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HIGHLIGHTS OF THIS ISSUE

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

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REMINDERS

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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List of CFR Parts Affected

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

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

Presidential Documents

Title 3—The President

PROCLAMATION 4289

Law Day, U.S.A., 1974

By the President of the United States of America

A Proclamation

America's greatest gift to world history and its own people is a system of government which has permitted human freedom to flourish for nearly two hundred years.

The pillars of that freedom are the Constitution and our laws. Though established by human beings and administered by human beings, the law has force beyond the wish or the will of any single person or single group of persons.

Our freedoms survive because no man or woman is beneath the protections of the law. And the law retains its value and force because every person knows that no man or woman is above the requirements of the law.

It is fitting that each year we observe a day in which we reaffirm our devotion and respect for the institution of law, without which other human institutions would fall.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby request the observance of Wednesday, May 1, 1974, as Law Day in the United States of America.

As requested by the Congress (75 Stat. 43; 36 U.S.C. 164), I urge that our people observe Law Day with appropriate public ceremonies, through public bodies and private organizations, in schools, colleges and universities, and in other suitable places. I especially request that the courts, the legal profession, and all media of public information take the lead in such observance so that public understanding of the role of the courts in our society can be broadened. I call upon public officials to display the Nation's flag on public buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred and ninety-eighth.

Richard Nixon

[FR Doc.74–10282 Filed 5–1–74;10:30 am]

PROCLAMATION 4290

National Arthritis Month, 1974

By the President of the United States of America

A Proclamation

Arthritis and the rheumatic diseases are the Nation's number one crippling disorders, affecting 20 million Americans of all ages, causing them great suffering and limiting their activities. Arthritic disorders are second only to heart disease as the most widespread chronic illness in the United States today.

This disease cripples people not only physically, bringing them untold pain and anguish, but also financially. The total cost of arthritis to America in terms of medical costs and lost production is estimated in the billions of dollars.

Each year, as medical science advances through publicly and privately supported medical research and education, thousands of people receive improved treatment and live more comfortable, more productive, and more satisfying lives. Yet, despite research efforts, this dreadful disease continues to be a major threat to human well-being. America must do more to treat and eliminate the curse of arthritis.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim the month of May, 1974, as National Arthritis Month. I invite the Governors of the States, the Commonwealth of Puerto Rico, and officials of other areas subject to the jurisdiction of the United States to issue similar proclamations.

I urge the people of the United States and educational, philanthropic, scientific, medical, and health care organizations and professionals to provide the necessary assistance and resources to discover the cause and cure of arthritis and rheumatic diseases and to alleviate the suffering of persons struck by these disorders.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of May, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred ninety-eighth.

Richard Nixon

[FR Doc.74-10313 Filed 5-1-74;11:59 am]

PROCLAMATION 4291

Older Americans Month, 1974

By the President of the United States of America

A Proclamation

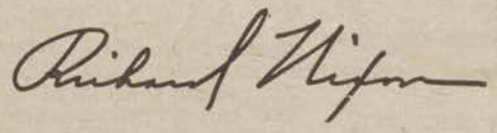
America possesses no greater natural resource than the collective wisdom and experience of its older citizens.

The first White House Conference on Aging, held in January of 1961, resulted in a Senior Citizen's Charter on the rights and obligations of older persons and represented an important first step toward giving proper recognition to our older citizens. The second White House Conference on Aging, which was held in December of 1971, broadened that recognition and deepened our national commitment to the welfare of the elderly.

The eve of our Nation's Bicentennial seems a most fitting moment for considering the development of a new Declaration of Rights and Obligations of Older Persons. Consideration of that new declaration should begin immediately at the community level so that it may be proclaimed at the State and national levels as part of our Bicentennial celebration.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the month of May 1974, as Older Americans Month, and urge all who participate in State and community programs in observance of this month to call attention to the 1961 Senior Citizen's Charter and to undertake consideration of ways and means of achieving the goal of proclaiming a new Declaration of Rights and Obligations for Older Persons which can become a rallying point for our Nation during the Bicentennial year of 1976.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of May, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred ninety-eighth.



[FR Doc.74–10314 Filed 5–1–74;12:00 pm]

Rules and Regulations

Title 9—Animals and Animal Products

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

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Subpart V—Special Provisions for Designated States and Territories; Criteria and Procedure for Designating Establishments With Operations Which Would Clearly Endanger the Public Health; Disposition of Poultry Products Therein

Designation of Pennsylvania Under Federal Meat and Poultry Products Inspection Acts for Special Purposes

Statement of considerations. Sections 202, 203, and 204 of the Federal Meat Inspection Act (21 U.S.C. 642, 643, 644) provide for recordkeeping, access, and related requirements; registration requirements; and regulation of transactions involving dead, dying, disabled or diseased livestock of specified kinds, or part of the carcasses of such animals that died otherwise than by slaughter, with respect to operators engaged in specified classes of business in or for "commerce" as defined in the Act. Similar provisions with respect to poultry and poultry products are contained in sections 11 (b), (c), and (d) of the Poultry Products Inspection Act (21 U.S.C. 460 (b), (c), and (d)). Section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act (21 U.S.C. 645, 460(e)) authorize the Secretary of Agriculture to exercise the authorities under the aforesaid sections with respect to persons, firms, and corporations engaged in the specified kinds of business but not in or for "commerce" in any State or organized Territory when he determines, after consultation with an appropriate advisory committee, that the State or Territory does not have at least equal authority under its laws or is not exercising such authority in a manner to effectuate the purposes of the Acts.

The State of Pennsylvania has been designated, pursuant to section 301(c) of the Federal Meat Inspection Act and section 5(c) of the Poultry Products Inspection Act, for the application, to intrastate activities, of titles I and IV of the Federal Meat Inspection Act and sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act, and said provisions are now applicable to such activities in Pennsylvania. The Secretary, after consultation with the appropriate advisory committee, has now determined that Pennsylvania does not have and is not exercising, in a manner to effectuate the purposes of said Acts, with respect to intrastate businesses, authorities at least equal to those under sections 202, 203, and 204 of the Federal Meat Inspection Act and sections 11 (b) and (c) of the Poultry Products Inspection Act, including the Secretary or his representative being afforded access to such places of business and the facilities, inventories, and records thereof. Therefore, Pennsylvania is hereby designated under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act for the exercise of the specified authorities with respect to intrastate businesses, and hereafter sections 202, 203, and 204 of the Federal Meat Inspection Act and section 11 (b) and (c) of the Poultry Products Inspection Act shall apply as hereinafter provided, to persons, firms, and corporations engaged in the kinds of business specified in said sections, but not in or for commerce, to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce.

Accordingly, the table in § 331.6 of the meat inspection regulations (9 CFR 331.6) is amended as follows:

§ 331.6 [Amended]

1. In the "State" column, "Pennsylvania" is added immediately below "North Dakota" in all three places.

2. In the "Effective Date' column, May 2, 1974, is added on the line with "Pennsylvania" in all three places.

(Secs. 21 and 205, 34 Stat. 1260, as amended, 81 Stat. 584, 21 U.S.C. 621, 645; 37 FR 28464, 28477).

Further, the table in § 381.224 of the poultry products inspection regulations (9 CFR 381.224) is amended as follows:

§ 381.224 [Amended]

1. In the "State" column, "Pennsylvania" is added immediately below "North Dakota" in both places.

2. In the "Effective date" column, May 2, 1974, is added on the line with "Pennsylvania" in both places.

(Secs. 11(e) and 14, 71 Stat. 441, as amended, 82 Stat. 791 (21 U.S.C. 460(e)), 463; 37 FR 28464, 28477)

These amendments of the regulations are necessary to reflect the determinations of the Secretary of Agriculture under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act, and to effectuate the purposes of the Acts by affording representatives of the Secrebusiness engaged in intrastate activities tary of Agriculture access to places of and otherwise facilitate the enforcement of the Acts. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

These amendments and the notice given hereby shall become effective May 2, 1974.

Done at Washington, D.C., on: April 25, 1974.

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

[FR Doc.74-10039 Filed 5-1-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION. DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74-WE-14-AD; Amdt. 39-1832]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas; Certain DC-10 Series Airplanes

There have been failures of oxygen generator torsion retention springs to retain the generators in Weber Aircraft Company passenger seat backs on a Douglas DC-10 airplane, allowing activated generators (with temperatures in excess of 500°F) to be pulled out of the seat backs. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require replacement of the torsion retention springs on the Weber Aircraft Company passenger seat backs.

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

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

McDONNELL DOUGLAS. Applies to Douglas Model DC-10 series airplanes, certificated in all categories, incorporating Weber Aircraft seats, Part Numbers 818472, 818473, 818474, 818475, 819291, 819812, and 819813, with dash numbers as listed in Weber Aircraft Service Bulletin No. 25-326, dated February 15, 1974.

Compliance required within the next 300 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent further inadvertent dislodgement of oxygen generators from seat backs, accomplish the following:

(a) Replace the oxygen generator torsion retention springs in accordance with Weber Aircraft Service Bulletin No. 25-326, dated February 15, 1974.

(b) The Chief, Aircraft Engineering Division, FAA Western Region, may approve equivalent modifications.

(c) Aircraft may be flown to a base for accomplishment of the maintenance required by this AD per FAR's 21.197 and 21.199.

This amendment becomes effective May 6, 1974.

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

Issued in Los Angeles, California on April 24, 1974.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc.74-9993 Filed 5-1-74;8:45 am]

[Docket No. 74-NE-2; Amdt. 39-1831]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Model JT9D Engines

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the installation of fog nozzles in the main gearboxes to prevent internal gearbox fires by enrichment of the oil/air mixture and the replacement of the present accessory carbon seal assemblies with redesigned carbon seal assemblies to prevent oil leakage was published on page 4928 of the FEDERAL REGISTER for February 8, 1974 (39 F.R. 4928).

Interested persons have been afforded an opportunity to participate in the making of the amendment. Two comments were received in response to the Notice. One of these comments supported the proposed AD while the other had no objection to its basic intent. As regards the compliance time for the installation of the fog nozzles, there was disagreement between the two commentators. One commentator suggested that the compliance period should be shortened while the other requested that the compliance time be extended until July 1, 1975 in order to permit one air carrier a reasonable period to complete the required modifications on all its aircraft. As discussed in the notice, the February 1, 1975 date was selected only after careful consideration of all pertinent factors including safety considerations, parts availability and the shop capability of the industry to affect the change. After additional review of this entire matter of compliance time, including both comments, the agency still considers that the February 1, 1975 compliance date represents the most appropriate compliance period for this AD in terms of the needs of safety and the ability of industry to complete the requested changes. Accordingly, the compliance time is being adopted as proposed in the initial notice. Any air carrier experiencing individual problems in complying with the AD may, of course, petition for an exemption under the provisions of Part 11 of the Federal Aviation Regulations and the agency will consider any such petitions at the appropriate time. In this connection, the language set forth in the notice relating to increase of the compliance time by the Chief, Engineering and Manufacturing Branch, New England Region, is considered inappropriate in this instance and has been deleted from the AD.

One commentator pointed out that a number of Boeing 747 aircraft have been removed from service for an indefinite period because of economic conditions and the fuel shortage. For this reason, it was requested that consideration be given to permit operators of such grounded aircraft to have a reasonable time period in terms of operating hours after the effective date of the AD to accomplish the modification. The internal gearbox failures which resulted in engine fires were not time related and for that reason a calendar date compliance time was proposed in the Notice in lieu of the usual compliance time based on hours time in service. Because of this, and the seriousness of the problem, the agency does not consider that any extension of compliance time should be granted for those aircraft which have been temporarily grounded for other reasons especially in view of the lack of any indication that the required modfications on the grounded aircraft could not be accomplished by the February 1, 1975 date.

Several different objections from one commentator were received concerning that portion of the AD which related to the replacement of carbon seal assemblies. First, the required simultaneous incorporation of the improved carbon seals with the installation of the fog nozzles was objected to on the basis that one carrier was utilizing methods of installing the fog nozzles which did not permit simultaneous incorporation of the improved carbon seals with the installation of the fog nozzles. In answer to this comment, the AD only requires that both items be accomplished by February 1, 1975. Both items were included in the same proposed AD with the same compliance time because of the fact that both items would logically be accomplished by the majority of air carriers at the same time and this conclusion has been substantiated by comments received in response to the notice. In addition, although not discussed in the notice, a separate appropriate compliance time for the carbon seals based in terms of hours time in service would as a practical matter result in a compliance period for most carriers that is almost identical to that required by the February 1, 1975 date. Therefore, this objection is not considered to have merit.

Finally, one commentator objected to the issuance of an AD requiring the replacement of the carbon seals for two reasons. First, it was contended that the carbon seal failure problem did not result in hazardous conditions which justified the issuance of an AD. Secondly, the commentator pointed out that one air carrier was conducting service evaluations of improved carbon seals other than those specified in the referenced service bulletin which evaluations could not be continued after adoption of an AD. As regards the first objection, the agency considers that the high number of single engine inflight shutdowns and the reported instance of a dual engine shutdown due to oil loss caused by carbon seal failures does present a serious airworthiness hazard which requires the issuance of an AD. For this reason, the first portion of the objection is rejected. As to the remaining portion of the comment relating to the possible use of different seals, the agency agrees that an equivalent means of compliance should be permitted in the AD. Accordingly, language is being added to the AD which will permit the agency to approve an equivalent means of compliance as to the seals upon the submission of acceptable substantiating data to the appropriate Federal Aviation Administration Office. Any testing of other carbon seals musts be conducted in accordance with existing Federal Aviation Regulations concerning such testing.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PRATT & WHITNEY. Applies to all Pratt & Whitney Model JT9D-3A and JT9D-7 turbofan engines.

Compliance required not later than February 1, 1975.

1. To prevent the possibility of internal main gearbox fires in the event of an internal gearbox failure, rework the main gearbox in accordance with Pratt & Whitney Service Bulletin No. 4043, dated February 5, 1973, or later Federal Aviation Administration approved revisions.

2. To prevent leakage of oil around carbon face seals, replace present seal assemblies with the redesigned carbon face seal assemblies per Pratt & Whitney Service Bulletin No. 3902, dated August 8, 1972, or later Federal Aviation Administration approved revisions or Federal Aviation Administration approved equivalent.

3. Equivalent methods of compliance to the requirements of paragraph 2 above must be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, New England Region.

The manufacturer's specifications and procedures identified and described in

this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Chief Engineer, Pratt and Whitney Aircraft, Division of United Aircraft Corporation, 400 Main Street, East Hartford, Connecticut 06108. These documents may also be examined at the Office of the Regional Counsel, New England Region, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803 and at FAA Headquarters, 800 Independence Avenue, SW, Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the New England Regional Office in Burlington, Massachusetts.

This amendment becomes effective May 14, 1974.

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

Issued in Burlington, Massachusetts, on April 22, 1974.

FERRIS J. HOWLAND,
Director, New England Region.

NOTE: The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.74-9992 Filed 5-1-74;8:45 am]

[Airspace Docket No. 74-AL-2]

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

Alteration of Colored Airways, Controlled Airspace and Reporting Points; Delayed Effective Date

On March 18, 1974, FR Doc. 74-6102 was published in the FEDERAL REGISTER (39 FR 10116) effective June 20, 1974.

This document amended Part 71 of the Federal Aviation Regulations by making editorial changes in the descriptions of certain airways, controlled airspace and reporting points as a result of the conversion and renaming of several navigational aids in Canada and Alaska.

Publication of aeronautical charts in Alaska has been changed from a 28-day cycle to a 56-day cycle, and charts will not be published on June 20, 1974. Therefore, action is taken herein to delay the effective date of FR Doc. 74-6102 until July 18, 1974, the next publication date for Alaska aeronautical charts.

Since it is desirable that the public be made aware of this change immediately, notice and public procedure thereon are impracticable and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, FR Doc. 74-6102 (39 FR 10116) is amended, effective upon publication of this amendment in the FEDERAL REGISTER, as hereinafter set forth.

The effective date "0901 G.m.t., June 20, 1974" is deleted and "0901 G.m.t. July 18, 1974" is substituted therefor.

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

Issued in Washington, D.C., on April 26, 1974.

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

[FR Doc.74-9994 Filed 5-1-74;8:45 am]

[Airspace Docket No. 74-AL-1]

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

Alteration of Colored Airways, Controlled Airspace and Reporting Points; Delayed Effective Date

On March 18, 1974, FR Doc. 74-6103 was published in the FEDERAL REGISTER (39 FR 10115) effective June 20, 1974.

This document amended Part 71 of the Federal Aviation Regulations by making editorial changes in the descriptions of certain airways, controlled airspace and reporting points as a result of the conversion and renaming of several navigational aids in Canada and Alaska.

Publication of aeronautical charts in Alaska has been changed from a 28-day cycle to a 56-day cycle, and charts will not be published on June 20, 1974. Therefore, action is taken herein to delay the effective date of FR Doc. 74-6103 until July 18, 1974, the next publication date for Alaska aeronautical charts.

Since it is desirable that the public be made aware of this change immediately, notice and public procedure thereon are impracticable and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, FR Doc. 74-6103 (39 FR 10115) is amended effective upon publication of this amendment in the FEDERAL REGISTER, as hereinafter set forth.

The effective date "0901 G.m.t. June 20, 1974" is deleted and "0901 G.m.t. July 18, 1974" is substituted therefor.

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

Issued in Washington, D.C. on April 26, 1974.

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

[FR Doc.74-9995 Filed 5-1-74;8:45 am]

[Airspace Docket No. 74-EA-33]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to reduce the time of designation for Restricted Area R-5207 Romulus, N.Y.

A review of the annual utilization report for Restricted Area R-5207 has revealed that R-5207 was needed by the using agency only from 0730 to 1600 local time Monday through Friday. Accordingly, the Federal Aviation Administration has determined that the time of designation for R-5207 should be reduced to more accurately reflect this requirement. The Department of the Army concurs in this determination.

This amendment relieves a restriction upon the public and it is a minor amendment upon which the public is not particularly interested. Therefore, notice and public procedure thereon are unnecessary. Since this amendment relieves a restriction upon the public, it may become effective immediately.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective May 2, 1974, as hereinafter set forth.

In § 73.52 (39 FR 680), the time of designation for R-5207 Romulus, N.Y., is amended to read as follows:

Time of designation. 0730 to 1600 local time, Monday through Friday.

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

Issued in Washington, D.C., on April 26, 1974.

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

[FR Doc.74-9996 Filed 5-1-74;8:45 am]

[Docket No. 13669; Amdt. No. 914]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

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

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

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the

Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

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

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

1. Section 97.23 is amended by originating, amending, or canceling the following VOR–VOR/DME SIAPs, effective June 13, 1974:

Eugene, Ore.—Mahlon-Sweet Field, VORTAC Rwy 3, Orig.
Hobbs, N.M.—Cross Roads Intercontinental Arpt., VOR–A, Amdt. 1, canceled.
Hobbs, N.M.—Crossroads Intercontinental Arpt., VOR/DME Rwy 21, Amdt. 1, canceled.
Lafayette, Ind.—Purdue University Arpt., VOR–A, Amdt. 16.

* * * effective May 9, 1974:

Detroit, Mich.—Detroit City Arpt., VOR Rwy 33, Amdt. 14.

* * * effective April 19, 1974:

Indianapolis, Ind.—Indianapolis/Weir-Cook/Municipal Arpt., VOR Rwy 13, Amdt. 17.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF–LOC–LDA SIAPs, effective June 13, 1974:

Atlanta, Ga.—The William B. Hartsfield Atlanta Int'l. Arpt., LOC (BC) Rwy 9R, Orig.

* * * effective April 19, 1974:

Indianapolis, Ind.—Indianapolis/Weir-Cook/Municipal Arpt., LOC (BC) Rwy. 13, Amdt. 5.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective June 13, 1974:

Lafayette, Ind.—Purdue University Arpt., NDB Rwy 10, Amdt. 4.
Troutdale, Ore.—Portland-Troutdale Arpt., NDB–A, Amdt. 2.
Walla Walla, Wash.—Walla Walla City-County Arpt., NDB Rwy 20, Amdt. 1.

* * * effective May 9, 1974:

Searcy, Ark.—Searcy Municipal Arpt., NDB Rwy 01, Orig.

* * * effective April 19, 1974:

Indianapolis, Ind.—Indianapolis/Weir-Cook/Municipal Arpt., NDB Rwy 31, Amdt. 6.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective June 13, 1974:

Atlanta, Ga.—The William B. Hartsfield Atlanta Int'l. Arpt., ILS Rwy 27L, Amdt. 1.
Lafayette, Ind.—Purdue University Arpt., ILS Rwy, 10, Amdt. 2.
Walla Walla, Wash.—Walla Walla City-County Arpt., ILS Rwy 20, Amdt. 1.

* * * effective April 19, 1974:

Indianapolis, Ind.—Indianapolis/Weir-Cook/Municipal Arpt., ILS Rwy 31, Amdt. 7.

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective June 13, 1974:

Beaumont-Port Arthur, Tex.—Jefferson County Arpt., RADAR–1, Orig.

* * * effective April 19, 1974:

Indianapolis, Ind.—Indianapolis/Weir-Cook/Municipal Arpt., RADAR–1, Amdt. 20.

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

Issued in Washington, D.C., on April 25, 1974.

JAMES M. VINES,
Chief, Aircraft Programs Division.

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

[FR Doc.74–9997 Filed 5–1–74;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–5483, 34–10746, 35–18383, 40–8315, AS–154]

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

Consolidated Financial Statements

The Commission today adopted amendments to Rule 4–02 [17 CFR 210.4–02] and rescinded Rule 4–07 [17 CFR 210.4–07] of Regulation S–X, both relating to requirements for consolidated and combined financial statements. This action was originally proposed on December 13, 1973, in Securities Act Release No. 5445 (34–10556, 35–18216, IC–8137) [38 FR 35333].

The rescission of Rule 4–07 eliminates the restriction on consolidation of subsidiaries engaged in financial and nonfinancial activities contained in Rule 4–07(b). Consolidated financial statements will now be subject to the general provisions of Rule 4–02(a) that a "registrant shall follow * * * principles of inclusion or exclusion which will clearly exhibit the financial position and results of operations."

The amendment to Rule 4–02 continues the present requirement of Rule 4–07 for supporting financial statements of consolidated subsidiaries engaged in certain financial activities. Consideration should also be given to improving the disclosure in annual reports to stockholders by including this information, suitably condensed, as supporting financial statements or as line of business disclosure. Although information concerning nonfinancial activities is not specifically required, such information may be given if deemed appropriate for a better understanding of registrant's business. The Financial Accounting Standards Board is considering the matter of reporting by diversified companies including the extent of disclosure of information about the different segments. These requirements will be reconsidered when a statement on this matter is adopted by the FASB.

A subparagraph added to Rule 4–02(a) is intended to prevent consolidation of subsidiaries of a registrant subject to the Bank Holding Company Act of 1956 as to which a decision has been made requiring divestiture or in cases where there is a substantial likelihood that divestiture will be necessary in order for registrant to comply with provisions of the Act.

Commission action. The Commission hereby amends Part 210 of 17 CFR Chapter II by revising § 210.4–02 by the addition of new paragraphs (a)(3) and (e) and rescinding § 210.4–07. The amended material reads as follows:

§ 210.4–02 Consolidated financial statements of the registrant and its subsidiaries.

(a) * * *

(3) Any subsidiary or group of subsidiaries of a registrant subject to the Bank Holding Company Act of 1956 as amended as to which (i) a decision requiring divestiture has been made, or (ii) there is substantial likelihood that divestiture will be necessary in order to comply with provisions of the Bank Holding Company Act.

* * * * *

(e) Separate financial statements shall be presented for each subsidiary or group of subsidiaries engaged in the business of life insurance, fire and casualty insurance, securities broker-dealer, finance, savings and loan or banking, including bank related finance activities; provided, however, that separate financial statements may be omitted:

(1) For a consolidated subsidiary or group of subsidiaries in the same business in which the registrant's and registrant's other subsidiaries' proportionate share of total assets or total sales and revenues (after intercompany eliminations) exceeds 90 percent of consolidated assets or consolidated sales and revenues.

(2) For a nonsignificant consolidated subsidiary which is registrant's only subsidiary in a business, or for a group of consolidated subsidiaries constituting all of registrant's subsidiaries in the same business which if considered in the aggregate would not constitute a significant subsidiary.

(3) For a consolidated subsidiary or group of subsidiaries in the same business if in excess of 90 percent of their sales and revenues are derived from registrant and registrant's other subsidiaries.

§ 210.4–07 [Revoked]

(Secs. 6, 7, 8, 10, and 19(a), Securities Act of 1933; secs. 13, 15(d) and 23(a), Securities Exchange Act of 1934; secs. 5(b), 14 and 20(a), Public Utility Holding Company Act of

1935; secs. 8, 30, 31(c) and 38(a), Investment Company Act of 1940)

The amendments shall be effective with respect to financial statements filed with the Commission subsequent to May 31, 1974.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 19, 1974.

[FR Doc.74-10078 Filed 5-1-74;8:45 am]

[Release No. 33-5487]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Transactions By an Issuer Deemed Not To Involve Any Public Offering

The Securities and Exchange Commission today announced the adoption of Rule 146 (17 CFR 230.146) under the Securities Act of 1933 ("Act") which had been first noticed for comment in Securities Act Release No. 5336 (November 28, 1972) (37 FR 26137) and which had been reproposed for comment in revised form in Securities Act Release No. 5430 (October 10, 1973) (38 FR 28951). The adopted rule reflects a number of changes from the rule as last proposed. The changes are discussed in this release.

The Rule is designed to provide more objective standards for determining when offers or sales of securities by an issuer would be deemed to be transactions not involving any public offering within the meaning of section 4(2) of the Act and thus would be exempt from the registration provisions of the Act. The Rule is available only to issuers since section 4(2) provides an exemption for only the issuer. The Rule is not, however, the exclusive basis for determining whether that exemption is available. Accordingly, although persons claiming the exemption have the burden of proving its availability, persons may continue to rely on the section 4(2) exemption by complying with the relevant administrative and judicial interpretations in effect at the time of the transaction. The protection afforded by the Rule, however, is available only to those who satisfy all its conditions.

RULE 146

This release contains a general discussion of the background, purpose and general effect of the Rule to assist in a better understanding of its provisions. A brief analysis of each paragraph of the Rule is also included. However, attention is directed to the Rule itself for a more complete understanding.

BACKGROUND AND PURPOSE

Congress, in enacting the federal securities laws, created a continuous disclosure system designed to protect investors and to assure the maintenance of fair and honest securities markets. The Commission, in administering and implementing these laws, has sought to coordinate and integrate this disclosure system with the exemptive provisions provided by such laws. Rule 146 is a further effort in this direction.

The legislative history of the Securities Act of 1933 indicates that the main concern of Congress was to provide full and fair disclosure in connection with the offer and sale of securities. However, Congress recognized that there were certain situations in which the protections afforded by the Act were not necessary. Concerning those specified exemptions from the Act, of which section 4(2) is one, the House Report stated that "The Act carefully exempts from its applications certain types of * * * securities transactions where there is no practical need for its application or where the public benefits are too remote."[1]

Section 4(2) of the Act provides that "the provisions of section 5 shall not apply to * * * transactions by an issuer not involving any public offering." The phrase "transactions * * * not involving any public offering" is not defined in the Act[2] or, except in limited circumstances, in the existing rules under the Act. Accordingly, it has been left to Commission interpretations and court decisions to define the scope of the exemption.

The Supreme Court in the Ralston Purina[3] case established the basic criteria to be considered in determining the availability of section 4(2). The main consideration is whether the offerees need the protection afforded by the Act as evidenced by whether the offerees have "access" to the same kind of information that registration would disclose and whether they are able to fend for themselves. The application of these criteria and other guidelines set forth from time to time by the Commission and the courts has resulted in uncertainty about the availability of the exemption. In addition, some misconceptions have arisen in connection with certain methods used by persons who seek to claim the exemption.

For example, the questions arising under section 4(2) have generally dealt with what constitutes a non-public offering or a private offering. It has been asserted that an offering to a limited number of persons, not more than twenty-five, for example, does not involve a public offering. This is not by itself an appropriate test. As the Supreme Court stated in Ralston Purina, "the statute would seem to apply to a 'public offering' whether to few or many." 46 U.S. at 125. The Commission continues to be of the opinion that the question is not to be determined exclusively by the number of offerees.

Further, it is frequently asserted that wealthy persons and certain other persons such as lawyers, accountants and businessmen are "sophisticated" investors who do not need the protections afforded by the Act. It is the Commission's view that "sophistication" is not a substitute for access to the same type of information that registration would provide, and that a person's financial resources or sophistication are not, without more, sufficient to establish the availability of the exemption.[4]

On the other hand, the Commission is of the view that an offeree need not be an insider such as an officer or director of the issuer in order to have access to information. As a note to the Rule indicates, access can only exist by reason of the offeree's position with respect to the issuer. Position means an employment or family relationship or economic bargaining power that enables an offeree to obtain information from the issuer in order to evaluate the merits and risks of the investment as distinguished from situations where such position does not exist and the issuer voluntarily offers to provide or provides such information.

Moreover, it has been argued that the exemption is established by the issuer merely providing a brochure, or other writing, to the offerees containing the same kind of information that is found in a registration statement. The Commission is of the review that the mere disclosure of the same kind of information that would be contained in a registration statement is not sufficient in itself to establish the availability of an exemption under section 4(2) of the Act.[5]

It also has been argued that the private offering exemption can be established where it is represented that the securities are held for investment, where resale is restricted, and where the number of transferees is limited. In this regard, the practice has developed whereby issuers obtain investment letters from purchasers and cause a legend to be imprinted on the face of each certificate restricting transfer. As the Commission and the courts[6] have previously stated, the signing of an investment letter and the legending of stock certificates are not sufficient to render an offering a private one. Although such precautions should be taken by issuers to protect their claim of exemption by assuring that their purchasers will not in turn distribute securities to others, these are only precautions to prevent illegal distributions and are not, by themselves, to be regarded as a sufficient basis for an exemption from registration for the issuer.

The Commission believes that a rule creating greater certainty in the application of the section 4(2) exemption is in the public interest for two reasons.

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[1] H.R. Rep. No. 85, 73rd Cong., 1st Sess. 5 (1933).

[2] The House Report does indicate that the exemption was originally intended to permit an issuer to make a specific or isolated sale of its securities to a particular person or financial institution. *Id.* at p. 15-16.

[3] SEC v. Ralston Purina Co., 346 U.S. 119 (1953).

[4] United States v. Custer Channel Wing Corp., 376 F. 2d 675 (4th Cir. 1967); SEC v. Tax Service, Inc., 357 F. 2d 143 (4th Cir. 1966).

[5] See SEC v. Continental Tobacco Company of South Carolina, Inc., 463 F. 2d 137 (5th Cir. 1972); Hill York Corp. v. Freeman, 448 F. 2d 680 (5th Cir. 1971).

[6] United States v. Custer Channel Wing, 376 F. 2d 675 (4th Cir. 1967).

First, such a rule should deter reliance on that exemption for offerings of securities to persons who are unable to fend for themselves in terms of obtaining and evaluating information about the issuer and in certain situations, of assuming the risk of investment. These persons need the protections afforded by the registration process. Second, such a rule should reduce uncertainty to the extent feasible and provide more objective standards upon which responsible businessmen may rely in raising capital in a manner that complies with the requirements of the Act.

The Rule is designed to protect investors while at the same time providing more objective standards in order to curtail uncertainty to the extent feasible. In view of the legislative history, statutory language, judicial decisions, and the Commission's reexamination of its interpretations of section 4(2) of the Act, the Commission is of the view that the significant concepts in determining when transactions are deemed not to involve any public offering are access to the same kind of information that registration would disclose and the ability of offerees to fend for themselves so as not to need the protections afforded by registration.

GENERAL DESCRIPTION

Rule 146 provides that transactions by an issuer involving the offer or sale of its securities shall be deemed not to involve any public offering within the meaning of section 4(2) of the Act if they are part of an offering that meets all the conditions of the Rule. These conditions relate to limitations on the manner of offering, the nature of the offerees, access to or furnishing of information about the issuer, limitations on the number of purchasers and limitations on the subsequent disposition of securities acquired pursuant to the Rule.

First, in determining whether an offeree needs the protections afforded by registration, it is essential to consider whether the offeree has access to or has been furnished with the same kind of information that registration would disclose as well as an opportunity to acquire additional information necessary to verify that disclosure. Accordingly, conditions relating to information concerning the issuer which must be available to the offeree or his representative are included in the Rule.

Second, in order to assure that the offerees can fend for themselves, the availability of the Rule is conditioned on the nature of the offerees. Thus, the issuer and any person acting on its behalf shall have reasonable grounds to believe, and shall believe, immediately prior to making an offer, either that the offeree has such knowledge and experience that he is capable of evaluating the merits and risks of the proposed investment or that the offeree can bear the economic risk of the investment. In addition, immediately prior to a sale, the issuer and any person acting on its behalf, after making reasonable inquiry, shall have reasonable grounds to believe and shall believe either that the offeree himself has the requisite knowledge and experience, or that the offeree and his offeree representative(s) have such knowledge and experience and that the offeree himself is capable of bearing the economic risk of the investment. The concept of bearing the economic risk of the investment is not inconsistent with the discussion in Ralston Purina about the offeree's ability to fend for himself. The Rule contains special provisions in this regard for offerings in connection with certain types of business combinations.

Third, the Commission believes that there must be limitations on the manner of offering securities pursuant to the exemption to assure that persons to whom such securities are offered have the necessary information available concerning the issuer and can fend for themselves. To assure the non-public manner of the offering, the Rule precludes general advertising or general solicitation, including promotional seminars or meetings in connection with the offering. The Rule would not preclude meetings with certain qualified offerees or with certain other qualified offerees and their offeree representatives to discuss the terms of and to impart information about the offering.

Fourth, the Commission believes that a limitation on the number of purchasers serves to assure that the offering does not involve or result in a deferred distribution. Limitations on the disposition of securities are necessary to assure that the offering does not involve a series of steps resulting in a distribution.

The Rule is only available to issuers of securities and is not available to affiliates of the issuer or other persons for sales of the issuer's securities. Persons who acquire securities from issuers in transactions complying with the Rule acquire securities that are restricted in that they can be reoffered and resold only if registered under the Act or pursuant to an exemption from such registration provisions. In this connection, Rule 144 (17 CFR 230.144) under the Act provides objective standards for the public resale of restricted securities. (See Securities Act Release No. 5223) (37 FR 596, 4329). Rule 146 has been adopted in the context of, and in conjunction with, several rules, amendments to rules and forms, and releases which the Commission has recently adopted or issued including:

1. Rule 144 under the Act (Securities Act Release No. 5223) (37 FR 596, 4329), as amended, Securities Act Release No. 5307 (37 FR 20558) and Securities Act Release No. 5452 (39 FR 6069).

2. Rule 145 (17 CFR 230.145) under the Act (Securities Act Release No. 5316) (37 FR 23636).

3. Adoption of Form S–16 (17 CFR 239.27) under the Act for securities offered in certain specified transactions (Securities Act Release No. 5117) (37 FR 777) and adoption of amendments to Form S–16 to liberalize the conditions under which the form could be used (Securities Act Release No. 5265) (37 FR 15990, 15991).

4. Amendments to Regulation A under Section 3(b) of the Act (Securities Act Release No. 5225) (37 FR 599).

5. Publication of a release relating to the use of legends and stop-transfer instructions as evidence of non-public offerings (Securities Act Release No. 5121) (36 FR 1525).

6. Publication of a release relating to the applicability of the anti-fraud provisions of the Securities Act to certain practices in connection with transactions by issuers and others not involving public offerings (Securities Act Release No. 5226) (37 FR 600).

7. Amendments to Forms 10–K (17 CFR 249.310) and 10–Q (17 CFR 249.308a) under the Securities Exchange Act of 1934 (Exchange Act) to require disclosure of securities sold pursuant to section 4(2) of the Act (Securities Exchange Act Release No. 9443) (36 FR 601, 4331).

8. Adoption of Rule 15c2–11 (17 CFR 240.15c2–11) under the Exchange Act which requires that dealers have adequate information available concerning any issuer in whose securities they make a market (Securities Exchange Act Release No. 9310) (36 FR 18641).

9. Adoption of amendments to Form 10–K to require more meaningful disclosure in reports on that Form (Securities Exchange Act Release No. 10180) (38 FR 17202).

SYNOPSIS OF THE PROVISIONS OF RULE 146

Preliminary notes. Preliminary Notes to the Rule briefly describe the Rule and make clear that all transactions which are, applying traditional integration standards, part of an offering must meet all the conditions of the Rule for it to be available. The Preliminary Notes also emphasize that compliance with all the conditions of the Rule is not the exclusive means of establishing an exemption pursuant to section 4(2) of the Act, that attempted compliance with Rule 146 does not act as an election, that the Rule does not relieve issuers from requirements of state securities laws, and that the Rule is an issuer's rule only. Another Preliminary Note makes clear that, for purposes of the Rule, clients of an investment adviser, customers of a broker or dealer, trusts administered by a bank trust department or persons with similar relationships will be considered to be the "offerees" or "purchasers," regardless of the amount of discretionary authority held by such investment adviser, broker or dealer, bank trust department, or other person. In addition, the Preliminary Notes restate the Commission's position, as with respect to Rules 144 and 147, that this Rule is not available to any issuer with respect to any transactions which, although in technical compliance with the Rule, are part of a plan or scheme to evade the registration provisions of the Act. In such cases registration pursuant to the Act is required.

Definitions — Offeree representative Rule 146(a)(1). The term "offeree representative" is defined in paragraph (a)(1) of the Rule as a person who the issuer

and any person acting on its behalf have, after making reasonable inquiry, reasonable grounds to believe and believe is not an affiliate, director, officer or other employee, or beneficial owner of 10 percent or more of the equity of the issuer (except when the offeree is a specified relative of such person or a trust or organization with which such person and/or such relative has a specified relationship) (subdivision (i)); has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment (subdivision (ii)); is acknowledged, in writing, by the offeree during the course of the transaction to be his offeree representative (subdivision (iii)); and disclose to the offeree, in writing, any material relationship existing or mutually understood to be contemplated between himself or his affiliates and the issuer or its affiliates or any such relationship which existed during the previous two years, and any compensation received as a result of such relationship (subdivision (iv)). As was noted in the release accompanying the Rule as proposed for comment in October 1973, the acknowledgment and disclosure of relationships must be made with respect to each prospective investment even in the case of a discretionary account. Where an adviser with discretionary authority wants to act as offeree representative, the Rule requires that the acknowledgment specified in paragraph (a)(1)(iii) of the Rule be obtained for each transaction. Accordingly, advance blanket acknowledgment for "all securities transactions" or "all private placements" or similar broad advance acknowledgments will not satisfy the Rule. This is particularly important, since the offeree representative is required by paragraph (a)(1)(iv) of the Rule to disclose to the offeree, in writing, any material relationships between the adviser and the issuer. This disclosure is required in connection with each offering pursuant to the Rule in order that the offeree be given an opportunity to consider any conflicts of interest the adviser may have prior to acknowledging the adviser as his offeree representative for the particular offering. A note has been added to the offeree representative definition making clear that where an offeree representative or its affiliates has a material relationship with the issuer or its affiliates, disclosure of such relationship does not relieve the offeree representative of its obligation to act in the interest of the offeree.

Several changes were made from the rule as last proposed. As proposed in October 1973, no affiliate, associate or employee of the issuer could be an offeree representative, except in specified situations; as adopted, the term "associate" has been deleted, but the definition now precludes officers and directors of the issuer, as well as 10 percent stockholders, from being offeree representatives, except in specified situations. In addition, the adopted Rule requires disclosure of any material relationship between the offeree representative or its affiliates and the issuer or its affiliates. The qualifier "material" is new to the Rule (and is defined in subparagraph (a)(4)) and disclosure of relationships with affiliates of the offeree representative is also new. The Rule also makes clear that an offeree can have more than one offeree representative. A note has been added reminding persons to consider the applicability of the Exchange Act and the Investment Advisers Act of 1940.

Issuer: Rule 146(a)(2). For purposes of the Rule the definition of issuer in Section 2(4) of the Act applies. However, paragraph (a)(2) includes a definition of "issuer" for purposes of offerings of certain securities in connection with proceedings under the Bankruptcy Act. The rule as proposed in October 1973 contained a definition of issuer for certain offerings involving partnerships. This has been deleted from the Rule as adopted because it was ambiguous and the Commission determined that Rule 146 was not the appropriate place to deal with that question at this time.

Affiliate: Rule 146(a)(3). A definition of "affiliate," similar to that in Rule 144 under the Act, has been added to the Rule.

Material: Rule 146(a)(4). A definition of "material" as it relates to the "material relationships" that must be disclosed by the offeree representative (subparagraph (a)(1)) and by the issuer (subparagraph (e)(3)) has been added to make clear that materiality is to be determined from the reasonable investor's point of view and not through some formula measuring the importance of the transaction to the offeree representative or the issuer. The definition is based on that used by the Supreme Court in Affiliated Ute Citizens of Utah v. United States, 406 U.S. 128, 154 (1972).

Deletion of proposed rule 146(a)(2): direct communication. The term "direct communication" has been deleted from the Rule, although the substantive requirement of an opportunity for the offeree or his offeree representative to ask questions of, and receive answers from, the issuer or a person acting on its behalf, has been retained. The requirement is now part of paragraph (e), "Access to or Furnishing of Information."

Deletion of proposed rule 146(a)(3): Executive Officer. The definition of executive officer has been deleted from the definition section of the Rule because the term no longer appears in paragraph (g) of the Rule. The exclusion of "executive officers" from the count of thirty-five purchasers in a twelve month period is not necessary since the twelve month period has been abandoned as explained under paragraphs (b) and (g).

Rule 146(b): conditions to be met. Paragraph (b) of the Rule provides that transactions by an issuer involving the offer, offer to sell, offer for sale, or sale of securities of the issuer that are part of an offering that is made in accordance with all the conditions of the Rule are deemed to be transactions not involving any public offering within the meaning of section 4(2) of the Act.

The Rule does not define "offering", as stated in the Preliminary Notes. In most cases, the traditional integration standards, as set forth in the Preliminary Notes, would have to be applied in order to determine what offers, offers to sell, offers for sale, and sales are part of an offering. The Rule, as adopted, does contain a safe harbor provision similar to that in Rule 147. In general, for purposes of the Rule only, an offering will be deemed not to include any offers, offers to sell, offers for sale or sales of securities of the issuer that take place prior to the six month period immediately preceding or after the six month period immediately following any offers, offers for sale, or sales pursuant to Rule 146, if during both of said six month periods there were no offers or sales of securities by or for the issuer of the same or similar class as those offered or sold pursuant to the Rule. If there were offers or sales during the six month periods before or after the offering pursuant to the Rule, the traditional integration factors set forth in Preliminary Note 3 would have to be looked to for guidance as to whether or not those offers or sales would be integrated with those made pursuant to the Rule. This concept of offering also relates specifically to the limitation on number of purchasers in paragraph (g) since that condition has been revised to limit to thirty-five the number of purchasers in any offering, as opposed to in any twelve month period, as proposed.

Rule 146(c): Limitations on manner of offering. Paragraph (c) of the Rule specifies limitations on the manner in which the securities can be offered and sold. The Rule prohibits the issuer or any person acting on its behalf from offering or selling the securities through any form of general advertising or general solicitation including, but not limited to, advertisements or other communications in newspapers, magazines, or other media; broadcasts on radio or television; seminars or promotional meetings or any letter, circular, or other written communication.

The prohibition on general advertising and general solicitation does not necessarily mean that there can be no meetings or written communication. It means that any such meetings can involve only offerees and their offeree representatives who can satisfy the conditions of paragraph (d), "Nature of Offerees," and that any written material can be distributed only to offerees who satisfy the conditions of paragraph (d) and only if such communications contain an undertaking to provide the information specified in paragraph (e)(1) on request. Of course, any person acting on behalf of the issuer can attend such meetings or seminars without satisfying the conditions of paragraph (d), assuming that he is not and will not become an offeree. The substance of the requirement that there will be direct communication has been moved from paragraph (c) of the Rule to Paragraph (e), "Access to and Furnishing of Information."

Rule 146(d): Nature of offerees. Paragraph (d)(1) of the Rule requires that

the issuer and any person acting on its behalf shall have reasonable grounds to believe and shall believe immediately prior to making an offer either that the offeree has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or that an offeree can bear the economic risk of the investment. Subparagraph (d)(2) requires that immediately prior to making a sale, the issuer and any person acting on its behalf, after making reasonable inquiry, shall have reasonable grounds to believe and shall believe either (1) that the offeree has the requisite knowledge and experience, or (2) that the offeree and his offeree representative(s) have the requisite knowledge and experience and that the offeree is a person who is able to bear the economic risk of the investment.

The Commission has determined to retain the economic risk test for offerees who need the knowledge and experience of an offeree representative in order to be qualified purchasers. This is necessary in order to control the types of persons to whom offers can be made. The Commission believes that the determination of "ability to bear the economic risk" will vary with the circumstances. Important considerations are whether the offeree could afford to hold unregistered securities for an indefinite period, and whether, at the time of the investment, he could afford a complete loss.

The structure of paragraphs (d)(1) and (d)(2) has been changed from the rule as proposed so that the sequence of events is clearer. The substance, however, is not significantly different. In addition, the requirement that the issuer make reasonable inquiry as to the offeree's qualifications prior to sale to the offeree has been made explicit. If, as a result of inquiry after the offer, but before the sale, or otherwise, the issuer discovers that the offeree was not qualified, the Rule is still available as to the offer if the issuer had reasonable grounds to believe and believed, immediately prior to making the offer, that the offeree was qualified.

The same would be true if it is discovered after a sale that the purchaser did not in fact meet the standards of paragraph (d)(2), as long as the issuer had had reasonable grounds to believe, and had believed, that the offeree met the standards of paragraph (d)(1) and, after making reasonable inquiry, that he met the standards of paragraph (d)(2). The rule as proposed contained a paragraph (d)(3) which was an attempt to clarify the above point. However, paragraph (d)(3) has been deleted because it was extraneous.

Rule 146(e): Access to or Furnishing of Information. Paragraph (e) of the Rule requires that the offeree have access to the same kind of information that is required by Schedule A of the Act to the extent that the issuer possesses such information or can acquire it without unreasonable effort or expense (paragraph (e)(1)(i)) or that the offeree or his offeree representative be furnished, during the course of the transaction and prior to sale, such information (paragraph (e)(1)(ii)). The term "access" is used in the Rule in the same sense that it has been used by courts and the Commission in the past—to refer to the offeree's position with respect to the issuer. This position can only exist because of an employment or family relationship or economic bargaining power that enables a person to obtain information from the issuer in order to evaluate the merits and risks of the prospective investment. A note to the Rule reflects the foregoing.

In addition, the offeree or his offeree representative must have available to him the opportunity to obtain any additional information necessary to verify the accuracy of the information obtained pursuant to paragraph (e)(1) to the extent the issuer possesses such information or can acquire it without unreasonable effort or expense (paragraph (e)(2)). The direct communication requirement in paragraph (c) of the rule as proposed was incorporated in substance into paragraph (e)(2) where it is more relevant. Such verification and opportunity for communication are appropriate in view of the absence of the statutory safeguards and sanctions attendant to the registration process, as well as the absence of traditional underwriter's due diligence. An explanatory note to this paragraph makes clear that information need not be continued to be furnished nor the opportunities for verification continued with respect to those offerees who have indicated that they are not interested in purchasing the securities offered, or to those to whom the issuer or any person acting on its behalf has determined not to sell (except where an undertaking was made pursuant to paragraph (c)(3)).

In order to provide standards for the types of information that would satisfy the conditions of paragraph (e)(1)(ii), the Rule has been revised to specify more meaningfully the information required to be furnished by reporting and nonreporting issuers. An issuer subject to the reporting provisions of the Exchange Act may satisfy the provisions of paragraph (e)(1)(ii) by providing each offeree or his representative with the information contained in the annual report required to be filed under that Act or in a registration statement on Form S–1 under the Act, or on Form 10 under the Exchange Act, whichever is the most recent required to be filed. In addition, the issuer must provide the information contained in any definitive proxy statement required to be filed, and in any reports or documents required to be filed by the issuer in compliance with Section 13 or 15(d) of the Exchange Act, since the filing of the annual report or registration statement. The issuer must also provide each offeree with a brief description of the securities being offered, the intended use of proceeds and any material changes in the issuer's affairs not disclosed in the forms filed. The Rule permits the information to be provided to offerees in one document, such as an offering circular, since the combined document may make the information more readily understandable.

Non-reporting issuers may satisfy paragraph (e)(1)(ii) by providing the information specified by the registration statement form which the issuer would be entitled to use, except that where certified financial statements are not available and cannot be obtained without unreasonable effort or expense, they may be provided on an unaudited basis.

A new subdivision of the Rule, paragraph (e)(1)(ii)(c), provides that exhibits required to be filed with registration statements and reports need not be given to the offeree or his representative as long as such exhibits are described and are available for inspection pursuant to paragraph (e)(2).

Paragraph (e)(3) requires, as it did in the proposal, that the issuer or any person acting on its behalf inform each offeree prior to sale and in writing, of the need to bear the economic risk of investment because the securities are not registered and of the restrictions on resale. In addition, the Rule now requires that the issuer or any person acting on its behalf disclose to each offeree, prior to sale, in writing, any material relationship between the offeree's offeree representative or its affiliates and the issuer or its affiliates of the type described in paragraph (a)(1)(iv). This additional requirement has been added because of the importance of this disclosure and because the burden for complying with the Rule must ultimately rest on the issuer.

Rule 146(f): Business combinations. Paragraph (f) of the Rule on business combinations has been substantially revised in form, although the substance is similar to that in the rule as last proposed for comment. Instead of including a definition of "business combination" in the rule itself, the Rule now refers to any transaction of the type described in paragraph (a) of Rule 145. The Rule 145 definition of business combination does not include an exchange offer although the October 1973 Rule 146 proposal did. In an exchange offer the issuer has a choice of offerees and, therefore, does not need the special provisions of paragraph (f).

Paragraph (f)(2) of the Rule provides that paragraph (d) of the Rule, "Nature of Offerees," does not apply to business combinations, but paragraph (f)(3) goes on to require that the issuer and any person acting on its behalf, after making reasonable inquiry, shall have reasonable grounds to believe and shall believe, prior to the submission of any plan for a business combination to security holders for their approval, that each offeree alone or with his offeree representative(s) has the requisite knowledge and experience.

Paragraph (f)(3) means that an offeree who needs an offeree representative in order to satisfy the knowledge and experience test, and who refuses to have one, may make the Rule unavailable for the transaction. Numerous comments on this point were received in response to a similar condition in the rule as last proposed. Although the Commission is aware of the possible problems this may cause,

the Commission does not believe that it can allow satisfaction of the state corporate law requirements as to business combinations to replace satisfaction of the federal securities laws. The Rule has been revised, however, to provide that paragraph (h)(4), which requires a written agreement from the purchaser that the securities will not be sold without registration or an exemption therefrom, will not apply to business combinations because of the difficulty of obtaining such an agreement in some cases where the purchasers are a group over which the issuer has no control. The securities acquired are restricted, however, in the same manner as other securities acquired pursuant to the Rule, and the issuer, for its own protection, should consider obtaining appropriate letters. The Rule also provides that the issuer must, in connection with the information furnished pursuant to paragraph (e)(3), inform each offeree in writing about any terms of the transaction relating to any security holder that are not proposed to be identical to those relating to all other security holders (paragraph (f)(4)).

The rule as proposed contained a provision that certain written communications would be deemed not to be "offers" for purposes of a business combination. We have deleted this provision since we believe it is no longer relevant in view of new paragraph (f)(3).

Rule 146(g): Number of purchasers. The Rule as last proposed provided that in any consecutive twelve month period there could be no more than thirty-five persons who purchased securities of the issuer of the same or similar class pursuant to the rule, or otherwise in reliance on section 4(2). The proposed rule also set forth various classes of purchasers who would not be included in counting the thirty-five. The Commission has decided that the thirty-five purchasers in twelve month test is too rigid and involves too many exceptions to be useful. In addition, it would have made it difficult for an issuer to know when the rule was available since it would have had to wait twelve months after every sale. Therefore, as described under Rule 146(b), "Conditions to be Met," the Rule is now based on the traditional concept of "an offering" and paragraph (g)(1) now requires that there be no more than thirty-five purchasers in any offering pursuant to the Rule. In order to determine what constitutes "an offering," reference would have to be made to the traditional integration standards, as set forth in a Preliminary Note. In addition, subparagraph (b)(1) of the Rule provides a safe harbor for certain offers and sales. Reliance on the traditional integration standards means that the various exclusions for directors and officers, bank lenders, subsidiaries, employee plans and business combinations are no longer necessary. The specific exclusions were only necessary when all sales of the same or similar class of securities during a twelve month period were automatically integrated.

In the Rule as adopted there are specific provisions for calculating the thirty-five purchasers. Paragraph (g)(2)(i) of the Rule, as adopted, indicates that for purposes of computing the number of purchasers, some purchasers would be excluded: certain relatives of a purchaser, trusts and estates in which the purchaser and such relatives own all of the beneficial interest and corporations or other organizations in which the purchaser and such relatives are beneficial owners of all of each class of equity securities or all of the equity interest. As in the rule as last proposed, for purposes only of counting the number of purchasers, those who purchase or agree in writing to purchase, for cash in a single payment or installments, securities for $150,000 or more would be excluded. However, the issuer would have to satisfy all the other provisions of the Rule with respect to such persons.

Paragraph (g)(2)(ii) provides that corporations, partnerships, trusts and certain other entities will be counted as one purchaser unless the entity was formed for the specific purpose of acquiring the securities offered, in which case each beneficial owner of an equity interest in the entity would be counted as a separate purchaser.

The rule as proposed would have treated clients of an investment adviser as separate persons in determining the number of persons to whom securities could be sold, regardless of the amount of discretion given to the investment adviser to act on behalf of the client in purchasing securities. The Commission received many comments suggesting that an investment adviser, broker-dealer or trust department that purchases securities for discretionary or advisory accounts should count as only one person for purposes of the Rule. Having reviewed the comments and considered the matter, the Commission still believes that, in order to avoid the possibility of a distribution, it is necessary to count each purchaser as a separate person for purposes of paragraph (g). This position is now set forth in Preliminary Note 5, discussed above. In determining the number of purchasers in an offering pursuant to the Rule each client of an investment adviser, each customer of a broker-dealer and each trust administered by a bank trust department will be counted as a separate purchaser. Pursuant to paragraph (g)(2)(ii), investment companies or pension or other trusts will be counted on one purchaser. However, each trust or investment company or group of trusts or investment companies under common management will be treated as a separate purchaser.

Rule 146(h): limitations on disposition. The Rule also provides that the issuer and any person acting on its behalf must take reasonable care to assure that the purchasers are not underwriters. Such reasonable care shall include but is not necessarily limited to (1) making reasonable inquiry to determine if the purchaser is purchasing for his own account or on behalf of others; (2) placing a legend on the certificates or other documents evidencing the securities indicating that they were not registered and setting forth or referring to the restrictions on transferability and sale; (3) issuing stop transfer instructions to the transfer agent, if any, or making an appropriate notation in the issuer's records if the issuer transfers its own securities; and (4) except as provided in paragraph (f)(2), obtaining a written agreement from the purchaser that the securities will not be resold without registration or exemption therefrom. The Commission believes that these limitations are necessary in order to protect the public from a deferred distribution. They are also in the self interest of the issuer.

Deletion of proposed rule 146(i): report of sale. The Commission has decided to delete the requirement that a report of sales made pursuant to Rule 146 be filed on Form 146. As the rule was last proposed, a report of sales had to be filed within 45 days after the end of any quarter of the issuer's fiscal year during which certain sales were effected pursuant to the proposed Rule. The Commission has determined that requiring the filing of such a Form as a condition of the Rule would unnecessarily increase the difficulty of complying with the Rule for many small issuers. In addition, filing requirements would generally affect only non-public companies, since public companies already supply similar information in their Form 10-Q and Form 10-K filings under the Exchange Act. The Commission will reexamine the need for a filing requirement after experience with the Rule has been gained, and if appropriate for the protection of investors and in the public interest, will propose amendments to the Rule to require such form.

Operation of Rule 146

The Rule will operate prospectively only starting from its effective date, June 10, 1974. Further, the staff will issue interpretive letters to assist persons in complying with the Rule. Although the staff will continue to consider no-action requests relating to section 4(2) of the Act, such letters will only be issued infrequently and only in the most compelling circumstances.

The Commission recognizes that no one rule adequately cover all legitimate private offerings and sales of securities. It is to be emphasized that the Rule does not provide the exclusive means for offering and selling securities in reliance on section 4(2). Issuers who satisfy the criteria set forth in relevant judicial and administrative interpretations of section 4(2) in effect at the time of a proposed transaction may offer and sell without compliance with the Rule. In addition, it should be noted that attempted compliance with Rule 146 does not act as an election so that the issuer can always claim the protection of both the Rule and section 4(2), but will have the burden of proving the availability of the exemption.

