltimore, Maryland 21228. Article: Mossbauer Effect Analyser. Manufacturer: Elscint, Inc., Israel. Intended use of Article: The article is intended to be used in high resolution Mossbauer transmission and scattering experiments to study the dependence of hyperfine fields on external influences such as temperature surface condition and chemical environment.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Rare-earth elements such as dysprosium emit gamma rays at frequencies that require velocities of source relative to absorber of the order of 20 centimeters/second (cm/s) and greater for study by Mossbauer analysis. The foreign article satisfies this requirement and permits the use of the Mossbauer technique with rare earth elements involving repetitive measurements at several hundred velocity points. The most closely comparable domestic instrument is the Mossbauer spectrometer manufactured by Austin Science Associates (Austin). The Austin spectrometer is not capable of velocities above the order of 5 cm/s, except possibly in the manual constant-velocity mode of operation. The manual constant-velocity mode is limited to measurements at only a relatively small number of velocities because not only is manual re-adjustment of the apparatus required for each velocity setting but long integration times are also required. We are advised by the National Bureau of Standards (NBS) in its memorandum dated February 19, 1974 that the ability to be used with rare earth elements and the velocity capability provided by the foreign article are pertinent to the applicant's intended purposes. We, therefore find that the Austin spectrometer is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used. NBS further advises that it knows of no instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

A. H. STUART,
Director,
Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.74-6266 Filed 3-18-74;8:45 am]

YALE-NEW HAVEN HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00221-33-00530. Applicant: Yale-New Haven Hospital, Inc., Department of Therapeutic Radiology, 789 Howard Avenue, New Haven, Conn. 06504. Article: Sagittaire Linear Electron Accelerator, Treatment Couch, Floor Elevator and Spare parts kit. Manufacturer: Thomson-CSF, France. Intended Use of Article: The article is intended to be used for a variety of radiotherapeutics, radiobiologic and radiological physics research projects. These will include the effects of tumor response of combined x-ray and electron beam therapy, and of different time-dose relations; the effect of ultra-high dose rates obtainable from the electron beam on tissue culture; optimization of x-ray target design; determination of high energy x-ray spectra; studies in electron beam dosimetry. The article will also be used in two courses namely, Therapeutic Radiology 101 and 102, which will involve medical students learning about radiation therapy and the operation and the of the article. The major role of the article in the teaching program will be accomplished through in-house training programs for technologists and residents in radiology, and other medical specialists.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has an effective electron analyzer consisting of two bending magnets with slit and quadrupole magnetic slammer to provide a narrower range or maximum homogeneity of the electron or x-ray energy in the beam. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated February 2, 1974 that the comparable domestic instrument, the Clinac 35, does not provide an acceptably narrow range of electron or x-ray energy. HEW also advised that the maximum possible homogeniety of the energy beam is pertinent to the applicant's intended use as a source of high energy electron and x-ray beams for research and teaching programs in therapeutic radiology and radiobiology. For these reasons, we find that the Clinac 35 is not of equivalent scientific value to the foreign article for the purposes for which the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

A. H. STUART,
Director,
Special Import Programs Division.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.74-6265 Filed 3-18-74;8:45 am]

National Oceanic and Atmospheric Administration

SKINS OF SOUTH AFRICAN CAPE FUR SEALS

Notice of Meeting and Preparation of an Environmental Impact Statement

The Marine Mammal Protection Act of 1972 authorizes and directs the Secretary of Commerce to waive the moratorium on the taking and importation of marine mammals and marine mammal products in accordance with the provisions of section 101(a)(3)(A) of the Act. The National Marine Fisheries Service has received two applications for the waiver of the moratorium so as to allow the importation of certain numbers of skins of South African fur seals for processing and sale in this country. The Service feels that the waiver of the moratorium for this purpose constitutes a major federal action the environmental impact of which is likely to be highly controversial within the meaning of § 1500.6 of the Council on Environmental Quality guidelines for the preparation of environmental impact statements (38 FR 20550, 20551, August 1, 1973). Therefore, the Service has determined to prepare an environmental impact statement to assist it in deciding whether the granting of waivers with regard to these two applications is environmentally sound; and to

solicit comment from interested members of the public as to matters which should be considered in the preparation of such a statement.

Accordingly, a public meeting will be held for this purpose of soliciting comments at 9 a.m. on Monday, March 25, 1974, in the Penthouse Conference Room, Page 1 Building, 2001 Wisconsin Avenue, NW., Washington, D.C. Interested members of the public are invited to attend and to submit oral and/or written statements. Those who may wish only to submit written statements should address these to the Director, National Marine Fisheries Service, Washington, D.C. 20235, postmarked no later than March 25, 1974.

JACK W. GEHRINGER,
Acting Director, National Marine Fisheries Service.

MARCH 13, 1974.

[FR Doc.74-6208 Filed 3-18-74;8:45 am]

Social and Economic Statistics Administration

CENSUS ADVISORY COMMITTEE ON AGRICULTURE STATISTICS

Notice of Public Meeting

The Census Advisory Committee on Agriculture Statistics will convene on March 28, 1974 at 9 a.m. The Committee will meet in Building 91, Bureau of the Census, 1201 East 10th Street, Jeffersonville, Indiana.

This Committee was established in 1962 to advise the Director, Bureau of the Census, concerning the kind of information that should be obtained from respondents; to prepare recommendations regarding the contents of reports and to present the views and needs for data of major agricultural organizations and their members.

The Committee is composed of 19 members appointed by the presidents of the non-profit organizations having representatives on the Committee, and two members from the U.S. Department of Agriculture.

The agenda for the meeting is: (1) Review of current Census Bureau activities, (2) Status of plans and operations for the 1974 Census of Agriculture, (3) Report on the Pretest for the Census, (4) Tour of the Jeffersonville facility, (5) Publicity program, (6) Publication proposals for the 1974 Census, and (7) Tabulation plans.

A limited number of seats—approximately 25—will be available to the public. A brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Guidance and Control Officer at least three days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact the Committee Guidance and Control Officer, Mr. J. Thomas Breen, Chief, Agriculture Division, Bureau of the Census, Room 2067, FB-3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone 301-763-5230.

Dated: March 13, 1974.

EDWARD D. FAILOR,
Administrator, Social and Economic Statistics Administration.

[FR Doc.74-6302 Filed 3-18-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

HEALTH PROFESSION STUDENT LOANS

List of Areas Designated for Practice as a Physician (M.D. or D.O.), Dentist, Optometrist, Pharmacist, Podiatrist, or Veterinarian; Correction

Federal Register Doc. 74-4336, published as a notice in the FEDERAL REGISTER of February 26, 1974 (39 FR 7446-7465), contained a list of areas designated under section 741(f) of the Public Health Service Act (42 U.S.C. 294a) for practice as a physician (M.D. or D.O.), dentist, optometrist, pharmacist, podiatrist, or veterinarian. Inadvertently, several areas were omitted from this list. Said notice is therefore amended as follows:

1. The following list of areas is inserted after the last entry under "Alabama" on page 7447:

*St. Clair
Shelby
*Sumter
Talladega
*Tallapaloosa
*Walker
*Washington
*Wilcox
*Winston

ALASKA

Aleutian Islands
Anchorage City
*Angoon
*Barrow
*Bethel
Bristol Bay *Borough*
*Bristol Bay
Juneau (B)
Kenai-Cook Inlet (B)
*Kobuk
Kodiak (B)
Matanuska-Susitna (B)
*Muskokwim
*Nome
*Outer Ketchikan
Prince of Wales
Seward
Skagway-Yakutat
Southeast Fairbanks
*Upper Yukon
Valdez-Chitina-Whittie
*Wade Hampton
*Yukon-Koyukuk

ARIZONA

Puerco and St. Johns census sub-divisions of *APACHE COUNTY
Benson and Tombstone census sub-divisions of COCHISE COUNTY
Bowie census sub-division of COCHISE COUNTY
Elfrida census sub-division of COCHISE COUNTY
Coconino sub-division of COCONINO COUNTY excluding areas within a 20 mile radius of Flagstaff or Sedona

2. The following list of areas is inserted after the entry "Cities of Norfolk, Portsmouth, Chesapeake and Virginia Beach" which appears 4 lines from the bottom of the middle column on page 7465:

Powhatan
Russell
Scott
Spotsylvania County, City of Fredericksburg and Stafford County
Sussex
Tazewell
Westmoreland
Wise County and City of Norton
York

WASHINGTON

Chelan
Douglas

WEST VIRGINIA

Response forthcoming

WISCONSIN

Adams
Bayfield
Douglas
Forest
Kenosha
Portage
Racine

WYOMING

No Shortage

PUERTO RICO

Adjuntas
Aguada
Aguadilla
Aguas Buenas
Anasco
Arecibo
Arroyo
Barceloneta
Barranquitas
Bayamon
Cabo Rojo
Caguas
Camuy
Catano
Cayey
Ciales
Cidra

Dated: March 8, 1974.

KENNETH M. ENDICOTT,
Administrator, Health Resources Administration.

[FR Doc.74-6027 Filed 3-18-74;8:45 am]

HEALTH PROFESSION STUDENT LOANS

List of Areas Designated for Practice as a Physician (M.D. or D.O.), Dentist, Optometrist, Podiatrist, or Veterinarian

Correction

In FR Doc. 74-4336 appearing at page 7446 in the issue of Tuesday, February 26, 1974, the following changes should be made:

1. Under Physicians—Arkansas (page 7447, column 2), the entry reading "Chicot" should be marked with an asterisk.

2. Under Dentists—Colorado (page 7453, column 1), the entry "Conjoa" should read "Conjos".

3. Under Dentists—Nebraska (page 7454, column 3), the entry "City of Omaha—Census Trucks * * *" should

read "City of Omaha—Census Tracks * * *"

4. Under Podiatrists—Louisiana (page 7461, column 3), the last entry, "York" should be transferred to appear as the last entry under Maine.

5. Under Podiatrists—Michigan (page 7461, column 3), the entry "Sanilao" should read "Sanilac".

6. Under Veterinarians—Connecticut, the fourth entry, reading "CHP Area—Meriden/Wallingford (Specific", should read "CHP Area—South Central (Specific Section)".

Office of Education

HEALTH AND NUTRITION PROGRAM

Notice of Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 808, Title VIII, of the Elementary and Secondary Education Act (20 U.S.C. 887a) applications are being accepted from local educational agencies and under exceptional circumstances from nonprofit educational organizations for grants for demonstration projects to improve school nutrition and health services for children from low-income families. Applications must be received by the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th & 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, Attention: 13.523), on or before April 24, 1974. A notice of closing date for applications for projects which were commenced under grant awards made in previous fiscal years is being published separately in the FEDERAL REGISTER.

The general fiscal and administrative provisions published in the FEDERAL REGISTER, 38 FR 30654, November 6, 1973, are applicable to these grants, and criteria for this program which have been published as part of the notice of proposed rulemaking (39 FR 10257) are proposed to be used in determining the selection and funding of grant awards. Due to time constraints, preapplications will not be invited for grants funded in FY 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 business 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.)

Information and application forms may be obtained from the Office for Health and Nutrition Programs, 400 Maryland Avenue SW., Washington, D.C. 20202.

(20 U.S.C. 887a)

Dated: March 7, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance Number 13.523, School Health and Nutrition Services for Children from Low-Income Families)

[FR Doc.74-6309 Filed 3-18-74;8:45 am]

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Notice of Meeting and Agenda

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 National Advisory Council on Indian Education will be held on March 30 & 31, 1974, from 9 a.m. to 5 p.m., at Holiday Inn, 2020 Menaul Blvd., NE., Albuquerque, New Mexico.

The National Advisory Council on Indian Education is established under section 401 of the Indian Education Act (P.L. 92-318, Title IV). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 318 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering Indian Education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other federal laws relating to Indian Education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The proposed agenda includes:

1. Planning for evaluation of program and projects carried out by the Department of Health, Education and Welfare in which Indian children or adults can participate.

2. Providing technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th St., NW., Rm. 326, Washington, D.C. 20004).

Signed at Washington, D.C. on March 12, 1974.

DWIGHT A. BILLEDEAUX,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.74-6253 Filed 3-18-74;8:45 am]

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting of the Executive Committee

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 National Advisory Council on Indian Education (Executive Committee) will be held on March 23 and 24, 1974, from 9 a.m. to 5 p.m., at St. Paul Hilton Hotel, Senate Suite, St. Paul, Minnesota.

The National Advisory Council on Indian Education is established under section 401 of the Indian Education Act (P.L. 92-318, Title IV). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 318 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering Indian Education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to Indian Education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The proposed agenda includes:

A. Revision of 1974-1975 Budgets.

B. Reviewing and making recommendations for Part E Regulations.

C. Reviewing and planning for future Council business.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th St., N.W., Rm. 326, Washington, D.C. 20004).

Signed at Washington, D.C. on March 12, 1974.

DWIGHT A. BILLEDEAUX,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.74-6252 Filed 3-18-74;8:45 am]

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

Meeting of Proposals, Rules and Regulations, and Evaluations Committee

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 National Advisory Council on Indian Education (Proposals, Rules & Regulations and Evaluations Committee) will be held on March 28 & 29, 1974, from 9 a.m. to 5 p.m., at Hilton Hotel, 125 Copper, N.W., Albuquerque, New Mexico.

The National Advisory Council on Indian Education is established under section 401 of the Indian Education Act (P.L. 92–318, Title IV). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 318 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering Indian Education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other federal laws relating to Indian Education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The proposed agenda includes:

1. Planning final logistics for Part A, and non-local educational agencies proposals.
2. Proposal review and recommendations.
3. Working on Title IV rules and regulations for fiscal year, 1975.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Indian Education, located at 425 13th St., NW., Rm. 326, Washington, D.C. 20004).

Signed at Washington, D.C. on March 12, 1974.

DWIGHT A. BILLEDEAUX,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.74–6254 Filed 3–18–74;8:45 am]

Social Security Administration

HOSPITAL COSTS UNDER THE HEALTH INSURANCE PROGRAM

Proposed Schedule of Limits

Notice is hereby given that a Schedule of Limits on Hospital Costs in the Medicare program for cost reporting periods beginning (1) on and after the effective date of final regulations implementing section 223 of P.L. 92–603, and (2) before January 1, 1975, is set forth in tentative form as proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed Schedule of Limits on Hospital Costs applies only to routine services. Section 1861(v)(1) of the Social Security Act as amended by section 223 (Limitations on Coverage of Costs Under Medicare) of P.L. 92–603 (the Social Security Amendments of 1972) permits the Secretary to set prospective limits on overall provider costs or provider costs for specific items or services based on estimates of the costs necessary in the efficient delivery of needed health services. A separate schedule of limits will be issued for skilled nursing facilities and home health agencies prior to the beginning of the cost reporting period to which such limits would be applied.

To provide adequate sized comparison bases and to permit reasonable comparisons between providers within a group, a classification system which takes into account hospital size and economic environment was developed. A provider's location in a Standard Metropolitan Statistical Area is used as a proxy for an urban location while providers not located in a Standard Metropolitan Statistical Area are considered nonurban. A Standard Metropolitan Statistical Area is defined as a county or group of contiguous counties which contains at least one city of 50,000 inhabitants, or "twin cities" with a combined population of at least 50,000. A complete list of Standard Metropolitan Statistical Areas can be found in the publication *Standard Metropolitan Statistical Areas: 1967* as revised, which is available from the United States Government Printing Office, Washington, D.C. 20402. These two overall classifications are each subdivided into five State groupings with the States classified according to per capital income as follows:

STATE GROUP I

Washington, D.C.	New Jersey
Connecticut	Hawaii
New York	Illinois
Alaska	California
Nevada	

STATE GROUP II

Massachusetts	Washington
Maryland	Ohio
Delaware	Rhode Island
Michigan	Pennsylvania

STATE GROUP III

Kansas	Oregon
Minnesota	Missouri
Indiana	New Hampshire
Colorado	Virginia
Wisconsin	Florida
Iowa	Arizona
Nebraska	

STATE GROUP IV

Texas	Maine
Vermont	Utah
Wyoming	Idaho
Montana	North Carolina
Georgia	South Dakota
Oklahoma	

STATE GROUP V

Louisiana	South Carolina
Kentucky	Alabama
Tennessee	Arkansas
New Mexico	Mississippi
North Dakota	Puerto Rico
West Virginia	

Providers in each of the five State groups have been divided between those located in SMSA's and those not in SMSA's. These 10 geographical classes have been further divided into 7 bed-size categories resulting in a total of 70 groups in the classification system.

Under the authority of section 1861(v) of the Social Security Act as amended by P.L. 92–603, the following Schedule of Limits on Hospital Costs for general routine services is proposed for cost reporting periods beginning on and after the effective date of final regulations implementing section 223 of P.L. 92–603, and before January 1, 1975. (These limits do not apply to the cost incurred for special care or ancillary services.) The schedule of limits will be revised and reissued annually.

SCHEDULE OF LIMITS ON HOSPITAL COSTS

HOSPITALS LOCATED WITHIN SMSA'S

The following dollar limitations on routine service costs for hospitals located in *Standard Metropolitan Statistical Areas*, are applicable to cost reporting periods beginning on and after the effective date of final regulations implementing section 223 of P.L. 92–603.

Adjustment for non-calendar year providers: Where a hospital has a cost reporting period beginning after January 1, 1974, the limit would be adjusted upward by 9/10th of one percent of the ceiling rate for each month of the reporting year ending in the succeeding calendar year. Adjustments for non-calendar year providers must be calculated in dollars and cents. (Example: $83 is the ceiling for Hospital A's class for 1974. Hospital A's year begins October 1 and ends September 30. For the year ending September 30, 1975, the ceiling would be $89.72, i.e., $83 plus 9 months @ 9/10th of one percent per month or 8.1 percent of $83.)

Code	State	Bed size						
		Less than 55	55 to 99	100 to 169	170 to 264	265 to 404	405 to 684	685 or more
1	Alabama	$71	$74	$67	$74	$76	$74	$74
2	Alaska [1]							
3	Arizona	100	86	86	87	82	90	90
4	Arkansas	71	74	67	74	76	74	74
5	California	114	108	111	112	102	120	134
6	Colorado	100	86	86	87	82	90	90
7	Connecticut	114	108	111	112	102	120	134
8	Delaware	84	91	88	91	98	99	128
9	District of Columbia	114	108	111	112	102	120	134
10	Florida	100	86	86	87	82	90	90
11	Georgia	71	77	76	78	76	77	77
12	Hawaii	131	124	127	128	117	138	154
13	Idaho	71	77	76	78	76	77	77
14	Illinois	114	108	111	112	102	120	134
15	Indiana	100	86	86	87	82	90	90
16	Iowa	100	86	86	87	82	90	90
17	Kansas	100	86	86	87	82	90	90
18	Kentucky	71	74	67	74	76	74	74
19	Louisiana	71	74	67	74	76	74	74
20	Maine	71	77	76	78	76	77	77
21	Maryland	84	91	88	91	98	99	128
22	Massachusetts	84	91	88	91	98	99	128
23	Michigan	84	91	88	91	98	99	128
24	Minnesota	100	86	86	87	82	90	90
25	Mississippi	71	74	67	74	76	74	74
26	Missouri	100	86	86	87	82	90	90
27	Montana	71	77	76	78	76	77	77
28	Nebraska	100	86	86	87	82	90	90
29	Nevada	114	108	111	112	102	120	134
30	New Hampshire	100	86	86	87	82	90	90
31	New Jersey	114	108	111	112	102	120	134
32	New Mexico	71	74	67	74	76	74	74
33	New York	114	108	111	112	102	120	134
34	North Carolina	71	77	76	78	76	77	77
35	North Dakota	71	74	67	74	76	74	74
36	Ohio	84	91	88	91	98	99	128
37	Oklahoma	71	77	76	78	76	77	77
38	Oregon	100	86	86	87	82	90	90
39	Pennsylvania	84	91	88	91	98	99	128
40	Puerto Rico	76	79	72	80	82	80	80
41	Rhode Island	84	91	88	91	98	99	128
42	South Carolina	71	74	67	74	76	74	74
43	South Dakota	71	77	76	78	76	77	77
44	Tennessee	71	74	67	74	76	74	74
45	Texas	71	77	76	78	76	77	77
46	Utah	71	77	76	78	76	77	77
47	Vermont [1]							
48	Virginia	100	86	86	87	82	90	90
49	Washington	84	91	88	91	98	99	128
50	West Virginia	71	74	67	74	76	74	74
51	Wisconsin	100	86	86	87	82	90	90
52	Wyoming [1]							

[1] No Standard Metropolitan Statistical Areas for these States.

Schedule of Limits on Hospital Costs

Hospitals Located Outside SMSA's

The following dollar limitations on routine service costs for hospitals located outside *Standard Metropolitan Statistical Areas*, are applicable to cost reporting periods beginning on and after the effective date of final regulations implementing section 223 of P.L. 92–603.

Code	State	Bed size						
		Less than 55	55 to 99	100 to 169	170 to 284	285 to 404	405 to 684	685 or more
1	Alabama	$61	$58	$59	$65	$57	$57	$57
2	Alaska	132	116	125	107	102	102	102
3	Arizona	69	65	70	69	78	78	78
4	Arkansas	61	58	59	65	57	57	57
5	California	97	92	99	86	82	82	82
6	Colorado	69	65	70	69	78	78	78
7	Connecticut	97	92	99	86	82	82	82
8	Delaware	91	83	82	77	67	67	67
9	District of Columbia	97	92	99	86	82	82	82
10	Florida	69	65	70	69	78	78	78
11	Georgia	68	65	71	66	83	83	83
12	Hawaii	121	107	115	98	94	94	94
13	Idaho	68	65	71	66	83	83	83
14	Illinois	97	92	99	86	82	82	82
15	Indiana	69	65	70	69	78	78	78
16	Iowa	69	65	70	69	78	78	78
17	Kansas	69	65	70	69	78	78	78
18	Kentucky	61	58	59	65	57	57	57
19	Louisiana	61	58	59	65	57	57	57
20	Maine	68	65	71	66	83	83	83
21	Maryland	91	83	82	77	67	67	67
22	Massachusetts	91	83	82	77	67	67	67
23	Michigan	91	83	82	77	67	67	67
24	Minnesota	69	65	70	69	78	78	78
25	Mississippi	61	58	59	65	57	57	57
26	Missouri	69	65	70	69	78	78	78
27	Montana	68	65	71	66	83	83	83
28	Nebraska	69	65	70	69	78	78	78
29	Nevada	97	92	99	86	82	82	82
30	New Hampshire	69	65	70	69	78	78	78
31	New Jersey	97	92	99	86	82	82	82
32	New Mexico	61	58	59	65	57	57	57
33	New York	97	92	99	86	82	82	82
34	North Carolina	68	65	71	66	83	83	83
35	North Dakota	61	58	59	65	57	57	57
36	Ohio	91	83	82	77	67	67	67
37	Oklahoma	68	65	71	66	83	83	83
38	Oregon	69	65	70	69	78	78	78
39	Pennsylvania	91	83	82	77	67	67	67
40	Puerto Rico	65	63	63	70	61	61	61
41	Rhode Island	91	83	82	77	67	67	67
42	South Carolina	61	58	59	65	57	57	57
43	South Dakota	68	65	71	66	83	83	83
44	Tennessee	61	58	59	65	57	57	57
45	Texas	68	65	71	66	83	83	83
46	Utah	68	65	71	66	83	83	83
47	Vermont	68	65	71	66	83	83	83
48	Virginia	69	65	70	69	78	78	78
49	Washington	91	83	82	77	67	67	67
50	West Virginia	61	58	59	65	57	57	57
51	Wisconsin	69	65	70	69	78	78	78
52	Wyoming	68	65	71	66	83	83	83

The methodology shown for adjusting the limits applicable to hospitals located in *Standard Metropolitan Statistical Areas* also applies to hospitals located outside of *Standard Metropolitan Statistical Areas*.

Prior to the final adoption of the proposed Schedules of Limits on Hospital Costs, consideration will be given to any views and comments pertaining thereto which are submitted in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue, SW., Washington, D.C. 20201, within a period ending April 18, 1974.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue, SW., Washington, D.C. 20201.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

Dated: January 28, 1974.

Approved: March 12, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

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

[FR Doc.74-6249 Filed 3-18-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[74-70]

FUEL AND ELECTRICAL SYSTEMS PANEL, BOATING SAFETY ADVISORY COUNCIL

Notice of Meeting

A Technical Panel of the Boating Safety Advisory Council will hold its third meeting on Tuesday, March 26, 1974, in Room 4315, Buzzards Point Building, 2100 Second Street SW., Washington, D.C., beginning at 9 a.m.

The panel, as authorized by the Federal Boat Safety Act of 1971, was established to review proposed standards for fuel and electrical systems on recreational boats and to make technical recommendations to the Council. The panel will consist of both BSAC members and persons with expertise in the field. The meeting is open to the public.

Dated: March 13, 1974.

JOHN F. THOMPSON,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Boating Safety.

[FR Doc.74-6263 Filed 3-18-74;8:45 am]

National Highway Traffic Safety Administration

[Docket No. EX 73-5; Notice 4]

INTERMECCANICA AUTOMOBILI

Petition for Temporary Exemption for Motor Vehicle Safety Standards

The National Highway Traffic Safety Administration has decided to grant Intermeccanica Automobili an exemption of its Indra model from four Federal motor vehicle safety standards, until January 1, 1977.

Notice of Intermeccanica's previous petition and its denial were published in the FEDERAL REGISTER on June 19, 1973 (38 FR 15989) and September 17, 1973 (38 FR 26014). The earlier petition was denied on the basis that insufficient information had been submitted for the agency to decide that compliance would cause the petitioner substantial economic hardship. Petitioner submitted no analysis of what it would cost to verify compliance with Standards Nos. 201, 212, and 301, nor did it provide information to support its belief in its compliance with these standards. Finally, the petition did not submit the chronological design history related to Standard No. 215 necessary to a determination whether it had in good faith attempted to comply with the standard.

In response to the denial Intermeccanica submitted information to supplement its original petition. A further notice was published on December 12, 1973 (38 FR 34222) and an opportunity provided for comment. No comments were received.

Information provided by the petitioner in support of its belief of compliance with Standard Nos. 201, 212, and 301 had been reviewed, and in the opinion of NHTSA does not provide an adequate basis for the manufacturer to certify compliance with these standards. The NHTSA has determined that the test costs ($12,000 estimated by petitioner), plus inventory disposal and new dashboard tooling ($79,000 est.) necessitated by compliance with Standard No. 201 would create substantial economic hardship. With respect to Standards Nos. 212 and 301, costs of testing including destruction of a test vehicle are found to constitute a hardship to this petitioner. Although it is likely that the Indra complies with present Standard No. 301, the design may be inadequate for the requirements effective September 1, 1975. Accordingly, NHTSA is granting a temporary exemption from Standards Nos. 201, 212, and 301. As for Standard No. 215, to require inventory disposal and compliance on an emergency basis would apparently cost petitioner at least $120,000, creating a hardship for a company whose total assets at the end of 1972 totaled only $275,000. Since the care was originally designed for the German market and intended for distribution through selected Opel dealers, the question of whether petitioner attempted in good faith to comply with the standard before its effective date is not central to the

decision. Intermeccanica assures NHTSA that it intends to comply with Standard No. 215 upon expiration of the exemption. Accordingly, an exemption is also granted from Standard No. 215.

In consideration of the foregoing, Intermeccania Automobili is hereby granted NHTSA Exemption No. EX 73–5 from Motor Vehicle Safety Standards Nos. 201, 212, 215, and 301, expiring January 1, 1977.

(Sec. 3, Pub. L. 92–548, 86 Stat. 1159, 15 U.S.C. 1410; delegation of authority at 49 CFR 1.51.)

Issued on March 14, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74–6242 Filed 3–18–74;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (P.L. 92–463) and § 800.6(g) of the Advisory Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR 800) that a special meeting of the Advisory Council on Historic Preservation will be held on April 2 and 3, 1974 at 9:30 a.m. in Room 2008, New Executive Office Building, 726 Jackson Place NW., Washington, D.C.

The Advisory Council was established by the National Historic Preservation Act of 1966 (P.L. 89–665) to comment upon Federal, federally assisted and federally licensed undertakings having an effect upon properties listed in the National Register of Historic Places and to generally advise the President and Congress on matters relating to historic preservation. The Council's members are the Secretary of the Interior, the Secretary of Housing and Urban Development, the Secretary of the Treasury, the Secretary of Commerce, the Attorney General, the Secretary of Transportation, the Secretary of Agriculture, the Administrator of the General Services Administration, the Secretary of the Smithsonian Institution, the Chairman of the National Trust for Historic Preservation, and ten non-Federal members appointed by the President.

At its meeting, the Council will, in accordance with section 106 of the National Historic Preservation Act and sections 1(3) and 2(b) of Executive Order 11593, "Protection and Enhancement of the Cultural Environment" (36 FR 8921), consider the effect of the proposed construction of the Federal Home Loan Bank Board building by the General Services Administration in the 1700 Block of G Street NW., Washington, D.C., on properties included in and eligible for inclusion in the National Register of Historic Places. These properties include the Winder Building, the Old Executive Office Building, the Renwick Gallery, the Riggs National Bank and the Nichols Cafe. The Council will receive reports and statements on the undertaking in open session and then consider its comments in executive session. The executive session will be closed to the public, as it has been determined to fall within exemption 5 of 5 U.S.C. section 552(b) and to be essential to protect the free exchange of internal Council views. The remainder of the meeting will be open to the public and will involve reports of the Council staff on various matters relating to historic preservation.

Agenda and additional information concerning the meeting and the submission of oral and written statements to the Council are available from the Executive Secretary, Advisory Council on Historic Preservation, Suite 430, 1522 K Street NW., Washington, D.C. 20005, (202) 254–3974.

Dated: March 18, 1974.

ROBERT R. GARVEY, Jr.,
Executive Director.

[FR Doc.74–6499 Filed 3–18–74;10:54 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. 50–329A, 50–330A]

CONSUMERS POWER CO.

Order Resuming Evidentiary Hearings

MARCH 13, 1974.

In the matter of Consumers Power Co. (Midland Plant Units 1 and 2).

Take notice, the evidentiary hearings in this proceeding will resume on April 2, 1974, and proceed through April 5, 1974. It will then resume on April 9, 1974, and continue through April 11, 1974.

All sessions will commence at 9:00 a.m., local time, and will be held in the Lobby Room, Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015.

It is so ordered.

Dated at Washington, D.C., this 13th day of March 1974.

ATOMIC SAFETY AND LICENSING BOARD,
JEROME GARFINKEL,
Chairman.

[FR Doc.74–6227 Filed 3–18–74;8:45 am]

[Docket No. 50–331]

IOWA ELECTRIC LIGHT AND POWER CO., ET AL.

Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that the Atomic Energy Commission (the Commission) has issued Amendment No. 1 to the Facility Operating License No. DPR–49 to the Iowa Electric Light and Power Co., Central Iowa Power Cooperative and Corn Belt Power Cooperative (the licensees). This amendment authorizes the licensees to increase the amount of byproduct material they may receive, possess, and use in connection with operation of the Duane Arnold Energy Center located on the licensees' site near Palo in Linn County, Iowa. The amendment, effective as of the date of issuance, authorizes the receipt, possession and use of an additional four sources for a total of eight sources, each of 1200 curies of Antimony-124 in sealed sources.

The licensees stated in a letter to the Commission, dated March 13, 1974, that the existence and need for the additional four source pins was discovered subsequent to delivery of the sources to the site. Four source holders, each containing two (2) 1200 curie Antimony-124 source pins, are at the site and are necessary for startup of the Duane Arnold Energy Center. Therefore, Amendment No. 1 to Facility Operating License No. DPR–49 authorizing possession and use of eight (8) Antimony-124 source pins, each not to exceed 1200 curies is necessary.

The Staff's Safety Evaluation Report, upon the basis of which the original license was issued, is based upon the Final Safety Analysis Report which, on Page 3.3–14 of the text and in Figure 7.5.1 describes the correct number of sources for the Duane Arnold Energy Center. Accordingly, the Regulatory staff has determined that this amendment does not present a significant hazards consideration.

The Director of Regulation has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment.

The amendment is effective as of the date of issuance. The licensees' application for amendment, dated March 13, 1974, and a copy of Amendment No. 1 to Facility Operating Licensing No. DPR–49 are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20545, and at the Reference Service, Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401. Single copies of the amendment may be obtained upon request addressed to the United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 13th day of March, 1974.

For the Atomic Energy Commission.

WALTER R. BUTLER,
Chief, Light Water Reactors Project Branch 1–2, Directorate of Licensing.

[FR Doc.74–6277 Filed 3–18–74;8:45 am]

[Docket No. STN 50–437]

OFFSHORE POWER SYSTEMS

Notice and Order for Prehearing Conference

In the matter of Offshore Power Systems (Floating Nuclear Power Plants).

Notice is hereby given that the special prehearing conference required by § 2.751a of the Atomic Energy Commission's rules of practice, 10 CFR Part 2, which was begun on February 11, 1974 will be reconvened on April 9, 1974 at 10:00 a.m., local time, in Courtroom Number 2, Room 2142, of the United States Tax Court, 1111 Constitution Ave-

nue, NW., Washington, D.C. 20044. This prehearing conference will be conducted by the Atomic Safety and Licensing Board (the Board) and will consider the following matters:

1. The contentions raised in the outstanding petitions to intervene filed by the Atlantic County Citizens Council on Environment, the Atlantic County Board of Chosen Freeholders, and the City of Brigantine. In this connection the Board will entertain oral argument from the Applicant, the Staff, and the petitioners with regard to whether each contention meets the requirements of § 2.714(a) of the Commission's rules of practice, 10 CFR Part 2.

2. The Board will entertain oral argument on the petition to intervene filed by the State of New Jersey pursuant to § 2.715(c) of the Commission's rules of practice, 10 CFR Part 2.

3. The Board will also entertain oral argument from the petitioner for intervention National Resources Defense Council (NRDC), and from the Applicant and Staff regarding whether NRDC can properly be admitted as a party to this proceeding in view of the nature of the contention it is asserting in its petition. In particular, the Board wishes to be advised on whether the contention is premature.

Members of the public are invited to attend this prehearing conference as well as the evidentiary hearing to be held at a later date to be fixed by the Board. Members of the public wishing to make limited appearances pursuant to § 2.715 (a) of the Commission's rules of practice, 10 CFR Part 2, may identify themselves at this prehearing conference but oral or written statements to be presented by limited appearances will not be received at this conference. The Board will receive such statements at the aforementioned evidentiary hearing.

The attorneys for the respective parties and any petitioners for intervention are directed to confer in advance of this session of the special prehearing conference, in such manner as they may deem appropriate, and report to the Board at said conference on any stipulations regarding contentions and on any other mutually agreeable procedures to expedite this proceeding.

By Order of the Atomic Safety and Licensing Board.

Dated this 13th day of March, 1974 at Washington, D.C.

DANIEL M. HEAD,
Chairman.

[FR Doc.74-6228 Filed 3-18-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 26163 and 26164; Order No. 74-3-62]

HUGHES AIRWEST

Order To Show Cause and Granting Temporary Suspension

By application filed November 30, 1973, Hughes Airwest (Airwest) requests an amendment to its certificate of public convenience and necessity for route 76 so as to delete Aberdeen/Hoquiam, Washington, therefrom, and a temporary suspension of service at that point for a period of one year or until such time as the Board acts upon its application for deletion.

In support of its suspension application, Airwest alleges, *inter alia*, that Hoquiam averaged only 2.63 passengers per day and 1.94 per departure during the first nine months of 1973; that Hoquiam's entire history of traffic generation has been characterized by extremely low and declining local patronage because of its convenient access to the far superior services at the Seattle-Tacoma International Airport; that service to Hoquiam produces an estimated annual subsidy need of $42,872, or $25.34 per passenger served;[1] and that there is alternate transportation between Hoquiam and Seattle consisting of scheduled bus and commuter airline service.[2]

No answers to Airwest's application have been received.

Upon consideration of the pleadings and all the relevant facts, we have decided to grant Airwest the authority to suspend service temporarily at Aberdeen/Hoquiam, Washington. We find that the suspension will be in the public interest. We note, in this connection, that no person has objected to the temporary suspension and that such suspension will have a favorable impact on the carrier's subsidy need and will result in the conservation of scarce fuel supplies.

We have also decided to issue an order to show cause proposing to grant the requested deletion.[3] We tentatively find and conclude that the public convenience and necessity require the amendment of Airwest's certificate for route 76 so as to delete Aberdeen/Hoquiam therefrom.[4] The facts and circumstances which we have tentatively found to support our ultimate conclusion are as follows:

Hoquiam has never been a strong traffic generating point; since 1965 originations have exceeded six per day only twice, in 1968 and 1969. This low level of traffic indicates a depressed public need for certificated-type service and has resulted in uneconomic operations for Airwest. According to our estimate for the year 1973, deletion of Hoquiam would result in a subsidy need reduction of $31,000 or $18.25 per passenger.[5] There is no reason to believe that the traffic experience and the financial results of Airwest's Hoquiam service have any reasonable chance of meaningful improvement in the foreseeable future in light of the ample and convenient air and bus transportation alternatives available to Hoquiam travelers. The Seattle-Tacoma International Airport, a large air traffic hub, is approximately 105 surface miles (86 air miles) from Hoquiam, and travel time via Interstate 5 is approximately 126 minutes (after adjustment for the current speed limit of 55 miles per hour). Finally, the absence of civic opposition to Airwest's application lends support to our decision that the show cause procedure is appropriate.

Interested persons will be given twenty days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, and unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending the certificate of public convenience and necessity of Hughes Airwest for route 76 so as to delete Aberdeen/Hoquiam, Washington, therefrom;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions or certificate amendments set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve upon all persons listed in paragraph 6 a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections; [6]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in

[1] Airwest indicates that the subsidy need per passenger at Hoquiam is over five times greater than the average for its subsidy-eligible system.

[2] Gross Aviation provides four daily round trips between Hoquiam and Seattle (OAG, February 1, 1974) and Greyhound Bus Line operates four round trips in the market.

[3] The suspension authority granted herein will remain in effect until after finalization of this show cause order.

[4] We also tentatively find that Airwest is fit, willing, and able properly to perform the air transportation authorized by the certificate proposed to be issued herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.

[5] In addition, Airwest estimates that there will be an annual fuel savings of 59,104 gallons if Hoquiam is deleted.

[6] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests or petitions for reconsideration of this order will be entertained.

accordance with the tentative findings and conclusions set forth herein;

5. Hughes Airwest be and it hereby is authorized to suspend service temporarily at Aberdeen/Hoquiam, Washington, until 60 days after final decision on its deletion application in Docket 26163;

6. A copy of this order shall be served upon Hughes Airwest; Governor, State of Washington; Mayor, City of Aberdeen; Mayor, City of Hoquiam; Airport Manager, Bowerman Field; Manager, Port of Gray's Harbor; Chairman, Utilities & Transportation Commission, State of Washington; and the U.S. Postal Service; and

7. The authority granted in paragraph 5 above may be amended or revoked at any time at the discretion of the Board without hearing.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-6280 Filed 3-18-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP 74-208]

HONEOYE STORAGE CORP.

Notice of Application

MARCH 12, 1974.

Take notice that on February 15, 1974, Honeoye Storage Corporation (Applicant), 35 Newbury Street, Boston, Massachusetts 02116, filed in Docket No. CP74-208 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to construct and operate certain facilities for the storage of natural gas in the Honeoye field located in Ontario County, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate certain pipeline and compressor facilities to convert the Honeoye field, a nearly depleted gas field, into a storage field which Applicant would manage and operate for three New York City area utilities, Consolidated Edison Company of New York, Inc., The Brooklyn Union Gas Company, and Long Island Lighting Company (the Utilities).

Applicant states it has acquired the working interest and storage rights in the Honeoye field, as well as an 8-mile 8-inch pipeline associated with it. Applicant proposes to buy from the Utilities 3,3000,000 Mcf of gas, at a price of 60 cents per Mcf, which will be used for the proposed storage field's cushion gas requirements. The application states that 3,000,000 Mcf of top storage capacity in said field will be made available to the Utilities for storage of their own gas. In this regard, Applicant states that each of the Utilities will be permitted to inject up to 1,000,000 Mcf of gas into the storage field and may withdraw up to a maximum of 6,677 Mcf of gas per day.

Applicant requests authorization to operate the subject storage field up to a maximum storage volume of 6,300,000 Mcf of gas in place at a maximum reservoir pressure to 660 psia. The application states that ultimate design withdrawal capacity is estimated to be 20,000 Mcf per day and 3,000,000 Mcf annually.

Applicant states that the Honeoye field includes 36 wells, of which 28 will be converted to injection-withdrawal wells and 8 to observation wells. As all these wells are currently producing small quantities of gas, applicant states that no additional drilling will be required. Applicant proposes, however, to construct 2.5 miles of 8-inch pipeline extending an existing 8-inch line to connect with Tennessee Gas Transmission Company's (Tennessee) pipeline east of Tennessee's main value 235 and to replace approximately 3 miles of the existing pipeline. Additional field facilities to be constructed at the Honeoye storage field site include a compressor station, not to exceed 2,500 horsepower, and an associated building; a central meter station; a small equipment and administration building; and modifications to the gathering system consisting of the replacement of approximately 6.5 miles of various sizes of lines.

Applicant states that Tennessee will transport a portion of the Utilities firm gas supplies whenever deemed available for injection, generally in the summer, to Applicant's point of connection with Tennessee's system near main value 235. Applicant will transport the subject gas from this point for injection and storage in the Honeoye storage field. During the winter heating season Applicant will redeliver volumes of top storage gas to Tennessee at this same point of interconnection. This gas will then be delivered to the Utilities by displacement on the Tennessee system at existing delivery points.

Applicant states that it proposes to manage and operate the proposed storage field on a gas storage service basis and that it will neither buy nor sell top storage gas. Applicant proposes to charge the Utilities on a monthly basis for said service with the rate to be the sum of a demand charge which shall be 4.184 cents per Mcf multiplied by the maximum quantity of gas stored during the month and a charge of 1.01 cents per Mcf for gas designated for injection into or withdrawal from Applicant's storage facility during the month. Applicant states that there will be an additional charge of 2.0 cents per Mcf of gas injected or withdraw in excess of authorized volumes. The application states that the cost to the Utilities for the proposed service will be approximately 52 cents per Mcf of 100 percent withdrawal load factor.

The application states further that gas from the Honeoye field is currently being used to supply 32 farm-residential customers and six commercial customers near the town of Honeoye and Bristol, New York. Applicant states that the requirements of these customers are approximately 50,000 Mcf per year and that service to said customers by the present owners of the Honeoye field will be phased out over a two-year period as such customers convert to another fuel.

The application states that the estimated cost of the proposed project is $5,570,000 and that funds required for the acquisition and construction of the proposed facilities will be obtained from the private sale of $900,000 of common stock and the issuance of twenty-year debt securities in the amount of $4,500,000.[1]

Any person desiring to be heard or to make any protest with reference to said application should on or before April 1, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-6212 Filed 3-18-74;8:45 am]

[1] Twenty-three and one-third percent of the issued and outstanding shares of the common stock of Applicant will be sold to each of the Utilities for a purchase price of $300,000. Each of the Utilities will acquire one-third of the total debt securities issued by Applicant for a purchase price equal to their original face value, or, in the alternative, each of the Utilities will arrange for the acquisition of its portion of such indebtedness by private investors. Neither the exact form of the debt securities nor the rate of interest that such securities will bear has been determined. Nevertheless, Applicant estimates that the rate of interest will not exceed 9.25 percent. Upon completion of the proposed financing, the ratio of long-term debt to total capitalization would be approximately 80.8 percent. The balance of the capitalization would consist of common equity.

[Docket Nos. CS 71-878 etc.]

HURLEY PETROLEUM CORP. ET AL.

Order Cancelling FPC Gas Rate Schedule

MARCH 12, 1974.

In the matter of Hurley Petroleum Corporation, Car-Tex Producing Company, Texas Eastern Transmission Corporation, Arkansas Louisiana Gas Company, *Docket Nos.* CS71-878, CI73-431, CI73-558, CI61-1379, CI73-578, CP74-15, and CI73-578.

On January 22, 1974, the Commission issued an order pursuant to the Natural Gas Act in the above-docketed proceeding approving a settlement submitted by the parties of the issues involved, permitting and approving abandonment, issuing a certificate of public convenience and necessity, and dismissing show cause proceedings.

As part of the approved settlement, the order (Paragraph 2) granted Car-Tex Producing Company (Car-Tex) Permission and approval to abandon service to Arkansas Louisiana Gas Company (Arkla), as requested by Car-Tex in its application filed in Docket No. CI73-578. Paragraph 4 of the order terminated the certificate issued in Docket No. CI61-1379 to Car-Tex originally authorizing said service to Arkla. Since the certificate was cancelled, it is now appropriate to cancel the related rate schedule.

The Commission's orders:

Car-Tex Producing Company's FPC Gas Rate Schedule No. 4 is cancelled.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-6213 Filed 3-18-74;8:45 am]

[Docket No. CI74-272]

PENNZOIL PRODUCING CO.

Order Granting Interventions and Setting Hearing Date

MARCH 12, 1974.

Pennzoil Producing Company (Pennzoil) on December 26, 1973, filed an amendment to a October 19, 1973, application pursuant to sections 4 and 7 of the Natural Gas Act [1] and § 2.75 [2] of the Commission's General Policy Statements, the Optional Procedure for Certificating New Producer Sales of Natural Gas set forth in Commission Order No. 455,[3] for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce to Trunkline Gas Company (Trunkline). The sale is to be made from lands and leaseholds dedicated under a contract dated February 9, 1955, designated FPC Gas Rate Schedule No. 70. The gas to be sold from this acreage is located in the East Edinburg and San Carlos Fields, Hidalgo County, Texas (Texas Gulf Coast Area).

Pennzoil proposes to sell the gas at an initial price of 45 cents per Mcf at 14.65 psia with 2.0 cent biennial escalations starting October 1, 1974. The contract provides for proportional downward adjustment if the Btu content falls below 1000 Btu per cubic foot, and 75 percent reimbursement of any new or additional taxes levied after January 1, 1965. The contract, which may be canceled if certification is not granted by the Commission, will expire under its own terms on January 1, 1981. Under the amendment the contract may be extended by the parties on a yearly basis thereafter. Finally, Pennzoil seeks pre-granted abandonment upon the termination of the contract.

Notice of Pennzoil's application was published November 9, 1973, and published in the FEDERAL REGISTER on November 16, 1973 (38 FR 31708). Petitions to intervene were due on or before December 4, 1973. A petition in support of the application was filed by Trunkline, and a petition in opposition to the application was filed by the American Public Gas Association (APGA). Neither party stated a request for hearing on this application in their respective late petitions.

The Commission has determined that a public hearing on this application is in the public interest in order to permit Pennzoil the opportunity to present evidence that a well has been drilled and that there is commercially reliable surface information as the result of production to establish the reservoir data in accordance with commonly accepted trade practices. It will also be necessary for Pennzoil to show that new production pursuant to certification under a § 2.75 proceeding will not impinge, diminish, or impair Pennzoil's ability to fulfill its contract obligations [4] to Trunkline under the 1955 contract which dedicated this acreage. The Commission has not granted abandonment of production pursuant to proceedings under section 7(b) of the Natural Gas Act.

The Commission finds:

(1) It is necessary and in the public interest that the above-docketed proceeding be set for hearing.

(2) It is desirable and in the public interest to allow the above named petitioners to intervene in this proceeding.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14, and 16 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR Ch. I), Docket No. CI74-272 is set for the purpose of hearing and disposition.

(B) A public hearing on the issues presented by the application herein shall be held commencing on April 9, 1974, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(C) A Presiding Law Judge to be designated by the Chief Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(D) Pennzoil and the intervenor supporting the application shall file their direct testimony and evidence on or before March 22, 1974. All testimony and evidence shall be served upon the Presiding Judge, the Commission Staff, and all parties to this proceeding.

(E) The Commission Staff, and the intervenor opposing the applications, shall file their direct testimony and evidence on or before March 29, 1974. All testimony and evidence shall be served upon the Presiding Judge, and all other parties to this proceeding.

(F) All rebuttal testimony and evidence shall be served on or before April 5, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony upon the Presiding Judge, the Commission Staff, and all other parties to this proceeding.

(G) The above named petitioners are 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 asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *Provided, further,* That the admission of such interest shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(H) The amendment between Pennzoil and Trunkline dated September 6, 1973, is accepted for filing effective as of the date of initial delivery or the date of authorization, whichever is later, and designated as Supplement No. 26 to Pennzoil Producing Company (Operator) *et al.* F.P.C. Gas Rate Schedule No. 70.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-6214 Filed 3-18-74;8:45 am]

Note—Federal Power Commission continues on page 10328

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[1] 15 U.S.C. sec. 717, *et seq.* (1970).

[2] 18 CFR 2.75.

[3] Statement Of Policy Relating To Optional Producer For Certificating New Producer Sales Of Natural Gas, Docket No. R-441, ____ F.P.C. ____ (issued August 3, 1927), appeal pending *sub nom.* John E. Moss, *et al.*, v. F.P.C., No. 72-1837 (D.C. Cir).

[4] Opinion And Order Reversing Initial Decision, And Denying Certificate Of Public Convenience And Necessity For Proposed Sale, Docket No. CI73-501, Opinion No. 690 (issued February 26, 1974).

CONSUMER PRODUCT SAFETY COMMISSION

GLASS CONTAINERS FOR CARBONATED BEVERAGES AND OTHER PRESSURIZED CONSUMER PRODUCTS

Notice of Public Hearing

Notice is given that a public hearing will be held on Wednesday and Thursday, April 17 and 18, 1974, at 10 a.m. in the Department of Commerce Auditorium, 14th and E Streets NW., Washington, D.C., to discuss the safety of glass containers (and their closures) for pressur-

ized products, particularly bottles for carbonated soft drinks and malt beverages but also including other containers such as bottles for champagne and sparkling wines and glass containers for aerosol products.

The hearing will be held pursuant to sections 10(a) and 27(a) of the Consumer Product Safety Act (Public Law 92–573, 86 Stat. 1217, 1227; 15 U.S.C. 2059(a), 2076(a)).