The courts and the Commission have consistently held that one claiming an exemption under section 4(2) of the Act has the burden of proving that the exemption is available to him and the Rule

does not shift that burden. In addition, it should be pointed out that the burden of proof applies with respect to each offeree and not just to the purchasers of the securities. See Lively v. Hirschfeld, 440 F. 2d 631 (10th Cir. 1971). Accordingly, any issuer who relies on the Rule has the burden of establishing that it has satisfied all the conditions of the Rule. Such issuer for its own protection should obtain and retain in its files written evidence that would assist in meeting this evidentiary burden.

The Commission has determined not to include within the terms and conditions of Rule 146 specific standards for determining whether a private offering should be regarded as a part of a larger public offering for which the exemption provided by section 4(2) would not be available. The Commission rather has determined that its existing guidelines relating to integration of offerings as set forth in Securities Act Release No. 4552 (27 FR 11316)* should apply to offerings made pursuant to Rule 146. The Commission believes that the following factors discussed in that Release are relevant to the question of integration: Whether (1) The offerings are part of a single plan of financing, (2) the offerings involve issuance of the same class of security, (3) the offerings are made at or about the same time, (4) the same type of consideration is to be received, and (5) the offerings are made for the same general purpose.

In view of the objectives and policies underlying the Act, the Rule is not available to any issuer with respect to any transaction which, although in technical compliance with the provisions of the Rule, is part of a plan or scheme to evade the registration provisions of the Act. In such case, registration is required.

Rule 146 relates to transactions exempted by section 4(2) of the Act from the registration provisions of section 5; it does not provide an exemption from the anti-fraud provisions of the securities laws or the civil liabilities provisions of section 12(2) of the Act or other provisions of the securities laws. In addition, investment companies or persons acting on their behalf proposing to offer or sell securities in reliance on the Rule should carefully consider all applicable provisions of the Investment Company Act of 1940 before proceeding.

The Rule is available only to the issuer of the securities and not to affiliates or other persons reselling or otherwise disposing of securities of the issuer. Such disposition must be made in compliance with the registration provisions of the Act unless an exemption from such provisions is available. Also, the Rule does not relieve issuers of their obligations under relevant state laws.

It should be recognized that the Rule is intended to be in the nature of an experiment and that the Commission will observe its operation to determine whether it is consistent with the objectives of the Act. If experience with the proposed Rule indicates that it is not operating for the protection of investors or in the public interest, it will be rescinded or appropriately amended.

Section 230.146 is added to 17 CFR Part 230 to read as follows:

§ 230.146 Transactions by an issuer deemed not to involve any public offering.

PRELIMINARY NOTES

1. The Commission recognizes that no one rule can adequately cover all legitimate private offers and sales of securities. Transactions by an issuer which do not satisfy all of the conditions of this rule shall not raise any presumption that the exemption provided by section 4(2) of the Act is not available for such transactions. Issuers wanting to rely on that exemption may do so by complying with administrative and judicial interpretations in effect at the time of the transactions. Attempted compliance with this rule does not act as an election; the issuer can also claim the availability of section 4(2) outside the rule.

2. Nothing in this rule obviates the need for compliance with any applicable state law relating to the offer and sale of securities.

3. Section 5 of the Act requires that all securities offered by the use of mails or other channels of interstate commerce be registered with the Commission. Congress, however, provided certain exemptions in the Act from such registration provisions where there was no practical need for registration or where the public benefits of registration were too remote. Among these exemptions is that provided by section 4(2) of the Act for transactions by an issuer not involving any public offering. The courts and the Commission have interpreted the section 4(2) exemption to be available for offerings to persons who have access to the same kind of information that registration would provide and who are able to fend for themselves. The indefiniteness of such terms as "public offering," "access" and "fend for themselves" has led to uncertainties with respect to the availability of the section 4(2) exemption. Rule 146 is designed to provide, to the extent feasible, objective standards upon which responsible businessmen may rely in raising capital under claim of the section 4(2) exemption and also to deter reliance on that exemption for offerings of securities to persons who need the protections afforded by the registration process.

In order to obtain the protection of the rule, all its conditions must be satisfied and the issuer claiming the availability of the rule has the burden of establishing, in an appropriate form, that it has satisfied them. The burden of proof applies with respect to each offeree as well as each purchaser. See "Lively v. Hirschfeld," 440 F. 2d 631 (10th Cir. 1971). Broadly speaking, the conditions of the rule relate to limitations on the manner of the offering, the nature of the offerees, access to or furnishing of information, the number of purchasers, and limitations on disposition.

The term "offering" is not defined in the rule. The determination as to whether offers, offers to sell, offers for sale, or sales of securities are part of an offering (i.e., are deemed to be "integrated") depends on the particular facts and circumstances. See Securities Act Release No. 4552 (November 6, 1962) (27 FR 11316). All offers, offers to sell, offers for sale, or sales which are part of an offering must meet all of the conditions of Rule 146 for the rule to be available. Release 33-4552 indicates that in determining whether offers and sales should be regarded as a part of a larger offering and thus should be integrated, the following factors should be considered:

(a) Whether the offerings are part of a single plan of financing;

(b) Whether the offerings involve issuance of the same class of security;

(c) Whether the offerings are made at or about the same time;

(d) Whether the same type of consideration is to be received; and

(e) Whether the offerings are made for the same general purpose.

4. Rule 146 relates to transactions exempted from section 5 by Section 4(2) of the Act. It does not provide an exemption from the anti-fraud provisions of the securities laws or the civil liability provisions of section 12(2) of the Act or other provisions of the securities laws, including the Investment Company Act of 1940.

5. Clients of an investment adviser, customers of a broker or dealer, trusts administered by a bank trust department or persons with similar relationships shall be considered to be the "offerees" or "purchasers" for purposes of the rule regardless of the amount of discretion given to the investment adviser, broker or dealer, bank trust department or other person to act on behalf of the client, customer or trust.

6. The rule is available only to the issuer of the securities and is not available to affiliates or other persons for sales of the issuer's securities.

7. Finally, in view of the objectives of the rule and the purposes and policies underlying the Act, the rule is not available to any issuer with respect to any transactions which, although in technical compliance with the rule, are part of a plan or scheme to evade the registration provisions of the Act. In such cases registration pursuant to the Act is required.

(a) *Definitions.* The following definitions shall apply for purposes of this rule.

(1) *Offeree representative.* The term "offeree representative" shall mean any person or persons, each of whom the issuer and any person acting on its behalf, after making reasonable inquiry, have reasonable grounds to believe and believe satisfies all of the following conditions:

(i) Is not an affiliate, director, officer or other employee of the issuer, or beneficial owner of 10 percent or more of any class of the equity securities or 10 percent or more of the equity interest in the issuer, except where the offeree is:

(*a*) Related to such person by blood, marriage or adoption, no more remotely than as first cousin;

(*b*) Any trust or estate in which such person or any persons related to him as specified in paragraph (a)(1)(i) (*a*) or (*c*) of this section collectively have 100 percent of the beneficial interest (excluding contingent interests) or of which any such person serves as trustee, executor, or in any similar capacity; or

(*c*) Any corporation or other organization in which such person or any persons related to him as specified in paragraph (a)(1)(i) (*a*) or (*b*) of this section collectively are the beneficial owners of 100 percent of the equity securities (excluding directors' qualifying shares) or equity interest;

(ii) Has such knowledge and experience in financial and business matters that he, either alone, or together with other offeree representatives or the offeree, is capable of evaluating the

*Issued November 6, 1962.

merits and risks of the prospective investment;

(iii) is acknowledged by the offeree, in writing, during the course of the transaction, to be his offeree representative in connection with evaluating the merits and risks of the prospective investment; and

(iv) discloses to the offeree, in writing, prior to the acknowledgement specified in paragraph (a)(1)(iii) of this section, any material relationship between such person or its affiliates and the issuer or its affiliates, which then exists or is mutually understood to be contemplated or which has existed at any time during the previous two years, and any compensation received or to be received as a result of such relationship.

NOTE 1: Persons acting as offeree representatives should consider the applicability of the registration and anti-fraud provisions relating to brokers and dealers under the Securities Exchange Act of 1934 and relating to investment advisers under the Investment Advisers Act of 1940.

NOTE 2: The acknowledgement required by paragraph (a)(1)(iii) of this section and the disclosure required by paragraph (a)(1)(iv) of this section must be made with specific reference to each prospective investment. Advance blanket acknowledgment, such as for "all securities transactions" or "all private placements", is not sufficient.

NOTE 3: Disclosure of any material relationships between the offeree representative or its affiliates and the issuer or its affiliates does not relieve the offeree representative of its obligation to act in the interest of the offeree.

(2) *Issuer.* The definition of the term "issuer" in section 2(4) of the Act shall apply, provided that notwithstanding that definition, in the case of a proceeding under the Bankruptcy Act, the trustee, receiver, or debtor in possession shall be deemed to be the issuer in an offering for purposes of a plan of reorganization or arrangement, if the securities offered are to be issued pursuant to the plan, whether or not other like securities are offered under the plan in exchange for securities of, or claims against, the debtor.

(3) *Affiliate.* The term "affiliate" of a person means a person that directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with such person.

(4) *Material.* The term "material" when used to modify "relationship" means any relationship that a reasonable investor might consider important in the making of the decision whether to acknowledge a person as his offeree representative.

(b) *Conditions to be met.* Transactions by an issuer involving the offer, offer to sell, offer for sale or sale of securities of the issuer that are part of an offering that is made in accordance with all the conditions of this rule shall be deemed to be transactions not involving any public offering within the meaning of section 4(2) of the Act.

(1) For purposes of this rule only, an offering shall be deemed not to include offers, offers to sell, offers for sale or sales of securities of the issuer pursuant to the exemptions provided by section 3 or section 4(2) of the Act or pursuant to a registration statement filed under the Act, that take place prior to the six month period immediately preceding or after the six month period immediately following any offers, offers for sale or sales pursuant to this rule, *Provided,* That there are during neither of said six month periods any offers, offers for sale or sales of securities by or for the issuer of the same or similar class as those offered, offered for sale or sold pursuant to the rule.

NOTE: In the event that securities of the same or similar class as those offered pursuant to the rule are offered, offered for sale or sold less than six months prior to or subsequent to any offer, offer for sale or sale pursuant to the rule, see Preliminary Note 3 hereof as to which offers, offers to sell, offers for sale or sales may be deemed to be part of the offering.

(c) *Limitations on manner of offering.* Neither the issuer nor any person acting on its behalf shall offer, offer to sell, offer for sale, or sell the securities by means of any form of general solicitation or general advertising, including but not limited to, the following:

(1) Any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast over television or radio;

(2) Any seminar or meeting, except that if paragraph (d)(1) of this section is satisfied as to each person invited to or attending such seminar or meeting, and, as to persons qualifying only under paragraph (d)(1)(ii) of this section, such persons are accompanied by their offeree representative(s), then such seminar or meeting shall be deemed not to be a form of general solicitation or general advertising; and

(3) Any letter, circular, notice or other written communication, except that if paragraph (d)(1) of this section is satisfied as to each person to whom the communication is directed and the communication contains an undertaking to provide the information specified by paragraph (e)(1) of this section on request, such communication shall be deemed not to be a form of general solicitation or general advertising.

(d) *Nature of offerees.* The issuer and any person acting on its behalf who offer, offer to sell, offer for sale or sell the securities shall have reasonable grounds to believe and shall believe:

(1) Immediately prior to making any offer, either:

(i) That the offeree has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or

(ii) That the offeree is a person who is able to bear the economic risk of the investment; and

(2) Immediately prior to making any sale, after making reasonable inquiry, either:

(i) That the offeree has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or

(ii) That the offeree and his offeree representative(s) together have such knowledge and experience in financial and business matters that they are capable of evaluating the merits and risks of the prospective investment and that the offeree is able to bear the economic risk of the investment.

(e) *Access to or furnishing of information.*

NOTE: Access can only exist by reason of the offeree's position with respect to the issuer. Position means an employment or family relationship or economic bargaining power that enables the offeree to obtain information from the issuer in order to evaluate the merits and risks of the prospective investment.

(1) Either

(i) Each offeree shall have access during the course of the transaction and prior to the sale to the same kind of information that is specified in Schedule A of the Act, to the extent that the issuer possesses such information or can acquire it without unreasonable effort or expense; or

(ii) Each offeree or his offeree representative(s), or both, shall have been furnished during the course of the transaction and prior to sale, by the issuer or any person acting on its behalf, the same kind of information that is specified in Schedule A of the Act, to the extent that the issuer possesses such information or can acquire it without unreasonable effort or expense. This condition shall be deemed to be satisfied as to an offeree if the offeree or his offeree representative is furnished with information, either in the form of documents actually filed with the Commission or otherwise, as follows:

(*a*) In the case of an issuer that is subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934:

(*1*) The information contained in the annual report required to be filed under the Exchange Act or a registration statement on Form S-1 under the Act or on Form 10 under the Exchange Act, whichever filing is the most recent required to be filed, and the information contained in any definitive proxy statement required to be filed pursuant to section 14 of the Exchange Act and in any reports or documents required to be filed by the issuer pursuant to section 13(a) or 15(d) of the Exchange Act, since the filing of such annual report or registration statement, and

(*2*) A brief description of the securities being offered, the use of the proceeds from the offering, and any material changes in the issuer's affairs which are not disclosed in the documents furnished;

(*b*) In the case of all other issuers, the information that would be required to be included in a registration statement filed under the Act on the form which the issuer would be entitled to use, *Provided, however,* That if the issuer

does not have the audited financial statements required by such form and cannot obtain them without unreasonable effort or expense, such financial statements may be provided on an unaudited basis;

(c) Notwithstanding paragraph (e)(1)(ii) (a) and (b) of this section exhibits required to be filed with the Commission as part of a registration statement or report need not be furnished to each offeree or offeree representative if the contents of the exhibits are identified and such exhibits are available pursuant to paragraph (e)(2) of this section; and

(2) The issuer shall make available, during the course of the transaction and prior to sale, to each offeree or his offeree representative(s) or both, the opportunity to ask questions of, and receive answers from, the issuer or any person acting on its behalf concerning the terms and conditions of the offering and to obtain any additional information, to the extent the issuer possesses such information or can acquire it without unreasonable effort or expense, necessary to verify the accuracy of the information obtained pursuant to paragraph (e)(1) of this section; and

(3) The issuer or any person acting on its behalf shall disclose to each offeree, in writing, prior to sale:

(i) Any material relationship between his offeree representative(s) or its affiliates and the issuer or its affiliates, which then exists or mutually is understood to be contemplated or which has existed at any time during the previous two years, and any compensation received or to be received as a result of such relationship;

(ii) That a purchaser of the securities must bear the economic risk of the investment for an indefinite period of time because the securities have not been registered under the Act and, therefore, cannot be sold unless they are subsequently registered under the Act or an exemption from such registration is available; and

(iii) The limitations on disposition of the securities set forth in paragraph (h)(2), (3), and (4) of this section.

NOTE: Information need not be provided and opportunity to obtain additional information need not be continued to be provided to any offeree or offeree representative who, during the course of the transaction, indicates that he is not interested in purchasing the securities offered, or, except in the case of any undertaking made pursuant to paragraph (c)(3), to whom the issuer or any person acting on its behalf has determined not to sell the securities.

(f) *Business combinations.* (1) The term "business combination" shall mean any transaction of the type specified in paragraph (a) of Rule 145 under the Act.

(2) All the conditions of this rule except paragraph (d) and paragraph (h)(4) of this section shall apply to business combinations.

NOTE: Notwithstanding the absence of a written agreement pursuant to paragraph (h)(4), any securities acquired in an offering pursuant to paragraph (f) are restricted and may not be resold without registration under the Act or an exemption therefrom.

(3) For purposes of paragraph (f) only, the issuer and any person acting on believe, and shall believe, at the time that any plan for a business combination is submitted to security holders for their approval, that each offeree either alone or with his offeree representative(s) has such knowledge and experience in financial and business matters that he is or they are capable of evaluating the merits and risks of the prospective investment.

(4) In addition to information by paragraph (e), the issuer shall provide, in writing, to each offeree at the time the plan is submitted to security holders for approval, information about any terms or arrangements of the proposed transaction relating to any security holder that are not identical to those relating to all other security holders.

(g) *Number of purchasers.* (1) There shall be no more than thirty-five purchasers of the securities of the issuer from the issuer in any offering pursuant to the rule.

NOTE: See paragraph (b)(1) of this section, the note thereto and the Preliminary Notes as to what may or may not constitute an offering pursuant to the rule.

(2) For purposes of computing the number of purchasers for paragraph (g)(1) of this section only:

(i) The following purchasers shall be excluded:

(a) Any relative or spouse of a purchaser and any relative of such spouse, who has the same home as such purchaser; and

(b) Any trust or estate in which a purchaser or any of the persons related to him as specified in paragraph (g)(2)(i) (a) or (c) of this section collectively have 100 percent of the beneficial interest (excluding contingent interests);

(c) Any corporation or other organization of which a purchaser or any of the persons related to him as specified in paragraph (g)(2)(i) (a) or (b) of this section collectively are the beneficial owners of all the equity securities (excluding directors' qualifying shares) or equity interest; and

(d) Any person who purchases or agrees in writing to purchase for cash in a single payment or installments, securities of the issuer in the aggregate amount of $150,000 or more.

NOTE: The issuer would have to satisfy all the other provisions of the rule with respect to the purchasers specified in subdivision (g)(2)(i).

(ii) There shall be counted as one purchaser any corporation, partnership, association, joint stock company, trust or unincorporated organization, except that if such entity was organized for the specific purpose of acquiring the securities offered, each beneficial owner of equity interests or equity securities in such entity shall count as a separate purchaser.

NOTE: *See* Preliminary Note 5 as to other persons who are considered to be purchasers.

(h) *Limitations on disposition.* The issuer and any person acting on its behalf shall exercise reasonable care to assure that the purchasers of the securities in the offering are not underwriters within the meaning of section 2(11) of the Act. Such reasonable care shall include, but not necessarily be limited to, the following:

(1) Making reasonable inquiry to determine if the purchaser is acquiring the securities for his own account or on behalf of other persons;

(2) Placing a legend on the certificate or other document evidencing the securities stating that the securities have not been registered under the Act and setting forth or referring to the restrictions on transferability and sale of the securities;

(3) Issuing stop transfer instructions to the issuer's transfer agent, if any, with respect to the securities, or, if the issuer transfers its own securities, making a notation in the appropriate records of the issuer; and

(4) Obtaining from the purchaser a signed written agreement that the securities will not be sold without registration under the Act or exemption therefrom.

NOTE: Paragraph (h)(4) of this section does not apply to business combinations as described in paragraph (f) of this section. Notwithstanding the absence of a written agreement, the securities are restricted and may not be resolved without registration under the Act or an exemption therefrom. The issuer for its own protection should consider, however, obtaining such written agreement even in business combinations.

The Commission hereby adopts Rule 146 pursuant to sections 4(2) and 19(a) of the Securities Act of 1933, as amended, effective June 10, 1974 for offerings commencing on or after that date. The Commission finds that the changes reflected in the Rule as adopted, from the rule as last proposed for comment, are technical or generally have already been subject to public comment, and that further notice and other rule making procedures pursuant to the Administrative Procedure Act are not necessary.

(Secs. 4(2), 19(a), 48 Stat. 77, 85, sec. 209, 48 Stat. 908, sec. 12, 78 Stat. 580 (15 U.S.C. 77d(2), 77s(a)))

Effective date: June 10, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 23, 1974.

[FR Doc.74-10079 Filed 5-1-74;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Food Label Information Panel; Exemptions for Small Food Packages

In the FEDERAL REGISTER of December 5, 1973 (38 FR 33492), the Commissioner of Food and Drugs published proposed exemptions from the type size requirements

of § 1.8d (21 CFR 1.8d) for small packages. Six comments, four from industry and two from trade associations, were received in response to the proposal. One comment agreed with the proposal. The other comments requested clarification and/or an expansion of the proposed exemptions to encompass additional package types. The points raised and the Commissioner's responses are as follows:

1. One comment requested that the proposed § 1.8d(c)(2), which provides an exemption for packages with a single, obvious principal display panel of less than 12 square inches and no other available surface area, be expanded to include packages with a total surface area of less than 10 square inches.

The Commissioner recognizes that small packages with a total area of less than 12 square inches available for labeling would have no more space available for labeling than those packages with a single, obvious principal display panel of the same area. Section 1.8d(c)(2) was intended to encompass such packages with a total surface area of less than 12 square inches. To clarify this intention, § 1.8d(c) is modified to include a new paragraph (c)(3) providing for such packages.

2. One comment objected because the exemption would not encompass those packages bearing spot labels too small to include labeling in the type size required by § 1.8d. This comment asserted that spot labels large enough to contain all of the necessary information could not be used on some packages if a type size greater than 1/32 inch is required.

The Commissioner recognizes that certain small packages have available surface area that is insufficient in size to bear all information pursuant to § 1.8d in the required type size. Therefore, packages with either a total surface area of less than 12 square inches, or a single obvious principal display panel of less than 12 square inches are exempt from the 1/16 inch type requirement of § 1.8d provided that the information required by 1.8d is not less than 1/32 inch in height. In addition, other small packages meeting the qualifications of § 1.8d(c)(1) are exempted from the 1/16 inch type size if the required information is not less than 3/64 inch in height. However, for packages larger than those provided for by § 1.8d (c), the Commissioner advises, as he did in the preamble to the proposal, that there is not justification for granting exemptions because of small label size when available container or package surface area has not been fully utilized. No exemptions will be given for spot labels that are not sufficient in size, or the size of which is not in accordance with § 1.7 (21 CFR 1.7).

3. One comment requested that § 1.8d (c)(1) be amended to provide for a type size of 1/32 inch rather than 3/64 inch because the requirement for this additional type size serves no useful function. It was argued that the difference between 1/32 inch and 3/64 inch does not seem sufficiently great to justify an additional size.

The regulation grants a reduction in the type size required by § 1.8d only to the extent necessary to accommodate the size of the package. The Commissioner concluded, when he proposed § 1.8d(c), that packages provided for by § 1.8d(c)(1) are sufficient in size to bear information required by § 1.8d in 3/64 inch. Information submitted in the comment was insufficient to demonstrate that the packages are too small to bear labeling in the required 3/64 inch size or that there is no benefit in a type size as large as practical.

4. Two comments requested clarification regarding the determination of the area of the principal display panel of tub type containers. The argument was made that a tub lid cannot bear printing closer than 1/4 inch from the edge of the lid, and therefore that, in determining the area of the principal display panel, only the printable surface should be considered.

The Commissioner recognizes that it is the area of surface available for labeling which determines the size of the type possible for labeling, and § 1.8d(c)(1)(ii) and (2)(ii) have been changed accordingly.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 403, 701(a), 52 Stat. 1048, 1055 (21 U.S.C. 343), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 1 is amended in § 1.8d by adding thereto new paragraph (c)(1), (2), and (3) to read as follows:

§ 1.8d Food labeling; information panel.

* * * * *

(c) * * *

(1) Packaged foods are exempt from the type size requirements of this paragraph: *Provided*, That:

(i) The package is designed such that it has a surface area that can bear an information panel and/or an alternate principal display panel.

(ii) The area of surface available for labeling on the principal display panel of the package as this term is defined in § 1.7 is less than 10 square inches.

(iii) The label information includes nutrition information and a full list of ingredients in accordance with regulations in this part and the policy expressed in § 3.88 of this chapter.

(iv) The information required by paragraph (b) of this section appears on the principal display panel or information panel label in accordance with the provisions of this paragraph (c) except that the type size is not less than 3/64 inch in height.

(2) Packaged foods are exempt from the type size requirements of this paragraph: *Provided*, That:

(i) The package is designed such that it has a single "obvious principal display panel" as this term is defined in § 1.7 and has no other available surface area for an information panel or alternate principal display panel.

(ii) The area of surface available for labeling on the principal display panel of the package as this term is defined in § 1.7 is less than 12 square inches and bears all labeling appearing on the package.

(iii) The label information includes nutrition information and a full list of ingredients in accordance with regulations in this part and the policy expressed in § 3.88 of this chapter.

(iv) The information required by paragraph (b) of this section appears on the single, obvious principal display panel in accordance with the provisions of this paragraph (c) except that the type size is not less than 1/32 inch in height.

(3) Packaged foods are exempt from the type size requirements of this paragraph: *Provided*, That:

(i) The package is designed such that it has a total surface area available to bear labeling of less than 12 square inches.

(ii) The label information includes nutrition information and a full list of ingredients in accordance with regulations in this part and the policy expressed in § 3.88 of this chapter.

(iii) The information required by paragraph (b) of this section appears on the principal display panel or information panel label in accordance with the provisions of this paragraph (c) except that the type size is not less than 1/32 inch in height.

* * * * *

Effective date. This order shall become effective on June 3, 1974.

(Secs. 403, 701(a), 52 Stat. 1048, 1055; (21 U.S.C. 343, 371(a).))

Dated: April 26, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10044 Filed 5-1-74;8:45 am]

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Ozone Generators and Other Devices Generating Ozone; Correction

In FR Doc. 74-8754 appearing at page 13773 in the FEDERAL REGISTER of April 17, 1974, the statement in the eighth line of paragraph (c)(1) of § 3.93 appearing in the second column on page 13774, which reads "76 millimeters of mercury", is corrected to read "760 millimeters of mercury".

Dated: April 26, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10043 Filed 5-1-74;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

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

Anhydrous Ammonia

The Commissioner of Food and Drugs having evaluated the data submitted in

the petition (MF-3451V) filed by Ruminant Nitrogen Products Co., P.O. Box 206, Adrian, MI 49221, and other relevant material, concludes that the food additive regulations (21 CFR Part 121) should be amended to provide for the safe use of anhydrous ammonia in molasses mineral premixes for addition to corn silage for cattle feed.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; (21 U.S.C. 348(c)(1))), and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding thereto in Subpart C the following new section:

§ 121.209 Anhydrous ammonia.

The food additive anhydrous ammonia may be safely used in accordance with the following conditions:

(a) The food additive is used as a component of an aqueous premix which includes ammonia, molasses and minerals so that the premix contains not less than 16 percent nor more than 17 percent ammonia and not less than 83 percent crude protein.

(b) The premix is used or intended for use for mixing with corn plant material prior to ensiling, as a source of nonprotein nitrogen and minerals.

(c) To assure safe use, the label and labeling of the premix shall bear, in addition to the other information required by the act, the following:

(1) The name of the additive.

(2) A statement of the quantity of ammonia contained therein.

(3) The maximum percentage of equivalent crude protein from non-protein nitrogen.

(4) An expiration date that is not more than 10 weeks following the date of its manufacture.

(5) A statement that silage treated with the additive is to be fed to cattle only.

(6) A statement that additional protein should not be fed to lactating dairy cows producing less than 32 pounds of milk per day, or beef cattle consuming less than 1 percent of body weight daily in shelled corn.

(7) A warning statement to read as follows: "Warning—Use only as directed; additional trace mineral supplementation should not be fed with treated silage".

Any person who will be adversely affected by the foregoing order may at any time on or before June 3, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective May 2, 1974.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: April 26, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10046 Filed 5-1-74;8:45 am]

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Sulfadimethoxine

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (13-602V) filed by Haver-Lockhart Laboratories, Kansas City, MO 64141, proposing revised labeling for safe and effective use of sulfadimethoxine tablets in the treatment of certain bacterial infections in dogs. The supplemental application is approved. Accordingly, 21 CFR 135c.13(b) is being amended to add an additional sponsor.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), § 135c.13 is amended by adding a new paragraph (b)(4) to read as follows:

§ 135c.13 Sulfadimethoxine.

* * * * *

(b) *Sponsor.* * * *

(4) For item 2 in table 2, paragraph (e), see Code No. 074 in § 135.501(c) of this chapter, for dogs only.

* * * * *

Effective date. This order shall be effective May 2, 1974.

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

Dated: April 25, 1974.

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

[FR Doc.74-10045 Filed 5-1-74;8:45 am]

PART 135—NEW ANIMAL DRUGS

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

Tylosin

The Commissioner of Food and Drugs has evaluated the following new animal drug applications proposing the safe and effective use of tylosin premix in the manufacture of animal feed:

Alton Premium Feed Co., Alton, IA 51003 (48-766V);
Cadco, Inc., Des Moines, IA 50322 (91-783V);
Farmers Union Grain Terminal Association, Sioux Falls, SD 57101 (96-160V);
Feed Fortifiers, Inc., Manson, IA 50563 (93-518V);
International Nutrition, Inc., Omaha, NE 68117 (95-551V);
Ralston Purina, St. Louis, MO 63199 (49-190V, 43-541V, 43-387V);
Yoder, Inc., Kalona, IA 52247 (96-161V);
Heinold Elevator Co., Inc., Kouts, IN 46347 (95-628V).

The applications filed by the applicants listed above are approved.

To facilitate referencing, those firms not previously assigned numbers are being assigned code numbers and placed in the list of firms in § 135.501(c) (21 CFR 135.501(c)).

Section 135e.10 is being amended in paragraph (b) to list the premix levels approved and in paragraph (d) to provide that finished swine feeds processed from premixes containing not more than 10 grams per pound need not comply with the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135 and 135e are amended as follows:

1. In Part 135 by adding to § 135.501 (c) new sponsors as follows:

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

* * * * *

(c) * * *

Code No.	*Firm name and address*
*	* * * *
106	Feed Fortifiers, Inc., Manson, IA 50563.
107	International Nutrition, Inc., 6664 L St., Omaha, NE 68117.
108	Cadco, Inc., P.O. Box 3599, 10100 Douglas Ave., Des Moines, IA 50322.
109	Heinold Elevator Co., Inc., Kouts, IN 46347.
*	* * * *
111	Alton Premium Feed Co., Alton, IA 51003.
112	Farmer's Union Grain Terminal, Association, Feed Division, P.O. Box 1447, Sioux Falls, SD 57101.
113	Yoder, Inc., Kalona, IA 52247.

2. In Part 135e by revising § 135e.10 (b) and (d) to read as follows:

§ 135e.10 Tylosin.

* * * * *

(b) *Approvals.* Premix levels of tylosin granted to firms as sponsor(s) and identified by code numbers in § 135.501 (c) of this chapter for the specific usage indicated in paragraph (f) of this section:

(1) To 014: 10, 40, and 100 grams per pound; items 1 through 11.

(2) To 106: 10 grams per pound; item 4.

(3) To 107: 4 and 10 grams per pound; item 4.

(4) To 108: 10 grams per pound; item 4.

(5) To 047: 0.4, 0.8, 10 and 40 grams per pound; item 4.

(6) To 111: 0.66, 1.33, 6.66 grams per pound; item 4.

(7) To 112: 0.4 grams per pound; item 4.

(8) To 113: 4 grams per pound; item 4.

(9) To 109: 4 and 10 grams per pound; item 4.

* * * * *

(d) *Special considerations.* The manufacture of finished feeds containing tylosin phosphate) does not require compliance with the provisions of section 512 (m) of the Federal Food, Drug, and Cosmetic Act if:

(1) Processed from feed supplements or concentrates for:

(i) Chickens at not more than 200 grams per ton.

(ii) Swine at not more than 500 grams per ton.

(iii) Cattle at not more than 360 grams per ton and complying with item 11 in the table in paragraph (f)(1) of this section.

(2) Processed from premixes which contain not more than 10 grams of tylosin per pound and conforming to the provisions of item 4 in the table in paragraph (f)(1) of this section.

* * * * *

Effective date. This order shall be effective May 2, 1974..

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

Dated: April 25, 1974.

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

[FR Doc.74-10042 Filed 5-1-74;8:45 am]

Title 29—Labor

CHAPTER I—NATIONAL LABOR RELATIONS BOARD

PART 102—RULES AND REGULATIONS, SERIES 8

Unavailability of Administrative Law Judges

By virtue of the authority vested in it by the National Labor Relations Act, approved July 5, 1935, the National Labor Relations Board hereby issues the following further amendment to its rules and regulations, Series 8, as amended, which it finds necessary to carry out the provisions of said Act.

Section 102.36 is amended to read as follows:

§ 102.36 **Unavailability of administrative law judges.**

In the event the administrative law judge designated to conduct the hearing becomes unavailable to the Board after the hearing has been opened, the chief administrative law judge, or the presiding judge, San Francisco, California, as the case may be, may designate another administrative law judge for the purpose of further hearing or other appropriate action.

(49 Stat. 449; 29 U.S.C. 151–166, as amended by act of June 23, 1947 (61 Stat. 136; 29 U.S.C. Sup. 151–167), act of October 22, 1951 (65 Stat. 601; 29 U.S.C. 158, 159, 168), and act of September 14, 1959 (73 Stat. 519; 29 U.S.C. 141–168).)

This amendment shall become effective May 2, 1974.

Dated, Washington, D.C., April 29, 1974.

By direction of the Board.

JOHN C. TRUESDALE,
Executive Secretary.

[FR Doc.74-10063 Filed 5-1-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-6 R]

PART 110—ANCHORAGE REGULATIONS

Special Anchorage Areas, Henderson Harbor, New York

This amendment to the Anchorage Regulations is based on a notice of proposed rulemaking published in the January 11, 1974 issue of the FEDERAL REGISTER (39 FR 1638). The amendment establishes two special anchorage areas in Henderson Harbor, New York. In special anchorage areas, vessels under 65 feet in length, when at anchor, are not required to carry or exhibit anchor lights.

Ninety-four comments were received as a result of the notice of proposed rulemaking. Ninety comments concurred with and supported the proposal. Four comments objected to the proposal.

One objection stated that boats anchored without lights would create a hazardous situation, especially for small outboard boats and water skiers. The objection also pointed out that in 1973 because of northeast winds, several boats broke their moorings and damaged private property. On the navigable waters of the United States, the public may exercise its right of navigation in a reasonable manner and this includes the rights of anchorage and moorage. The anchorage areas will be administered by the Town of Henderson Harbormaster who will have the responsibility to prescribe standards of safe ground tackle to prevent boats from parting their moorings and inflicting damage to private property.

Another adverse comment included the recommendation that covered stalls be constructed. This is not practicable for sailboats with high masts. The objection also stated that the establishment of the special anchorage areas would deprive shoreline property owners access to their property. The proposed anchorages provide ample access to shoreline property. The objection also stated that sailboat owners throw their garbage into the bay. There is a Federal law (33 U.S.C. 407) that prohibits the dumping of refuse into the navigable waters of the United States.

Two objections indicated that the Town of Henderson Harbormaster can exclude a non-member of the Henderson Harbor Yacht Club from the anchorages. As stated in the preamble of the notice of proposed rulemaking, special anchorage areas are for the general use of the public and vessels may not unreasonably be denied use of these areas. By providing that the Town of Henderson Harbormaster administer the anchorages, access to the anchorages by the public will be assured.

Another objection stated that boats moored in the area would interfere with safe ingress and egress to the private property which adjoins the Henderson Harbor Yacht Club. The proposal provides for a 300 foot clear access which will afford safe access to the property.

In consideration of the foregoing, the proposed amendment is adopted without change and is set forth below.

Effective date. This amendment is effective June 3, 1974.

APRIL 29, 1974.

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

Part 110 of Title 33 of the Code of Federal Regulations is amended by adding a new § 110.87 to read as follows:

§ 110.87 **Henderson Harbor, New York.**

(a) *Area A.* The area in the southern portion of Henderson Harbor west of the Henderson Harbor Yacht Club bounded by a line beginning at the point of land, approximately 150 feet west of the Graham Creek Range Rear Light; thence 180°, 50 feet; thence 275°, 810 feet; thence 000°, 1,500 feet; thence 090°, 700 feet; thence 177°, 1,250 feet to the point of land approximately 160 feet west of the Graham Creek Range Forward Light; thence along the shoreline to the point of beginning.

(b) *Area B.* The area in the southern portion of Henderson Harbor north of Graham Creek Entrance Light bounded by a line beginning at a point 000°, 700 feet from Graham Creek Entrance Light; thence 357°, 1,200 feet; thence 090°, 500 feet; thence 177°, 1,200 feet; thence 270°, 500 feet to the point of beginning.

NOTE: Permission must be obtained from the Town of Henderson Harbormaster before any vessel is moored or anchored in this special anchorage area.

(Sec. 1, 28 Stat. 647, as amended (33 U.S.C. 258); sec. 6(g)(1)(C), 80 Stat. 937 (49 U.S.C. 1655(g)(1)(C); 49 CFR 1.46(c)(3)))

[FR Doc.74-10037 Filed 5-1-74;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

TEMPORARY RATE CHARGES

Correction

In FR Doc. 74-8819 appearing at page 14202 in the issue for Monday, April 22, 1974, the following changes should be made:

1. The sequential order of the numerals on page 14203 under § 132.1 (a)(1) now reading "(i), (iii), (vi), (ii), (v), (iv)" should read "(i), (ii), (iii), (iv), (v), (vi)."

2. On page 14204 in the first column under § 132.1(b)(1)(ii)(*a*), in the second line, the letter "(*a*)" should read "(*b*)" and in paragraph (b)(1)(ii)(*b*), the first word should read "Publications".

3. On page 14207 in the first table (§ 135.1(d)), under "Each additional pound or fraction", insert the number "3" under *"Cents"*.

4. On page 14207 in the last table (§ 136.1(b)), under Zone 5, the last number now reading "22.07" should read "12.07".

5. On page 14208 in the table (§ 136.1(b)), the 21st, 22nd, and 23rd numbers, under zone 8, now reading "29.26", "30.82", and "30.64" should read "29.62", "30.24", and "30.86".

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts; Approval of Plan Revision

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act, the Administrator approved a plan implementing National Ambient Air Quality Standards for the State of Massachusetts. This publication contains the Administrator's approval/disapproval of a revision to that plan.

In a telegram dated December 7, 1973, sent to the owners of 26 utilities in the Northeastern United States, William E. Simon, Administrator, Federal Energy Office, urged them to convert their power plants to coal as soon as possible in order to help alleviate the oil shortage. The criteria used for compiling this list of 26 were: (a) Technical feasibility to convert to coal in the short-run; (b) minimal risk of violations of primary ambient air quality standards; and (c) estimated surge capacity of the coal industry to meet coal requirements for the plants selected. Although the Salem Harbor plant was not one of the original 26 plants listed, a similar telegram was sent to the New England Power Company on January 11, 1974 with a copy to the Governor of Massachusetts urging that this plant also convert to coal. Thereafter, the Massachusetts Department of Public Health approved the conversion of this plant to burn coal with a sulfur content not in excess of 2.5 percent and ash content not in excess of 15 percent.

A preliminary EPA analysis on coal conversions indicates that the Salem Harbor plant should be able to convert to coal without causing a significant environmental hazard for the time period considered. However, because of the meteorology in the area, a good monitoring network in the plant impact area should be established.

On January 16, 1974, the Massachusetts Department of Public Health (the Department) submitted for approval a plan revision in the form of a variance which would allow the use of coal containing a maximum of 2.5 percent sulfur and 15 percent ash in units 1, 2, and 3 at the Salem Harbor facility from the date of EPA approval until May 15, 1974.

After a careful evaluation of the State's submittal, the Administrator has determined that it is in accordance with the procedural requirements of 40 CFR Part 51. The Administrator has determined based on information submitted by the State, corroborated by the Agency's own information, that the substantive requirements of 40 CFR Part 51 have also been met as they apply to the Salem Harbor facility. It has been determined that the time and degree of this relaxation are appropriate based on the information available concerning the nationwide fuel shortage and the shortfall of fuel oil which the Salem Harbor plant is experiencing.

Accordingly, the variance for the Salem Harbor plant is approved subject to the following conditions in addition to those imposed by the Commonwealth of Massachusetts' variance-approval letter of January 16, 1974.

1. That the Company report to the State and EPA on the first day of each month on the quantity, source of supply and sulfur and ash content of all fuel purchased and delivered during that time period.

2. That the Company make every reasonable effort to acquire conforming coal, or coal with the lowest sulfur and ash content available, and maintain for inspection by the State or EPA during normal working hours, evidence of such efforts.

3. That the Company submit to EPA for approval the number of monitoring sites, location, procedures and equipment which it intends to use in implementing the ambient air quality monitoring as required by Condition 3 of the State's approval of the variance.

4. That the Company make available all air quality data from its monitoring system at the Salem Harbor facility monthly or continuously by interfacing with Massachusetts Ambient Air Monitoring System.

Since variances are temporary solutions to short-term problems, should the source find it necessary to apply for a variance beyond the expiration date of this variance, plans and a schedule for installation of necessary control equipment to meet Massachusetts emission limitations must accompany any new application for a variance from sulfur and ash content requirements.

The State's submittal is available for public inspection during normal business hours at the following addresses: Department of Public Health, Bureau of Air Quality Control, 600 Washington Street, Room 320, Boston, Massachusetts, 02111, and EPA Region I Office of Public Affairs, Room 2203, John F. Kennedy Federal Building, Boston, Massachusetts 02203. In addition, EPA's evaluation of the State's submittal is available during normal business hours at the EPA Region I office.

The Agency finds that good cause exists for not publishing the actions as a notice of proposed rulemaking and for making it effective immediately upon publication for the following reasons:

1. The emergency nature of the current fuel shortage requires that the affected source know immediately the fuel restrictions which are applicable to it so that it may make arrangements to obtain the appropriate fuel.

2. The implementation plan revision was adopted in accordance with procedural requirements of State and Federal laws, which provided for an adequate public hearing and comment, and further public participation would be impracticable.

Dated: April 26, 1974.

ALVIN L. ALM,
Acting Administrator,
Environmental Protection Agency.

Part 52 of 40 CFR Chapter I is amended as follows:

1. Section 52.1125 is amended by adding new lines to the table in paragraph (b) as follows:

§ 52.1125 Compliance schedule.

(b) * * *

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
* * *	*	*	*	*	*
Salem Harbor Electric Generating Station	Salem	5.1.2 5.4.1	Jan. 15, 1974	Jan. 23, 1974	May 15, 1974

[FR Doc.74-10111 Filed 5-1-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

ARCHITECT-ENGINEER SERVICES

Procurement Actions

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Parts 14-1, 14-3 and 14-4 of 41 CFR Chapter 14 are hereby amended.

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments herein provide administrative instructions and implement the existing regulations on the publicizing and the procurement of Architect-Engineer services published in the FEDERAL REGISTER on December 6, 1973 (38 FR 33594-33596). Therefore, the public rulemaking process is waived in this particu-

lar instance and these changes will become effective immediately.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

APRIL 26, 1974.

1. The Interior Procurement Regulations are amended by adding the following to the table of contents of Part 14–1:

PART 14–1—GENERAL

Subpart 14–1.10—Publicizing Procurement Actions

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

2. The Interior Procurement Regulations are amended by adding a new Subpart 14–1.10 as follows:

Subpart 14–1.10—Publicizing Procurement Actions

§ 14–1.1003–7 Preparation and transmittal.

(a) Architect-engineer services project notice. Each notice publicizing procurement of architect-engineer services shall include the following statements in addition to those required by § 1–1.1003–7 (b) (9) of this title:

Any supplemental data to be furnished by an Architect-Engineer firm should complement the SF–251 to permit a reasonable evaluation of the firm's qualifications in terms of the evaluation criteria listed in this notice.

The order of preference for the firms deemed to be most highly qualified shall be established by applying a numerical rating system to criteria listed in this notice and comparing firms on the basis of such rating system.

PART 14–3—PROCUREMENT BY NEGOTIATION

Subpart 14–3.8 [Reserved]

3. Part 14–3 of the Interior Procurement Regulations is amended by deleting Subpart 14–3.8 and § 14–3.802 from the table of contents; by deleting the caption and the text of Subpart 14–3.8; and to provide that Subpart 14–3.8 is reserved. Instructions formerly contained in Subpart 14–3.8 are now covered by Subparts 1–4.10 and 14–4.10.

PART 14–4—SPECIAL TYPES AND METHODS OF PROCUREMENT

4. The Interior Procurement Regulations are amended by adding the following to the Table of Contents of Part 14–4:

Subpart 14–4.10—Architect-Engineer Services

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

5. The Interior Procurement Regulations are amended by adding a new Subpart 14–4.10 as follows:

Subpart 14–4.10—Architect-Engineer Services

§ 14–4.1004 Selection.

§ 14–4.1004–1 Establishment of architect-engineer evaluation boards.

(a) The provisions of § 1–4.1004–1(a) of this title are supplemented to provide that heads of procuring activities who have been delegated contracting authority by the Secretary will be responsible for establishing evaluation boards. This responsibility may be reassigned in writing to any subordinate possessing contracting authority and staff capability to appropriately handle such responsibility. The use of private practitioners on evaluation boards shall require the advance written approval of the Assistant Secretary—Management.

§ 14–4.1004–2 Functions of the evaluation boards.

(a) The provisions of § 1–4.1004–2 of this title are supplemented to provide that evaluation boards within the Department of the Interior shall operate under the general authority of the appointing official and shall assist the contracting officer to the maximum extent possible and appropriate in the establishment of a contract.

(b) The report required of the evaluation board as specified in § 1–4.1004–2(c) of this title shall provide a list in the order of preference containing a minimum of three firms which are considered the most highly qualified. It shall be submitted to the official designated by the appointing official to receive the report.

§ 14–4.1004–3 Evaluation criteria.

The evaluation criteria of § 1–4.1004–3 of this title will be supplemented with the following when applicable to the procurement:

(a) Specific performance record on previous work from the standpoint of quality of work, ability to meet performance schedules, and designs where the construction contracts entered into did not exceed target or cost estimates or result in significant claims against the Government because of improper or incomplete architectural and engineering services.

(b) The volume of past and present workloads.

(c) Adequacy of facilities for the proposed work, including facilities for any special service that may be required.

(d) Experience and qualifications of personnel proposed for assignment to the project, including technical skills and abilities in planning, organizing, executing, and controlling; abilities in overall project coordination and management; and experience in working together as a team.

(e) Availability of additional qualified, regular employees for support of the project; the depth and size of the organization such that any necessary expansion or acceleration may be handled adequately; and arrangements with outside consultants.

(f) Any other criteria applicable to a particular procurement. § 14–4.1004–4 Action by agency head or his authorized representative.

The head of each procuring activity, as the responsible official to whom authority is delegated, is authorized to perform the functions prescribed by § 1–4.1004–4 of this title.

§ 14–4.1004–5 Procedures for procurements estimated not to exceed $10,000.

Procuring activities are authorized to use the procedures prescribed in § 1–4.1004–5 of this title.

§ 14–4.1005 Negotiation procedures.

§ 14–4.1005–1 General.

The designated contracting officers of the Department functioning under delegations of contracting authority from the Secretary and the heads of procuring activities are authorized to perform the functions described in § 1–4.1005–1 of this title and to negotiate contracts for architect-engineer services.

§ 14–4.1006 Limitation on contracting with architect-engineer firms for construction work.

§ 14–4.1006–1 Policy.

A contract for construction of a project shall not be awarded to the firm, a parent firm, subsidiaries, or affiliates, that provided architect-engineer services for the project unless the prior written approval of the Secretary is obtained. The contract with the architect-engineer firm shall specifically set forth this restriction.

§ 14–4.1050 Use of designated personnel.

The contract shall include a clause requiring the contractor to assign only the key personnel designated in the proposal to perform the services and shall provide that no substitutions will be made without the prior written approval of the contracting officer.

[FR Doc.74–10020 Filed 5–1–74;8:45 am]

Title 49—Transportation

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

[Docket No. 2-10; Notice 7]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Standard No. 217; Bus Window Retention and Release, Prison Buses

This notice amends Federal Motor Vehicle Safety Standard No. 217, "Bus Window Retention and Release" (49 CFR 571.217), to exempt from the standard buses manufactured for the purpose of transporting persons under physical restraint. The amendment is based on a notice of proposed rulemaking published October 1, 1973 (38 FR 27227), following petitions received from the Bureau of Prisons, United States Department of Justice.

The comments received in response to the proposal agreed that buses manufactured for the specified purpose should not be provided with the emergency exits required by Standard No. 217. The standard specifies that buses contain emergency exits operable by bus occupants, requirements which the NHTSA considers obviously incompatible with the need to transport prison inmates. The National Transportation Safety Board (NTSB) commented, however, that compensatory measures should be taken to minimize the likelihood of fire in prison buses, since the probability of safely evacuating a prison bus is less than that of any other type of bus. The NTSB urged that the exemption be limited to diesel-fueled buses, since diesel fuel is less likely to ignite than gasoline.

The NHTSA recognizes the desirability of minimizing the likelihood of fire in buses. However, at the present time it is not practical to expect that all newly manufactured prison buses be equipped with diesel engines, given the apparent immediate need for the exemption. Appropriate rulemaking action can be taken in the future if it appears necessary to mitigate from a safety standpoint the loss of emergency exits in prison buses.

In light of the above, paragraph S3 of 49 CFR 571.217 (Motor Vehicle Safety Standard No. 217), is amended to read:

§ 571.217 Standard No. 217; Bus window retention and release.

* * * * *

S3. *Application.* This standard applies to buses, except buses manufactured for the purpose of transporting persons under physical restraint.

* * * * *

Effective date: June 3, 1974. This amendment imposes no additional burdens on any person and relieves restrictions found to be unwarranted. Accordingly, good cause exists and is hereby found for an effective date less than 180 days from the day of issuance.

(Secs. 103, 112, and 119, Pub. L. 89-563; 80 Stat. 718 (15 U.S.C. 1392, 1491, 1407); delegations of authority at 49 CFR 1.51)

Issued on April 26, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-10050 Filed 5-1-74;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 28—PUBLIC ACCESS, USE, AND RECREATION

The following special regulation is issued and is effective during the period May 8, 1974 through December 31, 1974.

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

VIRGINIA

CHINCOTEAGUE NATIONAL WILDLIFE REFUGE

Entry into the refuge is permitted between the hours of 4 a.m. to 10 p.m. daily for the purposes of sightseeing, nature study, wildlife observation, photography, hiking, beachcombing, sunbathing, and fishing, including clamming and crabbing, as posted. Swimming and surfing are permitted along the entire refuge beach at the visitor's own risk. Entry into the refuge by boat is permitted only within the designated public use area at Tom's Cove Hook.

Operation of registered motor vehicles and bicycles is permitted on designated access roads, trails, and parking areas. Riding of horses and other saddle animals is permitted only along the shoulder of the access road to the Coast Guard crossover and thence along the beach southward from that point. Off-road travel by oversand vehicles is permitted only on designated routes within the public use area at Tom's Grove Hook. Pets must remain in vehicles at all times.

Fishermen who hold special overnight beach-fishing permits issued jointly by the Superintendent, Assateague Island National Seashore, and the Refuge Manager, Chincoteague National Wildlife Refuge, may remain on the refuge between the hours of 10:00 p.m. and 4:00 a.m. on the dates for which such permit is issued.

Organized youth-group and backpack camping is permitted by advance reservation only in National Park Service operated campsites located on the refuge. Permits may be obtained from the Superintendent, Assateague Island National Seashore.

Picnicking is permitted at Tom's Cove Hook in areas designated by the National Park Service.

The possession of any drugs or substances, or immediate precursors, identified in Schedules I, II, III, IV, or V of Part B of the Controlled Substances Act, 21 U.S.C. 812, or any drugs or substances added to these schedules pursuant to the terms of the Act, is prohibited on the refuge unless such drugs or substances were obtained in accordance with law. Presence in the refuge when under the influence of a controlled substance to a degree that may endanger oneself or another person or property, or may interfere with another person's enjoyment of the refuge is prohibited.

The refuge, comprising approximately 9,400 acres, is delineated on a map available from the Refuge Manager, Chincoteague National Wildlife Refuge, P.O. Box 62, Chincoteague, Virginia 23336, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

WILLARD M. SPAULDING, Jr.,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

APRIL 25, 1974.

[FR Doc.74-10085 Filed 5-1-74;8:45 am]

UPPER MISSISSIPPI RIVER WILDLIFE AND FISH REFUGE, ILLINOIS AND CERTAIN OTHER STATES

Miscellaneous Amendments

The following special regulations are issued and are effective May 2, 1974.

PART 28—PUBLIC ACCESS, USE AND RECREATION

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

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPER MISSISSIPPI RIVER WILDLIFE AND FISH REFUGE

Public use is permitted on the Upper Mississippi River Wildlife and Fish Refuge in accordance with state laws and subject to the following special conditions:

(1) The cutting of all live trees is prohibited, except that willow may be used for trap stakes, commercial fishing gear and hunting blinds.

(2) No live fire, including hot charcoal, shall be buried and/or left unattended.

(3) The abandonment, burying or placing in the water of garbage, trash, camping and picnic debris, and all other deleterious materials is prohibited.

(4) The use on refuge lands of motorized vehicles of any type is prohibited except on designated public roads and routes of travel.

(5) All state laws on use, possession, transportation and sale of alcoholic beverages which are applicable to the geographic area concerned are adopted and made a part hereof.

(6) The use and/or possession on the refuge of all controlled substances, including but not limited to opiates, cocaine, marijuana, hashish, depressants, stimulants or hallucinogenic drugs is prohibited except when such use or possession is for the person's own use as authorized by law. All state laws on controlled substances applicable to the geographic area concerned are adopted and made a part hereof.

(7) Camping, defined as the use of tent camps; bedrolls; and all types of floating craft, motorized vehicles, trailers and other shelters for overnight stays for the purpose of sleeping, is permitted on the Upper Mississippi River Wild Life and Fish Refuge subject to the following restrictions:

(a) The period of camping by an individual or group shall not exceed fourteen (14) consecutive days at any one site or within 300 feet of such site.

(b) The leaving of tents, camping equipment or floating craft at an unoccupied campsite for more than 24 hours is prohibited. Such gear will be considered as abandoned and is subject to impoundment.

(c) The erection of tables, fireplaces, latrines and other structures and facilities related to camping is prohibited unless all vestiges of same are removed when the camper departs from the site.

(d) Camping is prohibited on developed access and parking areas and on all other areas posted against camping. Camping on the refuge while engaged in fur animal trapping is prohibited. Camping on land on the refuge while engaged in hunting is prohibited except on sites readily visible from the main commercial navigation channel of the Mississippi River or on designated developed camp sites. Camping while engaged in hunting is prohibited in all areas closed to such hunting.

(8) The placement on the refuge of boathouses, boat docks, boat slips, storage boxes or sheds, stairways, wells, septic systems, sewer systems of any type, and all other kinds and types of construction is prohibited without written authorization of the refuge manager or his authorized representative. All new structures, including boathouses, houseboats, docks, piers and floats authorized by permit to be moored, anchored, or secured along the shoreline and on the waters of the Mississippi River within the Upper Mississippi River Wild Life and Fish Refuge must use flotation methods and devices of a type constructed of polyurethane, high-impact polyethylene fiberglass material, wood timbers, or other inert materials to provide flotation. The use of any iron or steel container not fabricatde originally for flotation purposes, including barrels, steel container not fabricated originally constructed for the purpose of containing fluids, powders or similar products is prohibited for new structures or for replacement of flotation devices in existing structures unless filled with polyurethane.

The provisions of this special regulation supplement the regulations which govern public access, use and recreation on wildlife refuge areas generally which are set forth in 50 CFR Part 28 and are effective until June 30, 1975.

PART 32—HUNTING

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

The public hunting of migratory game birds on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on the areas designated by signs as "open" to hunting. Hunting of migratory game birds is not permitted on the areas designated by signs as "closed" to hunting. The "open" areas comprising 153,000 acres are delineated on maps available at the refuge headquarters, Winona, Minnesota 55987, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be subject to the following conditions:

(1) The hunting of migratory game birds shall be in accordance with all applicable State and Federal regulations and seasons which are adopted herein and made a part of this regulation.

(2) No person shall hunt migratory game birds on the Upper Mississippi River Wild Life and Fish Refuge during any period that person's migratory game bird hunting privileges are suspended or under revocation in any state or Canadian province for game law infractions.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR Part 32, and are effective until June 30, 1975.

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

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

The public hunting of upland game birds, upland game animals, and raccoon, groundhogs, foxes and crows on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on the areas designated by signs as "open" to hunting. Restricted hunting of these species is also permitted on the areas designated by signs as "closed" to hunting, except that the Goose Island Closed Area in Pool 8 is closed at all times to hunting and the discharge of guns is prohibited thereon. The "open" areas comprising 153,000 acres and the "closed" areas comprising 41,000 acres are delineated on maps available at the refuge headquarters, Winona, Minnesota 55987, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be subject to the following special conditions:

(1) Hunting on designated "open" areas concurrent with applicable state seasons is permitted, but only during the period from the first day of the earliest fall state GAME bird or GAME animal season applicable to the geographic area concerned, until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

(2) Except for the Goose Island Closed Area which is closed to hunting at all times, hunting on designated "closed" areas concurrent with applicable state seasons is permitted, but only during the period from the first day after the close of the last hunting season for ducks applicable to the geographic area concerned, until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

(3) The hunting of upland game birds, upland game animals, and raccoon, groundhogs, fox and crows shall be in accordance with all applicable state regulations which are adopted herein and made a part of this regulation.

(4) No person shall hunt upland game birds or animals on the Upper Mississippi River Wild Life and Fish Refuge during any period that person's small game hunting privileges are suspended or under revocation in any state or Canadian province for game law infractions.

(5) Except with permission in writing obtained from the refuge manager, the discharge of guns of all types is prohibited on all lands and waters of the Upper Mississippi River Wild Life and Fish Refuge during the period from March 1 until the first day of the earliest fall state game bird or game animal season applicable to the geographic area concerned.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR Part 32, and are effective until June 30, 1975.

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

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

The public hunting of deer on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on the areas designated by signs as "open" to hunting. Restricted hunting of deer is also permitted on the areas designated by signs as "closed" to hunting, except that the Goose Island Closed Area in Pool 8 is closed to all hunting at all times. The "open" areas comprising 153,000 acres and the "closed" areas comprising 41,000 acres are delineated on maps available at the refuge headquarters, Winona, Minnesota 55987, and from the Regional

Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be subject to the following conditions.

(1) Bow and gun deer hunting on designated "open" areas is permitted concurrent with applicable state seasons.

(2) Except for the Goose Island Closed Area which is closed to hunting at all times, bow and gun deer hunting on designated "closed" areas concurrent with applicable state seasons is permitted, but only during the period from the first day after the close of the last hunting season for ducks applicable to the geographic area concerned, until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

(3) The hunting of white-tailed deer shall be in accordance with all applicable state regulations which are adopted herein and made a part of this regulation.

(4) No person shall hunt deer on the Upper Mississippi River Wild Life and Fish Refuge during any period that person's big game hunting privileges are suspended or under revocation in any state or Canadian province for game law infractions.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in 50 CFR Part 32, and are effective until June 30, 1975.

PART 33—SPORT FISHING

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

ILLINOIS, IOWA, MINNESOTA AND WISCONSIN

UPPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

Sport fishing, commercial fishing, and the taking of frogs, turtles, crayfish and clams on the Upper Mississippi River Wild Life and Fish Refuge, Illinois, Iowa, Minnesota and Wisconsin is permitted on all water areas of the refuge. The refuge water areas comprising 125,000 acres are delineated on maps available at the refuge headquarters, Winona, Minnesota 55987, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling ,Twin Cities, Minnesota 55111. All fishing is subject to the following conditions:

(1) Unless further restrictions are imposed by this regulation, all fish, frogs, turtles, crayfish and clams shall be taken in accordance with all applicable state regulations and seasons which are adopted herein and made a part hereof.

(2) All sport and commercial fishing and all travel by boat or any other means across, through or on the Spring Lake Closed Area of the Upper Mississippi River Wild Life and Fish Refuge in Carroll Co., Illinois is prohibited from October 1 through December 20.

(3) All persons, including their helpers, exercising the privilege of commercial fishing on the Spring Lake Closed Area must possess a valid commercial fishing permit issued by the Refuge Manager authorizing such commercial fishing and must comply with all conditions as prescribed by the Refuge Manager which are set forth in the permit.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective until June 30, 1975.

GALEN L. BUTERBAUGH,
Acting Regional Director.

Dated: April 25, 1974.

[FR Doc.74-10032 Filed 5-1-74;8:45 am]

Title 6—Economic Stabilization

CHAPTER I—COST OF LIVING COUNCIL

PART 155—PHASE IV PRICE PROCEDURAL REGULATIONS

Exceptions and Compliance Procedures

On March 27, 1974, the Cost of Living Council amended its procedural regulations at § 155.41 to provide that when a person has violated a regulation, and where that violation is the subject of an investigation, a notice of probable violation or a remedial order, that person cannot qualify to obtain an exception which would nullify the violation in whole or in part. The purpose of this amendment was to expedite the processing of both compliance and exception cases and to close a loophole in the regulations which tended to encourage noncompliance and which was unfair to firms that adhered to the regulations while applying for exceptions.

It has since come to the attention of the Council that this amendment may cause a hardship to certain institutional providers of health care (acute care hospitals and long term care institutions) who have no way of knowing whether they will be in violation of the regulations until well after the close of the fiscal year in question. The situation arises because of the nature of third party payment in the health industry, most of which is done on a cost reimbursement basis. Third party payors, such as Medicare, Medicaid and many Blue Cross plans, make interim payments to an institution throughout the year based on the institution's anticipated costs for that year. After the close of the fiscal year, there is a full audit done of the institution's costs, and the final amount of reimbursement is determined on the basis of that audit. The audit often is not completed until years after the close of the fiscal year. It is not uncommon for the audit to reveal that the interim payments were too low, and thus the institution is entitled to a large lump sum payment. Pursuant to Price Commission Ruling 72-262 and Cost of Living Council Ruling 74-1, this final payment from the third party reimburser is normally chargeable to operating revenues in the year in which payment is received. However, if the amount of payment is so significant as to require, under generally accepted accounting principles, a restatement of the financial figures for the year in which these revenues accrued, then the institution is required to restate its prior year figures to account for this final payment in a later year.

In this manner, it is possible for an institution that finished its fiscal year with revenues within the 6 percent limitation on increases in aggregate annual revenues due to price increases to suddenly exceed the limitation and thus be in violation of 6 CFR 300.18. Because the institution had no way of knowing that this would happen until after the end of its fiscal year, it had no reason to apply for an exception prior to the time when it became in violation; and under the recent amendment to § 155.41, it is prohibited from applying for an exception when it discovers that it needs one in order to avoid non-compliance with the regulations. Further, in most cases, an institution in this situation could not be granted an exception prior to the end of its fiscal year, because at that point it would not have the cost and revenue data necessary to justify the granting of relief; the Council does not grant exceptions based on hypothetical harm in the future.

Therefore, in order not to penalize institutions who, because of the existence of third party retroactive cost reimbursement, do not realize that they may need exceptions relief until they are already in violation, the Council is amending § 155.41. The amendment provides that the prohibition contained in that section against applying for an exception to a regulation when one is already in violation of that regulation shall not apply to an institution who is in violation of either Subpart O or Subpart R of this Part solely because of the receipt of payments based on retroactive adjustments in final settlement with third party payors.

Because the purpose of this amendment is to provide immediate guidance with respect to decisions of the Council, the Council finds that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making this amendment effective in less than 30 days. Interested persons may submit written comments regarding this amendment. Communications should be addressed to the Office of the General Counsel, Cost of Living Council, 2000 M Street, NW., Washington, D.C. 20508.

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

In consideration of the foregoing, 6 CFR Part 155 is amended as set forth herein, effective April 30, 1974.

Issued in Washington, D.C., on April 30, 1974.

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

The introductory paragraph of § 155.41 is amended to read as follows:

§ 155.41 Purpose and scope.

Exceptions from the provisions of Part 150 of this title may be granted for the purpose of preventing or correcting a serious hardship or gross inequity. However, except as provided below, a person who has violated the regulation with respect to which an exception is sought and who in connection with that matter is under investigation or has received a notice of probable violation or remedial order shall not qualify to obtain an exception which would nullify that violation in whole or in part. This limitation does not apply to an institutional provider of health care subject to Subpart O of Part 150 or to an acute care hospital or long term care institution subject to Subpart R of Part 150 of this chapter if that person's violation was caused solely by the receipt of payments based on retroactive adjustments in final settlement with a third party payor.

* * * * *

[FR Doc.74-10184 Filed 4-30-74;2:34 pm]

Title 7—Agriculture

Subtitle A—Office of the Secretary of Agriculture

PART 1—ADMINISTRATIVE REGULATIONS

Subpoenas; Issuance and Service Pursuant to Statutes Administered by the Secretary of Agriculture

Section 1.29, Title 7, Code of Federal Regulations, is revised to clarify the authority of various Department officials to issue subpoenas relating to investigations.

Section 1.29 is amended to read as follows:

§ 1.29 Subpoenas relating to investigations under statutes administered by the Secretary of Agriculture.

(a) *Issuance of subpoena.* When the Secretary is authorized by statute to issue a subpoena, the attendance of a witness and the production of documentary evidence relating to an investigation may be required by subpoena at any designated place of hearing. A designated place of hearing may include the witness' place of business. A subpoena may be issued by either the Secretary of Agriculture, or any Department official authorized pursuant to Part 2 of this title to administer the program to which the statute relates, upon a showing of the reasonableness of the grounds, necessity, and scope thereof. In addition, the Director of the Office of Investigation may issue a subpoena with respect to any investigation involving the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or Poultry Products Inspection Act (21 U.S.C. 451 et seq.), upon a showing of the reasonableness of the grounds, necessity, and scope thereof.

(b) *Service of subpoena.* (1) A subpoena issued pursuant to this section may be served by:

(i) A U.S. Marshal or Deputy Marshal,

(ii) Any other person who is not less than 18 years of age, or

(iii) Certified or registered mailing of a copy of the subpoena addressed to the person to be served at his or its last known residence or principal place of business or residence.

(2) Proof of service made be made by the return of service on the subpoena by the U.S. Marshal or Deputy Marshal; or, if served by an individual other than a U.S. Marshal or Deputy Marshal, by an affidavit or certification of such person stating that he personally served a copy of the subpoena upon the person named therein; or, if service was by certified or registered mail, by the signed Postal Service receipt.

(3) In making personal service, the person making service shall leave a copy of the subpoena with the person subpoenaed; and the original, bearing or accompanied by the required proof of service, shall be returned to the official who issued the subpoena. (5 U.S.C. 301).

Effective date. This revision shall become effective on May 2, 1974.

Done at Washington, D.C., this 29th day of April 1974.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.74-10040 Filed 5-1-74;8:45 am]

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

[Navel Orange Reg. 323]

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

Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period May 3-9, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.623 Navel Orange Regulation 323.

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

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

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges is weakening somewhat. Pricese f.o.b. averaged $3.71 a carton on a reported sales volume of 958 carlots last week, compared with an average f.o.b. price of $3.78 per carton and sales of 1,148 carlots a week earlier. Track and rolling supplies at 480 cars were down 56 cars from last week.

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

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstsances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this

section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 30, 1974.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period May 3, 1974, through May 9, 1974, are hereby fixed as follows:

(i) District 1: 750,000 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: Unlimited movement."

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

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

Dated: May 1, 1974.

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

[FR Doc.74–10307 Filed 5–1–74;11:34 am]

[Valencia Orange Reg. 463]

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

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period May 3–9, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.763 Valencia Orange Regulation 463.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues to show improvement. Prices f.o.b. averaged $3.45 per carton on a reported sales volume of 259 carlots last week, compared with an average f.o.b. price of $3.14 per carton and sales of 171 carlots a week earlier. Track and rolling supplies at 219 cars were up 94 cars from last week.

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

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified: and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 30, 1974.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period May 3, 1974, through May 9, 1974, are hereby fixed as follows:

(i) District 1:225,000 cartons;

(ii) District 2:195,000 cartons;

(iii) District 3:155,000 cartons."

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

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

Dated: May 1, 1974.

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

[FR Doc.74–10038 Filed 5–1–74;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Docket No. AO–295–A26, Milk Order No. 79]

PART 1079—MILK IN THE DES MOINES, IOWA, MARKETING AREA

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Des Moines, Iowa, marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome

milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than May 1, 1974. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Regulatory Programs, was issued February 22, 1974, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued March 27, 1974. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective May 1, 1974, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Des Moines, Iowa, marketing area shall be in conformtiy to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Section 1079.7 is revised to read as follows:

§ 1079.7 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, and which milk is:

(1) Received at a pool plant;

(2) Diverted as producer milk pursuant to § 1079.14; or

(3) Received by a cooperative association in its capacity as a handler pursuant to § 1079.12(c).

(b) "Producer" shall not include a producer-handler as defined in any order (including this part) issued pursuant to the Act.

2. Section 1079.8 is revised to read as follows:

§ 1079.8 Distributing plant.

"Distributing plant" means a plant which is approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

3. Section 1079.9 is revised to read as follows:

§ 1079.9 Supply plant.

"Supply plant" means a plant from which milk, skim milk, or cream, acceptable to a duly constituted regulatory agency for distribution in the marketing area under a Grade A label, is shipped during the month to a pool plant qualified pursuant to § 1079.10.

4. Section 1079.10 is revised to read as follows:

§ 1079.10 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant:

(1) From which the volume of Class I packaged fluid milk products, except filled milk, disposed of during the month either on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets or moved to other plants, less receipts of packaged fluid milk products, other than filled milk, from other pool distributing plants, is not less than 35 percent of the combined Grade A milk received in bulk form at such plant or diverted therefrom by the plant operator or a cooperative association to a nonpool plant as producer milk; and not less than 15 percent of such receipts or an average of not less than 7000 pounds per day whichever is less, is so disposed of to such outlets in the marketing area; or

(2) That qualified as a pool plant in each of the immediately preceding three months on the basis of performance standards described in paragraph (a)(1) of this section.

(b) A supply plant:

(1) From which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is equal to not less than 35 percent (30 percent for each of the months of April through August) of the Grade A milk received at such plant from dairy farmers and handlers described in § 1079.12(c), and diverted therefrom by the plant operator or a cooperative association as producer milk pursuant to § 1079.14: *Provided,* That if such shipments are not less than 50 percent during the immediately preceding period of September through November, such plant shall be a pool plant during each of the months of March through June, unless written application is filed with the market administrator on or before the 15th day of any of the months of March through June to be designated a nonpool plant for such month and for each subsequent month through June of the same year; or

(2) That qualified as a pool plant in each of the immediately preceding three months on the basis of performance standards described in paragraph (b)(1) of this section with respect to shipment to plants qualified pursuant to paragraph (a)(1) of this section.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Plants subject to other Federal orders pursuant to § 1079.61; or

(3) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately, and is not approved by any duly constituted regulatory agency for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

5. Section 1079.12 is revised to read as follows:

§ 1079.12 Handler.

"Handler" means:

(a) Any person as the operator of one or more pool plants;

(b) Any cooperative association with respect to milk of producers it diverts from a pool plant pursuant to § 1079.14;

(c) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant operated by another person, unless both the cooperative association and the operator of the pool plant notify the market administrator that the plant operator will be responsible for payment for the milk and is purchasing the milk on the basis of weights determined from its measurements at the farm and butterfat tests determined from farm bulk tank samples. Milk for which the cooperative association is the qualified handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which such milk is delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) Any person defined as a producer-handler;

(f) Any person in his capacity as the operator of an other order plant described in § 1079.61; and

(g) Any person in his capacity as the operator of an unregulated supply plant.

6. Section 1079.14 is revised to read as follows:

§ 1079.14 Producer milk.

"Producer milk" shall be that skim milk and butterfat in milk from producers that is:

(a) Received at a pool plant directly from a producer;

(b) Received by a cooperative association in its capacity as a handler pursuant to § 1079.12(c); or

(c) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant other than a producer-handler plant, subject to the following conditions:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant;

(2) Milk of a producer shall not be eligible for diversion from a pool plant under this section unless during the month at least one delivery is made to a pool plant;

(3) A cooperative association may divert the milk of any producer (other than producer milk diverted pursuant to paragraph (c)(4) of this section). The total quantity of milk so diverted may not exceed 50 percent in the months of September through March, and 70 percent in other months, of the milk for which the cooperative is the handler pursuant to § 1079.12(c) and producer milk which the association causes to be delivered to pool plants, or diverted therefrom during the month;

(4) The operator of a pool plant (other than a cooperative association) may divert for his account the milk of any producer (other than producer milk diverted pursuant to paragraph (c)(3) of this section). The total quantity so diverted may not exceed 50 percent in the months of September through March, and 70 percent in other months, of the milk received at or diverted from such pool plant from producers and for which the operator of such plant is the handler during the month;

(5) Any milk diverted in excess of the limits prescribed pursuant to paragraph (c) (3) and (4) of this section shall not be producer milk and, if the diverting handler fails to designate the dairy farmers whose milk is not producer milk, then no milk diverted by such handler during the month shall be producer milk; and

(6) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted by a cooperative association from the pool plant of another handler shall not be producer milk.

7. In § 1079.16, paragraph (a) is revised to read as follows:

§ 1079.16 Other source milk.

* * * * *

(a) Receipts of fluid milk products from any source other than producers, handlers described in § 1079.12(c), or pool plants; and

* * * * *

8. Section 1079.30 is revised to read as follows:

§ 1079.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantity of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1079.12(c);

(3) Receipts of fluid milk products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products; and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition of fluid milk products in the marketing area.

(c) Each handler described in § 1079.12 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers;

(2) The utilization or disposition of all such receipts; and

(3) With respect to a handler described in § 1079.12(b), the plant from which such milk is diverted.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1079.31 [Amended]

9. In § 1079.31, the words "for each of his plants" are deleted from lines 2 and 3 of paragraph (b)(1).

10. Section 1079.41 is revised to read as follows:

§ 1079.41 Classes of utilization.

Subject to the conditions set forth in § 1079.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except:

(i) Any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(ii) As otherwise provided in paragraph (b) of this section; and

(2) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form;

(3) In fluid milk products that are disposed of by a handler for animal feed;

(4) In fluid milk products that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In fluid milk products destroyed or lost under extraordinary circumstances;

(6) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included in Class I milk pursuant to paragraph (a)(1)(i) of this section; and

(7) In shrinkage assigned pursuant to § 1079.42(a) to receipts specified in § 1079.42(a)(2) and in shrinkage specified in § 1079.42(b) and (c).

11. Section 1079.42 is revised to read as follows:

§ 1079.42 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1079.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1079.12(c);

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products (except cream) received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk (except cream transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1079.12(b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

12. In Section 1079.44 the preamble of paragraph (a) is revised as follows:

§ 1079.44 Transfers.

* * * * *

(a) As Class I milk if transferred from a pool plant or by a cooperative association as a handler pursuant to § 1079.12 (c) to a pool plant, unless Class II utilization is requested by the transferee and transferor handlers, subject to the following conditions:

* * * * *

13. Section 1079.45 is revised as follows:

§ 1079.45 Computation of the skim milk and butterfat in each class.

(a) Each month the market administrator shall correct for mathematical and other obvious errors, the reports filed pursuant to § 1079.30 and shall compute the total pounds of skim milk and butterfat, respectively, in each class at each of the plants of such handler, and the total pounds of skim milk and butterfat in each class which was received from producers by a cooperative association handler pursuant to § 1079.12 (b) and (c) and was not received at a pool plant.

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such products plus all the water originally associated with such solids.

14. In § 1079.46 the introductory portion and paragraph (a)(9) are revised as follows:

§ 1079.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1079.45, the market administrator each month shall determine the classification of milk received from producers by each cooperative association handler pursuant to § 1079.12 (b) and (c) which was not received at a pool plant, and the classification of milk received from producers and from cooperative association handlers pursuant to § 1079.12(c) at each pool plant for each handler as follows:

(a) * * *

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants and from a cooperative association in its capacity as a handler pursuant to § 1079.12(c) according to the classification assigned pursuant to § 1079.44(a); and

* * * * *

15. Section 1079.52 is revised as follows:

§ 1079.52 Plant location adjustments for handlers.

(a) For that milk received from producers and from a cooperative association in its capacity as a handler pursuant to § 1079.12(c) at a plant located outside the marketing area, and 60 miles or more by the shortest hard-surfaced highway distance, as measured by the market administrator from the main post offices of Des Moines and Ottumwa, Iowa, which is classified as Class I milk without movement in bulk form to a pool distributing plant and for other source milk for which a location adjustment is applicable, the price specified in § 1079.50(b) shall be reduced 10 cents, and shall be reduced an additional 1.5 cents for each 10 miles or fraction thereof in excess of 75 miles from the designated post offices.

(b) For fluid milk products transferred in bulk from a pool plant to a pool distributing plant, a Class I location adjustment credit for the transferor-plant shall be determined by the market administrator for skim milk and butterfat, respectively, as follows:

(1) Multiply the pounds of skim milk remaining in Class I at the transfereeplant after the computations pursuant to § 1079.46(a)(8) by 105 percent;

(2) Subtract the pounds of skim milk in receipts of milk at the transfereeplant from producers and handlers described in § 1079.12(c);

(3) Assign any remaining pounds of skim milk in Class I at the transfereeplant to the skim milk in receipts of bulk fluid milk products from other pool plants, first to the transferor-plants at which no location adjustment applies and then in sequence beginning with the plant at which the least location adjustment applies;

(4) Compute the total amount of location adjustment credits to be assigned to transferor-plants by multiplying the pounds of skim milk assigned to each transferor-plant pursuant to paragraph (b)(3) of this section by the applicable location adjustment rate for each such plant, and add the resulting amounts;

(5) Assign the total amount of location adjustment credits computed pursuant to paragraph (b)(4) of this section to those transferor-plants that transferred fluid milk products containing skim milk classified as Class I milk pursuant to § 1079.44(a), in sequence beginning with the plant at which the least location adjustment applies. Subject to the availability of such credits, the credit assigned to each plant shall be equal to the hundredweight of such Class I skim milk multiplied by the applicable location adjustment rate for such plant. If the aggregate of this computation for all plants having the same location adjustment rate exceeds the credits that are available to those plants, such credits shall be prorated to the volume of skim milk in Class I transfers received from such plants; and

(6) Class I location adjustment credit for butterfat shall be determined in accordance with the procedure outlined for skim milk in paragraph (b)(1) through (5) of this section.

16. In § 1079.70 the preamble and paragraph (a) are revised as follows:

§ 1079.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler for each pool plant, and of each cooperative association handler pursuant to § 1079.12 (b) and (c) with respect to milk which was not received at a pool plant, shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of milk received from a cooperative association as a handler pursuant to § 1079.12(c) and allocated pursuant to § 1079.46(a)(9) and the corresponding step of § 1079.46 (b) and the quantity of producer milk in each class, as computed pursuant to § 1079.46(c), by the applicable class prices (adjusted pursuant to §§ 1079.51 and 1079.52);

* * * * *

17. In § 1079.71, paragraph (d) is revised as follows:

§ 1079.71 Computation of aggregate value used to determine uniform price.

* * * * *

(d) Add an amount equal to not less than one-half of the unobligated cash balance in the producer-settlement fund.

18. In § 1079.80 the introductory portions of paragraphs (a) and (b) are revised and a new paragraph (d) is added to read as follows:

§ 1079.80 Time and method of payment.

(a) Each handler shall pay each producer for producer milk for which pay-

ment is not made to a cooperative association pursuant to paragraphs (b) and (d) of this section as follows: * * *

(b) Each handler shall make payment to a cooperative association for producer milk it causes to be delivered to such handler, which association the market administrator determines is authorized by such producers to collect payment for their milk and which has so requested the handler in writing, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows * * *

* * * * *

(d) Each handler in his capacity as the operator of a pool plant, who receives milk for which a cooperative association is the handler pursuant to § 1079.12(c), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk as follows:

(1) On or before the 26th day of each month for milk received during the first 15 days of the month, at not less than the Class II price for the preceding month; and

(2) On or before the 13th day after the end of each month for milk received during such month, an amount computed at not less than the uniform price adjusted by applicable butterfat and location adjustments, and less the payment made pursuant to paragraph (d) (1) of this section.

19. In § 1079.84 paragraph (b)(1) is revised as follows:

§ 1079.84 Payments to the producer-settlement fund.

* * * * *

(b) * * *

(1) The value of milk received by such handler from producers and from cooperative association handlers pursuant to § 1079.12(c) at the applicable uniform price pursuant to § 1079.72 adjusted pursuant to §§ 1079.81 and 1079.82, less in the case of a cooperative association on milk for which it is the handler pursuant to § 1079.12(c), the amount due from other handlers pursuant to § 1079.80(d); and

* * * * *

20. Section 1079.88 is revised as follows:

§ 1079.88 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler (excluding a cooperative association in its capacity as a handler pursuant to § 1079.12(c)) shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk and milk received from a cooperative association pursuant to § 1079.12(c);

(b) Other source milk allocated to Class I pursuant to § 1079.46(a)(3) and (7) and the corresponding steps of § 1079.46(b); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

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

Effective date: May 1, 1974.

Signed at Washington, D.C., on April 26, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74-10041 Filed 5-1-74;8:45 am]

Proposed Rules

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 242]

WARRANTS OF ARREST AND ORDERS TO SHOW CAUSE

Delegation of Authority

Pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed amendment of 8 CFR 242.1, 242.2, and 242.7, pertaining to the authority of Service officers to issue warrants of arrest and to issue and cancel orders to show cause.

The following amendments are proposed in Part 242: An amendment to § 242.1(a) to empower assistant district directors for investigations to issue orders to show cause; an amendment to § 242.7 to vest assistant district directors for investigations with authority to cancel orders to show cause prior to commencement of the deportation hearing for a reason set forth in § 242.7; and an amendment to § 242.2(a) to vest officers in charge empowered to issue orders to show cause under § 242.1(a) and assistant district directors for investigations with authority to issue warrants of arrest. Corollary amendments are proposed in § 242.2(a), (b), (c), and (d).

This notice is identical with the rule changes in Part 242 published on April 5, 1974 (39 FR 12334), which the Service regards as valid and exempt from the necessity of compliance with 5 U.S.C. 553 because it concerns solely an internal reallocation of delegated authority. However, since one objection has been received, and out of an abundance of caution, the Service will postpone the effective date of the changes in Part 242 published on April 5, 1974 until the procedures prescribed by 5 U.S.C. 553 have been followed.

In accordance with 5 U.S.C. 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 7100–C, 425 Eye Street, NW., Washington, D.C. 20536, written data, views, or arguments, in duplicate, with respect to the proposed rules. Such representations may not be presented orally in any manner. All relevant material received by May 31, 1974, will be considered.

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. In § 242.1(a), the existing third sentence is amended. As amended, § 242.1(a) reads as follows:

§ 242.1 Order to show cause and notice of hearing.

(a) *Commencement.* Every proceeding to determine the deportability of an alien in the United States is commenced by the issuance and service of an order to show cause by the Service. In the proceeding the alien shall be known as the respondent. Orders to show cause may be issued by district directors, acting district directors, deputy district directors, assistant district directors for investigations, and officers in charge at Albany, N.Y.; Cincinnati, Ohio; Dallas, Tex.; Hammond, Ind.; Harlingen, Tex.; Milwaukee, Wis.; Norfolk, Va.; Pittsburgh, Pa.; Providence, R. I.; San Diego, Calif.; Salt Lake City, Utah; St. Louis, Mo.; Spokane, Wash.

* * * * *

2. Section 242.2 is amended in the following respects: in paragraph (a), the existing second, third, seventh, eighth, and ninth sentences are amended; in paragraph (b), the ninth and tenth sentences are amended; in paragraph (c), the first sentence is amended; and paragraph (d) is amended. As amended, §§ 242.2 (a), (b), (c), and (d) read as follows:

§ 242.2 Apprehension, custody, and detention.

(a) *Warrant of arrest.* At the commencement of any proceeding under this part, or at any time thereafter and up to the time the respondent becomes subject to supervision under the authority contained in section 242(d) of the Act, the respondent may be arrested and taken into custody under the authority of a warrant of arrest. However, such warrant may be issued by no one other than a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), and then only whenever, in his discretion, it appears that the arrest of the respondent is necessary or desirable. If, after the issuance of a warrant of arrest, a determination is made not to serve it, any officer authorized to issue such warrant may authorize its cancellation. When a warrant of arrest is served under this part, the respondent shall have explained to him the contents of the order to show cause, the reason for his arrest and his right to be represented by counsel of his own choice at no expense to the Government. He shall be advised that any statement he makes may be used against him. He shall also be informed whether he is to be continued in custody or, if release from custody has been authorized, of the amount and conditions of the bond or the conditions under which he may be released. A respondent on whom a warrant of arrest has been served may apply to the district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), for release or for amelioration of the conditions under which he may be released. The district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), when serving the warrant of arrest and when determining any application pertaining thereto, shall furnish the respondent with a notice of decision, which may be on Form I–286, indicating whether custody will be continued or terminated, specifying the conditions, if any, under which release is permitted, and advising the respondent appropriately whether he may apply to a special inquiry officer pursuant to paragraph (b) of this section for release or modification of the conditions of release or whether he may appeal to the Board. A direct appeal to the Board from a determination by a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), shall not be allowed except as authorized by paragraph (b) of this section.

(b) *Authority of special inquiry officers; appeals.* After an initial determination pursuant to paragraph (a) of this section, and at any time before a deportation order becomes administratively final, upon application by the respondent for release from custody or for amelioration of the conditions under which he may be released, a special inquiry officer may exercise the authority contained in section 242 of the Act to continue or detain a respondent in, or release him from, custody, and to determine whether a respondent shall be released under bond, and the amount thereof, if any. Application for the exercise of such authority may be made to any available special inquiry officer who is stationed at the Service office which has administrative jurisdiction over the proceeding under the order to show cause or who conducts hearings there. If no such special inquiry officer is available, application may be made to any available special inquiry officer stationed in the region wherein said Service office is located. The determination of the special inquiry officer in respect to custody status or bond shall be entered on Form I–342 at the time such

determination is made and shall be accompanied by a memorandum by the special inquiry officer as to the reasons for his determination. The special inquiry officer shall promptly notify the respondent and the Service of such determination. Consideration under this paragraph by the special inquiry officer of an application or request of an alien regarding custody or bond shall be separate and apart from any deportation hearing or proceeding under this part, and shall form no part of such hearing or proceeding or of the record thereof. The determination of the special inquiry officer as to custody status or bond may be based upon any information which is available to the special inquiry officer, or which is presented to him by the alien or the Service. The alien and the Service may appeal to the Board of Immigration Appeals from any such determination. After a deportation order becomes administratively final, the respondent may appeal directly to the Board from a determination by the district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), except that no appeal shall be allowed when the Service notifies the alien that it is ready to execute the order of deportation and takes him into custody for that purpose. An appeal to the Board shall be taken from a determination by a special inquiry officer or from an appealable determination by a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1 (a) by filing a notice of appeal with the district director within 5 days after the date when written notification of the determination is served upon the respondent and the Service. Upon the filing of a notice of appeal, the district director shall immediately transmit to the Board all records and information pertaining to the determination from which the appeal has been taken. The filing of such an appeal shall not operate to delay compliance, during the pendency of the appeal, with the custody directive from which appeal is taken, or to stay the administrative proceeding or deportation.

(c) *Revocation.* When an alien who, having been arrested and taken into custody, has been released, such release may be revoked at any time in the discretion of the district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), in which event the alien may be taken into physical custody and detained. If detained, unless a breach has occurred, any outstanding bond shall be revoked and cancelled. The provisions of paragraph (b) of this section shall govern availability to the respondent of recourse to other administrative authority for release from custody.

(d) *Supervision.* Until an alien against whom a final order of deportation has been outstanding for more than six months is deported, he shall be subject to supervision by a district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a), and required to comply with the provisions of section 242(d) of the Act relating to his availability for deportation.

* * * * *

3. In § 242.7, the first sentence is amended. As amended, § 242.7 reads as follows:

§ 242.7 Cancellation of proceedings.

If an order to show cause has been issued, any district director, acting district director, deputy district director, assistant district director for investigations, or officer in charge of an office enumerated in § 242.1(a) may cancel the order to show cause or, prior to the actual commencement of the hearing under a served order to show cause, terminate proceedings thereunder, if in either case he is satisfied that the respondent is actually a national of the United States, or is not deportable under the immigration laws, or is deceased, or is not in the United States, or that the proceeding was improvidently begun; or after actual commencement of hearing such officer may move that the case be dismissed for any of the foregoing reasons or that the case be remanded to his jurisdiction on the ground that it has come to his attention that there are involved the foreign relations of the United States which require further consideration. Cancellation of an order to show cause or termination of proceedings or remand of a case pursuant to the foregoing shall be without prejudice to the alien or the Service. If an order to show cause has been cancelled or proceedings have been terminated pursuant to this section, any outstanding warrant of arrest shall also be cancelled. A special inquiry officer may, in his discretion, terminate deportation proceedings to permit respondent to proceed to a final hearing on a pending application or petition for naturalization when the respondent has established prima facie eligibility for naturalization and the case involves exceptionally appealing or humanitarian factors; in every other case, the deportation hearing shall be completed as promptly as possible notwithstanding the pendency of an application for naturalization during any stage of the proceedings.

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

Dated: April 29, 1974.

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

[FR Doc.74-10062 Filed 5-1-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 911]

LIMES GROWN IN FLORIDA

Expenses and Rate of Assessment for 1974-75 Fiscal Year; Carryover of Unexpended Funds

This notice invites written comment relative to the proposed expenses of $38,500, a rate of assessment of $0.05 per bushel of limes, and the carryover as a reserve of unexpended funds to support the activities of the Lime Administrative Committee for the 1974-75 fiscal year under Marketing Order No. 911.

Consideration is being given to the following proposals submitted by the Florida Lime Administrative Committee, established under the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911) regulating the handling of limes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Florida Lime Administrative Committee, during the period from April 1, 1974, through March 31, 1975, will amount to $38,500;

(2) That there be fixed, at $0.05 per bushel of limes, the rate of assessment payable by each handler in accordance with § 911.41 of the aforesaid marketing agreement and order; and

(3) Unexpended assessment funds in the amount of approximately $7,655, which are in excess of expenses incurred during the fiscal year ended March 31, 1974, shall be carried over as a reserve in accordance with §§ 911.42 and 911.204 of said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than May 21, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: April 29, 1974.

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

[FR Doc.74-10107 Filed 5-1-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

[7 CFR Parts 620, 621, 622, 623, 624]

WATER RESOURCES PROGRAM

Notice of Proposed Rulemaking

The Soil Conservation Service (SCS) plans to codify its policy and proce-

dures for administering its water resources program under 7 CFR Chapter VI, Subchapter C.

Interested persons may participate in the proposed rulemaking by submitting written data, views, or arguments as they may desire. All communications received on or before June 17, 1974, will be considered before action is taken on the proposed policy and procedures. The proposal contained in this notice may be changed in the light of comments received.

The policy and procedures are proposed under the authority of Pub. L. 83–566, 68 Stat. 666 as amended (16 U.S.C. 1001 et seq.); Sec. 13, Pub. L. 78–534, 58 Stat. 905; Sec. 216, Pub. L. 81–516, 64 Stat. 184 (33 U.S.C. 701b–1).

(Catalog of Federal Domestic Assistance Program Nos. 10.904 and 10.906, National Archives Reference Services.)

Dated: April 25, 1974.

KENNETH E. GRANT,
Administrator.

PART 620—PURPOSE AND APPLICABILITY

Sec.
620.1 Purpose.
620.2 Definitions.

AUTHORITY: Pub. L. 83–566, 68 Stat. 666 as amended (16 U.S.C. 1001 et seq.); sec. 13, Pub. L. 78–534, 58 Stat. 905; sec. 216, Pub. L. 81–516, 64 Stat. 184 (33 U.S.C. 701 b–1).

§ 620.1 Purpose.

This subchapter sets forth policies, requirements, and procedures for the water resources program administered by the Soil Conservation Service (SCS). Included is a broad scope of activities for the conservation, development, utilization, and disposal of water, and the conservation and utilization of land resources of the 50 states, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. Individual elements of the program are river basin surveys and investigations, watershed protection, flood prevention, and emergency watershed protection.

§ 620.2 Definitions.

Administrator. The Administrator of Soil Conservation Service.

Agricultural water management. Any control or development of water for agricultural purposes such as drainage, irrigation, ground water recharge, group water supply in rural areas, or other beneficial use for agricultural purposes.

Benefits. The value of increased output of goods and services, the value of output resulting from external economics, and nonmonetary beneficial effects on environmental and social well-being resources.

Costs. The value of all resources required for or displaced by proposed project measures, the value of losses in output resulting from external diseconomies, and nonmonetary adverse effects on environmental and social well-being resources. Categories of costs include:

(a) *Construction costs.* The contract or force account cost of constructing structural measures which are necessary to achieve project purposes, but excluding costs defined in this section as engineering services costs, land right costs, land treatment measures costs, nonproject installation costs, operation and maintenance costs, project administration costs, and relocation payment costs.

(b) *Engineering services costs.* The direct cost of engineers and other technicians for surveys, investigations, designs, and preparation of plans and specifications for structural and nonstructural measures including the vegetative work associated with these measures.

(c) *Land rights costs.* Costs incurred for acquiring, relocating, reconstructing, moving, changing, and salvaging real and personal property required to obtain the legal rights needed to construct, operate, and maintain project works of improvement, including the cost of features not essential for project purposes which are installed for public protection or safety.

(d) *Land treatment measures costs.* All costs for planning and applying land treatment measures provided for in the watershed work plan.

(e) *Nonproject installation costs.* Costs incurred at the time of project installation for features not required for project purposes. These costs are not eligible for financial assistance under Pub. L. 83–566. They are not included in benefit-cost ratios nor are they allowable as a part of the sponsors' contribution to the installation cost of a project. These costs include but are not limited to:

(1) Additions or modifications to or changes in location of project works of improvement to serve nonproject purposes, such as altering a dam to permit its use as a roadway.

(2) Change in location or modification of project works of improvement for the convenience of the sponsor.

(3) Acquisition of land rights not required for project purposes.

(4) The added cost of upgrading existing railroad and highway bridges, railroads, roads, highways, or utilities to provide facilities of higher quality or greater performance capability.

(f) *Operation and maintenance costs.* The cost of or the fair market value of materials, equipment, services, and facilities needed to operate the project, and to make repairs and replacements necessary to maintain structural measures in sound operating condition during the evaluated life of the project.

(g) *Project administration costs.* All administrative costs associated with the installation of planned measures, including the cost of contract administration, relocation assistance advisory services, administrative functions connected with relocation payments, review of engineering plans prepared by others, government representatives, and necessary inspection service during installation to insure that project measures are installed in accordance with the plans and specifications.

(h) *Project installation costs.* All monetary costs for installing works of improvement included in a project.

(i) *Relocation payment costs.* All costs incurred because of requirements of Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(Pub. L. 91–646, 84 Stat. 1894 (42 U.S.C. 4601 et seq.).)

(j) *Water rights costs.* The actual cost or appraised value, whichever is greater, of water rights acquired for installing, operating, and maintaining a project.

Critical area stabilization. Vegetative or structural measures, or a combination thereof, installed to control erosion and the resultant sediment yield from high sediment source areas such as active gullies, unprotected road banks, and other unprotected highly erosive areas.

Drainage. A surface or subsurface measure planned primarily to increase the efficiency of agricultural land use by lowering the water level in areas where natural high water tables, normal precipitation or normal tidal action, seepage, or excess irrigation limit agricultural production.

Floodplain management. Reducing potential flood losses by land treatment, nonstructural, and structural measures, or combinations thereof.

Flood prevention. An undertaking for the purpose of reducing or preventing damage from inundation of property, disruption of business and other activity, or hazards to health, security, or life.

Floodwater detention capacity. The total volume of space provided between the elevations at which discharges begin through the principal and emergency spillways, less any capacity between these two elevations reserved for sediment.

Floodwater retarding structure. A single-purpose structure providing for temporary storage of floodwater and its controlled release.

Irrigation. Measures planned primarily to make more efficient use of water from artificial or existing surface or subsurface sources and surface or subsurface distribution systems on land used for agricultural production.

Land rights. Any interest acquired in or permission obtained to use land, buildings, structures, or other improvements classified or referred to generally as real property or as land, easements, and rights-of-way.

Land stabilization measures. Vegetative or structural measures, or both, installed and maintained to prevent land destruction or production of damaging sediment affecting groups of landowners, communities, and the general public.

Land treatment measures. Construction and management-type practices normally planned, installed, and maintained by individuals or groups of landowners on their own lands to efficiently use and protect the land and water resources. These measures serve to reduce runoff, erosion, and sediment that would restrict land use, adversely affect the environment, and reduce the realization of maximum benefits from other existing and proposed measures. Land treatment measures include, but are not limited to, temporary and permanent vegetative

plantings and establishments such as grass, trees, windbreaks, shrubs, and cover crops; establishing surface water disposal systems including waterways, terraces, diversions, and contour farming; water management measures including surface and subsurface farm drainage systems, efficient irrigation water distribution systems, land leveling, diversion dams and spreader ditches or dikes, irrigation tailwater recovery systems, holding ponds and tanks, catchment basins, and water storage facilities; management measures including crop rotations, strip cropping, no-till or conservation farming, pasture management including fencing, wells, spring development or stock water ponds for livestock distribution and rotation grazing; and septic tanks, disposal lagoons and systems for recycling liquid livestock wastes to the land.

Nonagricultural water management. A measure for control or development of water for purposes other than agriculture such as recreation, fish and wildlife, and municipal or industrial water supply.

Nonstructural measures. Items such as flood insurance, flood warning systems, flood plain zoning or acquisition, floodproofing, relocating existing developments in flood-prone areas, building codes, and other land use controls or restrictions for achieving project objectives.

Project agreement. A written agreement entered into between SCS and the sponsor(s) in which detailed working arrangements are established for the installation of works of improvement or for other related purposes.

Project measures. See works of improvement.

Pub. L. 83–566. The Watershed Protection and Flood Prevention Act, as amended (Pub. L. 83–566, 68 Stat. 666, as amended (16 U.S.C. 1001 et seq.)).

Retention reservoir. An impoundment for temporary or permanent storage of water.

Secretary. The Secretary of Agriculture.

Sponsor(s) or sponsoring local organization. Any of the following who sponsor a watershed project: A state political subdivision thereof, soil or water conservation district, flood prevention or control district, or combination thereof, or any other agency having authority under state law to carry out, maintain, and operate works of improvement; or any irrigation or reservoir company, water users' association, or similar organization having such authority and not being operated for profit that may be approved by the Secretary.

State agency. The governor, or the state agency that he designates which is authorized to review and approve or disapprove applications from sponsors, recommend priorities of watersheds for assistance within the state, participate in field examinations and preliminary investigations and in the preparation of watershed work plans, and review and comment on watershed work plans.

State conservationist. The SCS line officer responsible for SCS activities within a particular state or the Commonwealth of Puerto Rico and the U.S. Virgin Islands.

Structural measures. Items such as dams, diversions, basins, dikes, pipelines, conduits, channels, fences, pits, ponds, fish ladders, fish shelters, drops, checks, flumes, control gates, pumping plants, and outlet structures when the items are excavated or constructed with concrete, earth, masonry, metal, rock or other materials, and vegetation which is a part of the structure.

Total capacity of structure. The total volume of space provided upstream from a dam and below the elevation at which discharge begins through the emergency spillway.

Water management. Measures for the conservation, development, utilization, and disposal of water for either agricultural or nonagricultural purposes.

Watershed area or watershed. All land and water areas within the confines of a single drainage divide; two or more drainageways not tributaries to each other but severally tributary to a stream, artificial waterway, lake, bay, or other tidal area; or a water problem area consisting in whole or in part of land needing drainage or irrigation improvements. A watershed area or watershed includes all direct tributary drainageways and lands from which, after project installation, water and sediment could adversely affect any water management facility, but may exclude areas from which water is brought into it by diversion if these sources of water have no significant effect on the water management problems.

Watershed work plan. The written plan of the sponsors for installing, operating, and maintaining a watershed project.

Watershed work plan agreement. A written agreement entered into by the sponsors and SCS for the purpose of carrying out a watershed work plan.

Works of improvement. An undertaking for watershed protection; flood prevention; the conservation, development, utilization, and disposal of water; the conservation and proper utilization of land; or a combination thereof. The undertaking may consist of land treatment, nonstructural or structural measures, or a combination thereof.

PART 621—RIVER BASIN INVESTIGATIONS AND SURVEYS

Subpart A—General

Sec.
621.1 Purpose.
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621.41 Federal-State compacts.
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621.44 Flood insurance studies.

AUTHORITY: Sec. 6 (Pub. L. 83–566) 68 Stat. 666 (16 U.S.C. 1006), unless otherwise noted.

Subpart A—General

§ 621.1 Purpose.

This part sets forth policies, requirements, and procedures governing the U.S. Department of Agriculture's (USDA) investigations and surveys of watersheds of rivers and other waterways as a basis for the development of coordinated programs. These activities are undertaken in cooperation with other Federal, State, and local agencies. Section 2.62 of this title delegates to the Soil Conservation Service (SCS) leadership responsibility within USDA for the conservation, development, and productive use of the Nation's soil, water, and related resources, including the activities treated in this part.

§ 621.2 Scope.

SCS river basin activities include:

(a) Cooperative river basin surveys in cooperation with Federal, State, or local agencies.

(b) Flood hazard analyses in coordination with the responsible state agency and involved local governments.

(c) Joint investigations and reports with the Department of the Army under Pub. L. 87–639, 76 Stat. 438 (16 U.S.C. 1009).

(d) Interagency coordination.

Subpart B—USDA Cooperative Studies

§ 621.10 Description.

Cooperative river basin studies provide USDA planning assistance to federal, state, and local agencies. The purpose of these studies is to assist in appraising water and related land resources, formulating alternative plans, including land treatment, nonstructural or structural measures, or combinations thereof, which would meet existing and projected needs and objectives. These studies concentrate on specific objectives identified by the requesting agency and citizen groups. The objectives ordinarily require the formulation of a plan but may require only inventories on availability of resources and associated problems to be used by other agencies in plan formulation. A report is prepared presenting resource data and identifying or recommending a plan or alternative plans. USDA assistance is provided through field advisory committees composed of representatives of the Economic Research Service, Forest Service, and SCS.

§ 621.11 Who may obtain assistance.

Assistance is available to conservation districts, communities, county governments, regional planning boards, other planning groups, and state and federal agencies. Local groups express their desires for a cooperative study to the governor or appropriate State agency.

§ 621.12 How to request assistance.

A governor, or a Federal, State, or local agency must submit a written request for a cooperative study through the state conservationist to the Administrator. The State conservationist may assist in preparing the request. The state conservationist shall send the request with his comments to the Administrator for consideration. The request should include:

(a) A description of the basin;

(b) A statement of the major problems and needs;

(c) An explanation of why the study is needed;

(d) An explanation of why USDA participation is needed;

(e) A statement of the responsibility and authority of the requesting agency;

(f) An estimate of the expected coordination with other federal and state agencies;

(g) A description of the expected results of the study and use of the report;

(h) A statement of the relationship of the proposed study to ongoing and completed river basin studies; and

(i) A statement that the procedures for informing clearinghouses have been followed.

§ 621.13 Conditions for approval.

The Administrator may authorize requested cooperative studies. Priority for starting cooperative studies is based upon factors such as the date of application, the readiness of the requesting agency to begin participation, sequence of studies, geographic distribution of work, and other similar factors affecting the effectiveness and efficiency of cooperative study activities. The number and location of cooperative studies started each year are governed by availability of USDA funds and personnel.

§ 621.14 Recipient responsibility.

Leadership in the study and arrangements for other needed Federal, State, and local agency participation will be the responsibility of the requesting agency. Consistent with national objectives and SCS policy and procedures, the requesting agency has leadership responsibility for developing specific study objectives, providing the necessary study organization, and formulating a plan.

Subpart C—Flood Hazard Analyses

§ 621.20 Description.

SCS provides basic technical data about flood hazards in flood plain areas through cooperative flood hazard analyses. The purpose of the data is to help local units of government reduce flood losses caused by unwise development and use of flood plains. Flood hazard reports identify hazardous areas. The reports are beneficial to municipalities, State agencies, planning commissions, and other units of government responsible for land use planning and flood plain management.

§ 621.21 Who may obtain assistance.

Assistance is available to local communities or governmental entities in States where cooperative flood hazard analyses are authorized. A coordination agreement between the responsible State agency and SCS is a prerequisite to obtaining cooperative flood hazard analyses assistance.

§ 621.22 How to request assistance.

(a) Assistance for cooperative flood hazard analyses should be requested by letter to the State conservationist from the governor or State agency responsible for flood plain management activities.

(b) A local community or jurisdiction may apply for a flood hazard study by letter to the responsible state agency or the state conservationist. Assistance in making application may be obtained by contacting any SCS office.

§ 621.23 Conditions for approval.

(a) SCS flood hazard analyses assistance, if authorized by the Administrator, is based on the joint coordination agreement between the responsible State agency and SCS. The agreement shall set forth the objectives, scope, report requirements, agency responsibilities, and general funding arrangements.

(b) The Administrator may approve flood hazard studies for individual communities upon receipt of a plan of study. Preparation of the plan of study is the responsibility of and must be approved by the applicant, the responsible state agency, and the state conservationist. The plan shall set forth the responsibilities of the applicant, the state, and SCS in carrying out the study and interpreting and using the data in a local flood plain management program. The sequence for approvals shall be based on a priority list prepared by the State agency. The number of studies started each Federal fiscal year will be governed by the availability of SCS funds and personnel and the amount of state and local assistance available.

§ 621.24 Recipient responsibility.

The state agency is responsible for developing priorities for flood hazard studies and coordinating this work with related activities in the state. The cooperating local government entity is responsible for obtaining permission for carrying out field surveys. The State and local participants assist in distributing and interpreting the report, and providing public information and educational services. SCS shall be responsible for providing leadership for scheduling and implementing the technical phases of the study and preparing the report. SCS shall assist in interpreting the study results.

Subpart D—Joint Investigations and Reports With the Department of the Army

§ 621.30 Description.

Joint investigations and reports by USDA and the Department of the Army may be authorized by resolutions adopted by the Committee on Public Works of the U.S. Senate or the Committee on Public Works of the U.S. House of Representatives for any watershed area in the 50 states, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands if the nature of the watershed area problems dictates need for a joint effort by the two departments. An authorized joint investigation and report is carried out to determine works of improvement needed in a watershed for flood prevention, for the conservation, development, utilization and disposal of water, for flood control for the conservation and proper utilization of land, and for allied purposes. The joint report to Congress shall include a water and related land resource plan recommended for implementation. The plan shall be in sufficient detail to permit its implementation if authorized by Congress.

(Sec. 1, Pub. L. 87-639, 76 Stat. 438 (16 U.S.C. 1009))

§ 621.31 Who may obtain assistance.

Any individual, organization, or group may request assistance. SCS may help interested parties determine whether their proposed requests would be appropriate.

§ 621.32 How to request assistance.

Applicants for a joint investigation and report should request their congressional representative(s) to initiate appropriation action.

§ 621.33 Conditions for approval.

Authorization for a joint investigation and report is dependent on a resolution by the Committee on Public Works of the U.S. Senate or the Committee on Public Works of the U.S. House of Representatives.

§ 621.34 Recipient responsibility.

Participating local and state governments shall work with USDA and Department of the Army representatives in developing objectives, collecting data, analyzing problems, planning and formulating proposals, and considering financial plans. State and local governments must be responsible for informing and educating the public regarding the planning process, proposals, and recommendations.

Subpart E—Interagency Coordination

§ 621.40 Participation in the Water Resources Council.

(a) SCS is assigned responsibility for USDA representation on the Water Resources Council (WRC) and the river basin commissions created under the provisions of sec. 2 (Pub. L. 89-80), 79 Stat. 244 (42 U.S.C. 1962), and on those river basin interagency committees functioning under the aegis of the WRC. In ful-

filling its responsibilities with respect to the WRC, SCS provides two of the alternate USDA members of the Council of Members, the USDA member and alternate members of the Council of Representatives, and members of several administrative and technical committees and task groups. Under the leadership of SCS, other USDA agencies, principally the Forest Service and Economic Research Service, also participate.

(b) SCS has leadership responsibility for providing USDA technical assistance for interagency investigations and surveys undertaken and coordinated by the WRC for the conservation, utilization, and development of water and related land resources in watersheds of river basins and other waterways. Interagency coordinated surveys include the comprehensive framework studies of water resource regions and comprehensive studies for regional or river basin plans. These surveys are carried out jointly by the concerned Federal departments and the involved states.

(1) Comprehensive framework studies are the broadest level of planning and make appraisals on a broad basis of the needs and desires of people for the conservation, development, and utilization of water and related land resources. These studies identify regions with complex problems which require more detailed investigations and analyses.

(2) Comprehensive studies for regional or river basin plans result in preliminary or reconnaissance level water and related land resource plans for selected regions or river basins. Plans are prepared to resolve complex long-range problems, focus on middle term (10–25 years) needs and desires, involve Federal, State, and local interests in plan development, and identify and recommend action plans and programs to be pursued by individual Federal, State, and local entities.

(3) SCS cooperates with other Federal and State agencies in developing national water assessments. This involves inventorying the availability of land and water resources and estimating their allocations for meeting the projected economic needs of the Nation.

(c) States, river basin commissions, interagency committees, and other regional planning entities are eligible for assistance with these types of studies through the WRC. Study proposals are submitted to the Council in accordance with the Council's current format and instructions. Responsibilities of study participants, including the recipient agency, are defined in a plan of study.

§ 621.41 Federal-state compacts.

SCS is designated to represent USDA in assisting the U.S. Commissioners of the Delaware River Basin Commission and the Susquehanna River Basin Commission. In carrying out this responsibility, SCS provides a liaison officer to work with the U.S. Commissioners on policy level matters, as well as providing the USDA representatives on the Federal field committees to assist the Commissioners.

§ 621.42 Interstate compacts and commissions.

As assigned, SCS is the USDA point of contact for governing bodies of interstate compacts and commissions concerned with the conservation, development, and proper use of water, soil, and related resources.

§ 621.43 Special studies.

As designated, SCS represents USDA on special study groups such as the Western United States Water Plan and the Colorado River Basin Salinity Studies.

§ 621.33 Flood insurance studies.

As requested by the Federal Insurance Administration (FIA), Department of Housing and Urban Development, and within the limits of available resources, SCS carriers out flood insurance studies of various types under the National Flood Insurance Program (Pub. L. 90–448) 82 Stat. 574 (42 U.S.C. 4012), as amended. In this activity, SCS performs detailed flood hazard studies to determine the extent and frequency of flooding. The flood insurance program is administered by FIA. SCS is reimbursed by that agency for actual costs incurred in carrying out the studies. Local entities desiring flood insurance coverage should contact FIA and make application in accordance with procedures of that agency.

PART 622—WATERSHED PROJECTS

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AUTHORITY: Pub. L. 83-566, 68 Stat. 666, as amended (16 U.S.C. 1001–1009)

Subpart A—General

§ 622.1 Purpose.

This part sets forth the policies, requirements, and procedures for planning and carrying out watershed projects under Pub. L. 83–566, 68 Stat. 666 (16 U.S.C. 1001 et seq.).

§ 622.2 Scope.

(a) To assist sponsors prepare and carry out watershed plans, SCS will conduct investigations and surveys, with the cooperation and assistance of other Federal agencies, to determine the extent of watershed problems and needs, and to set forth viable alternative solutions consistent with local, regional, and national objectives. Alternatives will consist of land treatment measures, or combinations of land treatment, nonstructural, and structural measures that will benefit one or more of the authorized project purposes. Authorized project purposes are watershed protection, conservation and proper utilization of land, flood prevention, agriculture water management, including irrigation and drainage, public recreation, public fish and wildlife, municipal and industrial water supply, water quality management, ground water supply, agricultural pollution control, and other water management.

(b) After a final plan for works of improvement is agreed upon between SCS and the sponsors and the required review and approval processes are completed, SCS will provide technical, financial, and credit assistance to install the project as set forth in this part.

§ 622.3 Objectives of program.

(a) Watershed projects are planned and installed to contribute to community development, improve the nation's land, water, and related resources, and improve the quality of the environment. These objectives are achieved by furthering the conservation and proper utilization of land, furthering the conservation, development, utilization, and disposal of water, and preventing or minimizing damages from erosion, floodwater, and sediment.

(b) In developing each alternative, first consideration shall be given to accomplishing the objective through the installation, operation, and maintenance of land treatment measures. If project objectives cannot be obtained through land treatment measures alone, full consideration shall be given to a plan for use and management of the flood plain by nonstructural means. Structural measures shall be included to supplement the land treatment and nonstructural measures to the extent required to accomplish the project objectives. The plan selected must be consistent with local, regional, and national goals for protection and enhancement of environmental quality.

Subpart B—Qualifications

§ 622.10 Sponsors.

(a) Watershed projects are sponsored by one or more local organizations qualifying as sponsors as defined in § 620.2

of this chapter. Sponsors must, severally or collectively, have the power of eminent domain so that they may acquire land and water rights needed for the project, and have authority to levy taxes or have other adequate means of financing their share of the cost of the project. To receive Federal assistance for project installation, sponsors must commit themselves to use their powers and authority to enable them to carry out the project as planned.

(b) Major actions sponsors must take to qualify for Federal assistance for a watershed project include:

(1) Notifying in writing the state or areawide clearinghouse of their intent to submit an application for assistance.

(2) Preparing and submitting an application for assistance.