1. *Carbonated soft drink bottles.* The Commission has received information relating to the safety hazards of carbonated soft drink bottles. The information has been obtained principally from the following sources:

a. *National Commission on Product Safety (NCPS).* The NCPS stated that glass bottles for carbonated soft drinks present large risks of injury to consumers. Although the proportion of bottle failures is small relative to the total number of filled containers distributed, the great number of containers filled (about 25 billion in 1972) can result in a large number of accidents and injuries. The NCPS suggested that quality assurance programs should be improved and that nonreturnable glass containers should be made with thicker walls (Final Report of the National Commission on Product Safety, pp. 17–18 (1970); NCPS Supplemental Studies, vol. II, pp. 397–438; and NCPS Hearings, vol. 6B, pp. 439–587, vol. 7, pp. 109–129).

b. *National Electronic Injury Surveillance System (NEISS).* During the period July 1, 1972, through June 30, 1973, an estimated 111,000 injuries associated with glass containers were treated in hospital emergency rooms throughout the United States. Of these, an estimated 52,000 were associated with carbonated soft drink bottles. In-depth investigations of a sampling of NEISS-reported cases and investigations made by independent contractors suggest that half of the latter injuries may have been associated with exploding bottles.

c. *Consumer complaint letters.* The figures in the table below summarize bottle-failure cases reported to the Bureau of Product Safety, Food and Drug Administration, from January 1970 through April 1973. The variability from year to year in the number of reports received may be a result of intermittent publicity on this subject in newspapers and magazines. For example, a March 1973 article in *Consumer Reports* that directed consumers to send bottle-failure reports to FDA's Bureau of Product Safety resulted in the high number of such reports shown in the table for the first third of 1973.

About one-third of the reports failed to include any pertinent description of the product involved; however, 62 reports (39 percent) specifically mentioned nonreturnable bottles. Only 14 cases (9 percent) cited returnable bottles. Accordingly, nonreturnable bottles are apparently more susceptible to failure than returnable bottles.

The 60 injury cases reported include a range of injuries from minor cuts and bruises to permanent blindness in one eye (four cases). Most of the reports cited bottles that exploded after being at rest for some period of time or while being subjected to normal and expected handling.

Eight instances of cap or crown failures were reported. Six of these involved caps that blew off the bottle during opening. Seven of the eight complaints in this category cited some degree of injury ranging from a minor cut to permanent blindness in one eye.

Bottle explosions were reported by consumers as follows:

Year	Cases reported	Injuries reported	Cases specifying nonreturnable bottles
1970	53	27	25
1971	13	7	5
1972	21	8	8
1973 (4 months)	71	18	24
Totals	158	60	62

2. *Malt beverage bottles.* The Commission has received information relating to the safety hazards of malt beverage bottles. The information has been obtained principally from the following sources:

a. *Adolph Coors Company.* On October 23, 1973, the Commission received a petition from the Adolph Coors Co. (set forth at the end of this notice) expressing concern about the hazards inherent in malt beverage bottles that require the petitioner to undertake unusually close inspection of bottles in order to maintain container quality standards. The petitioner therefore requests the Commission to develop a consumer product safety standard on malt beverage bottles or ban such containers entirely. The petition and correspondence related to it are available for public inspection at the Office of the Secretary, Consumer Product Safety Commission, Room 1025, 1750 K Street NW., Washington, D.C. 20207 (phone (202) 634–7700).

b. *NEISS.* NEISS does not have a product report category specifically for malt beverage bottles. Injuries from such bottles reported to NEISS-participating hospitals were probably entered in the category reserved for glass bottles other than carbonated soft drinks. Two of the in-depth investigations out of the 28 on file in this category referred to malt beverage bottles, but were associated with already broken bottles.

3. *Other pressurized glass containers.* The Commission has received some information on hazards associated with other glass containers with contents under pressure. The small amount of information came from the following sources:

a. *NEISS.* One of the 48 in-depth investigations in the carbonated soft drink bottle category (referred to in 1–b above) deals with an injury from a seltzer bottle. The bottle exploded, lacerating the victim on her calf and arm.

b. *Consumer complaint letters.* One of the consumer complaint letters referred to in 1–c above (but not included in the table) cited a sparkling wine bottle. The victim suffered a detached retina when the stopper blew off at the time the bottle was opened.

The scheduled hearing will assist the Commission in determining (1) whether glass containers for carbonated beverages and other pressurized consumer products present an unreasonable risk of injury to the public and thus warrant promulgation of a consumer product safety standard and (2) whether the petitioner's request for a safety standard on malt beverage bottles should be granted. The Commission would like to receive further information on these topics as well as all viewpoints and arguments on these matters from individuals, consumer groups, beverage bottlers, distributors, glass container manufacturers, marketers, retailers, trade associations, and other interested parties, all of whom are encouraged to attend.

The Commission is particularly interested in information relevant to the following topics:

1. Accidents or injuries associated with the sale to or use by consumers of such bottles. Sources of information could include injury information, consumer complaints, and reports of accidents or injuries during production and distribution that might suggest a potential hazard to consumers.

2. Manufacturing practices and standards relevant to glass container safety for consumers. This could include information about existing standards and quality control practices and information about the relative safety of different types of containers.

3. Technological innovations that have potential for increased glass container safety in the applications under discussion. This could include discussion of new packaging systems and changes in quality control practices.

The Commission is interested in obtaining any other information which could assist in its determining whether an unreasonable risk of injury exists and to what extent regulation may be necessary.

Persons who wish to submit views on these as well as more general aspects of glass container safety are invited to do so. All interested persons are invited to observe the hearing. Persons interested in presenting testimony or in attending the hearing as observers are requested to write or call Mr. Russell Smith, Office of Standards Coordination and Appraisal, Consumer Product Safety Commission, Washington, D.C. 20207 (phone (301) 496–7197). The hearing will be conducted by a member or representative of the Commission and transcribed by a stenographer. Witnesses will not be questioned by other participants.

Those wishing to make an oral presentation must submit a copy or outline of their presentation and request a specific amount of time for such presentation by April 10, 1974. The Commission invites anyone, including persons unable to attend the hearing, to present written

comments for the Commission's consideration. Such written material must be accompanied by a summary of not more than 250 words. All comments submitted for the hearing record must be received by close of business April 10, 1974.

In the event that space available for the hearing cannot accommodate all who wish to attend, attendance will be determined according to the order in which requests for attendance are received.

Dated: March 14, 1974.

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

The petition from Adolph Coors Co. reads as follows:

OCTOBER 11, 1973.

MR. RICHARD SIMPSON,
Chairman, Consumer Product Safety Commission,
1750 K Street,
Washington, D.C. 20004.

DEAR MR. SIMPSON: One of the primary concerns of our company has always been the safety aspects of the glass container and its use in the packaging of our malt beverage product. It is felt that we are facing up to this concern and our responsibility to assure product safety in the market place through the use of a comprehensive total quality control program. This program has been in existence for the past several years with the objective of obtaining a pressurized glass container with "adequate" internal pressure and impact resistance characteristics to achieve our desired standard of product safety.

With the advent of the Consumer Product Safety Act (Public Law 92-573, 86 Stat. 1221; 15 U.S.C. 2064b), additional quality control techniques and procedures were incorporated into our program to further reduce and eliminate the risks of consumer injury associated with our glass container packages. Top priority has always been given to the glass container because by its very nature it presents a high risk of consumer injury if not properly recognized and dealt with.

Providing ourselves with a quantity of glass bottles that we feel to be safe is getting to be more of a nightmare with each passing day. The arbitrary quality standards and specification guidelines established by the glass container manufacturing industry are wholly inadequate from our standpoint, and we have been forced to establish our own standards of acceptance. As a consequence, the glass container manufacturers have refused to meet our specifications and have continually threatened to discontinue shipment of bottles to us. Many glass container manufacturers have bluntly expressed that they would not supply bottles to us because the demand for "commercially acceptable" containers exceeds the supply and they can sell them elsewhere without placing undue hardships and controls upon their manufacturing operations.

Extreme emphasis in glass container quality and safety has been placed upon all our remaining suppliers through the stringent adherence to material specifications and incoming inspection enforcement procedures. Each shipment or lot of glass containers either upon receipt or within the suppliers manufacturing facility prior to shipment is randomly sampled by us in accordance with recognized sampling plans (MIL-STD 105D and/or 414). Lot disposition is made in accordance with critical defect criterion (which relates directly to the substantial hazard definition of PL 92-573 and the hazard category, level III or IV per MIL-STD 882). When a single defect is found which falls in this critical category, the lot from which the sample is drawn is either 100% sorted or screened for additional critical defects prior to its use on our bottle filling lines, or a "return to supplier" disposition is executed. To-date, we have determined that approximately 26% of the total lots inspected by the above procedure require 100% sorting or return to the supplier because of the critical type defects found.

Substantial costs are being incurred by our company to inspect the safety into both empty and full glass containers. In the past two years, millions of dollars have been spent in our continuing effort to achieve this goal. As a matter of competitive survival, we will be required to submit a justification for a price increase on our glass container packages to the Cost of Living Council for their consideration. Presently, we have over forty people on our payroll who perform nothing but the sorting requirements described. Our difficulties in obtaining satisfactory glass bottles have caused us to be critically short in our market place. It is our experience that each bottle must be inspected and tested to verify its structural integrity prior to each use, and even then the bottle cannot be designated as a safe unit in the marketplace due to forseeable misuse in handling by the retailer and/or consumer. Due to the state of the art in glass container manufacture, there is no way of assuring a 100% safe product when a carbonated product is packaged in glass. I am sure that if carbonated beverages were invented today, glass would be the last material that anyone would package in because of the consumer safety aspects. The only reason we continue to package in glass is for hedging against the Oregon Bill-type legislation which is being considered in every state that we distribute our product.

The definition of substantial hazard and the requirements associated with it as delineated in the Federal Register, Vol. 38, No. 149, would place carbonated bottlers in a daily situation of notification to your Director of the Bureau of Compliance and product recall. Based upon the results of our incoming and resident inspection techniques in conjunction with 300% inspection and test of empty and full glass container in-process, it is felt that we are probably releasing a significant quantity of defective filled bottles to our consumers which could be defined as substantial product hazards under the Act.

We strongly feel that compatible manufacturing and performance safety standards on malt beverage glass containers are desperately needed from the agency to assist in establishing a unified system for controlling bottle manufacture and "as used" bottle integrity to meet the requirements and purposes of the Act; otherwise, the use of such containers should be banned entirely. Several attempts have been made to initiate voluntary standards through our trade association membership without success.

We have the above experience and the related test, inspection, and performance data for dissemination to you and your staff if you so desire, to assist in the establishment of such standards. We would also welcome the opportunity to discuss this subject with you or your designated representatives at your earliest convenience.

Your assistance and guidance on this situation will be appreciated.

Cordially,

GARRY VEBER,
Vice President,
Quality Control and Assurance.

[FR Doc.74-6304 Filed 3-18-74;8:45 am]

COST OF LIVING COUNCIL

FOOD INDUSTRY WAGE AND SALARY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the Food Industry Wage and Salary Committee, established under the authority of section 212(f) of the Economic Stabilization Act, as amended, section 4(a)(iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet on Thursday, March 21, 1974. The meeting will be open to the public on a first-come, first-served basis at 10 a.m., in Conference Room 8202, 2025 M Street NW., Washington, D.C.

The agenda will consist of a discussion of policy questions involving food industry wage matters, and if circumstances permit, of food industry wage cases pending before the Cost of Living Council.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business.

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

HENRY H. PERRITT, Jr.,
Executive Secretary,
Cost of Living Council.

[FR Doc.74-6453 Filed 3-15-74;5:00 pm]

[Cost of Living Council Order No. 51]

DEPUTY EXECUTIVE SECRETARY

Delegation of Authority

Pursuant to the authority vested in me as Executive Secretary by Cost of Living Council Order No. 25, there is hereby delegated to the Deputy Executive Secretary authority to determine, in accordance with the provisions of the Federal Advisory Committee Act (P.L. 92-463, 86 Stat. 770), that advisory committee meetings shall be closed and to sign notices with respect to advisory committee meetings for publication in the FEDERAL REGISTER.

This order is effective March 18, 1974.

HENRY H. PERRITT, Jr.,
Executive Secretary
Cost of Living Council.

[FR Doc.74-6462 Filed 3-18-74;9:55 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-32000/25]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Ro-

denticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB–37, East Tower, 401 M Street, SW, Washington, D.C. 20460.

On or before May 20, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under section 3(c)(1)(D) against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held until May 20, 1974, before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after May 20, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 241–EGG. American Cyanamid Company, Agricultural Division, P.O. Box 400, Princeton, New Jersey 08540. *Cygon 400 Systemic Insecticide.* Active Ingredients: Dimethoate (O,O-dimethyl S-(N-methylcarbamoylmethyl) phosphorodithioate) 43.5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 5481-RAT. Amvac Chemical Corporation, 4100 E. Washington Blvd., Los Angeles, California 90023. *Wettable Sulfur Agricultural Insecticide—Fungicide.* Active Ingredients: Sulfur 97.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 9232–1. Federal International Chemicals, 2451 South Ashland Avenue, Chicago, Illinois 60608. *Conquest.* Active Ingredients: Methylodecylbenzyl Trimethyl Ammonium Chlorides 3.2%; Potassium Carbonate 1.5%; n-alkyl (50% C12, 30% C14, 17% C16, 3% C18) Dimethyl Ethylbenzyl Ammonium Chlorides 1%; n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 1%; Didecyl Dimethyl Ammonium Chloride 1%; Tetrasodium Ethylenediaminetetraacetate 1%; Methyldodecylxylylene Bis (Trimethyl Ammonium Chloride) 0.8%; Essential Oil 0.2%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 3288–L. Murphy Chemical Company, 1530 Locust Street, Philadelphia, Pennsylvania 19102. *Mur-Sanex Disinfectant-Deodorizer-Sanitizer.* Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33799–R. Stratford-Cookson Company, 2000 Sullivan Road, College Park, Georgia 30337. *Straticide Germicidal Concentrate.* Active Ingredients: Cetyl Dimethyl Ethyl Ammonium Bromide 7%; n-Alkyl (C12 50%, C14 30%; C16 17%; C18 3%) Dimethyl Benzyl Ammonium Chloride 7%; Isopropyl Alcohol 2%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 148–RRAI. Thompson-Hayward Chemical Company, 5200 Speaker Road, Kansas City, Kansas 66106. *Roach and ant Spray.* Active Ingredients; O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidmyl) phosphorothioate 0.500%; prethins 0.052%; technical piperonyl butoxide (equivalent to .209% (butylcarbityl) (6-propylpiperonyl) ether and .052% other related compounds) 0.261%; petroleum distillate 98.400%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6735–ERI. Tide Products, Inc., P.O. Box 1020, Edinburg, Texas 78539. *Tide Expander.* Active Ingredients: O,O-dimethyl O-p-nitrophenyl thiophosphate 13.95%; Tovaphene 55.80%; Xylene 26.40%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: March 12, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74–6054 Filed 3–18–74;8:45 am]

DDT TO CONTROL THE PEA LEAF WEEVIL

Action on Application for Limited Use Registration

Notice is hereby given that the Environmental Protection Agency (EPA) will register Crop King Colloidal DDT–400 for use on dry peas to control the pea leaf weevil, *Sitona Lineata* (L), in the States of Washington and Idaho during the 1974 growing season. This registration will be formally approved upon submittal of finished labelling meeting EPA's requirements. It will expire June 30, 1974.

BACKGROUND

On January 25, 1974, EPA received an application to register Crop King Colloidal DDT–400 for use on dry peas to control the pea leaf weevil, *Sitona Lineata* (L.), in the States of Washington, Idaho, and Oregon during the 1974 growing season. This product previously had been registered for the same use in the States of Washington and Idaho during the 1973 growing season; this previous registration expired August 1, 1973.

Notice of the receipt of this application was published February 12, 1974, in the FEDERAL REGISTER (FR 5338). In addition, a public hearing was held February 15, 1974, in Spokane, Washington, to give interested parties an opportunity to provide relevant information and present their views. Testimony was received from State officials, pea growers' groups and individual pea growers, representatives of Crop King Chemicals and the Environmental Defense Fund, and research entomologists affiliated with the State universities.

SUMMARY

Crop King Colloidal DDT–400 is being registered for limited use. The applicable limitations are described below and will be set forth in the labelling accompanying this product. Pursuant to section 12(a)(2)(G) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, use of this product in a manner inconsistent with its labelling is unlawful.

This registration is being approved under section 3 of FIFRA, as amended, which, by regulation published April 10, 1973, was made immediately effective with respect to all uses of DDT products.

In an order dated June 14, 1972, the EPA Administrator cancelled registrations of most uses of DDT. EPA's decision to register DDT to control the pea leaf weevil is based on consideration of all available information pertinent to this matter, examined in light of the terms of the June 1972 order. The basis of this decision is more fully explained below.

It should be noted that this product is being registered for use only in the States of Washington and Idaho. Though the application was accompanied by labels for use in Oregon, as well, neither the State of Oregon nor any representative of pea growers in Oregon has requested that the registration be made effective for Oregon. It is EPA's understanding that the pea leaf weevil has not been a significant agricultural or economic problem in Oregon and is not expected to pose such problems during the 1974 growing season.

As explained more fully below, testing of other pesticides will be undertaken during the 1974 growing season. This testing will be designed to identify other pesticides that can be registered, prior to the 1975 growing season, for use in controlling the pea leaf weevil.

DESCRIPTION AND BIOLOGY OF THE PEA LEAF WEEVIL

The pea leaf weevil is an introduced pest of peas, first detected at economically damaging levels in the dry pea-producing areas of eastern Washington and northern Idaho in 1970. The pea leaf weevil continued to cause damage to pea seedlings grown in this region in the succeeding three growing seasons. The mixture of perennial legumes (e.g., dry peas) and annual legumes (e.g., dry peas) grown in this region favor recurrent infestations by providing a constantly available food source for pea leaf weevil development.

The pea leaf weevil has a single generation per year. It overwinters in the adult stage, hibernating in areas of vegetation, debris, fence rows, field stubble, etc. In early spring (mid-March), the adults become active and begin feeding on alfalfa and winter peas. As the spring pea crop develops, adult weevils leave the winter peas and perennial legumes to feed

on the more succulent plant tissue of the dry pea seedlings. At some time during mid to late May, large numbers of adult weevils commonly migrate into mid-season pea fields through active flight. It is during this period that infestation usually is most serious. Under severe infestation pressures (i.e., three or more weevils per seedling), the pea seedling, including the terminal buds of the plant, may be completely defoliated, resulting in total loss of the seedling. There are indications that 60 to 75 percent of pea plants in infested fields may be destroyed by adult pea leaf weevil feeding.

Since the pea leaf weevil is a recently introduced pest in this region, relatively little is known about the relationship of the weevil to its environment. Studies are being conducted, principally at the University of Idaho, to determine, among other things: (1) The impact of climatic and biotic factors on weevil survival and the predictive value of these factors as they relate to weevil abundance; (2) the economic threshold of weevil infestation; and (3) the impact of the weevil on dry pea yields.

Available data indicate that pea leaf weevil populations have been reduced in the past by severe cold, low precipitation, and short-duration high and low temperatures. In this regard, it should be noted that the pea growing region, while relatively small in terms of land area, encompasses areas of widely varying altitude and climatic conditions. Thus, factors affecting dry pea culture and the occurrence and control of weevil infestation are not uniform throughout the region. Survival of pea leaf weevil larvae appears to be adversely affected by high temperature and low relative humidity. Thus, hot dry weather during the period of larval development may cause significant mortality. Extremely moist soil conditions have prevailed during the 1973–74 winter season. These conditions have favored the development of a fungal parasite, *Beauveria bassiana*, of the adult pea leaf weevil. This parasite has been isolated from a number of weevils collected during the 1973–74 winter season. The significance of all these factors and their predictive value for decisions on chemical treatment or integrated pest management programs remain to be determined.

Though it is clear that pea leaf weevils can cause substantial damage to dry pea crops, the impact of weevil defoliation in terms of crop yields has not been adequately documented. Normal yields range from 1200 to 1600 pounds per acre. Growers' estimates indicate a potential loss of 600 to 800 pounds per acre in the absence of pest control. Research entomologists at the University of Idaho have tentatively established an economic injury threshold level for pea leaf weevil damage at one weevil per plant. But this is not an absolute figure. When favorable growing conditions exist, i.e., a warm, dry spring, with good seedbed preparation, pea seedlings are capable of outgrowing the defoliation damage caused by weevil feeding. Further research is planned to evaluate the impact of factors such as plant resistance, climate, and plant growth vigor on the validity of this threshold level.

Possible Control Methods

1. *Chemical controls.* The pea leaf weevil has been long established in the pea growing areas of Europe. It has required chemical control for a number of years. Dieldrin and heptachlor have been used to control the pest in Europe. These pesticides have not been tested in the eastern Washington-northern Idaho region. Furthermore, both are at least as persistent as DDT and appear to be more acutely toxic to more forms of life than is DDT.

Because DDT was known to be a broad-spectrum pesticide toxic to many types of pests, it was quickly adopted as a control agent once the pea leaf weevil became established in the dry pea producing area. Pea growers developed a high degree of reliance on DDT when weevil infestations assumed serious proportions in the region in 1971 and 1972. Some control failures were experienced in the spring of 1972, when cold wet weather prevailed and poor seedbed preparation was commonplace.

Evaluation of chemical compounds against the pea leaf weevil began in 1971 at the U.S. Department of Agriculture laboratory at Yakima, Washington. DDT, methoxychlor, parathion, and malathion ULV were tested. A rather superficial knowledge of the biology and habits of the insect caused many problems in this early experimentation. Meaningful sampling methods had to be devised, and appropriate timing and methods of application had to be developed. As a result, it was not until 1973 that a meaningful testing program got underway.

In 1973, there was a rather warm, dry spring. These conditions favored the rapid development of germinating pea seedlings and thus minimized the exposure of the seedlings to pea leaf weevil injury. Under these rather optimum conditions of seedling development, several chemical compounds appeared to provide control of the pea leaf weevil. These chemical compounds included methoxychlor, Imidan, malathion ULV, and DDT. The 1973 test results give promise that an alternative to DDT can be found, but one year's results under the rather atypical growing conditions experienced in the spring of 1973 do not form an adequate basis for the registration of a product. The results of the 1973 research program are summarized below:

a. *Methoxychlor.* This insecticide was evaluated in limited field tests as a wettable powder and as an emulsifiable concentrate. Applications of 1.5 pounds actual insecticide per acre gave adequate control under 1973 growing conditions, but tests under the 1972 growing conditions resulted in some control failures. There is a 14 ppm tolerance for methoxychlor on peas.

b. *Imidan.* This pesticide was not extensively tested prior to 1973. Applications of one pound actual insecticide per acre gave good control in small plot tests during the 1973 growing season. The manufacturer has petitioned for establishment of a tolerance for Imidan on peas. This petition currently is being processed.

c. *Malathion ULV.* There was very limited field testing of this compound during the 1973 growing season. Under the conditions that prevailed during these tests, malathion ULV performed in a satisfactory manner. Attempts to control the pea leaf weevil in commercial plantings in 1971 and 1972 did not prove to be satisfactory, however. It is not clear why the compound failed during attempts at commercial control. Indications are that timing of applications may be a critical factor in successful use of malathion ULV. There is an 8 ppm tolerance for malathion on peas.

d. *Temik (Aldicarb).* This systemic insecticide in small plot tests appeared to give satisfactory control of the pea leaf weevil. Additional tests are required to determine the appropriate dosage for this compound. Preliminary evaluation of residue samples has been completed, but a petition for establishment of tolerances has not been submitted as yet.

e. *Methyl Parathion.* An encapsulated product containing methyl parathion received a preliminary evaluation in the 1972 growing season. These tests merely indicated that the product is capable of killing pea leaf weevils but did not indicate whether it would work under actual field conditions. The encapsulated product is not yet registered for any uses. There is a 1 ppm tolerance for methyl parathion (not encapsulated) on peas.

f. *DDT.* This compound is the only chemical that has been widely used by pea growers. Though there were instances of control failure with DDT during the 1972 growing season, it was used successfully the following year. It was also included in the field tests conducted during the 1973 growing season and performed satisfactorily in these tests. Among the chemicals that could be considered candidates for use in the 1974 growing season, DDT is the only one now known to have sufficient residual activity to protect the pea crop during the entire two- to three-week period of maximum susceptibility to injury from the pea leaf weevil. There is a 7 ppm tolerance for DDT on peas.

2. *Biological controls.* Research during the 1973 growing season identified a fungus disease of the adult pea leaf weevil. There are preliminary indications that this disease could contribute to a collapse in the population of the pea leaf weevil. Additional evaluations of the impact of this disease on the pea leaf weevil will be made in 1974.

3. *Crop resistance.* During the 1973 growing season, preliminary tests of pea breeding stocks for resistance against the pea leaf weevil were conducted. These tests gave little indication of resistance in any of the breeding stock. Additional observations will be made during the 1974 growing season. Plant tolerance and other approaches will be investigated.

RISK/BENEFIT ASSESSMENT

In June 1972, the EPA Administrator found that there were substantial risks associated with the use of DDT. Specifically, he found that DDT has acute and subacute effects on aquatic and avian species and that it can have adverse effects on reproduction of certain birds. He also found that laboratory tests had indicated that DDT produces tumors in test animals and, therefore, is a potential human carcinogen. DDT's tendency to persist in the environment was—and still is—a cause for particular concern about its adverse effects.

Based on the findings set forth in the June 1972 Order, the Administrator concluded that the use of DDT on cotton and most other crops should be cancelled in order to eliminate the great bulk of the U.S. contribution to DDT contamination of the global environment. In his order, however, it was recognized that there would have to be exceptions to this general policy.

Such exceptions can be made for those situations in which the benefits outweigh the risks because of factors such as the unavailability of practical alternatives; the possibility of a food shortage if DDT were not used; the implications of shifting to an alternative crop; the temporary nature of the proposed use of DDT; and the possibility of minimizing environmental impact through restrictions on the proposed use. With reference to these criteria, EPA's findings as to the proposed use of DDT to control the pea leaf weevil are as follows:

1. There is no reason to depart from the findings of the June 1972 order regarding the potential risks of using DDT. Ecologically, the pea-producing region is one in which the potential risks appear to be relatively small. It is a semi-arid region with rainfall of about 15–20 inches per year, most of which occurs in winter and early spring. It is not a major watershed. There is just one major stream, the Palouse River, which is not significant as a fishery. Most others are intermittent streams which are dry through much of the year. Thus, there is relatively little potential for significant DDT contamination of aquatic ecosystems. The region is intensively farmed. There are few trees and little vegetation that might serve as wildlife habitat. No endangered wildlife species are known to live in the region, although some minimal foraging by peregrine falcons has been reported.

2. All the chemicals that have been used or tested appear to be toxic to the pea leaf weevil. There are, unfortunately, few statistical data correlating the use of any chemical control method with dry pea yields. With the exception of DDT, no other chemical has been widely used under the various growing conditions commonly occurring in the pea-producing region. Furthermore, DDT is the only one which, based on currently available data, is known to have sufficient residual activity to provide assurance of protection against the pea leaf weevil for more than 7–10 days after application. In addition, it is clear that knowledge of non-chemical control methods is insufficient to warrant reliance on them at this time.

3. The acreage planted in the eastern Washington-northern Idaho region generally accounts for about 95 percent of total U.S. producton of dry peas, and, during the past two years, about 13 to 15 percent of worldwide production. Thus, the crop grown in this region meets practically the entire U.S. demand for dry peas. In addition, as much as 70 percent of the crop ultimately is exported. Dry peas are an important source of high-quality vegetable protein and, in this regard, are particularly important in countries that do not produce sufficient quantities of animal protein to meet their own needs or where the price of animal protein severely limits its consumption. Several such countries, including Great Britain, Venezuela, Japan, and Netherlands, and Brazil, are among the principal importers of dry peas grown in the United States. It is estimated that as many as 200,000 acres of dry peas will be planted in the eastern Washington-northern Idaho region this year. Testimony at EPA's hearing suggested that actual acreage will depend on the availability of means of protecting the crop against an infestation of the pea leaf weevil.

4. In addition to their significance as a food crop, dry peas are economically and agriculturally important in the region. Two cash crops can be grown each year. One is winter wheat; the other can be either dry peas or spring barley. From an economic standpoint, spring barley is far less valuable than dry peas. At February 1974 prices, the comparative values were $101 per acre for spring barley and $380 per acre for dry peas. From an agricultural standpoint, dry peas are far more effective than spring barley as a cover crop to prevent soil erosion, which is a chronic problem in the rolling terrain of the region. In addition, dry peas provide nitrogen to the soil, thus reducing the fertilizer requirements of the winter wheat crop; in contrast, spring barley is nitrogen-depleting.

5. The proposed use is temporary. Registration of DDT for use in controlling the pea leaf weevil will expire June 30, 1974. Possible alternative chemical control methods will be tested during this year's growing season. This testing program is being designed specifically for the purpose of identifying other chemicals that can be registered for this use prior to next year's growing season. Since several chemicals appear promising based on previous testing, it is EPA's expectation that adequate data to register one or more of them will be available later this year.

6. Environmental risks in this case can be minimized through the limitations which EPA is imposing on this use of DDT. Among other things, these limitations are designed to ensure, insofar as possible, that DDT is used only where it is actually needed, i.e., in those fields where the existence of an economically significant infestation is verified by a trained field scout in accordance with sampling procedures and treatment criteria specified by EPA. Exceptions to this requirement will be allowed only if an infestation resulting from an in-flight of pea leaf weevils in a particular area exceeds the field scouts' capacity to check individual fields; even in such cases, however, the field scouts will have to verify the existence of an areawide infestation and obtain permission from the appropriate State regulatory agency to operate under area-wide verification procedures before DDT applications can be authorized or made. It is estimated that such a field scouting program has the potential for reducing the use of DDT by 20 percent or more below the amount that otherwise would be used. Only individuals knowledgeable in dry pea culture will be eligible to serve as field scouts; in addition, all field scouts will have to complete a field survey training program to be conducted by Dr. L. E. O'Keeffe, Associate Research Entomologist, University of Idaho, and director of research relating to pests of edible legumes. EPA expects to have three professional personnel on full-time duty as field survey officers in the pea-producing region, primarily to oversee the activities of the field scouts but also to monitor other aspects of the use of DDT. Field representatives of fertilizer and chemical companies and seed producers and processors will be eligible (after completion of the training program) to serve as field scouts. EPA recognizes the potential conflict of interest associated with this arrangement. It is EPA's position, however, that the field scouting system, which includes specific requirements as to field sampling and treatment criteria (see appendix), coupled with the activities of EPA's field survey officers, provides sufficient safeguards against needless or excessive use of DDT. In this regard, it should be noted that field scouts who authorize DDT treatment under conditions inconsistent with the limitations imposed by EPA (see appendix) will be barred from further participation in the field scouting program.

ENVIRONMENTAL MONITORING

Environmental monitoring in the pea-producing region will be conducted under the auspices of EPA. Emphasis will be placed on determining DDT levels in soil, stream sediment, and small mammals. Samples will be taken before treatment, two weeks after treatment, and 3–4 months after treatment.

RESEARCH

As indicated above, a testing program aimed at identifying alternatives to DDT will be conducted during the 1974 growing season. This program will be designed specifically to gather sufficient data to support the registration of one or more alternative pesticides prior to the 1975 growing season. Dr. L. E. O'Keeffe, Associate Research Entomologist, University of Idaho, will direct the program. Financial support is being provided by the University of Idaho, the U.S. Department of Agriculture, the Washington and Idaho Pea and Lentil Commissions, and

EPA. The following is an outline of the anticipated testing program:

a. The following insecticides will be tested:

i. methoxychlor
ii. Imidan
iii. malathion ULV
iv. DDT

b. Small plot testing will encompass comparative tests of all 4 insecticides plus untreated check plots. A minimum of 3 aerial application and 3 ground application tests will be conducted. Aerial application plots will be a minimum size of 1 acre each. Ground plots will be a minimum size of 200 sq. ft. each. Each insecticide, plus the untreated check plot, will be replicated 3 times in a randomized pattern, within any individual test.

c. Commercial plot testing will consist of tests in which the alternative insecticide is compared to DDT. A minimum of 3 aerial application and 3 ground application tests will be conducted for each of the alternative insecticides. Aerial and ground plots will not be replicated. Aerial plots will be a minimum size of 10 acres each. Ground plots will be a minimum size of 5 acres each.

d. Plot location will be selected to represent the geographically diverse areas of pea production; the range of the planting season; and the stand age or susceptibility.

e. Pea leaf weevil control will be determined by making pre-treatment counts and post-treatment counts at 3, 7, and 14 days to reflect the percentage reduction of adult weevils and period of residual effectiveness fir every insecticide tested.

f. Sampling will be completely randomized. The number of samples will be commensurate with plot size, so that statistical analysis is possible. Sampling data for small plot testing will attempt to correlate pea leaf weevil control to leaf damage and crop yield. Commercial plot sampling need relate only insecticide treatment to pea leaf weevil control.

g. Phytotoxicity readings will be made for all insecticides tested to determine the impact of the insecticide on pea stand count, stunting of plant growth, and leaf burn or chlorosis.

h. Crop yield sampling will be taken to determine the impact of the insecticides on the quantity and quality or appearance of the peas produced.

i. Taste evaluations will be made for Imidan treatments to insure that no adverse flavor has been imparted to the peas treated with this compound.

In addition, chemicals regarded as possible long-range alternatives to DDT for adult pea leaf weevil control will also be tested during the 1974 growing season. They include encapsulated methyl parathion, Temik, Thimet, Furadan, Diazinon, endosulfan, and Guthion. Testing of these chemicals will be designed to determine their pesticidal activity, appropriate dosage, and phytotoxic effects.

Conclusion

Based on all of the foregoing considerations, EPA has concluded that it is appropriate to allow the use of DDT to control the pea leaf weevil under the conditions, and subject to the limitations, specified herein. DDT labelling will be required to show all the applicable limitations. Registration will be formally approved only after submittal of finished labelling meeting this requirement.

Dated: March 14, 1974.

Russell Train,
Administrator.

Appendix

Limitations on the use and distribution of DDT

1. Registration of Colloidal DDT–400 is valid only for the States of Washington and Idaho and only for control of the dry pea leaf weevil on dry peas, including seed peas.

2. Registration is valid for use of DDT only in the following counties: In the State of Washington: Adams, Asotin, Benton, Columbia, Franklin, Grant, Spokane, Walla Walla, and Whitman; in the State of Idaho: Benewah, Clearwater, Idaho, Kootenai, Latah, Lewis, and Nez Perce. Additional counties may be included upon the presentation to the Regional Administrator, EPA Region X, of information showing, to his satisfaction, the presence of pea leaf weevil infestation and the existence of an economic threat to dry pea culture.

3. Registration is valid only through June 30, 1974. Sale or use of DDT after this date is prohibited.

4. There shall not be more than a single application of DDT to any portion of a field regardless of weather and growing conditions.

5. Application rate is limited to one quart (one pound actual DDT) per acre.

6. All applications of DDT shall be made by pesticide applicators licensed by the States of Washington or Idaho or holders of use permits issued by one of these States.

7. Colloidal DDT–400 is formulated specifically for aerial application. Aerial applications shall be made only under the following conditions:

a. Use 5–10 gallons of water per acre.

b. Do not apply when temperature is over 85 degrees F. or when wind velocity is over 7 miles per hour.

c. Minimum nozzle orifice size shall be 0.094 inches. Nobles shall be directed downward and backward 135 degrees or more from the direction of flight.

d. Do not apply within one swath width of fish-bearing streams.

8. All DDT applications shall be made in accordance with all applicable State laws and regulations.

9. DDT shall be applied only after permission to do so has been given by an authorized field scout. Such permission shall be granted only if the field to be treated meets the following minimum treatment criteria:

a. To determine the extent of pea leaf weevil infestation, a minimum of 5 samples must be taken in any field of 50 acres or less. In fields larger than 50 acres, the number of samples must be proportionate to field size but shall be at least six samples.

b. There must be an average of at least 0.5 weevils per plants based on all samples taken in the field, or portion of the field, to be authorized for treatment.

c. General feeding damage, as manifested by leaf notching or terminal growth injury, must be evident over the majority of the area to be authorized for treatment.

d. If the majority of the plants have reached the 8-leaf stage, and if terminal growth points are not seriously damaged, treatment with DDT would be considered unnecessary and therefore prohibited.

e. It is anticipated that, prior to the weevil fly-in period (usually mid-to-late May), fields may only be marginally infested. Permission to apply DDT therefore shall be limited to those portions in which an infestation meeting these criteria has been detected.

f. Depending on the number of authorized field scouts, the need for individual field inspections, at some point during the growing season, may exceed the field scouts' capacity to perform such inspections in a timely manner. This could occur when peak weevil in-flight periods during mid-to-late May results in epidemic-level infestations in a particular area. Under these conditions, the requirement for individual field inspections may be suspended in favor of an area-wide inspection and authorization procedure. This procedure would require inspection of representative fields within the area where an epidemic-level infestion is said to exist. When field scouts verify that such conditions exist in a particular area, they shall obtain permission from the appropriate State Department of Agriculture to operate under area-wide inspection and authorization procedures. The State agency shall promptly notify Dr. L. E. O'Keeffe, Associate Research Entomologist, University of Idaho, and the EPA Regional Office that epidemic levels of infestation have been identified and that area-wide inspection and authorization procedures have been implemented. Such suspension of the requirement for individual field inspections shall remain in effect only until it is possible to resume individual field inspections. EPA field scouting officers shall determine when any such suspension shall be terminated.

Scouting

1. Individual field inspections shall be conducted at the grower's request by field scouts bearing credentials issued by the States of Washington or Idaho and attesting that the bearer has satisfactorily completed a training program conducted by Dr. L. E. O'Keeffe, Associate Research Entomologist, University of Idaho. Only persons knowledgeable in dry pea culture shall be eligible to act as field scouts.

2. EPA expects to have three field scouting officers on duty in the dry pea-producing region to oversee field scouting activities. These individuals will be responsible for checking at random the treatment decisions and authorizations made by field scouts, monitoring compliance with the treatment criteria set forth herein, and generally overseeing the distribution and use of DDT. EPA's field scouting officers shall have access to any field in which DDT treatment has been authorized and/or applied.

3. EPA field scouting officers will notify licensed DDT applicators of the names of any field scouts found to have issued authorizations to use DDT under conditions inconsistent with the minimum treatment criteria. Applying DDT upon authorization from any field scout who has been the subject of such notification shall constitute misuse of the product and shall make the applicator liable to civil penalty under section 14(a)(1) of FIFRA, as amended.

4. Each field scout shall complete, in duplicate, a field inspection record for each field, or portion thereof, inspected. This record shall contain the following information:

a. Name and signature of the field scout.

b. Name and signature of the farm owner or operator.

c. Date of the inspection.

d. Description of the field location.

e. Total number of samples.

f. Number of weevils recovered in each sample.

g. Number of acres requiring treatment.

h. Field diagram showing the location of

the samples and area to be treated.

i. A statement as to whether or not DDT treatment was authorized.

5. For each field, or portion thereof, for which DDT treatment is authorized, the field scout shall issue the farm owner or operator written authorization to apply DDT. This authorization shall be effective for a maximum period of four days and shall specify the location of the field and the number and location of the acres to be treated. This written authorization must be signed by both the field scout and farm owner or operator to be valid.

6. Each field scout shall maintain a list of all fields inspected each day. This list and the corresponding field inspection records shall be immediately provided to any EPA field scouting officer upon request.

Distribution

1. No technical DDT shall be sold or otherwise made available to growers, dealers, applicators, or other persons. Aside from the Crop King Chemical Company, no person shall be authorized to purchase or otherwise obtain technical DDT from any source whatsoever.

2. DDT applicators shall be required to sign a register attesting that they have read the labelling and understand it and that they will use DDT in compliance with all applicable limitations. They shall be required to make reports to the appropriate State Department of Agriculture regarding date, location, rate and total amount of each application.

3. Crop King shall maintain records showing amount and date of each purchase of technical DDT; amounts of formulated DDT produced; and amount and date of each sale of formulated DDT and name and location of the purchaser.

4. Dealers shall maintain similar records accounting for all DDT received and sold.

5. Crop King and all dealers shall provide one copy of each such record to the appropriate State Agriculture Department and one copy to the EPA Regional Office on a biweekly basis. These records will be available for public inspection in the EPA Regional Office.

6. All unused technical DDT shall be returned to the manufacturer (Montrose Chemical Company).

7. All formulated DDT not used will be returned to Crop King, where it will be held until such time as a disposal plan acceptable to EPA is developed. Crop King shall maintain records of all formulated DDT returned.

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FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01004---	Aktieselskabet Dux: *Skaga.*
01232---	Rolf Wigands Rederi A/S: *Rolwi.*
01255---	Skjelbreds Rederi A/S: *Nortrans Enterprise, Nortrans Gloria.*
01318---	Aug. Bolten, Wm. Miller's Nachfolger: *Marietta Bolten.*
01328---	Pergamos Shipping Co., Ltd.: *Theodore A.S.*
01421---	Bibby Line Ltd.: *Lincolnshire.*
01449---	The Cairn Line of Steamships Ltd.: *Ionic, Canopic, Cedric.*
01608---	D' Amico Societa di Navigazione: *Giovanni D' Amico, Maria Carla D' Amico.*
01709---	Capoverde Compania Naviera: *Splendid Breeze.*
01854---	Southern Towing Co.: *STC 2014.*
01935---	Partnership between SS Company Svendborg Ltd. & SS Co.: *Effie Maersk.*
02227---	Hermes Navegacion S.A.: *Dona Marika.*
02286---	China Union Lines, Ltd.: *Kaohsiung Victory.*
02314---	A/S Athene (Jorgen Bang): *Anco Ariadne.*
02439---	Bereederungs-Alliance Flensburg GmbH: *Birk.*
02453---	The Turnbull Scott Shipping Co., Ltd.: *Flower Gate.*
02585---	Koch Refining Co.: *AOR-35.*
02858---	Intermarine, Inc.: *Fidelity.*
02868---	Trader Navigation Co., Ltd.: *Vancouver Trader.*
02888---	Stolt Nielsons Rederi A/S: *Stolt Heron.*
02956---	Ashland Oil: *STC 2015, STC 2518, STC 2019, STC 2509.*
02982---	The Shipping Corp. of India Ltd.: *Andhra.*
03241---	Viriks Rederi A/S: *Sandefjord.*
03256---	Upper Mississippi Towing Corp.: *UM-97.*
03257---	Hennepin Towing Co.: *HT-60, HT-905, HT-94.*
03263---	Marepoca Compania Naviera S.A.: *Kavo Alkyon.*
03264---	Mardevoto Compania Naviera S.A.: *Kavo Delfini.*
03289---	Det Forenede Dampskibsselskab A/S: *Skyros, Petunia.*
03350---	North Breeze Navigation Co., Ltd.: *North Breeze.*
03452---	Kyoei Tanker K. K.: *Gen-Ei Maru.*
03467---	Nichiro Gyogyo K. K.: *Hiroshima Maru.*
03501---	Osaka Shosen Mitusi Senpaku K. K.: *Mikagesan Maru.*
03510---	Takeda Kigyo Kabushiki Kaisha: *Seishomaru No. 7.*
03566---	Skibsaktieselskapet Aino, Skibsaksjeselskapet Viator, Skibsaksjeselskapet Viva: *Amica.*
03633---	Peniatex Barge Line, Inc.: *UM 79 B.*
03679---	Miami Terminal Transport Co.: *Freeport II.*
03705---	Grundstads Rederi A/S: *Gruno Reidar.*
03764---	Amphion Shipping Corp.: *Phoevos.*
03912---	Alvega Steamship Corp.: S.A. Panama: *Alvega.*
04040---	Halfdan Ditlev Simonsen & Co.: *Vincita.*
04080---	Port Arthur Towing Co.: *Triton.*
04208---	Partenreederei M.V. Alsterdamm: *Alsterdamm.*
04276---	Rivtow Straits Ltd.: *Alberni Carrier, Straits Traveller.*
04433---	Allied Chemical Corp.: *MG 24, MG 21, Barge AC 12, MG 23, Barge S.S. 100, ETT 103, ETT 108, ETT 109, ETT 110, Barge ARC 87, Barge ARC 88, Barge ARC 90, Barge ARC 93, Barge ARC 95.*
04468---	Kotoshiromaru Gyogyo Kabushiki Kaisha: *Kotoshiromaru No. 11.*
04477---	Murayone Suisan Kabushiki Kaisha: *Kaiseimaru No. 13.*
04488---	Fukuju Kigyo Kabushiki Kaisha: *Fukuju Maru No. 7.*
04489---	Otoshiro Gyogyo Kabushiki Kaisha: *Otoshiro Maru No. 1.*
04491---	Fukumaru Gyogyo Kabushiki Kaisha: *Fukumaru No. 5.*
04497---	Daikokumaru Gyogyo Seisan Kumiai: *Daikokumaru No. 80.*
04502---	Kotoshiro Gyogyo Kabushiki Kaisha: *Kotoshiro Maru No. 5, Kotoshiro Maru No. 8.*
04511---	Showa Gyogyo Kabushiki Kaisha: *Showa Maru No. 6.*
04512---	Seiju Gyogyo Kabushiki Kaisha: *Seijumaru No. 3.*
04513---	Hinode Gyogyo Kabushiki Kaisha: *Hinode Maru No. 53.*
04518---	Tokusui Kabushiki-Kaisha: *Kakimaru No. 11.*
04534---	Mr. Shouzou Suzuki: *Miyojimaru No. 18.*
04536---	Mr. Shoji Ishiwata: *Shinkomaru 31.*
04537---	Mr. Tokuo Kanazawa: *Koeimaru No. 38.*
04540---	Mr. Toyofumi Kato: *Kyowamaru No. 17.*
04541---	Mr. Kusuiji Kato: *Seiyumaru No. 12.*
04594---	The Valley Line Co.: *MV 283, MV 288, New Orleans, Louisiana, MV 281, MV 284.*
04601---	American Tunaboat Association: *Courageous.*
04889---	Cory Brothers & Co. (Italy), Ltd.: *Sympathy.*
05220---	Jeannette Compania Maritima S.A.: *Olympias.*
05274---	Fluor Drilling Services, Inc.: *Wodeco I, Wodeco II, Wodeco IV, RIG 56, Western Offshore No. VIII.*
05275---	Fluor Ocean Services, Inc.: *WB 103, Sanford No. 2, WB 110, DB 4, Ranger, WB 107, WB 108.*
05297---	Caribbean Navigation Co., Ltd.: *Bernice M.*
05425---	Georgia Transporters, Inc.: *GT-115, GT-121.*
05484---	Union Partenreederei MS Bremerhaven: *Bremerhaven.*
05485---	Union Partenreederi MS Nordenham: *Nordenham.*
05684---	Epirotiki Steamship Co. George Potamianos: *Neptune.*
05850---	Partenreederei Kuhl MS Ravenna/Polarstern: *Polarstern.*
05851---	Partenreederei Kuhl MS Ravenna/Polarlicht: *Polarlight.*
06440---	Dampskibskitiskabet Den Norske Afrika A/S Tonsberg, A/S Tankfart I, A/S Tankfart IV, A/S Tankfart V: *Tatra.*
06443---	Erjac Ocean Lines Ltd.: *Ingrid.*
06446---	Nike International Ocean Co., S.A.: *Seadragon.*
06541---	Kaigai Gyogyo Kabushiki Kaisha: *Kaisei Maru No. 18.*
06560---	Apollo Transport Corp.: *New Guinea Trader.*
06570---	Kristian Jebsen (UK) Ltd.: *Spraynes, Sharpnes, Saltnes, Bulknes, Surenes, Leknes, Tonnes, Mornes, Sealnes, Brimnes, Bernes, Swiftnes, Furunes.*
06596---	Issei Kisen K.K.: *Yuyo Maru, Chokai Maru.*
06821---	Anglo Eastern Bulkships Ltd.: *Naess Viking, Naess Ambassador.*
06853---	Shipping Co. Knud I. Larsen: *Peter Sif.*
07255---	Teh Tung Steamship Co., Ltd.: *Oceanic Suez.*
07359---	Empresa Insulana de Navegacao: *Acores, Mauricio de Oliveira, Rodriques Cabrilho.*
07467---	Dae Wang Fisheries Co., Ltd.: *Dae Wang No. 202.*