(3) Arranging for and conducting an information program to inform the public and receive comments, requests, and suggestions on the proposed project.

(4) Informing landowners and others participating in planning and carrying out the works of improvement of their responsibilities for compliance with state and federal laws.

(5) Considering alternatives and making timely decisions throughout the planning and installation process.

(6) Indicating their agreement to the watershed work plan by signing a watershed work plan agreement.

(7) Financing their share of the installation cost of planned works of improvement.

(8) Obtaining agreements to carry out recommended soil conservation measures and proper conservation plans.

(9) Acquiring needed land rights. Acquisition procedures shall conform to title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601 et seq.)).

(10) Acquiring or providing evidence that landowners or water users have acquired necessary water rights in accordance with state law.

(11) Agreeing to provide relocation assistance in conformance with Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(12) Providing assurance that planned measures will be installed, operated, and maintained in accordance with state law.

(13) Providing evidence satisfactory too SCS of adequate arrangements for operating and maintaining completed works of improvement as provided in an operation and maintenance agreement entered into with the SCS.

(14) Employing or retaining professional engineers or other specialists for the technical services needed for planning and installing measures for municipal or industries water supply and for installing facilities and public recreation or fish and wildlife developments.

(15) Submitting a satisfactory repayment plan for and repaying advances or loans obtained under the provisions of sections 4 or 8 of Pub. L. 83-566.

(16) Agreeing to prohibit construction of any facility or the alteration of any works of improvement that would interfere with a planned measure functioning as designed or serving the purpose for which it was installed.

(17) Installing or arranging for installation of land treatment measures on critical sediment-source areas upstream from planned structural measures.

(18) Installing or implementing planned nonstructural measures.

(19) Construction or contracting for the construction of planned works of improvement on nonfederal lands or requesting SCS to award and administer contracts for the construction work.

(20) Comply with the Federal Civil Rights Act (Secs. 601, 602, Pub. L. 88-352, 78 Stat. 252 (42 U.S.C. 2000d, 2000d-1)) and other applicable State and Federal statutes and regulations in planning and carrying out their watershed project.

§ 622.11 Watershed projects.

(a) To be eligible for Federal assistance, a watershed project must:

(1) Meet the definition of a watershed area.

(2) Not exceed 250,000 acres in size.

(3) Not include in project works of improvement any single structure which provides more than 12,500 acre-feet of floodwater detention capacity nor more than 25,000 acre-feet of total capacity.

(4) Have significant water management problems that can be solved or alleviated by measures for watershed protection, flood prevention, land stabilization, drainage, irrigation, recreation, fish and wildlife, municipal or industrial water supply, or other water management; produce substantial benefits to groups of landowners, to communities, and to the general public; and cannot generally be installed by individual landowners or small groups of landowners with the aid of available cost-sharing assistance.

(5) Have strong local citizen support.

(6) Provide project benefits that equal or exceed project costs.

(b) Works of improvement that may be included in a watershed project are those that constitute needed and harmonious elements in the comprehensive development of the river basin involved; will contribute to reducing floodwater, erosion, and sediment damages; or will further the conservation, development, utilization, and disposal of water and the conservation and proper utilization of land.

(c) All works of improvement must have an evaluation and measurement of beneficial and adverse effects.

§ 622.12 Land treatment measures.

The initial increment of plan formulation for watershed projects shall be land treatment measures. The watershed work plan must provide for the installation, operation, and maintenance of such land treatment measures throughout the entire watershed from ridge top to ridge top as needed for watershed protection, erosion prevention, the conservation and proper utilization of all lands within the watershed, and for other project purposes. The work plan shall identify the land treatment measures to be installed and assign responsibility for their installation, operation, and maintenance.

§ 622.13 Land stabilization measures.

Land stabilization measures installed for the stabilization of critical sediment source areas may be eligible for Federal cost-sharing assistance at the rate provided for structural measures for flood prevention if:

(a) Stabilization is needed to prevent downstream sediment damage or for the efficient construction, operation, and maintenance of downstream structures.

(b) Benefits exceed costs.

(c) Income from the area would be so small or so long deferred that individual landowners or operators would not invest their own funds for stabilization.

(d) The area will be maintained in trees, grass, or other protective cover which will not be harvested except for management purposes.

(e) Sponsors will obtain title to or easements on and access to the land to be treated.

(f) Sponsors will install the measures in accordance with the terms of a project agreement with SCS.

(g) Sponsors will maintain and operate the works of improvement in accordance with the terms of an operation and maintenance agreement with SCS.

§ 622.14 Nonstructural measures.

Nonstructural measures shall be included as project measures when they are the most economically, socially, and environmentally acceptable means of reducing flood damages to existing developments in flood plains, and to control or prevent future development in flood-prone areas that would invite flood damages. Nonstructural considerations for flood plains include, but are not limited to, floodproofing or flood protection devices for existing improvements, relocation of existing properties, public acquisition of sufficient rights in flood plain land, in fee title or easements, to firmly control future use, the adoption and implementation of land use regulations, zoning for appropriate uses, development regulations, and flood forecasting.

§ 622.15 Structural measures.

(a) To qualify for Federal cost-sharing assistance, structural measures must provide direct measurable benefits to two or more beneficiaries except that (1) a drainage or irrigation outlet may be provided to each noncontiguous tract in a single farm unit; and (2) appropriate structural measures may be included in the planned land treatment measures as provided in § 622.13.

(b) Sponsors must obtain written agreements from owners of at least 50 percent of the land in the drainage area above each retention reservoir providing for each owner to use his land within its capabilities, and treat the land, within practical limits, according to the chosen use to prevent further deterioration of

soil and water resources. Land not classified as farmland by the U.S. Bureau of the Census need not be included in determining the 50 percent requirement unless soil conservation measures need to be applied on the land.

(c) Not less than 75 percent of needed effective land treatment measures must be in place, or be installed concurrent with construction of the structural measure, on those sediment source areas which, if uncontrolled, would require a material increase in the cost of construction, operation, or maintenance of the structural measure.

(d) If storage capacity is added to a floodwater-retarding structure for purposes such as private recreation or land-value enhancement, the sponsors must provide for public use and enjoyment of the entire retention reservoir surface and facilities to accommodate such use.

(e) If measures for other nonagriculture water management are included, the watershed project must include measures providing substantial benefits for flood prevention, irrigation, drainage, or any combination thereof.

(f) Specific requirements for public recreation or fish and wildlife include:

(1) *Water resource improvements.* A recreational water resource improvement creates or improves a water area for the enjoyment of any or all forms of recreation that are based on use of or proximity to the water. A fish and wildlife water resource improvement creates or improves a water area primarily for the preservation, production, or harvest of fish and wildlife, and may include the creation or improvement of habitat solely for the preservation of fish and wildlife with no fishing or hunting permitted. Water resource improvements for recreational or fish and wildlife purposes may also include:

(i) Storage capacity in retention reservoirs for either in-reservoir use or for downstream use. Storage capacity in single-purpose retention reservoirs will be considered only for those situations where a multiple-purpose reservoir would not result in a savings in cost or where topographic or engineering considerations would prohibit developing a multiple-purpose retention reservoir.

(ii) Structural features in retention reservoirs such as water level controls needed for fish and wildlife habitat improvement or recreation, level ditches, pits, ponds, fish ladders, and fish shelters.

(iii) Stream channel work including bank sloping, rip-rapping, vegetative plantings, jetties, tree and shrub plantings, channel clearing and deepening including gravel removal, constructing sills and other facilities to create pools, fencing steambank areas, and other similar and related practices for the enhancement of recreation and fish and wildlife resources in and along streams.

(iv) Marsh and pit development to provide fish pools in marshes, and breeding and nesting areas for migratory waterfowl and aquatic mammals.

(2) *Project developments.* The term "project development" applies to either recreation or fish and wildlife unless otherwise indicated. A project development may be associated with a retention reservoir, a lake, or a well-defined reach of a perennial stream. A project development shall not include the entire stream system of a watershed. Adequate and appropriate facilities for planned recreational use shall be included. The number of project developments within a watershed are limited to one development in a watershed project of less than 75,000 acres, two developments in a watershed project containing between 75,000 acres and 150,000 acres, and three developments in a project of more than 150,000 acres. The terms "project recreational development" and "project fish and wildlife development" are water resource improvements in which (Pub. L. 83–566) funds and technical assistance are provided for land rights or facilities or both.

(g) If water storage capacity for any beneficial purpose other than public recreation or fish and wildlife is added to a floodwater-retarding structure designed for more than 50-year sediment accumulation, the added storage shall be in an amount equal to at least one-half the capacity provided for sediment accumulation. For public recreation or fish and wildlife developments the surface area of the enlarged pool must be at least 50 acres and 50 percent larger than the surface area of the sediment pool unless, because of site conditions, the Administrator determines that the development of a 50-acre lake is unreasonable. If determined to be unreasonable, he will establish the minimum size of pool which will be acceptable.

Subpart C—Application Procedure

§ 622.20 Preapplication.

The sponsors shall notify the appropriate clearinghouse of intent to apply for Federal assistance by submitting a preapplication on Form AD 621 with a copy to the state conservationist.

§ 622.21 Application.

Form AD 624 shall be used to make application to the SCS for Federal aid in developing and carrying out a watershed project. The application will be submitted by the sponsor through the governor or designated state agency for approval. Assistance in preparation and submission of applications may be obtained from the State agency designated to approve applications for assistance or from SCS.

§ 622.22 State agency approval.

The governor or State agency will approve or disapprove the application. If disapproved, no further action is required of SCS. If approved or not disapproved within 45 days, the application shall be sent to the State conservationists. If the State conservationist determines that the application is legally valid, he will send the application to the Administrator. The Administrator will notify the sponsor of receipt of the application.

Subpart D—Planning and Approval

§ 622.30 Planning authorization request.

(a) If SCS has resources available to furnish planning assistance, the State conservationist shall request the governor or State agency to consider all unserviced applications in the State and to establish priorities for planning assistance. Each State agency should establish criteria to be met before priorities for applications are established. SCS and the State agency shall give highest priority to watersheds in which local people are ready, willing, and able to provide for all land and water management needs in the watershed.

(b) Upon receipt of the application Form AD 624 concurred in by the clearinghouse and approved by the State agency, and in accordance with established priorities, SCS will conduct a preliminary investigation of the watershed to determine the physical and economic feasibility of developing a plan to meet the objectives of the sponsors. An environmental assessment will be made as part of this investigation. The findings of the preliminary investigation shall be presented to sponsors and other concerned agencies. The presentation shall include an estimate of the scope of the proposed project, the alternatives, environmental considerations, and preliminary cost estimates. The preliminary investigation report and the sponsors' reactions provide a basis for an initial determination of the nature and feasibility of the proposed project.

(c) A widely advertised public information meeting shall be called by the sponsors to present the preliminary investigation report, and to receive views of the general public.

(d) If the sponsors wish to proceed with detailed planning, they will inform the State conservationist who will request authorization from the Administrator to provide planning assistance.

§ 622.31 Coordination.

(a) Watershed projects are to be planned and carried out by local, State, and Federal agencies with local citizen participation. The Handbook for Coordination of Planning Studies and Reports (Coordination Directory) published by the Water Resources Council is to be used to coordinate the investigations for and development of watershed work plans. Watershed projects are Level C or implementation studies as described in the coordination handbook.

(b) Watershed projects must comply with the spirit and intent of the National Environmental Policy Act of 1969 (Pub. L. 91–190, 83 Stat. 852 (42 U.S.C. 4321 et seq.)).

§ 622.32 Planning process.

(a) *Sponsors.* Since watershed projects authorized under Pub. L. 83–566 are local projects with Federal assistance, sponsors must consider alternatives, make timely decisions, and provide for public participation in the planning process based on an informational and educational program that keeps all in-

terested individuals and groups informed about the scope and status of the studies. Sponsors, States, and other nonfederal interests may participate financially in planning by:

(1) Providing funds to SCS for salaries and expenses incurred by SCS in preparing a watershed work plan.

(2) Hiring watershed planning personnel to function as a separate planning unit or to augment the SCS planning staff.

(3) Hiring consultants or using its own staff to carry out selected surveys and investigations for which they are qualified.

(4) Hiring or using its own equipment for carrying out foundation and other explorations.

(b) *Planning staff.* SCS provides an interdisciplinary planning staff composed of specialists such as soil conservationists, biologists, engineers, hydrologists, and others as needed to work with the local SCS representative in helping sponsors develop a watershed work plan.

(c) *Participation by others.* The Forest Service and Farmers Home Administration of the USDA are authorized to assist in developing a watershed work plan. Other Federal and State agencies with expertise in subjects relative to water and land resources are notified by SCS of initiation of the watershed studies and are invited to participate. Private organizations and individuals with similar expertise are also encouraged to participate.

(d) *Plan formulation.* Project objectives shall be based on the collective desires of the sponsors and the general public. These desires shall be determined through the discussion of problems, needs, and desires as they relate to existing resources. The environmental assessment and draft environmental impact statement (EIS) discussed in Part 650 of this chapter will be considered in these discussions. To achieve the agreed-to objectives, the watershed work plan should provide for the proper mix and combination of land treatment, nonstructural and structural measures that result in the most economically, socially, and environmentally acceptable means of accomplishing this objective without regard to permissible Federal cost-sharing assistance. Land treatment shall receive first consideration to project formulation. Full consideration will be given to nonstructural activities to supplement land treatment including, but not limited to, land use regulations, zoning, development policies, building codes, floodproofing, public acquisition of sufficient rights in flood plain lands to control the land use, flood forecasting, and provisions for disseminating information on flood hazards and flood insurance. Structural measures shall be considered along with land treatment and nonstructural measures to meet project objectives.

§ 622.33 Watershed work plan.

(a) *Purpose.* A watershed work plan shall be prepared by the sponsors with help from SCS to describe the watershed and its problems, set forth a plan for the proposed works of improvement, the general sequence for installation of the works of improvement, estimated costs, anticipated effects and benefits, proposed cost-sharing arrangements, and responsibilities of those participating in the project.

(b) *Elements of work.* Needed land treatment measures will be included as the first increment of planned works of improvement in watershed work plans. Structural and nonstructural measures may be included in combination with land treatment measures as necessary to accomplish the project objectives.

(c) *Agreement.* SCS and sponsor acceptance of the watershed work plan is evidenced by signing a watershed work plan agreement.

§ 622.34 Review.

(a) *Technical review.* The preliminary draft watershed work plan and preliminary draft EIS shall be reviewed by SCS for technical adequacy and conformity with legal and policy requirements.

(b) *Informal field review.* Following the technical review, the sponsors and SCS shall jointly conduct a review of the preliminary draft watershed work plan and preliminary draft EIS with representatives of State and local agencies and field offices of interested Federal agencies to solicit additional inputs and comments.

(c) *Local public review.* Following the completion of the informal field review, a public information meeting will be held to present the preliminary formulation and discuss environmental impacts. This meeting will be called by the sponsors, jointly by sponsors and SCS, or by established state procedure. The general public and representatives of Federal agencies, State agencies, organizations and individuals that have evidenced an interest in the watershed shall be invited to participate and submit comments.

(d) *Interagency review.* Following the local public review, the draft watershed work plan and draft EIS, if required, will be submitted by SCS to the governor and other concerned Federal agencies for review and comment. The draft EIS will also be sent to interested individuals, groups, or organizations.

(e) *Office of Management and Budget.* Following the interagency review, the final watershed work plan and final EIS, if required, shall be prepared after giving consideration to all substantive comments received. The watershed work plan agreement shall be signed by the sponsors and SCS. For watershed work plans requiring congressional approval, the watershed work plan and EIS shall be sent by the Secretary to the Office of Management and Budget for transmittal to the appropriate congressional committee.

(f) *Other.* Additional needed discussions and review of the watershed work plan and EIS may be called for by the sponsors or SCS.

§ 622.35 Approval.

(a) Administratively approved plans. State conservationists may approve watershed work plans that do not include any single structure exceeding 2,500 acre-feet of capacity and do not involve a Federal contribution to construction costs in excess of $250,000. Work plans which meet these requirements and provide for installation of measures in two or more states must be approved by the Administrator.

(b) *Congressionally approved plans.* Watershed work plans containing provisions that exceed either of the limitations cited in paragraph (a) of this section must be submitted to the appropriate congressional committee as follows:

(1) *Agriculture committees.* The Committee on Agriculture and Forestry of the U.S. Senate and the Committee on Agriculture of the U.S. House of Representatives are the approval authority for all watershed work plans having an estimated Federal contribution to construction costs in excess of $250,000 or that include a structure having more than 2,500 acre-feet of total capacity but not more than 4,000 acre-feet of total capacity.

(2) *Public works committees.* The Committee on Public Works of the U.S. Senate and the Committee on Public Works of the U.S. House of Representatives are the approval authority for watershed work plans involving any structure having more than 4,000 acre-feet of total capacity.

§ 622.36 Amendments and revisions.

A watershed work plan may be amended or revised and the watershed work plan agreement modified or terminated by mutual agreement of the sponsors and SCS. Congressional approval is required for significant changes in purpose or scope.

Subpart E—Financial Assistance

§ 622.40 General.

(a) Federal financial assistsance for project installation is authorized after the watershed work plan is approved as set forth in § 622.35. Federal assistance may include technical and financial assistance, advances, and loans. The watershed work plan agreement shall specify the Federal assistance to be provided, and shall evidence commitments for funding and for installing, operating, and maintaining the project.

(b) The Administrator shall allocate Federal funds for watershed projects from annual appropriations made for this program by Congress. In allocating funds for Federal assistance for installation, consideration shall be given to factors such a geographic distribution of projects, relative contribution to national priorities, and readiness of sponsors to install, operate, and maintain projects.

(c) Sponsors shall provide their share of installation costs from other than Pub. L. 83–566 funds. Local financing may include State, county, and other local funds such as watershed or special purpose district taxes. Loans or grants of funds from other Federal programs may be used. Sponsors may meet a portion of their financial obligations from non-SCS donations.

§ 622.41 Pub. L. 83–566 Financing.

(a) Federal funds appropriated under authority of Pub. L. 83–566 are to be used to provide:

(1) The entire cost of engineering services for flood prevention purposes.

(2) The entire cost of engineering services for water quality management purposes if such purposes are approved for inclusion in the project by the Environmental Protection Agency (EPA).

(3) Up to 100 percent of technical assistance and engineering costs for accelerating installation of needed land treatment measures on nonfederal lands, for agricultural water management, and for public recreation and fish and wildlife purposes.

(4) Up to 50 percent of technical assistance and engineering costs applicable to recreational facilities for public recreation and fish and wildlife purposes.

(5) A percentage of the cost of relocation payments based upon the ratio of Pub. L. 83–566 funds to total project costs excluding relocation payments.

(6) All SCS administrative costs for project installation. This may include the cost of awarding and administering contracts if SCS contracts for the construction of structural measures. SCS will: (i) Provide construction inspection for elements of structural works of improvement on which Pub. L. 83–566 construction funds are spent. (ii) Inspect other features of project installation where malfunction or failure could adversely affect the stability or functioning of cost-shared items of work. SCS inspection of local cost items is solely for this purpose and does not relieve the sponsors of their responsibility for providing, without Pub. L. 83–566 cost sharing, construction inspection necessary to assure that the installation conforms with contract requirements.

(7) The cost of financial assistance in the installation of certain land treatment measures on nonfederal land at a rate of cost sharing not exceeding that available under other national programs and only to the extent required by lack of sufficient funds for technical and cost-sharing assistance provided under other Federal appropriations. To qualify for assistance under Pub. L. 83–566, land treatment measures must be needed to achieve project objectives, financial assistance must be necessary to insure their installation, and funds must not be available from other going Federal programs.

(8) The entire cost of construction of structural measures including land stabilization measures meeting the requirements set forth in § 622.13.

(9) The entire cost of construction of structural measures for water quality management purposes if such purposes are approved for inclusion in the project by EPA.

(10) Up to 50 percent of construction costs for agricultural management purposes.

(11) Up to 50 percent of construction costs for public recreation and fish and wildlife purposes.

(12) Up to 50 percent of cost of land rights, as set forth in Part 651 of this chapter, for public recreation and fish and wildlife developments.

(b) Funds from sources other than Pub. L. 83–566 must bear all other costs.

§ 622.42 Provisions for financing.

(a) FHA may make watershed loans to sponsors to help finance the local share of project costs set forth in approved watershed work plans as provided in Part 1823 of this title.

(b) SCS may advance funds to sponsors for:

(1) Engineering and construction costs, not to exceed 30 percent of the total cost of the structure, to provide storage capacity for future municipal or industrial water supply. The advance must be repaid with interest within 50 years after the retention reservoir is constructed, or a shorter period if required by State law. Interest will not be charged until the water supply is first used from such capacity or until 10 years after the date of completion of the structure, whichever is earlier.

(2) Purchase of land rights if:

(i) Immediate purchase is essential to preserve the site for project works of improvement;

(ii) A watershed work plan has been approved;

(iii) SCS and the sponsors have signed an agreement providing for the acquisition of land rights; and

(iv) The FHA has approved the arrangement for repayment of the advance. Interest charges will begin to accrue on the advance on the date the advance is made to the sponsors. The advance and accrued interest is to be repaid by the sponsors prior to construction of the works of improvement.

(3) Engineering services required for a works of improvement if:

(i) The works of improvement is included in the watershed work plans;

(ii) The engineers retained or employed by the sponsor are satisfactory to SCS; and

(iii) The total advanced does not exceed five percent of the estimated installation cost of the works of improvement.

§ 622.43 Local financing methods.

Project measures to be installed with Pub. L. 83–566 financial assistance are usually installed through a competitive bid contract. Sponsors must provide their share of the contract cost in cash as follows:

(a) *By force account.* Under this method the sponsors provide their own forces including labor, equipment, materials, and equipment rental in lieu of cash. Accurate records must be kept of the cost of all work performed by force account. This account will be credited toward the sponsor share of the cost.

(b) *By performance of work.* Under this method, the value of work to be provided by the sponsors is determined by negotiation between the sponsors and SCS and is included in a project or engineering services agreement for the work. SCS approved cost estimates made immediately prior to signing the agreement establish the maximum value of the work. A financial settlement will be made between SCS and the sponsors upon completion of work covered by each agreement. This method of installation may be used only if:

(1) SCS determines that this action is in the interest of the project, the watershed program, and the Federal government;

(2) SCS determines that the organization or agency to perform the work has the necessary equipment and work force, and is skilled in performing the type of work contemplated;

(3) Performance will conform to drawings and specifications approved by SCS and will be in accordance with an agreed upon time schedule;

(4) The sponsors assume full financial and other responsibility for any work that must be torn out, replaced, or repaired because of construction error or other causes which would be the responsibility of a contractor if the work was performed by contract; and

(5) The estimated value of the work the sponsors are to perform does not exceed the sponsors' share of the cost-shared items.

(c) *By division of work.* This method may be used for cost sharing land treatment measures only. The measures to be installed by this method shall be described in the watershed work plan narrative and cost estimates included in the watershed work plan. The watershed work plan agreement shall specify the increments of installation work for which SCS and the sponsors are responsible without citing a percentage rate of cost sharing. Sponsors are not required to keep records of expenditures. Detailed SCS cost estimates shall be maintained in support of the watershed work plan to evidence that Pub. L. 83–566 costs for land treatment do not exceed the rate authorized.

Subpart F—Installation

§ 622.50 Authorized for installation.

Installation is the phase of project development beginning after the watershed work plan has been approved as provided in § 622.35, and Federal assistance for installing the project has been authorized. The installation phase continues until all planned measures are completed and the project enters the operation and maintenance phase.

§ 622.51 Implementation.

Installation will be implemented as provided by the specific agreements entered into between SCS and the sponsors, such as the project, engineering services, and land rights agreements. Each agreement will detail the working arrangements and funding and responsibilities of each party for carrying out specified elements of work.

§ 622.52 Sponsor responsibilities.

Sponsors are responsible for carrying out the watershed work plan with assistance from SCS. This responsibility includes:

(a) Financing all non-Pub. L. 83-566 costs.

(b) Conducting a continuing program of information and public participation.

(c) Providing land rights, including the right of public access to works of improvement as provided in the work plan and to all other water impounding structures enlarged for nonproject purposes such as private recreation or land value enhancement.

(d) Providing water rights.

(e) Awarding and administering contracts, except that SCS may be requested to contract for the construction of structures.

(f) Obtaining agreements from landowners and operators to plan and apply soil and water conservation measures and provide land treatment measures.

(g) Complying with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601 et seq.)).

(h) Complying with State law and local ordinances.

(i) Repaying any loan or monies received as an advance for preservation of sites.

(j) Operating and maintaining completed works of improvement.

§ 622.53 SCS responsibilities.

SCS is responsible for providing authorized assistance as set forth in the watershed work plan. This assistance includes:

(a) Technical assistance for land treatment.

(b) Preparation of plans and estimates.

(c) Allocation of costs.

(d) Entering into agreements with sponsors to furnish financial and other assistance.

(e) Assistance to sponsors in performing designs, developing specifications, and awarding and administering contracts when requested by the sponsors.

(f) Cooperation with other Federal, State, and local agencies in program coordination.

§ 622.54 Other Federal agency responsibilities.

(a) Land administering agencies are responsible for the installation, operation and maintenance of works of improvement on lands which they administer. Federal funds appropriated for Pub. L. 83-566 work may not be used to install, operate, or maintain land treatment measures on Federal lands. Other works of improvements on Federal lands will be cost shared as provided in the watershed work plan.

(b) The Forest Service of USDA is responsible for providing technical assistance for the forestry aspects of planned land treatment measures.

(c) The Farmers Home Administration of USDA is responsible for administering the watershed loan and advance provisions of Pub. L. 83-566.

(d) Other Federal agencies may provide technical and financial assistance in the installation of watershed projects under their authorities.

PART 623—FLOOD PREVENTION PROJECTS

Sec.
623.1 Purpose.
623.2 Scope.
623.3 Initiation.
623.4 Subwatershed work plans.
623.5 Subwatershed financial assistance.
623.6 Installation.

AUTHORITY: Sec. 1, Pub. L. 86-468, 74 Stat. 131, as amended (16 U.S.C. 1006a); sec. 2, Pub. L. 78-534, 58 Stat. 889 (33 U.S.C. 701a-1); Sec. 13, Pub. L. 78-534, 58 Stat. 905.

§ 623.1 Purpose.

This part sets forth policies, requirements, and procedures for carrying out federally assisted projects administered by SCS under the Flood Control Act of 1944 (Sec. 13, Pub. L. 78-534, 58 Stat. 905). This Act authorizes the 11 watershed improvement programs covered by this part.

§ 623.2 Scope.

(a) The 11 authorized watersheds and their locations are:

Buffalo Creek Watershed, New York.
Middle Colorado River Watershed, Texas.
Coosa River Watershed, Georgia and Tennessee.
Little Sioux River Watershed, Iowa.
Little Tallahatchie Watershed, Mississippi.
Los Angeles River Watershed, California.
Potomac River Watershed, Maryland, Pennsylvania, Virginia, and West Virginia.
Santa Ynez River Watershed, California.
Trinity River Watershed, Texas.
Washita River Watershed, Oklahoma and Texas.
Yazoo River Watershed, Mississippi.

(b) The purposes and objectives of flood prevention and watershed protection in the 11 authorized watersheds are the same as those described for watershed projects in Part 622 of this chapter. Planning criteria, economic justification, local sponsorship, agency participation, financial assistance, eligible measures, operation and maintenance arrangements, and other policies and procedures for subwatersheds within each of the 11 authorized watersheds are consistent with those of watershed projects. Policies, requirements, and procedures for subswatersheds in the 11 authorized watersheds which differ from that for watershed projects are described in §§ 623.3 through 623.6.

§ 623.3 Initiation.

Flood prevention projects are individually authorized by Federal legislation. Only the 11 authorized projects are eligible for assistance. The State conservationist and the sponsors mutually agree to the need and feasibility of watershed improvement work in individual subwatersheds. Therefore, the provisions for application and planning authorization for watershed projects in §§ 622.20, 622.21, 622.22, and 622.30 of this chapter are not applicable.

§ 623.4 Subwatershed work plans.

Subwatershed work plans are administratively approved by the state conservationist. If the plan involves Federal financial, technical, or credit assistance for purposes other than flood prevention, clearance from the Office of Management and Budget will be obtained before the plan is approved by the state conservationist.

§ 623.5 Subwatershed financial assistance.

Financial assistance available to sponsors of subwatersheds in the 11 authorized watersheds is identical to that described in Part 622 of this chapter, except that program funds may be used to provide Federal financial assistance for purchase of land rights for single-purpose flood prevention structures and for installing land treatment measures on Federal lands.

§ 623.6 Installation.

Installation procedures and responsibilities of sponsors and SCS are identical to those listed in Part 622 of this chapter, except that SCS shall award and administer contracts for installation of measures unless it is to the government's advantage and the sponsors agree to award and administer the contracts.

PART 624—EMERGENCY WATERSHED PROTECTION

Sec.
624.1 Purpose.
624.2 Scope.
624.3 Administration.
624.4 Eligibility.
624.5 Application.
624.6 Investigation and approval.
624.7 Coordination with Federal agencies.
624.8 State and local responsibilities.
624.9 Environment.

AUTHORITY: Sec. 216, Pub. L. 81-516, 64 Stat. 184 (33 U.S.C. 701b-1).

§ 624.1 Purpose.

This part sets forth the policies, requirements, and procedures for Federal assistance administered by SCS under section 216 of the Flood Control Act of 1950 (Pub. L. 81-516, 64 Stat. 184 (33 U.S.C. 701b-1)).

§ 624.2 Scope.

Authorized emergency watershed protection (EWP) technical and financial assistance may be provided to the extent funds and manpower are available when an emergency exists. Technical assistance includes engineering and other disciplines needed for planning and installing emergency measures. Planning costs, engineering services, and project administration, except for relation assistance advisory services, are included. SCS may pay up to 100 percent of the costs of approved EWP measures. EWP is authorized in the 50 States, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

§ 624.3 Administration.

Administration of EWP has been delegated by the Secretary to SCS. SCS shall provide overall administrative direction and guidance. Funds shall be transferred by SCS to the Forest Service (FS) of the U.S. Department of Agriculture (USDA) at the national level for work to be installed by FS or its cooperators. Under general program criteria and procedures established by SCS, the FS is responsible for administering the forestry aspects of EWP on the national forests and rangelands within national forest boundaries, on adjacent rangelands that are administered under formal agreement with the FS, and on other forest land. When these lands are involved, the emergency work is to be done either by SCS or FS in the quickest and most economical manner. In carrying out its responsibilities, FS is to work cooperatively with SCS and other Federal, State, and local government agencies.

§ 624.4 Eligibility.

(a) An emergency exists if a watershed is suddenly impaired by flood, fire, wind, earthquake, or other natural force. The emergency area need not be declared a national disaster area to be eligible for EWP. EWP is applicable to small-scale, localized disasters and large-scale disasters. EWP funds shall not be used to perform normal operation and maintenance.

(b) Eligible measures include erosion and water control measures such as: Establishment of vegatative cover, streambank stabilization, opening clogged watercourses, and installing diversions, dikes, jetties, terraces, dams, open channels, debris basins, and grade stabilization measures. An existing structure may be repaired as an EWP measure if the structure is in imminent danger of failure and its failure would cause significant losses to life and property. It is emphasized that the purpose of EWP work is to safeguard lives and property in emergency situations and not to resolve watershed problems that existed prior to the natural disaster. Permanent or longlife measures may be installed as EWP measures only if their installation is the most economical and expeditious way of alleviating the critical situation.

(c) EWP assistance is available to landowners, managers, residents, and others having a bona fide interest in areas affected by sudden impairment of a watershed by a natural disaster. Interested persons should apply through a sponsor as defined in § 624.8.

§ 624.5 Application.

Sponsors may apply to any SCS office for EWP assistance. SCS will help sponsors prepare their applications. SCS offices are described in Part 600 of this chapter. The application shall be in writing and shall describe the nature, location, and scope of the problems and the assistance needed.

§ 624.6 Investigation and approval.

(a) *Investigation.* Upon receipt of an application for EWP, the State conservationist shall arrange for an immediate investigation to determine:

(1) Physical details of the watershed impairment.

(2) Potential hazards to life and property created by the emergency.

(3) Kind and quantity of emergency measures needed.

(4) Environmental considerations of the needed work.

(5) Estimated cost of emergency measures.

(6) Amount of assistance available through other programs.

(7) Specific kind of participation, value of work, and dollar contribution that local interests and State agencies are willing and able to make to install the emergency measures.

(8) Amount of EWP funds needed.

(b) *Report.* If the investigation supports the need for emergency protection, the State conservationist shall immediately report his findings to the Administrator and request approval and funding. Upon approval, available funds shall be allotted to the State conservationist for installing emergency protection.

§ 624.7 Coordination with Federal agencies.

SCS EWP work is coordinated with other emergency programs. The coordination is to be extensive enough to avoid duplication of assistance. In declared disaster areas, USDA agencies shall respond to the Federal Disaster Assistance Administration (FDAA) which has overall responsibility. If FDAA transfers this responsibility to the Federal Regional Council during the recovery period, USDA agencies shall be responsible to the Council. USDA operations shall be coordinated through USDA state and county emergency committees. Information on other Federal emergency projects is available from regional offices of FDAA. The Federal land-managing agency is to assume land rights and operation and maintenance responsibilities for EWP measures installed on Federal land.

§ 624.8 State and local responsibilities.

EWP work on nonfederal land must be sponsored by a local or state organization such as a conservation district or a county, town, or State agency. To receive assistance, the sponsor must have authority to provide needed land rights, water rights, and construction permits. State environmental, natural resource, fish and game, and other agencies should participate in planning and coordinating emergency work. An entity of the State government such as a conservation district, town or county government, or State agency should assist in selecting the priorities of eligible areas.

§ 624.9 Environment.

Environmental aspects of emergency work shall be given careful consideration. A program environmental impact statement for EWP work has been circulated in compliance with section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-190, 83 Stat. 852 (42 U.S.C. 4321 et seq.)). The Administrator shall notify the chairman of the Council on Environmental Quality by letter when emergency work is to be undertaken. The notification shall be a supplement to the program environmental impact statement. State conservationists shall notify regional offices of the Bureau of Sport Fisheries and Wildlife, the Environmental Protection Agency, and the state fish and game and other appropriate agencies of anticipated EWP and invite their assistance in implementing the emergency work. Archaeological, historical, or other special expertise needed shall be solicited from appropriate agencies and groups. Environmental and other considerations shall be integrated into emergency work using the interdisciplinary planning approach.

[FR Doc.74-10074 Filed 5-1-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 103]

VOCATIONAL EDUCATION

Research and Training, Exemplary, and Curriculum Development Programs

In accordance with section 503 of the Education Amendments of 1972 (Pub. L. 92-318) and pursuant to the authority contained in the Vocational Education Act of 1963, as amended, 20 U.S.C. 1241 to 1391, the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 45 Part 103 of the Code of Federal Regulations to read as set forth below.

These regulations contain all of the mandatory requirements for the program. At present, there will be no guidelines under this program. Should guidelines be issued in the future, they will be limited to material in the nature of suggestions and recommendations for program management and operation and will be published in the FEDERAL REGISTER 30 days prior to their effective date. Appendices A & B, containing criteria, were published at 38 FR 36747 on November 7, 1973 and at 38 FR 33566 on December 5, 1973 respectively with opportunity for comment. No comment was received and the appendices are added without change.

1. *Program purposes.* Parts C, D, and I of the Vocational Education Act of 1963, as amended, authorize programs under which the Commissioner may award grants and contracts to eligible applicants for research and training (Part C), exemplary projects (Part D) and curriculum development (Part I).

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 Repre-

sentatives 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 discretionary programs under Parts C, D, and I of the Vocational Education Act of 1963, as amended.

Part 103 will be published in final form following the evaluation of comments received in writing or during the public hearing. The regulations will become effective thirty days after such publication in final form at which time they will supersede all preceding rules, regulations, guidelines, or other interpretations and orders issued in connection with or affecting Part 103.

3. *Effect of Office of Education general provisions regulations.* The proposed regulations differ from the current regulations in that provisions relating to general fiscal and administrative matters which presently appear in 45 CFR Part 103 are being deleted from Part 103 because they are now covered under the overall Office of Education general provisions regulations, Parts 100–100b of Title 45, Code of Federal Regulations published in the FEDERAL REGISTER at 38 FR 30654 on November 6, 1973. Particular reference is made to Part 100a which contains the general provisions for discretionary programs, which are applicable to the programs under Parts C, D, and I of the Vocational Education Act of 1963, as amended.

4. *Change in the proposed regulations.* (a) The new proposed Part 103 as set forth below contains no major substantive changes in the regulations which were revised and republished in the FEDERAL REGISTER at 35 FR 11976 on July 24, 1970. Minor technical changes are proposed to conform with section 503, to delete matters covered by the general provisions, and to update references to organizational units.

(b) Specifically, the following sections have been deleted: §§ 103.2, 103.3 (b), (d), and (g), 103.13(a), 103.14, 103.16, 103.17, 103.24(a), 103.25, 103.27, 103.28, 103.34, 103.35, 103.36 and 103.37. All of Subpart E, "General Terms and Conditions" has been deleted as the provisions therein are superseded by 45 CFR Part 100a. Language has been added to section 103.22 to indicate that funding is limited by the Act to three years. Sections 103.13 (c) and 103.24(c) have been revised to update the reference to organizational units. Section 103.24 provides for evaluation by disinterested parties. Section 103.24(b) has been revised to require a copy of applications to be sent to the appropriate Regional Commissioner.

(c) The section numbering of the present regulations has been retained for clarity and continuity.

5. *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 is to all that appears in that section above the citation. When the citation appears only at the end of the section it applies to the entire section.

6. *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 public hearing will take place at the U.S. Office of Education on May 30, 1974, in the auditorium of Regional Office Building Three (ROB–3) located at 7th and D Streets SW., Washington, D.C. 20202, beginning at 10 a.m.

Interested parties may also submit written comments and recommendations to the Commissioner of Education, Attention: Chairman, Office of Education Task Force on Section 503, Room 2079–G, Federal Office Building No. 6 (FOB–6), 400 Maryland Avenue SW., Washington, D.C. 20202. All relevant material received prior to the date of the hearing will be considered. Comments and suggestions 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.

Parties interested in attending the hearing should notify the Office of Education at the above address, 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.

(Catalog of Federal Domestic Assistance Nos. 13.498, 13.502, Vocational Education—Curriculum Development, Research, and Exemplary Programs and Projects)

Dated: March 28, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: April 19, 1974.

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

PART 103—RESEARCH AND TRAINING, EXEMPLARY AND CURRICULUM DEVELOPMENT PROGRAMS IN VOCATIONAL EDUCATION

Subpart A—Applicability and Definitions

Subpart B—Research and Training Programs (Part C of the Act)

Subpart C—Exemplary Programs and Projects (Part D of the Act)

Subpart D—Curriculum Development Programs (Part I of the Act)

AUTHORITY: Secs. 131–134, 141–145, and 191 of the Vocational Education Act of 1963, as amended; 82 Stat. 1078–1082, and 1091, as amended; 20 U.S.C. 1281–1305, and 1391, unless otherwise noted.

Subpart A—Applicability and Definitions

§ 103.1 Applicability.

The regulations in this part apply to grants and contracts made by the U.S. Commissioner of Education for research and training programs under section 131 (a) of part C, for exemplary programs and projects under section 142(c) of part D, and for curriculum development programs under section 191 of part I of the Vocational Education Act of 1963, as amended.

(20 U.S.C. 1281(a), 1302(c), 1391)

§ 103.3 Definitions.

As used in this part:

"Act" means the Vocational Education Act of 1963, as amended.

(20 U.S.C. 1241–1391)

"Curriculum materials" means materials consisting of a series of courses to cover instruction in any occupational field in vocational education which are designed to prepare persons for employment at the entry level or to upgrade occupational competencies of those previously or presently employed in any occupational field.

(20 U.S.C. 1391(c)(2))

"Local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency (such as a junior or community college or State-operated area vocational school) having administrative control and direction of a vocational education program.

(20 U.S.C. 1248(9))

"New careers" or "new occupations" includes careers or occupations in such fields as mental and physical health, crime prevention and correction, welfare, education, municipal services, child care, and recreation, requiring less training than professional positions in such fields

but providing opportunity for advancement within a career continuum or sequence.

(20 U.S.C. 1282(6))

"State" means a State of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1248(7))

"State board" means the State board designated or created under State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration thereof by local educational agencies in the State, and designated in the State plan pursuant to the regulations governing State vocational education programs (45 CFR 102.32).

(20 U.S.C. 1248(8), 1263(a))

"Vocational education" means both vocational education and technical education.

(20 U.S.C. 1248(1))

§ 103.4 Cross reference to general provisions regulations.

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. 1221c(b)(1))

Subpart B—Research and Training Programs (Part C of the Act)

§ 103.11 Eligible programs and projects.

Funds available under section 131(a) of the Act may be used by the Commissioner to award grants and contracts to eligible applicants to pay part of the cost of the following types of activities related to vocational education:

(a) Research in vocational education;

(b) Training programs designed to familiarize persons involved in vocational education with research findings and successful pilot and demonstration projects in vocational education;

(c) Experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings;

(d) Demonstration and dissemination projects;

(e) The development of new vocational education curricula; and

(f) Projects in the development of new careers and new occupations, such as:

(1) Research and experimental projects designed to identify new careers and to delineate, within such careers, roles with the potential for advancement from one level to another;

(2) Training and development projects designed to demonstrate improved methods for securing the involvement, cooperation, and commitment of both the public and private sectors toward the end of achieving greater coordination and more effective implementation of programs for the employment of persons in new careers and occupations, including programs to prepare professionals (including administrators) to work effectively with aides; and

(3) Projects to evaluate the operation of programs for the training, development, and utilization of public service aides, particularly their effectiveness in providing satisfactory work experiences and in meeting public needs whether through employment by public or private agencies.

(20 U.S.C. 1281(a), 1282)

§ 103.12 Eligible applicants.

(a) The following categories of agencies and institutions are eligible for grants or contracts under this subpart:

(1) Institutions of higher education;

(2) State boards;

(3) Local educational agencies; and

(4) Other public or private agencies or institutions, provided that no grants may be made to other than a nonprofit agency or institution.

(b) Individuals are not eligible for such grants or contracts.

(20 U.S.C. 1281(a))

§ 103.13 Applications for grants or contracts.

(a) All applications from local educational agencies shall be submitted to the Commissioner through the State board and shall be accompanied by a statement of the State board indicating its approval of the application.

(20 U.S.C. 1281(a), 1283(a))

(b) The application shall be executed by an individual authorized to act for the applicant. Applications shall be mailed to the Application Control Center, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, (Attention: 13.498).

(20 U.S.C. 1283(a))

(c) Requests for applications and application information shall be mailed to Division of Research and Demonstration, U.S. Office of Education, Room 5012, 7th and D Streets, ROB-3, SW., Washington, D.C. 20202.

§ 103.15 Distribution of grants and contracts among the States.

(a) Grants and contracts to eligible applicants located in any one State will be awarded by the Commissioner only from funds allotted to that State pursuant to section 103(a)(2) of the Act and available to the Commissioner under section 131(a) of the Act, except that—

(20 U.S.C. 1242(a), 1243(a)(2), 1281(a))

(1) Grants and contracts for programs or projects of national significance may be made from funds derived from a pro rata share of allotments to all the States, and

(2) Grants and contracts for programs or projects of regional or interstate significance may be made from funds derived from a pro rata share of allotments to all of the States affected by the significance of the program or project.

(b) Determination of whether a particular program or project has national, regional, or interstate significance will be made by the Commissioner on the basis of information submitted to him in the application and after consultation with a panel of experts.

(20 U.S.C. 1281, 1283(b))

Subpart C—Exemplary Programs and Projects (Part D of the Act)

§ 103.21 Purpose.

The purpose of part D of the Act is to stimulate new ways to create a bridge between school and earning a living for young people who are still in school, who have left school either by graduation or by dropping out, or who are in postsecondary programs of vocational preparation; and to promote cooperation between public education and manpower agencies, through Federal financial support of exemplary and innovative occupational programs or projects which are designed to broaden occupational aspirations and opportunities for youths, particularly disadvantaged youths; and to serve as models for use in vocational education programs.

(20 U.S.C. 1301, 1303(a)(2))

§ 103.22 Eligible programs and projects.

Funds available under section 142(c) of the Act may be used by the Commissioner to award grants and contracts to eligible applicants to pay all or part of the cost of planning and developing or establishing, operating, or evaluating exemplary programs or projects designed to carry out the purpose set forth in § 103.21. (20 U.S.C. 1302(c), 1303(a)(2).) Such programs or projects may, among others, include:

(a) Those designed to familiarize elementary and secondary school students with the broad range of occupations for which special skills are required and the requisites for careers in such occupations;

(b) Programs or projects for students providing educational experiences through work during the school year or in the summer;

(c) Programs or projects for intensive occupational guidance and counseling during the last years of school and for initial job placement;

(d) Programs or projects designed to broaden or improve vocational education curriculums;

(e) Exchanges of personnel between schools and other agencies, institutions, or organizations participating in activities to achieve the purposes of this subpart, including manpower agencies and industry;

(f) Programs or projects for young workers released from their jobs on a part-time basis for the purpose of increasing their educational attainment; and

(g) Programs or projects at the secondary level to motivate and provide preprofessional preparation for potential teachers for vocational education.

(20 U.S.C. 1303(a)(2)(A)–(G))

No financial assistance may be given under part D of the Act to any program or project for a period exceeding 3 years.

(20 U.S.C. 1305)

§ 103.23 Eligible applicants.

(a) The Commissioner is authorized to make grants to, or contracts with, State boards and local educational agencies.

(b) The Commissioner is also authorized to make grants to other public or nonprofit private agencies, organizations, or institutions when such grants will make an especially significant contribution to attaining the objectives of this subpart as set forth in §§ 103.21 and 103.22.

(c) The Commissioner is also authorized to make contracts with public or private agencies, organizations, or institutions when such contracts will make the contribution referred to in section (b) of this section.

(d) Individuals are not eligible for such grants or contracts.

(20 U.S.C. 1302(c))

§ 103.24 Applications for grants or contracts.

(a) Applications must be prepared and submitted in accordance with instructions and forms which may be obtained from the appropriate Regional Office of the U.S. Office of Education.

(b) Completed applications are to be submitted to the appropriate Regional Office (Attention: 13.502)

(20 U.S.C. 1302(c))

(b) Copies of applications shall be submitted simultaneously to the State board for its review. The Commissioner will not approve any application for a proposed program or project if the State board has notified the Commissioner of its disapproval of such program or project within 60 days of its submission to the State board by the applicant.

(20 U.S.C. 1303(b)(3))

(c) Each program or project proposal shall include an evaluation plan to be carried out by a third party for the purpose of evaluating the effectiveness of the program or project. Such plan shall describe the steps by which the grantee will:

(1) Determine the extent to which the objectives of the program or project have been accomplished;

(2) Determine what factors either enabled or precluded the accomplishment of these objectives; and

(3) Promote the inclusion of the successful aspects of the program or project into vocational education programs supported with funds other than those provided under the grant.

(20 U.S.C. 1303(a)(2))

§ 103.25 Review of applications.

The Commissioner will not approve any application for a grant or contract under this subpart until such application has been reviewed in accordance with such procedures as the Commissioner may establish. Such review will take into account in addition to the criteria set forth in § 100a.26(b) of this title such factors as:

(a) Potential impact on reducing the level of youth unemployment;

(b) Extent of focus on problem areas of major importance in (1) creating bridges between school and earning a living for young people; (2) promoting cooperation between public education and manpower agencies; and (3) broadening occupational aspirations and opportunities for youths;

(c) Extent of emphasis on youths who have academic, socio-economic, or other handicaps;

(d) Relevance to priority areas in vocational education as reflected in the Act;

(e) Utilization of procedures that appear practical and feasible for wide application in vocational education;

(f) Utilization of new approaches and tested innovations which have emerged from recent research and development work; and

(g) Soundness of the proposed plan of operation, including consideration of the extent to which:

(1) The objectives of the proposed program or project are sharply defined, clearly stated, capable of being attained by the proposed procedures, and capable of being measured;

(2) The procedures for achieving the objectives are appropriate, technically sound, and explained in detail;

(3) Provisions are made for adequate evaluation of the effectiveness of the program or project and for determining the extent to which the objectives are accomplished;

(4) Provisions are made for the genuine and meaningful participation of students enrolled in nonprofit private schools;

(5) Provisions are made for coordinating the activities of the proposed program or project with others having the same or similar purposes;

(6) Provisions are made for disseminating the results of the program or project and for making materials, techniques, and other outputs resulting therefrom available to all those concerned with the improvement of vocational and technical education.

(h) Adequacy of facilities, equipment, and materials for carrying out the proposed program or project;

(i) Adequacy of qualifications and experience of personnel designated to carry out the program or project, including unique and relevant experiences in lieu of formal degrees and certification requiring such degrees;

(j) Reasonableness of estimated cost in relation to anticipated results;

(k) Adequacy of the steps described for ensuring that successful aspects of the program or project will be incorporated into vocational education programs supported with other funds; and

(l) Sufficiency of size, scope, and duration of program or project so as to make a significant contribution to vocational education.

(m) If the application is being submitted by any type of applicant organization other than a State board for vocational education or a local educational agency, a convincing case shall be made that the project would represent an especially significant contribution to attaining the objectives of Part D of the Act.

(20 U.S.C. 1301, 1302(c), 1303)

(n) The application shall include suitable procedures to assure that Federal funds made available for the project will not be commingled with State or local funds.

(20 U.S.C. 1303(b)(1)(C))

§ 103.26 Distribution of grants and contracts among the States.

Grants and contracts to eligible applicants located in any one State will be awarded by the Commissioner only from funds allotted to that State pursuant to section 142(b) of the Act and available to the Commissioner under section 142(c) of the Act.

(20 U.S.C. 1302(a)-(c))

Subpart D—Curriculum Development Programs (Part I of the Act)

§ 103.31 Purpose.

The purpose of part I of the Act is to enable the Commissioner to provide appropriate assistance to State and local educational agencies in the development of curriculums for new and changing occupations, and to coordinate improvements in, and dissemination of, existing curriculum materials.

(20 U.S.C. 1391(a))

§ 103.32 Eligible programs and projects.

Funds available under section 191 of the Act may be used by the Commissioner to award grants and contracts to eligible applicants for programs and projects having the following purposes:

(a) To promote the development and dissemination of vocational education curriculum materials for use in teaching occupational subjects, including curriculums for new and changing occupational fields, and including those in public service;

(b) To develop standards for curriculum development in all occupational fields;

(c) To coordinate efforts of the States in the preparation of curriculum materials and to prepare current lists of curriculum materials available in all occupational fields;

(d) To survey curriculum materials produced by other agencies of Government, including the Department of Defense;

(e) To evaluate vocational-technical education curriculum materials and their uses; and

(f) To train personnel in curriculum development.

(20 U.S.C. 1391(c))

§ 103.33 Eligible applicants.

(a) The following categories of agencies or institutions are eligible for grants or contracts under this subpart:

(1) Colleges or universities;

(2) State boards; and

(3) Other public or private agencies or institutions, provided that no grant may be made to other than a nonprofit agency or institution.

(b) Individuals are not eligible for such grants or contracts.

(20 U.S.C. 1391(c)(1))

APPENDIX A

EXEMPLARY PROJECTS IN VOCATIONAL EDUCATION ADDITIONAL CRITERIA

In the making of awards from funds available for the program (in addition to consideration of the criteria in 45 CFR 103.25 and 100a.26(b)) priority will be given to projects which include a strong guidance and counseling emphasis and which involve in one operational setting a coordinated set of activities designed to carry out all of the following purposes.

a. To increase the selfawareness of each student, to develop in each student favorable attitudes about the personal, social, and economic significance of work, and to assist each student in developing and practicing appropriate career decisionmaking skills.

b. To increase the career awareness of students at the elementary school level in terms of the broad range of options open to them in the world of work.

c. To provide, at the junior high or middle school level, career orientation and meaningful exploratory experiences for students.

d. To provide, at grade levels 10 through 14, job preparation in a wide variety of occupational areas, with special emphasis on innovative approaches to the provision of work experience and/or cooperative education opportunities for all students.

e. To insure the placement of all existing students in either:

(1) A job,

(2) a post-secondary occupational program, or

(3) a baccalaureate program.

(20 U.S.C. 1301, 1303(a))

Each project may be designed for a duration of up to three years, with the understanding that only the first 12 months of activity will be supported with fiscal year 1974 funds. Support for the proposed second and third years of each project will be dependent upon availability of appropriations and satisfactory progress in the implementation of the earlier stages of the project. Since comprehensive exemplary projects will require substantial financial resources, consideration should be given in the project design to the possible coordination with relevant programs supported from other sources.

(20 U.S.C. 1301, 1305)

APPENDIX B

RESEARCH PROJECTS IN VOCATIONAL EDUCATION ADDITIONAL CRITERIA

In the making of awards from funds available for the program (in addition to consideration of the criteria in § 100a.26(b)) priority will be given to applications which rank high on the basis of such criteria and which propose projects in one or more of the priority areas described below. In addition, special consideration will be given to programs or projects of national, regional, or interstate significance in one or more of the priority areas described below. The results of these projects should improve and extend existing federally supported vocational education programs.

Curriculum Studies. Information is needed to undergird curriculum planning and curriculum development activities. Applied studies will be supported to produce information: (1) For developing individualized and performance oriented curricula, including the state-of-the-art, effectiveness, cost, and cost-effectiveness information, (2) that identifies emerging occupations and explicates the curriculum and manpower needs for the area or areas, and (3) that identifies common core of basic skills for one or more occupational cluster areas.

Disadvantaged, Handicapped, and Minority. Information is needed to improve vocational education and vocational education opportunities for disadvantaged, handicapped, and minority populations. Applied studies will be supported to produce information that is designed for use by decision makers at the Federal, State, and local levels. These studies should produce information which will: (1) improve the utilization of existing vocational education resources for target populations, (2) improve the image of vocational education for target populations, and (3) provide a basis for improving access to the field or fields of employment for which individuals in a target group or groups have been trained.

Alternative Work Experience Programs. Information is needed to improve and extend work experience programs. Applied studies will be supported to produce information that: (1) identifies more creative work experience approaches with business, industry, and community and civic organizations, (2) provides a basis for improving student and employer satisfaction in work experience programs, (3) clarifies legal and other barriers to work experience programs, (4) provides a basis for establishing standards for work experience programs, and (5) identifies alternative work experience programs and describes actual or projected costs and cost-benefits of the programs.

Guidance, Counseling, Placement, and Student Followup Services. Comprehensive systems of guidance, counseling, placement, and followup services for students and adults need to be improved. Applied studies will be supported which produce information that:

(1) provides the basis for improving career planning for target populations selected by the applicant,

(2) provides the basis for improving student assessment capabilities, and

(3) determines the state-of-the-art, impact, cost, and cost-effectiveness information regarding components of comprehensive systems of guidance, counseling, placement, and student followup services.

In addition, several large scale efforts will be supported to develop components of comprehensive system: of guidance, counseling, placement, and followup services for students and adults. These development efforts should focus on:

(1) developing procedures to utilize employment information,

(2) developing job placement and followup services for students, and

(3) producing in-service training materials designed to improve the skills of professionals and support personnel in utilizing employment information, and providing job placement and student followup services.

Manpower Information and System for Education. Job, manpower, labor market, and demographic data are required by public, private, and proprietary educational administrators, planners, evaluators, curriculum developers, career counselors, teachers, and students. Manpower information needs to be current and appropriately presented if vocational education programs are to be responsive to existing and projected employment opportunities. Applied studies will be supported to improve manpower, job, labor market, and demographic information relevant to the needs of Federal, State, and local educational administrators, planners, evaluators, and other user groups. These studies should produce information which will:

(1) Provide a basis for improving manpower projections for educational uses at the State and local levels,

(2) provide a basis for matching job requirements to the skills of prospective workers,

(3) provide a basis for improving the accuracy of manpower projections for jobs,

(4) translate manpower forecasts into program and specific curriculum requirements, and

(5) provide the basis for vocational education to interface with economic development groups and to assist in job development approaches.

In applying the above stated criteria the Commissioner will seek to provide assistance to programs or projects in all the above described areas.

(20 U.S.C. 1248(1), 1281(a), 1282, 1283)

[FR Doc.74-10094 Filed 5-1-74;8:45 am]

[45 CFR Part 130]

LIBRARY SERVICES AND CONSTRUCTION

Proposed Amendments

In accordance with section 503 of the Education Amendments of 1972 (Pub. L. 92-318) and pursuant to the Library Services and Construction Act, as amended by the Library Services and Construction Amendments of 1970, Pub. L. 91-600, 20 U.S.C. 351, the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend 45 CFR Part 130 to read as set forth below. This notice proposes certain changes in the regulations under the Library Services and Construction Act contained in 45 CFR Part 130 and sets forth guidelines for the program under the Act.

1. *Purpose.* The Library Services and Construction Act provides for a program of assistance to States in the extension and improvement of public library services in areas of the States which are without such services or in which such services are inadequate. Assistance may also be provided for the construction of public libraries; for the improvement of such State library services as library services for physically handicapped, institutionalized, or disadvantaged persons; for strengthening State library administrative agencies; and for promoting inter-library cooperation among all types of libraries.

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 and guidelines proposed below reflect the results of this study as it pertains to the program under the Library Services and Construction Act. Upon publication of revised Part 130 in final form, after comments and hearing, all preceding rules, regulations, guidelines, and other published interpretations and orders is-

sued in connection with or affecting the program will be superseded effective thirty days after such publication.

3. *Regulations.* Regulations under the Library Services and Construction Act were published in the FEDERAL REGISTER on December 5, 1972, at 37 FR 25827 and are the regulations under which the program is presently being operated. Such publication followed a notice of proposed rulemaking regarding these regulations published in the FEDERAL REGISTER on January 12, 1972, at 37 FR 470. Comments received in connection with the January 12 publication were considered prior to the promulgation of the final regulations on December 5.

The revised regulation proposed below essentially follows the pattern of the current regulation. The regulation has been shortened by the elimination of provisions relating to general fiscal and administrative matters which are now covered under the overall Office of Education General Provisions Regulation which was published in the FEDERAL REGISTER at 38 FR 30654 (November 6, 1973), in connection with the same study under section 503 of the Education Amendments of 1972 of which this publication is a part. (Reference is made in particular to the provisions of proposed Part 100b of Title 45 CFR, containing general provisions for State administered programs, which would be applicable to the program under the Library Services and Construction Act.) Provisions in Part 130 related to such general matters as retention of records, custody of Federal funds, effective dates of allowable expenditures, adjustments, audits and the like covered in Part 100b need not be repeated in the program regulation set forth below and therefore have been eliminated. By the same token, general across-the-board provisions relating to construction projects to be contained in Part 100b are not repeated in the program regulation. Considerable shortening and simplification of the program regulation has thus been made possible.

Beyond this, the current regulation in Part 130 would be changed by the proposed regulation through the addition of clarifying language in §§ 130.15 and 130.21, technical and minor corrections, and the furnishing of additional statutory citations as a result of the study under section 503.

4. *Guidelines.* Guidelines for the program have not previously been published in the FEDERAL REGISTER. The guidelines proposed below essentially contain recommendations for the preparation of State plan documents and the processing of applications for library construction and are designed to incorporate all materials covered by section 503 of the Education Amendments of 1972 not otherwise reflected in the regulation.

5. *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 and guidelines 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 is 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.

6. *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 May 24, 1974, in the auditorium of Regional Office Building Three (ROB-3) located at 7th and D Streets SW., Washington, D.C. 20202, beginning at 11 a.m.

Parties interested in attending the hearing should notify the Chairman, Office of Education Task Force on Section 503, 400 Maryland Avenue SW., Room 2079-G, 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.

Written comments and recommendations may also be sent to the above address. All relevant material received prior to the date of the hearing will be considered. Comments and suggestions submitted in writing will be available for review in the above office between the hours of 9 a.m. and 4:30 p.m. Monday through Friday of each week.

Dated: March 21, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: April 15, 1974.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Program Numbers 13.464, Library Services Grants for Library Services; 13.465, Library Services-Inter-Library Services; 13.408, Construction of Public Libraries.)

PART 130—LIBRARY SERVICES, PUBLIC LIBRARY CONSTRUCTION, AND INTERLIBRARY COOPERATION

Subpart A—Types of Assistance

Subpart B—State Plan Provisions

Subpart C—Federal Financial Participation

Subpart D—Payments and Reports

AUTHORITY: Sec. 2, Pub. L. 91-600, 84 Stat. 1660 (20 U.S.C. 351), unless otherwise noted.

Subpart A—Types of Assistance

§ 130.1 Purpose and scope.

The purpose of the regulations in this part is to implement the provisions of the Library Services and Construction Act, as amended, which provides for Federal grants to States to assist them in the establishment, extension, and improvement of public library services in areas of the States which are without such services or in which such services are inadequate; with public library construction; in the establishment, extension, and improvement of such other State library services as library services for physically handicapped, institutionalized, and disadvantaged persons; in strengthening State library administrative agencies; and in promoting interlibrary cooperation among all types of libraries.

(20 U.S.C. 351)

§ 130.2 General Provisions Regulation.

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

(20 U.S.C. 351)

§ 130.3 Definitions.

"Act" means the Library Services and Construction Act, as amended by section 2 of the Library Services and Construction Amendments of 1970.

(Pub. L. 91-600, 20 U.S.C. 351)

"Construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees and the cost of acquisition of land).

(20 U.S.C. 351a(2))

"Disadvantaged persons" means persons who have educational, socioeconomic, cultural, or other disadvantages that prevent them from receiving the benefits of library services designed for persons without such disadvantages and who for that reason require specially designed library services. The term includes persons whose needs for such special services result from poverty, neg-

lect, delinquency, or cultural or linguistic isolation from the community at large, but does not include physically or other handicapped persons unless such persons also suffer from the disadvantages described in this paragraph.

(20 U.S.C. 351)

"Equipment" for purposes of the definition of "construction" in this section and § 130.32(b), includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them; and all other items necessary for the functioning of a particular facility as a facility for the provisions of library services.

(20 U.S.C. 351a(2))

"Interlibrary cooperation", in reference to assistance under Title III of the Act, means the establishment, expansion and operation of local, regional, and interstate cooperative library networks which will provide for the systematic and effective coordination of the resources of school, public, academic and special libraries and information centers for improved supplementary services for the special clientele served by each type of library or center. Such networks may be designed to serve a community, metropolitan area, or region within a State, or may serve a statewide or multistate area and shall consist of two or more types of libraries.

(20 U.S.C. 355e–1)

"Library materials" means books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microforms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, processed video and magnetic tapes, printed, published, and audiovisual materials, nonconventional materials designed specifically for the handicapped, and other materials of a similar nature.

(20 U.S.C. 351)

"Library service" means the performance of all activities of a library relating to the collection and organization of library materials and making the materials and infromation of a library available to the public or a special clientele.

(20 U.S.C. 351a(3))

"Library services for the physically handicapped" means the providing of library services, through public or other nonprofit libraries, agencies, or organizations, to physically handicapped persons (including the blind and other visually handicapped) certified by competent authority as unable to read or to use conventional printed materials as a result of physical limitations.

(20 U.S.C. 351a(4))

"Public library":

(a) The term means a library that serves free of charge all residents of a community, district, or region without discrimination and receives its financial support in whole or in part from public funds.

(b) The term includes (with respect to appropriations for fiscal years beginning after June 30, 1973) a research library; which, for the purposes of this sentence, means a library which—

(1) Makes its services available to the public free of charge;

(2) Has extensive collections of books, manuscripts, and other materials suitable for scholarly research which are not available to the public through public libraries;

(3) Engages in the dissemination of humanistic knowledge through services to readers, fellowships, educational and cultural programs, publication of significant research, and other activities; and

(4) Is not an integral part of an institution of higher education. (c) The term does not include libraries such as law, medical, school, and academic libraries, which are organized to serve a special clientele or purpose.

(20 U.S.C. 351a(5))

"Public library services" means library services which are provided by or on behalf of a public library free of charge. The term does not include those library services that are properly the responsibility of the schools.

(20 U.S.C. 351a(6))

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(20 U.S.C. 351a(7))

"State institutional library services" means the providing of books and other library materials, and of library services, to (a) inmates, patients, or residents of penal institutions, reformatories, residential training schools, orphanages, or general or special institutions or hospitals operated or substantially supported by the State, or (b) students in residential schools for the physically handicapped (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health-impaired persons who by reasons thereof require special education) operated or substantially supported by the State.

(20 U.S.C. 351a(9))

"State library administrative agency" or "State agency" means the official agency of a State charged by the law of that State with the extension and development of public library services throughout the State, which has adequate authority under the law of the State to administer State plans in accordance with the provisions of the Act.

(20 U.S.C. 351a(10))

§ 130.4 Library services.

Funds appropriated under section 4(a)(1) of the Act (20 U.S.C. 351b(a)(1)) and allotted to States for the purposes of section 101 of the title I of the Act (20 U.S.C. 352) shall, except as provided in § 130.7, be used solely for paying the Federal share of the cost of the following activities pursuant to the State plan submitted under Subpart B of this part:

(a) Planning for, and taking other steps leading to the development of, programs and projects described in paragraph (b) of this section;

(b) Programs and projects designed to extend and improve library services, including:

(1) Establishing, expanding, and operating programs and projects to provide:

(i) Library services for the disadvantaged in urban and rural areas;

(ii) Library services to the physically handicapped (as defined in § 130.3); and

(iii) State institutional library services (as defined in § 130.3).

(2) Extending public library services to geographical areas and groups of persons without such services;

(3) Improving such services in such areas and for such groups as may have inadequate public library services; and

(4) Strengthening metropolitan public libraries which serve as national or regional resource centers.

(20 U.S.C. 352, 353(a))

§ 130.5 Public library construction.

(a) *General.* Funds appropriated under section 4(a)(2) of the Act (20 U.S.C. 351b(a)(2)) and allotted to States for the purposes of section 201 of title II of the Act (20 U.S.C. 355a) may be used solely for the purpose of paying the Federal share of the cost of public library construction projects which are approved by the State agency, are consistent with the State's long range programs submitted in accordance with § 130.19, which will result in a usable public library building pursuant to the State plan under Subpart B of this part.

(b) *Terms and conditions with respect to construction.* The State agency shall assure that the provisions of Subpart K of part 100b of this chapter will be complied with on all construction projects approved by the State agency for assistance under title II of the Act.

(c) *Display of signs.* The sites of all construction projects shall display a sign stating that Federal funds under the Library Services and Construction Act are being used for such construction. When specifications call for a plaque in the completed building indicating the date of completion and source of funds, funds under the Act shall be noted.

(20 U.S.C. 351b(a)(2), 355a–355c)

§ 130.6 Interlibrary cooperation.

Funds appropriated under paragraph 4(a)(3) of the Act (20 U.S.C. 351b(a)(3)) and allotted to States for the purposes of section 301 of title III of the Act (20 U.S.C. 355c) shall be used solely to pay the cost of carrying out the State plan as it relates to interlibrary cooperation (as defined in § 130.3), including:

(a) Planning for, and taking other steps leading to the development of interlibrary cooperation, and

(b) Programs and projects of interlibrary cooperation.

(20 U.S.C. 355e, 355e–1)

§ 130.7 Activities of State library administrative agency.

In addition to the activities specified in § 130.4, funds appropriated under section 4(a)(1) of the Act (20 U.S.C. 351b (a)(1)) and allotted to States for the purposes of section 101 of title I of the Act may also be used to pay the cost of the following activities of the State library administrative agency:

(a) Administration of the State plan submitted and approved under the Act and Subpart B of this part (including obtaining the services of consultants);

(b) Statewide planning for and evaluation of library services;

(c) Dissemination of information concerning library services;

(d) The activities of the State advisory council under § 130.8;

(e) Activities of such other advisory groups and panels as may be necessary to assist the State library administrative agency in carrying out its functions;

(f) Training of librarians and other library personnel engaged in activities under the Act; and

(g) Otherwise strengthening the capacity of State library administrative agencies for meeting the needs of the people of the State in carrying out the purposes of the Act as stated in § 130.1.

(20 U.S.C. 352, 353(b))

§130.8 State advisory council on libraries.

(a) *General.* Each State which desires to receive funds under the Act and the regulations in this part for any fiscal year shall establish a State advisory council on libraries; and shall submit with its State plan for each fiscal year a certification with respect to that establishment, including the names of the council members and a statement of identification of each member which shows the representation required by section 3(8) of the Act (20 U.S.C. 351a(8) and paragraph (b) of this section.

(b) *Membership.* The membership of the State advisory council on libraries shall include persons broadly representative of each of the following:

(1) Public libraries;

(2) School libraries;

(3) Academic libraries;

(4) Special libraries, such as law or medical libraries;

(5) Institutional libraries, such as reformatory or hospital libraries;

(6) Libraries serving the handicapped in the State; and

(7) Users of such libraries, who shall comprise at least one-third of the council membership, and of whom at least one shall be representative of disadvantaged persons.

(c) *Functions and responsibilities.* The State advisory council on libraries shall:

(1) Advise the State agency on the development of the State plan, including the preparation of long-range and annual programs under §§ 130.19 and 130.20;

(2) Advise the State agency on policy matters arising in the administration of the State plan submitted under the Act and the regulations in this part; and

(3) Assist the State agency in evaluating library programs, services, and activities under the State plan.

(20 U.S.C. 351a(8), 351d)

Subpart B—State Plan Provisions

§ 130.15 State plan—General.

(a) *Purpose.* The purpose of the State plan is to provide a framework within which the State will encourage the establishment or expansion of programs to carry out the purpose set forth in § 130.1 and to provide the basis on which Federal payments to the State under this part are made.

(b) *Format.* The State plan shall be composed of three parts:

(1) The basic State plan provided for in § 130.16;

(2) The long-range program provided for in § 130.19;

(3) The annual program provided for in § 130.20.

(20 U.S.C. 351d(a))

(c) *Submissions.* (1) A State desiring to receive its allotment for any fiscal year shall for that fiscal year (i) have in effect a basic State plan amended in accordance with § 130.22 and approved by the Commissioner in accordance with § 130.16; (ii) submit, or update in accordance with § 130.22, a long-range program; and (iii) submit an annual program for the purposes for which allotments are desired. (2) Amendments to the basic State plan, amendments to reflect changes on the long-range program in accordance with § 130.22, and the annual program shall be submitted on or before July 1 of the fiscal year in question.

(20 U.S.C. 351d(a))

§ 130.16 Basic State plan.

(a) *Form and content.* The basic State plan shall consist of the following:

(1) A State-Federal Agreement consisting of assurances and certifications, which shall be submitted in a form prescribed by the Commissioner, the text of which is set forth in Appendix A to this part; and

(2) A statement of criteria developed under § 130.17 for use by the State library administrative agency in determining the adequacy of public library services in geographical areas and for groups of persons in the State, including criteria designed to assure that priority will be given to programs and projects which serve urban and rural areas with high concentrations of low-income families as determined under § 130.18.

(b) *Approval.* (1) Of the three parts of the State plan referred to in § 130.15 (b), only the basic State plan shall require the approval of the Commissioner.

(20 U.S.C. 351d(c), 351d(d), 352, 355a, 355c; H.R. Rept. No. 1659, 91st Cong. Second sess. 6 (1970))

(2) The Commissioner will approve the basic State plan for fiscal year 1972, and for each fiscal year thereafter, only upon his specific determination that

(i) The plan fulfills the conditions of a basic State plan specified in paragraph (a) of this section;

(ii) The information set forth in the long-range and annual programs indicates that adequate procedures are subscribed to therein to insure that the assurances and provisions of the basic plan will be carried out; and

(iii) All three parts of the State plan will be made public.

(3) The Commissioner will not finally disapprove any basic State plan or amendment thereto without first affording the State reasonable notice and opportunity for a hearing.

(20 U.S.C. 351a(11), 351d (b) and (c))

§ 130.17 Criteria for determining adequacy of public library services.

In developing the criteria in the basic State plan for determining the adequacy of public library services to geographic areas and groups of persons in the State (section 2 of the State-Federal Agreement (See Appendix A to this part)), among other factors deemed pertinent by the State agency, special consideration shall be given to the library needs of the following:

(a) Disadvantaged persons residing in urban or rural areas with high concentrations of low-income families, as determined under § 130.18;

(b) Persons residing in areas of the State which are without public library services or in which such services are inadequate;

(c) Physically handicapped persons (including the blind and other visually handicapped); and

(d) Inmates, patients, or residents of penal institutions, reformatories, residential training schools, orphanages, residential schools for handicapped persons, and other general or special institutions or hospitals operated or substantially supported by the State.

(20 U.S.C. 351d(b))

§ 130.18 Urban and rural areas with high concentrations of low-income families.

(a) In developing criteria in the basic State plan designed to assure that priority will be given to programs or projects which serve urban and rural areas with high concentrations of low-income families under § 130.16(a)(2), the State library administrative agency shall, on the basis of the most recent information available to it, determine which areas of the State constitute such areas. In making these determinations, the State agency may, for example, rely upon determinations made by the Secretary of Commerce of areas eligible for designation as "redevelopment areas" pursuant to section 401 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161); or determinations made by the Secretary of Housing and Urban Development of urban areas eligible for assistance under the Demonstrations Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3301 et seq.).

(b) The description of criteria included and incorporated by reference in section 2 of the Basic State Plan (see appendix) shall indicate—

(1) The areas of the State designated as urban and rural areas with high concentrations of low-income families;

(2) The criteria used by the State agency in designating such areas; and

(3) The sources of information on which such criteria were based, and the frequency with which this information is updated.

(20 U.S.C. 351(b))

§ 130.19 Long-range program.

(a) The long-range program shall be developed by the State library administrative agency with the advice of the State advisory council and in consultation with appropriate staff of the U.S. Office of Education, and shall be annually reviewed and revised in accordance with changing needs in the States for assistance under the Act and the results of evaluations and surveys of the State agency and the State advisory council. Annual revisions shall be incorporated as a part of the annual program for each fiscal year.

(b) The long-range program shall contain the following:

(1) A description of the State's identified present and projected library needs;

(2) A plan of action for meeting those identified needs with funds under the Act over the next 5 fiscal years beginning with the fiscal year in which the program is submitted;

(3) A statement of the following policies, criteria, priorities, and procedures, to be updated as progress toward meeting the State's library needs requires:

(i) Policies and procdeures for the periodic evaluation of the effectiveness of programs and projects supported under the Act;

(ii) Policies and procedures for appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects;

(iii) Policies and procedures for the effective coordination of programs and projects supported under the Act with library programs and projects operated by institutions of higher education or local elementary or secondary schools (including those receiving Federal assistance under title II–A of the Higher Education Act of 1965 and title II of the Elementary and Secondary Education Act of 1965) and with other public or private library service programs;

(iv) Criteria used in allocating funds under title I of the Act among the purposes set forth in section 102 of the Act and § 130.4, which criteria shall be consistent with the criteria set forth in the basic State plan under § 130.16(a)(2), and insure that the State will expend from Federal, State, and local sources an amount not less than the amount expended by the State from such sources for State institutional library services and library services to the physically handicapped during fiscal year 1971;

(v) Criteria, policies, and procedures for the approval of applications for the construction of public library facilities under title II of the Act, which criteria, policies and procedures will insure that every local or other public agency whose application for funds under the plan with respect to a project for construction of public library facilities is denied will be given an opportunity for a hearing before the State library administrative agency;

(vi) Criteria, policies and procedures for the approval of applications for interlibrary cooperation under title III of the Act.

(20 U.S.C. 351a(12), 351d(d), 354, 355c, 355e–2)

§ 130.20 Annual program.

The annual program shall be developed by the State library administrative agency with the advice of the State advisory council and in consultation with appropriate staff of the U.S. Office of Education, and shall contain the following:

(a) A description of a program for the use of funds under each of the titles of the Act in such detail as may be required by the Commissioner, and of how the program will achieve fulfillment of the State's library needs set forth in the long-range program in a manner consistent with the policies, criteria, priorities, and procedures specified in the long-range program. The program description shall include—

(1) A description of the specific activities to be carried out by the State in the fiscal year with funds for library services under title I of the Act for the purposes set forth in section 102 of the Act and § 130.4; and

(2) A description of the specific activities to be carried out by the State in the fiscal year with funds for interlibrary cooperation under title III of the Act for the purposes set forth in section 302 of the Act and § 130.6.

(b) An annual extension of the 5-year long-range program for 1 additional year, taking into consideration the results of evaluations of the State's library program by the State agency and the State advisory council.

(20 U.S.C. 351a(13), 354, 355c, 355e–2)

§ 130.21 Notification of construction project approval and completion.

(a) The State agency shall submit to the Commissioner—

(1) Written notification of its approval of each library construction project under Title II of the Act;

(2) Written notification of the completion of each such project. This notification shall include the project name and number, location, population served, type of library, type of construction, size of facility, the funds budgeted by source and major category, construction schedule, and completion date. The notification shall be submitted within 30 days after such approval and again within 30 days after project completion. Forms for these purposes will be furnished by the Commissioner.

(b)(1) The effective date of the library construction project shall be no earlier than the date on which the State agency approves the project.

(2) No construction contract in furtherance of the project may be made by the applicant until—

(i) After the effective date of the project; and

(ii) After the State has received from the Commissioner (or his designee) acknowledgment of the receipt of the notification required by paragraph (a) of this section.

(20 U.S.C. 355c)

§ 130.22 Amendment of State plan.

(a) *Basic State plan.* The basic State plan shall be amended to reflect any changes in pertinent State law, or any changes in the designation or organization of operations, policies, and methods of administration to be followed by the State. Amendments will be submitted and certified in the same manner as the basic State plan.

(b) *Long-range program.* (1) The long-range program shall be amended to reflect changes in:

(i) Estimates of present and projected program needs;

(ii) The plan of action for meeting these needs; and

(iii) Policies, criteria, priorities and procedures. (2) These amendments shall be submitted each year as part of the annual extension of the long-range program submitted under § 130.20(b).

(c) *Annual program.* (1) Deviations in actual allocations of funds from specific amounts estimated for allocations among programs, services, and activities described in the annual program made available under § 130.20 are subject to § 100b.29 of this chapter. (2) Deviations and the reasons therefor (such as, for example, a change in the total amount of funds available to the State for programs, services, and activities under the State plan) shall be indicated and explained in the annual report of the State agency made available under § 130.45.

(20 U.S.C. 351d, 354, 355c, 355e–2)

Subpart C—Federal Participation

§ 130.30 Application of Federal requirements.

Federal funds under the Act may only be used to share in expenditures which are made in accordance with the State plan and which meet the requirements of the Act and the regulations in this part. State and local funds used to match the Federal funds must also meet these requirements.

(20 U.S.C. 353, 355b, 355c–1)

§ 130.31 Federal and State shares of eligible expenditures.

(a) *General.* (1) The Federal share for each State under titles I and II of the Act will be promulgated by the Commissioner pursuant to section 7(b) of the Act (20 U.S.C. 351e(b)). (2) The State share for each State for titles I and II shall be the difference between the cost

of activities under the State plan and the applicable Federal share. (3) The Federal share for each State under title III shall be 100 percent.

(b) *Limitation.* (1) The expenditures which are to be considered in computing the State share for library services under title I of the Act are only those that are made from public funds. Public funds include contributions from private organizations or individuals if they are deposited in accordance with State and local laws and regulations to the account of the State or political subdivision, or agency thereof, without conditions or restrictions which would negate their character as public funds.

(2) The expenditures which are to be considered in computing the State share for construction under title II of the Act are all those made by the applicant for that purpose, regardless of the source of funds.

(20 U.S.C. 351e(b), 355e-1(b))

§ 130.32 Eligible costs.

(a) *Titles I and III.* Funds under title I and title III of the Act may, at the discretion of the State agency, be applied to expenditures determined in accordance with the principles contained in Subpart G of part 100b of this chapter, which are attributable to the activities specified in § 130.4 and § 130.7, in the case of funds under title I of the Act, and in § 130.6, in the case of funds under Title III of the Act. These expenditures may include expenditures for the acquisition, maintenance (including insurance), and repair of equipment and of library materials (as defined in § 130.3), including necessary binding or rebinding.

(b) *Title II; Construction projects.* The following costs attributable to a public library construction project approved under § 130.5 are eligible at the discretion of the State agency if incurred after the date of project approval or after such other date as is indicated in paragraph (b)(3) and (5) of this section:

(1) Erection of new buildings to be used for public library facilities;

(2) Expansion, remodeling, and alteration (as distinguished from maintenance and repair) of existing buildings to be used for public library purposes;

(3) Expenses (other than interest and the carrying charges on bonds) related to the acquisition of land on which there is to be construction of new buildings or expansion of existing buildings which are incurred within three fiscal years preceding the fiscal year in which the project was approved by the State agency, if the expenses constitute an actual cost or transfer of public funds in accordance with the usual procedures generally applicable to all State and local agencies and institutions (See 45 CFR 100b. 274);

(4) Site grading and improvement of land on which such facilities are located;

(5) Architectural, engineering, and inspection expenses incurred subsequent to site selection;

(6) Expenses (other than interest and the carrying charges on bonds) related to the acquisition of an existing building to be used for public library facilities, if such expenses constitute an actual cost or transfer of public funds in accordance with the usual procedures generally applicable to all State and local agencies and institutions; and

(7) Expenses related to the acquisition and installation of initial equipment to be located in a public library facility provided by a construction project, including all necessary building fixtures and utilities, office furniture, and public library equipment, card catalog cabinets, circulation desks, reading tables and study carrels, booklifts, elevators, and information retrieval devices (but not books or other library materials).

(20 U.S.C. 352, 355b, 355e-1)

Subpart D—Payments and Reports

§ 130.40 Conditions for payments to States.

Payments to States under the Act will be made only after the Commissioner determines that:

(a) The State has on file (1) a basic State plan approved by the Commissioner under § 130.16, (2) a long-range program submitted and updated under § 130.19, and (3) an annual program submitted under § 130.20 for the fiscal year of the allotment from which payment is to be made.

(b) The State has given assurance to the Commissioner's satisfaction that it will have available for expenditure under Title I of the Act during the fiscal year of the allotment: (1) From State and local sources,

(i) Sums sufficient to earn its minimum allotment as set forth in section 5(a) of the Act.

(ii) Not less than the total amount actually expended, in areas covered by the programs for such years, for the purposes of such programs from such sources in the second preceding fiscal year; and (2) from State sources, not less than the total amount actually expended for such purposes for those sources in the second preceding fiscal year;

(c) In the case of payments under title I of the Act, the State will expend during the year of the allotment from Federal, State, and local sources, an amount not less than the amount expended by the State from such sources for State institutional library services and library services to the physically handicapped during the fiscal year ending June 30, 1971; and

(d) The State has established a State advisory council on libraries under § 130.8.

(20 U.S.C. 351d(a), 351e(a), 354(2))

§ 130.41 Withholding of payments.

(a) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State agency, determines on the basis of information available to him that (1) the State plan (as described in § 130.15(b) has been so changed that it no longer complies with any State plan requirements in the Act and the regulations in this part, or (2) in the administration of the State plan or of any program under this part, there is a failure to comply substantially with any such requirement or with any assurance or other provision contained in such plan, the Commissioner will notify such State agency that no further payments will be made to the State until he is satisfied that the State has complied with such requirements, assurances, or other provisions.

(b) At his discretion, the Commissioner may notify the State agency that payment of Federal funds will be limited to support of programs under the State plan or portions of the State plan not affected by the State's failure to comply with such requirements.

(20 U.S.C. 351d(e))

§ 130.43 Reallotment.

(a) The amount of any State's allotment for any fiscal year under section 5(a) of the Act (20 U.S.C. 351c(a)) which the Commissioner determines will not be required in the period during which such allotment is available for carrying out that State's plan may be reallotted by the Commissioner on such dates during such period as he may fix, to other States for carrying out their plans in the same proportion as the original allotments were made for such purposes to such other States in the manner provided for in section 5(b) of the Act.

(b) Any amounts reallotted shall be determined by the Commissioner on the basis of (1) reports filed by the States of the amounts required to carry out the State plan and (2) such other information as he may have available.

(c) Any amounts reallotted shall be deemed part of the State's allotment for that fiscal year.

(20 U.S.C. 351c(b))

§ 130.43 Reports.

(a) *Annual report of program activities.* The State agency shall submit at such times, in such form, and in accordance with procedures established by the Commissioner an annual report concerning the conduct of activities described in the annual program under § 130.20 and the extent to which these activities carried out the objectives set forth in the long-range program under § 130.19 for the proceeding fiscal year. The annual report shall also set forth the total receipts and expenditures of Federal funds for that year.

(b) *Other reports.* The State agency shall submit to the U.S. Office of Education, one copy of all surveys, films, and of all publications considered to be of interest to agencies and organizations planning public library programs in other States, which are developed with Federal funds granted under the Act.

(20 U.S.C. 351d(b))

APPENDIX A

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF EDUCATION BASIC STATE PLAN

(State-Federal Agreement)

LIBRARY SERVICES AND CONSTRUTION ACT, AS AMENDED BY PUBLIC LAW 91-600

The _____
(Officially Designated State Library Administrative Agency)
of the State of _____, hereinafter called the State Agency, hereby agrees and assures that this Basic State Plan which serves as an agreement between State and Federal Governments under the Library Services and Construction Act, as amended, for which Federal funds are being requested for the fiscal year ending June 30, 19 ____, will be administered in accordance with the following provisions:

1. *The State Agency.* a. Assures that it will administer, or supervise the administration of, the programs authorized by the Act; and has adequate fiscal and legal authority to do so. (See appended Certificate of Legal Authority.)

b. Assures that it has provided for such fiscal control and funds accounting procedures as well assure proper disbursement of and accounting for, Federal funds paid to the State under the Act (including any funds paid by the State to any other public or private nonprofit agency under this Basic State Plan).

c. Assures that it will submit to the Office of Education, and otherwise make public (1) the State's long-range program on or before July 1, 1972, and (2) the State's annual program on or before July 1 of each fiscal year. Both programs will be developed in consultation with the Office of Education and with the advice of the State Advisory Council on Libraries.

d. Assures that any funds paid to the State in accordance with a long-range program and an annual program shall be expended solely for the purposes for which funds have been authorized and appropriated.

e. Assures that it will make such reports, including reports of evaluations, in such form and containing such information as the Commissioner may reasonably require to carry out his functions under the Act, and to determine the extent to which funds provided under the Act have been effective in carrying out its purposes.

f. Assures that it will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of all reports submitted to him.

g. Assures that it will establish and specify in the State's long-range program its policies, priorities, criteria and procedures necessary to the implementation of all programs in which the State will participate under the provisions of the Act, which are incorporated by reference herein.

h. Assures that it will set forth in the State's long-range program its policies and procedures for the coordination of programs and projects supported under this Act with library programs and projects operated by institutions of higher education or local elementary or secondary schools, with other public or private library services programs, and with other related service programs.

i. Assures that it has established a State Advisory Council on Libraries as required by the provisions of the Act and § 130.8 of the regulations. (See attached certification.)

j. Assures that it has available for expenditures under Title I of the Act in this fiscal year (fiscal year 19__):

A. From State and local sources:

1. Sums sufficient to earn its basic minimum allotment.

2. Not less than the total amount actually expended, in areas covered by the programs for such year, for the purposes of such programs from such sources in the second preceding fiscal year (fiscal year 19__).

B. From State sources:

1. Not less than the total State amount actually expended for such purposes from such sources in the second preceding fiscal year (fiscal year 19__).

k. Assures that it will expend in this fiscal year (fiscal year 19__) from Federal, State, and local sources, an amount not less than the amount expended by the State from such sources for State institutional library services, and library services to the physically handicapped during the fiscal year ending June 30, 1971.

2. The State Agency herewith sets forth (a) criteria to be used in determining the adequacy of public library services to geographical areas, and for groups of persons in the States, including criteria designed to assure that priority will be given to programs or projects which serve urban and rural areas with high concentration of low-income families. (See attached statement of Criteria.)

3. This Basic State Plan has been submitted to the Governor for his review; and his comments, or a statement that no comments have been made, as well as projections required under the program, will also be submitted for the Governor's review, and comments, if any, will accompany the amendments or other required program material when they are submitted to the U.S. Office of Education.

4. The State Agency will make public the Basic State Plan as approved by the Commissioner.

5. The State Agency assures that it will otherwise comply with the requirements of the Act and the Regulations of the Commissioner of Education issued thereunder (45 CFR Part 130; 45 CFR Part 100b).

6. Assurance is hereby given that in accordance with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations issued thereunder by the Department of Health, Education, and Welfare (45 CFR Part 80), no individual shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Plan. The State Agency has established and will maintain methods of administration to assure that each program or activity for which it receives Federal financial assistance will be operated in accordance with the preceding paragraph of this statement. The State Agency will amend its methods of administration from time to time as necessary to carry out the purposes for which this statement is given. The State Agency recognizes and agrees that Federal financial assistance will be extended in consideration of, and in reliance on, the representations and agreements made in this statement; and that the United States shall have the right to seek administrative and judicial enforcement thereof.

_____
(State Library Administrative Agency)

_____
(Address)

_____
(Signature of Authorized State Agency Official)

_____
(Title)

CERTIFICATE OF APPROPRIATE STATE LEGAL OFFICER

I hereby certify that _____;
(Name of State Agency)
_____ is the sole State
(Name of State)
agency with authority under State law to develop, submit and administer or supervise the administration of, the State plan under the Library Services and Construction Act, as amended by Public Law 91-600; that _____ is the Officer au-
(Name of authorized State Agency Official)
thorized to submit the State plan for the named State agency; that the State Treasurer or _____ has authority
(Title of Officers other than State Treasurer)
under State law to receive, hold and disburse Federal funds under the State plan; and that all provisions contained in the plan are consistent with State law.

_____
(Signature, Attorney General or Other State Legal Officer)

_____
(Title)

_____
(Date)

(20 U.S.C. 351a(11), 351d(b))

APPENDIX B

GUIDELINES—LIBRARY SERVICES AND CONSTRUCTION ACT

Assistance to States for Public Library Services and Construction

Table of Contents

Part 1—General

Sec. 1.1 Scope of guidelines. (a) The guidelines contained in this document are recommendations and suggestions for meeting the requirements which apply to Federal assistance under the Library Services and Construction Act. The legal requirements include the Act itself (20 U.S.C. 351-351c-2); the program regulations (45 CFR 130). The guidelines are not to be construed as requirements. However, where the guidelines set forth a permissible means of meeting a legal requirement, the guidelines may be relied upon.

(20 U.S.C. 351; 113 Cong. Rec. 5936, 5939 (daily ed., May 23, 1967); United States v. Jefferson County Board of Education, 372 F. 2d 836, 857 (1966))

(b) Where a guideline is issued in connection with or affecting a provision in the regulations, the pertinent regulation will be cited after the citation of legal authority for the guideline, in the parenthesis following the guideline. For example, if the legal authority for the guideline is 20 U.S.C. 351d(a) and the guideline affects section 130.20 of the regulations, the following citation will be placed on the line immediately following the guideline: (20 U.S.C. 351d(a); 45 CFR 130.20). If no particular section of the regulation is affected, no citation to the Code of Federal Regulations (CFR) will be made.

(20 U.S.C. 1232(a))

Sec. 1.2 Long-range programs and other documents required under the Library Services and Construction Act. (a) In keeping with the intent of the Library Services and Construction Act Amendments of 1970 to permit greater flexibility in the development of programs under the Act, no specific

"forms" are being issued by the Office of Education for the long-range programs.

(20 U.S.C. 351d(d))

(b) Each part of the State plan (the basic State plan, the long-range program, and the annual program) must be developed with the advice of the State Advisory Council on Libraries and in consultation with the appropriate Regional Library Services Program Officer who represents the U.S. Commissioner of Education in the LSCA program development process.

(20 U.S.C. 351a(8), 351d; 45 CFR 130.8(c))

(c) (1) To assure coordination between the criteria set forth in the basic State plan and the criteria in the long-range program, a careful review of the basic State plan should be made prior to updating of the long-range document. Amendments to the basic State plan attachments may be required. The inclusion of criteria in the basic State plan attachments does not eliminate the need for complete criteria, policies, priorities, and procedures in the long-range program.

(2) The needs assessment statement and documentation in each State should be comprehensive and statewide. The long-range program will cover the three titles authorized under the Act, including criteria, policies and procedures for public library construction.

(20 U.S.C. 351d(d), 45 CFR 130.19)

(d) All three documents require review by the Governor or the office designated by the Governor for such purpose and his comments or "no comment" certification must accompany the documents when submitted. (See Item 3 of approved basic State plan.)

(20 U.S.C. 351a(8), 351d(a), 351d(d), OMB Circular No. A-95; 45 CFR 130.8, 130.16, 130.19, 45 CFR 100b.15)

Sec. 1.3 Basic State plan amendments. A careful review of the basic State plan as approved by the U.S. Commissioner of Education for the previous fiscal year should be made in the light of the act and the regulations before any amendments are prepared. Forms provided for use in submitting amendments are a cover sheet, basic State plan amendment assurance, and the Maintenance of Effort Certification for the appropriate fiscal year. The revised listing of the State Advisory Council on Libraries and revised statements of criteria are to be attached to the basic State plan amendment assurance form.

(20 U.S.C. 351d; 45 CFR 130.22)

Sec. 1.4 Annual program. The project description in the annual program should provide basic information essential to an understanding of the specific objectives of the project and its contribution toward attaining the goals of the long-range program. The project description should include what the project proposes to accomplish and why; who is to be served and how; names of key libraries and other agencies; when and where the project will be implemented; the estimated cost and sources of funding; and the method of administering the project: whether by contract, State agency, or local agency.

(20 U.S.C. 351d(a), 354, 355c, 355e-2; 45 CFR 130.20)

(b) To provide assistance in tabulating comparable LSCA projects throughout the country, a key listing has been developed for reporting purposes. The following eighteen project types have been identified. (If none of these is adequate to identify a particular library project, another brief descriptive title should be stated.)

(20 U.S.C. 351d(b)(3))

LSCA PROJECT TYPES

1. Disadvantaged (use Basic State Plan Definition)
2. Strengthening State library administrative agency
3. Metropolitan library serving as national or regional resource center
4. Physically handicapped, blind
5. Other physically handicapped
6. Institutionalized, correctional
7. Other institutionalized
8. Interlibrary cooperation
9. Right-to-Read
10. Career education
11. Management improvement (e.g., Deliver systems)
12. Aging
13. Adult education
14. Environmental education
15. Drug abuse education
16. Early childhood education
17. Migrants
18. Other (specify)

Part 2—Programs under Title II of Library Services and Construction Act

Sec. 2.1 Program. Title II of the Library Services and Construction Act authorizes a program of grants to States which have had approved a basic State plan under section 6 of the Act and have submitted a long-range program and submit annual appropriately updated programs (approved construction projects) under section 203 of the Act for the construction of public libraries.

(20 U.S.C. 355a, 355c; 45 CFR 130.5, 130.21)

Sec. 2.2 Processing of application for an LSCA construction project. The steps set forth below describe the current procedures for the processing, at the State level, of applications for construction projects under title II of the LSCA which State agencies typically employ in meeting the requirements of the Act and applicable regulations:

(a) *Application procedures.* (1) The State agency provides up-to-date instructional materials, including an application form for applicants for construction grants and provides consultant service as required. Localities should be advised to notify State agencies of "intent" to apply and to follow through on submission of such "intent" to appropriate State or Regional Clearinghouses.

(2) The local applicant submits an application to the State agency on forms and in accordance with directions supplied by the State agency.

(3) The State agency reviews the local application for:

(i) Conformity with the Library Services and Construction Act and regulations thereunder, State instructions, long-range program, and annual program.

(ii) Eligibility of the applicant.

(iii) Submission of the required supporting documents, in a sufficient number of copies to meet the requirements of the State. Such documentation shall include the notification of intent to apply for Federal assistance with comments from the appropriate State and/or regional clearinghouse, and documentation necessary to assure compliance with §§ 100b.155–191 of the OE General Provisions Regulation.

(iv) Certification of availability of required matching funds.

(4) The State agency approves the project.

(5) The State agency notifies the appropriate DHEW Regional Office of approval of the project. The document required by the Regional office is O.E. Form 3114–2, "Notification of Construction Project Approval," in triplicate. Following acknowledgement by the DHEW Regional Office, the applicant is now in a position to enter into a construction contract.

(20 U.S.C. 355a–355c, OMB Circular No. A–15; 45 CFR 130.5, 130.21)

(b) *Contracting for construction.* (1) The State agency obtains from the applicant information on estimated costs, bid advertising dates, dates of bid opening, and a brief project description, which must be transmitted to the DHEW Regional Office, Facilities, Engineering, and Construction, to request a wage determination. This request should reach the office at least six weeks before the project is to be advertised for bids. State agencies may find it advisable to confirm the procedures with the Regional Engineer. If approval by State agency and notification to the Region is very close to planned bid advertising date, the State agency may submit the request for wage determination before it sends notification of the project approval. In such cases, the State agency should assure itself that the project is in approvable form.

(2) The State agency should review the bid proposals and contract documents for the project to assure itself that they include: (i) the prevailing wage rates as determined by the U.S. Department of Labor; and (ii) all the contract clauses required for the Federal Labor standards as provided for in § 130.5 and Subpart K of 45 CFR part 100b. Note that in some cases there is more than one contract on a construction project.

(3) The State agency should receive a copy of the tabulation of bids received showing the bids accepted. The architect usually prepares this (on a standard AIA form) for the owner.

(4) The State agency should review the construction contract, or contracts, as prepared before signing, together with the contract documents and must make sure the valid prevailing wage rates, the required labor, the equal employment opportunity requirements and all other applicable requirements are included.

(45 CFR 130.5)

(5) The State agency receives a signed copy of the construction contract or contracts and contract documents for its official project file.

(20 U.S.C. 355a, 1232b; 45 CFR 130.5)

(c) *Technical supervision.* (1) After the contract is awarded, but before the start of construction, the local applicant should schedule a preconstruction conference with all interested parties to clarify the administrative requirements of the Federal labor standards. The conferences should include architect, prime contractors and subcontracts, and representatives of State and local agencies.

(2) When construction starts the State agency should schedule a field visit to verify that:

(i) Wage determination is posted on the project in a place that the workers can see easily.

(ii) A copy of weekly payroll with the required certification statement (in regard to anti-kickback provisions of the Copeland Act) is furnished the owner within seven days after week to which payroll applies and that provision is made for keeping those on file. Also, that the copy of the weekly payroll is checked against the minimum wage determination for the project.

(iii) That periodic on-the-job labor interviews are provided for and that a signed report on each such interview is then filed with the owner's copy of the payroll for that week.

(iv) If revision of project is required, amended Form OE 3114–2, "Notification of Construction Project Approval", should be submitted to DHEW Regional Office as soon as possible.

(20 U.S.C. 351a, 1232b)

[FR Doc.74–10093 Filed 5–1–74;8:45 am]

Food and Drug Administration

[21 CFR Part 3]

2-MERCAPTOIMIDAZOLINE

Use in Closures and Product Delivery Systems for Drugs and Cosmetics and in Components of Medical Devices

In the FEDERAL REGISTER of November 30, 1973 (38 FR 33072), the Commissioner of Food and Drugs published a final order revoking those parts of § 121.2550 (b) (5) providing for the use of mercaptoimidazoline in the production of vulcanized natural or synthetic gaskets used in closures for food containers and those parts of § 121.2562(c) (4) (ii) (*b*) providing for the use of 2-mercaptoimidazoline as an accelerator in the production of rubber articles intended for repeated use in processing, packing, or holding food. This action was taken because of the possibility of 2-mercaptoimidazoline rearranging to form ethylenethiourea (2-imidazolidinethione), a known carcinogen. The Food and Drug Administration is also cognizant of a report of studies performed at Bionetics Research Laboratories of Litton Industries and designed to screen selected pesticides and industrial compounds for tumorigenicity in mice which indicated that administration of maximal tolerated doses of ethylenethiourea induced a significantly elevated incidence of tumors in mice. A copy of this report "Bioassay of Pesticides and Industrial Chemicals for Tumorigenicity in Mice: A Preliminary Note" which was published in the June 1969 edition of the Journal of the National Cancer Institute has been placed on file with the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, MD 20852.

The substance 2-mercaptoimidazoline is used as an accelerator in the manufacture of neoprene rubber products. These products may be used in container closures or as part of the product delivery system for drug products, including biological products, and cosmetic products and as components of medical devices. Without evidence to show that 2-mercaptoimidazoline does not rearrange to form ethylenethiourea (2-imidazolidinethione), the Commissioner concludes that the use of 2-mercaptoimidazoline in the manufacture of container closures, product delivery systems for drug and cosmetic products, and components of medical devices is not justified.

It is proposed that any drug product, including any biological product, cosmetic product, or medical device initially introduced into interstate commerce beginning 30 days following publication of the final regulation in the FEDERAL REGISTER will be regarded as adulterated if 2-mercaptoimidazoline is used in the manufacture of the product's container closure, delivery system, or component part. Such drug products may also be regarded as new drugs or new animal drugs without approval in violation of section 505 or 512 of the Federal Food, Drug, and Cosmetic Act. Any person now shipping a drug product, including a biological product, under an approved new drug application, new animal drug application, investigational new drug application, or license must amend the application or license within 30 days following publication of the final regulation in the FEDERAL REGISTER to provide for a closure or product delivery system that is safe and effective for its intended use and maintains the integrity of the product.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 501, 505, 512, 701, 52 Stat. 1041, 1049, 1052–1053, 1055, 82 Stat. 347; 21 U.S.C. 321, 351, 355, 360b, 371), the Public Health Service Act (sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262), and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Part 3 be amended by adding a new section as follows:

§ 3.____ 2-Mercaptoimidazoline; use in closures and product delivery systems for drugs and cosmetics and in components of medical devices.

(a) In the FEDERAL REGISTER of November 30, 1973 (38 FR 33072), the Commissioner of Food and Drugs published a final order revoking those parts of § 121.2550(b) (5) providing for the use of mercaptoimidazoline in the production of vulcanized natural or synthetic gaskets used in closures for food containers and those parts of § 121.2562(c) (4) (ii) (*b*) providing for the use of 2-mercaptoimidazoline as an accelerator in the production of rubber articles intended for repeated use in processing, packing, or holding food. This action was taken on the basis of data which show that it is possible for 2-mercaptoimidazoline to rearrange to form ethylenethiourea (2-imidazolidinethione), a known carcinogen.

(b) 2-Mercaptoimidazoline is used as an accelerator in the manufacture of neoprene rubber products. These products may be used as closures for containers for drug products, including biological products, and cosmetic products and as components of medical devices and thus may come into contact with humans or animals.

(c) Without evidence to show that 2-mercaptoimidazoline does not rearrange to form ethylenethiourea (2-imidazolidinethione), either in the manufacturing process or at any time after manufacture, drug products, including biological products, in which 2-mercaptoimidazoline was used in the manufacture of the container closure or product delivery system cannot be considered as generally recognized as safe and effective within the meaning of section 201(p) or (w) of the Federal Food, Drug, and Cosmetic Act. These drug products, including biological products, may be marketed only under the applicable provision of section 505 or 512 of the act and in addition for biological products, section 351 of the Public Health Service Act.

(1) Any drug product, including any biological product, initially introduced into interstate commerce beginning 30 days following publication of the final regulation in the FEDERAL REGISTER shall be regarded as adulterated under section 501(a) of the Federal Food, Drug, and Cosmetic Act if 2-mercaptoimidazoline was used in the manufacture of the product's container closure or delivery system. The product may also be regarded as a new drug or new animal drug without approval in violation of section 505 or 512 of the act.

(2) Any person marketing a human drug product subject to an approved new drug application in which 2-mercaptoimidazoline was used in the manufacture of the container closure or product delivery system shall submit to the Food and Drug Administration within 30 days following publication of the final regulation in the FEDERAL REGISTER a supplemental application under § 314.8 of this chapter. This supplemental application shall provide for a closure or product delivery system that is safe and effective for its intended use and maintains the integrity of the product.

(3) Any person marketing a biological product subject to an approved license in which 2-mercaptoimidazoline was used in the manufacture of the container closure or product delivery system shall submit to the Food and Drug Administration within 30 days following publication of the final regulation in the FEDERAL REGISTER a report of proposed changes in manufacturing methods under § 601.6 of this chapter. This report shall provide for a closure or product delivery system that is safe and effective for its intended use and maintains the integrity of the product.

(4) Any person marketing an animal drug product subject to an approved new animal drug application in which 2-mercaptoimidazoline was used in the manufacture of the container closure or product delivery system shall submit to the Food and Drug Administration within 30 days following publication of the final regulation in the FEDERAL REGISTER a supplemental application under § 135.13a of this chapter. This supplemental application shall provide for a closure or product delivery system that is safe and effective for its intended use and maintains the integrity of the product.

(5) Any person shipping an investigational new drug product under §§ 135.3 or 312.1 of this chapter shall, if the product's container closure or delivery system was manufactured using 2-mercaptoimidazoline, amend his "Notice of Claimed Investigational Exemption for a

New Drug" or Notice of Claimed Investigational Exemption for a New Animal Drug." The amendment shall provide for a closure or product delivery system that is safe and effective for its intended use and maintains the integrity of the product.

(d) Any cosmetic product initially introduced into interstate commerce beginning 30 days following publication of the final regulation in the FEDERAL REGISTER shall be regarded as adulterated under section 601(d) of the Federal Food, Drug, and Cosmetic Act, and subject to regulatory procedures, if 2-mercaptoimidazoline was used in the manufacture of the product's container closure or delivery system.

(e) Any device initially introduced into interstate commerce beginning 30 days following publication of the final regulation in the FEDERAL REGISTER shall be regarded as adulterated under section 501(a) of the Federal Food, Drug, and Cosmetic Act, and subject to regulatory procedures, if any component of the device which may come into contact with a user, a patient, or a drug product in its intended use was manufactured using 2-mercaptoimidazoline.

Interested persons may, on or before June 3, 1974, file written comments (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, MD 20852, regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: April 26, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc. 74-10047 Filed 5-1-74;8:45 am]

DEPARTMENT OF LABOR

Manpower Administration

[20 CFR Part 602]

PUBLIC EMPLOYMENT OFFICES

Minimum Wage Rates

Pursuant to 8 U.S.C. 1184, 8 CFR 214.2(h), and Secretary's Order No. 20-71, I hereby propose to amend 20 CFR 602.10b(a)(1) as set forth below.

The "adverse effect" rates, which the proposed amendment would revise, are the hourly minimum wage rates which an employer must offer to U.S. workers in order to be eligible to apply for alien workers. The rates are usually revised annually to reflect changing economic conditions in each State wherein a significant number of nonimmigrant alien workers are employed.

Any person interested in this proposal may file a written statement of data, views, or arguments regarding it with the Manpower Administrator, U.S. Department of Labor, Washington, D.C. 20210, on or before May 17, 1974.

As amended, § 602.10b(a)(1) would read as follows:

§ 602.10b Wage rates.

(a)(1) Except as otherwise provided in this section the following hourly wage rates (which have been found to be the rates necessary to prevent adverse effect upon U.S. workers) shall be offered to agricultural workers in accordance with § 602.10a(j):

State:	*Rate*
Connecticut	$2.28
Maine	2.24
Massachusetts	2.25
New Hampshire	2.43
New York	2.23
Rhode Island	2.21
Vermont	2.37
Virginia	2.27
West Virginia	2.25

* * * * *

(8 U.S.C. 1184, 8 CFR 214.2(h), 34 FR 6502)

Signed at Washington, D.C., this 29th day of April, 1974.

WILLIAM H. KOLBERG,
Assistant Secretary for Manpower.

[FR Doc.74-10073 Filed 5-1-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74-SW-20]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Cotulla, Tex., terminal area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before June 30, 1974 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

(1) In § 71.171 (39 FR 354), the Cotulla, Tex., control zone is amended to read:

COTULLA, TEX.

That airspace within a 3-mile radius of Cotulla Municipal Airport (latitude 28°27'-15" N., longitude 99°13'05" W.) and within 2 miles each side of the Cotulla VOR 266° radial extending from the 3-mile radius zone to 11 miles west of the VOR.

(2) In § 71.181 (39 FR 440), the Cotulla, Tex., transition area is amended to read:

COTULLA, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cotulla Municipal Airport (latitude 28°27'15" N., longitude 99°13'05" W.); within 2 miles each side of the Cotulla VOR 266° radial extending from the 5-mile radius area to 14 miles west of the VOR; and within 8 miles north and 5 miles south of the Cotulla VOR 086° and 266° radials extending to 5 miles west and 12 miles east of the VOR.

The proposed amendments will provide controlled airspace for aircraft executing the HI-TACAN A instrument approach procedure.

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

Issued in Fort Worth, TX., on April 24, 1974.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.74-9999 Filed 5-1-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-WA-6]

PHILADELPHIA, PENNSYLVANIA, TERMINAL CONTROL AREA

Proposed Adoption

The Federal Aviation Administration (FAA) is considering the adoption of a Group II Terminal Control Area (TCA) for Philadelphia, Pa. Rules for the control and segregation of all aircraft operated within terminal control areas are contained in Part 91, §§ 91.24, 91.70 and 91.90 of the Federal Aviation Regulations. Further information concerning flight within TCAs is contained in the Airman's Information Manual.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Additionally, comments are invited on the potential impacts of this proposal on the quality of the human environment. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before July 1, 1974 will be considered before action is taken on the proposed amendment. The proposal con-

tained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The establishment of terminal control areas at 22 large hub airports was proposed in notice 69-41 and supplemental notices thereto, and adopted on May 20, 1970 (35 FR 7782), to create a safer environment in those congested terminal areas. The need for TCAs has been well established, and a priority implementation schedule has been developed which is based on the air traffic congestion at each location, the capability of the terminal air traffic control facility to provide separation service to VFR aircraft, the experience gained from earlier established TCAs, and the publication dates of associated aeronautical charts.

Notice 69-41 and the amendments thereto delineated those major hub cities for which TCAs were planned. This Notice is intended to produce the input necessary to design an appropriate airspace configuration that can provide the safest environment with the least impact on the airspace users. TCAs have now been designated at all Group I locations, and this Notice proposes a configuration for a Group II TCA at Philadelphia, Pa.

The proposal contained herein was discussed at a public meeting held at the William Green Federal Building in Philadelphia, February 28, 1974. Approximately 30 airspace users attended. No objections to the TCA concept were offered, but several comments were offered and were considered in developing the proposed configuration.

These proposed TCA boundaries and floor altitudes have been established to offer the least inconvenience to satellite airports, yet provide the necessary maneuvering area for large turbine-powered aircraft landing and departing Philadelphia International Airport.

In consideration of the foregoing and for reasons stated in Docket No. 9880 (35 FR 7782), it is proposed to amend Part 71 of the Federal Aviation Regulations by adding the following to § 71.401(b) Group II Terminal Control Areas.

PHILADELPHIA, PA., TERMINAL CONTROL AREA

Primary Airport. Philadelphia International Airport (Lat. 39°52'12" N., Long. 75°14'43" W.)

Boundaries.—Area A. That airspace extending upward from the surface to and including 7,000 feet MSL within a 6-mile radius of the Philadelphia International Airport, excluding that airspace within and underlying Areas B and C.

Area B. That airspace extending upward from 300 feet MSL, to and including 7,000 feet MSL, beginning at the east tip of Tinicum Island, along the south shore of Tinicum Island to its westernmost point, thence direct to the outlet of Darby Creek at the north shore of the Delaware River, thence along the north shore of the river to Chester Creek, thence eastward direct to Thompson Point, thence eastward along the south short of the Delaware River to Bramell Point, thence direct to the point of beginning.

Area C. That airspace extending upward from 600 feet MSL, to and including 7,000 feet MSL, beginning at Bramell Point, along the south shore of the Delaware River to Thompson Point, thence direct to the outlet of Chester Creek at the Delaware River, thence southwestward along the north shore of the Delaware River, to the 6-mile arc of the Philadelphia International Airport, thence counterclockwise along the 6-mile arc to Kings Highway (Route 551), thence northward direct to Bramell Point.

Area D. That airspace extending upward from 1,500 feet MSL to and including 7,000 feet MSL within an 11-mile radius of the Philadelphia International Airport, excluding Areas A, B, and C.

Area E. That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL within a 15-mile radius of Philadelphia International Airport, excluding that airspace southeast of a line extending from Lat. 39°32'50" N., Long. 75°10'30" W., to Lat. 40°00'00" N., Long. 74°50'45" W., and Areas A, B, C, and D.

Area F. That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL within a 20-mile radius of Philedelphia International Airport, excluding that airspace southeast of a line extending from Lat. 39°32'50" N., Long. 75°10'30" W., to Lat. 40°00'00" N., Long. 74°50'45" W., and Areas A, B, C, D, and E.

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

Issued in Washington, D.C. on April 26, 1974.

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

[FR Doc.74-10001 Filed 5-1-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-SO-44]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Milton, Florida, transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before June 3, 1974, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

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

The Milton transition area described in § 71.181 (39 FR 440) would be amended as follows:

All after "northwest of the TACAN," would be deleted and "* * * and within a 5-mile radius of OLF Santa Rosa (Navy), Milton, Florida, (latitude 30°36'00" N., longitude 86°56'00" W.) * * *" would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR operations at OLF Santa Rosa (Navy). Prescribed instrument approaches to this field, utilizing U.S. Navy NAVAIDs, are proposed in conjunction with the alteration of this transition area.