Certificate No.	Owner/operator and vessels
07471---	Navieros Progresivos S.A.: *Kavo Longos, Kavo Peiratis, Kavo Maleas, Kavo Kolones.*
07495---	Donald L. Ferguson Cruises Ltd.: *Xanadu.*
07515---	Nitto Hogei Kabushiki Kaisha.: *Ryuhomaru No. 3.*
07516---	Akitsu Gyogyo Kabushiki Kaisha: *Akitsu Maru No. 7.*
07582---	MSSS Co., S.A.: *Sea Bird No. 5.*
07811---	Campbell Industrics and San Diego Marine Construction Corp.: *Coos Bay.*
07880---	Logicon, Inc.: *NBC 903, Chotan 1658.*
08359---	Operation Tankers Ltd.: *Tama.*
08472---	Societe Generale Marocaine de Peches: *Azaiz, Kanz.*
08590---	Dongmyung Won Yang Fisheries Co., Ltd.: *Dong Myung No. 77.*
08722---	Seiyu Gyogyo Kabushiki Kaisha: *Sei Yumaru No. 12.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-6274 Filed 3-18-74;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01152---	Neptune Maritime Co. of Monrovia: *Thetis.*
01169---	Oriens Societa di Navigazione P.A.: *Mare Arabico, Mare Caribico, Mare Artico.*
01255---	Skjelbreds Rederi A/S: *Nortrans Kathe.*
01305---	Royal Mail Lines Ltd.: *Britannic, Majestic.*
01466---	Common Brothers (Management) Ltd.: *Vento di Maestrale, Vento di Scirocco.*
01758---	Chotin Transportation, Inc.: *M/G 21, M/G 23, M/G 24.*
01823---	Aretusa S.P.A. Palermo: *Aretusa.*
01854---	Southern Towing Co.: *STC 2015.*
01935---	Partnership between Steamship Co. Svendborg Ltd. and Steamship Co. of 1912 Ltd.: *Gjertrud Maersk.*
01982---	AB Svenska Ostasiatiska Kompaniet: *Tamara.*
01991---	Malmros Rederi Aktiebolag: *Malmros Monsoon.*
02013---	Granges AB: *Porjus, Tarjala.*
02038---	Polskie Linie Oceaniczne: *Major Sucharski.*
02041---	"Dalmor" Przedsiebiorstwo Polowow Dalekomorskich I Uslug Rybackich: *Perseus.*
02138---	Sioux City and New Orleans Barge Lines, Inc.: *Robert Crown.*
02153---	Vale Do Rio Doche Navegacao S/A: *Docebarra.*
02198---	The Peninsular & Oriental Steam Navigation Co.: *Nigaristan, Tabaristan.*
02519---	S.A. Louis Dreyfus & Cie: *Louis LD.*
02827---	National Bulk Carriers, Inc.: *Robert Craig.*
02855---	Great Pacific Shipping Co.: *Pacglory.*
02862---	Ocean Shipping & Enterprises, Ltd.: *Ocean Enterprise.*
02902---	Alamo Chemical Transportation Co.: *Alamo 2200, Alamo 2201.*
02956---	Ashland Oil, Inc.: *Tri-State.*
02958---	Kawasaki Kisen Kaisha, Ltd.: *World Crown.*
03245---	Rederiaktieselskabet Dannebrog: *Marselisborg.*
03294---	Companhia de Navegacao Lloyd Brasileiro: *Lloyd Bage.*
03301---	Prudential Grace Lines, Inc.: *Santa Rita.*
03422---	Daiwa Kaiun Kabushiki Kaisha: *Ponape Maru, Tahiti Maru.*
03474---	Nippon Suisan K.K.: *Teshio Maru.*
03482---	Ryutsu Kaiun K.K.: *Sonoda Reefer.*
03690---	Harbor Tug and Barge: *Deck Barge 406.*
03883---	Ohio Barge Line, Inc.: *OBL, 910B.*
04040---	Halfdan Ditlev-Simonsen & Co.: *Vincita.*
04041---	Compania Peruana de Vapores: *Rimac.*
04080---	Port Arthur Towing Co.: *AMY, MS-12, MS-15, Sydalise Frederman.*
04085---	Navigazione Mongerbino S.P.A.: *Nai Monreale.*
04160---	Marine Transport Co.: *C J D 503.*
04179---	Ory Bros. Marine Service, Inc.: *Fueler 3.*
04289---	Dixie Carriers, Inc.: *DXE-161 BDC, DXE-162 BDC.*
04420---	Navigazione Alta Italia S.P.A.: *Nai Assia, Nai Giovanna, Nai Mara, Nai Maria Amelia.*
04490---	Seiyu Gyogyo K.K.: *Seiyumaru No. 12.*
04625---	American Commercial Lines, Inc.: *Dan J. Hogan, Richard C. Young, W. O. Watson.*
04649---	Eagle Steamship Co. S.A.: *Kapetan Stamatis.*
04783---	Destiny Tankers Ltd.: *Shabonee.*
04803---	Brent Towing Co., Inc.: *B821, B921, B1120.*
04880---	Oljekonsumenternas Forbund: *Oktavius.*
05003---	Wisconsin Barge Line, Inc.: *Joseph Hendrick.*
05004---	Flowers Transportation, Inc.: *Rusty Flowers.*
05098---	Esso Tankers, Inc.: *Esso Hong Kong, Esso Indonesia.*
05147---	Arne Presthus Rederi A/S: *Anna Presthus.*
05274---	Fluor Drilling Services, Inc.: *Mr. Mel, Western Offshore No. I.*
05278---	Twin City Barge & Towing Co.: *Morning Star.*
05281---	Slade, Inc.: *S. 2017, S. 2018, S. 2019, S. 2020.*
05345---	L. Figueiredo Navegacao S.A.: *Jurua*
05431---	Tidewater Construction Corp.: *Barge 53, Barge 54.*
05472---	National Shipping Corp.; *Karotua, Ravi.*
05549---	Polska Zegluga Morska: *Beskidy.*
05577---	Far Eastern Shipping Co.: *Nikolay Semashko.*
05792---	Korea Wonyang Fisheries Co., Ltd.: *No. 5 Korbee, No. 102 Koram.*
05845---	Shinto Kaiun K.K.: *Toyo Maru.*
06019---	Field Tank Steamship Co., Ltd.: *Tweed Bridge.*
06485---	Minibulk Shipping (K.M. Kaalstad): *Minicloud.*
06570---	Jebsen Dillingham Shipping Ltd.: *Brimnes, Swiftnes, Sealnes, Surenes, Spraynes, Bernes, Bulknes, Saltnes, Sharpnes.*
06662---	Reederei Claus-Peter Offen K.G.: *Holstenburg.*
06744---	Kontari Compania Naviera: *Tzelepi.*
06925---	Bibby Bulk Carriers Ltd.: *Tenbury.*
06934---	Chevron Navigation Corp.: *Charles Pigott.*
M-07077	Nicolai Joffe Corp./P.B. Pacific Corp./Bruckhill Industries Corp.: *Vessels not over 23,000 gross tons.*
07166---	Carnegie Shipping Co., Ltd.: *Cadogan, Cadwalader, Casterbridge, Camden.*
07529---	Cambridge Shipping Co., Ltd.: *Aida.*
07574---	Georgian Shipping Co.: *General Leselidze, Georgiy Leonidze.*
07599---	Partenreederei M/T "Frisia": *Multitank Frisia.*
07934---	Ship Operators of Florida, Inc.: *Martha.*
08022---	Nissei Shipping Co., Ltd.: *Chusei Maru, Gyosei Maru.*
08057---	Carmel Transport Corp., Inc.: *Stolt Surf.*
08071---	Anglo Nordic Bulkship (Management) Ltd.: *Nordic Enterprise, Armand Hammer, Naess Norseman, Frances Hammer, Russell H. Green, Naess Leader, Naess Mariner, Naess Courier, Naess Liberty, Anco Norness, Stolt Dragon, Stolt Sydness, Nordic Ranger, Trachodon, Stolt Norness.*
08199---	Mediteranska Plovidba: *Plod.*
08131---	Empresa Navegacion Caribe: *Cuba.*
08230---	Ed Broussard Towing Co., Inc., Ed Broussard Marine Service, Inc.: *Bridget B.*
08234---	Burmah Oil Tankers Ltd.: *Burmah Peridot, Burmah Cameo, Burmah Zircon, Burmah Jet.*
08329---	Compania Naviera Aguila S.A. de C.V.: *Morazan.*
08370---	Indiana & Michigan Electric Co.: *Oliver C. Shearer, O. F. Shearer, Lelia C. Shearer, Fort Dearborn, J. K. Ellis, Winchester.*
08464---	Transreeder Schiffahrtsgesellschaft MBH & Co.: *July Star.*
08469---	A & R Marine Towing & Transportation Limited: *Sergio No. 9.*
08696---	Maritimas Eslait & Cia: *Ingrid Judith.*
08709---	Bibby Freighters Ltd.: *Berkshire, Oxfordshire, Wiltshire, Lincolnshire.*
08714---	Conservacion de Alimentos, S.A.: *Corcubion.*
08720---	Atlantica de Pesca, S.A.: *Sara Costas.*
08732---	Breeze Transport Corp.: *Effie Maersk, Sally Maersk.*
08739---	Seamaid Shipping Co. S.A. Panama: *Seamaid Proto.*
08740---	Pacific Bulk Carriers, Inc.: *Pacific Ares.*
08745---	Estemar Compania Naviera S.A.: *Daphne.*
08747---	Anassa Navigation Co., Ltd.: *Drymos.*
08749---	Ouranos Shipping Co. S.A. of Panama: *Myrina.*
08751---	The Louisiana Land & Exploration Co.: *L.S.C. 302.*
08752---	Fuerte Compania Naviera S.A. Panama: *Maritime Unity.*
08755---	Agence Maritime, Inc.: *Fort Lennox, Fort Kent, Fort Gaspe, Fort George, Inland, Fort Levis.*

Certificate No.	Owner/operator and vessels
08761	Mare Nostrum Navigation Co., Ltd.: *Dennis B.*
08762	One Star Shipping Co., Ltd.: *Victoria.*
08765	Landmo Shipping Services Ltd.: *Falcondale, Maredale, Evindale.*
08766	Alegria Naviera S.A.: *Ocean Grace.*
08768	Cirtun, S.A.: *Agustin Primero.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-6275 Filed 3-18-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G-12094, et al.]

MOBIL OIL CORP., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MARCH 8, 1974.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 3, 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 the 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-12094 D 2-25-74	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Southern Natural Gas Co., Gwinville Field, Jefferson Davis County, Miss.	Depleted	
CI61-985 E 2-7-74	Phillips Petroleum Co. (successor to First Transportation Gas Corp., Inc.) Bartlesville, Okla. 74004.	Transwestern Pipeline Co., Beaver, Harper, Ellis, and Woodward Counties, Okla., and Lipscomb and Ochiltree Counties, Tex.	[1] [2] 20.969 [1] [3] 21.512	14.65 14.65
CI63-346 E 2-7-74	do	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper and Beaver Counties, Okla.	[4] 21.163	14.65
CI63-347 E 2-7-74	do	Northern Natural Gas Co., acreage in Beaver County, Okla. and Ochiltree County, Tex.	[2] [5] 19.30 [3] [5] 19.0713	14.65 14.65
CI63-978 E 2-7-74	do	Cities Service Gas Co., North Quinlan Field, Woodward County, Okla.	[5] 18.0	14.65
CI65-1021 E 2-7-74	do	Northern Natural Gas Co., Shattuck Unit, Ellis County, Okla.	[5] 18.285	14.65
CI66-508 E 2-7-74	do	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Laverne Field, Beaver County, Okla.	[4] 19.75348	14.65
CI74-435 A 2-21-74	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Northern Natural Gas Co., acreage in Lea County, N. Mex.	[1] 40.0	14.65
CI74-436 (CI61-295) B 2-14-74	Shell Oil Co., 1 Shell Plaza, P.O. Box 2463, Houston, Tex. 77001.	Phillips Petroleum Co., Fradean Field, Upton County, Tex.	[6]	
CI74-437 (CI68-1062) B 2-14-74	Texaco, Inc., P.O. Box 60252, New Orleans, La. 70160.	Southern Natural Gas Co., Knoxo Field, Walthall County, Miss.	Depleted	
CI74-438 (CI68-68) B 2-14-74	do	do	Depleted	
CI74-439 (CI74-39) B 2-14-74	Aikins & Owen (Operator) et al., P.O. Box 18407, 7701 East Kellogg, Suite 780, Wichita, Kans. 67218.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Deckers Prairie Field, Harris County, Tex.	Uneconomic	
CI74-440 (CI61-82) B 2-14-74	W. C. Curry, P.O. Box 1528, Longview, Tex. 75601.	Texas Eastern Transmission Corp., Spider Field, De Sota Parish, La.	Nonproductive	
CI74-442 (CI72-506) B 2-19-74	Phoenix Energy Co., 2875 Bank of New Orleans Bldg., 1010 Common St., New Orleans, La. 70112.	Transcontinental Gas Pipe Line Corp., Bayou Couba Field, St. Charles Parish, La.	Uneconomic	
CI74-444 (CI70-502) F 2-15-74	Royal Resources Exploration, Inc. (successor to King Resources Co.), 250 Hilton Office Bldg., Denver, Colo. 80202.	Northern Natural Gas Co., Mocane Field, Beaver County, Okla.	[7] 18.241	14.65
CI74-447 (G-4660) F 2-19-74	S. S. C. Gas Producing Co. (successor to Union Texas Petroleum & Texas Pacific Oil Co.), 10601 Shiloh Lane, Corpus Christi, Tex. 78410.	Texas Eastern Transmission Corp., Strauch-Wilcox Field, Bee County, Tex.	24.0	14.65
CI74-448 (CS7248) B 2-11-74	J. R. Perkins et al., d.b.a., Perkins Production Co., P.O. Box 878, Duncan, Okla. 73533.	Lone Star Gas Co., Woolsey Field, Stephens County, Okla.	Depleted	
CI74-449 (CI63-1503) F 2-11-74	Petroleum, Inc. (successor to Skelly Oil Co.), 300 West Douglas, Wichita, Kans. 67202.	Panhandle Eastern Pipe Line Co., acreage in Texas County, Okla.	[5] 19.285	14.65
CI74-450 (CI68-1155) B 2-11-74	Phillips Petroleum Co., Bartlesville, Okla. 74004.	Texas Eastern Transmission Corp., Bird Island Field, Kleburg County, Tex.	Depleted	
CI74-451 (CI60-418) F 2-11-74	Petroleum, Inc. (successor to Cities Service Oil Co.).	Panhandle Eastern Pipe Line Co., acreage in Texas County, Okla.	[5] 19.7025	14.65

[1] Subject to upward and downward Btu adjustment.
[2] Rate for gas in Oklahoma.
[3] Rate for gas in Texas.
[4] Subject to upward Btu adjustment.
[5] Subject to downward Btu adjustment.
[6] Applicant's high pressure gas well gas became incapable of delivery into Phillips' high pressure gathering system.
[7] Subject to upward and downward Btu adjustment; estimated adjustment is 0.986 cents per M ft³.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc.74-5960 Filed 3-18-74;8:45 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

GENERAL SERVICES ADMINISTRATION

[Temporary Reg. G-16]

INTERAGENCY MOTOR POOL SYSTEM

Reduction in Fuel Consumed by Certain Types of Motor Vehicles

1. *Purpose.* This regulation provides revised policies and procedures to be followed to achieve and maintain a 20 percent reduction in fuel consumed by sedans, station wagons, and trucks in the interagency Motor Pool System previously established by FPMR Temporary Regulation G-13, as amended, dated November 28, 1973.

2. *Effective date.* This regulation is effective March 19, 1974.

3. *Expiration date.* This regulation expires December 31, 1974, unless sooner revised or superseded.

4. *Applicability.* The provisions of this regulation apply to all executive agencies. Other Federal agencies are encouraged to conform so that maximum benefits may be realized in reducing fuel consumption by Government-owned and operated motor vehicles.

5. *Background.* In consonance with the President's program to reduce energy consumption by all Federal agencies, GSA promulgated FPMR Temporary Regulation G–13, restricting use of certain types of motor vehicles in the Interagency Motor Pool System. Subsequently, further reductions in energy consumption were imposed which resulted in the issuance of Supplement 1 to Temporary Regulation G–13 on December 27, 1973. This regulation consolidates into a single issuance the basic policies in the above regulation, as amended, and incorporates the requirements established by FMC 74–1, dated January 21, 1974. Also included are appropriate changes resulting from consideration of agency comments.

6. *Procedure modifications.* Certain modifications are incorporated in this regulation among which are:

a. Addition of an appeals procedure,

b. Elimination of the semimonthly reporting requirement, and

c. Establishment of quarterly mileage goals at the agency national headquarters level.

7. *General policy.* All executive agencies participating in the Interagency Motor Pool System shall reduce by 20 percent the number of miles operated by motor vehicles in such systems to achieve a corresponding reduction in fuel consumed. Where agencies fail to achieve this objective, vehicles will be removed from service by GSA in accordance with the criteria established in attachment A. However, such removals will occur only after consultation with national headquarters officials of the affected agencies.

8. *GSA action.* a. GSA regional motor equipment personnel will continue to be available to meet with agency field officials to assist them in realizing the objective stated in paragraph 1.

b. The 20 percent reduction in dispatch service available from interagency motor pools will be maintained. Dispatch services will be refused between pool cities when public transportation will meet the needs of the agency.

9. *Required action by agencies.* a. Agencies shall achieve and maintain a 20 percent reduction in miles operated for each monthly reporting period. This reduction applies to the four basic vehicle classes; i.e., sedans, station wagons, light trucks, and heavy trucks. The basis for calculating such reductions is contained in attachment B.

b. Agencies shall submit GSA Form 494, Monthly Vehicle Use Record, as of the close of each business month, commencing with February 1974. This form shall be mailed so as to be received by the appropriate motor pool on or before the 5th working day after the end of the reporting period.

c. The fuel savings and mileage reduction guidelines in attachment C shall be implemented to the maximum extent feasible commensurate with the achievement of agency missions and the objective stated in paragraph 1.

d. Agencies which have achieved a significant increase in their motor vehicle utilization rate as a result of a decrease in the number of vehicles held, or newly established agencies which have insufficient prior information on which to establish a base line for measuring mileage reduction, should contact the office referenced in paragraph 10 below, for assistance in establishing the appropriate base line.

10. *Assistance.* Agencies may request the assistance of the General Services Administration in complying with the provisions of this regulation by contacting the General Services Administration (FZT), Washington, D.C. 20406, telephone (703) 557–3075.

11. *Appeal procedures.* An agency which believes that it cannot achieve a 20 percent overall reduction in mileage because of extenuating circumstances shall appeal in writing to the Administrator of General Services (A), Washington, D.C. 20405. GSA will review the appeal and forward it with recommendations to the Federal Energy Office for a final decision. Exceptions will be considered for vehicles used in emergencies or essential health services.

12. *Effect on other issuances.* This regulation augments the policy in FPMR 101–39 as it pertains to agency use of motor vehicles in the Interagency Motor Pool System. Further, FPMR Temporary Regulation G–13, dated November 28, 1973, and Supplement 1 thereto, dated December 27, 1973, are canceled; and paragraph 6 of FPMR Temporary Regulation G–15, Reduction in motor vehicle fuel consumption, dated January 28, 1974, should be changed by pen and ink to reflect the number and title of this regulation.

13. *Comments or suggestions.* Agency views concerning the effect of this regulation on agency operations or programs should be submitted to the General Services Administration (FF), Washington, D.C. 20406, no later than April 1, 1974, for consideration and possible incorporation into the permanent regulations.

ARTHUR F. SAMPSON,
Administrator of General Services.

MARCH 12, 1974.

VEHICLE REMOVAL CRITERIA

a. When an agency fails to stay within the assigned mileage ceiling the agency will be required to reduce the number of vehicles in service. The reduction will be determined by the agency's utilization rate (average number of miles traveled per vehicle for the prior month) and by the number of miles the agency has exceeded the ceiling. Figure A–1 indicates the exact number of vehicles to be removed from service.

b. Example: If an agency's utilization rate is 860 miles per vehicle per month and the agency has missed their ceiling by 15,300 miles:

1. Round actual utilization rate to nearest 50 unit interval—860 to 850.

2. Round mileage overage to nearest thousand unit interval—15,300 to 15,000.

3. Locate row 850 in figure A–1 and follow across to the 15,000 column. This intersection of the row and column will indicate the number of vehicles to be removed from service—18.

c. Should an agency fail to meet the mileage ceiling by more than 20,000 miles, the number of vehicles to be withdrawn will be calculated by adding those columns which equal the total overage; i.e., ceiling missed by 25,000 miles in the above example—add column 20 plus column 5 for a total of 30 vehicles to be withdrawn.

d. Vehicles removed from service shall not be replaced by the agency by renting, leasing, or by authorizing the use of privately owned vehicles.

FIGURE A-1.—*Vehicle removal chart*

VEHICLE REMOVAL CHART, NUMBER OF MILES OVER MILEAGE CEILING

Utilization rate	1,000	2,000	3,000	4,000	5,000	6,000	7,000	8,000	9,000	10,000	11,000	12,000	13,000	14,000	15,000	16,000	17,000	18,000	19,000	20,000
500	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40
550	2	4	5	7	9	11	13	15	16	18	20	22	24	25	27	29	31	33	35	36
600	2	3	5	7	8	10	12	13	15	17	18	20	22	23	25	27	28	30	32	33
650	2	3	5	6	8	9	11	12	14	15	17	18	20	22	23	25	26	28	29	31
700	2	3	4	6	7	9	10	11	13	14	16	17	19	20	21	23	24	26	27	29
750	2	3	4	5	7	8	9	11	12	13	15	16	17	19	20	21	23	24	25	27
800	1	3	4	5	6	8	9	10	11	13	14	15	16	18	19	20	21	23	24	25
850	1	2	4	5	6	7	8	10	11	12	13	14	15	16	18	19	20	21	22	24
900	1	2	3	4	6	7	8	9	10	11	12	13	14	16	17	18	19	20	21	22
950	1	2	3	4	5	6	7	8	9	11	12	13	14	15	16	17	18	19	20	21
1,000	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
1,050	1	2	3	4	5	6	7	8	9	10	10	11	12	13	14	15	16	17	18	19
1,100	1	2	3	4	5	5	6	7	8	9	10	11	12	13	14	15	15	16	17	18
1,150	1	2	3	3	4	5	6	7	8	9	9	10	11	12	13	14	15	16	17	17
1,200	1	2	3	3	4	5	6	7	8	8	9	10	11	12	13	13	14	15	16	17
1,250	1	2	3	3	4	5	6	6	7	8	8	10	10	11	12	13	14	14	15	16
1,300	1	2	2	3	4	5	5	6	7	8	8	9	10	11	12	12	13	14	15	15
1,350	1	2	2	3	4	4	5	6	7	7	8	9	10	10	11	12	13	13	14	15
1,400	1	2	2	3	4	4	5	6	6	7	8	8	9	10	11	11	12	13	14	14
1,450	1	2	2	3	4	4	5	6	6	7	8	8	9	10	10	11	12	12	13	14
1,500	1	2	2	3	4	4	5	5	6	7	7	8	9	9	10	11	11	12	13	13
1,550	1	2	2	3	3	4	5	5	6	6	7	8	8	9	10	10	11	12	12	13
1,600	1	2	2	3	3	4	4	5	6	6	7	8	8	9	9	10	11	11	12	13
1,650	1	2	2	3	3	4	4	5	5	6	7	7	8	8	9	10	10	11	12	12
1,700	1	2	2	3	3	4	4	5	5	6	6	7	8	8	9	9	10	11	11	12
1,750	1	2	2	3	3	4	4	5	5	6	6	7	7	8	9	9	10	10	11	11
1,800	1	1	2	2	3	3	4	4	5	6	6	7	7	8	8	9	9	10	11	11
1,850	1	1	2	2	3	3	4	4	5	5	6	7	7	8	8	9	9	10	10	11
1,900	1	1	2	2	3	3	4	4	5	5	6	6	7	7	8	9	9	10	10	11
1,950	1	1	2	2	3	3	4	4	5	5	6	6	7	7	8	8	9	9	10	10
2,000	1	1	2	2	3	3	4	4	5	5	6	6	7	7	8	8	9	9	10	10

MEASUREMENT OF MILEAGE REDUCTION

Agencies must achieve a 20 percent reduction in miles operated in each of the four basic vehicle classes; i.e., sedans, station wagons, light trucks, and heavy trucks. The base line for measuring an agency's mileage reduction will be the miles operated in the corresponding period of the base year (fiscal year 1973) adjusted for subsequent changes in vehicles assigned to the agency. GSA Central Office motor equipment personnel will calculate the adjusted base and mileage ceiling, and disseminate to agency national headquarters on a quarterly basis the mileage ceilings, by vehicle class, for the following quarter. However, agency mileage reductions will be monitored on a monthly basis. When significant fluctuations in an agency's vehicle inventory are noted during a quarter, GSA will review the quarterly mileage ceiling and in consultation with the agency establish a new quarterly mileage ceiling, if appropriate.

The formula for determining the base line and mileage ceiling is as follows:

1. $M \times \frac{V_1}{V_0}$ = Adjusted Base.
2. Adjusted Base x .80 = Mileage Ceiling.

Where:

M = Miles operated in corresponding quarter of base year (FY 73).
V_0 = Number of vehicles assigned in corresponding quarter of base year (FY 73).
V_1 = Number of vehicles assigned at beginning of present reporting quarter.

FUEL SAVING AND MILEAGE REDUCTION GUIDELINES

a. Substitute public transportation whenever possible.

b. Maintain stringent control of vehicle use for official purposes only.

c. Reduce vehicle use through curtailment of low priority programs.

d. Reduce frequency of security patrols, recruitment activities, and other activities not necessary for the safety and welfare of the general public.

e. Reduce recall of vehicles now in storage because of seasonal use.

f. Prohibit use of vehicles on Saturdays, Sundays, and holidays except for essential purposes.

g. Establish tight criteria for the use of air-conditioning in vehicles.

h. Enforce disciplinary action against drivers exceeding 50 miles per hour.

i. Terminate assignment of sedans used mainly in pool cities where public transportation is available. (Dispatch service is to be used where public transportation will not meet requirements.)

j. Replace 8-cylinder sedans used mainly for intracity operation with 6-cylinder sedans by rotating vehicles between using agencies. (Additional rotations will be made when compact sedans now being purchased for pool operations are received.)

k. Review truck assignments to determine whether smaller size vehicles can be used. (This review will emphasize replacement of pickups and other light trucks used for passenger carrying operations.)

l. Review shuttle or group movement operations to ensure passenger carrying vehicles are utilized to rated capacity.

m. Extend engine oil changes to 6,000-mile intervals for vehicles not under warranty.

n. Establish training programs to ensure observance of proper driving and maintenance practices as set forth in FPMR Temporary Regulation G–14, and in GSA Bulletins FPMR G–82 (and Supplement 1) and G–86.

[FR Doc.74–6250 Filed 3–18–74;8:45 am]

NATIONAL CAPITAL PLANNING COMMISSION

[NCPC Files Nos. 0369, 0933]

HISTORIC PRESERVATION

Site and Building Plans Requirements and Urban Renewal Requirements for Proposals

At its meeting on March 7, 1974, the National Capital Planning Commission adopted amendments to its Site and Building Plans Requirements (37 FR 3011) and Urban Renewal Requirements for Proposals (37 FR 7122) relating to procedures for compliance with section 106 of Pub. L. 89–665, approved October 15, 1966 (16 U.S.C. 470 et seq.), and sections 1(3) and 2(b) of Executive Order 11593 of May 13, 1971.

Section 106 of Pub. L. 89–665 requires Federal agencies undertaking, licensing, or funding projects to "take into account the effect of the undertaking on any district, site, building, structure, or object that is included in the National Register" and to "afford the Advisory Council on Historic Preservation * * * a reasonable opportunity to comment with regard to such undertaking."

The first amendment will avoid duplicating consultations with the Advisory Council by the Federal agency submitting site and building plans pursuant to section 5 of the National Capital Planning Act of 1952 and by the Commission, as a Federal licensing agency.

The second and third amendments will insure compliance with Section 106 with respect to District undertakings subject to the Commission's "in lieu of zoning" approval and urban renewal plans and plan modifications respectively.

Adoption of the amendments constitutes partial fulfillment by the Commission of the requirement in Section 1(3) of Executive Order 11593 that Fed-

eral agencies, "in consultation with the Advisory Council on Historic Preservation (16 U.S.C. 470i), institute procedures to assure that Federal plans and programs contribute to the preservation and enhancement of non-federally owned sites, structures, and objects of historical, architectural or archaeological significance."

The amendments are as follows:

1. Subsection C. of section 3 of the Site and Building Plans Requirements (37 FR 3011) is amended by adding at the end thereof the following:

(6) *Historic Preservation.* Each submission by a Federal agency shall also include a determination by the head of the sponsoring agency, or other authorized official, as to whether the project is subject to section 106 of Pub. L. 89–665, approved October 15, 1966 (16 U.S.C. 470 et seq.), or section 1(3) of section 2(b) of Executive Order 11593 of May 13, 1971. If he so determines, then he shall submit evidence that the procedures for compliance with the applicable law or Executive Order have been initiated. Each submission by a Federal agency of final site and building plans shall include evidence that such procedures for compliance have been completed.

2. Paragraph C of section 6 of the Site and Building Plans Requirements (37 FR 3011) is amended by inserting "(1)" after "C" and by adding a new subparagraph to read as follows:

(2) If the proposed development is a public building to be erected by any agency of the Government of the District of Columbia within the boundaries of the central area of the District, as defined by concurrent action of the Commission and the District of Columbia Council, the Executive Director determines whether the proposed development is subject to Section 106 of Pub. L. 89–665, approved October 15, 1966 (16 U.S.C. 470 et seq.). If he so determines, the Executive Director will initiate procedures for compliance with section 106 of Pub. L. 89–665 at the time of initial submission. Before Commission action on final site and building plans pursuant to D.C. Code, sec. 5–428, procedures for compliance with section 106 shall be completed.

3. Subsection B. of section 2 of the Urban Renewal Requirements for Proposals (37 FR 7122) is amended by adding at the end thereof the following:

(7) *Historic Preservation Report.* A determination by the head or other authorized official of the Agency, or, with respect to proposals made by the Executive Director of the Commission, the Executive Director, as to whether the proposed urban renewal plan or modification(s) to an approved urban renewal plan is subject to section 106 of Pub. L. 89–665, approved October 15, 1966 (16 U.S.C. 470 et seq.). If he so determines, then he shall submit evidence that the procedures for compliance with section 106 of Pub. L. 89–665 have been completed.

DANIEL H. SHEAR,
Secretary.

MARCH 12, 1974.

[FR Doc.74–6276 Filed 3–18–74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

REQUESTS 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 14, 1974 (44 USC 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 HEALTH, EDUCATION, AND WELFARE

Office of Education: Instructions for the A–102 Application: Ethnic Heritage Program, Form OE–349, Single Time, Lowry, SEA's LEA's, Institutions of Higher Education, Public and Private Organizations.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service: Questionnaires RE: Evaluation of Type A and Computer Assisted Nutrient Standard Menus, Form ____, Single Time, Caywood, Students in Grade 5, School Lunch Managers.

DEPARTMENT OF COMMERCE

Economic Development Administration, Application for Federal Assistance, Form ED–101, Occasional, Lowry, Applicants.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service: Public Health Service Applicant Evaluation Inquiry, Form PHS–3036, Occasional, Caywood, Persons with knowledge of applicants.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration:
- Beneficiary Information Report, Form SSA 9585, Single Time, Caywood, Staff in all State Mental institutions and schools for retarded.
- State Mental Institution Policy Review, Form SSA 9584, Single Time, Caywood, Top staff of all State Mental institutions and schools for the retarded.

DEPARTMENT OF LABOR

Bureau of Labor Statistics: Information for the Wholesale Price Index, Form BLS 473C, Monthly, Raynsford, Petroleum Companies.

ENVIRONMENTAL PROTECTION AGENCY

1973 Survey of Needs for Municipal Wastewater Treatment Facilities, Form ____, Single Time, Ellett, Local authorities responsible for sewage collection and treatment.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration: KWH Distribution Report—REA Borrowers, Form 334 and 334a, Occasional, Evinger (x), REA Electric Borrowers.

DEPARTMENT OF COMMERCE

Bureau of the Census:
- Advance Letter for Non-Skip List Cases, Advance Letter for Potential Skip List, Forms CBR 4AS, CBR–4SL, Monthly, Hulett (x), Retail business firms in selected primary sampling units.
- Census Current Business Report, Form CBR–3MNC, Monthly, Hulett (x), Retail business firms in selected primary sampling units.
- Survey of Assessed Values, Form GP–33, Single Time, Ellett (x), State officials in charge of assessed values.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service: Terminal Report on Individual Trainee, Form OSH NIH–CA–15, Occasional, Evinger (x), Trainees supported by NCI Training Grants.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–6341 Filed 3–18–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[70–5265]

ARKANSAS POWER AND LIGHT CO.

Proposal To Issue and Sell Notes to Banks and to Dealer in Commercial Paper; Exception From Competitive Bidding

Notice is Hereby Given that Arkansas Power & Light Company, Ninth and Louisiana Sts., Little Rock, Ark. 72203 ("Arkansas"), an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed two post-effective amendments to its previously amended declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(a) and 7 of the Act and rule 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the post-effective amendments, which are summarized below, for a complete statement of the proposed transactions.

By Order dated December 15, 1972 (Holding Company Act Release No. 17811), the Commission authorized Arkansas to issue and sell from time to time through May 31, 1974, unsecured short-term promissory notes (including commercial paper) to various commercial banks and/or a dealer in commercial paper, in an aggregate principal amount not exceeding $60 million outstanding at any one time of which not more than $40 million is to consist of commercial paper.

Arkansas now proposes to revise this program and to issue and sell from time to time through May 31, 1975, its unsecured short-term promissory notes (including commercial paper) to various commercial banks and/or a dealer in commercial paper in an aggregate principal amount outstanding at any one time of not more than $85 million, of which not more than $60 million will consist of commercial paper outstanding at any one time. As the notes mature, they will be renewed (but to mature not later than February 28,1976) or be repaid out

of funds generated internally or derived from sales of similar securities or long-term debt and/or equity securities.

Except as herein stated, the terms and conditions of the proposed borrowings are unchanged from those set forth in the amended declaration in this proceeding and authorized by the Commission's Order of December 15, 1972. While no commitments have been made, it is expected that the banks to which such notes will be issued and sold, and the maximum amount to be issued and outstanding at any one time to each such bank, will be substantially as follows:

Name of bank	Maximum amount to be borrowed
Arkansas Bank & Trust Co., Hot Springs, Ark	$825,000
The Commercial National Bank, Little Rock, Ark	800,000
First National Bank in Little Rock, Arkansas	4,000,000
First National Bank of Eastern Arkansas, Forrest City, Ark	320,000
First National Bank of Hot Springs, Hot Springs, Ark	500,000
Irving Trust Co., New York, N.Y.	750,000
Manufacturers Hanover Trust Co., New York, N.Y	25,000,000
National Bank of Commerce, Pine Bluff, Ark	1,000,000
Peoples Bank & Trust Co., Russellville, Ark	300,000
Republic National Bank of Dallas, Texas	5,000,000
Simmons First National Bank, Pine Bluff, Ark	9,000,000
Union National Bank, Little Rock, Ark	1,300,000
Worthen Bank & Trust Co., Little Rock, Ark	3,000,000
Total	51,795,000

It is stated that, except as set forth above, Arkansas will not effect borrowings from banks pursuant to these post-effective amendments until it shall have filed a further post-effective amendment hereto setting forth the name or names of the banks from which such other borrowings are to be effected and the amount thereof and such borrowings shall have been authorized by order of the Commissioner.

Arkansas maintains a working balance with each of the above-named Arkansas banks of approximately 10 percent of the above proposed borrowings, and states that if such balances were maintained solely to satisfy compensating balance requirements, the effective interest cost on such borrowings, assuming an 8.75 percent prime rate, would be 9.7 percent. The above named non-Arkansas banks may require compensating balances of 15 percent to 20 percent of the amount of outstanding loans from those banks. Assuming an 8.75 percent prime rate and a 20 percent compensating balance, the effective interest cost on loans from such banks would be 10.9 percent.

Except as herein provided, the terms and conditions of the issuance and sale of the commercial paper, including the arrangement with Salomon Brothers, as dealers, are unchanged from those set forth in the amended declaration in this proceeding and authorized by the Commission's Order of December 15, 1972.

The net proceeds from the proposed transactions, together with other funds available from time to time to Arkansas from its operations or derived from the issuance and sale of long-term and/or equity securities, will be applied to Arkansas' construction program which is expected to require expenditures of approximately $170 million in 1974, $193 million in 1975, and $242 million in 1976.

Arkansas also proposes that the authority heretofore granted in the Commission's Order to file Rule 24 certificates of notification regarding the issuance and sale of the notes and commercial paper on a quarterly basis be extended to cover the transactions proposed in these post-effective amendments.

It is stated that no special or separable fees, commissions or expenses will be incurred in connection with the proposed transactions. It is further stated that no State commission, and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 1, 1974, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendments to the previously amended declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the amended declaration, as further amended by these post-effective amendments, or as it may be further amended, may be permitted to become effective in the manner provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-6261 Filed 3-18-74;8:45 am]

[File No. 500-1]

BRINCO, LTD.

Notice of Suspension of Trading

MARCH 11, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Brinco, Ltd. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 12:45 p.m. e.d.t., March 11, 1974 through midnight e.d.t., March 20, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-6293 Filed 3-18-74;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORPORATION OF AMERICA

Notice of Suspension of Trading

MARCH 12, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants to purchase the stock, 9½% debentures due 1990, 5½% convertible subordinated debentures due 1991, and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 13, 1974 through March 22, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-6294 Filed 3-18-74;8:45 am]

[70-5464]

GENERAL PUBLIC UTILITIES CORP.

Proposed Cash Capital Contributions to Subsidiary Companies

Notice is hereby given that General Public Utilities Corp., 80 Pine St., New York, N.Y. 10005 ("GPU"), a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 12(b) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred

to the declaration, which is summarized below, for a complete statement of the proposed transactions.

GPU proposes to make cash capital contributions, from time to time during the period ending December 31, 1974, to certain of its subsidiary companies of up to the following respective aggregate amounts:

Jersey Central Power & Light Co. ("JCP&L")	$35,000,000
Metropolitan Edison Co. ("Met Ed")	60,000,000
Pennsylvania Electric Co. ("Penelec")	30,000,000
Waterford Electric Light Co. ("Waterford")	100,000
Total	125,100,000

During 1974, JCP&L, Met Ed, Penelec, and Waterford will require an aggregate of approximately $500,125,000 for their various construction programs, $30,000,000 for the repayment of maturing long-term debt, and $7,000,000 for sinking fund purposes. The proposed capital contributions of $125,100,000 from GPU, internally generated cash aggregating approximately $80,025,000, and the proceeds (except in the case of Waterford) from proposed sales of first mortgage bonds, debentures, and preferred stock, plus, on an interim basis, the proceeds of bank borrowings, will be applied to these purposes.

The filing states that no state or federal commission, other than this Commission, has jurisdiction over the proposed transactions. GPU estimates that the fees and expenses in connection with the proposed transactions will be approximately $5,000.

Notice is further given that any interested person may, not later than April 1, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.74-6262 Filed 3-18-74;8:45 am]

[File No. 500-1]

GRANBY MINING CO., LTD.

Notice of Suspension of Trading

MARCH 11, 1974.

The common stock of Granby Mining Co., Ltd. being traded on the Pacific Coast Stock Exchange and on the Philadelphia Baltimore Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Granby Mining Co., Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from March 12, 1974 through March 21, 1974.

By the Commission.

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

[FR Doc.74-6295 Filed 3-18-74;8:45 am]

[File No. 500-1]

INDUSTRIES INTERNATIONAL, INC.

Notice of Suspension of Trading

MARCH 12, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 13, 1974 through March 22, 1974.

By the Commission.

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

[FR Doc.74-6296 Filed 3-18-74;8:45 am]

[70-5472]

NEW ENGLAND POWER CO.

Proposed Amendment of By-Laws and Order Authorizing Solicitation of Proxies

MARCH 13, 1974.

Notice is hereby given that New England Power Company, 20 Turnpike Road, Westborough, Mass. 01581 ("NEPCO"), an electric utility subsidiary company of New England Electric System ("NEES"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

NEPCO proposes to amend its By-laws to increase from 1,000,000 to 1,500,000 shares the aggregate number of shares of Dividend Series Preferred Stock that may be issued without a vote of at least a majority of the total number of shares of said stock then outstanding. The amendment to the By-laws will require the affirmative vote of two-thirds of the now outstanding 6% Cumulative Preferred Stock and common stock voting as one class. NEES, which owns all of the outstanding common stock of NEPCO, has indicated that it will vote in favor of the amendment, thereby assuring such affirmative two-thirds vote. The amendment will also require the affirmative vote of two-thirds of the now outstanding 780,140 shares of Dividend Series Preferred Stock voting as one class. NEPCO deems it advisable that additional authorized shares of its preferred stock be made available to meet its needs for permanent financing occasioned by its substantial construction expenditures.

NEPCO intends to submit the proposed amendment to its stockholders for their approval at a special meeting of stockholders which is to be held on April 17, 1974, in lieu of the annual meeting. In connection therewith, NEPCO proposes, pursuant to Rule 62 under the Act, to solicit proxies from holders of its outstanding Dividend Series Preferred Stock to be voted at the annual meeting.

Expenses to be incurred in connection with the proposed transactions are estimated at $6,500, including services of the system service company, at cost, of $2,200. The declaration states that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

NEPCO has requested that the effectiveness of its declaration with respect to the solicitation of proxies from holders of its Dividend Series Preferred Stock be accelerated as provided in Rule 62.

Notice is further given that any interested person may, not later than April 5, 1974, request in writing that a hearing be held with respect to the proposed amendment of the By-laws, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles

from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that NEPCO's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.74-6297 Filed 3-18-74;8:45 am]

[70-5473]

NORTHEAST UTILITIES

Notice of Proposal To Increase Number of Shares of Authorized Common Stock; Order Authorizing Solicitation of Stockholders' Consent

MARCH 8, 1974.

Notice is hereby given that Northeast Utilities ("Northeast") 174 Brush Hill Ave., West Springfield, Mass. 01089, a registered holding company, has filed a declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transaction.

The Declaration of Trust of Northeast Utilities, which serves as Northeast's charter and bylaws, provides that the number of shares of authorized common stock is to be fixed by resolution of Northeast's stockholders. There are currently authorized 53 million shares of common stock, of which 45,876,693 shares are now outstanding. The common stock is Northeast's sole class of common stock. Northeast now proposes to increase the number of shares of authorized common stock to 75 million.

The amended declaration states that the construction program of Northeast's operating subsidiaries will require substantial additional financing over the next few years, which financing Northeast expects will be provided through sales of additional first mortgage bonds and preferred stock by the operating subsidiaries and of additional common stock by Northeast. Northeast currently contemplates issuing approximately 5 million shares of additional common stock in mid-1974, the proceeds of which will be used to make capital contributions to its operating subsidiaries and to reduce short-term borrowings of Northeast. The size and timing of any other future sales of common stock have not been fixed at this time, although Northeast states that, because of restrictions on the amounts of bonds and preferred stock which the operating subsidiaries are permitted to issue, it may be required to provide an increased portion of the financing needs through its own borrowings and sales of additional shares of common stock. Based on projections of financing requirements through 1978, Northeast states that it believes that the proposed increase in authorized common stock will prove sufficient to cover such financing needs over the next three to four year period.

The proposed increase in authorized common stock requires approval of two-thirds of the holders of the presently outstanding common stock. Approval will be sought for the proposal at Northeast's Annual Meeting to be held on April 23, 1974. Northeast proposes to solicit consents from its stockholders for use at such time. The relevant proxy materials have been filed with the Commission, and accelerated action thereon requested, pursuant to Rule 62.

The fees, commissions, and expenses incurred or to be incurred in connection with the proposed transaction will aggregate aproximately $2,500, which includes $1,500 for legal fees. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 2, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said amended declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the amended declaration, insofar as it pertains to the solicitation of the consent of Northeast's common stockholders should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the amended declaration regarding the proposed solicitation of the consent of Northeast's common stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.74-6219 Filed 3-18-74;8:45 am]

[70-5350]

OHIO POWER CO.

Post-Effective Amendment Regarding Issue and Sale of Notes to Banks and Commercial Paper Dealers

MARCH 12, 1974.

Notice is hereby given that Ohio Power Company; 301 Cleveland Ave., SW., Canton, Ohio 44701 ("Ohio"), an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed a second post-effective amendment to its application in this proceeding pursuant to section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the application, as now amended, for a complete statement of the proposed transactions.

By orders dated June 29, 1973, and September 18, 1973 (Holding Company Act Release Nos. 18018 and 18100), the Commission granted Ohio's application requesting that until December 31, 1974, the exemption from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act, relating to the issue of short-term notes, be increased to the extent necessary to cover the issuance and sale of notes to banks and to dealers in commercial paper up to $170,000,000 and not in excess of the maximum amount allowable under its Articles of Incorporation and as authorized by its preferred stockholders. Ohio now proposes to issue short-term notes to banks and commercial paper dealers in an aggregate

amount not to exceed $215,000,000 outstanding at any one time, including short-term notes presently outstanding. The proposed notes will consist of (1) up to $28,165,000 of bank notes as previously authorized, (2) up to $20,000,000 of new demand notes as described below and (3) the previously authorized commercial paper which may now be issued in an aggregate amount of up to $215,000,000 less the amount of any short-term bank notes outstanding. The notes are to be issued from time to time prior to December 31, 1974, as funds are required, provided that none of the notes will mature later than June 30, 1975.

Ohio proposes to issue and sell its demand notes to the trust departments of Cleveland Trust Company, Cleveland, Ohio and Toledo Trust Company, Toledo, Ohio in maximum amounts of $10,000,000 each. It is stated that each of the bank trust departments has a flow of funds, as fiduciary for various accounts, which would be available for investment in such demand notes. These demand notes will be in the form of promissory notes in denominations of not less than $1,000 bearing an interest rate equivalent to the highest rate paid daily by General Motors Acceptance Corporation on its commercial paper with a maturity of less than 180 days. Notes issued from January 1 to June 30 will mature July 1 of the same year and those issued from July 1 to December 31 will mature on January 1 of the following year. The bank trust departments will have the right to demand payment at any time and Ohio will have the right to repay, without penalty, all or any part of the principal amount of such demand notes outstanding.

On January 14, 1974, the highest rate paid by General Motors Acceptance Corporation on its commercial paper with a maturity of less than 180 days was 9%. This rate was approximately ½% less than the rate at which Ohio was then able to issue commercial paper of comparable maturities and more than 1.5% below the effective rate for bank borrowings based on the current prime rate of 9¾% and compensating balances of 15% to 20%. Based on past experience, Ohio expects that the rate on these demand notes will consistently be lower than the comparable rates for commercial paper and bank borrowings including the effect of compensating balances.

Ohio proposes that certificates of notification under Rule 24 with respect to the issuance of Ohio's demand notes shall be filed quarterly as is presently done with respect to the issuance of Ohio's commercial paper.

No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 4, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-6298 Filed 3-18-74;8:45 am]

[File No. 500-1]

PATTERSON CORP.

Suspension of Trading

MARCH 8, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Patterson Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 11, 1974 through March 20, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-6258 Filed 3-18-74;8:45 am]

[File No. 500-1]

REPUBLIC NATIONAL LIFE INSURANCE CO.

Notice of Suspension of Trading

MARCH 8, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Republic National Life Insurance Co. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 9, 1974 through March 18, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-6256 Filed 3-18-74;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INCORP.

Suspension of Trading

MARCH 8, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 9, 1974 through March 18, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-6257 Filed 3-18-74;8:45 am]

[812-3590]

SCHOONER CAPITAL CORP.

Filing of Application Pursuant to Section 17(d) of the Act and Rule 17d-1 Thereunder

MARCH 13, 1974.

Notice is hereby given that Schooner Capital Corporation, 141 Milk Street, Boston, Massachusetts 02109 ("Applicant"), a Massachusetts corporation licensed as a small business investment company under the Small Business Investment Act of 1958, has applied for an order of the Commission, pursuant to section 17(d) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder, permitting Applicant to purchase $100,000 of convertible debentures of Fire Control Engineering Co. ("Fire Control"). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

All of Applicant's stock is owned by Asset Purchase & Management Co. ("APM"), a limited partnership formed under the laws of Massachusetts. Vincent J. Ryan, Jr., the general partner of APM, is president, treasurer, and director of Applicant and owns an estimated 35% beneficial interest in Applicant's stock. Mr. Ryan is also a director of Inventure Capital Corporation ("Inventure"), registered under the Act as a closed-end, non-diversified management investment company, and was its president from 1967 until his resignation on January 9, 1973.

James R. Kingsdale, a vice-president of Applicant since January, 1973, is a director of Fire Control.

Inventure owns 75,000 shares, or approximately 13.7% of the stock of Fire Control. It acquired these shares by purchasing 25,000 shares at $3 per share on June 9, 1970 and by converting its Fire Control debenture, also acquired on June 9, 1970, into 50,000 shares at $.50 per share in November, 1973. No public market exists for Fire Control's stock. On December 5, 1973, Inventure's stockholders voted to convert Inventure into an open-end investment company. The application states that the management of Inventure intends to reduce Inventure's holdings of restricted securities to not more than 10% of its net assets.

Applicant proposes to invest $100,000 in subordinated debentures of Fire Control convertible at $.50 per share into 200,000 shares. Fire Control currently has 546,618 shares of common stock outstanding. The proposed agreement restricts Fire Control's future borrowings and other corporate actions and requires Fire Control to maintain its net worth and working capital at specified levels. Applicant will be entitled to designate one member of Fire Control's board of directors and, in the case of default of the debentures, to designate a majority of Fire Control's board of directors, so long as the condition of default continues.

Under section 17(d) of the Act and Rule 17d–1 thereunder, it is unlawful for an affiliated person of an affiliated person of a registered investment company to effect any transaction in which such investment company is a joint or joint and several participant without the permission of the Commission. In passing upon applications for orders granting such permission, the Commission is required to consider whether the participation of the investment company in such joint enterprise or arrangement on the basis proposed is consistent with the provisions, policies, and the purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Rule 17d–1(c) under the Act defines "joint enterprise or other joint arrangement or profit-sharing plan" to include any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company and any affiliated person of an affiliated person of such a company, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking, including, but not limited to, any stock purchase plan.

Under section 2(a)(3) of the Act, Applicant is an affiliated person of an affiliated person (Mr. Ryan) of a registered investment company (Inventure). Applicant believes that its proposed investment in Fire Control coupled with Inventure's existing investment in that company might be considered to be a joint enterprise or joint arrangement within the meaning of section 17(d) of the Act and Rule 17d–1 thereunder.

Applicant states that Inventure's board of directors has been informed of the investment opportunity in Fire Control and that Inventure's management has expressed no interest in making an additional investment in Fire Control. Applicant represents that, to the extent its investments in Fire Control would strengthen that company, Applicant would be increasing the potential marketability in Inventure's holdings of Fire Control's stock, thereby facilitating the attainment of Inventure's announced objective of reducing its portfolio of restricted securities.

Applicant further states that the per share conversion price of the Fire Control debentures proposed to be purchased by Applicant is the same as the price at which Inventure converted its Fire Control debentures in November 1973. Applicant also states that the granting of the application would be consistent with the provisions, policies and purposes of the Act, and that Inventure's participation would not be in a basis different from or less advantageous than that of Applicant.

Notice is further given, that any interested person may, not later than April 8, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–6299 Filed 3–18–74;8:45 am]

[File No. 500–1]

U.S. FINANCIAL INC.

Suspension of Trading

MARCH 8, 1974.

The common stock of U.S. Financial Incorporated being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of U.S. Financial Incorporated, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from March 10, 1974 through March 19, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–6260 Filed 3–18–74;8:45 am]

[Filed No. 500–]

WESTGATE CALIFORNIA CORP.

Suspension of Trading

MARCH 8, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock (class A and B), the cumulative preferred stock (5 percent and 6 percent), the 6 percent subordinated debentures due 1979 and the 6½ percent convertible subordinated debentures due 1987 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from March 11, 1974 through March 20, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–6259 Filed 3–18–74;8:45 am]

TARIFF COMMISSION

[337–L–71]

CERTAIN EYE TESTING INSTRUMENTS INCORPORATING REFRACTIVE PRINCIPLES

Notice of Complaint Received

The United States Tariff Commission hereby gives notice of the receipt on February 20, 1974, of a complaint under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), filed by American Optical Corporation, of Southbridge, Massachusetts, alleging unfair methods of competition and unfair acts in the importation and sale of certain eye testing instruments incorporating refractive principles which are embraced within claim 8 of U.S. Patent No. 2,923,200 owned by the

complainant. Topcon Instrument Company of America, Inc., 170 5th Avenue, New York, New York has been named as either importing or offering for sale the subject product.

In accordance with the provisions of § 203.3 of its Rules of Practice and Procedure (19 CFR 203.3), the Commission has initiated a preliminary inquiry into the issues raised in the complaint for the purpose of determining whether there is good and sufficient reason for a full investigation, and if so whether the Commission should recommend to the President the issuance of a temporary exclusion from entry under section 337(f) of the Tariff Act.

A copy of the complaint is available for public inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D.C., and at the New York office of the Tariff Commission located in Room 437 of the Customhouse.

Information submitted by interested persons which is pertinent to the aforementioned preliminary inquiry will be considered by the Commission if it is received not later than April 26, 1974. Extensions of time for submitting information will not be granted unless good and sufficient cause is shown thereon. Such information should be sent to the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D.C. 20436. A signed original and nineteen (19) true copies of each document must be filed.

Issued: March 14, 1974.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc. 74-6306 Filed 3-18-74;8:45 am]

[337-L-59]

SNIPS AND SCISSORS

Notice of Dismissal of Preliminary Inquiry

On March 13, 1974, the U.S. Tariff Commission (Commissioner Leonard dissenting; Commissioner Young not participating) dismissed, without prejudice, preliminary inquiry No. 337-L-59, Snips and Scissors, due to the apparent absence of significant imports of the subject snips and scissors. The preliminary inquiry was instituted on the basis of a complaint filed with the Commission on February 20, 1973, by J. Wiss & Sons Company, Newark, New Jersey, alleging unfair methods of competition and unfair acts in the importation and/or sale of snips and scissors in the United States in violation of section 337 of the Tariff Act of 1930. Notice of the Commission's receipt of complaint and institution of the preliminary inquiry was published in the FEDERAL REGISTER on March 9, 1973 (38 FR 6449).

Issued: March 14, 1974.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74-6305 Filed 3-18-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFF LOUISIANA

Oil and Gas Lease Sale #33; Amendment

MARCH 18, 1974.

Reference is made to FEDERAL REGISTER Document 74-4525, appearing in the issue for Monday, February 25, 1974, at pages 7209-7212. The following tracts are deleted from the sale scheduled for March 28, 1974, pending further evaluation of the foundation conditions:

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 8

(Approved June 8, 1954; Revised April 28, 1966)

West Delta area

Tract No.	Block	Description	Acreage
33-165	78	S½	2500
33-166	86	N½	2500
33-167	87	N½	2500
33-168	109	(2)	3500.85

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 9

(Approved June 8, 1954; Revised July 22, 1954; Revised April 28, 1966)

South Pass area

Tract No.	Block	Description	Acreage
32-169	17	(3)	1388.04
33-170	57 and South Pass, South Addition 77.	(4)	3007.52
33-171	58 and South Pass, South Addition 78.	(5)	2362.33
33-172	59	(6)	2564.19

CURT BERKLUND,
Director,
Bureau of Land Management.

Approved:

JOHN C. WHITAKER,
Acting Secretary
of the Interior.

[FR Doc.74-6500 Filed 3-18-74;10:57 am]

Office of the Secretary

NATIONAL WILD AND SCENIC RIVERS SYSTEM

Notice That Allegheny River Does Not Qualify for Inclusion

Notice is hereby given in accordance with section 7(b)(i) of the Wild and Scenic Rivers Act, Public Law 90-542, October 2, 1968, that the Secretary of the Interior has concluded, on the basis of study, that the Allegheny River, Pennsylvania, should not be included in the National Wild and Scenic Rivers System.

Dated: January 23, 1974.

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc.74-6222 Filed 3-18-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 467]

ASSIGNMENT OF HEARINGS

MARCH 14, 1974.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after March 19, 1974.

MC 107456 Sub 21, Harry L. Young and Sons, Inc., and MC 129631 Sub 39, Pack Transport, Inc., now assigned April 8, 1974, at Boise, Idaho, will be held at the Holiday Inn, 3300 Vista Avenue, instead of Room 395 Federal Bldg., 550 West Fort Street.

MC 82007 Sub-7, Samuel Cooper Gregg, now assigned March 18, 1974, at Wilmington, Delaware, is cancelled and application dismissed.

MC-1668, Sub 5, Riteway Express, now assigned March 25, 1974, at New York, N.Y., is postponed indefinitely.

MC-124211 Sub 234, Hilt Truck Line, Inc., now assigned April 1, 1974, at Chicago, Ill., is postponed indefinitely.

MC-108937 Sub 39, Murphy Motor Freight Lines, Inc., now assigned May 6, 1974, at St. Paul, Minn., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-6284 Filed 3-18-74;8:45 am]

[No. AB-1 (Sub-No. 15 and 17)]

CHICAGO AND NORTH WESTERN TRANSPORTATION CO.

Abandonment of Line; Correction

Upon consideration of the record in the above-entitled proceedings 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 these proceedings, because these proceedings do 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 Rock and Jefferson Counties, Wis., within 15 days of the date of service of this order, 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 21st day of February, 1974.

By the Commission, Commissioner Deason.

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

No. AB-1 (Sub-No. 17)

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN BELOIT AND EVANSVILLE, WIS., AND BETWEEN AFTON AND JANESVILLE, WIS.

No. AB-1 (Sub-No. 15)

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN JANESVILLE AND FORT ATKINSON, WIS.

The Interstate Commerce Commission hereby gives notice that by order dated February 21, 1974, it has been determined that the proposed abandonments of the lines of the Chicago and North Western Transportation Company between Beloit and Evansville, Wis., (23 miles), Afton and Janesville, Wis. (5 miles), and Janesville and Fort Atkinson, Wis. (15.1 miles), if approved by the Commission, would not constitute a major Federal action significantly the quality of the human environment within the meaning of the National Environmenal 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 4322(2)(C) of the NEPA.

It was concluded, among other things, that alternate rail service will continue to be available to most of the major stations along the line, with the possible exception of Footville. The abandonments are not important factors in the long-range development plans for the general area and are consistent with local land use plans in Wisconsin. Applicant has expressed a willingness to accept conditions upon any grant of authority in order to mitigate any adverse effects which might occur. The right-of-way of the rail line, if the abandonment is approved, is ideally suited for such recreational uses as a public bike and hiking trail. 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 April 3, 1974.

[FR Doc.74-6283 Filed 3-18-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 14, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before April 3, 1974.

FSA No. 42816—*Grain and Grain Products to Kansas City, Missouri.* Filed by Great Plains Railway Company (No. 2), for itself and interested rail carriers. Rates on grain and grain products, in carloads, as described in the application, from specified points in Nebraska, to Kansas City, Missouri.

Grounds for relief—Carrier competition and rate relationship.

Tariffs—Supplement 16 to Union Pacific Railroad Company tariff 3159-I, I.C.C. No. 5745, and other schedules listed in the application. Rates are published to become effective on April 10, 1974.

By the Commission.

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

[FR Doc.74-6286 Filed 3-18-74;8:45 am]

[Notice No. 46]

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 8, 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-75000. By order of March 14, 1974, the Motor Carrier Board approved the transfer to Nebraska Beef Express, Inc., Ralston, Nebr., of Permit No. MC-134114 (Sub-No. 1) issued to Elmer Wilson, doing business as Nebraska Beef Express, Ralston, Nebr., authorizing the transportation of meat, meat products, and meat byproducts, from Omaha, Nebr., to points in Cook and Du Page Counties, Ill., Cedar Rapids, and Waterloo, Iowa, and Milwaukee, Kenosha, Madison, and Green Bay, Wis. Mr. Arlyn L. Westergren, Attorney at Law, 530 Univac Building, 7100 W. Center Road, Omaha, Nebr. 68106.

No. MC-FC-75006. By order of March 13, 1974, the Motor Carrier Board approved the transfer to Maplewood Transfer & Storage Co., Millburn, N.J., of Certificates Nos. MC-4186, MC-4186 (Sub-No. 1), and MC-4186 (Sub-No. 2) issued January 10, 1963, November 7, 1966, and May 3, 1968, respectively, to Edgar Rimback, doing business as Maplewood Transfer & Storage Company, Millburn, N.J., authorizing the transportation of household goods, between points in New Jersey, on the one hand, and, on the other, points in Connecticut, New York, and Pennsylvania; between points in five counties in New Jersey, on the one hand, and, on the other, points in New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts, Delaware, Maryland, and the District of Columbia; and between Millburn, N.J., and points in New Jersey within 10 miles of Millburn on the one hand, and, on the other, New York, N.Y., and points in New Jersey and Pennsylvania. Mr. Robert B. Pepper, Registered Practitioner, 168 Woodbridge Avenue, Highland Park, N.J. 08904.

No. MC-FC-75013. By order entered March 13, 1974, the Motor Carrier Board approved the transfer to Grandview Enterprises, Inc., Portland, Oreg., of the operating rights set forth in Permits Nos. MC-128355 (Sub-No. 3) and MC-128355 (Sub-No. 4), issued November 24, 1970, and December 2, 1970, respectively, to Hurliman Trucking Company, a Corporation, San Jose, Calif., authorizing the transportation of automobile and truck parts and accessories, from Chicago and Rockford, Ill., East Chicago and Nappanee, Ind., Davenport, Iowa, Baltimore, Md., Detroit, Grand Rapids, Lansing, Saginaw, and Wyandotte, Mich., Cleveland and Toledo, Ohio, and Milwaukee, Wis., to Grants Pass and Portland, Oreg.; and from Romulus, Mich., Elkhart and Madison, Ind., Quincy and Flora, Ill., Akron and Whitehouse, Ohio, and Dallas, Tex., to Grants Pass and Portland, Oreg., under a continuing contract, or contracts with Auto Wheel Service, Inc. Earle V. White, 2400 SW. Fourth Ave., Portland, Oreg. 97201, attorney for applicants.

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

[FR Doc.74-6285 Filed 3-18-74;8:45 am]

[Notice No. 34]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 1, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published

in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specified as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

No. MC 26396 (Sub-No. 118 TA), filed February 15, 1974. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Charlotte Vicars (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beehive lumber and beekeeping equipment*, from Polson, Mont., to the International Boundary line between the United States and Canada located at Montana and North Dakota, for 180 days. SUPPORTING SHIPPER: Western Bee Supplies, Inc., P.O. Box 8, Polson, Mont. 59860. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 222, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 41406 (Sub-No. 37 TA), filed February 20, 1974. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, P.O. Box 2176, Hammond, Ind. 46323. Applicant's representative: William J. Walsh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Granite City and E. St. Louis, Ill., and St. Louis, Mo., to points in Iowa and Missouri and those in the Kansas City, Kans., Commercial Zone, for 180 days.

NOTE.—Applicant states that he does intend to tack with his authority in MC 41406 and Subs 18, 27, and 29 at St. Louis, Mo. SUPPORTING SHIPPER: Granite City Steel Division of National Steel Corporation, 20th & State Street, Granite City, Ill. 62040. SEND PROTESTS TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 64932 (Sub-No. 524 TA), filed February 21, 1974. Applicant: ROGERS CARTAGE CO., 10735 South Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: William F. Farrell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Resins, styrenes, anhydrides, alcohols, and glycols*, liquid, in bulk, in tank vehicles, from the plantsite of Marco Chemical at Jacksonville, Ark., to points in Colorado, Iowa, North Carolina, and South Carolina, for 180 days. SUPPORTING SHIPPER: Mr. Jules P. Augsdorfer, Vice President-Marketing, Marco Chemical Division, W. R. Grace & Co., 1711 West Elizabeth Ave., Linden, N.J. 07036. SEND PROTESTS TO: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 64932 (Sub-No. 525 TA), filed February 21, 1974. Applicant: ROGERS CARTAGE CO., 10735 South Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: William F. Farrell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemical waste products*, in bulk, in tank vehicles, from Warrick, Ind., to Chicago, Ill., for 90 days. SUPPORTING SHIPPER: Mr. James E. Carr, Corporate Traffic Manager, Nalco Chemical Company, 180 N. Michigan Ave., Chicago, Ill. 60601. SEND PROTESTS TO: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 108859 (Sub-No. 60 TA), filed February 11, 1974. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue North, Escanaba, Mich. 49829. Applicant's representative: John L. Bruemmer, 121 W. Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Sault Ste. Marie, Mich., to Warsaw, Ind., and Louisville, Ky., for 180 days.

NOTE.—Applicant intends to tack with present authority between the United States-Canada boundary line at or near Sault Ste. Marie, Ontario. It intends to interline at the two destination points. SUPPORTING SHIPPER: Abitibi Paper Company, Ltd., Toronto-Dominion Centre, Toronto, Ontario, M5K 1B3. SEND PROTESTS TO: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 110420 (Sub-No. 702 TA), filed February 14, 1974. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aqua ammonia* (with additives); and (2) *spent aqua ammonia*, in bulk, in tank vehicles, (1) from Union, Ill., to Calumet, Mich.; Cambridge, Ohio; Northfield, Minn.; and Eau Claire, Wis.; and (2) from Calumet, Mich.; Northfield, Minn.; Cambridge, Ohio; and Eau Claire, Wis., to Joliet and Union, Ill., for 180 days. SUPPORTING SHIPPER: Southern California Chemical Co., Inc., P.O. Box 432, Union, Ill. 60180 (John E. Radigan, Plant Manager). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 111231 (Sub-No. 184 TA), filed February 19, 1974. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Ark. 72764. Applicant's representative: James B. Blair, 111 Holcomb Street, P.O. Box 869, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Carter County, Mo., to points in Georgia, Illinois, Indiana, Iowa, Kentucky, Michigan, Ohio, Tennessee, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Risby Pallet & Lumber Company, Inc., Box 125, Elsinore, Mo. 63937. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 111729 (Sub-No. 419 TA), filed February 20, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Payroll checks and management reports*, between Indianapolis, Ind., and Hamilton, Mich.; (2) *business papers, records, audit and accounting media of all kinds*, between Bluefield, W. Va., on the one hand, and, on the other, Cumberland, Md.; Coeburn, Norfolk, Richmond, Roanoke, and Salem, Va.; Kingsport, Tenn.; Cincinnati, Cleveland, Columbus, Dayton, Hopedale, Toledo, and Youngstown, Ohio; and Monroeville, Pa.; and (3) *computer parts, business machine parts, assemblies and supplies pertaining thereto*, restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds, from one consignor to one consignee on any one day; (a) from Pittsburgh, Pa., to Clarksburg, Fairmont, and Morgantown, W. Va.; and (b) from Cleveland, Ohio, to Clarksburg, Fairmont, and Morganville, W. Va., and McKeesport and Monroeville, Pa., for 180 days. SUPPORTING SHIPPERS: Bluefield Supply Company, 100 Bluefield Ave., Bluefield, W. Va.; American Fletcher Sharedata, 450 East Washington Street, Indianapolis, Ind. 46204; IBM, P.O. Box 10, Princeton, N.J. 08540. SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112750 (Sub-No. 307 TA), filed February 20, 1974. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except currency and negotiable securities), as are used in the business of banks and banking institutions, (1) between Bettendorf, Cedar Rapids, Council Bluffs, Davenport, Des Moines, Dubuque, Fort Dodge, Mason City, Sioux City, and Waterloo, Iowa, and Omaha, Nebr., on the one hand, and, on

the other, Sioux Falls, S. Dak., La Crosse, Wis., and points in Blue Earth, Brown, Cottonwood, Dakota, Dodge, Faibault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Jackson, Le Sueur, Martin, Mower, Murray, Nicollet, Nobles, Olmsted, Pipestone, Ramsey, Rice, Rock, Scott, Steele, Wabash, Waseca, Watonwan, and Winona Counties, Minn.; and (2) between points in Missouri and Cairo, Ill., on the one hand, and, on the other, Memphis, Tenn., for 90 days. SUPPORTING SHIPPERS: First National Bank, 55 N. Danny Thomas, Memphis, Tenn.; and Northwest Computer Services, Inc., Lincoln Bank Building, P.O. Box B–1397, Minneapolis, Minn. SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 119777 (Sub-No. 287 TA), filed February 22, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer "L" Madisonville, Ky. 42431. Applicant's representative: Ronald E. Butler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particle board*, from the plantsite of Temple Industries, Inc., at or near Thomson, Ga., to points in Florida, South Carolina, North Carolina, Virginia, West Virginia, Kentucky, Tennessee, Alabama, and Mississippi, for 180 days. SUPPORTING SHIPPER: Mr. Jack H. Hollingsworth, Production Manager, Temple Industries, Inc., Diboll, Tex. 75941. SEND PROTESTS TO: Wayne L. Merilatt, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 124328 (Sub-No. 59 TA), filed February 20, 1974. Applicant: BRINK'S INCORPORATED, 234 E. 24th Street, Chicago, Ill. 60616. Applicant's representative: J. G. O'Keefe, O'Hare Plaza, Suite 650, 5725 E. River Road, Chicago, Ill. 60631. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Nobel metals*, between Winslow, N.J., Shreveport (Brian), La., and Tulsa, Okla., for 180 days. SUPPORTING SHIPPER: Automotive Products Division of Universal Oil Products Company, 2425 Dempster Street, Des Plaines, Ill. 60016. SEND PROTESTS TO: District Supervisor Richard K. Shullaw, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Chicago, Ill. 60604.

No. MC 124965 (Sub-No. 3 TA), filed February 20, 1974. Applicant: OIL TRANSPORT, INC., 4419 Bainbridge Boulevard, Chesapeake, Va. 23320. Applicant's representative: Blair P. Wakefield, Suite 1001, First & Merchants National Bank Bldg., Norfolk, Va. 23510. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastics*, in bulk, from the plant site of Foster Grant Co., Inc., at Chesapeake, Va., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, and West Virginia, for 180 days. SUPPORTING SHIPPER: Foster Grant Co., Inc., 289 North Main Street, Leominster, Mass. 01453. SEND PROTESTS TO: District Supervisor Clatin M. Harmon, Bureau of Operations, Interstate Commerce Commission, 10–502 Federal Bldg., Richmond, Va.

No. MC 127577 (Sub-No. 6 TA), filed February 20, 1974. Applicant: D. DONNELLY LIMITED, 191 Murray Street, Montreal 102, Quebec, Canada. Applicant's representative: W. Norman Charles, 80 Bay Street, Glens Falls, N.Y. 12801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, in bulk, in dump vehicles, from Solvay and Syracuse, N.Y., to ports of entry on the International Boundary line between the United States and Canada at or near Alexandria Bay and Champlain, N.Y. RESTRICTED to traffic having an immediate subsequent movement in foreign commerce, for 180 days. SUPPORTING SHIPPER: Allied Chemical Canada, Ltd., 237 Hymus Blvd., Pointe Claire, Quebec, Canada. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 127577 (Sub-No. 7 TA), filed February 20, 1974. Applicant: D. DONNELLY LIMITED, 191 Murray Street, Montreal, 102, Quebec, Canada. Applicant's Representative: W. Norman Charles, 80 Bay Street, Glens Falls, N.Y. 12801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron*, in bulk, in dump vehicles, from ports of entry on the International Boundary line between the United States and Canada at or near Alexandria Bay and Champlain, N.Y., to Pittsburgh, Pa. RESTRICTED to traffic having an immediate prior movement in foreign commerce, for 180 days. SUPPORTING SHIPPER: Quebec Iron & Titanium Corporation, P.O. Box 560, Sorel, Quebec, Canada. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, P.O. Box 548, Montpelier, Vt. 05602.

No. MC 133233 (Sub-No. 27 TA), filed February 20, 1974. Applicant: CLARENCE L. WERNER, doing business as WERNER INTERPRISES, 805 32d Ave., P.O. Box 831, Council Bluffs, Iowa 51501. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Bldg., 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe, fittings, and accessories therefor*, from points in Pottawattamie County, Iowa, to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Kansas, Michigan, Missouri, Montana, Nebraska, Nevada, New Mexico, Ohio, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming, under continuing contract or contracts with Griffin Pipe Products Co., for 90 days. SUPPORTING SHIPPER: Griffin Pipe Products Co., John A. Keenan, General Traffic Mgr., 2000 Spring Road, Oak Brook, Ill. 60521. SEND PROTESTS TO: District Supervisor Carroll Russell, Bureau of Operations, Interstate Commerce Commission, Suite 620 Union Pacific Plaza, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 133828 (Sub-No. 1 TA), filed February 21, 1974. Applicant CASAZZA TRUCKING COMPANY, 1250 Glendale Road, Sparks, Nev. 89431. Applicant's representative: Earl Casazza (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road construction machinery and equipment* as described in Appendix VIII to the report in *Descriptions in Motor Carrier Certificates*, M.C.C. 209 and 766 and *excavating and logging machinery and equipment*, the transportation of which because of size or weight requires the use of special equipment, between points in Alameda, Butte, Calavaras, Contra Costa, Inyo, Marin, Napa, Plumas, Sacramento, San Mateo, San Joaquin, Santo Clara, Solano, Sonoma, Sutter, Tuolumne and Yuba Counties, Calif., and Churchill and Pershing Counties, Nev., and those in a Washoe County, Nev., on and north of U.S. Highway 40 (Interstate Highway 80), for 180 days.

NOTE.—Applicant proposes to tack the applied for authority with existing authority in MC 133828 at points in Nevada and California.

SUPPORTING SHIPPERS: Graid Equipment Company, 3005 Mill Street, Reno, Nev. 89502; Nevada Tractor Company, 1360 Kleppe Lane, Sparks, Nev.; Pioneer Equipment Company of Nevada, Inc., 525 Kietzke Lane, Reno, Nev. 89502; Case Power & Equipment, 2620 E. 5th St., Reno, Nev. 89502; Cashman Equipment Co., 600 Glendale Road, Sparks, Nev. 89431; and Clarklift-West, Inc., 3781 Mill Street, Reno, Nev. 89502. SEND PROTESTS TO: District Supervisor Robert G. Harrison, Interstate Commerce Commission, Bureau of Operations, Room 203, Federal Building, 705 N. Plaza Street, Carson City, Nev. 89701.

No. MC 133966 (Sub-No. 31 TA), filed February 19, 1974. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, Pa. 18707. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toys, games, and outdoor swing sets*, from Wilkes-Barre, Pa., to points in Massachusetts, New Jersey, New York, and Ohio, for 150 days. SUPPORTING SHIPPER: Roth American, Inc., 356 N. Pennsylvania Avenue, Wilkes-Barre, Pa. 18703. SEND PROTESTS TO: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 135170 (Sub-No. 2 TA), filed February 19, 1974. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. Applicant's representatives: Hardman, Burke, Kerwin & Towle, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends, and accessories and materials, equipment and supplies* used in connection with the manufacture, sale, and distribution of containers, from Philadelphia, Pa., and Baltimore, Md., to Suffolk, Va., and Portsmouth, Va., for 180 days. SUPPORTING SHIPPER: Mr. R. P. Edwards, Asst. Transportation Manager—Operation, American Can Company, American Lane, Greenwich, Conn. 06830. SEND PROTESTS TO: William L. Hughes, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 135874 (Sub-No. 36 TA), filed February 20, 1974. Applicant: LTL PERISHABLES, INC., 132d & "Q" Streets, Mlg: P.O. Box 37468, 68152, Omaha, Nebr. 68137. Applicant's representative: Donald L. Stern, Suite 530 Univac Bldg., 7100 West Center Rd., Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and warehouse facilities of the Kitchens of Sara Lee located at Chicago and Deerfield, Ill., to Hutchinson, Wichita, Topeka, Smith Center, Kans., and the Kansas City, Kans.-Kansas City, Mo., commercial zones, for 180 days. SUPPORTING SHIPPER: Kitchens of Sara Lee, Charles G. Sladek, Traffic Services Supervisor, 500 Waukegan Road, Deerfield, Ill. 60015. SEND PROTESTS TO: District Supervisor Carroll Russell, Bureau of Operations, Interstate Commerce Commission, Suite 620, Union Pacific Plaza, Omaha, Nebr. 68102.

No. MC 138429 (Sub-No. 7 TA), filed February 21, 1974. Applicant: ASI, INC., P.O. Box 10444, Jacksonville, Fla. 32207. Applicant's representative: Sol H. Proctor, 1107 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products distributors from Atlanta, Ga., to points in Florida, South Carolina, North Carolina, Virginia, West Virginia, Tennessee, Alabama, and Mississippi, for 180 days. SUPPORTING SHIPPER: Amway Corporation, 100 Wheaton Drive, Atlanta, Ga. 30336. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202.

No. MC 138938 (Sub-No. 1 TA), filed February 13, 1974. Applicant: MID AMERICA MOVERS, INC. 225 So. Franklin, Junction City, Kans. 66441. Applicant's representative: Paul V. Dugan, 2707 W. Douglas, Wichita, Kans. 67213. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, unaccompanied luggage*, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization of unpacking, uncrating, and decontainerization of such traffic, between Junction City, Fort Riley, Kans., on the one hand, and points in Clay, Geary, Dickinson, Marshall, Pottawatomie, Washington, Riley, and Morris Counties Kans., on the other, for 180 days. SUPPORTING SHIPPER: Department of Defense, Procurement Office, Fort Riley, Kans. 66442. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Building, Topeka, Kans. 66603.

NOTE.—Applicant does not intend to tack the authority here applied for to another authority held by it or to interline with other carriers.

No. MC 139480 (Sub-No. 1 TA), filed Februray 19, 1974. Applicant: HAROLD WARNKE, P.O. Box 1026, Mitchell, S. Dak. 57301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, from Mitchell, S. Dak., to Rochester, Minn.; Melrose Park, Ill.; and Brooklyn, N.Y., for 180 days. SUPPORTING SHIPPER: Dakota Cheese, Inc., 519 S. Sanborn, Mitchell, S. Dak. 57301 (James J. Dee, President). SEND PROTESTS TO: District Supervisor J. L. Hammond. Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 139524 TA, filed February 21, 1974. Applicant: STU'S UNLOADING SERVICE, INC., 9145 Blakeland Road, Littleton, Colo. 80210. Applicant's representative: Robert G. Shepherd, Jr., Suite 1212, United Bank Center, 1700 Broadway, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor decking, wood beams and arches, architectural paneling, plywoood, lumber, roof decking, steel bulb tees, and hardboard siding*, from the railhead in Englewood, Colo., to sites of construction projects in Colorado, for 180 days. SUPPORTING SHIPPERS: Colorado Plywood Company, 4001 Holly Street, Denver, Colo. 80216; Riebe & Associates, Inc., 2170 S. Delaware St., Denver, Colo. 80223; Metropolitan Lumber Company, Box C, Basalt, Colo. 81621; and General Building Service & Supply, Inc., 1736 Boulder Street, Denver, Colo. 80211. SEND PROTESTS TO: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 139528 TA, filed Februray 22, 1974. Applicant: SCOVILLE OIL COMPANY, P.O. Box 248, London, Ky. 40741. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, D.C. 20036. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Gasoline*, in bulk, in tank vehicles, from Knoxville, Tenn., to London, Corbin, Livingston, and Mt. Vernon, Ky.; and (2) *Nos. 1 and 2 fuel oil*, in bulk, in tank vehicles, from Knoxville, Tenn., to London, Ky. for 180 days. SUPPORTING SHIPPER: E. G. Curry, President, Curry Oil Company, P.O. Box 26, London, Ky. 40741. SEND PROTESTS TO: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 Bakhaus Building, 1500 West Main Street, Lexington, Ky. 40505.

No. MC 139529 TA, filed February 22, 1974. Applicant: C. J. PERRY TRUCKING, 3639 Depot Road, Hayward, Calif. 94540. Applicant's representative: Haradon M. Dillon, 1970 Broadway, Golden West Tower, Oakland, Calif. 94612. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Fabricated structural steel, related accessories and equipment* for The Herrick Corporation of Hayward, Calif., a structural steel supplier and erector. Applicant requests temporary authority to operate from Hayward, Calif., to a construction site located in Nevada approximately one mile northeast of the California-Nevada State line on U.S. Highway 50, South Lake Tahoe, Nev., which project will commence on April 1, 1974, and continue for approximately six months. Applicant plans to use Interstate Route 580 and U.S. Highway 50 between Hayward, Calif., and the job site in Nevada, for 180 days. SUPPORTING SHIPPER: The Herrick Corporation, 25450 Clawiter Road, Hayward, Calif. SEND PROTESTS TO: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

MOTOR CARRIERS OF PASSENGERS

No. MC 139527 TA, filed February 21, 1974. Applicant: M.E.M. ENTERPRISES, INC., 216 South Third Ave., P.O. Box 2304, Yakima, Wash. 98902. Applicant's representative: Richard R. Greiner, 115 North Fourth Avenue, Box 2792, Yakima, Wash. 98902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in special operations, in round trips sightseeing and pleasure tours, beginning and ending at points in Kittitas, Benton, Yakima, and King Counties, Wash., and extending to points in Washington, Oregon, California, Nevada, Arizona, Utah, Idaho, Montana, Colorado, New Mexico, Texas, and Wyoming, including International Border crossing points, between the U.S. and Canada at points in Washington and Idaho, for 180 days. SUPPORTING SHIPPER: Luxury Travel Club, P.O. 2304, Yakima, Wash. 98902. SEND PROTESTS TO: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer

Courthouse, 555 SW. Yamhill St., Portland, Oreg. 97204.

By the Commission.

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

[FR Doc.74-6288 Filed 3-18-74;8:45 am]

[No. AB-69 (Sub-No. 1); Finance Docket No. 27406]

WESTERN MARYLAND RAILWAY CO., ET AL.

Abandonment of Line

Upon consideration of the record in the above-entitled proceedings and of a staff-prepared threshold environmental assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in these proceedings, because these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Evnronmental Policy Act of 1969, 42 U.S.S. §§ 4321 et seq., and good cause appearing therefore:

It is ordered, That applicant be, and is hereby, directed to publish the appended notice in newspapers of general circulation in Mineral and Morgan Counties, W. Va., Allegany and Washington Counties, Md., and Somerset and Fayette Counties, Pa., within 15 days of the date of service of this order, and certify to the 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 5th day of March 1974.

By the Commission, Commissioner Tuggle.

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

No. AB-69 (Sub-No. 1)

WESTERN MARYLAND RAILWAY COMPANY ABANDOMENT OF PORTIONS OF ITS LINE OF RAILROAD BETWEEN TONOLOWAY, MD., AND CONNELLSVILLE, PA. AND BETWEEN RIDGELY, W. VA., AND DAWSON, MD.

Finance Docket No. 27406

WESTERN MARYLAND RAILROAD COMPANY, THE BALTIMORE AND OHIO RAILROAD COMPANY, AND THE BALTIMORE AND OHIO RAILROAD COMPANY IN PENNSYLVANIA APPLICATION FOR WESTERN MARYLAND RAILROAD COMPANY TO ACQUIRE TRACKAGE RIGHTS OVER THE LINE OF THE BALTIMORE AND OHIO RAILROAD COMPANY AND THE BALTIMORE AND OHIO RAILROAD COMPANY IN PENNSYLVANIA BETWEEN CHERRY RUN, W. VA., AND CONNELLSVILLE, PA., AND BETWEEN CUMBERLAND, MD., AND WEST VIRGINIA CENTRAL JUNCTION, W. VA.

The Interstate Commerce Commission hereby gives notice that by order dated March 5, 1974, it has been determined that the proposed abandonment of portions of the line of railroad of the Western Maryland Railway Company between Tonoloway, Md., and Connellsville, Pa., and between Ridgely, W. Va., and Dawson, Md., and distance of approximately 116.55 miles, and the application for Western Maryland Railway Company to acquire trackage rights of the line of railroad of the Baltimore and Ohio Railroad Company and the Baltimore and Ohio Railroad Company in Pennsylvania between Cherry Run, W. Va., and Connellsville, Pa., and between Curberland, Md., and West Virginia Central Junction, W. Va., a distance of 184.40 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 between Cumberland, Md., and West mental impact statement will not be required under section 4332(2) (C) of the NEPA.

It was concluded, among other things, that inasmuch as the traffic moving over the Western Maryland line will be diverted to the nearby parallel tracks of the Baltimore and Ohio (under the trackage rights agreement), there would be no significant effect on the area's transportation scheme. Approval of the abandonment will facilitate the sale of the Western Maryland right-of-way to a number of public and private groups interested in using the land for conservation and recreational purposes. Furthermore, failure to remove the line will necessitate construction of a railroad tunnel under a new runway to be constructed at the Cumberland Municipal Airport, and it will necessitate construction of a highway underpass near Ohio Pyle, Pa. Approval of these applications will, therefore, be consistent with local and regional land use plans. 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 April 3, 1974.

[FR Doc.74-6287 Filed 3-18-74;8:45 am]

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PART II

ENVIRONMENTAL PROTECTION AGENCY

■

IMPLEMENTATION OF THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER A—GENERAL

PART 4—IMPLEMENTATION OF THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, became effective January 2, 1971. Its purpose is to provide uniform and equitable land acquisition policies and relocation assistance for displaced persons in connection with Federal or federally-assisted programs.

Pursuant to section 213 of the Act, the Environmental Protection Agency issued interim regulations on August 24, 1971 (36 FR 16626). Although invited, no comments were recieved concerning the interim regulations. Since their publication, the Office of Management and Budget has issued Guidelines for Implementation of the Act (OMB Circular A-103, May 1, 1972). These revised regulations have been based on those guidelines. Additionally, these regulations reflect the Agency's experience to date in implementing the Act and reflect the results of coordination with other Federal agencies to achieve uniformity in implementation.

Pursuant to Office of Management and Budget Circular A-85, "Consultation with heads of State and local governments in development of Federal regulations," the regulations have been reviewed by State and local organizations through the Advisory Commission on Intergovernmental Relations (ACIR). As a result of the single comment received following the ACIR review, regulation 4.600 has been revised to indicate that the acquisition of easements is subject to the policies and procedures governing land acquisition.

These regulations supersede those published as interim regulations August 24, 1971. Interested parties are encouraged to submit written comments concerning the regulations to the Director, Grants Administration Division, Environmental Protection Agency, Washington, D.C. 20460. All submissions received before July 1, 1974, will be considered prior to promulgation of the final regulations and will be available for examination in Room W437E, Waterside Mall West, 401 M Street, SW., Washington, D.C.

Effective date. The interim regulations of this part shall become effective March 19, 1974.

JOHN QUARLES,
Acting Administrator.

MARCH 7, 1974.

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APPENDIX A—Records.

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AUTHORITY: Sec. 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646 (84 Stat. 1894).

Subpart A—General

§ 4.100 Purpose and policy.

(a) This part implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which provides for the uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally-assisted projects and establishes uniform and equitable land acquisition policies for Federal and federally-assisted programs.

(b) In implementing the Act, it is the policy of the Environmental Protection Agency to deal consistently and fairly with all persons whose property is taken for public projects and all persons who are displaced from their homes, businesses or farms.

§ 4.101 Applicability.

This part applies to EPA projects and to EPA assisted projects which after January 1, 1971, cause the displacement of persons or the acquisition of real property.

§ 4.102 Definitions.

As used in this part—

§ 4.102-1 The Act.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646 (84 Stat. 1894) approved January 2, 1971.

§ 4.102-2 Administrator.

The Administrator of the Environmental Protection Agency or his designee.

§ 4.102-3 Business.

A lawful activity, other than a farm operation, conducted primarily,

(a) For the purchase, sale, lease, or rental of personal and real property, or the manufacture, processing, or marketing of products, commodities, or other personal property;

(b) For the sale of services to the public;

(c) By a nonprofit organization; or

(d) Solely for the purposes of section 202(a) of the Act, for assisting in the

purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted. Section 202(a) provides entitlement to payment for actual reasonable moving and related expenses.

§ 4.102–4 Displacing agency.

The Environmental Protection Agency in the case of an EPA project or a State agency (§ 4.102–14) in the case of a project receiving financial assistance from EPA.

§ 4.102–5 Dwelling.

The place of permanent or customary and usual abode of a person. It includes a single family building, a one-family unit in a multifamily building, a unit of a condominium or co-operative housing project, and any other residential unit, including a mobile home, which is either considered to be real property under State law or which cannot be moved without substantial damage or unreasonable cost.

§ 4.102–6 Economic rent.

The amount of rent a displaced homeowner or tenant would have to pay for a comparable dwelling in an area similar to the neighborhood in which the displacement dwelling is located.

§ 4.102–7 Family.

Two or more individuals who are related by blood, adoption, marriage, or legal guardianship who live together as a family unit. Others who live together as a family unit may be treated as if they were a family, upon determination by the Administrator.

§ 4.102–8 Farm operation.

A lawful activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use and customarily producing those products or commodities in sufficient quantity to be capable of providing at least one-third of the operator's income. Where such operation is obviously a farm operation, however, it need not contribute one-third to the operator's income for him to be eligible for relocation payments.

§ 4.102–9 Federally assisted.

With respect to States or State agencies, assisted by a contract, grant, loan, or contribution by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

§ 4.102–10 Initiation of negotiations.

The date on which the displacing agency makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase real property.

§ 4.102–11 Mortgage.

A lien commonly given to secure an advance on, or the unpaid purchase price of, real property under the laws of the State in which real property is located, together with any credit instruments secured thereby.

§ 4.102–12 Owner.

A person who holds fee title, a life estate, a 99-year lease, or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estate or interest, or who is possessed of such other proprietary interest in the property acquired as, in the judgment of the Administrator, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by devise, bequest, inheritance or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

§ 4.102–13 Person.

Any individual, partnership, corporation or association.

§ 4.102–14 State agency.

A department, public body, agency or instrumentality of a State or of a political subdivision of a State, or any department, agency or instrumentality of two or more States or of two or more political subdivisions of a State or States, the National Capital Housing Authority and the District of Columbia Redevelopment Land Agency.

§ 4.102–15 Tenant.

An individual or family who rents, or is temporarily in lawful possession of a dwelling, including a sleeping room.

§ 4.103 Displaced person; qualifications.

(a) Subject to the exceptions of paragraphs (d) and (e) of this section, a person qualifies as a displaced person if, after January 1, 1971, he moves from real property, or moves his personal property from real property, as a result of the acquisition of that real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by EPA or with EPA financial assistance.

(b) A person who moves from real property, or moves his personal property from real property, as a result of the acquisition of, or the written order of the acquiring agency to vacate, other real property on which such person conducts a business or farm operation (and the acquisition of that other real property is for an EPA or EPA-assisted project) is a displaced person solely for the purposes of sections 202(a), 202(b) and 205 of the Act. Those sections provide for entitlement to payment for moving and related expenses and to relocation assistance advisory services.

(c) A person may qualify as a displaced person regardless of:

(1) Whether the property is acquired by EPA or by a State agency receiving assistance from EPA;

(2) The name or status of the person who acquires or holds fee title to the property; or

(3) Whether EPA funds contribute to the payment for the property, if the property must be acquired for an EPA or EPA-assisted program or project.

(d) A person, other than the former owner or tenant, who enters into rental occupancy of real property after its ownership passes to the displacing agency, does not qualify as a displaced person for purposes of this part.

(e) A person who enters into occupancy of real property after the initiation of negotiations for that property or after the issuance of a notice of intent to acquire that property by a given date, does not qualify as a displaced person for purposes of this part.

§ 4.104 Appeals.

(a) *EPA administered projects.* Any person aggrieved by a determination made by EPA, in connection with an EPA project or program, concerning the eligibility for, or amount of, any payment to such person under the regulations in this part, may appeal to have his application reviewed by the Administrator. Appeals shall be submitted in writing and addressed to the Administrator, Environmental Protection Agency, Washington, D.C. 20460. No appeal will be considered unless it is received by the Administrator within 90 days of the date of receipt by the person aggrieved of written denial, in whole or in part, of his application for payment. The appeal should include written substantiation. An appeal may be presented by the attorney of the person aggrieved or by the person himself. The Administrator shall promptly issue a decision on the appeal, which decision may either uphold the original determination or allow prompt payment of any amounts which are determined to be due the claimant. The decision will be in writing, and state the facts and law upon which it is based. A copy of the decision will be furnished to the person aggrieved. The decision will constitute the final EPA decision on the application for payment.

(b) *EPA-assisted projects.* An applicant for a payment under an EPA assisted project who is aggrieved by a displacing agency's determination as to the applicant's eligibility for payment or the amount of the payment may appeal that determination in accordance with the procedures established by the displacing agency. Each displacing agency shall establish procedures for reviewing appeals by aggrieved applicants for payments. The procedures shall insure that:

(1) Each applicant has the opportunity for oral and written presentation and the right to have counsel participate in such presentation;

(2) Each appeal will be decided promptly;

(3) Each appeal decision will include a written statement of the reasons upon

which it is based and a copy of such decision will be furnished the appellant;

(4) Prompt payment is made of any amounts which are determined to be due the claimant.

(5) The agency retains all documents associated with each appeal; and

(6) Each appellant applicant has a final appeal to the head of the displacing agency.

§ 4.105 Records.

Each displacing agency shall maintain relocation records in accordance with the requirements of Appendix A to this part and make them available during regular business hours for inspection by the Administrator. The records shall be retained by the agency for at least 3 years after completion of a project.

§ 4.106 Application for benefits.

Application for benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 are to be made within eighteen months from the date on which the displaced person moves from the real property acquired or to be acquired; or the date the displacing agency makes final payment of all costs of that real property, whichever is the later date. The Administrator may extend this period upon a proper showing of good cause.

§ 4.107 Payment not to be considered income.

Displacing agencies must advise all displaced persons that no payment received under Title II of the Act shall be considered as income for the purposes of the Internal Revenue Code of 1954, or for the purposes of determining eligibility of any person for assistance under the Social Security Act or any other Federal law.

Subpart B—Moving and Related Expenses

§ 4.200 General.

Any displaced person, including one who conducts a business or farm operation, is eligible to receive a payment for moving expense. A displaced person may elect to receive actual reasonable moving and related expenses or a fixed moving expense allowance.

§ 4.201 Payment of actual moving and related expenses.

§ 4.201–1 Allowable moving expenses.

(a) Transportation of individuals, families, and personal property from the acquired site to the replacement site, not to exceed a distance of 50 miles, except where the displacing agency determines that relocation beyond this 50 mile area is justified.

(b) Packing, unpacking, crating, and uncrating of personal property.

(c) Advertising for packing, crating, and transportation when the displacing agency determines that it is necessary.

(d) Storage of personal property for a period generally not to exceed 12 months when the displacing agency determines that storage is necessary in connection with relocation.

(e) Insurance premiums covering loss and damage of personal property while in storage or transit.

(f) Removal, reinstallation, reestablishment, including such modification as deemed necessary by the displacing agency of personal property, and reconnection of utilities for machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personal and that the displacing agency is released from any payment for the property.

(g) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agency or employees) in the process of moving, where insurance to cover such loss or damage is not available.

(h) Such other actual reasonable expenses determined by the Administrator to be allowable and directly attributable to moving because of displacement.

§ 4.201–2 Limitations.

(a) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially, unless the Administrator determines a greater amount is justified.

(b) When an item of personal property which is used in connection with any business or farm operation is not moved but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost minus the proceeds received from the sale, or the estimated costs of moving, whichever is less.

(c) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the head of the displacing agency, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of moving of junk yards, stockpiled sand, gravel, minerals, metals, and similar items of personal property.

(d) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration should be given to acquiring such display or displays as a part of the real property, unless such acquisition is prohibited by State law.

§ 4.201–3 Nonallowable moving expenses and losses.

No payment will be made under this subpart for:

(a) Additional expenses incurred because of living in a new location.

(b) Cost of moving structures or other improvements in which the displaced person reserves ownership except as otherwise provided by law.

(c) Improvements to the replacement site, except when required by law.

(d) Interest on loans to cover moving expenses.

(e) Loss of good-will.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Payment for search cost in connection with locating a replacement dwelling.

(k) Any other expense found by the Administrator not to be a necessary, actual and reasonable cost of moving.

§ 4.201–4 Expenses in searching for replacement business or farm.

(a) Actual reasonable expenses incurred by the displaced person in searching for a replacement business or farm may be allowed as follows:

(1) Actual travel costs.

(2) Extra costs for meals and lodging.

(3) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour.

(4) In the discretion of the displacing agency, necessary broker, real estate, or other professional fees to locate a replacement business or farm operation.

(b) The total amount which a displaced person may be paid for searching expenses may not exceed $500 unless the Administrator determines that a greater amount is justified based on the circumstances involved.

§ 4.201–5 Actual direct losses by business or farm operation.

Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation are reimbursable.

(a) When the business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, or the estimated costs of moving 50 miles, whichever is less.

(b) When the personal property is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement, or the estimated cost of moving 50 miles, whichever is less.

(c) The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

(d) The displaced person must make a bona fide effort to sell personal property not moved.

§ 4.205 Payment of a fixed moving expense allowance.

§ 4.205–1 Occupants of dwellings.

A person displaced from a dwelling can elect in lieu of payment for actual reasonable moving and related expenses:

(a) A dislocation allowance of $200; and

(b) A moving expense allowance, not to exceed $300, based on a moving allowance schedule for the jurisdiction in which displacement occurs.

(1) Moving allowance schedules maintained by the respective State highway departments should be used as the basis for the displacement agency's moving allowance schedules. These schedules should provide for adequacy of reimbursement in every locality.

(2) The Federal Highway Administration will make current schedules available to displacing agencies upon request.

(3) In areas where there are no highway department schedules, the displacing agency shall cooperate with other displacing agencies in the development of a single moving expense schedule for the use of all such agencies.

§ 4.205–2 Business.

A displaced person who conducts a bona fide business may elect, in lieu of payment for actual reasonable moving and related expenses a fixed amount equal to the average annual net income of the business computed in accordance with § 4.206 below but not less than $2,500 or more than $10,000, if that business:

(a) Substantially contributes to the income of the displaced person;

(b) Cannot, in the opinion of the displacing agency, be relocated without substantial loss of existing patronage taking into consideration:

(1) The type of the business;

(2) The nature of its clientele; and

(3) The relative importance of the displacement and proposed relocation sites to the business; and

(c) Is not part of a commercial enterprise having at least one other establishment engaged in the same or similar business which is not being acquired by a State agency or the United States.

(d) Is not an outdoor advertising business.

§ 4.205–3 Farm operations.

(a) A displaced person who conducts a farm operation may elect, in lieu of payment for actual reasonable moving and related expenses, a fixed amount equal to the average annual net earnings of the farm operation, computed in accordance with § 4.206 below, but not less than $2,500 or more than $10,000.

(b) In the case of a partial acquisition and displacement of a farm operation, the fixed allowance described in paragraph (a) of this section may be paid only if the displacing agency finds that:

(1) The displaced activity was a farm operation before the acquisition of the displacement site; and

(2) The property remaining after acquisition is not an economic unit.

§ 4.205–4 Nonprofit organizations.

(a) A displaced person who conducts a nonprofit organization may elect, in lieu of payment for actual reasonable moving and related expenses, a fixed amount equal to the average annual net income of the nonprofit organization computed in accordance with § 4.206 below but not less than $2,500 or more than $10,000.

(b) Where a nonprofit organization is displaced, no payment shall be made under this subpart until after the Administrator determines:

(1) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community or clientele served or affected by the activities of the nonprofit organization.

(2) That the nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

§ 4.206 Computing average annual net income; businesses and farm operations.

(a) The average annual net income of a business or farm operation is its average annual net earnings before Federal, State and local income taxes during the 2 tax years immediately preceding the tax year in which it is displaced. Net earnings include compensation obtained from the business or farm operation by its owner, his spouse, or dependents or in the case of a corporate owner, by the holder of a majority of the common stock, his spouse, or dependents.

(b) For the purpose of determining majority ownership, stock held by an individual, his spouse, and his dependents shall be treated as a unit.

(c) If the 2 tax years immediately preceding displacement are not representative, or if the business or farm operation has not been in operation that long, the displacing agency may, with the concurrence of the Administrator, prescribe some other time period for computing average annual net income.

(d) If a displaced person who conducts a business or farm operation elects to receive a fixed payment under this subpart, he shall provide proof of his earnings from the business or farm operation to the displacing agency. Proof of earnings may be established by income tax returns, certified financial statements, or other similar evidence.

§ 4.210 Application for payment.

(a) Application for payment of moving and related expenses shall be in writing and filed with the displacing agency no later than 18 months after either the date of acquisition of the dwelling, business or farm by the agency or the date the applicant vacated the dwelling, business or farm, whichever is later.

(b) Applications shall include an itemization of the expenses involved and, except as provided in paragraphs (d) and (e) of this section, shall be supported by receipts and such other evidence as the displacing agency may require. Itemization of moving expenses is not required if the displaced person has elected the payment of a fixed moving expense allowance.

(c) A displaced person may not be paid for his moving expenses in advance of the actual move unless the displacing agency finds that a hardship would otherwise result.

(d) If a displaced person, his mover, and the displacing agency agree by prearrangement in writing, the displaced person may submit an unpaid bill for moving expenses for direct payment.

(e) If the displacing agency contracts with independent movers on a schedule basis and provides a displaced person with a list of movers he may choose from to move his personal property, payment shall be made directly to the mover.

Subpart C—Replacement Housing

§ 4.301 Determinations or assurances required before displacement.

(a) No project which will result in the displacement of any person will be approved until the Administrator has determined, in the case of an EPA project, or has received satisfactory assurances, in the case of an EPA supported project, that:

(1) Fair and reasonable relocation payments will be provided to displaced persons as required by Subparts B and C of this part;

(2) Relocation assistance programs offering the services described in Subpart D of this part will be provided for displaced persons;

(3) The public was or will be adequately informed of the relocation payments and services which will be available under Subparts B, C, and D of this part; and

(4) Comparable replacement dwellings will be available, or provided if necessary, a reasonable period in advance of the time any person is to be displaced.