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

Issued in East Point, Ga., on April 24, 1974.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.74-10000 Filed 5-1-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-SW-19]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Laredo, Tex. (Laredo Auxiliary No. 2 Airport).

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before June 3, 1974 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (39 FR 440), the following transition area is added:

LAREDO, TEX. (LAREDO AUXILIARY NO. 2 AIRPORT)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Laredo Auxiliary No. 2 Airport (latitude 27°28'00" N., longitude 99°13'45" W.) and within 2.5 miles each side of the Laredo, Tex., VORTAC 091°T (082°M) radial extending from the 5-mile radius area to 18.5 miles east of the VORTAC.

The proposed transition area will provide controlled airspace for Navy aircraft executing the HI–TACAN A instrument approach procedure. The HI–TACAN A approach is a military practice IFR low approach.

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

Issued in Fort Worth, TX., on April 24, 1974.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.74–9998 Filed 5–1–74;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 399]

[Docket No. 26658]

DECEPTIVE PRACTICES IN ADVERTISING GROUP INCLUSIVE TOURS

Proposed Policy Statement

Notice is hereby given that the Civil Aeronautics Board is proposing to amend Part 399 of the regulations (14 CFR Part 399) to codify a policy which would regard as an unfair or deceptive practice and an unfair method of competition in air transportation or the sale thereof, within the meaning of section 411 of the Act, the advertising of prices involved in group inclusive tours unless the advertisement includes a clear statement of the total tour price. The proposed amendments and a statement explaining their principal features are attached. The rule is proposed under the authority of sections 204, 401, 402, 403, 404, 411, 416(a) and 1002 of the Federal Aviation Act of 1958, as amended, (72 Stat. 743, 754 (as amended by 76 Stat. 143, 82 Stat. 867), 757, 758 (as amended by 74 Stat. 445), 760, 769, 771, and 788; 49 U.S.C. 1324, 1371, 1372, 1373, 1374, 1381, 1386, and 1482) and section 4 of the Administrative Procedure Act (80 Stat. 378, 381; 5 U.S.C. 553).

Interested persons may participate in the proposed rulemaking through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. In addition, individual members of the general public who, as prospective passengers may be affected by the outcome of this proceeding, may participate in the proposed rulemaking through submission of comments in letter form to the Docket Section at the above-indicated address, without the necessity of filing additional copies thereof. All relevant material received on or before June 17, 1974, will be considered by the Board before taking final action upon the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C. upon receipt thereof.

By the Civil Aeronautics Board:

Dated: April 29, 1974.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

EXPLANATORY STATEMENT

We are today proposing to adopt a policy statement which is intended to facilitate elimination of deceptive advertising of group inclusive tours (GIT's) and, in the same connection, to remedy an apparently unfair competitive advantage enjoyed by the advertisers of GIT's over tour operators who advertise inclusive tour charters (ITC's).

It appears that the advertisements of some GIT operators display a purported tour price, which is plainly stated, plus an additional charge for tax and services, for which no amount is specified. Rather, the reference to such "additional charges" is stated as a percentage of the featured price. Moreover, it appears that frequently these additional charges are not related to actual taxes and costs of services. Thus, the practice of advertising GIT's in this manner results not only in misleading the public as to the total price of a GIT, but it also would appear to afford GIT operators an unfair competitive advantage over the operators of ITC's, who are specifically required by the Board's regulations to include in their ITC advertisements only the total tour price, without specifically stating the cost of any of the tour's component parts.[1]

Therefore, we are proposing to adopt a policy statement to the effect that the Board will regard as unfair or deceptive the advertising of GIT prices unless the total tour price is clearly stated. Moreover, while we shall not prohibit the separate statement of the applicable GIT fare on which the tour is constructed, we are proposing to require that where a GIT advertisement includes a statement of the applicable air fare, then the total tour price must be stated in print at least as large as such separate statement of the air fare alone and with equal prominence.[2]

It is proposed to amend Part 399 of the regulations, Statements of General Policy (14 CFR Part 399), as follows:

1. Amend the table of contents by adding § 399.84 to the table, as amended, to read in pertinent part as follows:

Sec.
399.84 Unfair or deceptive practice of air carrier, foreign air carrier or ticket agent in advertising group inclusive tour price without clear statement of total tour price

2. Add a new § 399.84 to read as follows:

§ 399.84 Unfair or deceptive practice of air carrier, foreign air carrier or ticket agent in advertising of group inclusive tour prices without clear statement of total tour price.

(a) It is the policy of the Board to consider the practice of an air carrier, foreign air carrier or ticket agent of advertising a group inclusive tour involving a sheduled flight in air transportation, to be an unfair or deceptive practice and an unfair method of competition in air transportation or the sale thereof, within the meaning of section 411 of the Act, unless such advertisement includes a clear statement of the total tour price, as a single amount, and, if the advertisement also includes any separate statement of the applicable air fare for the scheduled air transportation involved in such tour, then the statement of the total tour price shall be printed in type at least as large as the type used to print such air fare and shall be displayed with equal prominence.

(b) For the purposes of paragraph (a) of this section "tour price" means the total amount of money paid by the tour participant for the group inclusive tour.

[FR Doc.10083 Filed 5–1–74;8:45 am]

COST OF LIVING COUNCIL

[6 CFR Part 150]

PHASE IV PRICE REGULATIONS

Health Care Forms

The Cost of Living Council is considering the issuance of a CLC form to be used by Health Maintenance Organizations under the Phase IV health care regulations (6 CFR Part 150, Subpart R) published at 39 FR 2670 (January 23, 1974), as amended on March 27, 1974, at 39 FR 11376.

[1] However, an ITC advertisement may separately state the cost of optional services or facilities, which are not included in the total tour price.

[2] The National Air Carrier Association (NACA) on behalf of a number of its member carriers has filed a petition for rule making and a supplement thereto in Docket 21607, asking that the Board adopt a policy statement subjecting GIT price advertising to the same restrictions as those applicable to ITC price advertising. The NACA petition, except to the extent herein granted, is hereby denied.

On March 6, 1974, the Council issued a notice of proposed rulemaking, 39 FR 9768 (March 13, 1974), setting out proposed Forms CLC–61, CLC–71, and CLC–81 to be filed as annual reports or used for monitoring purposes under the Phase IV health care regulations. On March 30, 1974, the Council issued notices of proposed rulemaking, 39 FR 12534 and 39 FR 12540 (April 5, 1974), setting out proposed Forms CLC–62, CLC–72, and CLC–82 to be used for requesting exceptions from the Phase IV health care regulations, and proposed Forms CLC–101 and CLC–102 to be used for monitoring claims reviewed by insurers under the Phase IV regulations. The Council published along with the proposed forms a Sample Price Schedule for Medical Practitioners and Medical Laboratories. The Council indicated on both occasions that the form relating to Health Maintenance Organization (HMO) prenotification and annual reports would be issued at a later date.

The purpose of publishing the HMO form with accompanying instructions in proposed form is to provide the public an opportunity to make suggestions for improvements regarding the format and computations.

The proposed form and instructions will not be adopted until they are approved by the Office of Management and Budget. At that time the Council will amend its regulations to incorporate the form and instructions, and make any necessary adjustments in the governing regulations resulting from the rulemaking.

In issuing this notice of proposed rulemaking, the Council recognizes the uncertain future of the Economic Stabilization Program. However, the concepts and specifics embodied in the proposed Form CLC–27 can be expected to have meaning with respect to a National Health Insurance Program during the forthcoming congressional hearings and debates on the pending enabling legislation.

Interested persons are invited to participate in the rulemaking by submitting written data, views, or arguments with respect to the proposed CLC form set forth in this notice, to the Executive Secretariat, Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508. Comments should be identified with the designation "Phase IV Health Maintenance Organization Report Form Docket." At least 10 copies should be submitted. All communications received on or before May 24, 1974 wil be considered by the Council before the Council takes final action on the proposed form. The proposed form contained in this notice may be changed in the light of comments received. All comments received in response to this notice will be available for examination and copying by interested persons at the Cost of Living Council, 2000 M Street NW., Washington, D.C., during the hours of 9 a.m. to 5 p.m., Monday through Friday. Submissions will be available both before and after the closing date for comments.

Form CLC–27 is intended for use by prenotifying Health Maintenance Organizations as their notification of proposed rate increases, in accordance with 6 CFR 150.754, and by each Health Maintenance Organization as its annual report which must be filed with the Cost of Living Council and the appropriate State regulatory agency within 120 days following the end of each fiscal year, in accordance with 6 CFR 150.760.

This form is designed to summarize the data necessary for the Cost of Living Council to rule upon proposed HMO rate increases and to monitor the performance of all Health Maintenance Organizations.

Part II of Form CLC–27 provides a summary of the HMO's total revenue for the last fiscal year for which data is available or for the fiscal year the annual report is intended to cover. It is also designed to ascertain the number and size of experience rated groups and special benefit coverages which are not based on the community rate. The Council would be interested in learning whether such groups and coverages do, in fact, exist, the manner in which rates for them are set, and in what way the revenue generated by them is considered in the calculation of the community rate.

Part IV concerns the specific rate change being prenotified or the individual and cumulative rate change(s) effected during the year being reported. Comment would be welcome on the applicability of this section to HMO ratemaking procedures and possible alternative methods of reporting by which the Council might monitor HMO compliance with the regulations.

Part V is simply a summary of the various loadings which make up the HMO's rates. Compliance on expenses and profit loadings can be measured in Items 25 and 26, and total benefit costs in Item 27 is related to the anticipated benefit costs developed in Part IV.

Part I, "Identification Data," Part III, "Certification by State Regulatory Agency," Part VI, "Person to Whom Inquiries Concerning This Filing Should Be Addressed," and Part VIII, "HMO's Certification," are self-explanatory.

In consideration of the foregoing, it is proposed to amend 6 CFR Part 150 in the Appendix (Phase IV Price Forms) by the addition of Form CLC–27, with accompanying instructions, to read as set forth below.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order Number 14, 38 FR 1489)

Issued in Washington, D.C., April 26, 1974.

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

Form CLC-27
(Proposed April 1974)

Economic Stabilization Program
HEALTH MAINTENANCE ORGANIZATION REPORT

Identification Number

☐ Prenotification ☐ Annual Report

Part I - Identification Data

1. (a) Name of Health Maintenance Organization

(b) Address (Number and Street)

(c) City, State, Zip Code

2. Report for Fiscal Year Ended
Month Day Year

3. Is this HMO:
(a) ☐ For Profit?
(b) ☐ Not For Profit?

4. Is HMO Subject to Any State Regulatory Agency?
(a) ☐ Yes (b) ☐ No

5. Membership at End of Fiscal Year

6. Date HMO Began to Provide Health Care, if Subsequent to January 1, 1969
Month Day Year

Part II - Summary Data

7. Revenues:

(a) Membership Revenue:

(i) Prepaid Revenue $

(ii) Supplemental Revenue (SMR) $

(b) Total Membership Revenue [(i) + (ii)] (TMR) $

(c) Revenue from Services to Non-Members (NMR) $

(d) Revenue Not from Services Provided:

(i) U.S. Dept. Of HEW $

(ii) County Allocation $

(iii) State Allocation $

(iv) Donations $

(v) Other $

(e) Total Non-Service Revenues (TNSR) [sum of (d)(i) through (d)(v)] $

(f) Total Revenues [(b) + (c) + (e)] $

(g) Percentage Change in TNSR from Prior Fiscal Year %

8. Percent of TMR [Item 7(b)] Derived from Community Rated Members %

9. (a) Number of Experienced Rated Groups or "Special Benefit" Rates that Individually Account for 5% or more of Total Membership Revenue (TMR)

(b) Total Percent of TMR Derived from (a) %

(c) Total Percent of TMR Derived from Other Experience Rated Groups or "Special Benefit" Rates 100%

Part III - Certification by State Regulatory Agency

10. Name and title of the principal official of the state regulatory agency

11. Reason(s) for non-compliance (if applicable)

12. Date received by state regulatory agency

13. Signature Date

14. Title

Part IV - Community Rate Change

15. Rate Change During Report Period:

Effective Date of Rate Change (1)	% Change (2)	Annualized Dollar Effect of Rate Change (3)

16. (a) Experience Period used to Calculate Rate Change _____ to _____

(b) Number of Years in Projection Period _____

17. Average Number of Members Per Month

(a) Prior Period _____ (b) Current Period _____ (c) Estimated _____

18. Revenue:

(a) Estimated Annualized Community Rate Revenue without Rate Change

(i) Revenue Subject to Change $_____

(ii) Revenue not Subject to Change $_____

(b) Total Community Rate Revenue w/o Change $_____

(c) Additional Revenue used in Calculating Rate Change

(i) "Special Benefit" Rate Revenue $_____

(ii) Supplemental Revenue (SMR) $_____

(iii) Non-Member Revenue (NMR) $_____

(iv) Total Non-Service Revenue (TNSR) $_____

(d) Total Additional Revenue $_____

(e) Total Estimated Revenue Prior to Community Rate Change $_____

19. Attach an Exhibit Explaining Development of Estimated Revenue

20. Actual Benefit Costs Incurred

Check appropriate contract basis as specified in 6 CFR 150.752(a)(5)(i-iv)	(1) Actual Benefit Costs during Experience Period Adjusted for Membership	(2) Anticipated B-C at Time of Rate Change	(3) % Change ((2)-(1)) ÷ (1)	(4) Annualized % Change (3)÷16(b)	(5) Anticipated B-C Used in Rate	(6) % Change ((5)-(1)) ÷ (1)	(7) Annualized % Change (6)÷ 16(b)
(a) Inpatient-Acute Care Per Admission ☐ Per Capita or Fixed Dollar ☐ Operating Expense ☐							
(b) Inpatient-Long Term Care							
(c) Outpatient-Hospital Per Procedure ☐ Per Capita or Fixed Dollar ☐							
(d) Medical Practitioner Medical Labratory Fee-For Service ☐ Per Capita or Fixed Dollar ☐							
(e) Total (Average)							

21. Attach an Exhibit and/or an Explanation Setting Forth Method for Calculating Anticipated Benefit Costs.

22. Expenses Used in Calculating Rate Change: (as limited by regulations)

(a) Total Anticipated Benefit Costs [Item 20(e)(Col. 5) total] $_____

(b) Administrative Expenses _____

(c) Capital Generation Requirement _____

(d) Other Expenses _____

Total Expenses $_____

23. Profit/Contingency Used in Calculating Rate Change (as limited by regulations) $_____

24. Derivation of Community Rate Change:

(a) Total Expenses [Item 22 total] $_____

(b) Profit/Contingency [Item 23] _____

Total $_____

(c) Subtract Total Revenue [Item 18(c)] $_____

(d) Community Rate Revenue Change Indicated $_____

(e) Overall Community Rate Change [Item 24(d)÷Item 24(c)] _____ %

Part V - Summary of Rate Elements (check appropriate basis for loading)	Prior Rate		Current Rate		Percentage Increase ((3)÷(1))x 100 ((4)÷(2))x 100 (5)	Current Rate
	Monthly Rate Per Member (1)	Per $100 of Rate (2)	Monthly Rate Per Member (3)	Per $100 of Prior Rate (4)		per $100 of rate (6)
25. Expenses						
(a) Loading for Administrative Expenses 6 CFR 150.752(3)						
(i) Percent of Rate Basis ☐						
(ii) Actual Cost Basis ☐						
(iii) Other, Explain ☐						
(b) Loading for Other Expenses and Capital Generation 6 CFR 150.752(1)						
(i) Percent of Rate Basis ☐						
(ii) Actual Cost Basis ☐						
(iii) Other, Explain ☐						
26. Profit/Contingency: Loading for Profit/Contingency Reserve as Specified in 6 CFR 150.752(a)(4)						
27. Benefit Costs: Loading for Benefit Costs as Specified in 6 CFR 150.752(a)(1-3)						
28. Total Rate	$	$100.00	$.	$.	. %	$100.00

Part VI - Person to Whom Inquiries Concerning this Filing Should be Addressed

Name	Title	Telephone Number (include area code)

Part VII - HMO's Certification

I have examined this form and any attached exhibits, schedules and explanations, and to the best of my information, knowledge, and belief, find such documents to be in compliance with the Economic Stabilization Regulations of Title 6, Code of Federal Regulations.

Signature	Title	Date

INSTRUCTIONS FOR FORM CLC-27, HEALTH MAINTENANCE ORGANIZATION REPORT

GENERAL INSTRUCTIONS

A. *Purpose.* Form CLC-27 is designed to provide the data necessary for the Cost of Living Council (CLC) to monitor the performance of Health Maintenance Organizations (HMOs) under the Economic Stabilization Program regulations of 6 CFR Part 150, Subpart R. Form CLC-27 also provides the means by which a Health Maintenance Organization prenotifies the Cost of Living Council and the appropriate state regulatory agency of a proposed rate increase.

B. *Who must file.* 1. Each HMO that had 60,000 or more members at any time during the calendar year preceding the effective date of a proposed rate increase must file a Form CLC-27 to prenotify any rate increase.

2. Each HMO must file an annual report on Form CLC-27.

C. *Where to file.* Send all filings to the appropriate state regulatory agency and to the Cost of Living Council at the following address:

Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508.

D. *When to file.* 1. If the HMO is prenotifying a rate increase, the Form CLC-27 must be filed at least 30 days prior to the implementation of the proposed rate increase.

2. Each HMO shall file Form CLC-27 at the time the HMO normally releases its annual report but in no event later than 120 days after the end of the fiscal year.

E. *Suggestions for improvement.* The Cost of Living Council welcomes suggestions for improving this and other forms, and seeks ways of obtaining the information it needs to exercise its responsibilities under the Economic Stabilization Program with the minimum amount of public burden. Suggestions should be submitted to:

Cost of Living Council, Office of the Executive Secretariat, 2000 M Street NW., Washington, D.C. 20508.

F. *Sanctions.* The timely submission of a Form CLC-27 by a Health Maintenance Organization is a mandatory requirement under the Phase IV regulations. Late filing, failure to keep records, or failure otherwise to comply with the Economic Stabilization regulations may result in criminal fines, civil penalties, and other sanctions as provided by law.

G. *Rounding.* For purposes of this form, all percentages may be expressed to the nearest two decimal places (e.g. 1.76%). All dollar entries may be entered to the nearest whole dollar except as otherwise indicated.

H. *Definitions and Abbreviations.* Definitions: (See also 6 CFR 150.750).

Special Benefit Rate—Prepaid rate other than community rate which is charged for optional or supplemental benefits.

Abbreviations:

Health Maintenance Organization—HMO
Supplemental Membership Revenue—SMR
Total Membership Revenue—TMR
Revenue from Services to Non-members—NMR
Total Non-Service Revenues—TNSR

SPECIAL INSTRUCTIONS

PART I—IDENTIFICATION DATA

Items 1 through 3—Self-explanatory.

Item 4—Indicate whether HMO rates are subject to state regulations and a state rate regulatory authority.

Items 5 and 6—Self-explanatory.

PART II—SUMMARY DATA

Item 7—"Revenues" in this part refers to revenue accrued by the HMO during the report period. For prenotification, enter data from the last completed annual report period for which data is available.

(a)(i)—"Prepaid Revenue" refers to all revenue accrued from members through a fixed monthly charge, including revenue from "Special Benefit" rates.

(a)(ii)—"Supplemental Revenue" refers to revenue accrued from members in payment for services not covered by the fixed monthly charge.

(b) and (c)—Self-explanatory.

(d)—"Revenue not from Services Provided" refers to revenue obtained from non-patient sources (e.g. grants, donations, subsidies, etc.).

(e) and (f) Self-explanatory.

(g) "Percentage Change" refers to change in Total Non-Service Revenue (TNSR) from TNSR of prior year.

Item 8—Enter percent of Total Membership Revenue (TMR) generated by HMO's Community Rate.

Item 9—(a) Enter the number of experience rated groups or special benefit rates, if any, that individually account for 5 percent or more of Total Membership Revenue (TMR) for the last completed annual report period.

(b) Enter the total combined percent of Total Membership Revenue (TMR) derived from these groups and/or rates.

(c) Enter the remaining percent of TMR. The sum of (a), (b) and (c) should equal 100 percent.

PART III—CERTIFICATION BY STATE REGULATORY AGENCY

Item 10—Self-explanatory.

Item 11—If noncompliance, the reason(s) for noncompliance should be listed. Refer to appropriate items in Parts IV and V or attach explanatory exhibits.

Item 12—The date Form CLC-27 is received by the state regulatory agency should be prominently displayed.

Item 13—The certification should be signed by the principal official of the state regulatory agency or any official legally designated to act for that official.

Item 14—Self-explanatory.

PART IV—COMMUNITY RATE CHANGE

For annual reports, if there has been no rate change during the report period, the latest available data should be entered as applicable statistics. If more than one change has been effected during the period, a separate Part IV should be completed for each change as well as one for the cumulative rate change during the period.

Item 15:

Col. (1) Enter effective date of proposed rate increase, for prenotification purposes, or the effective date(s) of any rate change(s) implemented during the report period, for annual report purposes.

Col. (2) Enter the percentage change(s) being prenotified or reported.

Col. (3) *Prenotification*—The dollar amount to be entered here is the proposed monthly rate times the estimated number of subscribers annualized (x 12) *minus* the current monthly rate times the estimated number of subscribers annualized (x 12).

Annual Report—For purposes of the annual report, Item 15 Col. (3) should contain the result of the monthly rate in effect during the last month of the report period times the number of subscribers at the end of the report period annualized (x 12) *minus* the monthly rate in effect during the last month of the prior period times the number of subscribers at the end of the report period annualized (x 12).

Item 16:

(a) Indicate the beginning and end of the time period used as a statistical base from which projections of revenue and benefit costs have been made.

(b) Enter the length of the time period extending from the midpoint of the experience period to the midpoint of the period during which the new rate is to be applied.

Item 17—Prenotification.

(a) Enter average number of HMO members per month of experience period used in calculating rate change.

(b) Enter average number of HMO members per month of last completed fiscal year.

(c) Enter average number of HMO members per month estimated for purposes of calculating rate change.

ANNUAL REPORT

(a) Enter average number of HMO members per month of experience period used in calculating rate change. If no rate change has been effected during period, enter average number of HMO members per month of prior report period.

(b) Enter average number of HMO members per month of report period.

(c) Enter average number of HMO members per month estimated for purposes of calculating rate change. If no rate change has been effected during period, enter average number of HMO members per month estimated for the following report period.

Item 18. (a)—The sum of Item 18(a)(i) and Item 18(a)(ii) should equal the estimated community rate revenue that would acrue to the HMO if the rate change does not go into effect. Revenue added by new membership should be included.

(a)(i) Enter the estimated community rate revenue that would be affected by the rate change (i.e., before the rate change is implemented).

(a)(ii) Enter the estimated community rate revenue that would not be affected by the rate change.

(b) Enter the total of Item 18(a)(i) and (a)(ii).

(c)(i) Enter revenue from "Special Benefit" Rates that is credited to and used in calculating the community rate (if any).

(c)(ii–iv) Enter additional revenues used in calculating community rate.

(d) Enter total additional revenue which is the sum of Item 18(c)(i) through (c)(iv).

(e) Enter total estimated revenue prior to community rate change (Item 18(b) and Item 18(d)).

Item 19—Self-explanatory.

Item 20:

Col. (1) Enter total annualized benefit costs incurred during the experience period multiplied by the ratio of estimated average membership during period in which rate will be applied and average membership during the experience period. [i.e. Total benefit costs in experience period times estimated membership divided by membership during experience period.]

Col. (2) Enter the total estimated annualized benefit costs during the period in which rate will be applied. Increased membership should be considered.

Col. (3) The percentage change is determined by subtracting the entry in Col. (1) from the entry in Col. (2) and dividing the result by the entry in Col. (1), e.g., [Col. (2) — Col. (1)] ÷ Col. (1).

Col. (4) The annualized percentage change is determined by dividing the entry in Col. (3) by the entry in Item 16(b).

Col. (5) Enter the estimated annualized benefit costs as limited by the regulations for period in which rate will be applied.

Col. (6) The percentage change is determined by subtracting the entry in Col. (1) from the entry in Col. (5) and dividing the result by the entry in Col. (1), e.g., [Col. (5) — Col. (1)] ÷ Col. (1).

Col. (7) The annualized percentage change is determined by dividing the entry in Col. (6) by the entry in Item 16(b).

Item 21—Self-explanatory.

Items 22, 23, and 24—Figures for cost, expenses, and revenues are total anticipated annualized amounts used in calculating the community rate change.

PART V—SUMMARY OF RATE ELEMENTS

For purposes of the annual report, "Prior Rate" refers to the rate in effect at the end of the previous report period. "Current Rate" refers to the rate in effect at the end of the current report period. All dollar entries should be expressed to the nearest cent.

Items 25 through 28:

Col. (1) Enter the actual dollar amount per month charged each member of the HMO at the end of the previous report period.

Col. (2) Enter the actual dollar amount per $100 of (prior) premium charged each member of the HMO at the end of the previous report period.

Col. (3) Enter the actual dollar amount per month charged each member of the HMO at the end of the current report period.

Col. (4) Enter the actual dollar amount per $100 of prior premium charged each member at the end of the current report period. This is equivalent to the product of Col. (3) and Col. (2) divided by Col. (1) e.g., [Col. (3) × Col. (2)] ÷ (1).

Col. (5) The percentage change computed by dividing Col. (1) into Col. (3) and multiplying by 100 is equal to that derived by dividing Col. (2) into Col. (4) and multiplying by 100.

Col. (6) Enter the actual dollar amount per $100 of (current) premium charged each member at the end of the current report period. NOTE: Item 28 Col. (5) (total) should be equal to Item 24(e).

PART VI—PERSON TO WHOM INQUIRIES CONCERNING THIS FILING SHOULD BE ADDRESSED. SELF-EXPLANATORY

PART VII—HMO'S CERTIFICATION

This section should be signed by the chief executive officer or other legally designated official. A copy of the delegation of authority must be filed with the Cost of Living Council.

[FR Doc.74-9923 Filed 4-26-74;3:18 pm]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 80]

FUELS AND FUEL ADDITIVES

Proposed Restrictions on Use of Unleaded Gasoline; Corrections

On April 11, 1974 (39 FR 13174), the Environmental Protection Agency proposed amendments regarding the liability of gasoline retailers and suppliers for violations of the regulations requiring general availability of unleaded gasoline. Two typographical errors appear in the proposed revision of paragraph (b)(2) of § 80.23.

The document proposing revision of 40 CFR Part 80 published in the FEDERAL REGISTER on April 11, 1974, at 39 FR 13174, is corrected by changing the spelling of the word "under" and changing the reference in § 80.23(b)(2) from paragraph (a)(2) to paragrpah (a)(1).

Dated: April 26, 1974.

ALVIN L. ALM,
Acting Administrator.

[FR Doc.74-10112 Filed 5-1-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 91]

[Docket No. 20027; RM-2050; FCC 74-389]

OIL SPILL CLEANUP OPERATIONS

Proposed Frequency Allocation

In the matter of amendment of Parts 2 and 91 of the Commission's rules and regulations to provide a frequency allocation for oil spill cleanup operations.

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. On September 1, 1972, the Central Committee on Communication Facilities of the American Petroleum Institute (API) filed a petition (RM-2050) requesting that the Commission change its rules to accommodate radio communications needed to expedite and coordinate oil spill cleanup operations. API specifically desires a nationwide "family" of frequencies to effect a more satisfactory oil spills cleanup process.

3. The United States Coast Guard has reported that there were 8,763 oil spills in 1971 and 9,931 oil spills in 1972 involving the spillage of 8,839,573 and 18,805,732 gallons, respectively, for those years. While the Coast Guard is given responsibility under the Federal Water Pollution Control Act (as amended) for coordinating the cleanup of oil spills, the petroleum industry has the responsibility of performing the actual cleanup function for any spills caused by its facilities.

4. The individual petroleum companies are legally responsible (Title 33 USCA, section 1161(f)) for any oil spill, regardless of size, which "causes a visible sheen on water". In order to carry out their responsibilities, the companies have formed oil spill cleanup co-operatives, which numbered 84 as of February, 1973. Such co-operatives are primarily composed of oil companies but may also include local government agencies. The oil companies have donated necessary equipment to the co-operatives, and all spills, large and small, are handled by the co-operatives rather than by the individual companies. In a small spill, only a portion of the available personnel and equipment is used and the radio communications requirement is minimal. Large spills, however, require extensive cleanup operations involving much manpower and machinery. To minimize the destructive effect of such spills, cleanup operations must proceed rapidly and efficiently and are highly dependent on radio for essential communications.

5. Oil spill co-operatives now fulfill their emergency communications needs by diverting frequencies from other functions (i.e. operational control of various refinery processes). However, this procedure can result in serious disruption of regular services for days or even weeks. To alleviate this situation, API has requested the following frequencies be allocated nationwide to the Petroleum Radio Service for use exclusively in oil spill cleanup communications:

2 low band frequencies (25–30 MHz)
2 medium band VHF frequencies (49–50 MHz)
2 pair, high band VHF frequencies (150–170 MHz)
2 pair, UHF frequencies (450–470 MHz)

The specific frequency channels suggested for use by the API were evaluated to determine their availability for reallocation in the FCC Rules. Not all were obtainable due to conflicts with either planned or existing uses. Those which were found to be available have been incorporated into the frequency plan proposed herein.

6. The number of channels cited in paragraph 5 is needed, according to API, because large oil spills require several independent communications networks for such purposes as directing work crews, communicating between maritime, land, and air vehicles and for managing and coordinating the overall cleanup operation. The provision of channel pairs will enable the use of repeaters to extend mobile and portable coverage over the relatively large areas which may be affected by oil spills, occasionally up to 30 or 40 miles. The availability of channels in several land mobile bands will also enable the maximum use of land mobile type equipment which the oil companies presently have available.

7. In letters to the Commission, both the U.S. Coast Guard and the Environmental Protection Agency (EPA) voiced support for the API petition. Their letters indicate that both of these agencies have been assigned special Government frequencies for use in carrying out their responsibilities in emergencies. Likewise, the EPA believes that the oil industry should have relatively clear channels for handling those aspects of the cleanup operations for which industry has responsibility.

8. Recognizing the Federal Government interest in this area, the Commission requested the Interdepartment Radio Advisory Committee (IRAC) to review the API petition in the context of Government requirements and to assist the Commission in developing a coordinated frequency plan to meet both Government and industry needs. The total number of channels in the joint FCC/IRAC plan is the same as that proposed by API with some differences in specific frequencies to lessen the impact on existing or planned services.

9. We are therefore proposing the following frequencies for the purpose of accommodating air, land, and sea communications to be used for oil spill cleanup operations:

(a) Two channels in the 25 MHz range, centered on 25.04 and 25.08 MHz, each 20 kHz wide. Although these two frequencies are currently allocated to the Petroleum Radio Service, they are lightly loaded and no great future demand is seen for the purpose for which they were allocated. We are proposing to make these two frequencies available for oil spill cleanup operations on a primary basis. Other Petroleum Radio Service use will be permitted on a secondary basis.

(b) Two frequencies in the 30–40 MHz range, 36.25 MHz and 41.71 MHz, both from Government spectrum. These are Coast Guard assigned channels, both 20

kHz wide. These frequencies will be made available to both Government and non-Government stations engaged in oil spill cleanup operations along inland waterways and in coastal areas, subject to prior co-ordination with pertinent local Coast Guard officials.

(c) Two pair of frequencies in the 150 MHz band, 150.980/156.255 MHz and 159.480/161.580 MHz, to be derived from unused guardband spectrum between presently assignable channels. These guardbands are presently divided between two adjoining services. By combining the two segments, a channel of useable width is obtained. These 150 MHz channels are all 15 kHz wide. Both 150.980 MHz and 159.480 MHz are center frequencies of guardbands between Land Transportation and Public Safety channels. The other two frequencies, 156.255 MHz and 161.580 MHz, are center frequencies between Maritime Mobile channels, and Public Safety and Land Transportation, respectively.

(d) Two UHF frequencies, 454 and 459 MHz, which are the centers of 25 kHz guardbands located between Public Safety and Domestic Public channels. These two frequencies will be made available exclusively to non-Government entities engaged in oil spill cleanups. Two additional UHF frequencies may be derived for oil spill use at such time as the Commission proceeds with channel splitting in the remote pickup broadcast auxiliary bands.

10. Based on past experiences, according to Coast Guard information, oil spills can occur almost anywhere, but the bulk of significant oil spills has occurred on inland waterways and in coastal areas. It was therefore concluded that the 25 MHz pair, the two 150 MHz pairs and the 450 MHz pair be made available on a nationwide basis. The frequencies 36.25 and 41.71 MHz and the remaining, yet undetermined UHF pair would be made available for use only in coastal and inland waterway areas, where the anticipated additional demand warrants their employment.

11. The IRAC also recommended that the frequency 157.075 MHz be used as an interface between the U.S. Coast Guard and other Government and non-Government entities involved in a cleanup. Use of this frequency would be under the control of the designated on-scene Coast Guard commander/coordinator, or his deputy, associated with the cleanup operation. Its use by industry would be limited to personnel having primary responsibility for the cleanup activity, and only Coast Guard-owned equipment would be used. Such equipment would be operated as Coast Guard stations not licensed by the FCC.

12. It appears to the Commission that the proposed allocation of frequencies would offer significant public benefits, both from an economic as well as an environmental point of view. The oil spill cleanup could be accomplished more efficiently and effectively as a result of the allocations. The major benefit to be derived from employment of an adequate communication resource would be a savings in time, a crucial factor in an oil spill cleanup in which a day or even an hour can make a major difference in how extensively the oil spill spreads, and consequently, the amount of wildlife and land or water affected. The new allocation would ensure availability of existing Petroleum Radio Service frequencies for essential day-to-day operation which must continue even during oil spill emergencies.

13. While we are proposing an allocation of the above frequencies for use in oil-spill emergencies, we will entertain comments concerning possible secondary use of the non-Government channels for non-critical operations in the Petroleum and perhaps other radio services which could cease operations immediately if the channels were required during an oil spill.

14. We also proposed to amend Part 91 as indicated below to provide eligibility in the Petroleum Radio Service for non-profit corporations or associations engaged in the containment or cleanup of oil spills.

15. The proposed amendments to the rules, as set forth below, are issued pursuant to the authority contained in sections 4(i) and 303 or the Communications Act of 1934, as amended.

16. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested person may file comments on or before May 31, 1974 and reply comments on or before June 11, 1974. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. The Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

17. In accordance with § 1.415 of the Commission's rules, one original and 14 copies of all statements shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: April 16, 1974.

Released: April 26, 1974.

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

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

§ 2.106 [Amended]

1. In § 2.106 two new footnotes are added to the Table of Frequency Allocations to read as follows:

a. In the bands 25.01–25.33, 150.8–150.98, 150.98–151.49, 156.250–157.0375, 158.715–159.48, 159.48–161.575, 161.575–161.625, 451–454, 454–455, 456–459, 459–460 MHz, the following footnote is added:

NG ---- The frequencies 25.04, 25.08, 150.980, 156.255, 159.480, 161.580, 454.000, and 459.000 MHz may be authorized to non-Government entities engaged in oil spill cleanup operations.

b. In the bands 36–37 and 40–42 MHz, the following footnote is added:

US ---- The frequencies 36.25 MHz and 41.71 MHz may be authorized to Government and non-Governm nt stations engaged in oil spill cleanup operations. Authorization of these frequencies is subject to prior co-ordination with local Coast Guard officials. In addition, the use of these frequencies for oil spill cleanup operations is limited to the inland and coastal waterway regions.

2. Section 91.301 is amended to add paragraph (d) to read as follows:

§ 91.301 [Amended]

* * * * *

(d) A non-profit corporation or association engaged in the containment or cleanup of oil spills. Provided that only those mobile service frequencies designated by footnotes (38), (39) and (40) in § 91.304(b) and frequencies otherwise available for operational fixed purposes will be assigned to such applicants for these purposes.

3. In § 91.304(a) the table is amended and, in paragraph (b), limitations (38), (39), and (40) are added to read as follows:

§ 91.304 [Amended]

(a) * * *

Petroleum Radio Service Frequency Table

Frequency or band	Class of stations	Limitations
*	*	*
25.04	do	38
25.06	do	
25.08	do	38
*	*	*
36.25	Base or mobile	40
40.68	Operational fixed	2,3
41.71	Base or mobile	40
*	*	*
150.980	Base or mobile	38
153.035	do	36
* * *	* * *	* * *
156.255	Base or mobile	38
158.145	do	35
* * *	* * *	* * *
159.480	do	38
161.580	do	38
169.425	Operational fixed	2
* * *	* * *	* * *
454.000	Base or mobile	39
456.175	Mobile only	5, 30, 31, 33
* * *	* * *	* * *
459.000	Base or mobile	39
460.025	Fixed	29
* * *	* * *	* * *

(b) * * *

(38) This frequency is primarily available for oil spill cleanup operations and for training and drills essential in the preparation for the containment and cleanup of oil spills. It is secondarily available for general base-mobile operations in the Petroleum Radio Service on a non-interference basis. Secondary users of this frequency are required to forego its use should oil spill cleanup activities be present in their area of operation.

(39) This frequency is available for oil spill cleanup operations and for training and drills essential in the preparation for the containment and cleanup of oil spills.

(40) This Government frequency is available for shared Government/non-Government use by stations engaged in oil spill cleanup operations and for train-

ing and drills essential in the preparation thereof. Use by non-Government stations will be confined to inland and coastal waterways and subject to coordination with local U.S. Coast Guard authorities.

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[47 CFR Part 73]

[Docket No. 20033; RM-2200]

TELEVISION BROADCAST STATIONS IN MONAHANS AND ODESSA, TEXAS

Table of Assignments

In the matter of amendment of § 73.606(b) of the Commission's rules, Table of assignments, television broadcast stations (Monahans, Odessa, Texas).

1. Notice is hereby given of the institution of this proceeding to consider a proposal to amend the television Table of Assignments by reassigning Channel 9 from Monahans, Texas, to Odessa-Monahans, Texas, as a hyphenated assignment. The proposal is advanced by Grayson Enterprises, Inc. (Grayson), licensee of Station KMOM-TV, Monahans, which operates on Channel 9, in a petition for rule making, filed on May 11, 1973. The petition is opposed by Doubleday Broadcasting, Inc. (Doubleday), until recently the licensee of Station KOSA-TV, Channel 7, Odessa, and by Midland Telecasting Company (Midland Telecasting), licensee of UHF Station KDCD-TV, Channel 18, Midland, Texas. The new licensee of Station KOSA-TV at Odessa, Forward of Texas, Inc., advised by letter, received November 2, 1973, that it "adopts the position" advanced by the former KOSA-TV licensee (Doubleday) in opposition to the Grayson petition.[1]

2. The petitioner (Grayson) operates Station KMOM-TV (formerly Station KVKM-TV) on Channel 9, Monahans, from an antenna site about 27 miles north of Monahans and 30 miles northwest of Odessa. It places a signal of the required strength for principal community service over both Monahans, its city of license, and Odessa, and has authority to identify Station KMOM-TV on the air as a Monahans-Odessa station.[2] It now requests that Channel 9, Monahan's only television assignment, be reassigned to Odessa-Monahans, as a hyphenated assignment. The effect of this "hyphenation" would be to make Channel 9 available for application for a station to serve either Monahans or Odessa as its principal community of license. If the proposal is adopted, Grayson states that it intends to seek authority to change the city of license for Station KMOM-TV from Monahans to Odessa, to move its Monahans studio facilities to Odessa,[3] and to deactivate its Monahans studio. It plans, however, to maintain an office in Monahans with one full-time staff member whose duties would include the coverage of news events in Monahans with appropriate film equipment and the solicitation of advertising from local businesses to the same extent as it now does. No changes in the existing KMOM-TV antenna site or technical facilities would be required for it to operate as an Odessa rather than a Monahans Channel 9 station, and none are proposed by Grayson should its channel reassignment proposal be adopted and authorization for relocation of the station in Odessa be subsequently obtained.

3. In adopting the nationwide television Table of Assignments in 1952, the Commission provided four communities in the west Texas area in which Monahans is located with television assignments to meet the needs of the area for local television outlets and services. These communities, Odessa, the largest population center, Midland, the next largest, Big Spring, and Monahans, the smallest of the four, are located on an approximately east-west line along U.S. Highway 80 between Abilene, Texas, approximately 100 miles east of Big Spring, and El Paso, Texas, approximately 225 miles west of Monahans. Monahans is located at the western end and Big Spring, approximately 95 miles distant, on the eastern end, with Odessa and Midland located on the line between Monahans and Big Spring. Odessa is approximately 37 miles northeast of Monahans, and Midland is approximately 20 miles northeast of Odessa (57 miles from Monahans) and 39 miles southwest of Big Spring. Each of these communities was provided with a VHF assignment in 1952, and the two larger communities, Odessa and Midland, were each provided with a UHF assignment also. Since then, the assignments to these communities have been changed only by the addition of two UHF assignments to Odessa (Channels 30 and *36, an educational reservation) and by the assignment of UHF Channel *14 to Big Spring for educational use. The television channels presently assigned to these communities are the following:

City	*Assignments*
Monahans	9—
Odessa	7—, 24, 30, *36
Midland	2+, 18
Big Spring	4—, *14

4. Of these assignments, all of the VHF channels and the Midland UHF channel are occupied as follows:

Station KMOM-TV, Channel 9, Monahans (began operation, Dec., 1958).

Station KOSA-TV, Channel 7, Odessa (began operation, Jan., 1956).

Station KMID-TV, Channel 2, Midland (began operation, Dec., 1953).

Station KDCD-TV, Channel 18, Midland (began operation, December, 1961. Suspended operation, Feb. 16, 1962—resumed operation June 8, 1969; suspended operation March 24, 1971—resumed operation March 16, 1972; suspended operation May 13, 1972—resumed operation February 2, 1973, and is currently on the air).

Station KWAB-TV, Channel 4, Big Spring, satellite of Station KMOM-TV, Monahans began operation, Jan. 1956, as a semisatellite of Station KTXS, Channel 12, Sweetwater, Texas, also owned by Grayson. Since Nov., 1959, has operated as a full satellite of Station KMOM-TV, Channel 9, Grayson's Monahans station).

Translator operations are also authorized at Monahans, Midland and Big Spring. The Monahans translator (KØ6EC), licensed to the Midland Channel 2 licensee (Midessa Television Company, Inc.) transmits the programming of its Midland station (KMID-TV). The Midland translator (KØ6EQ), licensed to Grayson, transmits the programming of its Monahans Channel 9 station (KMOM-TV). The Big Spring translator (KIØHH), licensed to Forward of Texas, Inc. (formerly Doubleday) transmits the programming of its Odessa Channel 7 station (KOSA-TV). The Odessa, Monahans and Midland VHF licensees are affiliated with CBS, ABS, and NBC, respectively.

5. Population data pertinent to the arguments of the parties based on 1960 and 1970 U.S. Census reports, are as follows:

City and county	Population (1970)	Population (1960)	Population (1950)	Percent change (1960-70)	Percent change (1950-60)
Monahans	8,333	8,567	6,311	−2.7	35.7
Ward County	13,019	14,917	13,346	−12.7	11.8
Odessa	78,380	80,338	29,495	−2.4	172.4
Ector County	91,805	90,995	42,102	0.9	116.1
Midland	59,463	62,625	21,713	−5.0	188.4
Midland County	65,433	67,717	25,785	−3.4	162.6
Big Spring	28,735	31,230	17,286	−8.0	80.7
Howard County	37,796	40,139	26,722	−5.8	50.2
Odessa SMSA (Ector County)	91,805	90,995	42,102	0.9	116.1
Midland SMSA (Midland County)	65,433	67,712	25,785	−3.4	162.6

[1] An application (BALCT-525) for the reassignment of the license for Station KOSA-TV, Channel 7, Odessa, from Doubleday Brodacasting Company, Inc., to Forward of Texas, Inc., was granted September 11, 1973, and the assignment was consummated on October 17, 1973.

[2] The station began operation in 1958 with transmitter site 7 miles north of Monahans. Authorization for operation at the present site was obtained by the original licensee in 1962 and for dual-city identification in 1963. Grayson purchased the station from the original licensee in 1969.

[3] An application (BMLCT-737), filed by Grayson on June 16, 1972, for modification of its license for Station KMOM-TV to change the studio location from Monahans to Odessa was dismissed, at Grayson's request, on May 17, 1973.

6. Grayson also submitted the following population figures for 1972 obtained from the Monahans City Manager and the Odessa and Midland Chambers of Commerce concerning their respective communities and SMSA's:

City	Population (Dec. 31, 1972) [4]
Monahans	8,333
Odessa	82,700
Midland	63,000
Odessa SMSA (Ector County)	95,000
Midland SMSA (Midland County)	68,500

7. In support of its Channel 9 Odessa-Monahans reassignment proposal, Grayson urges that limiting its Channel 9 station (KMOM–TV) to a Monahans assignment is unrealistic and contrary to the public interest under the circumstances existing in the Monahans-Odessa area.[5] It contends that, while Monahans was a small community compared to Odessa and Midland in 1952 when these communities were provided with separate television assignments, since 1952, Odessa and Midland have steadily and significantly increased disproportionately to Monahans in population, economic base and importance, and that the disparity has continued to increase since 1970, as shown by all available indices, including the comparative statistical data it submitted on population, housing starts, bank deposits, taxable payrolls, value of projects for which building permits were issued, retail trade and new vehicle sales. As additional proof that the economic base of Monahans has been eroding, in relation to Odessa, Grayson points out that between 1965 and 1971, Monahans lost 25 percent of its manufacturing firms (a decrease from 16 to 13 firms), including two major oil refineries, and that another manufacturing firm has since left Monahans; and that, as of early 1972, 116 (47 percent) of the 247 buildings in Monahans suitable for business purposes were vacant. Conversely, it states, in the 1969 through 1971 period, Odessa gained 18 new industries and 22 others expanded operations; is becoming the headquarters for industrial firms; and in 1972 issued construction permits for two major shopping centers in Odessa, for 178 single family dwellings, with a total value of over three and one-half million dollars, six apartment buildings with 334 units, and 10 duplexes. Also, it states that in 1972, construction, involving initial costs of over 12 million dollars, was begun on the University of Texas of the Permian Basin, located in Odessa, which the University estimates will by 1980 introduce, through University sources alone, over 16 million dollars (not including construction costs) into the Odessa-Midland economy. Grayson further states that in the first five months of 1973, Odessa issued permits for 53 single family dwellings, of a total value of nearly one and one-half million dollars, for four apartment buildings with 198 units with a value of over one million dollars, and for nine mobile homes, valued at fifty-two thousand dollars.

8. Grayson also contends that, owing to the widening disparity between Monahans and Odessa and Midland in population and economic base and the fact that the urban complex of Odessa and Midland is the center for commercial, financial, governmental, educational and cultural interests and activities of the area, the small community of Monahans cannot provide even minimal advertising support necessary for a viable television station and the limitation of its Channel 9 station to a Monahans assignment and studio location places the station under substantial competitive handicaps. These, it avers, accentuate its already unequal competitive struggle for advertising revenues with the two other network-affiliated Odessa and Midland full market VHF stations serving the Permian Basin region [6] and seriously jeopardizes its future as an economically viable entity.

9. Grayson further claims that Station KMOM–TV is severely hampered in its efforts to provide an area-wide program service for the entire Permian Basin region from its Monahans location because of the distance from Monahans to the region's main population centers—Odessa and Midland—where the majority of local and regional news events occur and its local advertisers are located.[7] It states that the Monahans-Odessa round trip requires two hours driving time, and the Monahans-Midland round trip three hours driving time, which has required the news staff of its Monahans station to drive in excess of 150,000 miles per year in the course of covering news events in Odessa and Midland and which has also, in many instances, caused its Monahans station to lag far behind all other local media outlets in timeliness of news coverage of events in Odessa and Midland. Also, because of the driving time involved, Grayson states that community leaders of the Permian Basin region are often reluctant to go to Monahans to participate in locally originated programs of Station KMOM–TV and largely, for that reason, confine their appearances to the Odessa and Midland full market stations. This, it claims, has always placed Station KMOM–TV at a great disadvantage in its attempts to provide the quality and quantity of community service it desires to furnish. In addition, Grayson says that it must recruit employees for its Monahans station from the Odessa area because sufficient qualified personnel are not available in Monahans, and that it has had great difficulty in retaining and recruiting station personnel from the Odessa area because of their reluctance to undergo a daily trek to Monahans or to move there. It further states that its Monahans station has regularly lost key employees who have cited commuting time between Odessa and Monahans as the reason for resignation.

10. In commenting on Station KMOM-TV's competitive inequality in the Monahans-Odessa-Midland market, Grayson urges that a main studio location in Odessa is necessary if Station KMOM–TV is to be a competitive force in this market, particularly with respect to national spot advertising. Prior to acquiring Station KMOM–TV in 1968, Grayson states that the station had operated at a net loss in excess of $728,000 from 1963–1967; that, upon acquiring the station, it took steps to remedy this situation by substantial expenditures of time and money to improve the station's physical facilities and programming; and that, while these changes have resulted in some revenue increase over the past several years, Station KMOM–TV continues to experience operating losses; and that it does not believe that Station KMOM–TV can ever reach a point of sustained economic viability so long as its assigned location is Monahans. Grayson states that because operation of its Channel 9 station on a Monahans assignment limits its ability to produce local programming of interest to the majority of viewers, this has adversely affected its audience share and revenues. It points out that American Research Bureau (ARB) reports for the Odessa-Midland market for the February–March, 1971–1973 period show that Station KMOM–TV's audience shares (which also included the audience of its Big Spring satellite station—KWAB–TV) have been uniformly below those of the other Odessa and Midland full market stations, including the critical local news periods which, it avers, do much to determine audience nighttime viewing patterns; that Station KMOM–TV's sign-on through sign-off weekly audience share alone (not including KWAB–TV) was less than half that of the next lowest station and only 42 percent as high as that of the leading market station in the Odessa-Midland "metro area"; and that the 1973 ARB report showed, for example, that Station KMOM–TV's share

[4] It is noted that Doubleday in its opposition states that these 1972 figures furnished by Grayson are "obviously an optimistic guesstimate by the Odessa and Midland Chambers of Commerce and a mere recitation of the 1970 Census by the Monahans City Manager" which it cannot accept as representing an accurate population count for these communities and SMSA's as of December 31, 1972.

[5] This area, Grayson states, is generally known as the Permian Basin, which comprises the counties (all in Texas) of Andrews, Crane, Ector (Odessa), Midland (Midland), Ward (Monahans) and Winkler, with a total 1970 population (U.S. Census) of 194,441, and of which the population of Odessa comprises about 40 percent; that of Midland, about 30 percent; and that of Monahans, less than 7 percent.

[6] Grayson notes that the only other area station, Station KDCD–TV, Channel 18, Midland, essentially serves only Midland and its immediate area. Station KDCD–TV now operates with power of but 0.708 kW and antenna height of 390 feet above average terrain. It was, however, granted authority on August 29, 1973 (BMPCT–7482), to increase the power to 6.76 kW. This, however, will not permit a significant increase in its coverage area.

[7] Grayson states that from 1969 to 1971, inclusive, Station KMOM–TV had 546 local advertisers, of which only 43 (7.87 percent) were located in Monahans; whereas 246 (45.1 percent) were located in Odessa and 107 (19.6 percent) were located in Midland.

of the "metro area" audience for the 6-6:30 p.m. local news period was but 2 percent, and for the 10–10:30 p.m. local news period, only 6–7 percent, Monday through Friday.

11. Grayson avers that sale of time to national and regional advertisers and sponsors is directly related to viewing audience size, both with respect to the demand for time and the rates at which the time can be sold. Consequently, it states that, since its Monahans station has a disproportionately small share of the total market viewing audience, it has been able to offer advertising time to national and regional advertisers on the station only at very low rates and that the revenues it received from time sales to such advertisers in recent years were about 5% of Station KMOM–TV's total broadcast revenues, and about 3.5% of the market's total revenues derived from such time sales. Grayson also claims that because of the low rates obtainable from national and regional buyers for advertising time on Station KMOM–TV, it has been forced to expend a disproportionate amount of effort and expense upon obtaining local advertising and that it has been at a disadvantage in doing so with Station KMOM–TV operating on a Monahans station assignment and studio location since the great majority of the area's potential local advertisers are physically located in Odessa and Midland and its Monahans studio is not conveniently accessible to them for the production and taping of advertisements. Moreover, it states, the handicap its Monahans station is under in producing local programming, particularly news, reduces its audience and makes it less attractive to local advertisers. Grayson believes that these factors, all related to Station KMOM–TV's operation on a Monahans assignment, place an effective upper limit on the advertising support it can obtain from the Odessa-Midland area which it may well have already reached. While acknowledging that the Monahans business community has done its best to support its local television station, Grayson maintains that this support is considerably less than required to operate Station KMOM–TV and that the businesses in Monahans are too few in number and too small to do so. Grayson further states that, while KMOM–TV revenues have risen somewhat in recent years due to improvements in the station's operation and its sales efforts, they still comprise a disproportionately small share of the total broadcast revenues in the Odessa-Midland-Monahans market —less than one fourth of the revenues reported for the market in 1971.

12. Grayson also claims that Station KMOM–TV's competitive inequality is aggravated by the fact that ARB, unlike the Commission, which alone classifies its market as Odessa-Midland-Monahans, classifies its market as the Odessa-Midland market and treats Monahans and Ward County as merely part of the market's "Area of Dominant Influence", rather than as an integral part of it. As a result, it states that, even though KMOM–TV is authorized to identify itself as a Monahans-Odessa station, both local and national time buyers simply observe that it operates on a Monahans assignment, note the relatively small population of Monahans and the surrounding area, and eliminate the station from all buying consideration for the market; and that the sources of information upon which time buyers depend in making decisions, other than personal contact and knowledge, do not effectively convey that Station KMOM–TV serves the entire market and leave the impression that the station is isolated, serving a large area with a small and declining population. The only way for Station KMOM–TV to surmount this situation, it urges, is to change its city of assignment to Odessa, while still recognizing and fulfilling service obligations to Monahans.

13. As precedent for its proposal, Grayson cites several Commission cases. It submits that our "Fourth Report and Order on Expanded Use of UHF Channels" in Docket No. 14229[8] upholds its view that, as a de novo proposition, the Commission would not today assign Channel 9 to a community the size of Monahans without specific demand, accompanied by a representation that a station would be built; and that the Medford, Oregon,[9] and Concord, California,[10] TV assignment cases show that the Commission will shift existing channel assignments from very small communities to nearby larger communities, particularly where, as in the Concord case, increasing population disparities between such communities can be shown. The Hugo, Oklahoma and Paris, Texas TV hyphenation case[11] is cited to show that the Commission has considered hyphenated assignments appropriate when there is a strong community of interest between two communities, such as it states exists between Monahans and Odessa, both being county seats in the Permian Basin region with similar populations and characteristics. That case and the Tucson-Nogales, Arizona TV hyphenation case[12] are also cited to show that economic necessity, which it states is a criterion applicable to its proposal also, have been considered reason by the Commission in the past for making hyphenated assignments.

DOUBLEDAY OPPOSITION

14. In its opposition, Doubleday submits that over the past 15 years Grayson and the former licensee of the Monahans Channel 9 station have tried to circumvent the 1952 assignment plan for this west Texas area by a de facto reassignment of Channel 9 to Odessa; that this has been done through successive steps, i.e., the obtaining of authorization for power and height increases for Station KMOM–TV, for move of the KMOM–TV transmitter to a site closer to Odessa, for a VHF translator in Midland, for dual city identification, and for a satellite station (KWAB–TV) at Big Springs; and that, by means of its hyphenation proposal, Grayson now seeks to achieve a de jure reassignment of Channel 9 to Odessa, as its stated intent to seek modification of its KMOM–TV license to change the city of assignment from Monahans to Odessa upon adoption of the proposal evidences. It contends that adoption of the Grayson proposal would cause an irrevocable loss of the local outlet which the Commission intended to insure that Monahans would have when it assigned Channel 9 to the community in 1952; and that the residents of Monahans deserve the continued presence of their Channel 9 local outlet.

15. Doubleday maintains that no reasons exist in the differing characteristics of Monahans and Odessa to justify reassigning Channel 9 to Odessa, as Grayson claims. It states that the "disproportion" which Grayson asserts exists today between Monahans on the one hand, and Odessa and Midland on the other, has not been created overnight; that the dissimilarities between the communities were made; that Monahans was then and remains today a small community compared to Odessa; that, while during the 1950–1960 period, Odessa's growth rate was larger than Monahans growth rate, Monahans, too, experienced a healthy 35 percent population increase over that period, that, since Odessa was nearly five times larger than Monahans to begin with in 1950, there is nothing unusual in Odessa having the larger growth rate during the 1950–1960 period; that both communities declined in population over the 1960–1970 period, Monahans having a 2.7 percent decline and Odessa a 2.4 percent decline; and that, if there has since been a slow-down in the growth of the area, Odessa, as well as Monahans, has been affected by it. Doubleday also points out that the Commission in its Sixth Report and Order adopting the television Table of Assignments in 1952 acknowledged the efficacy of assigning channels to communities of varying sizes; and that the Commission second assignment priority—to provide each community with at least one television station—underlies the Monahans Channel 9 assignment, while Grayson's subject proposal is grounded, if at all, in the fifth and lowest priority of assigning channels on the basis of community population and geographical location.