(b) The displacing agency will not proceed with any phase of a project which will cause the displacement of any person until the Administrator has determined, in the case of an EPA project, or has received satisfactory assurances in the case of an EPA-supported project, that replacement housing will be:

(1) Decent, safe, and sanitary (as defined in § 4.303);

(2) Functionally equivalent and substantially the same as the dwelling being acquired (but not excluding newly constructed housing) with respect to:

(i) Number of rooms;

(ii) Area of living space;

(iii) Age, and

(iv) State of repair.

(3) In an area not generally less desirable in regard to public utilities and public and commercial facilities;

(4) Reasonably accessible to the displaced person's place of employment;

(5) Adequate to accommodate the displaced family or individual;

(6) In an equal or better neighborhood;

(7) Available on the market and at rents or prices within the financial means of the families and individuals displaced;

(8) Sufficient in number for the displaced persons who require them;

(9) Consistent with the requirements of Title VIII of the Civil Rights Act of 1968 (Pub. L. 90–204);

(10) Based on a current survey and analysis of available replacement hous-

ing and in consideration of competing demands on available housing.

(c) In case of emergency, extreme hardship or similar extenuating circumstances assurances of availability may be waived with the concurrence of the Administrator. Any waiver must be supported by appropriate findings and a determination of necessity.

§ 4.302 Replacement housing unavailable.

When it is determined that adequate replacement housing is not available and cannot otherwise be made available, the Administrator may take action or approve action for a State agency to develop replacement housing. The Administrator, in taking or approving any action to develop replacement housing will be guided by the criteria and procedures issued by the Secretary of Housing and Urban Development.

§ 4.303 Decent, safe, and sanitary housing requirements.

(a) A decent, safe, and sanitary housekeeping dwelling is one which:

(1) Meets State or local housing codes;

(2) Is sound, clean, and weathertight;

(3) Has a kitchen with fully usable sink;

(4) Has a cooking stove, or utility service connections;

(5) Has a separate complete bathroom;

(6) Has hot and cold running water in the bathroom and kitchen;

(7) Has a continuing and adequate supply of potable water;

(8) Has an adequate and safe wiring system for lighting and other electrical services; and

(9) Has heating as required by climatic conditions and local codes.

(b) A decent, safe, and sanitary nonhousekeeping dwelling is one which:

(1) Meets State or local codes for boarding houses, hotels, or other congregate living;

(2) Has heating as required by climatic conditions and local codes;

(3) Has an adequate and safe wiring system;

(4) Is sound, clean, and weathertight; and

(5) Has use of a complete bathroom with hot and cold running water and affords privacy to a person within it, including a door that can be locked if the facilities are separate from the nonhousekeeping unit.

(c) If the applicable housing code does not meet all the requirements for housekeeping or nonhousekeeping units, as appropriate, but is reasonably comparable, a copy of the local code must be submitted to the Administrator for approval as acceptable standards for decent, safe, and sanitary housing.

§ 4.310 Replacement housing payment for homeowners.

A displaced owner-occupant is eligible for a replacement housing payment, not to exceed $15,000, if he meets both of the following requirements:

(a) Actually owned and occupied the acquired dwelling from which displaced for not less than 180 days prior to the initiation of negotiations for the property.

(b) Purchases and occupies a replacement dwelling, which is decent, safe, and sanitary, not later than the end of the one-year period beginning on the date on which he receives from the displacing agency the final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

§ 4.311 Computation of payment—180-day owners.

The replacement housing payment of not more than $15,000 to a homeowner is comprised of the following:

(a) *Differential payment for comparable replacement dwelling.* This payment is the lower of:

(1) $15,000 less payment for any increased interest costs or incidental expenses (paragraphs b and c of this section).

(2) The amount representing the difference between the acquisition price of the acquired dwelling and the costs of a decent, safe, sanitary, comparable replacement dwelling. (See § 4.330 below for methods of determining replacement dwelling cost).

(3) The amount representing the difference between the acquisition price of the acquired dwelling and the actual purchase price of a decent, safe, sanitary dwelling voluntarily purchased and occupied by the displaced person.

(b) *Interest payment.* If there was a bona fide mortgage (a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations) the displaced owner-occupant shall be compensated for any increased interest costs including points paid by the purchaser.

(1) The amount payable is the present value of the difference in interest costs and other debt service costs charged for refinancing an amount not more than the balance of the mortgage on the acquired dwelling at the time of acquisition over a period not more than the remaining term of that mortgage.

(2) The present value of the increased interest cost shall be computed at the prevailing interest rate paid on passbook savings deposits by commercial banks in the area in which the replacement dwelling is located.

(3) The interest charge on the new mortgage may not exceed the prevailing interest rate currently charged by mortgage lending institutions in the area.

(c) *Incidental expenses.* The displaced owner-occupant shall be reimbursed for actual costs incurred by him incident to purchase of the replacement dwelling. Prepaid expenses and any expense which is part of the finance charge under the Truth in Lending Act, Title I, Pub. L. 90–321, and Regulation "Z" (12 CFR Part 226) issued by the Board of Governors of the Federal Reserve System, may not be reimbursed. Incidental expenses include:

(1) Legal, closing and related costs, including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation.

(2) Lenders', FHA or VA, appraisal fees.

(3) FHA or VA application fees.

(4) Certification of structural soundness when required by the lender, FHA or VA.

(5) Credit report.

(6) Title policies or abstract of title.

(7) Escrow agent's fee.

(8) State revenue stamps or sale or transfer taxes.

§ 4.320 Replacement housing payments for tenants and certain others.

(a) A displaced tenant or owner-occupant of a dwelling for less than 180 days is eligible for a replacement housing payment not to exceed $4,000 if he meets both of the following requirements:

(1) Actually occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property.

(2) Is not eligible to receive a payment under § 4.310.

(b) An owner-occupant of a dwelling for not less than 180 days prior to the initiation of negotiations is eligible for a replacement housing payment as a tenant, when he rents, instead of purchases, a decent, safe, and sanitary replacement dwelling not later than the end of the one year period beginning (1) on the date that he receives final payment for the acquired dwelling, or (2) on the date when he moves from the acquired dwelling, whichever is later.

§ 4.321 Computation of rental replacement housing payments.

Eligible displaced tenants or owner-occupants who elect to rent a replacement dwelling may receive a replacement housing payment, not to exceed $4,000, determined as follows:

(a) The amount payable for rent to a displaced tenant, other than a tenant of the displacing agency, is 48 times the reasonable monthly rent for a comparable replacement dwelling, less 48 times the average month's rent paid by the displaced tenant for the last 3 months before initiation of negotiations for the acquired dwelling if that rent was reasonable, and if not reasonable, 48 times the monthly economic rent for the dwelling unit as established by the displacing agency.

(b) The amount payable for rent to a displaced tenant of the displacing agency is 48 times the reasonable monthly rent for a comparable replacement dwelling less 48 times the monthly economic rent.

(c) The amount payable for rent to a displaced homeowner is 48 times the reasonable monthly rent for a comparable replacement dwelling less 48 times the monthly economic rent, but not more than the homeowner would receive if he were eligible for a payment under § 4.311.

(d) In no event, however, shall the rental payment, when added to the average month's actual or, if appropriate, economic rent, exceed the actual rent that the displaced person or homeowner pays for the replacement dwelling.

(e) In determining the reasonable monthly rent for a comparable replacement dwelling the displacing agency shall use one of the following methods:

(1) It may establish a schedule of monthly rents for each type of dwelling required. The schedule shall be based on an analysis of the available private market. If more than one agency is administering a project causing displacement in the area, it shall cooperate with those agencies in establishing a uniform schedule for the area.

(2) It may determine a reasonable rent by examining the rent of at least three comparable replacement dwellings available on the private market.

(3) If it finds that the methods described in subparagraphs (1) and (2) of this paragraph are not feasible the displacing agency may propose what it considers to be a feasible method to the Administrator for approval.

§ 4.322 Computation of replacement housing down payment—tenants and 90-day owners.

If the tenant elects to purchase replacement housing within one year from displacement instead of renting, the payment shall be computed by determining the amount necessary to enable him to make a down payment and to cover incidental expenses on the purchase of replacement housing, as follows:

(a) The down payment shall be the amount necessary to make a down payment on a comparable replacement dwelling. Determination of the amount necessary for such down payment shall be based on the amount of down payment that would be required for purchase of the dwelling using a conventional loan.

(b) Incidental expenses of closing the transaction are those described in § 4.311(c).

(c) The amount required to be paid by the purchaser as points or as an origination or loan service fee is includable if such fees are normal to real estate transactions in the area.

(d) The maximum payment may not exceed $4,000 and if more than $2,000 is required, the tenant must match any amount in excess of $2,000 by an equal amount in making the down payment.

(e) The full amount of the replacement housing payment must be applied to the purchase price and incidental costs shown on the closing statement.

§ 4.330 Determination of cost of replacement dwelling.

In determining the reasonable cost of a comparable replacement dwelling available on the private market, the displacing agency shall use one of the following methods:

(a) It may establish a schedule of reasonable acquisition costs for the various types of comparable replacement dwellings which are available on the private market. If more than one agency is administering a project causing displacements in the area, it shall cooperate with those agencies in establishing a uniform schedule for the area. The schedule must be based on a current analysis of the market to determine a reasonable cost for each type of dwelling to be purchased. In large urban areas this analysis may be confined to one area of the city, or may cover several different areas if they are comparable and equally accessible to public services and places of employment. To assure the greatest comparability of dwellings, the analysis shall be divided into classifications by type of construction, number of rooms, and price ranges.

(b) It may determine the reasonable cost of a comparable replacement dwelling by examining the probable selling prices of at least three comparable replacement dwellings which are available. Selection of the dwellings must be made by a qualified employee or agent of the displacing agency who is familiar with real property values and current real estate transactions.

(c) If it finds that the methods described in paragraphs (a) and (b) of this section are not feasible for determining the reasonable cost of a comparable replacement dwelling, it may propose what it considers to be a feasible method to the Administrator for approval.

§ 4.331 Rules for considering land values.

In determining the amount of the replacement housing payment the following provisions shall be applied.

(a) If the dwelling is located on a tract typical for residential use in the area, the maximum replacement housing amount payable is the probable selling price of a comparable replacement dwelling on a tract typical for the area, less the acquisition price of the acquired property.

(b) If the dwelling is located on a tract larger than typical for residential use in the area, the maximum replacement housing amount payable is the probable selling price of a comparable replacement dwelling on a tract typical for the area, less the estimated value of the dwelling at the present location on a homesite typical in size for residential use in the area.

(c) If the dwelling is located on a tract where the fair market value is established on a higher and better than residential use, the maximum replacement housing amount payable is the probable selling price of a comparable replacement dwelling on a tract typical for residential use in the area, less the estimated value of the dwelling assuming it was located on a tract typical for residential use in the area.

§ 4.332 Partial use of home for business or farm operation.

(a) In the case of a displaced homeowner or tenant who has allocated part of his dwelling for use in connection with a displaced business or farm operation, a replacement housing payment may not be paid for that part of the property which is allocated to the business or farm operation.

(b) The eligibility of a person to receive moving expense under this part is not affected by this section.

§ 4.333 Multiple occupants of a single dwelling.

(a) If two or more families, or an individual and a family, occupy the same dwelling, each such individual or family that elects to relocate separately is entitled to a separately computed replacement housing payment.

§ 4.334 Multifamily dwelling.

In the case of a displaced homeowner who is required to move from a one-family unit of a multifamily building which he owns, the replacement housing payment shall be based on the cost of a comparable one-family unit in a multifamily building or a single family structure without regard for the number of units in the building being acquired.

§ 4.335 Application and payment.

(a) Upon application by a displaced homeowner or tenant who meets the requirements of this subpart for a replacement housing payment, the displacing agency shall:

(1) If he has purchased or rented, and occupied a decent, safe, and sanitary dwelling, make the payment directly to him, or at his option to the seller or lessor of the decent, safe, and sanitary dwelling; or

(2) If he has purchased or rented, but not yet occupied a decent, safe, and sanitary dwelling, upon his request make the payment into an escrow account.

(b) The application shall be in writing and filed with the displacing agency within 18 months after the date the applicant was required to vacate an acquired dwelling or 6 months after final adjudication of a condemnation proceeding, whichever is later.

§ 4.336 Certificate of eligibility pending purchase of replacement dwelling.

Upon request by a displaced homeowner or tenant who has not yet purchased and occupied a comparable replacement dwelling, but who is otherwise eligible for a replacement housing payment under this subpart, the displacing agency shall certify to any interested party, financial institution, or lending agency, that the displaced homeowner or tenant will be eligible for the payment of a specific sum if he purchases and occupies a decent, safe, and sanitary dwelling within the prescribed time limit.

§ 4.337 Inspection of replacement dwelling required.

(a) Before making a replacement housing payment to a displaced homeowner or tenant, or releasing a payment from escrow, the displacing agency shall inspect the replacement dwelling to determine whether or not it meets the criteria for decent, safe, and sanitary dwellings. The displacing agency may use the services of any public agency ordinarily engaged in housing inspection to conduct the inspection.

(b) A determination by the displacing agency that a dwelling meets the criteria for decent, safe, and sanitary housing is solely for the purpose of this subpart and is not a representation for any other purpose.

Subpart D—Relocation Assistance Advisory Services

§ 4.400 Requirements for relocation assistance advisory programs.

The displacing agency must provide a relocation assistance advisory program for displaced persons. The program must provide for:

(a) Explaining to displaced persons the relocation assistance and payments that are available.

(b) Assisting displaced persons to complete applications required for payments;

(c) Determining the needs of displaced persons for relocation assistance.

(d) Informing displaced persons as to the availability and cost of comparable replacement dwellings and comparable locations for displaced business and farm operations;

(e) Assisting each displaced person to obtain and move to a comparable replacement dwelling;

(f) Informing displaced persons as to Federal and State housing programs; and

(g) Providing counsel and advice to displaced persons that will minimize the hardships associated with adjusting to a new location.

§ 4.401 Extension of service.

If a displacing agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, relocation advisory services may be offered such person.

§ 4.402 Displaced person declining to accept relocation services.

A displaced person is not required to accept the relocation services provided for his benefit. He may choose to relocate on his own and still be eligible for payment if the replacement housing meets the occupancy requirements of decent, safe, and sanitary housing and application for payment is within the prescribed time limits.

§ 4.403 Information for displaced persons.

(a) The displacing agency must deliver to each displaced person either in person or by certified mail, return receipt requested:

(1) A brochure or letter explaining the relocation assistance advisory program; and

(2) If it is not included in the brochure, a notice stating the eligibility requirements for payments for replacement housing and moving expenses.

(3) In addition, if the displaced person is a homeowner or tenant, a written statement setting forth the optional types and the actual amount of replacement housing payments to which he is entitled.

(b) The information required by paragraph (a) of this section shall be furnished:

(1) To homeowners not later than the initiation of negotiations for the property or the issuance of a written notice of intent to acquire the property by a definite date, as the case may be; and

(2) To tenants within 15 days after the initiation of negotiations for the property or the issuance of a written notice of intent to acquire the property by a definite date as the case may be.

(c) The displacing agency shall notify each displaced person of his right to appeal.

§ 4.404 Public information.

(a) To insure public awareness of its relocation assistance advisory program, the displacing agency shall provide an opportunity for presentation of information and discussion of relocation services and payments at public hearings, prepare a relocation brochure, and give full and adequate public notice of the relocation program for each project to which this part applies.

(b) In areas where a language other than English is predominant, public information shall be published in the predominant language as well as in English.

§ 4.405 Coordination of relocation activities.

(a) When the displacing agency contemplates displacement in a given area, it shall furnish to the appropriate HUD area office information regarding projects which will cause displacement and shall consult with that office concerning the availability of housing. HUD Regional offices should be used in areas not served by an area office.

(1) A directory of HUD Regional and area offices is provided in Appendix B to this part. Subsequent updated directories can be obtained from the Department of Housing and Urban Development.

(b) Pursuant to the requirements and procedures promulgated by Office of Management and Budget Circular A–95 (Revised), the displacing agency shall consult appropriate local officials through the State clearinghouse.

(c) The displacing agency shall designate at least one representative who will meet periodically with the representatives of other displacing agencies to review the impact of their respective programs on the area.

(d) The displacing agency shall establish channels of communication and coordinate its displacement activities with other agencies planning or carrying out relocation in the affected area. The person assigned by the displacing agency to provide relocation assistance for a particular project shall maintain personal contact and exchange information with welfare agencies, urban renewal agencies, redevelopment authorities, public housing authorities, the Federal Housing Administration, the Veterans Administration, the Small Business Administration and other agencies providing services to displaced persons. He shall also collect and maintain information on private replacement properties in the area of the project through personal contact with real estate brokers, real estate boards, property managers, apartment owners and operators, and home building contractors.

§ 4.406 Contracting for relocation services.

(a) To prevent unnecessary expenses and duplication of activities, an agency that is required to provide relocation services or make relocation payments under this part may carry out any of those functions through the facilities, personnel, and services of a Federal, State, or local governmental or private agency having an established organization for conducting relocation assistance programs.

(b) When a central relocation agency is available in the project area or community, the displacing agency shall consider entering into an agreement with such agency. Regional and area offices of the Department of Housing and Urban Development can provide information concerning relocation service agencies. (Appendix B to this part).

(c) If a central relocation agency is not available or is unable, in the judgment of the displacing agency, to provide the necessary services within the time required, the displacing agency may provide relocation services through contracts with another public agency or a private contractor.

§ 4.406–1 Written agreement required.

If the displacing agency elects to provide relocation services or make relocation payments through another agency, it shall enter into a written agreement with that agency. The agreement must be approved by the Administrator and must contain the following:

(a) An obligation on the part of the other agency to perform the services and make the relocation payments in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and this part.

(b) If the contract is with a public agency administering another Federal or federally assisted program, a description of the financial responsibilities of each program to finance the relocation program required by this part.

(c) A provision acknowledging that only those costs directly chargeable to the EPA or EPA assisted project are eligible for EPA funds.

(d) A provision for negotiation of major changes that become necessary in the scope, character, or estimated total costs of the work to be performed.

(e) Clauses required by EPA regulations implementing Title VI of the Civil Rights Act of 1964 (Pub. L. 88–353).

(f) A provision that the records required by Appendix A be retained by the other agency or turned over to the displacing agency and that they be retained for a period of at least 3 years after payment of the final voucher on each project, regardless of which agency retains them.

(g) A provision that the records required by Appendix A to this part be available for inspection by representa-

tives of the Environmental Protection Agency or the General Accounting Office at any reasonable business hour.

(h) Any other provisions required by the Administrator to meet the requirements of EPA regulations and policies applicable to EPA supported projects.

Subpart E—Federally Assisted Projects

§ 4.500 State agency assurances.

The Environmental Protection Agency will not approve a grant, contract, or agreement for an EPA assisted project until the State agency provides the Administrator with satisfactory written assurances that:

(a) For projects resulting in the displacement of any person:

(1) It will adequately inform the public of the relocation payments and services which will be available as set forth in Subparts A, B, C, and D of this part.

(2) It will provide fair and reasonable relocation payments to displaced persons as required by Subparts B and C of this part.

(3) It will provide a relocation assistance program for displaced persons offering services described in Subpart D of this part; and

(4) Comparable replacement dwellings will be available pursuant to Subpart C of this part, or provided if necessary, a reasonable period in advance of the time any person is displaced.

(b) For projects resulting in the acquisition of real property:

(1) It will fully comply with the requirements of Subpart F of this part; and

(2) Adequately inform the public of the acquisition policies, requirements, and payments which will apply to the project.

§ 4.500–1 Inability to provide assurances.

If a State agency is unable to provide the assurances required by § 4.500, for any program or projects that will result in the displacement of any person or the acquisition of any real property, it must furnish the Administrator a statement specifying any provisions of the assurances required by this section which it is unable to provide in whole or in part under the laws of that State. The statement must be supported by an opinion of the Chief Legal Officer of the State agency of the legal inability to provide any part of the required assurances.

§ 4.501 Monitoring.

The Environmental Protection Agency will monitor on a continuing basis, actions taken by State agencies in relation to assurances given for EPA assisted programs and projects to insure conformance with such assurances.

§ 4.502 EPA share of costs.

(a) The cost to a State agency of providing the payments and services required by Subparts B, C, and D of this part, and the additional identifiable cost to a State agency of providing the payments and services required by Subpart F of this part, shall be included as part of the cost of the EPA assisted project and, except as provided in paragraph (b) of this section, the State agency is eligible for EPA financial assistance with respect to those costs in the same manner and to the same extent as other project costs.

(b) If EPA assistance is by grant or contribution, the Environmental Protection Agency will pay a State agency the full amount of the first $25,000 of the cost of providing the payments and services described in this part for any displaced person because of any acquisition or displacement occurring before July 1, 1972.

(c) If the Administrator determines it is necessary for the expeditious completion of a program or project, he may advance to the State agency the EPA share of the cost of any payment of assistance by such State agency pursuant to sections 206, 210, 215, and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

§ 4.503 Use of EPA financial assistance.

(a) The type of interest acquired in real property does not affect the eligibility of related relocation costs for EPA financial assistance provided the interest is sufficient to cause displacement.

(b) EPA financial assistance may not be used to pay a relocated person for any loss that is due to his negligence.

(c) EPA financial assistance may not be used for any payment to a displaced person if that person receives a separate payment which is:

(1) Required by the State law of eminent domain;

(2) Determined by the Administrator to have substantially the same purpose and effect as a payment under this part; and

(3) Otherwise included as a project cost for which financial assistance is available.

Subpart F—Acquisition of Real Property

§ 4.600 Applicability.

The requirements prescribed by this subpart apply to the acquisition of real property (including easements) for EPA administered and EPA assisted projects.

§ 4.601 Acquisition.

§ 4.601–1 Procedures.

In acquiring real property, the displacing agency shall:

(a) Adequately inform the public of the acquisition policies, requirements, and payments which apply to the project;

(b) Make every reasonable effort to acquire real property expeditiously through negotiation;

(c) Before the initiation of negotiations have the real property appraised and give the owner or his representative an opportunity to accompany the appraiser during inspection of the property;

(d) Before the initiation of negotiations, establish an amount which it believes to be just compensation for the real property, and make a prompt offer to acquire the property for that amount;

(e) Before requiring any owner to surrender possession of real property the displacing agency will:

(1) Pay the agreed purchase price; or

(2) Deposit with the court, for the benefit of the owner, an amount not less than the agency's approved appraisal of the fair market value of the property; or

(3) Pay the amount of the award of compensation in a condemnation proceeding for the property.

(f) If interest in real property is to be acquired by exercise of the power of eminent domain, institute formal condemnation proceedings and not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property; and

(g) Offer to acquire the entire property, if acquisition of only part of a property would leave its owner with an uneconomic remnant.

§ 4.601–2 Limitations.

In acquiring real property, the displacing agency may not:

(a) Schedule the construction or development of a public improvement that will require any person lawfully occupying real property to move from a dwelling, or to move his business or farm operation, without giving that person at least 90 days writen notice of the date he is required to move;

(b) If the displacing agency rents acquired real property to the former owner or tenant for a short term or subject to termination by the agency on short notice, charge rent that is more than the fair rental value of the property to a short-term occupant;

(c) Advance the time of condemnation;

(d) Defer negotiations, condemnation, or the deposit of funds in court for use of the owner; or

(e) Take any coercive action to compel an owner to agree to a price for his property.

§ 4.601–3 Appraisal.

(a) As a general rule only one appraisal will be obtained on each tract, unless the displacing agency determines that circumstances require an additional appraisal or appraisals.

(b) Real property acquisition records shall show that the owner or his designated representative has been given an opportunity to accompany the appraiser during his inspection of the property.

(c) Standards for appraisals used in EPA and EPA assisted programs shall be consistent with the current Uniform Appraisal Standards for Federal Land Acquisition published by the Interagency Land Acquisition Conference, U.S. Government Printing Office, Washington, D.C.

§ 4.602 Statement of just compensation.

At the time it makes an offer to purchase real property, the displacing agency shall provide the owner of that property with a written statement of the basis for the amount estimated to be just compensation. The statement shall include the following:

(a) An identification of the real property and the particular interest being acquired;

(b) A certification, where applicable, that any separately held interest in the real property is not being acquired in whole or in part;

(c) An identification of buildings, structures, and other improvements, including fixtures, removable building equipment, and any trade fixtures which are considered to be part of the real property for which the offer of just compensation is made;

(d) An identification of any real property improvements, including fixtures, not owned by the owner of the land;

(e) An identification of the types and approximate quantity of personal property located on the premises that is not being acquired;

(f) A declaration that the agency's determination of just compensation:

(1) Is based on the fair market value of the property;

(2) Is not less than the approved appraised value of the property;

(3) Disregards any decrease or increase in the fair market value of the property caused by the contemplated project;

(4) In the case of separately held interests in the real property, includes an apportionment of the total just compensation for each of those interests; and

(g) The amount of damages to any remaining real property.

§ 4.603 Equal interest in improvements to be acquired.

In acquiring any interest in real property each displacing agency shall acquire at least an equal interest in all building, structures, or other improvements located on that real property which will be removed or which will be adversely affected by the completed project.

§ 4.604 Notice to occupants.

(a) *Owner-occupants.* Simultaneous with the fair market value offer, owner-occupants of real property to be acquired, shall be furnished in writing, by the displacing agency, an explanation of their rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and these regulations.

(b). *Tenants.* Within 15 days following the initiation of negotiations, the displacing agency shall notify affected tenants and occupants, in writing, of the initiation of negotiations and of their rights under the Act of these regulations.

§ 4.605 Acquisition of improvements.

(a) In the case of a building, structure, or other improvement owned by a tenant on real property acquired for a project to which this part applies, the displacing agency shall, subject to paragraph (b) of this section, pay the tenant the larger of:

(1) The fair market value of the improvement, assuming its removal from the property; or

(2) The enhancement of the fair market value of the real property.

(b) A payment may not be made to a tenant under paragraph (a) of this section unless:

(1) The tenant, in consideration for the payment, assigns, transfers, and releases to the displacing agency all his right, title, and interest in the improvement;

(2) The owner of the land involved disclaims all interest in the improvement; and

(3) The payment is not duplicated by any payment otherwise authorized by law.

§ 4.606 Transfer of title expenses.

As soon as possible after real property has been acquired, the displacing agency shall reimburse the owner for:

(a) Recording fees, transfer taxes, and similar expenses incidental to conveying the real property to the agency;

(b) Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(c) The pro-rata portion of any prepaid property taxes which are allocable to a period subsequent to the date of vesting title in the agency or the effective date of possession of the real property by the agency, whichever is the earlier.

§ 4.607 Litigation expenses.

(a) In any condemnation proceeding brought by the displacing agency to acquire real property, it shall reimburse the owner of any right, title, or interest in the real property for his reasonable cost, disbursements, and expenses, including attorney, appraisal, and engineering fees, actually incurred because of the proceeding, if:

(1) The final judgment is that the displacing agency cannot acquire the real property by condemnation; or

(2) The proceeding is abandoned by the displacing agency concerned.

(b) In any inverse condemnation proceeding where the owner of any right, title, or interest in real property receives an award of compensation by judgment or settlement, the displacing agency shall reimburse the plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the proceeding.

§ 4.608 Real property provided by State agency for an EPA project.

(a) Whenever a State agency is obligated to provide the necessary real property incident to an EPA project, the Environmental Protection Agency may not accept that real property until it is determined that the State agency has made all payments and provided all assistance and assurances required of a State Agency by § 4.500.

(b) The State agency shall pay the cost of such requirements in the same manner and to the same extent as the real property acquired for such project, except that in the case of any real property acquisition or displacement occurring prior to July 1, 1972, the Environmental Protection Agency shall pay the first $25,000 of the cost of providing the required payments and assistance.

APPENDIX A—RECORDS

I. *Land acquisition.* For purpose of Title III of the Act, the acquiring agency shall keep a record of the following information concerning each acquisition of any interest in land used for an EPA supported project:

(1) The identification of the property and the estate or interests acquired, including improvements; owners and occupants.

(2) The appraisal.

(3) The offer.

(4) The date and method of acquisition.

(5) The date, amount, and purpose of payments to owners and others.

II. *General information concerning the project.* A displacing agency shall keep a record of the following general information for each EPA administered or EPA assisted project:

(1) Project and parcel identification;

(2) Name and address of each displaced person;

(3) Dates of all personal contacts made with each displaced person;

(4) Date each displaced person is given notice of relocation payments and services.

(5) Name of agency employee who offers relocation assistance.

(6) The date the offer of assistance is declined or accepted, and the name of the individual who accepts or declines the offer.

(7) Date each displaced person is required to move.

(8) Date of actual relocation, and whether relocation was accomplished with the assistance of the displacing agency, other agencies, or without assistance.

(9) Type of tenure held by each displaced person before and after relocation.

III. *Displacement from dwellings.* The displacing agency shall keep a record of the following information concerning each individual or family displaced from a dwelling in connection with the project:

(1) Number in family, or number of individuals.

(2) Type of dwelling.

(3) Fair market value, or monthly rent.

(4) Number of rooms.

IV. *Displaced businesses.* The displacing agency shall keep a record of the following information concerning each business displaced in connection with the project.

(1) Type of business.

(2) Whether or not relocated.

(3) If relocated, distance moved.

(4) Data supporting a determination that a business cannot be relocated without a substantial loss of its existing patronage and that it is not part of a commercial enterprise having at least one other establishment not being acquired by a State agency or the United States.

V. *Moving expenses.* The displacing agency shall keep a record of the following information concerning each payment of moving and related expenses in connection with the project:

(1) The date personal property is moved, and the original and new locations of the personal property.

(2) If personal property is stored temporarily:

(a) The place of storage;

(b) The duration of storage; and

(c) A statement of why storage is necessary.

(3) An account of all moving expenses that are supported by receipted bills or similar evidence of expenses;

(4) Amount of reimbursement claimed, amount allowed, and an explanation of any difference;

(5) In the case of a business or farm operation that receives a fixed allowance in lieu of moving expenses, data underlying the computation of such payment.

VI. *Replacement housing payments.* The displacing agency shall keep a record of the following information concerning each relocation housing payment made in connection with the project:

(1) The date application for payment is received.

(2) The date application for payment is approved or rejected.

(3) Data substantiating the amount of payment.

(4) If replacement housing is purchased, a copy of the closing statement indicating the purchase price, down payment, and incidental expenses.

(5) A copy of the Truth in Lending Statement, or other data, including computations, that confirm any increased interest payment.

APPENDIX B

DIRECTORY—REGIONAL AND AREA OFFICES, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Region I

Regional Administrator James J. Barry, Rm. 800, John F. Kennedy Federal Building, Boston, Massachusetts 02203, Tel. (617) 223–4066.

Area offices:

Connecticut, Hartford 06105: 999 Asylum Avenue, Tel. (203) 244–3638.

Massachusetts, Boston 02114: Bulfinch Building, 15 New Chardon Street, Tel. (617) 223–4111.

New Hampshire, Manchester 03101: Davison Building, 1230 Elm Street, Tel. (603) 669–7681.

Region II

Regional Administrator S. William Green, 26 Federal Plaza, New York, New York 10007, Tel. (212) 264–8068.

Area offices:

New Jersey, Camden 08103: The Parkade Building, 519 Federal Street, Tel. (609) 963–2301.

New Jersey, Newark 07102: Gateway 1 Building, Raymond Plaza, Tel. (201) 645–3010.

New York, Buffalo 14202: Grant Building, 560 Main Street, Tel. (716) 842–3510.

New York, New York 10007: 120 Church Street, Tel. (212) 264–0522.

Commonwealth area office:

Puerto Rico, San Juan 00936: Post Office Box 3869 GPO, 255 Ponce de Leon Avenue, Hato Rey. Puerto Rico, FTS Tel. (Dial Code 106—ask operator for listed number 622–0201), Commercial Number: 622–0201.

Region III

Regional Administrator Theodore R. Robb, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, Tel. (215) 597–2560.

Area offices:

District of Columbia, Washington 20005: 1310 L Street, N.W., Tel. (202) 382–4855.

Maryland, Baltimore 21201: Federal Building, 31 Hopkins Plaza, Tel. (301) 962–2121.

Pennsylvania, Philadelphia 19106: Curtis Building, 625 Walnut Street, Tel. (215) 597–2358.

Pennsylvania, Pittsburgh 15222: 1000 Liberty Avenue, Tel. (412) 644–2802.

Virginia, Richmond 23240: 701 East Franklin Street, Post Office Box 10011, Tel. (703) 782–2721.

Region IV

Regional Administrator Edward H. Baxter, Peachtree-Seventh Building, 50 Seventh Street, N.E., Atlanta, Georgia 30323, Tel. (404) 526–5585.

Area offices:

Alabama, Birmingham 35233: Daniel Building, 15 South 20th Street, Tel. (205) 325–3264.

Florida, Jacksonville 32204: Peninsular Plaza, 661 Riverside Avenue, Tel. (904) 791–2626.

Georgia, Atlanta 30303: Peachtree Center Building, 230 Peachtree Street, N.W., Tel. (404) 526–4576.

Kentucky, Louisville 40202: Children's Hospital Foundation Bldg., 601 South Floyd Street, Tel. (502) 582–5254.

Mississippi, Jackson 39202: 301 North Lamar Street, FTS Tel. (601) 948–2267, Commercial Number: 948–7821.

North Carolina, Greensboro 27408: 2309 West Cone Boulevard, Northwest Plaza, FTS Tel. (919) 275–9361, Commercial Number 275–9111.

South Carolina, Columbia 29201: 1801 Main Street, Jefferson Square, FTS Tel. (803) 253–3535, Commercial Number: 253–8371.

Tennessee, Knoxville 37919: One Northshore Building, 1111 Northshore Drive, FTS Tel. (615) 524–4011, Commercial Number: 584–8527.

Region V

Regional Administrator George J. Vavoulis, 300 South Wacker Drive, Chicago, Illinois 60606, Tel. (312) 353–5680.

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Illinois, Chicago 60602: 17 North Dearborn Street, Tel. (312) 353–7660.

Indiana, Indianapolis 46205: Willowbrook 5 Building, 4720 Kingsway Drive, Tel. (317) 633–7188.

Michigan, Detroit 48226: 5th Floor, First National Building, 660 Woodward Avenue, Tel. (313) 226–7900.

Minnesota, Minneapolis-St. Paul: Griggs-Midway Building, 1821 University Avenue, St. Paul, Minnesota 55104, Tel. (612) 725–4801.

Ohio, Columbus 43215: 60 East Main Street, Tel. (614) 469–5737.

Wisconsin, Milwaukee 53203: 744 North 4th Street, FTS Tel. (414) 224–3214, Commercial Number: 272–8600.

Region VI

Regional Administrator Richard L. Morgan, Federal Building, 810 Taylor Street, Fort Worth, Texas 76102, Tel. (817) 334–2867.

Area offices:

Arkansas, Little Rock 72201: Union National Bank Building, One Union National Plaza, FTS Tel. (501) 372–5401, Commercial Number: 372–4361.

Louisiana, New Orleans 70113: Plaza Tower, 1001 Howard Avenue, Tel. (504) 527–2062.

Oklahoma, Oklahoma City 73102: 301 North Hudson Street, FTS Tel. (405) 231–4891, Commercial Number: 231–4181.

Texas, Dallas 75202: Room 14–A–18, New Dallas Federal Building, 1100 Commerce Street, Tel. (214) 749–2158.

Texas, San Antonio 78285: Kallison Building, 410 South Main Avenue, Post Office Box 9163, FTS Tel. (512) 225–4665, Commercial Number: 225–5511.

Region VII

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Kansas, Kansas City 66117: One Gateway Center, 5th and State Streets, Post Office Box 1339, Tel. (816) 374–4355.

Missouri, St. Louis 63101: 210 North 12th Street, Tel. (314) 622–4760.

Nebraska, Omaha 68106: Univac Building, 7100 West Center Road, Tel. (402) 221–4221.

Region VIII

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Region IX

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California, San Francisco 94111: 1 Embarcadero Center, Suite 1600, Tel. (415) 556–2238.

Region X

Regional Administrator Oscar P. Pederson, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101, Tel. (206) 442–5415.

Area offices:

Oregon, Portland 97204: 520 Southwest 6th Avenue, Tel. (503) 226–2726.

Washington, Seattle 98101: Arcade-Plaza Building, 1321 Second Avenue, Tel. (206) 442–7456.

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PART III

DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

■

Comprehensive Manpower Program and Grants to Areas of High Unemployment

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

COMPREHENSIVE MANPOWER PROGRAM AND GRANTS TO AREAS OF HIGH UNEMPLOYMENT

Pursuant to section 602(a) of the Comprehensive Employment and Training Act of 1973 (Public Law 93–203, 87 Stat. 839), which authorizes the Secretary of Labor to prescribe such rules, regulations, guidelines and other published interpretations as he deems necessary to carry out the provisions of this Act, the following regulations are promulgated to facilitate the implementation of Titles I and II at the earliest possible date.

Title I provides for the establishment of a program to provide comprehensive manpower services throughout the Nation.

Title II provides for the establishment of a program of grants to areas of substantial unemployment throughout the Nation.

Funds under Title I may be used for establishing public employment programs, as part of a comprehensive manpower plan. Funds under Title II may be used to provide manpower training services of the type authorized in Title I.

The Act also contains specific titles relating to the Secretary's responsibility to carry out manpower programs for special target groups (Title III); for the continuation of the Job Corps (Title IV); and for the establishment of a National Commission for Manpower Policy (Title V). Regulations, as necessary, will be issued for these titles at a later date.

Reference to sections of the Act is provided as appropriate in the regulations.

The regulations promulgated herein shall be effective April 18, 1974, and shall, inter alia, supersede the regulations for initial grants under Part 96, which were published February 15, 1974, in the FEDERAL REGISTER, and became effective March 1, 1974. Those regulations published February 15 will continue to be effective until April 18, 1974.

The new Part 96, published herein, relates to the same subject matter as the regulations published February 15 and retains most of the provisions and language originally published February 15. One significant change in Part 96 has been made, however, in response to comments received by the Department. That change amends the Part 96 placement goals by deleting the requirement that a goal be established by each grantee to move persons out of public service employment programs and into unsubsidized employment within 12 months of a person's entrance date. The new language in § 96.33 establishes a placement goal that 50 percent of the participants be placed in unsubsidized employment each year, but contains no language relating to average duration in a public service employment program.

As these regulations relate to public property, loans, benefits or contracts, they have been excepted from the application of the notice and comments provisions of the Administrative Procedure Act, 5 U.S.C. 553(a)(2). The policy of the Department of Labor as stated in 29 CFR 2.7 is not to use this exception as a basis for not giving opportunity for notice and comment. In this case, in order to effect promptly the purposes of the Comprehensive Employment and Training Act, it is contrary to the public interest to delay the issuance of these regulations to the extent necessary for the preparation, receipt and evaluation of the comments. Accordingly they are not issued for comments prior to publication in their final form.

Nevertheless, although these regulations are being published in final form and are made effective on April 18, 1974, it is the policy of the Department of Labor to solicit and consider comments on its regulations. Accordingly, comments will be received, just as though this document were a proposal, until May 4, 1974, after which the comments received will be evaluated and, if warranted, the regulations will be appropriately amended. Meanwhile, however in the interest of expediting the program, these regulations shall remain in force until amended.

Interested persons are invited to submit comments, data or arguments to: Assistant Secretary for Manpower, United States Department of Labor, 6th and D Streets NW., Washington, D.C. 20213. Attention: Pierce A. Quinlan, Acting Associate Manpower Administrator for the Office of Manpower Development Programs.

The regulations set forth below amend Title 29 by adding the following new parts:

Part 94—General Provisions for programs under the Comprehensive Employment and Training Act

Part 95—Programs Under Title I of the Comprehensive Employment and Training Act

Part 96—Programs Under Title II of the Comprehensive Employment and Training Act

Part 97—(Reserved for Title III, Special, Federal Responsibilities)

Part 98—Administrative Provisions for Programs Under Title I and Title II of the Comprehensive Employment Training Act

The new Part 96 makes certain changes in the Part 96 provisions published in the FEDERAL REGISTER, February 15, 1974.

The new Parts 94, 95, 96, and 98, which shall be effective April 18, 1974, read as follows:

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.

94.1 Scope and purpose of the Act.
94.2 Format for the regulations promulgated under the Act.
94.3 Consolidated table of contents for Parts 94–98.
94.4 Definitions.

AUTHORITY: (Pub. L. 93–203, sec. 602(a), 87 Stat. 839), unless otherwise noted.

§ 94.1 Scope and purpose of the Act.

(a) It is the purpose of the Act to provide job training and employment opportunities for economically disadvantaged, unemployed and underemployed persons, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency. The purposes of the Act are to be accomplished by the establishment of a flexible and decentralized system of Federal, State and local programs.

(b) The Act is comprised of six titles as follows:

(1) Title I establishes a program to provide comprehensive manpower services throughout the Nation, including the development and creation of job opportunities, and the training, education and other services needed to enable individuals to secure and retain employment at their maximum capacity.

(2) Title II authorizes public employment and manpower training programs for unemployed and underemployed persons in areas of substantial unemployment.

(3) Title III provides for the establishment and administration by the Secretary of Labor of:

(i) Special programs for Indians, migrant workers and seasonal farmworkers;

(ii) Manpower services for youth, offenders, older workers, persons of limited English-speaking ability and other special target groups; and

(iii) Research, training and evaluation of programs and activities conducted under the Act.

(4) Title IV establishes a Job Corps within the Department of Labor to provide residential and non-residential manpower services for low-income disadvantaged young men and women.

(5) Title V, establishes a National Commission for Manpower Policy. The responsibilities of the Commission include the examination of national manpower issues, the suggestions of ways and means of dealing with such issues and advising the Secretary on national manpower issues.

(6) Title VI, sets forth the general provisions, including applicable definitions, under the Act.

§ 94.2 Format for the regulations promulgated under the Act.

(a) The regulations promulgated to carry out the Act are set forth in Parts 94 through 98 of Title 29, Code of Federal Regulations.

(b) As each substantive Title of the Act provides for the establishment of a specific type of program, the regulations promulgated in Parts 94 through 98 provide for a separate part for each basic type of activity (e.g., Part 95 deals with comprehensive manpower programs; Part 96 deals with Title II programs). Two parts are also included which deal with general matters relating to the Act: Part 94 of this subtitle deals with basic explanatory and definitional matters and Part 98 of this subtitle deals with general administrative matters.

(c) Statutory authority for the regulations contained in this Part 94 may be found in section 602(a) of the Act, as well as other substantive provision of the

Act. Applicable statutory provisions, other than section 602(a), are noted generally in these regulations.

§ 94.3 Consolidated table of contents for Parts 94–98.

The table of contents for Parts 94–98 is as follows:

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec.
94.1 Scope and purpose of the Act.
94.2 Format for the regulations promulgated under the Act.
94.3 Consolidated table of contents for Parts 94–98.
94.4 Definitions.

PART 95—PROGRAMS UNDER TITLE I, OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SUBPART A—GENERAL

95.1 Scope and purpose of Part 95.
95.2 Allocation of funds.
95.3 Eligibility for funds.
95.4 Data base for determining eligibility.

SUBPART B—GRANTING PLANNING, APPLICATION AND MODIFICATION PROCEDURES

95.10 General.
95.11 Notification of intent to apply for prime sponsorship; consortium agreements.
95.12 Prime sponsor designation.
95.13 Planning process; advisory councils.
95.14 Content and description of grant application.
95.15 Comment and publication procedures relating to submission of grant application.
95.16 Submission of grant application.
95.17 Standards for reviewing grant applications.
95.18 Application approval; grant agreement.
95.19 Application disapproval.
95.20 Use of alternative prime sponsors; services by the Secretary.
95.21 Modification of grant agreement.
95.22 Modification of Comprehensive Manpower Plan.

SUBPART C—PROGRAM OPERATION

95.30 General.
95.31 Basic responsibilities of prime sponsors.
95.32 Eligibility for participation in a Title I Program.
95.33 Types of manpower program activity available.
95.34 Training allowances.
95.35 Wages; minimum duration of training and reasonable expectation of employment.
95.36 General benefits for program participants.
95.37 Prime sponsor review.
95.38 Non-Federal status of participants.
95.39 Safety and health requirements for participants.
95.40 Training for lower wage industries; relocation of industries.
95.41 Prime sponsor contracts and subgrants.
95.42 Cooperative relationships between prime sponsor and other manpower agencies.

SUBPART D—SPECIAL GRANTS TO GOVERNORS

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95.51 Distribution of funds.
95.52 Grant application.
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§ 94.4 Definitions.

The following definitions consistent with 601(a) of the Act, apply to Parts 94 through 98, inclusive;

(a) "Act" means the Comprehensive Employment Training Act of 1973 (P.L. 93–203, 87 Stat. 839).

(b) "Allocation" means the distribution of funds among prime sponsors or eligible applicants according to the formulas contained in the Act.

(c) "ARDM" means the Department of Labor's Assistant Regional Director for Manpower, or his designee, having the responsibility for the area in which a prime sponsor or eligible applicant is located.

"Area of substantial unemployment" means any area, other than in relation to an Indian tribe, which

(a) has a population of at least 10,000 persons,

(b) qualifies for a minimum allocation of $25,000 under Title II of the Act, and

(c) has a rate of unemployment of at least 6.5 percent for a period of three consecutive months, as determined by the Secretary of Labor at least once each fiscal year.

"Area of substantial unemployment" means, in relation to an Indian tribe, an Indian reservation, as a whole, with a rate of unemployment of at least 6.5 percent for a period of three consecutive months, as determined by the Secretary of Labor at least once each fiscal year.

"Balance of county" means the area within the jurisdiction of a county, as a prime sponsor or eligible applicant, that is not included in the comprehensive manpower plan of another prime sponsor or eligible applicant.

"Balance of State" means the area within the jurisdiction of a State, as a prime sponsor or eligible applicant, which is not included in the comprehensive manpower plan of another prime sponsor or eligible applicant.

"Capital improvement" means any modification, addition, or restoration which increases the usefulness, productivity, or serviceable life of a building, structure, or major item of equipment which is classified for accounting purposes as "fixed asset" and the recorded value is increased by the cost of the improvement and subject to depreciation.

"Certification" means a legally binding statement that certain requirements have been fulfilled.

"Chief elected official" and "chief executive officer" includes their designees.

"Client community" means the group or groups of people to be served by a program or program activity; for example, the unemployed, persons of limited English speaking ability, low-income families, farm workers, migrants, and economically disadvantaged.

"Community-based organizations" means organizations which are representative of communities or significant segments of the communities (for example, Opportunities Industrialization Centers, Urban League, Jobs for Progress, Mainstream, and community action agencies).

"Compensation" as applied to a participant in Title II program means the wages and salary payable, but does not include fringe benefits or supportive services.

"Consortium" means an agreement among local units of government, consistent with the requirements of § 95.3, to plan and operate a comprehensive manpower program under the Act.

"Contractor" means any person, corporation, partnership, or public agency which enters into a contract with the Department, with a grantee, or with a subgrantee under the Act.

"Construction" means the erection, installation, or assembly of a new facility or a major addition, expansion, or extension of an existing facility, and the related site preparation, excavation, filling and landscaping or other land improvements.

"Department" means the United States Department of Labor and includes each of its operating agencies and other organizational units.

"Dependent" means:

(a) Any relative who is a member of the immediate household of and for whom the participant has or has assumed, a responsibility for support: Provided that, the following relatives need not be members of the participant's household, if the participant is the head of family:

(i) parents of the participant head of family;

(ii) children of the participant head of family;

(iii) relatives of the participant head of family who are unemployable because of physical or mental disability; or

(b) any individual who:

(i) is currently being supported by the participant head of family and is a member of the participant's immediate household; and

(ii) During the preceding twelve months, earned less than $750.

"Economically disadvantaged" means a person who is a member of a family:

(a) which receives cash welfare payments, or

(b) whose annual income in relation to family size does not exceed the poverty level determined in accordance with criteria established by the Office of Management and Budget.

"Eligible applicant" for purposes of Title II means a prime sponsor or an Indian tribe on a Federal or State reservation which includes areas of substantial unemployment.

"Employing agency" for purposes of public service employment programs means any employer designated by an eligible applicant, program agent, or other subgrantee, or by the Secretary of Labor to employ participants pursuant to public service employment programs under the Act. The term shall include an eligible applicant, program agent, or other subgrantee when acting as an employer.

"Federal reservation" means lands which have been set aside for Indian tribes and for which the United States is trustee, as identified by the Bureau of Indian Affairs, including non-trust land under the tribal jurisdiction.

"Governor" means the chief executive officer of a State, or his designee.

"Health care" includes but is not limited to preventive and clinical medical treatment, voluntary family planning services, nutritional services, and appropriate psychiatric, psychological and prosthetic services, to the extent any such treatment or services are necessary to enable a participant to obtain or retain employment under the Act.

"Indian tribe" means a tribe, group or band of American Indians or Alaskan natives identified on the basis of historical, geographical or cultural characteristics, or subpart of such a tribe, group or band.

"Low-income level" means an annual income of $7,000 with respect to income in 1969; for any later year it shall mean that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

"Obligation" means the amount of Federal funds which the Department has legally committed and authorized a prime sponsor or eligible applicant to expend.

"Offender" means any person who is confined in any type of correctional institution, including a community-based facility, or who is subject to any stage of the judicial, correctional or probationary process where manpower training and services may be beneficial, as determined by the Secretary of Labor, after consultation with judicial, correctional, probationary or other appropriate authorities.

"OMB" means the Office of Management and Budget.

"Participant" means an individual who qualifies and receives services or takes part in activities under provisions of the Act.

"Placement" means the hiring of an individual in unsubsidized employment, whether the job is a result of his own effort after intake service or a referral by the prime sponsor or any of its contractors or subgrantees, and whether the individual is hired at the outset of program participation as a result of intake assessment or after receiving program services. There are three levels of placement, based on the expected duration of the job:

(a) *Short-term* placements in jobs which are expected to have a duration of less than three work days;

(b) *Mid-term* (*regular*) placements in jobs which are expected to last from three work days to one-hundred-fifty days, and

(c) *Long-term* placements in jobs which are expected to have a duration of more than one-hundred-fifty days.

Placement does not include referral to another program activity, enrollment in education or training courses not supported under the Act, or entrance into the Armed Forces.

"Poverty level" means the annual income threshold below which families are considered to live in poverty, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

"Prime sponsor" means a unit of government, combinations of units of government, or a rural Concentrated Employment Program grantee, as set forth in § 95.3, which has entered into a grant with the Department to provide comprehensive manpower services under Title I of the Act.

"Professional work" means work performed by an individual acting in a bona fide professional capacity as such term is used in section 13(a)(1) of the Fair Labor Standards Act.

"Program agent" for purposes of Title II means a subgrantee which is a unit of, or a combination of units of, general local government having a population of 50,000 or more, and has an area of substantial unemployment within the jurisdiction.

"Program of demonstrated effectiveness" means a manpower program, including a program conducted by a community based organization, which has a history of providing manpower services to low income persons and the disadvantaged and has demonstrated the capacity to meet contractual goals at reasonable costs.

"Public service" means service normally provided by government and includes, but is not limited to, work in such fields as beautification, conservation, crime prevention and control, education, environmental quality, fire protection, health care, housing and neighborhood improvements, manpower services, park, street and other public facility maintenance, pollution control, prison rehabilitation, public safety, recreation, rural development, solid waste removal, transportation, veteran outreach and other fields of human betterment and community improvement. It excludes building and highway construction work (except that which is normally performed by the prime sponsor or eligible applicant) and other work which inures primarily to the benefit of a private profit-making organization.

"Rate of unemployment" means the number of unemployed persons, as a percentage of the total number of persons in the civilian labor force, as determined by the Secretary.

"Secretary" means the Secretary of the United States Department of Labor or his designee.

"SESA" means State employment security agencies affiliated with the United States Employment Service, established by the Wayner-Peyser Act of 1933, as amended. The term shall include the system of public employment service offices and Unemployment Insurance offices.

"Significant segments" means those groups identified in a prime sponsor's comprehensive manpower plan as being most in need of the services to be provided by the Act.

"Special veteran" means an individual who served in the Armed Forces in Indochina or Korea, including the waters adjacent thereto, on or after August 5, 1964, who received other than a dishonorable discharge.

"State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"State reservation" means an Indian reservation recognized by the State in which it is located.

"Subgrantee" means any governmental unit which receives a grant from a prime sponsor or eligible applicant under the Act.

"Sufficient size and scope" means an area or combination of areas other than an Indian reservation, which has a population of 10,000 or more persons and qualifies for a minimum allocation under Title II of $25,000.

"Supportive or manpower services" means services which are designed to contribute to the employability of participants, enhance their employment opportunities, assist them to retain employment, and facilitate their movement into permanent employment not subsidized under the Act.

"Underemployed persons" means persons who are working part-time but seeking full-time work or persons who are working full-time but receiving wages below the poverty level. For purposes of Title II and public service employment, persons who are working part-time for the employing agency may be considered underemployed and, as such, be hired only if their selection does not violate the maintenance of effort requirements of the Act.

"Unemployed persons" for Title I activities means, except in the case of welfare recipients, a person who is without a job and who wants and is available for work, defined as follows:

(a) A person who is without a job is a person who did not work during the Calendar week preceding the week in which the determination of his eligibility for participation is made. Except in the case of persons described in the undesignated paragraph following paragraph (c) below, the determination of who wants and is available for work will be made by the prime sponsor or his designee and persons who have been discouraged from seeking work but are currently available for work, shall not be excluded from eligibility.

(b) If a person is confined in a jail, penitentiary or other correctional institution and there is a reasonable expectation that release will follow the completion of training within a reasonable time, he shall be considered unemployed.

(c) A person is not to be considered to be available for work if he is without a job because of participation in an ongoing strike or lock-out at his usual place of employment.

In the case of welfare recipients, and except for purposes of sections 103 and 202 of the Act, the term "unemployed person" means an adult who, or whose family, receives supplemental security income or money payments pursuant to a State plan approved under the Social Security Act, Title IV, (Aid to Families with Dependent Children), or under the Social Security Act, Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled), or would be eligible for such payments according to the standards set forth at 45 CFR Part 233 and 20 CFR Part 416 if both parents were not present in the home, and

(a) Who is available for work and

(b) Who is either without a job or working in a job providing insufficient income to enable such a person and his family to be self-supporting without welfare assistance.

"Unemployed person," for Title II activities, means:

(a) a person who is without a job and who wants and is available for work, and

(b) except for purposes of sections 103 and 202 of the Act, an adult who, or whose family, receives supplemental security income or money payments pursuant to a State plan approved under the Social Security Act, Title IV (Aid to Families with Dependent Children), or under the Social Security Act, Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) or would be eligible for such payments according to the standards set forth at 45 CFR Part 233 and 20 CFR Part 416 if both parents were not present in the home and

(i) is available for work and

(ii) who is either without a job or working on a job providing insufficient income to enable such a person and his family to be self-supporting without welfare assistance.

(c) A person is "without a job" if, during the 30 days preceding his application or selection, he has worked no more than 10 hours or has earned no more than $30 in any calendar week.

"Unemployment compensation" means the compensation payable for weeks of unemployment in accordance with the provisions of a State or Federal law, including but not limited to the unemployment compensation laws of the several States, the Railroad Unemployment Insurance Act and 5 USC Ch. 85 (Federal employees and ex-servicemen's unemployment compensation). This term shall also extend to payments to unemployed individuals under the Disaster Relief Act and other Federal Acts providing assistance to unemployed individuals either as supplemental to State unemployment compensation or in lieu of such compensation.

"Unit of general local government" means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

"Unsubsidized employment" means employment not financed from funds provided under the Act.

"Wagner-Peyser Act" means "An act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes," approved June 6, 1933 (48 Stat. 113), as amended (29 U.S.C. 49 et seq.).

PART 95—PROGRAMS UNDER TITLE I, OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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Sec.

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AUTHORITY (Pub. Law 93–203, sec. 602(a), 87 Stat. 839), unless otherwise noted.

Subpart A—General

§ 95.1 Scope and purpose of Part 95.

(a) This Part 95 contains the Department of Labor's regulations for the establishment and provision of comprehensive manpower services, including public service employment, under Title I of the Act.

(b) This Part 95 should be read in conjunction with Parts 94 through 98 of this Title 29, Code of Federal Regulations. These parts, in total, comprise the regulations promulgated by the Secretary pursuant to the authority in the Act.

(c) Definitions for abbreviations and major terms may be found in Part 94 of this subtitle.

(d) Statutory authority for the regulations contained in this Part 95 may be found in section 602(a) of the Act, as well as other substantive provisions of the Act. Applicable statutory provisions, other than section 602(a), are noted generally in the regulations in this part.

§ 95.2 Allocation of funds.

(a) *General.* (1) This § 95.2 sets out the procedures for allocating funds under Title I of the Act. Of the funds available for Title I in any fiscal year, eighty percent shall be allocated according to the procedures set forth in paragraph (b) of this section. The remaining twenty percent shall be allocated as set out in paragraphs (c) and (d) of this section (sec. 103).

(2) Allocations made to prime sponsors under this section shall be published in the FEDERAL REGISTER as soon as possible after the enactment of any fiscal year appropriation. The Secretary may publish preliminary allocations to assist prime sponsors in planning for programs under Title I of the Act.

(3) The Secretary may reallocate Title I funds as provided in § 98.11 of this subtitle.

(b) *Prime sponsor basic allocations.* (1) Eighty percent of the funds available under Title I of the Act shall be allocated as provided in this paragraph (b). Funds provided pursuant to this paragraph are for prime sponsors, as defined in § 95.3, except for a limited number of prime sponsors which are Rural Concentrated Employment Programs. This paragraph (b) does not apply to Rural Concentrated Employment Programs.

(2) One percent of the amount available under this paragraph (b) shall be allocated by the Secretary to State prime sponsors for the costs incurred in staffing and servicing State Manpower Services Councils. If such funds exceed the amount needed for these costs, the excess may be used to carry out State services under section 106(c) of the Act. Allocations under this paragraph shall be made according to the paragraph (b)(4) allocation formula.

(3) Not less than $2,000,000 of the funds under this paragraph (b) shall be allocated among Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, consistent with the factors set out in paragraph (b)(4) of this section.

(4) Allocation formula: Subject to the requirements of paragraph (b)(5) of this subsection, funds remaining after application of paragraph (b) (2) and (3) of this section shall be allocated to prime sponsors according to the following basic formula:

(i) Fifty percent of the funds subject to formula allocation shall be allocated on the basis of each prime sponsor area's proportion of the manpower funds obligated pursuant to the formula for all prime sponsor areas in the prior fiscal year;

(ii) Thirty-seven and one-half percent of the funds of a prime sponsor's proportion of the total number of unemployed persons (as defined by the Bureau of Labor Statistics) in all prime sponsor areas.

(iii) Twelve and one-half percent of the funds subject to the allocation formula shall be allocated on the basis of a prime sponsor's proportion of the number of adults in low income families in all prime sponsor areas;

(5) (i) No prime sponsor shall be allocated an amount under the paragraph (b)(4) allocation formula which is more than 150 percent of the amount of manpower funds obligated in the prior fiscal year for the area served by the prime sponsor; except that if the amount so allocated is less than 50 per cent of the amount of manpower funds to which it is entitled under the (b)(4) allocation formula, such allocation shall be increased to 50 per cent of its entitlement under the formula.

(ii) If any prime sponsor, pursuant to the paragraph (b) (4) and (5) allocation formula, is allocated less than 90 percent of the manpower funds that were obligated to that area in the previous fiscal year, that prime sponsor shall, to the extent feasible, be provided an amount from the Secretary's discretionary fund, set out in paragraph (d) of this section, that will bring its funding during the current fiscal year to the 90 percent level.

(c) *Additional prime sponsor allocations.* The paragraph describes those prime sponsor allocations that are not subject to the basic allocation procedures of paragraph (b).

(1) *Consortia incentive funds.* In order to encourage consortia, as defined in § 95.3, that also comprise substantial portions (e.g., 75%) of labor market areas, the Secretary may use up to 5 percent of the funds available for Title I of the Act to provide additional funding for such consortia. Consortia which do not serve such areas shall not be eligible for additional funds. Prior to making decisions concerning these funds, the ARDM shall consult with the Governors of the appropriate States and afford them an opportunity to make recommendations.

(2) *State manpower services allocation.* The Secretary shall allocate to the States, according to the paragraph (b)(4) allocation formula, four percent of the funds available under Title I of the Act, to enable the States to provide services, as set out in Subpart D of this Part 95.

(3) *Allocations for rural Concentrated Employment Program (CEP) prime sponsors.* The Secretary shall fund a limited number of prime sponsors which are rural Concentrated Employment Programs from any funds available to carry out Title I, except funds allocated under paragraph (b).

(4) *Vocational education allocation.* The Secretary shall allocate to the Governors, according to the paragraph (b)(4) allocation formula, 5 percent of the funds available under Title I, to provide financial assistance for vocational education. Each Governor shall allocate these funds as required in Subpart D of this Part 95.

(d) *Secretary's discretionary fund.* Any funds available under Title I that are not allocated under paragraphs (b) and (c) of this section shall be first utilized by the Secretary to assure each prime sponsor, including a limited number of rural CEP prime sponsors, of funding at the 90 percent level, as set out in paragraph (b)(5)(ii) section. The Secretary shall utilize the remainder of the funds avail-

able under this paragraph at his discretion, taking into consideration (1) the provision of incentive funds for multijurisdictional agreements entered into by States, as set out in § 95.3(b) and (d); (2) continued funding through prime sponsors of programs of demonstrated effectiveness, and (3) other factors the Secretary deems necessary to the carrying out of his responsibilities under the Act.

§ 95.3 Eligibility for funds.

(a) Funds may be allocated by the Secretary to prime sponsors (sec. 102). Prime sponsors are:

(1) States;

(2) Units of general local government which have a population of 100,000 or more persons;

(3) (i) Consortia consisting of general local governments which are (A) located in reasonable proximity to each other, (B) each of which retains responsibility for operation of the program, (C) at least one of which has a population of 100,000 or more persons, and (D) which, as a consortium, can plan and operate a comprehensive manpower program that provides administrative and programmatic advantage over other methods of delivering services under the Act;

(ii) A consortium, under this subparagraph (3), which consists of units of local government in more than one State, may be approved by the ARDM after the approval of the Governors of the States involved has been obtained.

(iii) No consortium agreement will be approved if one of the parties to the agreement is a unit of local government which is not eligible to be a prime sponsor under the Act and if, in addition, the effect of the agreement is to render ineligible the prime sponsor otherwise responsible for serving the area of the ineligible local government; provided, however, that nothing in this paragraph shall prohibit the otherwise responsible prime sponsor from granting its consent to such a consortium agreement;

(4) Any unit of general local government, or any combination of such units, without regard to population, which, in exceptional circumstances, is determined by the Secretary, after giving serious consideration to comments from the prime sponsor otherwise responsible for the area and the Governor, (i) to serve a substantial portion (e.g., 75%) of a functioning labor market area or to be a rural area with a high level of unemployment and (ii) to have demonstrated that (A) it has the capability for effectively carrying out a comprehensive manpower program under the Act, evidenced by its effective operation of programs such as a Concentrated Employment Program or other multicomponent program, (B) there is a special need for services provided by the Act (e.g., the area has a high proportion of such groups within the population as older workers, high school dropouts, or has a high unemployment rate, substantial outmigration, or unique commuting problems), and (C) it will afford administrative and programmatic advantages over other methods of delivering services under the Act; and

(5) A limited number of Concentrated Employment Program grantees existing at the time of enactment of the Act, serving rural areas having a high level of unemployment which the Secretary determines have demonstrated through prior performance, a special capability for carrying out programs in such areas and are designated for that purpose.

(b) (1) A State may enter into an agreement with any unit of local government within the State that has a population of at least 100,000 persons in order to provide services within a designated area. Such an agreement may be approved by the ARDM when the parties retain to the extent consistent with State and local law, joint and several responsibility for the program and the ARDM believes that the parties will, pursuant to the agreement, plan and operate a comprehensive manpower program which provides administrative and programmatic advantages over other methods of delivering services under the Act. All requirements for consortia in Parts 94–98 apply to such State multijurisdictional agreements unless otherwise stated.

(2) Incentive funds may be provided for an agreement under paragraph (b) (1) of this section if the agreement includes every eligible prime sponsor in the State.

(c) A consortium which comprises a substantial portion of a labor market (e.g., 75%) shall be eligible for incentive funds, as provided in § 95.2(c)(1). The ARDM shall make such determinations, taking into consideration the definition and listing of labor market areas published by the Department, and the recommendations of the Governors.

(d) Incentive funds for consortia or State agreements shall be a nationally uniform percentage increase of the amount due them under § 95.2(b)(4), but shall not exceed 10 percent of the amount.

(e) No State, unit of general local government, or consortium may apply or be designated as a prime sponsor for any area within its jurisdiction that is also within the jurisdiction of another prime sponsor unless the latter consents or fails to submit an approvable Comprehensive Manpower Plan, or has its plan terminated, in whole or in part, by the Secretary.

(f) Any unit of local government that does not intend to be served by the prime sponsor which would normally serve it under Title I shall inform that prime sponsor of its determination.

§ 95.4 Data base for determining eligibility.

In order to determine prime sponsor eligibility, the Secretary shall use the 1970 official Census or certified up dates as published by the U.S. Bureau of Census.

Subpart B—Grant Planning, Application and Modification Procedures

§ 95.10 General.

This Subpart B provides the procedures for obtaining and modifying a grant to operate programs under Title I of the Act. Specifically, this subpart describes the procedures in the grant award process—from a prime sponsor's initial intent to apply, through the grant application process, to review by the Department, approval or disapproval of the grant, and modification. This subpart also describes the functions of prime sponsor Manpower Planning Councils and State Manpower Services Councils.

§ 95.11 Notification of intent to apply for prime sponsorship; consortium agreements.

(a) For fiscal year 1975, an applicant interested in receiving financial assistance shall submit to the ARDM, the Governor, and the appropriate State A–95 clearinghouses (see OMB circular A–95) a notification of intent to apply for prime sponsorship in the format described in this part. In subsequent fiscal years, the Preapplication for Federal Assistance, Parts I and II, prescribed by OMB Circular A–102, shall be used. In either case, submission shall be by a date set by the Secretary (sec. 102(c)).

(b) All prime sponsor notifications of intent, including those from consortia, shall include the following:

(1) Name and address of each prime sponsor applicant;

(2) Geographical area to be served;

(3) Population to be served;

(4) Name of any ineligible unit of local government, located within the prime sponsor applicant's jurisdiction, that has informed the prime sponsor applicant that it will not be participating in the prime sponsor applicant's plan;

(5) Certification that each prime sponsor applicant, except for a Concentrated Employment Program prime sponsor, has required governmental authority as defined in § 94.3 and will comply with all requirements of law and regulation; and

(6) The signature of the chief elected official(s) or chief executive officer(s), as appropriate, of each prime sponsor applicant. For a consortium, the signature of the chief elected official or chief executive officer of each consortium member is required.

(c) In addition to prime sponsor notifications of intent from consortia of local governments, each consortium shall, prior to execution of the grant, submit to the ARDM for his approval, a formal agreement which includes the following:

(1) A statement that the agreement has been formed under the Comprehensive Employment and Training Act of 1973. Either an agreement shall be written to establish a consortium arrangement for the express purpose of conducting a program under the Act or an existing joint power or other agreement shall be amended to include reference to the Act as part of the agreement;

(2) Identification of the units of government which are parties signatory to the agreement (i.e., the governmental units that are members of a consortium; not those governmental units that are merely served by a consortium;

(3) Identification of any ineligible governmental unit which would normally

be within the jurisdiction of the consortium but has informed the members of the agreement of its desire not to have services provided through the consortium;

(4) Geographical areas which will be served through the agreement;

(5) Population to be served;

(6) Certification that State and local law permits services under the consortium agreement to be provided within the entire geographical area covered by the agreement, including within the jurisdiction of any local government located within the geographical area covered by the agreement (i.e., that the agreement is not prevented by State or local law from taking effect in the entire geographical area which it intends to serve);

(7) An attached letter from each unit's chief legal officer assuring that each party signatory has the legal authority, under State or local law, to enter into a consortium agreement (these letters are made part of the agreement);

(8) A statement that grant agreements with the Department shall be signed by the chief elected official or chief executive officer of each party to the consortium agreement;

(9) Certification that to the extent consistent with State or local law, each party signatory to the agreement accepts responsibility for the operation of the program (i.e., each member of the consortium, rather than any administrative arm, has ultimate responsibility for the program's operation and success);

(10) A description of the powers, functions and responsibilities reserved by the parties to the agreement and a statement of the procedure by which chief elected officials will participate in the planning and operation of the program, if they so desire; and

(11) A statement of the powers, functions and responsibilities which will be delegated to an administrative entity to operate the program and the name and organizational structure of that entity.

(d)(1) The consortium shall be the prime sponsor under the Act. An administrative unit or one member of the consortium must be designated to operate the program.

(2) The division of powers, functions and responsibilities between the consortium members and the administrative unit must be workable and clearly delineated. The administrative unit may be delegated the power to enter into contracts and subgrants and other necessary agreements, to receive and expend funds, to employ personnel, to organize and train staff, to develop procedures for program planning, operation and assessment and fiscal management of the program, to evaluate program performance and determine resulting need to reallocate resources, and to modify the grant agreement with the Department. Such delegation shall not relieve the members of the consortium of their ultimate responsibility for the use of funds. The administrative arm of the consortium should have responsibilty for the entire operation of the program, but the consortium members shall be reserved the right of evaluation and the decision to reprogram funds.

(e) A consortium established under these regulations shall have a stated duration at least equal to the period of the grant.

(f) All prime sponsor notifications of intent from applicants which are eligible only in exceptional circumstances, as defined in § 95.3(a)(4) of this Part 95, shall, in addition to the requirements of paragraph (b), of this section include in their notifications of intent a statement and justification, that they meet the requirements of § 95.3(a)(4). Consortia formed in exceptional circumstances shall also submit an agreement as required in paragraph (c) of this section.

§ 95.12 Prime sponsor designation.

Upon receipt of a completed notification of intent, the ARDM shall determine whether the applicant is eligible to be designated as a prime sponsor and shall notify the applicant of his determination. A grant application package (§ 95.14(b)) shall be sent to each applicant designated as being eligible for prime sponsorship.

§ 95.13 Planning process; advisory councils.

(a) *General.* To receive financial assistance under Title I of the Act, a prime sponsor applicant shall submit an approvable Comprehensive Manpower Plan, as set out in § 95.14 of this Part 95. In developing such a plan, a prime sponsor applicant shall utilize the advisory councils set out in this section (secs. 104, 105, and 107).

(b) *Planning process.* The prime sponsor shall establish a planning process for the development of its Comprehensive Manpower Plan. That process shall utilize, as appropriate, the advisory councils established in this section and shall also assure the participation in program planning of community-based organizations and the population to be served.

(c) *Prime sponsor Manpower Planning Council.* (1) Each prime sponsor (and prime sponsor applicant) shall appoint a Manpower Planning Council representative of the geographic area to be served. The Planning Council function is advisory. The Council's advisory authority does not free the prime sponsor from its final decisionmaking responsibilities under the Act.

(2) The Planning Council shall advise the prime sponsor in the setting of basic goals, policies and procedures for its program under the Act. It shall make recommendations regarding program plans, and provide for continuing analyses of needs for employment, training and related services in such areas. Planning Councils should monitor all manpower programs under the Act and provide for objective evaluations of manpower and related programs operating in the prime sponsor's area, for the purpose of improving the utilization and coordination of the delivery of such services. The procedures for evaluating programs relating to the Act will be developed in cooperation with the agencies affected. The Planning Council shall make recommendations based upon its analyses to the prime sponsor, which will consider them in the context of its overall decisionmaking responsibility.

(3) Each prime sponsor shall, to the extent practical, include as appointments to its Planning Council members who are representative of the client community, community-based organizations, the Employment Service, education and training agencies and institutions, business, labor, and, where appropriate, agriculture. Persons representative of other interested groups may also be appointed. The prime sponsor shall appoint a chairman of the Planning Council and provide professional, clerical, and technical staff to serve it. Funds for supportive services and related staff costs for the Planning Council may be made available from a prime sponsor's basic allocation.

(d) *State Manpower Services Council.* (1) A State prime sponsor shall establish, in addition to its Planning Council under paragraph (c) of this section, a State Manpower Services Council (SMSC) representative of the geographic area to be served. The SMSC function is advisory and does not relieve the State of its final decision-making responsibilities under the Act. The SMSC shall review and monitor all manpower activities within the State, including those of prime sponsors, and advise and make recommendations concerning manpower activities to the Governor, prime sponsors, State manpower agencies and the public.

(2) Consistent with the requirements of section 107 of the Act, the Governor shall appoint Council members, as follows:

(i) At least one third of the membership of the Council shall be composed of representatives of prime sponsors who have been designated in accordance with procedures agreed upon by such prime sponsors. (All prime sponsors within the State need not be represented; whatever the size of the Council, one-third of its membership shall be representatives of prime sponsors within the State.)

(ii) One representative shall be appointed from each of the following: The State Board of Vocational Education, the State Employment Service, and any State agency the Governor believes has an interest in manpower or manpower-related services within the State.

(iii) Representatives shall be appointed from organized labor, business and industry, the general public, community-based organizations, and from the population to be served under the Act (including representation of persons of limited English-speaking ability when such persons represent a substantial portion of the client population).

(3) The Governor shall appoint a chairman for the Council and provide the Council with professional, technical, and clerical staff. The Council shall meet as it deems necessary.

(4) Council responsibilities shall include, but not be limited to:

(i) Reviewing prime sponsor plans, proposed modifications, and comments thereon;

(ii) Reviewing State agency plans for providing services to prime sponsors;

(iii) Making recommendations for effective coordination of all manpower and manpower-related programs and supportive services within the State;

(iv) Continuously monitoring (A) the operation of programs conducted by prime sponsors in the State and (B) the availability, responsiveness, adequacy and effective coordination of State services provided by all manpower-related agencies;

(v) Submitting an annual report, which will be a public document, to the Governor, prime sponsors, State manpower agencies and such other reports and information to the Governor and prime sponsors as it believes necessary to effectively carry out the Act.

(e) *Combined planning and services councils.* In any State where the State is the only prime sponsor, the prime sponsor Planning Council may also perform the functions of the State Manpower Services Council. In such instances the membership of the prime sponsor Planning Council shall reflect the membership requirements of the State Manpower Services Council.

§ 95.14 Content and description of grant application.

(a) *General.* (1) This section describes the grant application which prime sponsor applicants will use to apply for funds under Title I of the Act. If an applicant is also applying for funds under Title II of the Act, additional requirements set out in Part 96 must also be followed. Procedures for special State grants under Title I are in Subpart D of this Part 95 (sec. 105).

(2) A copy of all forms and instructions are contained in the Forms Preparation Handbook.

(b) *Grant application forms*—(1) *Application for Federal Assistance.* The Application for Federal Assistance identifies the prime sponsor applicant and the amount of funds requested; it provides information concerning the area to be served and the number of people expected to benefit from the program. Forms provided in OMB Circular A-102 for Parts I and II of a grant application for nonconstruction are being used.

(2) *Comprehensive Manpower Plan.* The Comprehensive Manpower Plan is a statement of how the prime sponsor applicant intends to use Title I funds, and to coordinate its activities with other manpower programs and services operating within its jurisdiction. The Comprehensive Manpower Plan consists of the Program Narrative Description, the Program Transition Schedule, the Project Operating Plan, the Program and Occupational Summaries for Public Service Employment, and the Vocational Education Non-Financial Agreement, all described below. For consortium prime sponsors, the approved consortium agreement will be a part of the plan.

(i) *Program Narrative Description.* The Program Narrative Description provides for a narrative outline of the proposed program under the Act. It identifies and explains the manpower problems within the prime sponsor's jurisdiction, describes proposed program activitives and delivery systems to deal with those problems, and projects the results which may be expected from the program. The Program Narrative Description form requires a detailed statement on the program including the following specific items. The Form Preparation Handbook gives detailed instructions for these and other items on the Program Narrative Form:

(A) *Objectives and needs for assistance.* (*1*) Policy statement on purpose of program;

(*2*) Description of economic condition;

(*3*) Description of labor market characteristics;

(*4*) Assessment of skill shortages;

(*5*) Definition of manpower needs;

(*6*) Statement of groups to be served;

(*7*) Statement on consideration of priority groups; and

(*8*) Statement of goals to be accomplished.

(B) *Results and benefits expected.* (*1*) Statement relating planned results to needs;

(*2*) Description of "other activities" in Project Operating Plan;

(*3*) Statement of how training and services will provide participants with economic self-sufficiency; and

(*4*) Explanation of how training will lead to employment and enhance career development.

(C) *Approach:* (*1*) Description of planning system and participation of community based organizations;

(*2*) Statement of strategy for accomplishing goals;

(*3*) Description of each program activity and service;

(*4*) Description of methods to be used to recruit, select and determine eligibility of participants;

(*5*) Description of how persons of limited English-speaking ability will be served if they represent a large portion of a Prime Sponsor's program;

(*6*) Description of consideration given programs of demonstrated effectiveness;

(*7*) Description of prime sponsor's administrative system;

(*8*) Description of allowance payment system;

(*9*) Explanation of any system for accounting for placements;

(*10*) Explanation of reasons specific delivery agents were selected including area skill centers and justification when other than existing facilities have been selected;

(*11*) Description of vocational education training and services funded by State Special Grants;

(*12*) Description of coordination with deliverers of manpower services not supported by the Act;

(*13*) Justification of administrative costs planned; and

(D) *Geographic location served.* Description of geographical locations to be served.

(E) *Items relating to State applicants.* (*1*) Description of functions of the State Manpower Services Council;

(*2*) Description of State Manpower Services to be undertaken; and

(*3*) Copy of the narrative included with the State's Special Grant.

(F) *Public Service Employment Programs.* (*1*) Description of target population characteristics and significant segments which need special attention;

(*2*) Description of unmet public service needs and priorities;

(*3*) Comparison of types of jobs in public service needs described above.

(*4*) Justification of funding and job allocation by area;

(*5*) Description of strategy for matching jobs to special veterans skills;

(*6*) Description of plan for monitoring services to significant segments; specifically disabled and special veterans and welfare recipients;

(*7*) Orientation procedures for participants;

(*8*) Description of determination of rates of compensation when they differ from what is normally paid by employer;

(*9*) Description of actions to insure compliance with personnel procedures and collective bargaining agreements for jobs above entry level;

(*10*) Plans to improve and expand employment and advancement opportunities of the target population; and

(*11*) List of governmental units and union organizations to which the application must be sent for comments.

(ii) *Program Transition Schedule.* The Program Transition Schedule, required only in the plan for fiscal year 1975, requires the prime sponsor to list the categorical manpower programs currently funded under the Manpower Development and Training Act (MDTA) and the Economic Opportunity Act (EOA), indicating those which will be phased into the operation of activities under the Act and those to be phased out. Current programs under MDTA and EOA may be continued only through December 31, 1974, unless the ARDM approves, under special circumstances. The prime sponsor shall also describe the system for ensuring continuity of service for those individuals enrolled in the categorical programs operating at the time of transition.

(iii) *Project Operating Plan.* The Project Operating Plan requires a prime sponsor to provide a quantitative statement of planned expenditures, enrollment levels, and outcomes for program participants. It also requires a prime sponsor to indicate planned expenditures for administration, allowances, wages, fringe benefits, training, and services.

(iv) *Public Service Employment Occupational Summary.* The Occupational Summary requires a prime sponsor operating a public service employment program under the Act to provide a description of proposed job opportunities, occupations and wages, including a comparison of such wages with wages for similar non-subsidized jobs in the employing agency. The prime sponsor shall submit separate summaries for such pro-

grams under Title I and Title II of the Act.

(v) *Public Service Employment Program Summary.* The Program Summary presents a distribution of public employment jobs, and funds to be provided to prime sponsors and subgrantees. It designates the areas to be served and the population of each area. The prime sponsor shall submit separate summaries for such programs under Title I and Title II of the Act.

(vi) *Assurances and certification.* The Assurance and Certification form is a signature sheet on which the prime sponsor assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable circulars from the Office of Management and Budget and the General Services Administration. The assurances and certifications included on the form are as follows:

(A) Compliance with the Act and Regulations;

(B) Compliance with OMB circulars A–87, A–95, A–102;

(C) Legal authority;

(D) Noncompliance;

(E) Compliance with Title VI of the Civil Rights Act of 1964;

(F) Compliance with the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970;

(G) Compliance with the Hatch Act and restrictions on political activities;

(H) Prohibition on use of position for private gain;

(I) Access of Comptroller General and Secretary to records and documents pertaining to the Act;

(J) Nonsupport of religious facilities;

(K) Maintenance of required health and safety standards;

(L) Provision of appropriate workman's compensation to participants;

(M) Use of funds under the Act to supplement, rather than supplant, funds otherwise available and prohibition on displacement of employed workers by participants employed under the Act;

(N) Training only in occupations which have reasonable expectations for unsubsidized employment and which provides for the development of participants' potential consistent with their capabilities;

(O) Compliance with reporting and record-keeping requirements of the Act and regulations.

(P) Provision of required administrative and accounting controls;

(Q) Compliance with applicable standards for working conditions;

(R) Specific assurances for Title I activities, as required by the Act;

(S) Specific assurances for public service employment programs, as required by the Act;

(T) Special certifications for State applicants, as required by the Act.

§ 95.15 Comments and publication procedures relating to submission of grant application.

(a) As provided in paragraphs (b) and (c) of this section, each prime sponsor applicant shall, no later than the date of its submission of an application to the ARDM, provide an opportunity for comment on the application (secs. 105(c)(2) and 108).

(b)(1) Each prime sponsor shall publish a summary of the grant application package, including the proposed allocation of funds, in a newspaper or newspapers (including minority newspapers, where feasible) which will provide for a general circulation throughout the area to be served by the prime sponsor's plan. Such publication shall be for three consecutive issues and shall include an address and appropriate hours when the complete grant application will be available for review and the place where comments may be directed. The publication shall be made 30 days prior to the submission of the application to the ARDM, except that for Fiscal Year 1975 the publication shall be no later than the date of submission of the application to the ARDM.

(2) The information published shall include the following:

(i) The goals provided in the Project Operating Plan;

(ii) The significant segments of the population to be served, and number of planned participants in each segment;

(iii) The program activities and services to be provided by the program in each geographical area and the funds to be planned for each activity and service;

(iv) The total funds in the grant and distribution by cost categories.

(c)(1) In addition to general newspaper circulation, each prime sponsor applicant shall provide a copy of its application for the purpose of commenting thereon, to the Governor and the appropriate State A–95 clearinghouse(s). It shall provide a summary to appropriate units of local government with a population of at least 10,000 persons.

(2) For grants for fiscal year 1975, a prime sponsor applicant shall submit a copy of its application to the appropriate A–95 clearinghouse at the same time it submits its application to the ARDM. The copy of the application sent to the clearinghouse shall be accompanied by the following statement: "Due to the time constraints on implementation of Titles I and II of the Comprehensive Employment and Training Act of 1973, the program plan(s) required by sections 105, 106, and 205 of the Act is (are) being submitted to the clearinghouse and the Department of Labor simultaneously. Clearinghouses are requested to forward any comments directly to the Assistant Regional Director for Manpower. This review and comment procedure has been approved by the Office of Management and Budget only for FY 1974 Title II and FY 1975 Titles I and II program approval cycles."

(d) Comments pursuant to paragraphs (b) and (c) of this section shall be made to the prime sponsor applicant and the ARDM within 30 days of publication. The prime sponsor should provide copies of these comments to its Advisory Council.

(e) A prime sponsor applicant shall respond to any comment made pursuant to this section. It shall inform any party submitting a substantive comment of whether any plan revision will be made in response to the comment and the reasons for the prime sponsor's determination. All substantive comments and responses will be transmitted to the ARDM with the grant application, unless the comments are received after the application's submission, in which case they will be sent separately to the ARDM.

§ 95.16 Submission of grant application.

(a) Each prime sponsor applicant shall submit its grant application to the ARDM on or before a date set by the Secretary.

(b) A grant application shall include all items set out in § 95.14.

§ 95.17 Standards for reviewing grant applications.

(a) A grant application will be reviewed to determine if it meets the requirements of the Act, the regulations promulgated under the Act, and other applicable law.

(b) In reviewing a grant application as provided in paragraph (a) of this section, the ARDM shall determine whether:

(1) The application is complete.

(2) The needs and priorities identified in the application are supported and justified by the documentation provided by the prime sponsor.

(3) The planned expenditures for program activities are substantiated by documentation of the needs and priorities identified in the application.

(4) The performance goals identified in the application are reasonable in light of past program experience in the same or similar activities and the documentation provided by the prime sponsor.

(5) Appropriate arrangements have been made to involve the population to be served and community-based organizations in the planning process, through both representation on the Prime Sponsor Manpower Planning Council and participation in the specific planning of program.

(6) The prime sponsor applicant's selection of the method of delivery of services is supported by adequate documentation based on availability and capability of delivery agents and appropriateness of services for the population to be served (sec. 105(a)(3)(B)).

(7) Maximum efforts have been made to meet the goals of the prior year's plan; such efforts shall include monitoring, evaluation and remedial activities.

(8) The administrative costs in the application are reasonable and provide, to the maximum extent feasible, for Federal funds to be expended for direct program activities and services, and, if administrative costs exceed 20 percent of total costs, whether the prime sponsor has cited an adequate reason and provided supporting documentation.

(9) The prime sponsor has adequate internal administrative controls, accounting requirements, personnel standards, monitoring and evaluation proce-

dures, availability for in-service training and technical assistance, and such other policies as may be necessary to promote the effective use of funds provided under Title I of the Act.

(10) All parties required to be afforded an opportunity to comment on comprehensive manpower plans have been afforded such an opportunity; and

(11) Any comment on a Comprehensive Manpower Plan evidences noncompliance with the Act, the regulations promulgated pursuant to the Act, or any other applicable law.

§ 95.18 Application approval; grant agreement.

(a) An application for a grant shall be approved if it meets the requirements of the Act, the regulations promulgated under the Act, other applicable law and if the ARDM determines that the prime sponsor has demonstrated maximum efforts to meet the goals of the prior year's plan.

(b) An application for a grant from a consortium, or pursuant to a State multijurisdictional agreement, shall be approved if, in addition, an agreement among the parties has been submitted to and approved by the ARDM.

(c) A prime sponsor applicant and the Governor shall be notified of action taken on the application. If an application is approved, the ARDM shall provide the prime sponsor with a grant agreement, consisting of the Grant Signature Sheet and the Assurances and Certification form, and the Comprehensive Manpower Plan which is included by reference.

(d) The Grant Signature Sheet specifies the amount obligated by the Department, the term of the grant and is signed by the ARDM and the prime sponsor.

§ 95.19 Application disapproval.

(a) An application for a grant shall be disapproved if it fails to meet any requirement of the Act, the regulations promulgated under the Act, or any other applicable law (secs. 105 and 108).

(b) No application shall be disapproved solely because of the percentage of total funds devoted to any allowable program activity.

(c) No application for a grant shall be disapproved until:

(1) The prime sponsor application has been notified that its application fails to meet a requirement of the Act, regulation promulgated under the Act, or other applicable law; and

(2) The prime sponsor applicant is provided with suggestions as to those corrective steps which may be utilized to remedy any defect found in the application; and

(3) The prime sponsor applicant has been provided with a reasonable opportunity, but not less than 30 days, to remedy any defect found in the application, but has failed to do so.

(d) When an application is disapproved, a notice of disapproval shall be transmitted to the prime sponsor and the Governor, accompanied by a statement of the grounds of the disapproval. Such disapproval shall not be effective until notice and opportunity for a hearing has been provided, as required in Subpart C of Part 98.

§ 95.20 Use of alternative prime sponsors; services by the Secretary.

If an application is not filed, as required, or is denied, or if a grant is terminated in whole or in part during a fiscal year, the Secretary may make provision for the funds so released to be used by the State or another alternative prime sponsor to service the area originally to be served by the primary prime sponsor, or the Secretary may serve such an area directly (sec. 110(a)).

§ 95.21 Modification of grant agreement.

(a) The Grant Signature Sheet shall be used as the instrument to modify an existing grant agreement when there is a change in (1) the term of the grant, (2) the amount funded by the grant, or (3) the assurances and certifications included in the grant agreement (secs. 105 and 108).

(b) When the term or amount funded by the grant is changed, the prime sponsor shall also submit revised portions of its Comprehensive Manpower Plan to specifically identify the changes.

(c) When the term or amount funded by a grant is changed the comments and publication procedures provided in § 95.15 shall be followed.

§ 95.22 Modification of Comprehensive Manpower Plan.

(a) *General.* Prime sponsors may make two types of modifications to Comprehensive Manpower Plans: major and minor. An ARDM may require a modification as described in (d) of this section.

(b) *Major plan modification.* (1) When a plan modification falls into one of the following categories it will be considered to be major plan modification:

(i) For grants of $100,000 or less:

(A) When the cumulative transfer of funds among program activities or cost categories exceeds $5,000.

(B) When the total number of individuals to be served, planned enrollment levels for program activities, planned placement terminations, or individuals to be served within significant client groups is to be increased or decreased by 15 percent or more.

(ii) For grants of over $100,000:

(A) When the cumulative transfer of funds among program activities or cost categories exceeds $10,000 or 5 percent of the total grant budget whichever is greater.

(B) When the total number of individuals to be served, planned enrollment levels for program activities, planned placement terminations, or individuals to be served within significant client groups is to be increased or decreased by 15 percent or more.

(2) A prime sponsor desiring a major modification shall submit a revised project operating plan and a narrative explanation of the proposed changes to the ARDM. This modification will be forwarded for comment to the Governor and to other interested units of local government and a summary pubished in a newspaper of general circulation in the prime sponsor's area. The ARDM shall notify the prime sponsor of final approval or of tentative disapproval within 10 days of receipt of the proposed modification. Final ARDM action on disapproval shall be taken within 30 days of the receipt of the proposed modification. Appeal of any such determination may be obtained through the procedures set out in Part 98 of the regulations.

(c) *Minor plan modification.* A prime sponsor may make any change in its project operating plan which is not set out in paragraph (b) of this section without prior approval, but must show any such change in the first quarterly progress report submitted to the Department after the change has been made. At the same time that this report is submitted, an updated Project Operating Plan will also be submitted. Only those lines and columns affected by the modification shall be shown.

(d) *ARDM required modification.* After consultation with a prime sponsor, modification may be required by the ARDM as necessary to respond to comments received on a grant application after the application has been approved (secs. 105 and 108).

Subpart C—Program Operations

§ 95.30 General.

This subpart sets out the program operation requirements for comprehensive manpower services under Title I of the Act. The utilization of funds under Title I is conditioned upon adherence to the Act, the regulations promulgated under the Act, and other applicable law.

§ 95.31 Basic responsibilities of prime sponsors.

A prime sponsor shall be responsible for:

(a) Compliance with plans and assurances;

(b) Compliance with Part 98 of these regulations;

(c) Establishing priorities for receipt of assistance authorized under the Act taking into account the priorities identified by the Secretary and the significant groups represented among the economically disadvantaged, unemployed and underemployed residing within his jurisdiction;

(d) Designing program operating activities which are, to the maximum extent feasible, consistent with every participant's fullest capabilities and will lead to employment opportunities enabling every participant to become economically self-sufficient, and will contribute to the occupational development or upward mobility of every participant (sec. 101);

(e) Advising every participant of his rights and responsibilities prior to entering the program and granting the opportunity for a fair hearing as provided in § 95.37; and

(f) Making maximum efforts to achieve the provisions of its plan.

§ 95.32 Eligibility for participation in a Title I program.

(a) A person who is economically disadvantaged, unemployed or underemployed (as defined in § 94.3) may, subject to paragraph (b) of this section participate in a program offered by the prime sponsor under Title I of the Act (secs. 2, 105(a) and 108(d))

(b) For the purpose of participating in a public service employment program under Title I of the Act, participation is permitted for persons who reside, as defined in paragraph (c) of this section, anywhere within the geographical area covered by the prime sponsor's comprehensive plan who are unemployed or underemployed, and are otherwise eligible for participation consistent with the requirements of sections 205(c) and 208 of the Act (sec. 105(a)(5)).

(c) For the purpose of defining residence in paragraph (b) of this section, the term residence shall mean an individual's permanent dwelling place or home, both at the time the individual applies and is selected for participation in a public service employment program under Title I of the Act. In determining whether a particular place is an individual's dwelling place or home, the intention of the individual is the key element. Maintenance of an "address" is not necessarily the same as maintenance of a dwelling place or home.

(d) Citizenship will not be used as a criterion to prevent permanent residents, including permanent resident aliens, from participating in a program to the extent consistent with applicable State or local law.

§ 95.33 Types of manpower program activity available.

(a) A prime sponsor may provide any type of manpower program activity which is consistent with the purposes of Title I of the Act. Such program activities include but are not limited to the development and creation of job opportunities, and the training, education and other services needed to enable an individual to secure and retain employment at his maximum capacity. Program activities should be primarily directed toward the placement of individuals in unsubsidized employment, either directly at the outset of program participation as a result of intake assessment or indirectly through provision of training or services. (sec. 101.)

(b) A prime sponsor may, consistent with these regulations, determine the operating levels and program activities in its area. It may select any of the program activities described in paragraph (d) of this section or devise other activities within the framework of the Act. No prime sponsor plan will be disapproved solely because of the percentage of funds devoted to a particular program activity (sec. 108(c))

(c) A prime sponsor shall develop special program provisions for persons of limited English-speaking ability when such persons constitute a significant portion of a prime sponsor's program. The prime sponsor shall establish operating procedures to ensure (sec. 301(b));

(1) Teaching occupational skills in the primary language of such persons for occupations which do not require a high proficiency in English;

(2) Developing new employment opportunities for persons limited in English-speaking ability;

(3) Developing opportunities for promotion within existing employment situations for such persons;

(4) Disseminating appropriate information and providing job placement and counseling assistance in the primary language of such persons;

(5) Conducting training and employment programs in the primary language of such persons; and

(6) Conducting programs designed to increase the English-speaking ability of such persons.

(d) The basic types of manpower services available to a prime sponsor include, but are not limited to, the following:

(1) *Classroom training.* (i) This program activity includes any training conducted in an institutional setting designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may also include training designed to enhance the employability of individuals by upgrading basic skills, through the provision of courses in, for instance, remedial education, training in the primary language of persons of limited English-speaking ability, or English-as-a-second language training.

(ii) Occupational training shall be designed for occupations in which skill shortages exist (sec. 105(a)(6)) and such training will be provided only for occupations for which there is reasonable expectation of employment (sec. 603(10)). Such determination shall be made by the prime sponsor, utilizing available community resources such as the local SESA office, the National Alliance of Businessmen, etc.

(iii) Allowances and other benefits as provided in § 95.34 may be paid to participants receiving training or education, provided that such allowances are not paid for any course having a duration in excess of 104 weeks (sec. 111(a)).

(iv) Vocational classroom training may be supported with funds provided through (A) the prime sponsor's Title I grant or (B) special grants to Governors for vocational education and services in prime sponsor areas. In order to obtain such services the prime sponsor will negotiate nonfinancial agreements with local Vocational Education Boards utilizing the procedures described in Subpart D of this Part 95.

(2) *On-the-job training.* (i) On-the-job training (OJT) refers to training conducted in a work environment designed to enable individuals to learn a bona fide skill and/or quality for a particular occupation through demonstration and practice. Such training may be conducted on a "hire first, train later" basis, or with ultimate placement with an employer other than the training organization. OJT may involve individuals at the entry level of employment or be used to upgrade present employees into occupations requiring higher skills. Training shall be designed to lead to the maximum development of participants' potentials and to their economic self-sufficiency.

(ii) *Inducements to employers.* Prime sponsors may provide payments or other inducements to public or private employers for the bona fide training and related costs of enrolling individuals in the program; provided that payments to employers organized for profit are only made for the costs of recruiting, training and supportive services which are over and above those normally provided by the employer. Direct subsidization of wages for participants employed by private employers organized for profit is not an allowable expendiutre (sec. 101(5)).

(iii) *Labor organization consultation.* Where appropriate, Labor organizations should be consulted in the design and conduct of on-the-job training programs where collective bargaining agreements exist with the employer.

(iv) *Participant benefits.* Wages and other benefits provided to OJT participants shall be in accordance with conditions specified in § 95.35.

(3) *Subsidized employment.* This program activity includes both transitional public service employment and work experience as defined below.

(i) *Transitional public service employment.* This program activity includes training, services and other activities incident to the subsidized employment of individuals in the public sector. Operating conditions and allowable expenditures, except for residency requirements, applicable when Title I funds are used for this activity are enumerated in Part 96 of these regulations.

(ii) *Work experience.* This program activity, unlike the others discussed above, is not directed primarily at the immediate placement of individuals following completion of participation. Participants in other program activities should be "job ready" when terminated, while work experience participants may have no reasonable prospects for full-time employment, and might be in need of another program activity upon completion. Work experience activities should be addressed, therefore, to enhancing the future employability of less competitive segments of the target population. Typical activities include part-time work for students, exposure to work habits and career possibilities for out-of-school youth, and readjustment to the work environment for older persons. Program outcomes may include return to school for dropouts, enrollment in post-secondary education for high school graduates, enlistment in the military services, adjustments in employer attitudes, placement of older workers in part-time work, or participation in another program activity. Work experience in the private for profit sector is prohibited.

(iii) *Participant benefits.* (A) Wages and benefits for persons employed in a public service program shall be as provided in Part 96.

(B) Allowances and related benefits for persons participating in a work experience program shall be as provided in § 95.34.

(4) *Services to participants.* This program activity is designed to provide supportive manpower services which are needed to enable individuals to obtain or retain employment or to participate in other manpower program activities leading to their eventual placement in unsubsidized employment. Such services include, but are not limited to the following:

(i) *Manpower Services.* (A) Outreach;
(B) Intake and assessment;
(C) Orientation;
(D) Counseling;
(E) Job Development;
(F) Job placement; and
(G) Transportation; and

(ii) *Supportive Services.* (A) Health care and medical services;
(B) Child care;
(C) Residential support;
(D) Assistance in securing bonds;
(E) Family planning services, provided that such services are made available to an enrollee only on a voluntary basis, and are not to be a prerequisite for participation in, or receipt of, any service or benefit from the program; and
(F) Legal services.

(5) *Other activities.* These are program activities which do not fit into any of the above categories, including, but not limited to, the following:

(i) Removal of artificial barriers to employment;
(ii) Job restructuring;
(iii) Revision or establishment of merit systems; and
(iv) Development and implementation of affirmative action plans.

§ 95.34 Training allowances.

(a) *The payment system.* To assure accountability and uniformity, and to facilitate the necessary coordination with other programs, the system for payment of allowances under the Act shall be maintained as a unified system (sec. 111(a)). In addition, the delivery system selected by the prime sponsor shall incorporate a procedure to obtain information concerning receipt of unemployment compensation by participants. The prime sponsor in selecting the delivery system for the payment of participant allowances should give consideration to the use of existing agencies which have experience in operating an allowance payment system. The payment system shall include the following elements:

(1) Determination of entitlement and computation of amount to be paid;
(2) Issuance and distribution of payments;
(3) Maintenance of payment records and preparation of required reports;
(4) Maintenance of a system to detect and collect overpayments; and
(5) Arrangements with other agencies to obtain necessary information to minimize duplication or unauthorized payments. This shall include arrangements with:

(i) The State employment security agency for verification of unemployment compensation benefits;
(ii) Local welfare agencies for verification of public assistance payments;
(iii) Training facilities for submittal of payment requests and certification of attendance; and
(iv) Other units of government for verification of training allowances under other Federal, State or local programs.

(b) *Selection of delivery agent.* The prime sponsor is required to provide a unified allowance payment system either directly or through contract with other organizations as it considers appropriate for its particular circumstances. The prime sponsor may want to give consideration to the Unemployment Insurance service when selecting the delivery agent for allowance payments.

(c) *Eligibility for allowances.* Allowances may be paid to participants receiving classroom training, education or work experience under Title I of the Act.

(d) *Application for unemployment compensation.* Participants should be encouraged to apply for unemployment compensation benefits if they are not already receiving such benefits.

(e) *Basic allowances.* Basic allowances for one week, when added to unemployment compensation payments, if any, shall equal whichever is the highest of:

(1) The minimum wage prescribed by State or local law for employment in the prime sponsor's area; or

(2) The minimum hourly wage set out under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, multiplied by the number of hours of training, in which the trainee attends as required, or is absent for good cause; provided that for the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific, the provisions of the Fair Labor Standards applicable to those areas shall pertain.