16. Doubleday claims that Channel reassignment and relocation in Odessa for the Monahans Channel 9 station are not the cure-all for Station KMOM–TV's asserted problem of competitive inequality and that, in fact, the station operates competitively in the Odessa-Midland-Monahans area. One reliable indicator of the station's economic growth in the 14 years it has been on the air, Doubleday states, is its total net weekly circulation. Based on "Television Factbook" data, taken from ARB surveys, Double-

[8] 41 F.C.C. 1083, 1088, 5 R.R. 2d 1587, 1593 (1965).
[9] 3 F.C.C. 2d 860, 7 R.R. 2d 1656 (1966).
[10] 30 F.C.C. 2d 299, 22 R.R. 2d 1651 (1971).
[11] Notation of Action only at 23 F.C.C. 2d 0971, 19 R.R. 2d 1823 (1970).
[12] 32 F.C.C. 2d 885, 23 R.R. 2d 1665 (1972).

day points out that the Monahann station's total net weekly circulation rose from 22,800 television households in 1961 to 91,400 television households in 1965, as a result of relocation of the station's transmitter site and a power increase; to 93,280 television households in 1969, measured with coverage of its Big Spring satellite station (KWAB–TV) included; was recorded as 89,300 television households in 1970, measured without coverage of its Big Spring satellite; and rose to 94,400 television households in 1971, measured with coverage of its Big Spring satellite. A comparison of these net circulation totals of the Monahans Channel 9 station with those of the Odessa Channel 7 and Midland Channel 2 stations, as illustrated by its exhibit plotting the net weekly circulation of all three stations for the past decade, suggests, it submits, that it is a healthy competitor as the area's third network outlet.[13] Doubleday also points out that the 1972–73 Edition, No. 42, of "Television Factbook" shows that the total number of ARB TV households reached by Station KMOM–TV (123,700) exceeds the number reached by either Station KOSA–TV (116,800) or Station KMID–TV (117,400).[14]

17. Another index of the economic improvement in the Monahans Channel 9 station's operation, it submits, can be seen in available financial figures. It states that an application of the station's prior licensee [15] reveals that the total operating loss of the Monahans station for a 37-month period in the years 1959–1961 totalled $600,382 (1959 loss, $193,933; 1960 loss, $184,906, 1961 loss, $192,002); that Grayson in its subject petition states that between 1963 and 1967, Station KMOM–TV had net losses in excess of $728,000; and that other figures furnished by Grayson in a recent application [16] reveal that in 1970 Station KMOM–TV incurred net losses of only $27,195 and in 1971, of $28,830. These low loss figures in 1970 and 1971, by comparison with those for earlier years, can only be interpreted, it believes, as a sign of economic promise and that the Monahans station, with its various improvements over the past decade, is now on the brink of achieving sustained economic viability.

18. A further index of Station KMOM–TV's growth in the Odessa-Midland-Monahans area, Doubleday avers, is shown by the increase in its share of market revenues. Based on TV market data supplied by the Commission for 1969, 1970 and 1971 and by Grayson for Station KMOM–TV in the application referred to in footnote 16, supra, it claims that Station KMOM–TV's share amounted to 13 percent of the total television market revenues in 1969, increased to 18 percent of total television market revenues in 1970 and rose to 24 percent of total television market revenues in 1971.

19. Doubleday further states that there is nothing new in Grayson's claim that Monahans cannot provide even the minimal advertising support required for a financially viable television station; that it has been invoked as an underlying reason for every improvement sought in the past in the Monahans Channel 9 station's facilities by its licensees; and that, furthermore, Grayson recognized this at the time it acquired the Monahans station and stated that, despite the financial losses the station had experienced, it was "willing to take the chance" of operating the station. Doubleday believes it unlikely that operation of Station KMOM–TV on an Odessa assignment would alter the station's sales or that reassigning Channel 9 from Monahans to Odessa-Monahans would automatically increase Station KMOM–TV's regional or national sales since it believes that buyers are more prone to consider "the numbers" than the names, and Station KMOM–TV is now competitive with the other Odessa and Midland market stations in terms of net weekly circulation and TV households reached.

20. Doubleday also observes that, while Grayson states that Station KMOM–TV, as an Odessa station, would continue to meet the needs and interests of Monahans, it submitted no detailed proposals on how it proposed to do so other than advising that it would maintain an office in Monahans, manned by one full-time staff member, who would constitute the station's news reporter for Monahans. Doubleday finds it difficult to comprehend how this alone could meet Monahans' needs.

21. Doubleday also raises objection to reassignment of Station KMOM–TV to Odessa on grounds that it would be inconsistent with the duopoly portion of the multiple ownership rules, section 73.636(a)(1), since there is some overlapping of the Grade B contours of Station KMOM–TV and other Grayson-owned stations, Station KLBK–TV (Channel 13), Lubbock, Texas, and Station KWAB–TV, Station KMOM–TV's satellite at Big Spring. It states that, while the Commission granted waiver of the duopoly rule with regard to the overlapping contours of these stations in authorizing the assignment of the Monahans Channel 9 station to Grayson in 1969, its waiver action then was predicated on considerations concerned with the "relatively small market" of Big Spring-Monahans and, Doubleday argues, the reassignment of Channel 9 to Odessa would abrogate the justification for the waiver previously granted to Grayson since entirely different considerations would apply to the sizeable Odessa-Midland market. Operation of Station KMOM–TV at Odessa, with the Grade B contour overlap between it and other Grayson stations, would, Doubleday contends, amount to a concentration of control not in the public interest and which the duopoly rule was designed to avoid.

22. In addition, Doubleday contends that the Commission cases Grayson cites as precedent for its proposal do not support it. It considers Grayson's observation that, as a de novo proposition, Monahans would not today be assigned a television channel without evidence of specific demand irrelevant since Channel 9 is assigned, occupied, and providing service to the community; and since the proposed reassignment of the channel would cause a loss of a local service, whereas an assignment of a previously unoccupied or unassigned channel would not. It also views the cases cited by Grayson for the view that fluctuations in population are sufficient to support a change in channel assignment as not dispositive on this point. In the cited Medford, Oregon, case, it points out other important distinguishing facts were involved, including that the channel sought to be reassigned was unoccupied; that the population of the community originally assigned the VHF channel was less than one-third the size of Monahans (2,637); and that reassignment of the channel to the larger city would permit one of the three national networks to acquire a full-time affiliation in the larger city. Doubleday views the Concord, California case, also cited by Grayson, as equally dissimilar since it involved reassignment of a UHF channel to a community only 8 miles distant from the original city of assignment; the channel (then unoccupied) had, in fact, been used by a permittee for a station operating in the city to which reassignment was sought; and the population change was such that the original city of assignment (Pittsburg, California), which had twenty-one years earlier been larger than the city sought for reassignment (Concord), was in 1970 much smaller. It submits that no such growth rate inversion is present in this case and that Monahans and Odessa have maintained the same size relationship in the past twenty-three years.

23. Doubleday further disagrees that the Hugo, Oklahoma and Paris, Texas, and Tucson-Nogales, Arizona, TV hyphenation cases cited by Grayson, are

[13] Data for the Doubleday exhibit was obtained from "Television Factbook," Nos. 32–42, 1961–1972–73 Editions. "Television Factbook," No. 43, 1973–74 Edition, based on ARB surveys conducted for May and November 1971 and February/March 1972, gives the total net weekly circulation of Station KMOM–TV, Monahans, measured with coverage of satellite KWAB–TV, Big Spring, as 94,000. The total net weekly circulation reported for Station KOSA–TV, Odessa, is 91,300, and a total net weekly circulation of 90,900 is reported for Station KMID–TV, Midland.

[14] The 1973–74 Edition of "Television Factbook," No. 43, shows that the total number of ARBTV households reached by Station KMOM–TV was 125,000 by Station

[15] Application for changes in facilities of Station KVKM–TV (KMOM–TV), BPCT–3000, granted July 25, 1962.

[16] Application to change the main studio location of KMOM–TV from Monahans to Odessa, BMLCT–737, dismissed at Grayson's request on May 17, 1973.

precedent for adopting its proposal based on economic necessity. The key distinction in the Hugo-Paris case, it maintains, is that the channel proposed for hyphenation was not occupied, unlike the Monahans assignment, and the petitioner's argument there centered on the necessity of having a hyphenated assignment to make the channel's activation economically feasible. Doubleday submits that it is apparent that the stations occupying the Odessa and Midland non-hyphenated assignments have, however, operated feasibly and that Station KMOM–TV, operating on the Monahans non-hyphenated Channel 9 assignment, is approaching full economic viability. The Tucson-Nogales case, it states, differed from Grayson's situation in that the net operating losses of the Nogales station occupying the channel proposed for hyphenation totalled more than $1,000,250 in the three years prior to when reassignment was sought and further, in that the Commission, in adopting the hyphenation proposal, required that an auxiliary studio, which Grayson does not propose, also be maintained at Nogales should authorization thereafter be obtained to substitute Tucson for Nogales as the principal city of license for the station.

MIDLAND TELECASTING OPPOSITION

24. Midland Telecasting Company, the Midland UHF licensee (KDCD–TV), vehemently opposes the Grayson reassignment proposal, charging that if Station KMOM–TV is thereby permitted to have its city of license changed from Monahans to Odessa and to move its offices and studios to Odessa, its licensee (Grayson) will have accomplished what it set out to do when it acquired Station KMOM–TV, and the station will be entrenched as the third VHF station in the Odessa-Midland market. If this is allowed, Midland Telecasting states that the chances of its Midland UHF station to survive will be limited, and the opportunity for eventual utilization of the unused Odessa UHF assignments (Channels 24 and 30) will be eliminated; that it would forever remove any opportunity for its UHF station to receive a network affiliation in the Odessa-Midland market and would create a serious economic problem, curtail program availabilities, and create other related problems for its UHF station. It states that the Commission may take official notice of the economic plight of a UHF station in a small market which would be served by three VHF stations, representing all networks, and calls attention to the Commission's recognition in the past of UHF problems in competing with VHF.

25. It is Midland Telecasting's view that Grayson has constantly worked to upset the delicate balance in the distribution of service that the Commission's assignments to the west Texas area were intended to achieve, by measures looking toward elimination of its obligations to Monahans and extension of its influence in Odessa and Midland; that it has pursued this same course in other areas, such as the Sweetwater-Abilene and Big Spring areas where it has stations (KTXS-TV, Channel 12, Sweetwater; KWAB-TV, Channel 4, Big Spring, satellite of its Monahans station, formerly semi-satellite of KTXS-TV; and that in doing so, it has disregarded the public interest of the local residents of the communities its Monahans, Sweetwater and Big Spring stations are licensed to serve.

GRAYSON REPLY TO OPPOSITIONS

26. In reply to the Doubleday opposition, Grayson contends that Doubleday's argument directed to showing that the Monahans location of its Channel 9 station is no basis for adopting its reassignment proposal is pervaded by the fundamental and controlling error that it bears no relationship to the realities of life in this west Texas area or to operation of a television station in a small and declining community such as Monahans. It states that, as the photographs of the two communities submitted with its reply show, it is apparent to any visitor, that Monahans is a quiet and isolated community, with no large buildings, clearly declining commercial activity, and virtually no construction of any kind taking place, while Odessa, on the other hand, is a city bustling with commercial activity, with large buildings and many new, large shopping centers and malls, and where substantial residential and other construction activity exists.

27. Grayson submitted statements of KMOM-TV employees attesting to the problems of the Monahans station in producing news and public affairs programs because of the inaccessibility of its Monahans studio to Midland and Odessa where the bulk of the news of interest to viewers in the area occurs and for live or taped interviews by Midland and Odessa newsmakers; to similar problems of the station in presenting local public affairs programming, due to the difficulty of getting potential program participants to come to Monahans from Odessa and Midland and other communities within KMOM-TV's service area because of the travel distance involved and the size of Monahans; and to the station's difficulties in buying desirable entertainment and sports programming, particularly syndicated sports programs, because of the lack of understanding by many program distributors that Station KMOM-TV serves the Odessa-Midland market. They further mention that in the event of serious technical problems, since the KMOM-TV transmitter is almost 20 road miles closer to Odessa than Monahans, the additional driving miles from Monahans for the Chief Enginer can make a real difference in lost air time and that the line of sand dunes along the path of Station KMOM-TV's STL link, which does not exist along the path between Odessa and the station's site, frequently causes interference to the STL microwave signal and adversely affects the ultimate quality of the station's transmitted signal.

28. In addition, Grayson furnished a statement of one of KMOM-TV's principal sales employees which expresses the view that, so long as Station KMOM-TV is located in Monahans, it will not be able to complete on an equal basis for advertising dollars with the other two network-affiliated Odessa and Midland stations, due to such factors as the persistent belief among national and regional time buyers that to "buy the Midland-Odessa market", it is not necessary to buy the Monahans station, but only to buy either or both the Odessa and Midland network affiliated stations; Station KMOM-TV's lack of an Odessa studio for use as a commercial production facility; and the attitude of several major Odessa and Midland advertisers that only a limited portion of their advertising dollars should be spent on the Monahans station because of their obligation to support their "local" Odessa and Midland television stations.

29. Grayson also contends that the comparative statistical showing made by Doubleday relating to the television homes reached by the Odessa, Midland and Monahans VHF stations and to their net weekly circulations is meaningless since, in its view, the figures do no more, in effect, than describe the technical limits of the stations' signals and show nothing about comparative levels of viewership of the three stations. By that critical measure, it claims, Station KMOM–TV has not come close to achieving a competitive position in the Odessa-Midland television market. This is evidenced, it states, by the day-part audience summary pages from the February/March, 1973 ARB Audience Estimate Report for the market accompanying its reply, which show that in every time period of the day measured by ARB, KMOM–TV lagged considerably behind the other two stations in its share of the "metro area" (Midland and Ector Counties) audience, where KMOM–TV's ratings were also substantially lower than its rating in the entire Area of Dominant Influence. It also points out that these figures show that Station KMOM–TV's audience shares in the critical 6–6:30 p.m., and 10–10:30 p.m., metro area local news periods are but 2 percent and 7 percent, respectively, while, in contrast, Station KOSA–TV's share of the metro area audience in the same periods was 50 percent. Grayson further states that its concern about the competitive inequality of KMOM–TV has been substantially increased since learning of the proposed acquisition of Station KOSA–TV at Odessa by Forward of Texas, Inc. (which has since taken place), a subsidiary of Forward Communications Corporation, a multiple station owner, since it is known to be an experienced and aggressive station operator, and it fears that the new ownership of the Odessa station may prove to be a more formidable competitor than Doubleday and make it impossible for Station KMOM–TV to survive at all.

30. Further, Grayson labels as "not true" Doubleday's charge that in moving Station KMOM–TV to Odessa, it would be "abandoning" Monahans, to the community's detriment. It states that the move would result in no decline of television programming or advertising service by Station KMOM–TV for Monahans,

but that, to the contrary, it would enable the station to serve Monhans and its other viewers far more effectively than is possible today; that, as the station's general manager stresses in his accompanying statement, it is anticipated that Station KMOM–TV, as an Odessa station, would still cover news and current events in Monahans to substantially the same extent as it now does and would continue to solicit advertising in Monahans to the same extent; and that, as the several letters submitted from Monahans businessmen indicate, the businessmen in the community understand this and that the proposed move is necessary for the station to continue to improve service to the community.

31. With respect to Doubleday's argument that any eventual reassignment of Station KMOM–TV to Odessa would be contrary to the Commission's duopoly rule, Grayson states that it ignores the fact that no change in the transmitter site or signal contour of Station KMOM–TV or any other Grayson station is contemplated if its rule making proposal herein is adopted; and that its proposal looks toward an eventual qualitative improvement in the program service of a station which it is already authorized to own—not an expansion of service to any new or different geographic area. It further submits that the reasons underlying the Commission's waiver of the duopoly rule in connection with its original acquisition of Station KMOM–TV (and to justify the satellite state of Station KWAB–TV, Big Spring) are just as true today, for the entire area, with the exception of Odessa and perhaps Midland, has been in a state of economic decline and Station KMOM–TV continues to be a marginal enterprise.

32. Grayson also finds no merit in Doubleday's argument respecting the absence of prior Commission precedent for its proposal. It contends that all of the factual distinctions Doubleday claims between the cases it cited and its proposal are immaterial and that Doubleday ignored the central policy questions in all of them—of whether, on balance, the proposed channel reallocation in a given case will serve the public interest. In each cited case, Grayson states, the Commission made the factual judgment that the channel reallocation involved would result in an overall improvement of service to the public which would more than counterbalance the "loss" to the community from which the channel was moved. It submits that the basis exists for the same judgment here also; that while the closing of Station KMOM–TV's main studio in Monahans would in some sense represent a "loss" to that community, the loss would be far less than the failure of the station to survive at all; that, even if the station could continue to limp along at its Monahans location, the physical presence of its studio at Monahans would mean little to the local residents if the station could not provide a satisfactory and competitive program service; and that the proposed reassignment would result in a net improvement of service, not only to television viewers in Monahans but to those throughout Station KMOM–TV's service area.

33. In reply to Midland Telecasting's opposing argument, Grayson contends that it consists primarily of general allegations that the proposed reassignment of Channel 9 to Odessa-Monahans would eliminate the opportunity for its Midland UHF station to obtain a network affiliation and would create a serious economic problem, curtail program availabilities and create other related problems for the station which provide no reason to reject its proposal. This is the case, it argues, since no physical change in Station KMOM–TV's transmitting facilities is contemplated either now or upon reassignment of Channel 9; since, to the extent that UHF Station KDCD–TV must compete with Station KMOM–TV and its Midland translator, that fact will be no more true in the future than it is now; and since no factual support was provided for the assertion that a network affiliation might under some circumstances be made available to Station KDCD–TV. Grayson submits that, given the present signal contours of all the television stations in the market, there is no reason to believe that there is any possibility of Station KDCD–TV acquiring a network affiliation. It further claims that, while its proposal is designed to change the competitive conditions as between the VHF stations in the market, to bring about true competitive conditions as between them, particularly with respect to national and regional advertisers and local advertisers in Odessa, Station KDCD–TV, which operates with extremely low power and reaches few people, is not in a position to compete for such advertising, and that the incremental impact of its proposed Channel 9 move on this UHF station would be minimal.

DISCUSSION

34. The channel assignments listed for communities in the television Table of Assignments reflect our judgment of the requirements of the public interest and Section 307(b) of the Communications Act for their fair, efficient and equitable distribution among the several States and communities. They are not, however, fixed or immutable and have always been subject to change since the Table was established in 1952 whenever, in the light of experience, changing conditions or other considerations, we find reason to believe that the public interest and Section 307(b) requirements would be better served thereby.

35. When we assigned Channel 9 to the relatively small community of Monahans in 1952, which then had a population of under 7,000, it was in the belief that it was a developing community in the west Texas area that should be afforded an opportunity to have a first local television service. With the benefit of experience, however, it is doubtful whether we would have even then provided a community of its size with a television assignment, for over the years we have come to the view that it is questionable whether cities with populations under 25,000 have sufficient distinct need for a local television programming service or ability to support a local station to warrant an assignment. Consequently, we now require a strong showing of need and demand, and that the channel will be used before making a new assignment to a community under such size. Be that as it may, and even though Monahans did not continue to develop as anticipated in 1952 and is today still a relatively small community with a population of under 8,500—less than it had in 1960—Channel 9 has been in continuous use there as a local outlet and service since 1958, providing a useful service to the community and area. It appears from the Grayson showing, however, that it is highly questionable that the size and economic base at Monahans are today or, for that matter, ever were alone sufficient for the development of an economically viable and effective local station or that a local station there was not of necessity required to look also to the Odessa-Midland market, the principal and largest one in the area, for audience, revenues and programming. The history of the Monahans Channel 9 station indicates that in its early years of operation it was threatened with extinction because of substantial continuing losses and that the station has been able to survive and reduce its losses only by improving its technical facilities, relocating its site, acquiring a network affiliation, and providing a wide-area service in competition with the two other network-affiliated Odessa and Midland stations in the area for audience, programming, and support.

36. In authorizing the move of the Monahans Channel 9 station to its present transmitter site nearer Odessa in 1962 over the objections of the Odessa Channel 7 and Midland Channel 18 licensees, we believe that as a result of the proposed move the chances of survival of the station would improve; that it would be able to obtain a network affiliation; and that, as a result, not only would the Monahans area be able to retain its local Channel 9 service, but that the need of the Monahans-Odessa-Midland area for a third fully competitive service would, for the first time, be met. We were of the view that meeting the need for a third fully competitive service in this area, which we believed would become a reality as a result of the move, was an overriding public interest objective, outweighing any theoretical adverse impact on UHF television in the area or other objections raised to the move, from which the entire area would gain.

37. It appears that our expectations as to the resulting benefits from Station KMOM–TV's move to its present transmitter site have to some extent been realized, for, as the showings of the parties herein indicate, the station has been able to continue in operation, to acquire a network affiliation, to provide a third service in the Odessa-Midland-Big Spring-Monahans area competitive in coverage with the other two network-

affiliated Odessa and Midland VHF stations, and it is nearing economic viability. Grayson, however, makes a persuasive showing that, because of the identification of Station KMOM–TV with the small community of Monahans and the location of its studios there, and the distance of Monahans from the urban complex of Odessa and Midland, to which it must necessarily look to for local programming originations and advertising support, Station KMOM–TV encounters difficulties not faced by its Odessa and Midland competitors in this market area which limit its ability to produce local programming, to acquire a proportionate share of the total market viewing audience, to achieve competitive acceptance and status in the Odessa-Midland market sufficient to compete effectively for national, regional and local advertising in Odessa, to achieve sustained economic viability, and to realize its potential for providing an effective, fully competitive third service throughout the area.

38. While, as we have often stated, we are not generally concerned with the competitive status of licensees and are not insurers of profitable operations, we are concerned with the public interest, and it is served, we believe, by creating greater opportunities in an area for survival of existing stations, for improved service, and effective and comparable competition among a greater number of stations. It appears, as Grayson urges, that moving the Monahans Channel 9 station to Odessa might increase such opportunities and enable the public in this west Texas area to receive a third more effective and fully competitive area-wide broadcast service. While this would involve deleting the only local outlet at Monahans a most important public interest consideration also, we feel that the benefits to Monahans and the rest of this area resulting from such a move might be overriding. This could be so if we should finally conclude that KMOM–TV is handicapped in providing an effective and competitive area-wide service from its Monahans location and such a conclusion is coupled with Grayson's expressed intent to continue to operate from its present transmitter site (if KMOM–TV is licensed as an Odessa station) and to continue to meet Monahans' needs for service. However, in weighing these public interest considerations, and also the desirability of requiring the maintenance of an auxiliary studio at Monahans as a condition attaching to any use of Channel 9 for an Odessa operation should the channel be reassigned, it would be helpful to have comments from the petitioner and other interested parties, particularly in the Monahans area, in regard to any local programming needs of Monahans distinct from those of Odessa or the area in general.

39. Another important public interest factor to be considered is, of course, the possible adverse impact that the proposed reassignment as an Odessa Channel 9 station could be expected to have upon the Midland UHF operation and the potential for UHF growth in Odessa, which has two unused UHF assignments. It is Midland Telecasting's view that it would be substantial. While we are concerned about any change in VHF station assignments or facilities which might adversely affect existing UHF stations or UHF growth in an area, we find nothing in Midland Telecasting's argument which would permit a reasonable assumption that the proposed reassignment would be likely to have a significant adverse impact upon its UHF station or prospects of UHF growth in Odessa, or be an overriding consideration, particularly since the proposed reassignment would not introduce a new or increased VHF signal in the Midland and Odessa areas, and the area has long had three full-market VHF services. Further, while Midland Telecasting indicates that the proposed reassignment might deprive its Midland UHF station of opportunity to obtain a network affiliation, it seems unrealistic to suppose that in the circumstances existing in this area, with the three full-market VHF stations now serving the Odessa and Midland areas each having a primary network affiliation, its Midland UHF station, whose coverage and service is largely limited to the immediate Midland area, would have opportunity for a network affiliation in the foreseeable future even if the Channel 9 network-affiliated station serving this market area should continue to operate on a Monahans assignment.

40. Another factor Doubleday would have us consider is the possible lack of justification for continued authorization of overlapping contours of Grayson's Monahans Channel 9 station, its Channel 4 Big Spring satellite, and its Channel 13 Lubbock station which we granted in connection with the reassignment of the Monahans Channel 9 station to Grayson, should its reassignment proposal be adopted and it be authorized to operate Station KMOM-TV on Channel 9 as an Odessa rather than a Monahans station. These authorizations are operative only with respect to the petitioner's existing Monahans Channel 9 operation, and in the event the proposed Channel 9 reassignment is made, a reassessment of all the reasons bearing on the existing authorizations would have to be made before grant of any application filed by the petitioner to operate on Channel 9 at Odessa instead of Monahans. Since no equities would accrue to the petitioner by the adoption of its reassignment proposal which would subsequently bar adverse action on any application which it filed for move of Station KMOM-TV to Odessa if we decided that the public interest so required, we believe it would be premature and is unnecessary to attempt to consider the overlap matter in assessing the merits of its Channel 9 reassignment proposal. If the proposal is adopted, this matter can better be considered and dealt with when raised by an application of the petitioner for relicensing of Station KMOM-TV.

41. Grayson's objective of having its Monahans Channel 9 station relicensed as an Odessa station could also be accomplished by simply reassigning Channel 9 from Monahans to Odessa, for the channel is technically feasible for use in either community. On the whole, however, we think that its proposal to reassign the channel to Odessa-Monahans in combination would have certain advantages if any reassignment is found to be warranted.

42. While our television Table of Assignments is generally predicated upon assignments to specific cities and communities only, we have sparingly assigned television channels to hyphenated communities in the Table also. Hyphenation is an assignment tool we have used to assist in making a fair, efficient and equitable assignment of television channels in areas where, for assignment purposes, it appears that the communities involved should be treated as one community (for a variety of reasons, including among others, their proximity and common social, cultural, trade and economic interests) and also where it seemed best to postpone until the application and possible adjudicatory stage any unresolved or close questions as to which of the communities in the hyphenated listing warranted use of the assignment. In looking at the situation here, we believe that Monahans and Odessa are geographically close enough and are sufficiently similar enough in their interests to warrant our considering a dual Channel 9 assignment. We also believe that, in a case such as this, where the reassignment proposal is intended to be used as a means to move a local outlet from a small community to a larger community in the same area, reassignment of the channel involved to both communities in hyphenation rather than to the larger community outright will better insure continued identity with, and service to, the smaller community from the station. Reassignment of the channel in hyphenation to both communities would also provide us with further opportunity to scrutinize any specific proposal before finally deciding whether the public interest dictates that the local outlet in the smaller community should be moved, for the proposed reassignment of Channel 9 to Odessa-Monahans, if made, would not in itself in any way change the outstanding authorization Grayson now holds for Station KMOM-TV on Channel 9 at Monahans. Monahans would continue to retain its local Channel 9 outlet until such time as favorable action would be taken on an application for its reassignment to Odessa.

43. As for the several Commission cases cited by the petitioner as precedent for its subject proposal, they are not sufficiently factually similar to require discussion or to persuade us that they should govern our ultimate decision on its proposal. We believe, however, that its showing has been adequate to merit consideration of its reassignment proposal in rule making. In connection therewith, as mentioned in paragraph 38, we believe consideration should also

be given to whether maintenance of an auxiliary studio at Monahans should attach to any use of Channel 9 for an Odessa station should the proposed reassignment be made.

44. In view of the foregoing, and pursuant to authority found in Sections 4(i), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606 (b) of the Commission's rules and regulations, as follows for the named communities:

City	Channel No.	
	Present	Proposed
Monahans, Tex.	9-	
Odessa, Tex.	7-, 24, 30, *36	7-, 24, 30, *36
Odessa-Monahans, Tex.		9-

45. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before June 14, 1974, and reply comments on or before July 3, 1974. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

46. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs or other documents shall be furnished by the Commission. These will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street, NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-10056 Filed 5-1-74;8:45 am]

[47 CFR Part 73]

[Docket No. 19161; FCC 74-409]

FM BROADCAST STATIONS IN CERTAIN CITIES

Proposed Table of Assignments

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (West Allis, Berlin, Hartford, Neenah-Menasha, Shawano, Watertown and Waupun, Wis., and Escanaba, Mich.; Coal City, Dwight or Marseilles, Ill.; St. Charles and St. Louis, Mo.; Muncie, Ind. and Celina, Fostoria and Lima, Ohio; Anamosa and Iowa City, Iowa; Terrell and Corsicana, Texas; Sullivan, Bedford and Paoli, Ind.; Orangeburg, S.C.; Danville, Ind.; Decatur or Paris, Ill.; Manning and Kingstree, S.C. and Burlington, Iowa. Docket No. 19161 RM-1476, RM-1489, RM-1523, RM-1524, RM-1528, RM-1540, RM-1552, RM-1564, RM-1559, RM-1561, RM-1563, RM-1566, RM-1571, RM-1626, RM-1660, RM-1823.

1. The Commission has under consideration (a) the First [1] and the Third Report and Order in Docket No. 19161 [36 FR 21193, 23 RR 2d 1576 (1971), 32 F.C.C. 2d 191; 37FR 9999, 24 RR 2d 1790 (1972), 34 F.C.C. 2d 858]; (b) the petition for reconsideration of the Third Report and Order, filed June 12, 1972, by Communicators, Inc. (37 FR 18538) ("Communicators"); (c) the opposition to this petition for reconsideration filed July 7, 1972, by Roy Hodges, d/b as Vivid Music Enterprises ("Hodges"); (d) the reply to Hodges' opposition, filed July 19, 1972, by Communicators; (e) the petition for rulemaking filed June 16, 1971, by Big Country Broadcasting Corporation ("Big Country"), licensee of AM Station KKUZ, Burlington, Iowa; and (f) the opposition to the Big Country petition filed August 9, 1971, by Communicators.

2. The original proposal before us was to substitute Channel 228A for unoccupied Class C Channel 230 at Iowa City, Iowa, in order to permit the assignment of Channel 232A to Anamosa, Iowa. The result would have been a first assignment for Anamosa and an intermixture of channels at Iowa City. The other Iowa City assignment, a Class C channel, was already in use, but no one had yet applied for use of Channel 230. As is the usual practice, the Notice of Proposed Rule Making specified that some form of expression of continuing interest on the part of the petitioner should be submitted, or if it were not, the petition might be denied on this ground alone. In fact, that is precisely what happened. Hodges, the petitioner, did not file comments or reply comments nor did he in any other way manifest any further interest in the proceeding. We took note of this failure in the First Report and Order and refused to grant his proposal.

3. Hodges filed a petition for reconsideration of the First Report and Order, alleging that he was unaware of the need to respond to the Notice of Proposed Rule Making and providing arguments on behalf of the proposal set forth in his petition for rule making. We found these arguments persuasive and adopted the Third Report and Order which reversed the earlier action and adopted the channel changes sought by Hodges. Thereafter, Communicators filed a petition for reconsideration charging error in the Third Report and Order. As detailed below, a reversal of the Third Report and Order is required.

4. Rather than set forth the discussion of the Third Report and Order in its entirety, followed by the arguments of the parties, we shall discuss the salient points treated in that document and the arguments they occasioned on an issue-by-issue basis. Because of the confusion which resulted from that document's treatment of several of these points, our discussion of them must extend beyond that which normally would be required. In part, we shall restate long held views, indicating their continuing applicability, and in part we shall discuss matters which have not been treated before at length or perhaps at all.

5. The first issue to consider is that of the significance that attaches to a petitioner's failure to provide a response to a Notice of Proposed Rule Making. In the Third Report and Order we agreed that Hodges had slept on his rights but found overriding public interest reasons for acting favorably on his proposal anyway. Communicators insists that the result of our decision is to sanction wanton disregard of our procedural requirements and to invite similar problems in the future.

6. The statement in the Third Report and Order that the ultimate test is that of the public interest is indeed true. Nevertheless, we need to be concerned with procedure as well as substance in determining what best serves the public interest. Unless applicable procedural requirements are observed, we would face difficulties in exercising our regulatory responsibilities, hardly a situation to benefit the public. On the other hand, fairness dictates that we not proceed in Procrustean fashion either. On occasion, deviations can be warranted, but request for such special relief must adequately demonstrate the presence of an overriding public interest justification and adequately explain the failure to observe the applicable procedural requirements. It may well be that Hodges' explanation for his failure to respond to the notice of proposed rulemaking was inadequate. Hodges relied on his lack of an attorney. Can this fact relieve him of the responsibility to follow the requirements of the Notice which was sent to him by the Commission,[2] especially since Hodges is experienced in broadcasting and able to prepare and file his petition without legal assistance? Although there is some basis for questioning the adequacy of Hodges' request, it is not necessary to resolve this point as there are substantive grounds on which to reverse our previous action as will be discussed in the succeeding paragraphs.

7. One of the reasons we gave for again considering Hodges' proposal was the impact of the filing of Big Country's petition seeking the reassignment of Channel 230 from Iowa City to Burlington, Iowa. Although we stated that this petition would not be considered in this proceeding on the merits because of its late filing, we nonetheless took "judicial notice" of the filing. Since removal of Channel 230 from Iowa City was the change on which the Anamosa proposal rested, we noted that Hodges could have his pro-

[1] The reasons for including the First Report and Order as well as the Third Report and Order will be detailed in the discussion which follows. The Second Report and Order dealt with matters relating to other communities in this group of proposed assignments, and as a result is not pertinent to the matters under consideration in this document

posal considered in connection with Big Country's. Rather than wait for this to occur, we acted on Hodges' petition for reconsideration. The inability to consider the Big Country petition on its merits and hence the need for a notice was dictated by the fact that it had not been filed before the "cut-off" deadline specified in the Anamosa/Iowa City Notice. Communicators strongly disputes the legitimacy of any reliance on the filing of an untimely proposal in resolving the treatment to be given to Anamosa. By taking judicial notice of the filing of the Burlington petition Communicators sees the Commission as having vitiated its entire "cut-off" procedure.

8. We can understand the view expressed by Communicators. If the Big Country filing was allowed to have an impact on the merits of the case that clearly would have been improper and contrary to our "cut-off" procedure. Obviously, if allegedly more meritorious proposals are given consideration notwithstanding their untimeliness, then it will be vastly more difficult to ever conclude a proceeding, to ever make an assignment. Whatever view might be appropriate in special circumstances or where overwhelming need appears to exist is not applicable here since no such circumstance was presented by the Big Country filing. It simply represented a competing claim for the channel, and like virtually all proposals, could be said to have some merit. In no way did it suggest such overwhelming importance as to virtually mandate its success and thus give it a basis for special consideration. Therefore no reliance should have been placed on the filing of the pleading save to note that Hodges might again have a day in court if he wished to raise the Anamosa proposal as a counterproposal in connection with any Notice issued in a Burlington proceeding. Communicators, however, though that the Third Report and Order did place some reliance on this untimely filing in deciding the merits of the Iowa City/Anamosa contest. Such was not our intent.

9. We now turn to the merits of the proposals before us. There are three communities to consider: Iowa City, Anamosa and Burlington.[3] Because of the procedural irregularities we have outlined, the whole case requires a reversion to the status quo ante, and all of our reference to channel assignments will be based on those existing before adoption of the First Report and Order. Save for our need to discuss the reasons for its reversal, reference should not be made to the Third Report and Order, for it is without force and effect. Anamosa, a community of 4,389 persons has no FM channel or AM station. Anamosa is the county seat and largest community in Jones County (pop. 19,868) and the assignment of Channel 232A would bring the county's first local aural outlet. Iowa City has a population of 46,850 and Johnson County, in which it is located, has a population of 72,127. Iowa City has a noncommercial educational FM station and two commercial FM channel assignments, one of which is occupied and the other of which is the subject of this proceeding. Iowa City also has two AM stations, one a commercial daytime-only station and the other noncommercial educational, unlimited time.[4] Burlington has a population of 32,366 and its county (Des Moines) a population of 46,982. Burlington has one Class C FM station and two AM stations, one daytime-only and the other full-time.

10. In the Third Report and Order we gave relatively little attention to intermixture in Iowa City, found little significance in the decline in Anamosa's population (and that of its county) as contrasted with Iowa City's (and its county's) substantial growth, and appeared to rely upon speculative benefits to be derived from the use of Channel 230 elsewhere than Iowa City, particularly in terms of serving previously unserved or underserved areas. In addition we gave overriding importance to the matter of local service in applying to this case the priorities used to govern the making of FM assignments. Each of these points warrants consideration at some length and will be discussed in the order mentioned.

11. Having examined the subject at length, we have concluded that the matters relied on the Third Report and Order were insufficient to override our usual practice of avoiding intermixture. While on occasion we have provided for intermixture, the circumstances present in this case do not parallel those normally relied upon by the Commission. This is not a case in which a party finding no other available channel seeks a Class A channel even though the others already in the community are Class B or C. In such situations, the proponent runs the risks and the public stands to receive the gains since the channel is the only one which could be used there. Thus, a net public gain could be said to result. Here, the effect would be to deprive not add, and to justify this there must be a showing of an important public need that would be served. Although it is true that five of the nine other communities in Iowa with populations between 25,000 and 50,000 are intermixed, the fact is that in three of them the Class A channel remains unoccupied. There is an additional question of how relevant this intermixture is when considering how much larger Iowa City is and hence arguably in greater need for two Class C channels. In addition, the occupier of Iowa City's second channel would be operating an independent station in competition with a joint AM–FM operation. Communicators had not been willing to proceed on this basis for understandable reasons. The most that could be said is that Anamosa would gain a channel. The importance of that point is one of the issues this proceeding was intended to resolve. While Burlington could also gain a second channel, this proposal was not entitled to comparative consideration with Anamosa and Iowa City in the Third Report and Order.

12. In terms of the Burlington proposal itself, the Third Report and Order referred to that community as slightly smaller than Iowa City, but the difference between 46,850 and 32,366 is not slight.[5] Iowa City is 44.8 percent larger and its county 53.5 percent larger. Moreover, if educational services and Communicators' conditional permit are excluded, each has a daytime-only AM station but Burlington has two full-time commercial stations (1 AM and 1 FM) while Iowa City has only an FM station. Particularly when intermixture is at issue, the fact that unlike Iowa City, Anamosa (and Jones County) are losing population assumes considerable importance.

13. One of the key points made by Communicators is that the operation it would establish at Iowa City would not only serve more people but in significant part would provide a first or second FM service. The Third Report and Order spoke in terms of the possibility that another use of Channel 230 would equally serve the purpose of serving populations lacking in adequate service. To the extent that the document generally pointed out that Communicators' argument about first or second service would have to be tempered by the recognition that the channel could be used elsewhere, it was on firm ground. Reliance on such substitute use, however, especially one not yet before the Commission for action and without the presence of any supporting data, would not be on equally sound footing. It would have been error to base an action on such an assumption, and as such would have been in direct conflict with the assertion that the Burlington proposal was not being considered on the merits.

14. Finally, a question has arisen regarding our use of the priorities in judging between conflicting FM proposals. To set the matter straight, the priorities[6] are these:

[3] Our reason for requiring a response from the proponent is simple: We want to avoid making assignments where there is no assurance that they will be effectuated. Thus, even if no data are called for, the expression of continuing interest is in itself an important matter.

[3] There is a reason for including the Burlington proposal notwithstanding our earlier discussion. Simply, the reason is this: no matter which community is preferred, Anamosa or Iowa City, the Burlington proposal would still be entitled to consideration on the merits at some future time. Ordinarily, we would simply decide the Burlington matter when it is reached in turn. However, this is not the ordinary case. To avoid further delays in this already extended proceeding, following the making of a choice between Anamosa and Iowa City, we shall act on the Burlington proposal in this proceeding.

[4] In the meantime, Communicators has obtained a construction permit for the Class A channel pending the outcome of its petition for reconsideration.

[5] All figures are from the 1970 U.S. Census.

[6] These priorities were listed in the Further notice of proposed rulemaking in the FM proceeding in Docket 14185, FCC 62-867 (1962).

(1) Provision for all existing FM stations. [not applicable here]

(2) Provisions of a first FM service to as much of the population of the United States as possible; particularly that portion of the population which receives no primary AM service nighttime.

(3) Insofar as possible, to provide each community with at least one FM broadcast station, especially where the community has only a daytime-only or local (Class IV) AM station, and especially where the community is outside of an urbanized area.

(4) To provide a choice of at least two FM services to as much of the population of the United States as possible, especially where there is no primary AM service available.

(5) To provide, in all communities which appear to be of enough size (or to be located in areas with enough population) to support two local stations, two local FM stations, especially where the community is outside of an urbanized area.

(6) To provide a substitute for AM operations which, because they are daytime-only or suffer serious interference at night, are marginal from a technical standpoint.

(7) Channels unassigned under the foregoing priorities will be assigned to the various communities on the basis of their size, location with respect to other communities, and the number of outside services available.

As can be seen, not all of the priorities are pertinent here. Likewise, it should be noted that these priorities were never intended to be applied rigidly or in a mechanical fashion.

15. Priority two (service to unserved areas) is directly involved in the present case, and it is a matter of considerable importance. Priorities three and four of course are of lesser importance and in fact are rather close to each other in terms of the weight accorded them under ordinary circumstances. In fact, in some situations, using the strict order of priorities leads to anomalous results. Thus, applying them literally, the result would be that any community, even one of only 100 persons, seeking a first channel would automatically succeed in preference to a second channel in a city of 1,000,000 that would bring a second service to 4,000,000 people. Needless to say, we have not followed such a rigid pattern and have taken into account the size of the respective communities and their need for an FM station. Whatever might be our ultimate conclusion in this proceeding, it is clear that the evidence now before us does not support the actions taken in the Third Report and Order. The regrettable fact is that not every community has been or will be able to have its own assignment. Especially where the demand is great and the supply is limited, difficult choices are presented. Although accommodation is sometimes possible, this is not always the case. In our view, the second priority—that of providing a first service—stands out, but since the relative weight to be accorded the third and fourth priorities are not so different, we must consider the relative sizes of the communities, their growth patterns and the need for service. In paragraph eight, the Third Report and Order misapplied the priorities by overemphasizing local service and giving first service short shrift. Contrary to that document, the priorities do not preclude reaching a decision to leave the channel in Iowa City. Whether that will be the outcome remains to be seen. All parties are at liberty to provide data on any pertinent aspect of the comparison process, not just the vital area of first service.

16. When we are considering the need for service and evaluating the extent to which service is already provided, recognition must be given to AM and FM services as joint components of a single aural service. This view is a relatively recent development, so it was not reflected in the discussion when we adopted the priorities for FM assignments. FM service to unserved areas still has significance, but consideration now must be given to the presence of primary AM signals, especially at night. Here, there is a lack of evidence on the extent of AM coverage nighttime in the area which Communicators would provide with a first and second FM signal. All we have before us are some general assertions by Hodges, and this will not suffice. Because this information is necessary to a resolution of the issues before us, we are issuing this further notice so that we can address these issues knowledgeably. Two specific questions exist: To what extent would Communicators be able to provide a first or second aural service, and, to what extent could it provide a first or second FM service?[7]

17. As to Burlington, the following factors should be taken into consideration in the preparation of its exhibit. As stated above, Big Country proposed Channel 230 for Burlington by moving the channel from Iowa City without proposing a replacement channel. However, if Channel 228A were to be assigned to Iowa City, the utilization of Channel 230 as a Class C channel at Burlington would be restricted to an area at least six miles southwest of the community, due to the distance separation requirements from Iowa City and Channel 232A at Beardstown, Illinois. On the other hand, if Channel 230 were to be used on a site in the state of Illinois (Zone I) as a Class B station, with its attendant restriction on the power and antenna height, there would be a greater latitude in the choice of a site because the required separation there would be 40 miles to both channels 232A and 228A [§ 73.207-(b)]. Since Channel 228A could be assigned to Burlington without a site restriction if Channel 230 were utilized at Iowa City as proposed by Communicators, Big Country should indicate its views on this alternative approach. Particularly we need to know whether Big Country would proceed to activate a station of a Class A channel were made available.

18. *Showings required.* Comments are invited upon the proposals discussed above. As indicated, the Commission has questions concerning the proposals, and the proponents of the proposed assignments will be expected to answer them. In addition, each should reaffirm its intention to apply for the channel if assigned, and, if authorized, to promptly build the station. Failure of a proponent to make these showings will result in denial of its proposal.

19. *Cut-off procedures.* The following procedures will govern:

(a) Counterproposals vis-a-vis the Burlington proposal will be considered, if advanced in initial comments in this proceeding, so that parties may comment on them in reply comments. They will not be considered, if advanced, in reply comments. Counterproposals advanced as alternatives to the Anamosa and Iowa City proposal will not be accepted because the cut-off period on it has long since expired.

(b) With respect to petitions for rule making which conflict with the Burlington proposal, they will be considered as comments in the proceeding, the Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

20. The authority for the action taken herein is contained in Sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

21. *It is ordered,* That the petition for reconsideration of the Third Report and Order filed June 12, 1972, Communicators, Inc., is granted to the extent indicated above and is denied in all other respects.

22. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested parties may file comments on or before June 14, 1974, and reply comments on or before July 2, 1974. All submissions by parties to this proceeding, or persons acting in behalf of such parties, must be made in written comments, reply comments or other appropriate pleadings.

23. In accordance with the provisions of § 1.419 of the Rules, an original and 14 copies of all comments, replies, pleadings, briefs and other documents shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at

[7] For the purpose of responding to these questions, the showing as to FM service should follow the procedures set forth in the Roanoke Rapids-Goldsboro, North Carolina FM proceeding, 9 F.C.C. 2d 672 (1967). Appropriate showings regarding AM nighttime service are also required so that the extent of nighttime interference-free AM coverage can be determined.

its Headquarters in Washington, D.C. (1919 M Street, NW.).

Adopted: April 16, 1974.

Released: April 26, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.74-10057 Filed 5-1-74;8:45 am]

[47 CFR Part 76]

[Docket No. 20028; FCC 74-433]

CABLE TELEVISION; CARRIAGE OF LATE NIGHT PROGRAMMING

Notice of Proposed Rulemaking

In the matter of Amendment of Part 76 of the Commission's rules and regulations relative to carriage of late-night television programming by cable television systems.

1. Notice is hereby given of proposed rulemaking in the above-entitled matter.

2. We recently have had cause to consider the extent to which cable television systems may carry late-night programming on otherwise unauthorized signals when some or all of the stations which they normally must carry have signed off. Our concern with this problem largely results from the recent increase in television stations broadcasting late at night. While in the past practically all stations signed off by 1 or 2 a.m., a substantial number now broadcast—and thus make their signals potentially available to cable systems—after 3 a.m. Late night broadcasting therefore offers cable systems a new source of programming, when the stations which they must carry are off the air.

3. We currently face the issue of cable carriage of late-night broadcasting in a number of contexts. On November 21, 1973, Davis Communications, Inc., filed a "Request for rulemaking," which asked that the Commission adopt a rule allowing carriage of "any television stations not otherwise authorized for carriage during the period commencing at sign-off of the last station to do so in the market and terminating at sign-on of the first station to do so in the market." Davis argued that the rule would have no adverse economic impact on local stations which were not on the air, and that the rule would fulfill the public interest in diversity of television programming. Both the National Cable Television Association and a group of cable television systems filed comments in support of Davis' request, making similar arguments but requesting the Commission to broaden the times during which cable systems could carry additional signals.

4. We also have pending before us several requests for special relief to allow carriage of late-night programming. On October 29, 1973, Spectrum Cable Systems, Inc., filed a "Petition for Special Relief—Request to Carry Additional Station on Part-Time Basis" (CSR-486), which asked permission to carry the late-night programming of Television Station WCVB, Boston, Massachusetts. Spectrum argued that many local employees worked during the evening and that there was no significant local television broadcasting between 1 and 6 a.m. And on February 1, 1974, Cable TV Company of York filed a "Petition for Waiver to Authorize Carriage of Distant Signal during Late Evening/Early Morning Hours" (CSR-504), which requested permission to carry WCAU-TV, Philadelphia, Pennsylvania, on similar grounds.

5. Finally, there currently are on file several applications for certificates of compliance which raise similar issues. A number of applicants have requested permission to carry late-night programming in addition to other signals which are consistent with the rules. Accordingly, we must make at least a preliminary resolution of the issue, in order to treat the proceedings which already are before us.

6. In regulating cable television we always have attempted to insure that cable systems can offer the greatest diversity of programming without injuring broadcast television stations. Par. 88 of our Cable Television Report and Order, 36 FCC 2d 143, thus noted that "those who are not accommodated as are New York or Los Angeles viewers should be entitled to the degree of choice that will afford them a substantial amount of diversity and the public services rendered by local stations." And more recently, we proposed allowing cable television to import network news programs at times when the programs were not broadcast by local broadcast stations, in order to encourage diversity of news programming and opinion. Notice of proposed rulemaking in Docket No. 19859, FCC 73-1139, 43 FCC 2d 913. We encourage any cable carriage of programming which will not hurt the financial viability of local broadcast stations. Though most television viewers are content with a conventional late evening and early night program schedules, a small but significant number have work schelules or personal habits which allow them to watch television only late at night. Accordingly, we believe that limited cable carriage of late-night broadcasting would further the public interest in program diversity.

7. At the same time, we have a continued commitment to preventing cable from becoming a "threat to broadcast television's ability to perform the obligations required in our system of television service." Par. 88, Cable Television Report and Order, supra. We thus are concerned that unrestricted importation of late-night broadcasting might harm local stations in two ways. First, head-on competition with distant signals might encourage local stations to drop their existing late-night operations, particularly if they operated in an area with high cable penetration. Second, and potentially more important, importation of late-night programming might deter local stations from entering the market for late-night broadcasting.[1] We therefore will proceed in an essentially conservative matter at this point, with an eye to liberalizing our approach in the future if cable carriage of late-night broadcasting proves to have no detrimental effect on present or potential local television operations.

8. The proposed rule thus allows a cable television system to import late-night programming only from the sign-off of the last station which the cable system must carry to the sign-on of the first station which the system must carry. This formulation prevents any harmful impact on existing late-night local broadcasters, since it precludes any head-on competition between them and imported signals. It also removes any potential inhibition on local entry into the late-night broadcasting market, since a local station can terminate importation of competing signals simply by expanding its own broadcast day; indeed, to this extent the rule may even encourage local late-night broadcasting—a result which is not inimical to the interests of cable subscribers.[2] The proposed rule does not, however, extend similar protection to additional signals which a system may carry. These stations need no protection outside of their usual markets, since they are not licensed to serve the cable communities into which they may be imported.[3]

9. A pure sign-on to sign-off rule would create hardship for cable subscribers, however, in terms of overlapping programs. Television station schedules are not mechanistic enough to begin and end precisely on the hour. Allowing a cable system to commence importation of a late-night broadcast only after the last local station had completed its sign-off thus might force cable subscribers to miss the first ten or fifteen minutes of an imported program. And at the other extreme, an imported program often will run past the sign-on of the first local station, particularly if the program is a

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[1] Indeed, we note that competition from imported late-night stations would be particularly dangerous where only one or two local stations remained on the air, since the potential audience would be more concentrated and thus more likely to fragment. Similar reasons impelled us to limit the number of additional signals in smaller television markets. Par. 90, Cable Television Report and Order, supra.

[2] To be sure, a local station theoretically could harass a cable system by increasing its broadcast day deliberately in order to prevent importation of late-night stations. Given the cost of operating a television station for additional hours, however, we consider this possibility to be extremely remote. And if a cable system could document such overt harassment, we would take necessary remedial action.

[3] We never have accorded the same protection to stations which a system may carry as for stations which a system must carry. For example, our rule concerning manner of carriage, Section 76.55, explicitly applies only "where a television broadcast signal is required to be carried by a cable television system, pursuant to the rules in this subpart * * *"

motion picture. Requiring a cable system to terminate importation precisely when the first local station completed its sign-on thus often would force cable subscribers to miss the last part of a program. Accordingly, we feel that some adjustment of the strict sign-off to sign-on approach is appropriate.

10. The proposed rule thus creates a presumption that a station signs off on the hour if it "terminates operations less than thirty minutes after the hour * * *" This provision will cover situations in which a local station broadcasts public service announcements, devotionals, a formal sign-off and the like after it has presented the last major program of the day. A cable system thus could commence its importation of a late-night program on the hour, without waiting for the final and often formalistic termination of a local station's broadcast day.[4]

11. Similarly, the rule would allow a cable system to carry a program until completion, even though a local station signed on. As noted before, requiring a system to cease carriage immediately after the first local station signed on would deprive cable subscribers of programs which already were in progress—an obviously disruptive and undesirable result. We have taken a similar approach in other contexts, where we have deemed the abrupt termination of a program to be inappropriate. Our rules thus provide that "a program substituted may be carried to its completion," where a cable system must delete a program pursuant to our exclusivity rules. Section 76.61–(b)(2)(ii). And our rules relating to manner of carriage establish a general policy in favor of carrying a program to completion.[5] The rule would not relieve a cable system of its obligation to carry all the programs of a station which it must carry, however, if the system lacked sufficient channel capacity to carry both the imported and the local signal.

12. The rule would not require cable systems to secure certificates of compliance in order to commence carriage of late-night stations. Since both local and distant stations continually change their program schedules, the certification process would impose an unnecessary burden on cable systems and television stations alike. Moreover, we have dispensed with the certification requirement in similar situations, such as carriage of otherwise unavailable network programs and carriage of stations which a system must carry. Sections 76.61(e)–(2), 76.11(a). Accordingly, the rule would require a cable system only to notify the Commission and other interested parties thirty days before it commenced carriage of a late-night broadcast station.[6]

13. As noted before, we have not considered whether the rule should be broader or narrower in scope. Though we favor cable carriage of late-night programming, we are well aware that there are several alternative approaches to the problem. Thus a strict sign-off to sign-on carriage rule might be appropriate, despite its disruptive effects on cable subscribers, in order to give local stations more complete protection. Conversely, it might be appropriate to allow a cable system to commence importation when the program begins, or when one or two local stations still are on the air. These and other questions are appropriate for comments from interested parties.

14. Authority for the proposed rule making instituted herein is contained in sections 4(i), 303 and 403 of the Communications Act of 1934, as amended.

15. All interested persons are invited to file written comments on the rule making proposals on or before May 31, 1974 and reply comments on or before June 11, 1974. In reaching a decision on this matter, the Commission may take into account any other relevant information before it, in addition to the comments invited by this Notice.

16. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

Adopted: April 17, 1974.
Released: April 25, 1974.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

Part 76 of 47 CFR chapter I is amended as follows:

1. In § 76.59 a new paragraph (d)(4) is added to read as follows:

§ 76.59 Provisions for smaller television market.

* * * * *

(d) * * *

(4) Any television station, during the period from sign-off of the last station which the cable television system must carry pursuant to paragraph (a) of this section to the sign-on of the first station which the cable television system must carry pursuant to paragraph (a) of this section; *Provided, however,* That if a station terminates operations less than thirty minutes after the hour, it shall be deemed to have signed off on the prior hour. A cable system may carry a program to its completion. Carriage of such additional stations shall not require prior approval in the certificating process, but shall require service of the information required in § 76.13(b)(1) on the Commission and the parties named in § 76.13(a)(6).

2. In § 76.61 a new paragraph (e)(4) is added to read as follows:

§ 76.61 Provisions for first 50 major television markets.

* * * * *

(e) * * *

(4) Any television station, during the period from sign-off of the last station which the cable television system must carry pursuant to paragraph (a) of this section to the sign-on of the first station which the cable television system must carry pursuant to paragraph (a) of this section; *Provided, however,* That if a station terminates operations less than thirty minutes after the hour, it shall be deemed to have signed off on the prior hour. A cable system may carry a program to its completion. Carriage of such additional stations shall not require prior approval in the certificating process, but shall require service of the information required in § 76.13(b)(1) on the Commission and the parties named in § 76.13(a)(6).

* * * * *

[FR Doc.74-10054 Filed 5-1-74;8:45 am]

[4] To be sure, we recognize that this might lead part of the viewing public to tune from the local station to the imported station, thus missing a small amount of the public service programming which a station is required to carry. We believe this loss to be so incremental, however, as to be *de minimis.*

[5] Section 76.55(b) provides that: "Where a television broadcast signal is carried by a cable television system, pursuant to the rules in this subpart, the programs broadcast shall be carried in full, without deletion or alteration of any portion except as required by this part."