(f) *Dependents allowances.* Basic allowances shall be increased by $5 per week for each dependent over two, up to a maximum of four additional dependents, for a total maximum basic allowance increase of $20 for six or more dependents.

(g) *Incentive allowances for persons receiving public assistance or who are in institutions.* (1) Incentive allowances, at the rate of $30 per week, are in lieu of basic allowances, and shall be paid to participants receiving public assistance who are not WIN participants, or whose needs or income are taken into account in determining such public assistance payments to others. Such allowances shall be disregarded in determining the amount of public assistance payments individuals are entitled to receive under Federal or federally assisted public assistance programs (sec. 111(a)). WIN participants already receive a similar incentive payment from WIN funds.

(2) Incentive allowances, in lieu of basic allowances, but not in excess of such allowances, may be paid institutionalized persons, including prison inmates participating in program activities. The determination as to whether such allowances will be paid, and the amounts thereof, shall be made by the prime sponsor in consultation with officials of the institution. In the case of prison inmates all or part of such payments, as determined by the prime sponsor and the head of the institution, may be held in reserve and delivered upon the participant's release from the institution.

(h) *Additional allowances.* Additional reasonable allowances may be provided to participants in any program activity for meals, travel, transportation, subsistence, emergency and other purposes.

(i) *Adjustments in allowances.* (1) No allowance to which an individual may otherwise be entitled shall be diminished in any respect because of receipt of a separation payment provided under any collective bargaining agreement.

(2) An individual's allowance may be adjusted upward to the degree that the local cost of living exceeds the national norm, as approved by the ARDM.

(3) Allowances may be reduced pro rata for part-time participation in any activity under Title I.

(4) Payment of participant allowances may be reduced pro rata for absence without good cause.

(5) Periodic increases may be provided as an incentive to participation.

(j) *Waivers of allowance payments.* (1) The payment of all or part of the allowances described in this section, except for allowances under paragraph (g)(1) of this section, may be waived by the prime sponsor in accordance with paragraph (j)(2) of this section.

(2) The criteria for a waiver of allowance payments, as provided in paragraph (j)(1) of this section, are as follows:

(i) The participants must have resources from concurrent employment or from other sources which enable them to subsist without such allowance payments; and

(ii) The waiver will increase the number of individuals which may be served and otherwise promote the purposes of the Act.

(3) The prime sponsor will notify in writing affected participants in cases of such waivers.

(k) *Repayments.* Prime sponsors may require participants to repay the amount of any overpayment of allowances under this part. An overpayment not repaid may be set off against any future allowance or other benefits under the Act to which the participant may become entitled. Where the overpayment was made in the absence of fault on the part of the participant, repayment shall be waived where such recovery would be against equity and good conscience or would otherwise defeat the purposes of the program.

§ 95.35 Wages; minimum duration of training and reasonable expectation of employment.

(a) *Wages.* (1) Participants in public service employment programs shall be paid wages as required by Part 96 of these regulations.

(2) Participants in employment other than public service employment shall be compensated by the employer at such rates, including periodic increases, as are reasonable considering such factors as industry, geographical region, and trainee proficiency (sec. 111(b)). In no event shall the rate be less than the highest of the following:

(i) The minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;

(ii) The State or local minimum wage for the most nearly comparable covered employment;

(iii) The prevailing rates of pay for persons employed in similar occupations by the same employer; or

(iv) The minimum entrance rate for inexperienced workers in the same occupation in the establishment or, if the occupation is new to the establishment, the prevailing entrance rate for the occupation among other establishments in the community or area or, any minimum rate required by an applicable collective bargaining agreement.

(3) For hours spent in the production of goods or services, the rate of compensation to be paid to trainees by employers, public or private, shall be specified in a written agreement entered into by the training or employing facility and the prime sponsor.

(4) Wages in the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific shall be consistent with applicable provisions of the Fair Labor Standards Act of 1938, as amended.

(b) *Duration of training.* An individual shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation (sec. 603(8)). Furthermore, no allowances will be paid for any course having a duration in excess of 104 weeks (sec. 111(a)).

(c) *Reasonable expectation of employment.* An individual shall not be referred to training unless the prime sponsor determines, after utilizing available and appropriate community resources, that there is a reasonable expectation of employment for such an individual in the occupation for which the person is being trained (sec. 603(10)).

§ 95.36 General benefits for program participants.

Each participant in a training or employment program under Title I of the Act shall be assured of appropriate workmen's compensation (sec. 603(6)). Each participant in an on-the-job training or public service employment program under Title I of the Act shall be assured of health insurance, unemployment insurance, retirement benefits (except as indicated in § 96.36) and other benefits at the same levels and to the same extent as other employees in the employment situation, and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy (secs. 208(a)(4) and 603(5)).

§ 95.37 Prime sponsor review.

Each prime sponsor shall establish a procedure for resolving any issue arising between it and a participant, under Title I of the Act. Such procedures shall include an opportunity for an informal hearing, and a prompt determination of any issue which has not been resolved. When the prime sponsor proposes to take an adverse action against a participant, such procedures shall also include a notice setting forth the grounds for any adverse action proposed to be taken by the prime sponsor and giving the participant an opportunity to respond. No individual subject to the issue resolution requirements of this section may initiate the hearing procedures of Part 98 until all remedies under this section have been exhausted. Final determinations made as a result of the review process shall be provided to the participant in writing.

§ 95.38 Non-Federal status of participants.

Participants in a program under Title I shall not be deemed Federal employees for any purpose including Federal tort claims and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits.

§ 95.39 Safety and health requirements for participants.

Participants shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under conditions which are unsanitary or hazardous or dangerous to their safety or health. In the case of participants employed or trained for jobs which are inherently dangerous (e.g., fire or police jobs), participants will be assigned in accordance with appropriate health and safety practices (sec. 603(5)).

§ 95.40 Training for lower wage industries; relocation of industries.

No participant may be enrolled in any activity or service under this Act in any lower wage industry in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, nor any authority conferred by this Act be used to assist in any relocation of an establishment from one area to another unless the Secretary determines that such relocation will not result in an increase in unemployment in the area of original location or any other area where it conducts business operations. (sec. 604(a)).

§ 95.41 Prime sponsor contracts and subgrants.

(a) *Contracts.* Contracts may be entered into between the prime sponsor and any party, public or private, for purposes set forth in an approved Comprehensive Manpower Plan.

(b) *Subgrants.* Subgrants may be entered into only between the prime sponsor and units of State and local general government, public agencies and nonprofit organizations.

(c) *Prime sponsor responsibility for development, approval and operation of contracts and subgrants.* The prime sponsor is responsible for development, approval and operation of all contracts and subgrants and shall require that its contractors and subgrantees adhere to the requirements of the Act, regulations promulgated under the Act, and other applicable law. It shall require contractors and subgrantees to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant (sec. 105(a)(1)(B)).

(d) *Cancellation.* If a contractor or subgrantee does not comply with any requirement of the Act, the regulations promulgated under the Act, and other applicable law, the prime sponsor shall cancel the contract or subgrant. The prime sponsor may cancel for noncompliance with additional conditions established by the prime sponsor for the contract or subgrant.

(e) *Continuity of service when contract or subgrant is cancelled.* If a contract or subgrant is cancelled, the prime sponsor shall develop procedures for assuring continuity of service to participants and provide adequate notice to affected staff of the change (sec. 105(a)(1)(B)).

(f) *Contracts and subgrants extending beyond the term of the grant.* The nature of certain training programs may make it necessary for contracts or subgrants to be entered into by the prime sponsor which will extend beyond the term of the grant under the Act. The prime sponsor is authorized to enter into contracts or subgrants which extend past the termination date of the grant but such extension shall not exceed one year and shall be subject to the provisions of §§ 98.15 and 98.16. In such cases, the grantee shall continue to be responsible for the administration of such contracts and subgrants.

§ 95.42 Cooperative relationships between prime sponsor and other manpower agencies.

(1) Each prime sponsor shall, to the extent feasible, establish cooperative relationships or linkages with other manpower and manpower-related agencies in the area within its jurisdiction, in particular, with agencies operating programs funded through the Department (sec. 105(a)(3)(D)).

(2) Prime sponsors shall, to the extent feasible, notify the appropriate apprenticeship agency of training activities in

apprenticeable occupations (sec. 105(a)(3)(D)).

Subpart D—Special Grants to Governors

§ 95.50 General.

(a) Funds shall be allocated to each State through a special grant for the support of:

(1) Vocational education services for prime sponsors;

(2) The State Manpower Services Council; and

(3) State manpower services.

(b) Funds available under paragraph (a) of this section shall be granted to each Governor in accordance with the formula allocation set out in § 95.2 of these regulations. Each Governor shall distribute these funds as provided in § 95.56. (secs. 103, 106, 107 and 112.)

(c) Provisions generally applicable in these regulations shall apply to special grants under this subpart unless otherwise provided.

§ 95.51 Distribution of funds.

(a) Five percent of the funds available under Title I of the Act shall be allocated to the Governors of the States to provide needed vocational education services for prime sponsors through State Vocational Education Boards as set out in § 95.2. These services are to be provided to participants under Title I of the Act.

(b) State Manpower Services Councils shall be supported with funds as set forth in § 95.2(b)(2).

(c) State manpower services provided under Section 106 of the Act shall be funded as set forth in § 95.2(c)(2).

§ 95.52 Grant application.

(a) Upon notification by the Secretary of the amount of funds available for a special grant to the State, the Governor shall submit a Special Grant Application to the ARDM on a date set by the Secretary. The ARDM shall determine whether the application shall be approved and shall notify the Governor of his determination.

(b) The Special Grant Application shall contain the following:

(1) *Application for Federal Assistance.* Forms provided in OMB Circular A–102 for Parts I and II of a grant application for non-construction projects are being used for the application for the special grant.

(2) *Special Grant Project Operating Plan.* This form will be used for grants for vocational education, State Manpower Services Councils, and State manpower services. The planned participant levels and fund expenditures by cost categories are contained on this form.

(3) *Special Grant Program Narrative.* The narrative for the special grant will be composed of three separate sections as follows:

(i) *Vocational Education Services Program Narrative.* The program narrative contains (A) a summary of all agreements required in § 95.57 between individual prime sponsors and the Vocational Education Board and (B) a copy of each such agreement. The summary should follow the procedures established for the development of individual program narratives supporting each non-financial agreement. If all of the non-financial agreements are not available when the application is submitted, the Governor shall describe the training and services which he expects to be supplied by the Vocational Education Board to each prime sponsor. Non-financial agreements received after the grant is made will be forwarded to the ARDM.

(ii) *State Manpower Services Council Program Narrative.* A description of the arrangements for the State Manpower Services Councils follows:

(A) A listing of members of the Council, identifying the group each member represents;

(B) Identification of the chairman;

(C) A statement of the procedures which will be followed in reviewing prime sponsor plans and making recommendations which will provide more effective overall coordination of manpower services in the State;

(D) A description of the system to be used in monitoring other prime sponsors and State manpower services;

(E) A description of the types of data, materials and information which will be included in the annual report to the Governor;

(F) If the Governor plans to use part of the funds authorized for the Council under section 103(d) of the Act (one percent of the allocation) for section 106 (State Services), the specific use of the funds shall also be described, including the amount and objectives to be accomplished.

(iii) *State Manpower Services Program Narrative.* The narrative for this part will provide a specific description for each activity, the planned costs, and the planned results, and will include:

(A) An explanation of the steps taken to assure that State agencies providing manpower and manpower related services either independently or as subgrantees or contractors will cooperate with prime sponsors and eligible applicants in implementation of the program;

(B) A description of methods which will be developed for the sharing of resources and facilities in order to carry out manpower programs throughout the State. The administration of such programs will be designed to meet the needs of the areas to be served with minimum duplication of the efforts of other prime sponsors and in the most efficient and economical manner;

(C) A description of the arrangements which have been made for coordinating manpower and manpower-related agencies within the State;

(D) An explanation of the arrangements made by the State to assist the Secretary under 38 U.S.C. 2012(a) in requiring each contractor and subcontractor in Title I programs under the Act to list all suitable employment openings in State Employment Service local offices. Fulfillment of this responsibility shall be based upon information developed by the Secretary; (sec. 106 (b) (5))

(E) A description of any arrangements for planning areas to service geographical areas within the State, including a description of the roles and responsibilities of the planning area with particular emphasis on the steps taken to assure that plans of all State agencies for delivery of services have been effectively coordinated;

(F) A description of the provisions which have been made for (*1*) coordination with other prime sponsors in the State for manpower services provided by the State in other prime sponsors' areas; (*2*) exchange of information between State, intra-State and regional planning for economic development, human resource development, education and other relevant areas; and (*3*) coordination of all manpower plans in the State to eliminate conflict, duplication, and overlapping between programs under this Act and manpower services provided under other statutory authority;

(G) A description of any of the activities allowable under sec. 106(c) of the Act, that the State chooses to provide detailing those activities to be undertaken and the costs and goals of such activities, including:

(*1*) A description of the allowable services under the Act which are being delivered throughout the State by State agencies responsible for employment and training and related services; (sec. 106 (c)(1);

(*2*) A description of any financial assistance the State plans to provide for special programs and services designed to meet the needs of rural areas outside major market areas; (sec. 106(c)(2));

(*3*) A description of the extent to which information will be developed and published regarding economic, industrial and labor market conditions, including but not limited to job opportunities and skill requirements, labor supply in various skills, occupational outlook and employment trends in various occupations, and economic business development and local trends (sec. 106(c)(3));

(*4*) A description of the service to be provided without reimbursement and upon request to any prime sponsor serving an area within the State, such information and technical assistance as may be appropriate to assist any such prime sponsor in developing and implementing its programs under this Act (sec. 106(c)(4)); and

(*5*) A description of any special model training and employment programs and related services, including programs for offenders similar to programs described in section 301(c) of the Act. (sec. 106(c)(5)).

(4) *Assurances.* All assurances developed elsewhere in these regulations for Title I apply to and will be included in the special grant application and agreement.

§ 95.53 Application approval and disapproval; grant agreement.

(a) The ARDM shall approve any grant application which meets the following standards and requirements:

(1) It contains all the required forms, information and certifications required by the regulations; and

(2) It meets the conditions for approval of grant applications under Subpart B of this Part 95.

(b) A special grant agreement shall be signed when the grant application is approved by the ARDM. This agreement is composed of a Special Grant Signature Sheet and a General and Special Assurances Form.

(c) An application for a special grant shall be disapproved if it fails to meet any requirement of the Act, the regulations promulgated under the Act, or any other applicable law. All other conditions set forth in § 95.19 shall apply to the disapproval of special grants.

§ 95.54 Modifications; limitations on use of funds.

A modification to a Governor's special grant may be accomplished in two different ways depending upon the magnitude of the modification:

(a) *Major modifications.* When a modification falls under one of the following categories it will be considered a major modification and will require the prior notification and approval of the ARDM:

(1) A change in the term of the grant;

(2) An increase or decrease in the amount of the grant;

(3) A change in any general or special assurances;

(4) When the cumulative amount of transfers among cost categories exceeds $10,000 or 5 percent of the grant, whichever is greater; or

(5) When there is a 15 percent cumulative change in the number of program participants.

(b) (1) When a modification falls into one of the above categories, the Governor shall have prepared and sent to the ARDM a request for modification. The ARDM shall, within fifteen days of receipt of the request, notify the Governor of his approval or disapproval.

(2) The request for modification will consist of the following: A grant signature sheet; a project operating plan (one for the total project and one for each prime sponsor whose plan is changed); and a program narrative justifying the proposed modification.

(c) *Minor modifications.* Any other modifications shall be considered a minor modification and as such can be made without the prior notification and approval of the ARDM. Such a modification shall be included in the Quarterly Progress Report and a revised Project Operating Plan reflecting only the items to be modified.

(d) *Limitation on use of funds.* (1) Funds for Vocational Education Services may not be used to fund any other activities included in this special grant.

(2) Funds for State Manpower Services Councils may be used for State manpower services to the extent such funds are not needed for the council.

§ 95.55 Governor's distribution of vocational education funds.

(a) (1) Upon notification of the funds available to his State for vocational education, the Governor shall inform the Vocational Education Board and each prime sponsor of the amount of funds available to be spent in each prime sponsor's area. If a prime sponsor elects not to use all or part of the funds provided for its area, it shall notify the Governor who will redistribute the funds among other eligible prime sponsors.

(2) The Governor shall determine the amount of funds to be made available in each prime sponsor area assuring that such funds do not increase by more than 20 percent the amount of funds available to that prime sponsor's area under the basic allocation formula set out in § 95.2 (b).

§ 95.56 Program operations.

(a) *Vocational education services and activities.* (1) The Governor shall provide vocational education funds he receives by special grant to the State Vocational Education Board. The State Vocational Education Board will then provide the training and services detailed in a non-financial agreement with the prime sponsor. This agreement will be developed at the local level between prime sponsors and the Vocational Education Board to provide vocational education services and activities to prime sponsor participants eligible under this Part 95. The agreement will then be forwarded to the Governor, to become part of his special grant application which shall be submitted to the ARDM.

(2) Vocational education services, which may be provided by a State Vocational Education Board, include, but are not limited to, basic or general education, educational programs conducted for offenders, institutional training and supportive services.

(3) If no Vocational Education Board exists within a State, the Governor may provide financial assistance to an alternate agency which serves the same purpose as a State Vocational Education Board.

(b) *State Manpower Services Council.* The Governor shall, from funds available under § 95.2(b)(2), provide staff and other necessary services in support of the Manpower Services Council in performing its functions under section 107 of the Act.

(c) *State manpower services.* The Governor will provide services, activities and projects, as set out in his approved Special Grant Plan program narrative, pursuant to § 95.52(b)(3)(iii).

§ 95.57 Grant administration.

(a) *Funding.* Special grants will be funded in the same way as basic grants under this Part 95.

(b) The requirements relating to grant administration contained in Part 98 are applicable to special grants to Governors, except as provided in Subpart D of Part 95.

(c) *Reports for special grants.* (1) A quarterly progress report containing financial and statistical data is required. The Governor will supply to each prime sponsor to which he is providing services a Quarterly Progress Report for funds expended in its area and will submit a summary Quarterly Progress Report, with copies of the individual prime sponsor reports attached, to the ARDM. These reports will be submitted for each Federal fiscal year quarter, to be submitted no later than thirty days after the end of the reporting quarter. Instructions for completion of this report are in the Forms Preparation Handbook.

§ 95.58 Nonfinancial agreement between prime sponsor and Vocational Education Board.

(a) Upon notification of the funds available for its area, the prime sponsor shall develop a financial, statistical and narrative plan for the expenditure of such funds by the Vocational Education Board in the prime sponsor area. This plan shall be developed consistent with the prime sponsor's Comprehensive Manpower Plan and shall be submitted to the Vocational Education Board for its approval. When approved, the plan will be signed by both the prime sponsor and the Board and will constitute a nonfinancial agreement.

(b) The Vocational Education Board shall provide services to the prime sponsor upon receipt of the necessary funds from the Governor. The nonfinancial agreement will consist of the following three sections:

(1) Prime sponsor vocational education nonfinancial agreement signature sheet;

(2) Vocational education project operating plan; and

(3) Vocational education program narrative.

(c) After the agreement is signed a copy will be sent to the Governor for his review and approval.

(d) The Governor shall develop procedures for the prime sponsors and the Vocational Education Board to follow when they desire to modify the nonfinancial agreement.

(e) The Governor shall develop procedures to assure that the Vocational Education Board provides services consistent with the Governor's vocational education plan and the non-financial agreements between the Board and the prime sponsors.

§ 95.59 Coordination with prime sponsor.

(a) The financial and statistical information from the approved Non-Financial Agreement Project Operating Plan will be entered into the relevant columns of the prime sponsor's basic grant Project Operating Plan as provided in the Forms Preparation Handbook. If the Comprehensive Manpower grant has been signed prior to final approval of the Vocational Education Agreement, a modified prime sponsor's grant Project Operating Plan will be submitted when the vocational education information is available.

(b) Information provided by the Vocational Education Quarterly Progress Report, supplied to the prime sponsor from the Governor, will be entered in the prime sponsor's basic grant Quarterly Progress Report.

PART 96—PROGRAMS UNDER TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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AUTHORITY: Pub. Law 93–203,, sec. 602(a), 87 Stat. 839, unless otherwise noted.

Subpart A—General

§ 96.1 Scope and purpose.

(a) This part contains the Department of Labor's regulations providing for the establishment and operation of public employment programs, and other manpower programs, under Title II of the Act.

(b) Definitions for every abbreviation and major term may be found in Part 94 of this subtitle.

(c) Statutory authority for the regulations contained in this part is found in the provisions of section 602(a) of the Act, and in such other provisions of the Act as are noted at the end of each substantive provision of these regulations.

(d) These regulations amend the regulations published as Part 96 at 39 FR 5900, February 15, 1974. Each eligible applicant shall either comply with these amendments or notify the Assistant Regional Director for Manpower (ARDM) on or before April 18, 1974, that it cannot so conform, in which case the grant will be terminated (sec. 3(b)).

§ 96.2 Allocation of funds.

(a) Funds appropriated under Title II of the Act are available only for areas of substantial unemployment and may be allocated by the Secretary only to eligible applicants (secs. 204(a) and 204(c)).

(b)(1) At least 80 percent of the funds available under Title II shall be allocated among eligible applicants in accordance with a ratio comparing the number of unemployed persons residing in areas of substantial unemployment within each eligible applicant's jurisdiction to the number of unemployed persons residing in all areas of substantial unemployment (sec. 202(a)).

(2) Funds not allocated as provided in paragraph (b)(1) of this section may be distributed by the Secretary at his discretion taking into account the severity of unemployment in such areas and may include additional areas of substantial unemployment designated by the Secretary after the initial allocation of Title II funds (sec. 202(b)).

(c) An eligible applicant shall distribute to a program agent those funds that are allotted to the eligible applicant due to the level of unemployment within the program agent's jurisdiction, unless the program agent leclines to operate a program under Title II of the Act, in which case, the eligible applicant will make other arrangements to serve that jurisdiction (sec. 204(d)(1)).

§ 96.3 Eligibility for funds.

(a) Funds shall be allocated by the Secretary only to eligible applicants. Eligible applicants are those prime sponsors and Indian tribes on Federal or State reservations, as defined in Subpart F of this Part 96, which include areas of substantial unemployment (sec. 204(a)).

(b) For the purpose of allocating funds, the term "eligible applicant" shall include any entity which is eligible to be a prime sponsor under Title I of the Act and Indian tribes on Federal or state reservations as described in § 96.42 (sec. 204(b)).

(c) A State shall not qualify as an eligible applicant for any geographical area within the jurisdiction of any other eligible applicant within the State unless the non-State eligible applicant has not submitted an approvable application for Title II funds (secs. 204(a) and 102(b)(1)).

(d) A unit of general local government shall not qualify as an eligible-applicant with respect to any area within the jurisdiction of another eligible unit of general local government unless such smaller unit has not submitted an approvable application for such areas (secs. 204(b) and 102(b)(2)).

(e)(1) Eligible applicants shall distribute funds to program agents, as provided in § 96.2(c) (sec. 204(d)(1)).

(2) No program agent shall receive or continue to receive funds for any area of substantial unemployment within the jurisdiction of another program agent unless the ARDM determines that the smaller program agent has not carried out its administrative responsibility for developing, funding, overseeing, and monitoring programs within its area, consistent with the application for financial assistance developed by the eligible applicant (secs. 204(d)(3) and 102(b)(2)).

(f)(1) An eligible applicant or program agent, other than a State, whose entire jurisdiction qualifies as an area of substantial unemployment shall, to the extent feasible, allocate funds for identifiable subareas which meet the unemployment rate requirements of areas of substantial unemployment in § 94.3. Such allocation to subareas shall be based on the ratio of the number of unemployed persons residing in each subarea to the total number of unemployed persons within the eligible applicant or program agent's jurisdiction.

(2) Where the eligible applicant is a State that has an unemployment rate for its jurisdiction of at least 6.5 percent, the State shall, to the extent feasible, allocate its funds under Title II to individual areas of substantial unemployment within its jurisdiction. Such allocations shall be based on the ratio of the number of unemployed persons residing in each individual area of substantial unemployment to the sum of unemployed persons residing in all such areas of substantial unemployment within its jurisdiction.

(g) If an eligible applicant finds that there is an area of substantial unemployment within its jurisdiction that has not been designated by the Secretary to receive assistance, it may recommend that such area by considered for assistance by the Secretary. In making any such recommendation, the eligible applicant must include a precise geographical definition of the area to be served and its population. Such a recommendation shall be submitted to the ARDM. The Secretary shall, within a reasonable time, make a determination of the recommendation and inform the eligible applicant of the determination and the reasons therefor.

Subpart B—Grant Application

§ 96.10 General.

This Subpart B provides the procedures for obtaining grants to operate programs under Title II of the Act.

§ 96.11 Eligible applicant notification.

(a) Eligible applicants shall be notified of their eligibility for grants under Title II. At that time, eligible applicants shall inform the ARDM, the Governor, and the State and appropriate metropolitan or

regional substate clearinghouse, as provided in OMB Circular A–95, of its intention to apply for a grant. If an eligible applicant desires to apply for a grant and so notifies the ARDM, a complete application package with forms and instructions will be furnished to the eligible applicant.

(b) For fiscal year 1974 grants, eligible applicants shall follow procedures contained in the "Announcement of Proposed Financial Assistance and Request for Notice of Intent to Apply for Prime Sponsorship" published at 39 FR 2743, January 23, 1974.

§ 96.12 Content and description of grant application.

(a) The grant application package shall contain:

(1) Application for federal assistance (application face sheet);

(2) Comprehensive Title II Plan;

(3) Assurances, certifications and requirements under section 205(c) of the Act; and

(4) Grant Signature Sheet.

(b) A description of these documents follows:

(1) The application for federal assistance (application face sheet) summarizes specific data concerning the application and provides certain general information necessary for the proper processing of the application. Such information includes identification of the eligible applicant, identification of A–95 clearinghouse (pursuant to OMB circular A–95), Federal funding, and type of assistance.

(2) The Comprehensive Title II Plan consists of a program summary, an occupational summary, project operating plan, and required narrative description of program operations:

(i) The Public Service Employment program summary presents the distribution of public employment jobs, comprehensive manpower services, and funds to be provided eligible applicants and subgrantees. It designates the areas to be served and the population of each.

(ii) The Public Service Employment Occupational Summary provides by occupational title, the number of jobs, monthly wage rates, man-months employed and total monthly wages. It provides for a comparison of such wages with wages for similar non-subsidized jobs in the employing agency.

(iii) The Project Operating Plan provides for a quantitative statement of the planned expenditures, enrollment levels, and outcomes for the participants in the program. In addition, the form contains planned expenditures for the following cost categories: administration, wages, fringe benefits, training and services.

(iv) Narrative descriptions are those required in § 96.14(b)(1).

(3) The Assurances and Certification Form is a signature sheet on which the eligible applicant assures and certifies that it will comply with the Act, the regulations of the Department, and applicable circulars from the Office of Management and Budget and the General Services Administration.

(4) The Grant Signature Sheet specifies the amount of funds obligated by the Department, and the term of the grant. It is signed by the ARDM and the authorized officials of the eligible applicant.

§ 96.13 Comment and publication procedures relating to submission of grant application.

(a) For FY '74 each eligible applicant that plans to apply for a grant shall, no later than the date of its submission of an application to the ARDM, provide an opportunity to comment on its application to the following:

(1) The Governor;

(2) Officials of appropriate units of general local government within the eligible applicant's jurisdiction;

(3) State and appropriate sub-state A–95 clearinghouses;

(4) Officials of labor organizations representing employees who are engaged in similar work in the same area as that proposed to be performed by the eligible applicant (section 206). For FY '76 and subsequent years each eligible applicant shall provide for a 30 day comment period as set forth in § 95.15 of this subtitle.

(b)(1) Each eligible applicant shall provide a copy of its application, for the purpose of commenting thereon, to the Governor, and the State and appropriate sub-state A–95 clearinghouse. It shall also provide a summary to appropriate units of general local government with a population of at least 10,000 persons and officials of appropriate labor organizations described in paragraph (a)(4) of this section. Units of general local government with a population of less than 10,000 persons may comment through the publication procedure set out in paragraph (c) of this section.

(2) For applications under Title II for Fiscal Year 1974 the copy sent to the clearinghouse shall be accompanied by the following statement:

Due to the time constraints on implementation of Titles I and II of the Comprehensive Employment and Training Act of 1973, the program plan(s) required by section 205 of the Act is (are) being submitted to the clearinghouse and the Department of Labor simultaneously. Clearinghouses are requested to forward any comments directly to the Assistant Regional Director for Manpower. This review and comment procedure has been approved by the Office of Management and Budget only for FY 1974 Title II and FY 1975 Titles I and II program approval cycles.

(c) Each eligible applicant shall publish its program summary in a newspaper or newspapers (including minority newspapers, where feasible) which will provide for general circulation throughout the areas to be served by the eligible applicant's plan. Such publication shall be for 3 consecutive issues and shall include an address and appropriate hours when the complete grant application will be available for review and the place where comments may be directed. The publication shall be made 30 days prior to the submission of the application to the ARDM, except that for Fiscal Year 1975 the publication shall be no later than the date of submission of the application to the ARDM.

(d) Comments pursuant to paragraphs (b) and (c) of this section shall be made to the eligible applicant and the ARDM within 30 days of publication.

(e) An eligible applicant shall respond to any comment made pursuant to this section by providing the commenting party with appropriate information and notice regarding the actions or revisions the applicant intends to take or adopt due to the comment. All such comments and responses shall be transmitted to the ARDM as provided in § 96.14 or, if a comment is received after the application submission, separately to the ARDM.

§ 96.14 Submission of grant application.

(a) Each eligible applicant shall submit its grant application to the ARDM on or before a date set by the Secretary.

(b) Each eligible applicant shall include with its initial grant application:

(1)(i) A narrative description of the eligible applicant's methods to be used to recruit, select, and orient participants, including specific eligibility criteria, and programs to prepare the participants for their job responsibilities;

(ii) A narrative description of the eligible applicant's methods for determining, serving, and monitoring service for significant segments of its population and for groups to be provided special consideration.

(iii) In addition, for full funding of Title II grants in fiscal year 1974 and subsequent years, the program narrative description shall also include a narrative outline which identifies and explains the manpower problems within the eligible applicant's jurisdiction, and describes proposed program activities and delivery systems to deal with those problems and the results which may be expected from the program. The program Narrative Description also provides for a detailed statement on the program, specifically on (A) program objectives, (B) need for assistance, (C) results and benefits expected, (D) approach, (E) geographic area served, (F) a description of Title I and II activities to be financed by Title II funds and (G) the methods, based solely on the criteria established by these regulations, which were used by the eligible applicant in making determinations under § 96.3(f).

(2) Copies of all comments received on its application, and its responses to those comments;

(3) A list of the entities that received a copy of the application for comment, as provided in § 96.13(b) and the date that such copies were transmitted; and

(4) At the earliest possible date, a copy of the newspaper publication made pursuant to § 96.13(c).

§ 96.15 Application approval.

(a) An application for a grant shall be approved if it meets the requirement of the Act, other applicable law, and the regulations promulgated in this Part 96 (sec. 206).

(b) An eligible applicant and the Governor shall be notified of action taken on the application. If an application is approved, the ARDM shall provide a grant agreement to the eligible applicant consisting of the Grant Signature Sheet and the Assurances and Certification Form. The Comprehensive Title II Plan is incorporated by reference in the grant agreement.

§ 96.16 Application disapproval.

(a) An application for a grant shall be disapproved if it fails to meet any requirement of the Act, other applicable law or the regulations promulgated in this Part 96.

(b) No application for a grant shall be disapproved until:

(1) The eligible applicant has been notified that its application fails to meet a requirement of the Act, other applicable law, or of the regulations promulgated under the Act.

(2) The eligible applicant has been provided with suggestions as to those corrective steps which may be utilized to remedy any defect found in the application; and

(3) An eligible applicant has been provided with a reasonable time, but not less than 30 days, to remedy any defect found in the application, but has failed to do so.

(c) When an application is disapproved, a notice of disapproval shall be transmitted to the eligible applicant and the Governor accompanied by a statement of the grounds for the disapproval.

§ 96.17 Use of alternative eligible applicants.

If an application is not filed, as required, or is denied, or if a grant is terminated in whole or in part during a fiscal year, the Secretary may make provision for the funds so released to be used by one or more alternative eligible applicants to serve the area originally to be served by the primary eligible applicant, or the Secretary may serve such an area directly.

§ 96.18 Modification of grant agreements.

(a) The Grant Signature Sheet shall be used as the instrument to modify an existing grant agreement when there is a change in (1) the term of the grant, (2) the amount funded by the grant, or (3) the assurances and certifications included in the grant agreement.

(b) When the term or amount funded by the grant is changed, the eligible applicant shall also submit revised portions of its Comprehensive Title II Plan to specifically identify the changes.

(c) When a major modification is required, the comments and publication procedures provided in this Subpart B shall be followed. (sec. 206)

§ 96.19 Modification of Comprehensive Title II Plan.

(a) *General.* Eligible applicants may make two types of modifications to Comprehensive Title II Plans: Major and minor. An ARDM may require a modification in certain instances.

(b) *Major plan modification.* When a plan modification falls into one of the following categories it will be considered to be a major plan modification:

(1) When the eligible applicant adds or deletes a subgrantee.

(2) For grants of $100,000 or less:

(i) When the cumulative transfer of funds among program activities or cost categories exceeds $5,000.

(ii) When the total number of individuals to be served, planned enrollment levels for program activities, planned placement termination, or individuals to be served within significant client groups is to be increased or decreased by 15 percent or more.

(3) For grants of over $100,000:

(i) When the cumulative transfer of funds among program activities or cost categories exceeds $10,000 or 5 percent of the total grant budget whichever is greater.

(ii) When the total number of individuals to be served, planned enrollment levels for program activities, planned placement terminations or individuals to be served within significant client groups is to be increased or decreased by 15 percent or more.

(4) An eligible applicant desiring a major modification shall submit a revised project operating plan and a narrative explanation of the proposed changes to the ARDM. This modification will be forwarded for comment to the Governor and appropriate interested units in accordance with procedures set forth in § 96.13, and published in a newspaper of general circulation (including minority newspapers when feasible) in the eligible applicant's area. The ARDM shall notify the eligible applicant of final approval or of tentative disapproval within 30 days of the receipt of the proposed modification. Appeal of any such determination may be obtained through the procedures set out in Part 98 of this subtitle.

(c) *Minor plan modification.* An eligible applicant may make any change in its project operating plan which is not set out in paragraph (b) of this section without prior approval, but must show any such change in the first quarterly progress report submitted to the Department after the change has been made.

(d) *Modification required by ARDM.* After consultation with an eligible applicant, modification may be required by the ARDM as necessary to respond to the comments received on a grant application after the application has been approved.

Subpart C—Program Operation

§ 96.20 General.

This Subpart C sets out the program operation requirements for eligible applicants and subrantees. The utilization of funds under Title II of the Act is conditioned upon adherence to the requirements of this subpart, as well as adherence to the Act, other applicable law, and other terms and conditions of the regulations promulgated in this part.

§ 96.21 Basic responsibilities of eligible applicants.

An eligible applicant is responsible for:

(a) Requesting, receiving and administering funds within its jurisdiction (secs. 203(a) and 205(c)(1));

(b) Allocating funds and jobs equitably among public agencies within its jurisdiction (sec. 205(c)(23));

(c) Developing a plan to effectively implement a program of transitional public employment and related training and manpower services (sec. 203(a));

(d) Developing, to the greatest extent possible, new careers and opportunities for career advancement for participants (sec. 205(c)(4));

(e) Performing reviews at 6-month intervals on the status of each participant to assure that the participant's job has potential for advancement or suitable continued employment (sec. 207(a));

(f) Administering or supervising all activities under its approved plan including the establishment of hearing procedures, as set out in § 95.37 of this subtitle, (sec. 205(c)(1));

(g) Assuring that the program will, to the extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement within its jurisdiction (sec. 205(c)(18)); and

(h) Assuring that employing agencies take reasonable measures to provide information about their job openings with the employment service (sec. 205(c)(5)).

§ 96.22 Basic responsibilities of program agents; relationship with eligible applicants.

(a) A program agent, as defined in Subpart F, shall be delegated by the eligible applicant the administrative responsibility for developing, funding, overseeing and monitoring programs with respect to the funds made available to it under title II of the Act.

(b) A program agent shall carry out its functions consistent with the grant application developed by the eligible applicant in cooperation with the program agent and shall be responsible to the eligible applicant for carrying out its program in a manner consistent with the application (sec. 204(d)(2)).

(c) Irreconcilable differences between an eligible applicant and a program agent shall be submitted to the ARDM.

§ 96.23 Acceptable public employment positions.

(a) Funds provided under Title II shall only be used to fund public service needs which have not been met and to implement new public services (sec. 201).

(b) In developing job opportunities under this Part 96 the following requirements shall apply:

(1) The jobs provided must meet public service needs as defined in the Act and the regulations promulgated in this Part 96 (sec. 205(a));

(2) Program emphasis shall be on transitional employment: jobs which are likely to lead to regular, unsubsidized employment or opportunities for continued training (secs. 201 and 205(b)(4));

(3) Jobs shall be provided, to the extent feasible, in occupational fields which are most likely to expand within the public or private sector as the unemployment rate recedes (sec. 205(c)(6)).

(4) Jobs shall be allocated equitably to agencies of State and local government and subdivisions thereof, such as educational agencies, within the eligible applicant's jurisdiction, taking into account the number of unemployed persons within each area, their needs and skill levels, the needs of the agencies, and the ratio of jobs in the area at each governmental level (sec. 205(c)(23));

(5) Jobs will not be "deadened", but will contribute to career advancement and the development of the employment potentials of participants. Opportunities for continued training are to be provided to support the upward mobility of participants (secs. 205(a), 205(c)(4), and 208(a)(6)).

(6) No more than one-third of the participants in any program may be employed in a bona fide professional capacity as defined in 29 CFR 541.3 issued pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938, as amended. The exception to this limitation is the hiring of classroom teachers. (Generally, according to the F.L.S.A., a professional is an individual (i) with a professional education, usually requiring more education than a Bachelor's degree or whose work is original and creative in an artistic field;

(ii) at least 80 percent of whose work requires discretion and judgment and is intellectual in nature, and (iii) who earns at least $140 a week ($125 in Puerto Rico, Virgin Islands, or American Samoa). A less stringent test applies to individuals earning $200 or more a week. Lawyers, doctors and teachers working as such are professional without regard to their earnings (for further explanation see 29 CFR 541.3) (section 205(c)(22));

(7) The program excludes employment in building and highway construction work (except that which is normally performed by the prime sponsor or eligible applicant) and other work which inures primarily to the benefit of a private profit-making organization.

(8) Jobs in each job category shall in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service jobs not subsidized under Title II (section 205(c)(24));

(9) No job will be filled in other than an entry level position in each job category until applicable personnel procedures and collective bargaining agreements have been complied with (section (c)(24)); and

(10) To the extent feasible the public services provided by the jobs should be designed to serve the residents of the areas of substantial unemployment designated for Title II funds (section 205(c)(3)).

§ 96.24 Maintenance of effort.

(a) Employment funded under Title II of the Act shall only be in addition to employment which would otherwise be financed by the eligible applicant without assistance under this title (sec. 204(c)(25)).

(b) To assure maintenance of effort, a public employment program under Title II of the Act:

(1) Shall result in an increase in employment opportunities over those which would otherwise be available;

(2) Shall not result in the displacement of currently employed workers, including partial displacement such as a reduction in hours of non-overtime work, wages, or employment benefits;

(3) Shall not impair existing contracts for service or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

(4) Shall not substitute public service jobs for existing federally assisted jobs (sec. 208(a)(1)).

§ 96.25 Responsibility for selecting participants.

(a) Eligible applicants, program agents and other subgrantees, and employing agencies shall be responsible for the selection of participants. To meet this requirement, employing agencies must provide adequate documentation of each applicant's eligibility, and retain in the participant's folder the information on which this documentation of eligibility is based. Employing agencies shall also retain for a reasonable period of time the applications of persons not selected for participation and the reasons for their non-selection (sec. 205(c)(2)).

(b) Adequate documentation shall consist of a signed, and dated, complete application for employment, including the last date of employment, which attests that the information the application contains is true, to the best of the eligible applicant's knowledge.

§ 96.26 Special limitations on programs and participant selection.

(a)(1) *Political activities.* No program under this part may involve political activities, and neither the program nor the funds provided therefore, nor the personnel employed in the administration of the program, shall be in any way or to any extent engaged in the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code. Prohibited activities under this section include, but are not necessarily limited to, the assignment of any participant by an eligible applicant or subgrantee or employing agency to work for or on behalf of a partisan political activity; To take part in voter registration activities; or to participate in other partisan political activities such as lobbying, collecting funds, making speeches, assisting at meetings, and doorbell ringing, and distributing political pamphlets in an effort to persuade others of any political view.

(2) Participants employed in the administration of the program and participants whose principal employment is in connection with an activity financed by other Federal grants or loans are covered by the Hatch Act. Other participants are not precluded from taking an active part in political management or in a political campaign outside of working hours, provided they do not identify themselves as spokesman for any Title II funded program. All participants may take part in nonpartisan activities outside of working hours (sec. 208(g)).

(b) *Sectarian activities.* No participant in any program under this part may be employed in the construction, operation, or maintenance of such part of any facility as is used or will be used for sectarian instruction or as a place of religious worship (sec. 208(h)).

(c) *Place of residence*—(1) *General.* (i) At the time of both application and selection, program participants shall reside in an area of substantial unemployment within the jurisdiction of the eligible applicant or program agent (sec. 205(c)(3)).

(ii) When an eligible applicant receives additional funds as a subgrantee of an adjoining eligible applicant, the recipient eligible applicant shall use these additional funds to hire residents of the eligible area or areas within the donor eligible applicant's jurisdiction. A formal subgrant agreement shall be executed in such cases.

(2) *Consortia of eligible applicants.* In a case where two or more eligible applicants form a consortium to operate a Title II program, within the geographical boundaries of the consortium, residents of any designated area of substantial unemployment within the boundaries of the consortium may be employed at any site within such boundaries; provided that the total amount of funds available for residents of each area of substantial unemployment of each participating eligible applicant equals the amount of funds that the area would have received if the consortium had not been formed.

(3) *Corsortia of units of general local government formed in order to qualify as program agents; multijurisdictional eligible applicants.* The provisions of paragraph (c)(1) and (2) of this section shall apply to consortia of units of general local government formed in order to qualify as program agents and to multijurisdictional eligible applicants.

(d) *Political patronage.* No program will be funded if the eligible applicant discriminates with respect to political affiliation. Specifically, no eligible applicant, subgrantee or employing agency may select, reject, or promote a participant based on that individual's political affiliation or beliefs. The selection or advancement of employes as a reward for political services or as a form of political patronage, whether or not the political service or patronage is partisan in nature, is discrimination based on political belief or affiliation, and is prohibited (Sec. 208(f)).

(e) *Nepotism*—(1) *Restriction.* No eligible applicant, subgrantee, or employing agency may hire a person into a Title II funded position if a member of his or her immediate family is employed in an administrative capacity for the same eligible applicant, subgrantee or employing

agency. However, where a State or local statute regarding nepotism exists which is more restrictive than this policy, the eligible applicant should follow the State or local statute in lieu of this policy.

(2) *Definitions.* (i) For purposes of this section, the term "member of the immediate family" includes: Wife, husbrother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent and stepchild.

(ii) For the purposes of this section, the term "administrative capacity" includes those who have selection, hiring or supervisory responsibilities for Title II participants, or operational responsibility for the program.

(f) *Nondiscrimination generally.* (1) Every grant made pursuant to this part shall contain a certification statement signed by the grantee concerning the provision of equal employment opportunity under the grant.

(2) No discrimination shall be permitted in any program under this part with respect to race, creed, color, national origin, sex, age, handicap, political affiliation, or beliefs (sections 208(f) 612(a) and 603(1); Vocational Rehabilitation Act).

§ 96.27 Eligibility for participation in a Title II program.

(a) A person residing, as defined in paragraph (d) of this section, in an area of substantial unemployment who has been unemployed for at least 30 days prior to application or who is underemployed is eligible to participate in a program under Title II of the Act (section 205(a)).

(b) A person participating in a public employment program under section 5 or section 6 of the Emergency Employment Act at the time of the grant award under this Act who is currently, or was at the time of his selection for such participation, geographically eligible for participation in a program under Title II of the Act may be transferred into the Title II grant program covering that geographical area, provided that maximum efforts have been made to place such an individual in unsubsidized employment or training.

(c) A participant in an employment program under this Part 96 may change jobs within a particular eligible applicant's jurisdiction without an intervening period of unemployment, but may not be employed in a job for any other eligible applicant without an intervening period of unemployment of at least 30 days.

(d) For the purpose of this section, the term resident shall mean an individual's dwelling place or home, both at the time the individual applies and is selected for participation in a program under Title II of the Act. In determining whether a particular place is an individual's dwelling place or home, the intention of the individual is the key element. Maintenance of an "address" is not necessarily the same as the maintenance of a dwelling place or home.

(e) Citizenship will not be used as a criterion to prevent permanent residents, including permanent resident aliens, from participating in a program under Title II to the extent consistent with applicable State law.

(f) The regulations in this part do not authorize the hiring of any person when any other person is on lay off from the same or any substantially equivalent job (sec. 205 (C)(9)).

§ 96.28 Special consideration for most severely disadvantaged persons.

Special consideration in filling transitional public service jobs under Title II of the Act shall be given to unemployed persons who are the most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under Title II (sec. 205(c)(7)).

§ 96.29 Serving significant segments of the population.

(a) The significant segments of an eligible applicant's population shall be served on an equitable basis. For example, individuals from each significant segment could be placed in programs under Title II in a manner consistent with their incidence in the unemployed population of the eligible applicant or other measures of equity could be utilized (secs. 205(c)(2) and 208(b)).

(b) Each eligible applicant shall monitor its program to assure that the significant segments of its population are being served in accordance with the requirements of this section.

§ 96.30 Groups to be provided special consideration.

(a) *Veterans.* Special consideration shall be given to veterans who served in the Armed Forces in Indochina or Korea, or the waters adjacent thereto, on or after August 5, 1964, and who received other than a dishonorable discharge. These veterans shall be hired in a proportion at least equal to their incidence in the unemployed and underemployed population. In order to insure special consideration for veterans, all job vacancies under Title II, except those to which former employees are being recalled, must be listed with the State Employment Service at least 48 hours before such vacancies are filled. During this period, the Employment Service will refer special veterans. Upon request, the Employment Service may also refer members of other significant segments. All other applicants are to be referred after the 48-hour period. A list of job openings, with the exception of those to which former employees are being recalled, shall be made available from time to time by the eligible applicant, to veterans organizations for the purpose of making those jobs known to the veterans described in this paragraph (sec. 205(c)(5)).

(b) *Welfare recipients.* In designing an eligible applicant's plan and placing individuals in employment under this Part 96, special consideration shall be given to welfare recipients.

(c) *Former manpower trainees.* Special consideration shall be given, in developing an eligible applicant's plan and placing individuals in employment under this Part 96, to persons who have participated in manpower training programs and for whom work opportunities are not otherwise immediately available (sec. 205(c)(9)).

§ 96.31 Training and supportive services.

Eligible applicants, subgrantees, and employing agencies may use granted funds to purchase necessary training and supportive services from public or private organizations, provided that such contracts are not entered into with private for-profit organizations for the employment of participants.

§ 96.32 Linkages with other manpower programs.

An eligible applicant shall, where appropriate, maintain or provide linkages with upgrading and other manpower programs for the purpose of (a) providing public employment participants who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent, upwardly mobile careers in that field, and (b) providing those persons so employed, who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields.

§ 96.33 Placement goals.

(a) Public service employment programs under the Act shall, to the extent feasible, be designed to enable all individuals to move from such employment programs into unsubsidized full-time jobs in the private or public sector, and shall emphasize the development of new careers and career development opportunities (secs. 201 and 205).

(b) Each eligible applicant, program agent, and subgrantee shall be responsible for efforts to place all participants in unsubsidized employment in both the private sector and the public sector, or in training programs.

(c) To carry out the intent of paragraph (b) of this section, each eligible applicant, program agent and subgrantee shall, to the extent consistent with law and applicable collective bargaining agreements, have the goal of accomplishing on an annual basis at least one of the following:

(1) Placing half of the cumulative participants in unsubsidized private or public sector employment; or

(2) Placing participants in half the vacancies occurring in suitable occupations in an eligible applicant, program agent, or subgrantee's permanent work force which are not filled by promotion from within the agency.

§ 96.34 Compensation for participants.

(a) *Minimum wage for participants.* Each participant shall be paid at a rate no less than the highest of the following:

(1) The minimum wage which would be applicable to the employee under the

Fair Labor Standards Act of 1938, if section 6(a)(1) of the Act applied to the participant and if he were not exempt under section 13 thereof;

(2) The State or local minimum wage for the most nearly comparable covered employment; or

(3) The prevailing rate of pay for persons employed in similar public occupations by the same employer (secs. 208(a)).

(b) *Limitations on participant's salary.* Compensation to any participant from Title II Federal funds is limited to a maximum full-time rate of $10,000 per year, plus the cost of fringe benefits to the extent they do not exceed those paid to workers earning $10,000 a year. This limitation shall also be applicable for participants in public service employment funded under other Titles of the Act.

§ 96.35 Working conditions for participants.

(a) Title II participants shall enjoy working conditions and promotional opportunities neither more nor less favorable than those enjoyed by other employees similarly employed (sec. 208(a)(4)).

(b) When a participant is eligible for a promotion or general salary increase that would mean a salary in excess of $10,000, the participant is entitled to it if other employees similarly employed would be promoted. The employer must pay the amount above $10,000 from his own funds as well as a pro-rated share of the increased fringe benefits. Funds from other titles of the Act shall not be used to supplement the maximum salary limitation for participants.

(c) Every participant must be advised prior to entering upon employment of the name of his employer, and of his rights and benefits in connection with his employment under the Act (sec. 208(a)(8)).

(d) No participant will be required or permitted to work in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health or safety. In the case of participants employed in jobs inherently dangerous, e.g., fire or police jobs, participants will be assigned to work in accordance with reasonable safety practices. The provisions of section 2(a)(3) of Pub. Law 89-286 (relating to health and safety conditions) shall apply to such programs or activity (sec. 208(a)(5)).

(e) Participants shall receive the same fringe benefits as other employees of the employing agency similarly employed (e.g., workmen's compensation, health insurance, unemployment insurance, vacations) (sec. 204(a)(4)).

§ 96.36 Retirement benefits for participants.

(a) While the mass payment of retirement benefits is not encouraged, the Act does not prohibit payment into the retirement fund on behalf of Title II participants where such payments are warranted.

(b) Expenditures may be made from Title II funds for payments under the Social Security Act.

(c) Expenditures for retirement fund payments for Title II participants may be made under any of the following conditions:

(1) Payments are for retirement benefits that are part of a consolidated package, including such benefits as health insurance and workmen's compensation, if separation of the benefits is not allowed;

(2) Payments are for participants who are immediately hired as regular employees (that is attain regular employee status, although salary is subsidized by Title II funds);

(3) Payments are for participants whom the employing agency or another employer intends to hire into permanent jobs at some future date, provided that:

(i) Payments on behalf of such participants are made into and retained in a reserve account, and not paid into the retirement fund until the participant has acquired regular employee status; and

(ii) If regular employment occurs with other than the employing agency, retirement fund payments may be allowed only if the participant is employed within the State, and the retirement benefits are portable; and

(4) Payments are for retirement benefits required by Federal, State, or local law, or for retirement plans set up by State or local law which will not permit the exclusion of Title II participants from coverage.

§ 96.37 Maintenance of a merit system.

Each eligible applicant shall assure that it will maintain personnel policies and practices for its employees in accord with State or local laws and regulations that adequately reflect the merit principles set forth in the Intergovernmental Personnel Act of 1970 (Pub. Law 91-648). Public agencies which are eligible applicants may meet this requirement by certifying compliance with the uniform Federal Standards for a Merit System of Personnel Administration (45 CFR Part 70). Those jurisdictions whose personnel systems have not been certified previously as meeting these standards for other grant programs shall certify that they will take necessary action to establish merit-based personnel policies (sec. 208(d)).

§ 96.38 Use of Title II funds for programs under Titles I and III-A; summer employment programs.

(a) Funds available to an eligible applicant may, at its option, be utilized for residents of the areas of substantial unemployment designated under this Part 96 for programs authorized under Title I and Part A of Title III of the Act. Where Title II funds are used for activities authorized under other Titles of the Act, all provisions under this Part 96, shall apply (sec. 210).

(b) An eligible applicant planning to use Title II funds for a summer program shall reflect that decision in its Comprehensive Title II Plan or any modification thereof. The eligible applicant shall specify that the Plan provision or modification is being proposed for the purpose of using Title II funds for its summer program, and shall further specify the amount of Title II funds intended for such use.

§ 96.39 Limitation on funds.

(a) Not less than 90 percent (90%) of the funds appropriated pursuant to Title II of the Act which are used by an eligible applicant for public service employment programs shall be expended for wages and fringe benefits to persons employed in public service jobs (sec. 203(b)).

(b) The remaining 10 percent (10%) may be used for administration, training, or supportive services to participants in public service employment.

(c) An eligible applicant which does not itself administer the entire program may not retain the entire 10 percent (10%) mentioned in paragraph (b) of this section for its own unless this is agreed to by its subgrantees. At least 5 percent (5%) of a subgrantee's grant must be available to it for costs other than wages and fringe benefits.

Subpart D—Special Conditions for Grants to Indian Tribes on Federal and State Reservations

§ 96.40 General.

This Subpart D contains special conditions for grants to Indian tribes on Federal and State reservations. To the extent that any provision of this Subpart D differs from any other provision of this Part 96, the provision of this Subpart D shall govern. In all other matters the requirements of Part 96, apply to this Subpart D.

§ 96.41 Distribution of funds.

(a) Funds for programs under Title II of the Act for Indian tribes on Federal and State reservations shall be determined as follows:

(1) Funds for use under this Subpart D shall be determined on the basis of a ratio taking the total number of unemployed Indians on all Federal and State Indian reservations which have areas of substantial unemployment and comparing this number with the total number of unemployed persons in all eligible applicant jurisdictions under this Part 96.

(2) Funds determined under paragraph (a)(1) of this section shall be allotted for use in the individual Indian reservations which have areas of substantial unemployment on the best available estimates of the population or unemployment on each such reservation as compared to the total population or total unemployment on all such reservations.

(b) No funds shall be granted for any individual reservation which does not have a population of at least 1,000 Indians or is not entitled to a Title III grant of at least $50,000. Such reservations may, however, be combined to qualify for funds as provided in § 96.42 (section 204(c)).

(c) An eligible applicant which represents more than one reservation shall further allocate funds for use among reservations in accordance, to the extent feasible, with the amounts indicated by the Secretary for each reservation.

(d) Within a single reservation, or a consortium of small reservations, the eligible applicant shall allocate granted funds, taking into consideration, to the extent feasible, differences in unemployment among identifiable areas within the reservation (section 204(c)).

§ 96.42 Eligibility for funds.

(a) An independently eligible applicant, shall be an Indian tribe on a Federal or State reservation which includes areas of substantial unemployment. Such tribe must represent at least 1,000 persons or is not entitled to a Title III grant of at least $50,000, and have a governing body possessing the substantive powers which will enable it to carry out a program under this Part 96. A governing body having substantive powers is a body consisting of duly elected representatives who have the authority to provide services and to enter into contracts, and grants on behalf of the individuals who elected them, and who are recognized as having such authority by the appropriate Federal or State agencies (sec. 204(c)).

(b) If an Indian tribe does not have a governing body capable of performing the functions set out in paragraph (a) of this section, or if an Indian tribe declines to administer a program under this part, the eligible applicant for the identified area may be:

(1) The governing body of another reservation on which the tribe is located;

(2) The governing body of another reservation where several Indian tribes have combined into a consortium; or

(3) An intertribal council or organization, business council, statewide or regional organization; or another eligible applicant under this Part 96 within the same geographic area; provided that:

(i) The Indian tribe agrees to such eligible applicant;

(ii) The prospective eligible applicant operates the program in a manner consistent with the requirements of this Subpart D; and

(iii) Such body or organization is capable of performing the functions described in paragraph (a) of this section.

(c) Where a determination is made by the Secretary that a designated Indian eligible applicant does not have the capability to administer a program, the Secretary may reassign that responsibility to another eligible applicant acceptable to the tribe, provided that such applicant is capable of performing the function described in paragraph (a) of this section.

§ 96.43 Assistance by the Secretary.

If an Indian tribe which is an eligible applicant under this Subpart D is unable to submit an application to carry out a program under this Part 96, the Secretary shall assist such eligible applicant in preparing, submitting, and implementing a program (sec. 207(c)).

§ 96.44 Nepotism.

(a) No eligible applicant or subgrantee under this Subpart D shall hire, or permit the hiring of, any person in a position funded under Title II of the Act if a member of the person's immediate family is employed in an administrative capacity by the eligible applicant. For the purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister; the term "administrative capacity" means persons who have selection, hiring, or supervisory responsibilities for participants in a program under this Part 96, or operational responsibility for the program.

(b) If a subgrantee under this Subpart D has a population of less than 1,000 persons and cannot hire program participants without an immediate family member being included, the ARDM may waive the requirement of paragraph (a) of this section if adequate justification is received from such subgrantee that no other persons within the subgrantee's jurisdiction are eligible and available for participation.

(c) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the eligible applicant shall follow the tribal rule in lieu of this policy.

§ 96.45 Non-discrimination.

Section 96.26(f) shall be applicable to Indian programs funded pursuant to Title II of the Act, except to the extent that such provisions conflict with 42 U.S.C. 2000e(b).

§ 96.46 Subgrants.

In addition to the requirements concerning subgrants, Indian tribes may require that subgrantees agree, to the maximum extent feasible, to hire qualified Indians to provide services called for pursuant to the subgrant in accordance with 42 U.S.C. 2000e–2(i).

§ 96.47 Comment and publication procedures relating to submission of Indian grant applications.

(a) Each eligible Indian applicant who plans to apply for a grant shall, no later than the date of its submission of an application to the ARDM, provide an opportunity to comment on its application to the following officials in accordance with section 206 of the Act:

(1) The Governor;

(2) Appropriate officials of units of general local government; and

(3) Officials of labor organizations representing employees who are engaged in similar work in the same area.

(b) Comments by those individuals and officials listed in paragraph (a) of this section shall be made available to the eligible applicant and the ARDM within thirty days of the receipt of notice of the opportunity to comment.

(c) Eligible Indian applicants shall respond to any comments made pursuant to this section by providing the commenting party with appropriate information and notice regarding the actions or revisions the applicant intends to take or adopt, if any, due to the comment. All such comments and responses shall be transmitted to the ARDM.

PART 98—ADMINISTRATIVE PROVISIONS FOR PROGRAMS UNDER TITLE I AND TITLE II OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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Subpart A—Grant Administration

§ 98.1 General.

(a) This Subpart A describes Federal requirements relating to the administration of grants by prime sponsors and eligible applicants (secs. 603(14) and 613).

(b) The Secretary will provide each prime sponsor and eligible applicant with the specific procedures to be followed to comply with the requirements of this Subpart A (secs. 603(14) and 613).

§ 98.2 Payment.

Advance payments will be made by either a letter of credit or by U.S. Treasury check to prime sponsors and eligible applicants that demonstrate the willingness and ability to establish procedures which will minimize the time between the transfer of funds to them and their disbursement of such funds.

§ 98.3 Letter of credit.

(a) Grants will be financed by means of a letter of credit when the following conditions are met:

(1) The grant is for $250,000 or more;

(2) A continuing relationship exists for at least twelve months;

(3) The prime sponsor or eligible applicant can assure that the timing and amount of drawdowns will be as close as possible to disbursement needs;

(4) The prime sponsor or eligible applicant's accounting system will meet the recordkeeping and reporting requirements of this subpart.

§ 98.4 Payment by Treasury check.

(a) A grantee which does not meet the requirements for the letter of credit will be paid by Treasury check. The ARDM will determine whether such payment will be made on an advance or reimbursement basis. In making such a determination the ARDM will consider the adequacy of the prime sponsor or eligible applicant's accounting and recordkeeping system with regard to items 3b and 3c of Attachment J of OMB Circular A–102.

(b) Advance by Treasury check will provide for advanced payments through use of predetermined payment schedules or upon the request of the grantee. When the request method is used, payments will be made to a grantee based upon a request to the regional office.

§ 98.5 Financial management systems.

(a) Each prime sponsor, eligible applicant, and subgrantee shall maintain a financial management system which will provide accurate, current and complete disclosure of the financial results of each grant activity by title of the Act, provide the ability to evaluate the effectiveness of program activities and meet the reporting requirements of this subpart.

(b) Each prime sponsor, eligible applicant, and subgrantee shall maintain its fiscal accounts in a manner sufficient to permit the reports required by the Secretary to be prepared therefrom.

§ 98.6 Audit and evaluation.

(a) The Secretary of Labor, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the State and local government and their subgrantees and contractors which are pertinent to a specific grant program under the Act for the purpose of making surveys, audits, examinations, excerpts and transcripts (sec. 613(2)).

(b) The Secretary shall be responsible for scheduling surveys, audits or examinations of prime sponsors, eligible applicants and their subgrantees and contractors.

(c) The Secretary shall, with reasonable frequency, survey, audit or examine, or arrange for the survey, audit or examination of prime sponsors, eligible applicants and their subgrantees and contractors using city or state auditors; or certified or licensed public accountants. Such surveys, audits, or examinations shall normally be conducted annually but not less than once every two years.

(d) Surveys, audits and examinations will conform to the standards for Audit of Governmental Organizations, Programs, Activities, and Functions, issued by the Comptroller General of the United States and guides issued by the Secretary. Surveys, audits or examinations contracted by the Secretary will conform, at a minimum to the first element of the Comptroller General's Standards: An audit to determine (1) whether financial operations are properly conducted, (2) whether the financial reports are fairly presented, and (3) whether the available information indicates that the entity has not complied with applicable laws, regulations and administrative requirements. Existing audit systems, where acceptable under the Comptroller General's Standards, such as state audits of city and county activities will be used to the maximum possible extent (sec. 613(1)).

§ 98.7 Reporting requirements in general.

Each prime sponsor or eligible applicant will be required to submit three periodic reports which will be used by the Secretary to assess its performance in carrying out the objectives of the Act. These three reports are: (a) The Quarterly Progress Report, (b) The Summary of Client Characteristics Report, and (c) The Report of Federal Cash Transactions (secs. 313(b) and 613). Detailed descriptions of these forms are in the Forms Preparation Handbook.

§ 98.8 Quarterly Progress Report.

(a) The Quarterly Progress Report will be used to measure accomplishments in achieving objectives stated in the Project Operating Plan. It also constitutes the grantee's statement of costs incurred and contains its certification of the correctness of the costs reported.

(b) A prime sponsor or eligible applicant shall include the following items in the report together with a comparison of the same items as they appear in the Project Operation Plan for the period of the report:

(1) The total number of individuals served with granted funds during the grant period;

(2) The total number of individuals (participants) placed in self-sustaining employment at termination from the project and the number entering school, other training or military service;

(3) The level of enrollment associated with the following program activities:

(i) Classroom training;

(ii) On-the-job training;

(iii) Subsidized employment, distinguishing between transitional employment in public service and work experience employment;

(iv) Services to participants; and

(v) Other activities;

(4) The distribution of total accrued expenditures among the following cost categories:

(i) Administration;

(ii) Allowances;

(iii) Wages;

(iv) Fringe benefits;

(v) Training; and

(vi) Services to participants; and

(5) The distribution of services among significant segments of the population.

(c) If performance goals are not being achieved, the ARDM may request additional information from prime sponsors and eligible applicants including reasons for the failure to achieve the goals.

(d) The Quarterly Progress Report will also permit prime sponsors and eligible applicants to report on objectives and accomplishments other than those established by the Secretary. If a prime sponsor or eligible applicant elects to include these other activities in its report, they will be used by the Secretary in his evaluation of the performance of the prime sponsor or eligible applicant's program.

(e) The Quarterly Progress Report will be submitted to coincide with the ending dates of Federal fiscal year quarters. This report should be sent by the prime sponsor or eligible applicant to be received by the ARDM no later than 30 days after the end of the reporting period. If a prime sponsor or eligible applicant's grant period ends at a date other than the Federal fiscal year quarter, a fifth report, covering the entire grant period will be required.

(f) The Quarterly Progress Report will be submitted by the prime sponsor or eligible applicant to the Governor of the State.

(g) Accountability must be maintained by the prime sponsor or eligible applicant for each of the activities authorized under the Act. Therefore, a separate report will be required for Title I and Title II and the special grant.

(h) The Secretary reserves the right to require the submittal of this report by prime sponsors and eligible applicants more frequently than quarterly in cases of major deviation from the Project Operating Plan.

(i) Specific procedures for meeting these reporting requirements will be furnished to each prime sponsor and eligible applicant in the Forms Preparation Handbook.

§ 98.9 Summary of Client Characteristics Report.

(a) The Summary of Client Characteristics Report contains aggregate characteristics data on all participants in the program. The Summary is to be submitted to the ARDM with the Quarterly Progress Report.

(b) The Summary will include characteristics data aggregated for all participants, as set forth in the report form and will include all participants terminating or placed during the reporting period.

(c) The Summary will also aggregate wages before enrollment in the program and after placement and show the median wage for these two categories.

(d) Specific reporting procedures and appropriate definitions will be furnished to each prime sponsor and eligible applicant in the Forms Preparation Handbook.

§ 98.10 Report of Federal Cash Transactions.

(a) Each prime sponsor and eligible applicant shall submit periodically a report of Federal cash transactions. The report will be used to monitor cash advances and to obtain disbursement information. This report will be submitted monthly by each prime sponsor and eligible applicant receiving an annual grant totalling $1 million or more, and quarterly by other prime sponsors and eligible applicants (sec. 613(1)).

(b) Specific reporting procedures will be furnished to each prime sponsor and eligible applicant in the Forms Preparation Handbook.

§ 98.11 Reallocation of funds.

(a) *General.* The Secretary may reallocate funds from a prime sponsor or eligible applicant under the circumstances and in accordance with the procedures described in this section (secs. 103(i) and 602(b)).

(b) *Reallocation based on nonperformance.* (1) Pursuant to section 103(i) of the Act, when the Secretary considers through review of the prime sponsor or eligible applicant's reports, monitoring or auditing of the program that its performance may be inadequate or that it may have failed to comply with the Act or regulations, he shall give due notice and opportunity for a public hearing as provided in § 98.47.

(2) If the Secretary then decides to reallocate funds based on a ground set forth in paragraph (b)(1) of this section, he shall:

(i) Revoke the prime sponsor or eligible applicant's plan for the area, in whole or in part;

(ii) Make no further payments under this Act to the prime sponsor or eligible applicant, to the extent which he deems necessary; and

(iii) Notify the prime sponsor or eligible applicant of the amount of funds which shall be returned from unexpended funds paid to the grantee during that fiscal year.

(3) The Secretary shall make provision for the reallocation of funds to be used by the State or other alternative prime sponsor to service the area which was served by the prime sponsor before the reallocation, or the Secretary may serve such an area directly. (See § 95.20).

(c) *Reallocation based on need.* (1) In a limited number of circumstances the Secretary may determine that the unobligated portion of a prime sponsor or eligible applicant's grant should be reallocated to another area because the funds are not needed where they were originally allocated. Such reallocations may be made only after the ninth month of the fiscal year for which the grant was made.

(2) Before reallocating funds as set forth in paragraph (c)(1) of this section the Secretary must determine that:

(i) The prime sponsor or eligible applicant's plan will be carried out without expending all the funds previously made available for that plan; and,

(ii) The excess funds identified under paragraph (c)(2)(i) of this section cannot reasonably be expected to be needed in the following grant period.

(d) *Reallocation.* When the Secretary determines that funds should be reallocated based on the criteria in paragraph (c) of this section he will take the following actions:

(1) *Notice of intent to reallocate funds.* When the Secretary determines that a reallocation is appropriate he will notify the prime sponsor or eligible applicant and the appropriate Governor of the proposed action to remove funds from the grant. The notice shall include the basis for the proposed reallocation.

(2) *Comments by prime sponsor or eligible applicant and the Governor.* The prime sponsor or eligible applicant and the Governor will be invited to submit comments on a proposed reallocation of funds out of their area. These comments shall be submitted to the appropriate ARDM within 30 days of receipt of the notice. The Secretary shall consider these comments before making a final determination to reallocate.

(3) *Notification of final determination.* After reviewing any comments submitted by the prime sponsor or eligible applicant or Governor, the Secretary will notify them of his decision. A final decision to reallocate funds of a prime sponsor or eligible applicant will be published in the FEDERAL REGISTER.

(4) *Reallocation procedures.* In reallocating such funds to supplement other prime sponsors', or eligible applicant grants, the Secretary shall first consider the need for additional funds by other prime sponsors or eligible applicants within the same State. A decision to increase a prime sponsor or eligible applicant's grant with reallocated funds will not be made without prior consultation with the prime sponsor or eligible applicant as to how the funds will be expended, and prior notification to the Governor. Such a decision will be published in the Federal Register with an announcement of the prime sponsor(s) or eligible applicant(s) receiving additional allocations and the amounts.

§ 98.12 Allowable Federal costs.

(a) *General.* Federal funds granted under the act may be expended only for purposes permitted under the provisions of Subpart 1–15.7 of Title 41 of the Code of Federal Regulations (OMB Circular A–87), except as modified in these regulations. Costs are intended to be directed to increase the employability of of participants.

(b) *Restriction.* Federal funds used for public service employment programs under Title I and for any programs under Title II of the Act shall not be used for the acquisition of, or for the rental or leasing of supplies, equipment, materials or real property, whether these expenses are budgeted as direct cost, indirect cost, or overhead (sec. 208(a)(7)).

(c) *Expenditures for repairs, maintenance and capital improvements and construction.* (1) Title I funds may be expended for building repairs, maintenance and capital improvements. Such costs shall be reported against the administration category. These costs must relate to a facility or building which is used primarily for programs under the Act (sec. 602(b)).

(2) No funds for construction are allowable except as part of a training program in construction occupations and then such costs are allowable only for materials. Construction costs for training programs shall be allowable only when such construction would not normally be performed by an outside contractor.

(d) *Allowable cost categories.* Allowable costs shall be reported against the following cost categories: Administration; wages; training; fringe benefits; allowances; and services (sec. 101).

(1) Costs are allocable to a particular cost category to the extent of benefits received by such category.

(2) All prime sponsors and eligible applicants are required to plan, control and report expenditures against the aforementioned cost categories.

(e) *Costs allowable by each cost category.* Within the restrictions set forth under paragraph (b) of this section, the following are the costs which will be allowable by cost category:

(1) *Administrative costs.* Administrative costs shall be limited to those necessary to effectively operate the program. Costs should not generally exceed 20 percent of the overall percentage of the total funds available for a grant, unless the Program Narrative Description under § 95.14(2)(i) sets forth an explanation of how such additional costs have been determined and a detailed documentation to support that amount (sec. 108(a)(2)).

(i) *Direct and indirect costs.* Included in administrative costs are both direct and indirect costs. Direct costs are those which can be specifically identified as relating to the project and indirect costs are those computed by application of an indirect cost rate. In determining the reasonableness of indirect costs, reliance will be placed on procedures established pursuant to OMB Circular No. A–87, including reliance on determinations made by other Federal agencies under arrangements made pursuant to A–87.

(ii) *Types of costs.* (A) Administrative costs include, but are not limited to, salaries, wages and fringe benefits of program administrators; costs of consumable office supplies used by program staff; costs incurred in the development, preparation, presentation, management and evaluation of the program; the costs of establishing and maintaining accounting and management information systems; cost incurred in the establishment and maintenance of State Manpower Services Councils, and Prime Sponsor Planning Councils; travel of program administrators; rent utilities, custodial services and indirect costs allowable to the program; training of staff and technical assistance to contractor and subgrantee staff; costs of assistance to contractor and subgrantee staff; costs of equipment and ma-

terial to be used by staff participants excluding training equipment and materials; capital improvements as permitted by these regulations; publication of Comprehensive Manpower Plan; and audit services. Prime sponsors may be able to lower these costs by using participants in the administration of the program. In such event, wages and fringe benefits or allowances for such persons shall be charged to the subsidized employment, either transitional or for work experience.

(2) *Wages.* All wages paid to participants receiving on-the-job training in public or private non-profit organizations, and all wages paid to participants of transitional subsidized employment will be allowed. Wages paid to participants while receiving on-the-job training from a private employer organized for profit cannot be supported by funds under the Act (sec. 101(5)).

(3) *Training.* Training costs include, but are not limited to the following: Salaries and fringe benefits of personnel engaged in providing training and/or counseling, tuition and entrance fees, and books and other teacher's aids.

(4) *Fringe benefits.* Fringe benefit costs include, but are not limited to the following: Annual, sick, court, and military leave pursuant to an approved leave system; employer's contribution for social security employees' life and health insurance plans; unemployment insurance; workmen's compensation insurance; and retirement benefits, provided such benefits are granted under an approved plan.

(5) *Allowances.* All allowances paid to program participants pursuant to § 95.34 of these regulations shall be charged to this cost category.

(6) *Services.* Services' costs include, but are not limited to the following pursuant to § 95.33:

(i) Cost of supportive services such as child care, health care and medical services, residential support, assistance in securing bonds and family planning.

(ii) Cost of manpower services such as outreach, intake and assessment, orientation, counseling, job development and job placement.

§ 98.13 Allocation of allowable costs among program activities.

The program activities against which program costs shall be planned, controlled and reported upon are: Classroom training; on-the-job training; subsidized transitional employment; subsidized work experience; services to participants and other activities. The cost categories under each of these activities are defined in § 98.12(d). The extent to which these cost categories are chargeable to specific program activities is set forth below (sec. 101).

(a) *Classroom training.* Cost categories chargeable are: administration, training, allowances, and services

(b) *On-the-job training.* Cost categories chargeable are: administration, training, services, wages (with public or private nonprofit employers only) and fringe benefits.

(c) *Transitional public service employment.* Cost categories chargeable are: administration, wages, fringe benefits, services and training.

(d) *Work experience.* Cost categories chargeable are: administration, training, allowances, and services.

(e) *Services to participants.* Cost categories chargeable are:

(1) *Allowances.* This includes all allowances paid to participants registered for training for short periods between components.

(2) *Services.* This includes all manpower and supportive services which are not part of another program activity and which are provided to participants by a prime sponsor, eligible applicant, contractor or subgrantee.

(3) *Administration.* This includes all allowable administrative costs directly associated with this activity and a pro rata share of each prime sponsor or eligible applicant's administrative costs under the Act not directly associated with any program activity.

(f) *Other activities.* Cost categories chargeable are: administration, training, allowances, and services.

§ 98.14 Basic personnel standards for prime sponsors and eligible applicants.

(a) Each prime sponsor and eligible applicant shall assure that it will maintain personnel policies and practices for its employees in accord with State and local laws and regulations that adequately reflect the merit principles declared in the Intergovernmental Personnel Act of 1970 (PL 91–648). Prime sponsors may meet its requirement by certifying compliance with the uniform Federal Standards for a Merit System of Personnel Administration (45 CFR Part 70) including any amendments thereto (sec. 604(14)).

(b) Except as provided in paragraph (c) of this section, any prime sponsor or eligible applicant's personnel system that has not been certified previously as meeting these standards for other Federal grant programs shall certify that it will take necessary action to provide for merit based personnel system coverage within a reasonable period.

(c) Any non-governmental prime sponsor or administrative unit for a consortium is not subject to the requirements of paragraph (b) of this section.

(d) Prime sponsors and eligible applicants are encouraged to include on their staffs individuals who are representative of the population to be served by the program.

§ 98.15 Adjustments in payments.

(a) If any funds are expended by a prime sponsor eligible applicant, subgrantee, or employing agency in violation of the Act, the regulations or grant conditions, the Secretary may make necessary adjustments in payments on account of such expenditures (sec. 108(b)(2)).

(b) The Secretary may draw back unexpended funds which have been made available in order to assure that they will be used in accordance with the purposes of the Act, or to prevent further unauthorized or illegal expenditures (secs. 103(h), and 108(b)(2)).

§ 98.16 Termination of grant.

(a) If a prime sponsor or eligible applicant violates or permits a subgrantee or an employing agency to violate the regulations, or grant terms or conditions which the Secretary has issued or shall subsequently issue during the period of the grant, the Secretary may terminate the grant in whole or in part unless the grantee causes such violation to be corrected within a period of 30 days after receipt of notice specifying the violation or the determination of the Secretary, pursuant to a hearing under Part 98, if a hearing has been held.

(b) Termination shall be effected by a notice of termination which shall specify the extent of termination and the date upon which such termination becomes effective. Upon receipt of notice of termination, the grantee shall (1) discontinue further commitments of grant funds to the extent that they relate to the terminated portion of the grant; (2) promptly cancel all subgrants, agreements, and contracts utilizing funds under this grant to the extent that they relate to the terminated portion of the grant; (3) settle, wtih the approval of the Secretary, all outstanding claims arising from such termination; (4) submit, within a reasonable period of time after the receipt of the notice of termination, a termination settlement proposal which shall include a final statement of all unreimbursed costs related to the terminated portion of the grant, but in case of terminations under paragraph (a) of this section will not include the cost of preparing a settlement proposal (secs. 108(b)(2), 110(b) and 602(b)).

§ 98.17 Grant close-out procedures.

(a) The closeout of a grant is the process by which a Federal grantor agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the grantor. The following procedures will be complied with during this process of determination.

(b) Upon completion of the legal grant period or at such other termination date determined by the Secretary, the following steps will be taken by each prime sponsor or eligible applicant:

(1) An immediate refund to the ARDM of any unencumbered balance of cash drawn down from the letter of credit or advanced by Treasury checks.

(2) An immediate refund to the ARDM of any interest income earned on the granted money except as provided in § 98.19.

(3) A final Quarterly Progress Report will be prepared for each grant and Title under which programs were conducted under the Act; such reports shall be sent to the ARDM.

(4) A final Report of Federal Cash Transactions shall be prepared and sent to the ARDM.

(5) A final Summary of Client Characteristics Report shall be prepared and sent to the ARDM.

(c) Upon closeout, the regional office will insure that:

(1) Prompt payment is made to the prime sponsor or eligible applicant for reimbursement of costs under the grant being closed out.

(2) After the final reports are received, a settlement is made for any upward or downward adjustments which are made to the Federal share of the costs.

(3) The letter of credit is cancelled.

(4) Final program and fiscal audits are performed as soon as possible after the completion or termination date of the grant.

§ 98.18 Retention of records.

Pursuant to the provisions set forth in Attachment C of Office of Management and Budget Circular A–102, the following shall apply with regard to the retention of records pertaining to any grant program under this Act (Secs. 603(12) and 613).

(a) Financial records, supporting documents, statistical records and all other pertinent records shall be retained for a period of three years. No Federal requirements for records retention which exceed those established by State or local governments shall be otherwise imposed, with the following qualifications:

(1) Records shall be retained beyond the three-year period if audit findings have not been resolved.

(2) Records for nonexpendable property acquired with Federal grant funds shall be retained for three years after its disposition.

(3) When grant program records are transferred to or maintained by the Secretary, the three-year retention requirement will not be applicable to the prime sponsor or eligible applicant which had administered that grant program.

(b) The retention period shall start from the date of submission of the annual or final expenditure report, whichever applies to the particular grant.

(c) The substitution of microfilm copies in lieu of original records may be authorized by the ARDM upon request of the prime sponsor or eligible applicant.

(d) The Secretary will request State and local prime sponsors to transfer grant records to the Department's custody when it is determined that such records have long-term retention value. However, suitable arrangements to avoid duplicate recordkeeping shall be made where the Department and any prime sponsor or eligible applicant needs such records for joint use.

(e) Restrictions will not be placed upon prime sponsors or eligible applicants which will limit public access to their records, unless otherwise required by law or except when such records must remain confidential because of reasons enumerated in OMB Circular A–102.

§ 98.19 Program income.

(a) The State and any agency or instrumentality of a State which is a prime sponsor or eligible applicant shall not be held accountable for interest earned on grant-in-aid funds pending their disbursement for program purposes under the Act (OMB Circular A–102).

(b) Units of local government shall be required to return to the Federal Government interest earned on advances of grant-in-aid funds in accordance with a decision of the Comptroller General of the United States (42 Comp. Gen. 289).

(c) Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with Attachment N of OMB Circular A–102 pertaining to Property Management.

(d) Royalties received from copyrights and patents during the grant period shall be retained by the grantee and be added to the funds already committed to the program. After termination or completion of the grant, the Federal share of royalties in excess of $200 received annually shall be returned to the Federal grantor agency. (OMB Circular A–102.)

(e) All other program income earned during the grant period shall be retained by the grantee and, in accordance with the grant agreement, shall be added to funds committed to the project and be used to further program objectives. (OMB Circular A–102.)

(f) The prime sponsor shall record the receipt and expenditure of revenues (such as taxes, special assessments, levies, fines, etc.) as a part of grant project transactions.

§ 98.20 Procurement standards.

The standards to be used for the procurement of supplies, equipment, and other materials and services with Federal grant funds are those described in Attachement O of OMB Circular A–102. These standards are furnished to assure that such materials and services are obtained in compliance with the provisions of applicable Federal laws and Executive orders.

§ 98.21 Nondiscrimination and Equal Employment Opportunities.

(a) No person shall on the ground of race, color, handicap (as defined in paragraph (g) of this section), national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the Act.

(b) When the Secretary determines that a prime sponsor or eligible applicant has failed to comply with the requirements of paragraph (a) of this section, he shall notify the prime sponsor or eligible applicant of the non-compliance and request the prime sponsor or eligible applicant to secure compliance. If within a reasonable time, not to exceed sixty days, the prime sponsor or eligible applicant fails or refuses to secure compliance, the Secretary may terminate financial assistance under the Act and;

(1) May refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) May exercise the powers and functions provided by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)); and

(3) May take other actions as may be provided by law. (c) When a matter under this section is referred to the Attorney General, or when the Secretary of Labor believes that a pattern or practice of discrimination exists, the Attorney General may bring a civil action in any appropriate United States District Court, including injunctive relief.

(d) The Secretary shall enforce the provisions of paragraph (a) of this section with regard to discrimination on the basis of sex in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce these provisions.

(e) This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under the Act.

(f) The prime sponsor or eligible applicant shall be responsible for assuring that no discrimination prohibited by this section occurs in any program for which it has responsibility, and shall establish an effective mechanism for this purpose. The prime sponsor or eligible applicant may, as one possible means of establishing this mechanism, assign the responsibility for administering the Equal Employment Opportunity (EEO) program to one individual and require subgrantees and contractors to prepare affirmative action plans. In such cases, the prime sponsor or eligible applicant may include in its comprehensive manpower plan a description of its EEO program and the related affirmative action plans of its subgrantees and contractors, including the procedures established for monitoring these activities.

(g) The term "handicapped individual" means any individual who (1) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (2) can reasonably be expected to benefit in terms of employability from an activity under the Act.

Subpart B—Assessment and Evaluation

§ 98.30 General.

(a) This Subpart B sets forth the assessment and evaluation responsibilities of the prime sponsor of eligible applicant (§ 98.31) and the Secretary of Labor (§ 98.32). The prime sponsor or eligible applicant shall, as part of its general responsibility to carry out the purposes and provisions of the Act, establish adequate program management for the purposes of examining, in a systematic fashion, the performance of its program in meeting the goals and objectives contained in the plan and measuring the effectiveness and impact of its program in resolving manpower problems identified in that plan (secs. 105(a)(1)(B) and 604(14)).

(b) The Secretary shall assess prime sponsors or eligible applicants to determine whether they are carrying out the purposes and provisions of the Act in accordance with their approved plans. The Secretary shall also evaluate the overall programs and activities conducted under the Act to aid in the overall administration of the Act (secs. 311(c) (d) and 313(b)).

§ 98.31 Responsibilities of the prime sponsor or eligible applicant.

(a) As prescribed under Subpart A of this part, the prime sponsor or eligible applicant shall submit periodic reports on the performance of its program in relation to its plan as required by the Secretary (sec. 313(b), sec. 603(12)). The prime sponsor or eligible applicant shall implement and maintain the necessary recordkeeping required to complete these periodic reports. While such recordkeeping will support reports to the Secretary, it is principally for the use of the prime sponsor or eligible applicant to provide basic internal management information.

(b) The prime sponsor or eligible applicant is required to establish internal program management procedures (sec. 603(14)). Such procedures shall be used by the prime sponsor or eligible applicant in the monitoring of day-to-day operations, to periodically review the performance of the program in relation to program goals and objectives, and to measure the effectiveness and impact of program results in terms of participants, program activities, and the community. The objective of such procedures shall be the improvement of overall program management and effectiveness.

(c) The prime sponsor or eligible applicant shall monitor all activities for which it has been provided funds under the Act to determine whether the assurances and certifications made in its plans and the purposes and provisions of the Act are being met, and to identify problems which may require the prime sponsor or eligible applicant to take corrective action in order to assure such compliance. The prime sponsor or eligible applicant shall fulfill this monitoring function through the use of internal evaluative procedures, the examination of program data, or through such special analysis or checking as it deems necessary and appropriate (sec. 105 (a) and (b), sec. 108(d), and sec. 603).

(d) The prime sponsor or eligible applicant shall cooperate with the Secretary's evaluation and assessments by providing special reports on program activities and operations as requested; the findings of evaluation of effectiveness and impact; and access to its records and program operations.

(e) When the prime sponsor or eligible applicant finds that operations do not equal planned performance, it shall develop and implement appropriate corrective action.

§ 98.32 Responsibilities of the Secretary.

(a) As used in this Section, the term "assessment" refers to the Federal review of plans and performance of individual prime sponsors or eligible applicants, and the term "evaluation" refers to the Federal study of the overall effectiveness and impact of programs and activities under the Act.

(b) The Secretary has the responsibility to determine that the prime sponsor or eligible applicant is operating in general accordance with its approved plan in carrying out the purposes and provisions of the Act, and has demonstrated maximum efforts to implement the provisions in its prior year's plan.

(1) The Secretary shall assess the prime sponsor or eligible applicant's program and activities in order to determine compliance with assurances and certifications of its plan, compliance with the purposes and provisions of the Act, and performance in the achievement of goals and objectives specified in the approved plan (sec. 105, sec. 108(d) and sec. 603)).

(2) Such assessment shall be conducted through the review of required periodic reports and shall be supplemented by special reports from the prime sponsor, or eligible applicant, the examination of records maintained by the prime sponsor or eligible applicant, selective on-site reviews including in certain instances, the investigation of allegations or complaints, or other examination as deemed necessary and appropriate by the Secretary (secs. 311(c)(d), 313(a)(b), 603(12) and 108).

(3) Assessment may also be conducted for purposes of the offering of technical assistance and/or recommendations for corrective actions to prime sponsors or eligible applicants as considered necessary.

(c) The Secretary has the responsibility to provide for the continuing evaluation of all programs and activities conducted pursuant to the Act. Such studies shall include examination of:

(1) Cost in relation to effectiveness;

(2) Impact on communities and participants;

(3) Implication for related programs;

(4) Extent to which needs of various age groups are met;

(5) Adequacy of mechanisms for the delivery of services;

(6) Comparative effectiveness of prime sponsor or eligible applicant programs with similar programs conducted by the Secretary under section 110 or Title III;

(8) Opinions of participants about the strengths and weaknesses of the programs;

(9) Relative and comparative effectiveness of programs under this Act and part C of Title IV of the Social Security Act (Work Incentive Program for welfare recipients) (sec. 313 (a) and (b));

(10) The effectiveness of programs in meeting the employment needs of disadvantaged, unemployed and underemployed persons; and

(11) The extent to which artificial barriers restricting employment and advancement opportunities in agencies receiving funds under the Act have been removed.

(d) The Secretary shall compile, on a State, regional and national basis, information obtained from periodic reports or special reports, surveys, or samples required from prime sponsors or eligible applicants, including information on:

(1) Enrolee characteristics, including age, sex, race, health, education level, and previous work and employment experience;

(2) Duration in training and employment situations including information on the duration of program participation for at least a year following the termination of participation in federally-assisted programs and comparable information on other employees or trainees or participating employers; and

(3) Total dollar cost per trainee, including breakdown between salary or allowance, training and supportive services, and administrative costs (sec. 313(b)).

(e) Evaluations carried out in accordance with paragraph (d) of this section may be conducted directly by Department of Labor staff or through contract, grant or other arrangement, as the Secretary deems necessary or appropriate (sec. 311 (c)).

§ 98.33 Limitation.

No prime sponsor or eligible applicant nor the Secretary shall, in arranging for evaluation of any program under the Act, utilize for such evaluation any non-governmental individual institution, or organization which is associated with that program as a consultant, technical advisor or in any similar capacity (sec. 604 (c)).

§ 98.34 Consultation with the Secretary of Health, Education, and Welfare.

The Secretary shall consult with the Secretary of Health, Education, and Welfare with respect to arrangements for services of a health, education, or welfare character in plans under this Act. This consultation shall focus on the relationship of such services to be delivered under this Act with those being delivered under other applicable laws for which the Secretary of Health, Education, and Welfare is responsible.

Subpart C—Hearings and Judicial Review

§ 98.40 Purpose and policy.

(a) The regulations set forth in this Subpart C contain the procedures established by the Secretary for carrying out his responsibilities under the Act for the review of comprehensive manpower plans and applications for financial assistance, and for the receipt, investigation, hearing and determination of questions of noncompliance with the requirements of the Act and the regulations promulgated under the authority of the Act (sec. 108).

(b) It is the policy of the Secretary to receive information concerning alleged violations of any title of the Act and the regulations promulgated pursuant thereto from any person, or any unit of Federal, State or local government. Assistance in the filing of a formal allegation may be secured from the appropriate Regional Solicitor, by any person who desires and needs such assistance.

(c) A participant in a program under the Act must exhaust the administrative remedies established by the prime sponsor or eligible applicant for resolving matters in dispute prior to utilizing the procedures under this Subpart C. The filing of such a complaint shall not, however, automatically act as a stay of the decision rendered by the prime sponsor or eligible applicant. A participant may initiate an action under this subpart within 30 days of any final decision by a prime sponsor or eligible applicant.

§ 98.41 Review of plans and applications; violations.

(a) The Secretary shall not finally disapprove any Comprehensive Manpower Plan or application for financial assistance submitted under any title of the Act, or any modifications, or amendments thereof, without first affording the prime sponsor or eligible applicant submitting the plan or application reasonable notice and opportunity for a hearing as provided in § 98.47 et seq.

(b) When information available to the Secretary indicates that a prime sponsor or eligible applicant may be:

(1) Maintaining a pattern or practice of discrimination in violation of section 603(1) or section 612(a) of the Act or otherwise failing to serve equitably the economically disadvantaged, unemployed, or underemployed persons in the area it serves;

(2) Incurring unreasonable administrative costs in the conduct of activities and program, as determined pursuant to regulation;

(3) Failing to give due consideration to continued funding of programs of demonstrated effectiveness including those previously conducted under provisions of law repealed by section 614 of the Act; or

(4) Otherwise materially failing to carry out the purposes and provisions of the Act or regulations issued pursuant to the Act;

he shall, before taking final action on such grounds, notify the prime sponsor or eligible applicant of his proposed action and provide the prime sponsor or eligible applicant a reasonable time within which to respond. All further proceedings shall be conducted as provided in § 98.47 et seq.

(c) Every other person claiming legal injury because of any action under the Act may be heard only by initiating a complaint under § 98.42.

§ 98.42 Complaints; filing of formal allegations; dismissal.

(a) Every complaint by any complainant, whether in writing or not, shall be filed as a formal allegation before the commencement of any investigation or corrective action is required under this part.

(b) All formal allegations shall be filed with the appropriate ARDM. A formal allegation so filed may be withdrawn only with the consent of the Secretary.

(c) A formal allegation pending more than six months after filing because the complainant has failed to cooperate or make himself available during investigation of the matter may be dismissed by the ARDM upon notice to the last known address of the complainant.

§ 98.43 Form.

(a) Every formal allegation shall be in writing and signed by the complainant, and shall be sworn to before a Notary Public, or other duly authorized person. A formal allegation need not be in any particular form, but should be neat, legible and suitable for flat filing.

§ 98.44 Contents of formal allegations; amendment.

(a) The formal allegation should contain the following:

(1) The full name and address of the person making the charge.

(2) The full name and address of the party against whom the formal allegation is made (hereinafter referred to as the respondent(s)).

(3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged unlawful practice.

(4) Where known, the provisions of the Act, regulations, Comprehensive Manpower Plan, and application of the prime sponsor or eligible applicant believed to have been violated.

(5) A statement disclosing whether proceedings invplving the acts complained of have been commenced before a State or local authority, and if so, the date of such commencement and the name of the authority.

(6) A statement that the administrative procedures established by the prime sponsor or eligible applicant have been, if applicable, followed to completion by the complainant.

(b) Notwithstanding the provisions of paragraph (a) of this section, a formal allegation will be considered to have been filed when the ARDM receives from the complainant a written statement sufficiently precise to both identify those against whom the allegations are made, and to fairly afford the respondent an opportunity to prepare a defense. A formal allegation may be amended to cure technical defects or omissions, including failure to swear to the allegation, or to clarify and amplify allegations made therein, and such amendments relate back to the original filing date. An amendment alleging additional acts not directly related to or growing out of the subject matter of the original formal allegation will be permitted only where at the date of the amendment the allegation could not have been timely filed as a separate formal allegation and the rights of any respondent will not be prejudiced.

§ 98.45 Investigations.

(a) The ARDM will make a prompt investigation of each formal allegation filed as provided in this part. The investigation may include, where appropriate, a review of pertinent practices and policies of any prime sponsor or eligible applicant, the circumstances under which the possible noncompliance with the Act or regulations issued thereunder occurred, and other factors relevant to a determination as to whether the respondent has failed to comply with requirements of the Act, the regulations, and the Comprehensive Manpower Plan.

(1) If an investigation pursuant to paragraph (a) of this section indicates to the ARDM a failure to comply with the Act, the regulations, or the Comprehensive Manpower Plan, the ARDM will so inform the respondent and the complainant and the matter, will if possible, be resolved by informal means. If informal resolution does not occur within a reasonable period of time, action will be taken as provided in this part or as otherwise provided by law.

(2) If an investigation does not warrant action pursuant to paragraph (a)(1) of this section, the ARDM will so inform the respondent and the complainant in writing.

(b) No prime sponsor or eligible applicant, participant, respondent or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the Act, the regulations, the Comprehensive Manpower Plan, or the application of an eligible applicant because he has made a complaint, formal allegation, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of every complainant shall be kept confidential except to the extent necessary to carry out the purpose of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 98.46 Opportunity for hearings; when required.

An opportunity for a public hearing shall be extended in each of the following instances:

(a) When the ARDM receives a formal allegation from an affected unit of general local government that a prime sponsor or eligible applicant has changed its Comprehensive Manpower Plan so that it no longer complies with section 105 of the Act, or that in the administration of the plan there is a failure to comply substantially with any provision of the plan or with the requirements of section 603 or 604 of the Act and the matter has not been resolved informally within a reasonable period of time; or

(b) After the completion of an investigation, pursuant to § 98.45, of any formal allegation which indicates there is substantial evidence of facts supporting a conclusion of probable cause that a violation of the Act, or regulations issued pursuant thereto, has occurred or is occurring, or is about to occur, and the matter has not been resolved by informal means; or

(c) When the Secretary has reasonable cause to believe that a violation set forth in § 98.41(b) has occurred, or when the Secretary determines that fairness and the effective operation of programs under the Act would be furthered by an

opportunity for a public hearing, including a finding under § 98.41 that a hearing should be provided.

§ 98.47 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by the Act, or § 98.46, and the issue has not been resolved informally, the Secretary or ARDM shall give reasonable notice by registered or certified mail, return receipt requested, to the affected respondent and complainant, if any. This notice shall advise the respondent of the allegations to be heard, the proposed remedial actions which may be taken, and the matters of fact or law asserted as the basis for the action. The notice shall (1) fix a date not less than 20 days after the date of such notice within which the respondent may request the Secretary or ARDM that the matter be scheduled for hearing, or (2) advise the respondent and the complainant that the matter in question has been set by a Hearings Officer for hearing at a stated place and time. The time and place shall be fixed by a Hearings Officer in accordance with paragraph (b) of this section and shall be subject to change for cause. A respondent may waive a hearing and submit written information and argument for the record. The failure of a respondent to request a hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under this Act and this part and shall be respondent's consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearings.* Hearings shall be held in Washington, D.C., at a time fixed by a Hearings Officer. At the request of the respondent or Department, and upon a determination by the Hearings Officer that the relative conveniences of the respondent and Department so warrant, and no issue presented involves a determination which has been made at the Department's national office or can only be made at the Department's national office, the Hearings Officer may select a place for hearing in the city of the regional office of the Department.

(c) *Right to counsel.* In all proceedings under this section, the respondent and the Department shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5–8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both the Department and the respondent shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the Hearings Officer conducting the hearings at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available, and to subject testimony to test by cross-examination, shall be applied where reasonably necessary by the Hearings Officer conducting the hearing. The Hearings Officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(3) The general provisions governing discovery as provided in the Rules of Civil Procedure for the United States District Court, Title V, 28 U.S.C., Rules 26 through 37, may be made applicable in any hearing conducted under this part to the extent that the Hearings Officer concludes that their use would promote the efficient advancement of the hearing.

(4) When a public officer is a respondent in a hearing in his official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the proceeding does not abate and his successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantive rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part with respect to two or more programs to which this part applies or noncompliance with this part and the regulations of one or more other Federal departments or agencies, the Secretary may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 98.48.

(f) *Hearing officers.* Hearings shall be held before an Administrative Law Judge of the Department or by such other person as may be designated by the Secretary.

§ 98.48 Initial certification, decisions and notices.

(a) *Authority of hearing officer to render decision.* The Administrative Law Judge or other designated hearing officer is authorized to make an initial decision unless the Secretary otherwise limits this authority in a particular case.

(b) *Decisions and certifications by hearing officers.* The Administrative Law Judge, or other person designated to hear the matter, shall make an initial decision, if so authorized (see § 98.47(f)) or certify the entire record including his recommended findings of fact, conclusions of laws, and proposed decision to the Secretary for a final decision, and a copy of such initial decision or certification shall be mailed to the respondent and the complainant. When an initial decision is made the respondent may, within 30 days of mailing of such notice of initial decision, file with the Secretary his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the Secretary may on his own motion within 45 days after the initial decision serve on the respondent a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the Secretary shall review the initial decision and issue his own decision thereon including the reasons therefor. The decision of the Secretary shall be mailed promptly to the respondent and the complainant, if any. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the Secretary.

(c) *Decisions on record or review by the Secretary.* Whenever a record is certified to the Secretary for decision or he reviews an initial decision pursuant to paragraph (a) of this section, the respondent shall be given reasonable opportunity to file with him briefs or other written statements of its contentions. A copy of the final decision of the Secretary shall be given in writing to the respondent and to the complainant, if any.

(d) *Decisions on record where a hearing is waived.* Whenever a hearing is waived under this part a decision shall be made by the Secretary on the record and a copy of such decision shall be given in writing to the respondent, and to the complainant, if any.

(e) *Rulings required.* Each decision of an Administrative Law Judge or the Secretary shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to the Act or regulations issued thereunder with which it is found that the respondent has failed to comply.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved in accordance with the Act, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and regulations issued thereunder, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the respondent determined by such decision to be in default in its performance of an assurance given by it pursuant to the Act or regulations issued thereunder, or to have otherwise failed

to comply with the Act or regulations issued thereunder, unless and until it corrects its noncompliance, and satisfies the Secretary that it will fully comply with the Act and regulations issued thereunder.

§ 98.49 **Judicial review.**

Action taken pursuant to section 108 of the Act is subject to judicial review as provided in section 109 of the Act. All other action initiated under the Act and regulations issued thereunder shall be final upon a determination by the Secretary.

Signed at Washington, D.C. this 14th day of March 1974.

PETER J. BRENNAN,
Secretary of Labor.

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