[6] The proposed rule does not provide for the filing of oppositions to notifications, and we do not contemplate considering such. Where a television station can make a compelling showing of economic injury resulting to it from importation of late-night programming, however, we will consider granting special relief. In such a proceeding, however, a station carries a heavy burden of proof. See, e.g., Mickelson Media, Inc., FCC 73-119, 39 FCC 2d 602.

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF MARCH 15, 1974

A list of environmental statements is here published to provide timely public information on the status of Forest Service environmental statements under preparation as of March 15, 1974. Persons interested in a particular action and environmental statements should contact the responsible official directly.

For ease in use of this list, statements are grouped by Forest Service organizational units proposing the action. Statements marked with an asterisk indicate, in total or in part, land use planning, developments, or activities within inventoried roadless areas. National Forest inventoried roadless areas are defined as roadless and undeveloped areas 5,000 acres or larger, except that smaller areas adjoining existing Wilderness and Primitive Areas could be included. Existing Wildnerness and Primitive Areas are excluded from this definition.

Forest Service field addresses are given at the end of the listing of environmental statements.

R. MAX PETERSON,
Deputy Chief, Forest Service.

APRIL 24, 1974.

Forest Service environmental statements under preparation as of Mar. 15, 1974

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed w/CEQ (or estimated date)	Estimated date of final
	Washington Office, USDA, Forest Service, 12th St. and Independence Ave. SW., Washington, D.C. 20250				
Fire Management Selway-Bitterroot Wilderness.	Bitterroot, Nezperce, Clearwater, and Lolo National Forests, Idaho and Mont.	Resource plan	Chief	October 1974	
Absaroka-Beartooth, Cut-Off Mountain Wilderness Proposal.	Custer, Gallatin, and Shoshone National Forests, Mont. and Wyo.	do	do	March 1974	July 1974.
Gila Wilderness	Gila National Forest, N. Mex.	Legislation	do	October 1972	March 1974.
Land for Land Exchange With Inland Steel.	Superior National Forest, Minn.	Land exchange	do	November 1973.	May 1974.
*Regulations for Protection of Surface Values of Federal Lands in Sawtooth National Recreation Area.	Sawtooth National Forest, Idaho.	Legislation	do	March 1974	July 1974.
*Sawtooth National Recreation Area General Management Plan.	do	Land use plan	do	do	Do.
Salmon River Wild and Scenic River.	Idaho	Legislation	do	May 1974	September 1974.
Idaho and Salmon River Breaks Wilderness Classification.	do	do	do	November 1973.	March 1974.
Snake River Wild and Scenic River.	Targhee National Forest, Idaho and Wyo.	do	do	April 1974	September 1974.
Skagit Wild and Scenic Rivers Study.	Mount Baker National Forest, Wash.	do	do	June 1974	November 1974.
Weyerhaeuser-Gifford Pinchot Landownership Adjustment Plan.	Gifford Pinchot National Forest, Wash.	Landownership	do	May 1973	April 1974.
Oregon Dunes National Recreation Area.	Siuslaw National Forest, Oreg.	Wilderness recommendation.	do	April 1974	February 1975.
Erie Exchange (Partridge River Resort).	Superior National Forest, Minn.	Land exchange	do	August 1974	February 1975.
*East Bradfield Timber Sale.	East Bradfield River.	Timber sale	do	November 1973.	April 1974.
Flathead Wild and Scenic River Proposal.	Flathead National Forest, Mont.	Proposed classification of Flathead Rivers under Wild and Scenic Rivers Act.	do	September 1973.	June 1974.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed w/CEQ (or estimated date)	Estimated date of final
*North Fork American River Wild and Scenic River.	Tahoe National Forest, Calif.	Legislation	do		
*Monarch Wilderness	Sierra and Sequoia National Forests, Calif.	do	do	October 1972.	August 1974.
*Trinity Alps Wilderness.	Klamath, Six Rivers, and Shasta-Trinity National Forests, Calif.	do	do	do	Do.
Triangle Ranch Land Exchange.	Modoc National Forest, Calif.	Land exchange	do	October 1974.	April 1975.
*Land Acquisition from Southern Pacific Land Co.	Shasta-Trinity National Forest, Calif.	Land Acquisition	Chief	August 1974.	February 1975.
	Regional Office, Missoula, Mont., Region 1, Northern Region, USDA, Forest Service, Federal Bldg., Missoula, Mont. 59801				
Clearwater National Forest Timber Management Plan and Road Program.	Clearwater National Forest, Idaho.	Timber Management and Road Program.	Forest Supervisor.	April 1974	July 1974.
Elk Summit Planning Unit.	do	Land use plan	do	February 1974.	Do.
Aquarius Planning Unit.	do	do	do	May 1974	August 1974.
Pots Mountain Planning Unit.	do	do	do	do	Do.
Multiple Use Plan Placid-Blanchard Planning Unit.	Seeley Lake	do	do	July 1974	December 1974.
Rocky Mountain Front.	Lewis and Clark National Forest, Montana.	do	do	February 1974.	May 1974.
Smith River	do	do	do	do	Do.
Logging-Pilgrim Creek	do	do	do	March 1974	June 1974.
Castle Mountains	do	do	do	do	Do.
Eagle Smokey Mountain.	do	do	do	February 1974.	May 1974.
Yogo Bear Park	do	do	do	April 1974	June 1974.
Elk City Unit Plan	Nezperce National Forest, Idaho.	do	Acting Forest Supervisor.	January 1974	April 1974.
Timber Management Plan and Road Program.	do	Resource plan	do	July 1973	Do.
Stillman Point	do	Land use plan	do	June 1974	October 1974.
Kelly-Bullion	do	do	do	Feburary 1974.	May 1974.
Red River	do	do	do	March 1974	June 1974.
Rainy Day	do	do	do	April 1974	July 1974.
Hot Point	do	do	do	May 1974	August 1974.
Cougar Mountain	do	do	do	March 1974	June 1974.
John Day	do	do	do	February 1974.	May 1974.
Timber Management Plan.	Kaniksu National Forest, Idaho.	Resource plan	Forest supervisor.	October 1972	April 1974.
3-Year Road Program	St. Joe National Forest, Idaho.	do	do	April 1973	Do.
Emerald Creek	do	Land use plan	do	January 1974	
Siwash Planning Unit	do	do	do	do	
Canyon-Snow Peak	do	do	do	do	
Napoleon Planning Unit.	Kaniksu National Forest, Idaho (Washington).	do	do	do	
Lakeview	do	do	do	do	
Horseheaven-Bumblebee.	Coeur d'Alene National Forest, Idaho.	do	do	February 1974.	
Beaver Creek	Kaniksu National Forest, Idaho (Washington).	do	do	March 1974	
Elk Horns	Helena National Forest, Mont.	do	do	April 1974	June 1974.
East Belts	do	do	do	May 1974	July 1974.
Mike Horse	do	do	do	do	Do.
Colorado-Unionville-Travis.	do	do	do	June 1974	August 1974.
Magpie-Confederate	do	do	do	October 1974	December 1974.
Camp-Tolan Planning Unit.	Bitterroot	do	do	October 1973	April 1974.
*Bitterroot North Planning Unit.	Bitterroot National Forest, Mont.	do	do	January 1974	May 1974.
*Bitterroot Range South Planning Unit.	do	do	do	May 1974	November 1974.
*Sapphires Planning Unit.	do	do	do	August 1974	Do.
*Lower West Fork Planning Unit.	do	do	do	July 1974	December 1974.
*Warm Springs-Medicine Tree Planing Unit.	do	do	do	June 1974	Do.
Little Sleeping Child-Rye Planning Unit.	do	do	do	October 1974	March 1975.
Timber Management Plan.	do	Resource plan	do	July 1974	September 1974.
*Jackpine Gulch	Beaverhead National Forest, Mont.	Timber sale	do	January 1974	April 1974.
*Coyote Creek	do	do	do	April 1974	July 1974.
Badlands [1]	Custer National Forest, No. Dak.	Land use plan	do	March 1974	August 1974.
Ashland Division	Custer National Forest, Mont.	do	do	June 1974	December 1974.
Beartooth Highway	Custer, Gallatin, and Shoshone National Forest, Mont. and Wyo.	do	do	May 1974	January 1975.
Pryor Mountains	Custer National Forest, Mont.	do	do	do	December 1974.
Beartooth Face	do	do	do	December 1974.	April 1975.
Rolling Prairie	Custer National Forest, N. Dak.	do	do	September 1974.	March 1975.
Basin Unit Plan	Basin, Mont	do	do	May 1974	September 1974.
North End Plan	Deerlodge National Forest, Mont.	do	do	April 1974	Do.
Forest Transportation Plan.	do	Road construction and maintenance.	do	May 1974	Do.
Forest Timber Plan	do	Resource plan	do	do	Do.
*Swan Lake Planning Unit.	Flathead National Forest, Mont.	Land use plan	do	January 1974	June 1974.
Interim Revision Flathead 10-yr Timber Management Plan.	do	Interim revision timber management plan.	do	July 1973	March 1974.
*Holland Lake Planning Unit. ment Plan.	do	Land use plan	do	January 1974	June 1974.
*Spotted Bear Planning Unit.	do	do	do	March 1974	Do.
*North Fork Planning Unit.	do	do	do	do	July 1974.
*Lake V Planning Unit.	do	do	do	April 1974	Do.

[1] Includes the EIS prepared by the Petroleum Impact Analysis Group on oil and gas exploration and development proposals.

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Porcupine/Buffalo Horn.	Gallatin National Forest, Mont.	do	do	August 1973	April 1974.
Cedar Bassett	do	do	do	do	July 1974.
Hebgen Lake	do	do	do	May 1974	November 1974.
W½ Yellowstone	do	do	do	September 1974.	January 1975.
Ski Yellowstone	do	Winter sports	do	May 1974	November 1974.
Big Tepee	do	Timber sale	do	February 1974.	June 1974.
South Fork of Swan Creek.	do	do	do	do	Do.
*Lower Wolf No. 23	Kootenai National Forest, Mont.	Land use plan	do	December 1973.	April 1974.
*South Fork Yaak No. 38.	do	do	do	July 1973	Do.
*Libby Face No. 1	do	do	do	January 1974.	May 1974.
*Inch Mountain No. 20.	do	do	Acting Forest Supervisor.	do	June 1974.
*Eureka-Grave Creek No. 2.	do	do	Forest Supervisor.	April 1974	September 1974.
*Upper Fisher No. 27	do	do	do	do	Do.
*Callahan No. 11	do	do	do	May 1974	October 1974.
*West Kootenai No. 9	do	do	do	do	Do.
*Cross Mountain No. 41.	do	do	do	June 1974	November 1974.
*O'Brien No. 10	do	do	do	July 1974	Do.
*Seventeenmile No. 40	do	do	do	August 1974.	December 1974.
*Dickey-Sunday No. 31.	do	do	do	September 1974.	January 1975.
*Big Swede No. 4	do	do	do	October 1974	February 1975.
*Pinkham No. 18	do	do	do	November 1974.	March 1975.
Kootenai Working Circle.	do	Timber management plan.	do	April 1973	June 1974.
Cherry Creek Planning Unit.	Thompson Falls	Land use plan	do	June 1974	November 1974.
Deerhorn Planning Unit.	do	do	do	July 1974	October 1974.
Cube Iran-Silcox Planning Unit.	do	do	do	March 1974	July 1974.
Murr-Baldy Planning Unit.	Plains	do	do	January 1974	June 1974.
Ward-Eagle Planning Unit.	Superior National Forest, Minn.	do	do	April 1974	September 1974.
North Cutoff-Kennedy Planning Unit.	do	do	do	August 1974	January 1975.
Ninemile Planning Unit.	Ninemile	do	do	May 1974	October 1974.
Petty Mountain Planning Unit.	Missoula	do	do	do	Do.
Gold Creek Planning Unit	do	do	do	January 1974	June 1974.
Chain of Lakes Planning Unit.	Seeley Lake	do	do	June 1974	October 1974.
Coordinated Interim Timber Harvest and Road Construction Program.	Lolo National Forest, Mont.	Resource plan	do	Mach 1974	September 1974.
	Regional office, Denver, Colo., Region 2, Rocky Mountain Region, USDA, Forest Service, Denver Federal Center, Building 85, Denver, Colo. 80225				
Telluride	Grand Mesa and Uncompahgre National Forests, Colo.	Land use plan	Forest Supervisor.	January 1975	July 1975.
*Savage Run	Medicine Bow National Forest, Wyo.	do	do	June 1974	September 1974.
Ryan Park	do	Winter sports site	do	April 1974	July 1974.
Forest Land Use Plan.	Rio Grande National Forest, Colo.	Land use plan	do	July 1974	January
Conejos	do	do	do	December 1974	June 1975.
East Fork Troublesome Creek.	Arapaho National Forest, Colo.	do	Forest Supervisor, Routt National Forest, Colo.	June 1974	October 1974.
Hahns Peak Basin	Routt Nationa Forest, Colo.	do	Forest supervisor.	September 1974.	April 1975.
*Davis Peak and Elkhorn Mountain.	do	do	do	September 1973.	April 1974.
Beartooth Highway Corridor.	Shoshone, Gallatin, and Custer National Forests, Mont. and Wyo.	do	do	July 1974	October 1974.
	Regional Office, Albuquerque, N. Mex., Region 3, Southwestern Region, USDA, Forest Service, 517 Gold Ave. SW., Albuquerque, N. Mex. 87101				
Black River	Apache National Forest, Ariz.	Land use plan	Forest Supervisor.	June 1974	September 1974.
Aquatic Weed Control.	Sitgreaves and Apache National Forests, Ariz.	Herbicide	Regional Forester.	March 1974	July 1974.
Taos Ski Valley Expansion.	Carson National Forest, N. Mex.	Winter sports site	do	do	June 1974.
Timber Management Plan.	do	Resource plan	do	June 1973	April 1974.
Sipapu Ski Area Expansion.	do	Winter sports site	do	May 1974	September 1974.
Sandia Mountain	Cibola National Forest, N. Mex.	Land use plan	Forest Supervisor.	December 1973.	July 1974.
Manzano Mountain	do	do	do	May 1974	September 1974.
Mount Taylor Winter Sports Area.	do	Winter sports site	Regional Forester.	do	Do.
Proposed Exchange West Side Sandia Mountain.	do	Exchange	do	do	Do.
Cinder Hills	Coconino National Forest, Ariz.	Land use plan	Forest Supervisor.	April 1974	Do.
Oak Creek	do	do	do	March 1974	June 1974.
Woods Canyon	do	do	do	November 1974.	April 1975.
Santa Catalina	Coronado National Forest, Ariz.	do	do	March 1974	June 1974.
Madera Canyon	do	do	do	November 1973.	March 1974.
Huachuca Land Use	do	do	do	March 1975	July 1975.
Williams Land Use	Kaibab National Forest, Ariz.	do	do	June 1974	October 1974.
South Kaibab Timber Management.	do	Resource plan	Regional Forester.	do	September 1974.
Phelps-Dodge, Forest Service Land Exchange.	Prescott National Forest, Ariz.	Land exchange	do	do	November 1974.
Dome Roadless Area	Santa Fe National Forest, N. Mex.	Land use plan	Forest Supervisor.	do	December 1974.

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Timber Management Plan.	do	Resource plan	Regional Forester.	February 1973.	May 1974.
Gallina Unit	do	Land use plan	Forest Supervisor.	June 1974	December 1974.
Cholla Project	Tonto and Sitgreaves National Forests, Ariz.	do	Regional Forester.	April 1974	October 1974.
Timber Management Plan.	Sitgreaves National Forest, Ariz.	Resource plan	do	June 1974	November 1974.
Proposed Mineral Exploration and Development, Mazatzal Wilderness.	Tonto National Forest, Ariz.	Land use plan	do	April 1974	June 1974.
Mogollon Rim	Tonto, Coconino, and Sitgreaves National Forests, Ariz.	do	Forest Supervisors.	January 1974	April 1974.
Salt River Project-Pinnacle Peak Goldfield Transmission Line.	Tonto National Forest, Ariz.	Powerline	Regional Forester.	August 1974	November 1974.
Plant Control Program.	Regionwide	Land treatment	do	April 1974	July 1974.
	Regional office, Ogden, Utah, Region 4, Intermountain Region, USDA, Forest Service 324 25th St., Ogden, Utah 84401				
Flaming Gorge National Recreation Area General Management Plan.	Ashley National Forest Utah.	Land use plan	Forest supervisor.	April 1974	August 1974.
Timber Management Plan.	do	Resource plan	Regional Forester.	June 1974	October 1974.
*Bear Valley Planning Unit.	Boise National Forest, Idaho.	Land use plan	Forest Supervisor.	April 1974	August 1974.
*Idaho City Planning Unit.	do	do	do	May 1974	September 1974.
*Landmark Planning Unit.	do	do	do	June 1974	October 1974.
*Middle Fork Boise Planning Unit.	do	do	do	do	Do.
*Mountain Home Planning Unit.	do	do	do	May 1974	August 1974.
Shafer Planning Unit	do	do	do	April 1974	Do.
*South Fork Payette Planning Unit.	do	do	do	do	Do.
*South Fork Salmon Planning Unit.	Payette and Boise National Forests, Idaho.	do	Forest Supervisors.	do	July 1974.
*Garden Valley Planning Unit.	Boise National Forest, Idaho.	do	Forest Supervisor.	May 1974	September 1974.
*Squaw Creek Planning Unit.	do	do	do	July 1974	November 1974.
*Cascade Planning Unit.	do	do	do	do	Do.
*Spread Creek-North Gros Ventre Planning Unit.	Bridger and Teton National Forests, Wyo.	do	do	January 1974	April 1974.
*Moccasin Basin-Squaw Papoose.	do	Timber sale	do	March 1974	June 1974.
*Big Piney Planning Unit.	do	Land use plan	do	May 1974	August 1974.
*Union Pass Planning Unit.	do	do	do	June 1974	September 1974.
*Boulder Lake Powerline.	do	Powerline	do	April 1974	July 1974.
Bighorn Winter Sports.	Caribou National Forest, Idaho.	Winter sports site	do	March 1974	Do.
Phosphate Planning Unit.	do	Land use plan	do	June 1975	November 1975.
*Pioneer Mountains Planning Unit.	Challis and Sawtooth National Forests, Idaho and Wyo.	do	do	May 1974	September 1974.
*Enterprise Planning Unit.	Dixie National Forest, Utah.	do	do	March 1974	June 1975.
*Boulder Mountain Planning Unit.	do	do	do	May 1974	September 1974.
Utah Power & Light Powerline Study (Sigurd-Cedar City Line).	Fishlake and Dixie National Forests, Utah.	Powerline	FS/BLM Lead Agency.	June 1974	October 1974.
Utah Power & Light Transmission Line Study (North Emery line and generator plus coal lease).	Fishlake and Manti-LaSal National Forests, Utah.	do	do	August 1974	December 1974.
*Mount Moriah	Humbolt National Forest, Nev.	Land use plan	Forest Supervisor.	do	Do.
*Ruby Mountains	do	do	do	March 1974	July 1974.
*Black Canyon Roadless Area No. 236.	Manti-Lasal National Forest, Utah.	Resource plan	FS/USGS Lead Agency.	do	Do.
*Monticello Planning Unit.	do	Land use plan	Forest Supervisor.	June 1974	October 1974.
*Council Planning Unit.	Payette National Forest, Idaho.	do	do	May 1974	September 1974.
*McCall Planning Unit.	do	do	do	July 1974	November 1974.
*New Meadows Planning Unit.	do	do	do	March 1974	July 1974.
*Warren Planning Unit.	do	do	do	do	May 1974.
Payette Timber Management Plan.	do	Resource plan	Regional Forester.	do	July 1974.
*Silverleads Planning Unit.	Salmon National Forest, Idaho.	Land use plan	Forest Supervisor.	do	Do.
*Red Rock Planning Unit.	do	do	do	June 1974	October 1974.
*Moose Creek Basin Planning Unit.	do	do	do	October 1974	February 1975.
Soldier Mountain Ski Area.	Sawtooth National Forest, Idaho.	Winter sports site	do	January 1974	April 1974.
Big Wood Ski Area	do	do	do	March 1974	June 1974.
*Black Pine Planning Unit.	do	Land use plan	do	July 1974	November 1974.
Alpine Airstrip	Targhee National Forest, Idaho and Wyo.	Airstrip	do	March 1974	July 1974.
*West Slope Tetons Planning Unit.	do	Land use plan	do	May 1974	September 1974.
Central Nevada Land Use Plan.	Toiyabe National Forest, Nev. and Calif.	do	do	June 1974	October 1974.
*American Fork Canyon-Provo Peak.	Uinta National Forest, Utah.	do	do	February 1974.	June 1974.
Four Seasons Ski Area.	do	Winter sports site	do	January 1975.	May 1975.
*North Slope of the High Uintas.	Wasatch and Ashley National Forests, Utah.	Land use plan	do	May 1974	September 1974.
*Kamas Planning Unit.	Wasatch National Forest, Utah.	do	do	October 1974.	February 1975.

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	Regional office, San Francisco, Calif., Region 5, California Region, USDA, Forest Service, 630 Sansome St., San Francisco, Calif. 94111				
Forest Reestablishment.	National Forests, California.	Reforestation program.	Regional Forester.	November 1973.	May 1974.
*San Gabriel Planning Unit.	Angeles National Forest, Calif.	Land use plan	Forest Supervisor.	December 1974.	May 1975.
Trabuco Canyon Planning Unit.	Cleveland National Forest, Calif.	do	do	December 1975.	May 1976.
*Palomar Mountain Planning Unit.	do	do	do	May 1974	September 1974.
Laguna-Morena Planning Unit.	do	do	do	January 1976.	June 1976.
*Trabuco District	do	do	do	December 1975.	May 1976.
Silver Basin Winter Sports Area.	Eldorado National Forest, Calif.	Winter sports site	Regional Forester.	March 1974	September 1974.
Eldorado National Forest Timber Management Plan.	do	Resource plan	do	September 1974.	February 1975.
Volcanoville Planning Unit.	do	Land use plan	Forest Supervisor.	February 1975.	July 1975.
Mammoth Planning Unit.	Inyo National Forest, Calif.	do	do	October 1974.	March 1975.
Mono Basin Planning Unit.	do	do	do	do	Do.
Bishop Creek Planning Unit.	do	do	do	August 1974	February 1975.
Horseshoe Meadows	do	Limited land use plan.	do	January 1974.	May 1974.
Mount Whitney Planning Unit.	do	Land use plan	do	October 1974	March 1975.
Timber Management Plan.	do	Resource plan	Regional Forester.	February 1975.	July 1975.
Klamath Timber Management Plan.	Klamath National Forest, Calif.	do	do	January 1974.	May 1974.
*King Planning Unit	do	Land use plan	Forest Supervisor.	September 1974.	February 1975.
*Grider Planning Unit.	do	do	do	December 1974.	May 1975.
*Proposed General Plan for Management of National Forest Lands in the Lake Tahoe Basin.	Lake Tahoe Basin Management Unit, California and Nevada.	do	Administrator.	August 1973	July 1974.
Sierra-Pacific Powerline, Buckeye to Round Hill.	Lake Tahoe Basin and Toiyabe National Forest, Nev.	Transmission line	Regional Foresters, R–4 and R–5.	June 1974	October 1974.
Lassen National Forest Timber Management.	Lassen National Forest, Calif.	Resource plan	Regional Forester.	do	Do.
Rim Planning Unit	do	Land use plan	Forest Supervisor.	August 1974	December 1974.
*Almanor Planning Unit.	do	do	do	July 1975	November 1975.
Hat Creek Planning Unit.	do	do	do	January 1976.	May 1976.
Big Sur-Coastal Planning Unit.	Los Padres National Forest, Calif.	do	do	March 1975	July 1975.
Mount Pinos Planning Unit.	do	do	do	September 1975.	January 1976.
*Middle Eel Planning Unit.	Mendocino National Forest, Calif.	do	do	January 1975.	July 1975.
Timber Management Plan.	do	Resource plan	Regional Forester.	April 1975	September 1975.
Hayden Hill Planning Unit.	Modoc National Forest, Calif.	Land use plan	Forest Supervisor.	August 1974	December 1974.
Timber Management Plan.	do	Resource plan	Regional Forester.	June 1974	October 1974.
*Bucks Lake Planning Unit.	Plumas National Forest, Calif.	Land use plan	Forest Supervisor.	May 1974	Do.
*Mohawk Planning Unit.	do	do	do	May 1975	September 1975.
Timber Management Plan.	do	Resource plan	Regional Forester.	June 1974	October 1974.
Do	Angeles, Cleveland, Los Padres, and San Bernardino National Forests, Calif.	do	do	December 1974.	April 1975.
Big Bear Basin Planning Unit.	San Bernardino National Forest, Calif.	Land use plan	Forest Supervisor.	March 1975	August 1975.
Mineral King	Sequoia National Forest, Calif.	Recreation	Regional Forester.	September 1974.	February 1975.
*Little Kern Planning Unit.	do	Land use plan	Forest Supervisor.	February 1975.	July 1975.
Timber Management Plan.	do	Resource plan	Regional Forester.	October 1974	March 1975.
Shasta-Trinity Timber Management Plan.	Shasta-Trinity National Forest, Calif.	do	do	May 1974	September 1974.
*Upper Trinity Planning Unit.	do	Land use plan	Forest Supervisor.	September 1974.	January 1975.
*Mount Shasta Planning Unit.	do	do	do	October 1974	March 1975.
*NRA Planning Unit	do	do	do	December 1974.	June 1975.
*South Fork Mountain Planning Unit.	do	do	do	do	Do.
*McCloud-Squaw Creek Planning Unit.	do	do	do	March 1975	September 1975.
*Girard-Salt Creek Planning Unit.	do	do	do	do	Do.
*North Shore Huntington Lake.	Sierra National Forest, Calif.	Timber sales	do	September 1973.	April 1974.
*Aspen-Horsethief	do	do	do	May 1974	September 1974.
Timber Management Plan.	do	Resource and land use plan.	do	August 1975	December 1975.
*Eightmile-Blue Creek Planning Unit.	Six Rivers National Forest, Calif.	Land use plan	do	October 1974	February 1975.
*Siskiyou Planning Unit.	do	do	do	January 1975	June 1975.
*Horse Linto Planning Unit.	do	do	do	June 1975	October 1975.
Stanislaus Timber Management Plan.	Stanislaus National Forest, Calif.	Resource plan	Regional Forester.	December 1973.	April 1974.
Mount Reba Master Plan.	do	Winter sports site	do	November 1974.	April 1975.
*Truckee-Little Truckee Planning Unit.	Tahoe National Forest, Calif.	Land use plan	Forest Supervisor.	January 1975	June 1975.
Tahoe Timber Management Plan.	do	Resource plan	Regional Forester.	April 1975	September 1975.
*Foresthill Planning Unit.	do	Land use plan	Forest Supervisor.	August 1975	February 1976.
	Regional office, Portland, Oreg., Region 6, Pacific Northwest Region, USDA, Forest Service, 319 Southwest Pine St., Portland, Oreg. 97208				
Soleduck	Olympic National Forest, Wash.	Land use plan	Forest Supervisor.	July 1974	January 1975.
Mount Baker Ski Area Development Plan.	Mount Baker National Forest.	Recreation development.	do	April 1974	August 1974.
Mount Baker Unit	do	Land use plan	do	do	
10-yr Timber Management Plan.	Gifford Pinchot National Forest, Wash.	Resource plan	Regional Forester.	do	July 1974.

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Hoodoo Ski Bowl Expansion.	Willamette National Forest, Oreg.	Recreation Development.	Forest Supervisor.	November 1974.	April 1975.
Willamette National Forest Land Use Plan.	do	Land use plan	do	July 1974	February 1975.
Willamette National Forest 10-yr Timber Management Plan.	do	Resource plan	Regional Forester.	do	Do.
Deschutes National Forest 10-yr Timber Management Plan.	Deschutes National Forest, Oreg.	do	do	March 1974	July 1974.
Moore-Rock Sale	do	Timber sale	Forest Supervisor.	January 1975	June 1975.
Metolius Planning Unit.	do	Land use plan	do	December 1974.	April 1975.
*Williams Creek-Cougar Bluff.	Umpqua National Forest, Oreg.	Roadless area	do	May 1974	October 1974.
*Fairview, Puddin Rock, Canton-Steelhead.	do	do	do	do	Do.
*Dumont, Quartz, Last Creek.	do	do	do	do	Do.
*Rogue-Umpqua Divide.	do	do	do	July 1974	December 1974.
*Calf Creek-Copeland Creek.	do	do	do	do	December 1975.
*Mount Bailey	do	do	do	do	Do.
Desolation	Umatilla and Wallowa-Whitman National Forest, Oreg.	Land use plan	do	April 1974	June 1974.
Jubilee	Umatilla National Forest, Oreg.	do	do	May 1974	August 1974.
Oregon Butte	do	do	do	August 1974	November 1974.
*Rogue Roadless Area	Siskiyou National Forest, Oreg. (California).	Roadless area	do	April 1974	
Alpine Lakes Area	Snoqualmie and Wenatchee National Forests, Wash.	Wilderness proposal	do	July 1973	May 1974.
Weyerhaeuser County Road-Hansen Creek.	Snoqualmie National Forest, Wash.	Nonshare cost road construction.	do	January 1974.	Do.
*Drift Creek Unit	Siuslaw National Forest, Oreg.	Roadless area	do	April 1974	October 1974.
Oregon Dunes National Recreation area.	do	Management plan	do	do	Feburary 1975.
John Day Unit Plan	Malheur, National Forest, Oreg.	Land use plan	do	January 1975.	April 1975.
South Fork Unit	Malheur and Ochoco National Forests, Oreg.	do	do	June 1975	September 1975.
Chelan Planning Unit	Wenatchee National Forest, Wash.	do	do	August 1974	December 1974.
*Lake Fork Unit	Wallowa-Whitman National Forest, Oreg.	Roadless area	do	April 1974	July 1974.
*Joseph Creek-Wild Horse.	do	do	do	do	January 1975.
Timberline Lodge Objective Statement.	Mount Hood National Forest, Oreg.	Recreation site	do	do	November 1974.
Huckleberry Planning Unit.	do	Land use plan	do	do	January 1975.
Eagle Creek Planning Unit.	do	do	do	January 1974.	September 1974.
Roaring River-Salmon River Unit.	do	do	do	July 1973	June 1974.

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	Regional office, Atlanta, Ga., Region 8, Southern Region, USDA, Forest Service, 1720 Peachtree Rd. NW., Atlanta, Ga. 30309				
El Yunque Peak Electronics Site.	Caribbean National Forest, P.R.	Land use permit	Forest Supervisor.	July 1974	October 1974.
Cohutta Mountains Unit.	Chattahoochee National Forest, Ga.	Land use plan	do	March 1974	September 1974.
Unaka Unit	Cherokee National Forest, Tenn.	do	do	June 1974	October 1974.
Upper Hiwassee Unit	do	do	do	April 1974	August 1974.
Red River Gorge Unit.	Daniel Boone National Forest, Ky.	do	do	July 1973	March 1974.
Beaver Creek Unit	do	do	do	April 1974	October 1974.
Laurel River Unit	do	Legislation	do	May 1974	December 1974.
Licking River Unit	do	Land use plan	do	September 1974.	March 1975.
Limestone Mining-Plan of Operation.	Withlacoochee State Forest, Fla.	Resource plan	Regional Forester.	February 1974.	May 1974.
Juniper-Pat and Hughes Island Unit.	Ocala National Forest, Fla.	Land use plan	Forest Supervisor.	November 1973.	April 1974.
Transmission Line-City of Tallahassee.	Tallahassee, Fla	Land use permit	Regional Forester.	May 1974	September 1974.
John D. Long III Lake.	Sumter National Forest, S.C.	Recreation	Forest Supervisor.	July 1974	November 1974.
Kcowee Unit	do	Land use plan	do	December 1973.	April 1974.
Chauga Unit	do	do	do	May 1974	October 1974.
Laurel Fork Unit	George Washington National Forest, Va.	do	do	March 1974	June 1974.
North River Unit	do	do	do	February 1974.	May 1974.
Big Levels Unit	do	do	do	do	Do.
Cave Mountain Lake Unit.	Jefferson National Forest, Va.	do	do	do	Do.
Mount Rogers National Recreational Area.	do	do	do	June 1974	October 1974.
Timber Management Plan.	Kisatchie National Forest, La.	Resource plan	do	March 1974	July 1974.
Davidson River Unit and Northwest Fork of the French Broad River Unit.	Pisgah National Forest, N.C.	Land use plan	do	April 1974	August 1974.
Whitewater River Unit and Cullasaja River Unit.	Nantahala National Forest, N.C.	do	do	do	Do.
Ozone Unit	Ozark National Forest, Ark.	do	do	do	Do.
Blanchard Springs Caverns.	do	Recreation	do	do	Do.
Caddo National Grassland.	Caddo National Grassland, Tex.	Land use plan	do	March 1974	July 1974.
Cross Timbers National Grassland.	Cross Timbers Grassland, Tex.	do	do	do	Do.
Pocket Gopher Control.	Angelina National Forest, Tex.	Rodent control	do	August 1972	Postponed.
Forks Unit	Ouachita National Forest, Ark.	Land use plan	do	April 1974	August 1974.
Petit Jean Unit	do	do	do	September 1974.	February 1975.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed w/CEQ (or estimated date)	Estimated date of final
	Regional office, Milwaukee, Wis., Region 9, Eastern Region, USDA, Forest Service, 633 West Wisconsin Ave., Milwaukee, Wis. 53203				
Forest Plan	Allegheny National Forest, Pa.	Land use plan	Forest Supervisor.	July 1974	January 1975.
Timber Management Plan.	Chippewa National Forest, Minn.	Resource plan	Regional Forester.	February 1974.	July 1974.
Deerfield River (Mountain Snow).	Green Mountain National Forest, Vt.	Land use plan	do	June 1974	December 1974.
Eagle Lake and Associated Recreation Development.	Monongahela National Forest, W. Va.	do	do	February 1974.	June 1974.
Cedar Creek Purchase Unit.	Clark and Mark Twain National Forests, Mo.	do	Forest Supervisor.	March 1974	September 1974.
Off-Road Vehicle Plan.	Hoosier National Forest, Ind.	do	do	do	April 1974.
Boundary Waters Canoe Area Plan.	Superior National Forest, Minn.	do	Regional Forester.	August 1973	June 1974.
Prairie Portage Dam-BWCA.	do	do	do	April 1974	October 1974.
Timber Management Plan.	White Mountain National Forest, N.H. and Maine.	Resource plan	do	June 1974	December 1974.
	Regional office, Juneau, Alaska, Region 10, Alaska Region, USDA, Forest Service, Federal Bldg., Box 1628, Juneau, Alaska 99801				
*Recreation Cabins	Ketchikan Area, Alaska.	Recreation	Area Manager.	September 1973.	April 1974.
*Cholmondeley Management Plan.	do	Land use plan	do	December 1973.	March 1974.
*Honker Divide	do	do	do	November 1974.	April 1975.
*West Chichagof-Yakobi.	West Chichagof-Yakobi Island.	do	do	October 1974	February 1975.
*Southern Chilkat Unit Management Plan.	Southern Chilkat Area.	do	do	May 1974	September 1974.
*Westside Timber Sale.	Montague Island	Timber sale	do	February 1974.	May 1974.
*Chugach National Forest Land Use.	Chugach National Forest, Alaska.	Land use plan	do	January 1974	
*Tongass National Forest Land Use.	Tongass National Forest, Alaska.	do	Regional Forester.	April 1974	August 1974.
*Portage Bay Sale	Portage Bay	Timber sale	Area Manager.	August 1974	December 1974.
	Area office, Upper Darby, Pa., Northeastern Area, State and Private Forestry, USDA, Forest Service, 6816 Market St., Upper Darby, Pa. 19082				
Cooperative Spruce Budworm Suppression, Minnesota.	Minnesota	Aerial application	Area Director.	March 1974	April 1974.
	Area office, Atlanta, Ga., Southeastern Area, State and Private Forestry, USDA, Forest Service, 1720 Peachtree Rd., NW., Atlanta, Ga. 30309				
Suppression Strategy for Control of Southern Pine Beetle.	Southeastern United States.	Bark beetle suppression.	Area Director.	January 1974.	June 1974.

FOREST SERVICE FIELD ADDRESSES

Below are listed Forest Service Regional Offices and addresses, followed by National Forests and their headquarters locations. Research unit and State and Private Forestry Area headquarters are listed on the back page.

NORTHERN REGION

(Address: Federal Bldg., Missoula, Mont. 59801)

Idaho:
- Clearwater — Orofino.
- Coeur d'Alene — Coeur d'Alene.
- Kaniksu — Sandpoint.
- Nezperce — Grangeville.
- St. Joe — St. Maries.

Montana:
- Beaverhead — Dillon.
- Bitterroot — Hamilton.
- Custer — Billings.
- Deerlodge — Butte.
- Flathead — Kalispell.
- Gallatin — Bozeman.
- Helena — Helena.
- Kootenai — Libby.
- Lewis and Clark — Great Falls.
- Lolo — Missoula.

Washington:
- Colville — Colville.

ROCKY MOUNTAIN REGION

(Address: Denver Federal Center, Bldg. 85, Denver, Colo. 80225)

Colorado:
- Arapaho — Golden.
- Grand Mesa-Uncompahgre [1] — Delta.
- Gunnison — Gunnison.
- Pike — Colorado Springs.
- Rio Grande — Monte Vista.
- Roosevelt — Fort Collins.
- Routt — Steamboat Springs.
- San Isabel — Pueblo.
- San Juan — Durango.
- White River — Glenwood Springs.

Nebraska:
- Nebraska — Chadron.

South Dakota:
- Blacks Hills — Custer.

Wyoming:
- Bighorn — Sheridan.
- Medicine Bow — Laramie.
- Shoshone — Cody.

[1] Two separately proclaimed National Forests under one supervisor.

SOUTHWESTERN REGION

(Address: 517 Gold Ave. SW., Albuquerque, N. Mex. 87101)

Arizona:
- Apache — Springerville.
- Coconino — Flagstaff.
- Coronado — Tucson.
- Kaibab — Williams.
- Prescott — Prescott.
- Sitgreaves — Holbrook.
- Tonto — Phoenix.

New Mexico:
- Carson — Taos.
- Cibola — Albuquerque.
- Gila — Silver City.
- Lincoln — Alamogordo.
- Santa Fe — Santa Fe.

INTERMOUNTAIN REGION

(Address: 324 25th St., Ogden, Utah 84401)

Idaho:
- Boise — Boise.
- Caribou — Pocatello.
- Challis — Challis.
- Payette — McCall.
- Salmon — Salmon.
- Sawtooth — Twin Falls.
- Targhee — St. Anthony.

Nevada:
- Humboldt — Elko.
- Toiyabe — Reno.

Utah:
- Ashley — Vernal.
- Cache — Logan.
- Dixie — Cedar City.
- Fishlake — Richfield.
- Manti-La Sal — Price.
- Uinta — Provo.
- Wasatch — Salt Lake City.

Wyoming:
- Bridger — Kemmerer.
- Teton — Jackson.

CALIFORNIA REGION

(Address: 630 Sansome St., San Francisco, Calif. 94111)

California:
- Angeles — Pasadena.
- Cleveland — San Diego.
- Eldorado — Placerville.
- Inyo — Bishop.
- Klamath — Yreka.
- Lassen — Susanville.
- Los Padres — Santa Barbara.
- Mendocino — Willows.
- Modoc — Alturas.
- Plumas — Quincy.
- San Bernardino — San Bernardino.
- Sequoia — Porterville.
- Shasta-Trinity [1] — Redding.
- Sierra — Fresno.
- Six Rivers — Eureka.
- Stanislaus — Sonora.
- Tahoe — Nevada City.

PACIFIC NORTHWEST REGION

(Address 319 SW. Pine St., P.O. Box 3623, Portland, Oreg. 97208)

Oregon:
- Deschutes — Bend.
- Fremont — Lakeview.
- Malheur — John Day.
- Mount Hood — Portland.
- Ochoco — Prineville.
- Rogue River — Medford.
- Siskiyou — Grants Pass.
- Siuslaw — Corvallis.
- Umatilla — Pendleton.
- Umpqua — Roseburg.
- Wallowa-Whitman [1] — Baker.
- Willamette — Eugene.
- Winema — Klamath Falls.

Washington:
- Gifford Pinchot — Vancouver.
- Mount Baker — Bellingham.
- Okanogan — Okanogan.
- Olympic — Olympia.
- Snoqualmie — Seattle.
- Wenatchee — Wenatchee.

EASTERN REGION

(Address: 633 West Wisconsin Ave., Milwaukee, Wis. 53203)

Illinois:	
Shawnee	Harrisburg.
Indiana:	
Hoosier	Bedford.
Michigan:	
Hiawatha	Escanaba.
Huron	Cadillac.
Manistee	Cadillac.
Ottawa	Ironwood.
Minnesota:	
Chippewa	Cass Lake.
Superior	Duluth.
Missouri:	
Clark	Rolla.
Mark Twain	Springfield.
New Hampshire:	
White Mountain	Laconia.
Ohio:	
Wayne	Bedford, Ind.
Pennsylvania:	
Allegheny	Warren.
Vermont:	
Green Mountain	Rutland.
West Virginia:	
Monongahela	Elkins.
Wisconsin:	
Chequamegon	Park Falls.
Nicolet	Rhinelander.

SOUTHERN REGION

(Address: 1720 Peachtree Rd. NW., Atlanta, Ga. 30309)

Alabama:	
National Forests in Alabama, 1765 Highland Ave., P.O. Box 40, Montgomery, 36101.	
William B. Bankhead	Talladega.
Conecuh	Tuskegee.
Arkansas:	
Ouachita	Hot Springs.
Ozark	Russellville.
St. Francis	Russellville.
Florida:	
National Forests in Florida, 214 South Bronough St., P.O. Box 1050, Tallahassee, 32302.	
Apalachicola, Ocala	Osceola.
Georgia:	
National Forests in Georgia, 322 Oak St. NW., Gainesville, 30501	
Chattahoochee	Oconee.
Kentucky:	
Daniel Boone	Winchester.
Louisiana:	
Kisatchie	Pineville.
Mississippi:	
National Forests in Mississippi, 350 Milner Bldg., P.O. Box 1291, Jackson, 39205	
Bienville	Holly Springs.
Delta	Homochitto.
DeSoto	Tombigbee.
North Carolina:	
National Forests in North Carolina, B-level Plateau Bldg., 50 S. French Broad, P.O. Box 2570, Asheville, 28802.	
Croatan	Pisgah.
Nantahala	Uwharrie.
South Carolina:	
National Forests in South Carolina, Rm. 350, 1801 Main St., Columbia, 29201.	
Francis Marion	Sumter.
Tennessee:	
Cherokee	Cleveland.
Texas:	
National Forests in Texas, Federal Bldg., P.O. Box 969, Lufkin, 75901.	
Angelina	Sabine.
Davy Crockett	Sam Houston.
Virginia:	
George Washington	Harrisonburg.
Jefferson	Roanoke.

ALASKA REGION

(Address: Federal Office Bldg., P.O. Box 1628, Juneau, Alaska 99801)

Alaska:	
Chugach	Anchorage.
North Tongass	Juneau.
South Tongass	Ketchikan.

RESEARCH HEADQUARTERS

Laboratory

Forest Products Laboratory
North Walnut St., P.O. Box 5130, Madison, Wis. 53705

Institutes

Institute of Tropical Forestry
P.O. Box AQ, Rio Piedras, P.R. 00928
Institute of Northern Forestry
Fairbanks, Alaska 99701

Forest and Range Experiment Stations

Pacific Northwest—809 NE. Sixth Ave., P.O. Box 3141, Portland, Oreg. 97208
Pacific Southwest—1960 Addison St., Berkeley, Calif. 94701
Intermountain—507 25th St., Ogden, Utah 84401
Rocky Mountain—240 West Prospect St., Fort Collins, Colo. 80521
North Central—Folwell Ave., St. Paul, Minn. 55101
Northeastern—6816 Market St., Upper Darby, Pa. 19082
Southern—Federal Bldg., 701 Loyola Ave., New Orleans, La. 70113
Southeastern—Post Office Bldg., P.O. Box 2570, Asheville, N.C. 28802

STATE AND PRIVATE FORESTRY AREAS

State and Private Forestry offices are located in the Regional Headquarters with the exception of the following Areas:
Northeastern Area—S&PF
(Includes States in the Eastern Region—see map)
6816 Market St.,
Upper Darby, Pa. 19082
Southeastern Area—S&PF
(Includes States in the Southern Region—see map)
1720 Peachtree Rd. NW.,
Atlanta, Ga. 30309

[FR Doc.74-9847 Filed 5-1-74;8:45 am]

Forest Service

ROCK CREEK ADVISORY COMMITTEE

Notice of Meeting

The Rock Creek Advisory Committee will meet at 7:00 p.m. on May 21, 1974. Meeting place will be in Drummond, Montana, in the basement of the Catholic Church.

The purpose of this meeting is to discuss transporttaion corridors and needs in the Rock Creek Drainage: (1) The main Rock Creek Road from Gillies Bridge down Rock Creek to the Clark Fork River, and (2) the Skalkaho Road, State secondary from Highway 10A near Philipsburg to Highway 93 in the Bitterroot Valley. There will also be handouts available and a brief discussion of the Forest Service planning program for the Upper Rock Creek Area (the East Fork-Skalkaho Unit).

The meeting will be open to the public. Any member of the public who wishes to do so shall be permitted to file a written statement with the Committee before or after the meeting. To the extent that time permits, the Committee Chairman may permit interested persons to present oral statements at the meeting.

General participation by members of the public, or questioning of Committee members or other participants shall not be permitted unless approved by the majority of Committee members.

Dated: April 25, 1974.

GORDON F. BALLINGER,
Acting Forest Supervisor,
Deerlodge National Forest.

[FR Doc.74-10029 Filed 5-1-74;8:45 am]

RIO GRANDE NATIONAL FOREST MULTIPLE USE ADVISORY COMMITTEE

Notice of Meeting

The Rio Grande Forest Multiple Use Advisory Committee will meet May 18, 1974 at 1:00 p.m. at the Rio Grande Forest Headquarters, Monte Vista, Colorado.

The purpose of the meeting will be to:

1. Review current Land Use Planning on the Forest and coordination with local Governments through local planning commissions and the Council of Governments.

2. Discuss Sewage and Solid Waste Disposal problems on and adjacent to the National Forest.

3. Proposed dissolution of the Advisory Committee.

The meeting will be open to the public. Persons who wish to attend should notify Forest Supervisor James R. Mathers, Monte Vista, Colorado 81144, telephone 303-852-5941. Public participation is limited to written statements submitted before or after the meeting and as otherwise requested by the Chairman.

This is a rescheduling of the April 27, 1974 meeting, which has been postponed.

JAMES R. MATHERS,
Forest Supervisor.

APRIL 26, 1974.

[FR Doc.74-10030 Filed 5-1-74;8:45 am]

Rural Electrification Administration

COLORADO-UTE ELECTRIC ASSOCIATION, INC.

Tri-State Generation & Transmission Association, Inc., Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for loans in the approximate amount of $217,592,000 to Colorado-Ute Electric Association of Montrose, Colorado, and Tri-State Generation and Transmission Association of Northglenn, Colorado, and (b) supplementing such loans with insured REA loans at 5 percent interest in the

amount of approximately $21,845,000 to these cooperatives. These loans would finance the applicants' undivided ownership shares of a project consisting of two 380 MW coal-fired steam generating units near Craig, Colorado, associated transmission facilities of approximately 354 miles of 230 and 345 kV line, and related terminal facilities.

Legally organized lending agencies capable of making, holding and servicing the loans proposed to be guaranteed may obtain information on the proposed project, including engineering and economic feasibility studies and the proposed schedule for the advances to the borrowers of the guaranteed loan funds, from Mr. John J. Bugas, General Manager, Colorado-Ute Electric Association, Inc., P.O. Box 1149, Montrose, Colorado 81401 or Mr. Wendell J. Garwood, Executive Vice President, Tri-State Generation and Transmission Association, Inc., P.O. Box 29198, Denver, Colorado 80229.

In order to be considered, proposals must be submitted by May 10, 1974, to Mr. Bugas or Mr. Garwood. The right is reserved to give such consideration and make such evaluations or other dispositions of all proposals received as Colorado-Ute or Tri-State and REA may deem appropriate. Prospective lenders are advised that in view of the Department of Treasury announcement of February 19, 1974, concerning the Federal Financing Bank and the eligibility of REA programs for FFB financing, it is anticipated that financing proposals for this project will be made by the FFB.

The Rural Electrification Administration has published a revision of proposed REA Bulletin 20–22 entitled "Guarantee of Loans for Bulk Power Supply Facilities," which sets forth agency proposed policies and requirements concerning loan guarantees. The text of this proposed revised Bulletin was published for comment in the FEDERAL REGISTER dated January 3, 1974, page 814.

Copies of the proposed revised REA bulletin 20–22 are available from Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 26th day of April, 1974.

DAVID A. HAMIL,
Administrator
Rural Electrification Administration.

[FR Doc.74–10108 Filed 5–1–74;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

WINTER NAVIGATION BOARD ON GREAT LAKES AND ST. LAWRENCE SEAWAY

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) notice is hereby given of a meeting of the Winter Navigation Board to be held on May 13, 1974 at the Sheraton Metro Inn, Romulus, Michigan. The meeting will be in session from 10:00 a.m. to 5:30 p.m.

The Winter Navigation Board is a multi-agency organization which includes representatives of Federal agencies and non-Federal public and private interests. It was established to direct the Great Lakes and St. Lawrence Seaway navigation season extension investigations being conducted pursuant to Public Law 91–611.

The primary purpose of the meeting is to approve the Interim Report on extending the navigation season on the Great Lakes-St. Lawrence Seaway System. The Interim Report is to be submitted to the Congress on July 30, 1974. The report will discuss activities and accomplishments of the first three years of the Demonstration Program and Survey Study being carried out on the Great Lakes-St. Lawrence Seaway System.

The meeting will be open to the public subject to the following limitations:

a. As the seating capacity of the meeting room is limited, it is desired that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants.

b. Written statements may be submitted prior to, or up to 10 days following the meeting, but oral participation by the public is precluded because of the time schedule.

Inquiries may be addressed to Mr. David Westheuser, U.S. Army Engineer District, Detroit, Corps of Engineers, P.O. Box 1027, Detroit, Michigan 48231, telephone 313–226–6769.

By authority of the Secretary of the Army.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.74–10034 Filed 5–1–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MARATHON PIPELINE CO.

Notice of Pipeline Application

APRIL 25, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Marathon Pipe Line Company has applied for a right-of-way for an oil and other synthetic liquid fuels pipeline, and related facilities, in the following townships:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 11 N., R. 92 W.,
Tps. 10 and 11 N., R. 93 W.;
Tps. 9 and 10 N., R. 94 W.
T. 8 N., R. 95 W.
T. 7 N., R. 9 W.,
Tps. 6 and 7 N., R. 97 W.
T. 5 N., R. 98 W.
T. 4 N., R. 99 W.
T. 3 N., Rs. 100, 101, 102, 103 and 104 W.

SALT LAKE MERIDIAN, UTAH

T. 5 S., Rs. 19, 20, 21, 22 and 23 E.
T. 6 S., Rs. 23, 24 and 25 E.
T. 7 S., R. 25 E.

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 33 N., R. 81 W.
T. 32 N., R. 82 W.
T. 31 N., R. 83 W.
T. 31 N., 9. 84 W.,
Tps. 28, 29 and 30 N., R. 85 W;
Tps. 26, 27 and 28 N., R. 86 W.;
Tps. 25 and 26 N., R. 87 W.;
Tps. 24 and 25 N., R. 88 W.;
Tps. 23 and 24 N., R. 89 W.;
Tps. 22 and 23 N., R. 90 W.;
Tps. 12, 13, 15, 16, 21 and 22 N., R. 91 W.;
Tps. 13, 14, 15, 16, 17, 18, 19 and 20 N., R. 92 W.

The pipeline will convey oil and other synthetic liquid fuels from the Uintah Basin in Utah to Casper, Wyoming, via Elk Springs, Colorado.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

PHILIP C. HAMILTON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74–10028 Filed 5–1–74;8:45 am]

NATIONAL ADVISORY BOARD COUNCIL

Notice of Meeting

Notice is hereby given that the National Advisory Board Council of the Bureau of Land Management will meet at the Sheraton Inn, Los Angeles, California International Airport, May 18–20, 1974. The first day of the meeting will be devoted to presentations and discussions on the following topics: Director's review and forecast of Bureau programs, and issues and topics for which advice will be sought from the National Advisory Board Council; the role and operation of the Council under the Federal Advisory Committee Act; energy programs and problems as they relate to the national resource lands and Outer Continental Shelf; a slide-map program on the oil shale resources of Northwest Colorado; and, a slide-map program on the Bureau's California Desert program. Additionally, committees will be formed, topics assigned, and committee efforts begun.

The second day of the meeting, May 19, will involve a field trip to selected public-use areas of the California Desert in Mojave and Imperial Counties. Members of the public wishing to participate in the field trip will have to furnish their own transportation. May 20, the final day of the meeting, will be devoted entirely to committee work and a business meeting which will include the election of a Chairman and Vice-Chairman and action on any recommendations the committees may make on assigned topics.

The proposed committees of the National Advisory Board Council and

topics for their consideration at the meeting are as follows:

1. Environmental Protection:
a. Primitive area program.
b. Visitor management.
2. Public Land Uses:
a. Proposed environmental impact statement for the livestock management program.
b. Criteria for utility corridors.
3. Resource Management:
a. Wild horses and burros as an element of multiple use management.
b. Criteria for a land tenure program.
4. Programs and Council Operations:
a. Flow of information to Council members.
b. Relations with other advisory boards.
c. Standing, ad hoc, and between-session committees.
d. Program format, themes, and methods.
e. Disposition of remaining funds.

The meeting will be open to the public. Time will be made available the afternoon of May 18 for a limited number of brief statements by members of the public. Those wishing to make an oral statement should inform the Director (230), Bureau of Land Management, Washington, D.C. 20240, by close of business May 13, 1974. Any interested person may file a written statement with the Council for its consideration. Such statements may be submitted at the meeting or mailed to the Director (230), Bureau of Land Management, Washington, D.C. 20240. Further information concerning the meeting may be obtained from Mr. Jerry D. Harrell, Public Affairs Officer, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. His phone is (916) 484–4724.

CURT BERKLUND,
Director.

APRIL 25, 1974.

[FR Doc.74–10026 Filed 5–1–74;8:45 am]

[Wyoming 45381]

COLORADO INTERSTATE CORP.

Pipeline Application

APRIL 25, 1974.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Corporation has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 100 W.,
Sec. 12, E½NE¼ and NE¼SE¼.

The pipeline will serve the Ten Mile Draw Unit 4 well in sec. 33, T. 21 N., R. 99 W.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

PHILIP C. HAMILTON,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74–10027 Filed 5–1–74;8:45 am]

Bureau of Land Management

[Bureau Order No. 701, Amdt. No. 18]

LANDS AND RESOURCES

Redelegation of Authority

Bureau Order No. 701, dated July 23, 1964, is further amended as follows:

PART III—REDELEGATION TO DISTRICT MANAGERS

* * * * *

SEC. 3.6 *Minerals.*

* * * * *

(n) *Geothermal Resource Leases.* Take all actions involving geothermal resource exploration operations as provided in 43 CFR Subpart 3209.

GEORGE L. TURCOTT,
Associate Director.

APRIL 26, 1974.

[FR Doc.74–10031 Filed 5–1–74;8:45 am]

[New Mexico 21310, 21353, and 21354]

EL PASO NATURAL GAS CO.

Pipeline Applications

APRIL 25, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), El Paso Natural Gas Company has applied for three 4½ inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 28 E.,
Sec. 11, N½SE¼, NE¼SW¼.
T. 25 S., R. 24 E.,
Sec. 21, E½SW¼;
Sec. 28, E½W½.

These pipelines will convey natural gas across 1.894 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74–10067 Filed 5–1–74;8:45 am]

[New Mexico 21058]

TRANSWESTERN PIPELINE CO.

Pipeline Application

APRIL 25, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Transwestern Pipeline Company has applied for a 6 inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 30 E.,
Sec. 20, SW¼SE¼, SE¼SW¼;
Sec. 29, N½NW¼.

This pipeline will convey natural gas across .63 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Mineral Operations.

[FR Doc.74–10068 Filed 5–1–74;8:45 am]

[New Mexico 21030]

SOUTHERN UNION GAS CO.

Compressor Station Site Application

APRIL 25, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Southern Union Gas Company has applied for a natural gas compressor station site right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 15 N., R. 1 W.,
Sec. 33, N½SE¼.

This right-of-way is for construction of a natural gas compressor station site and will cover 5.0 acres of national resource lands in Sandoval County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.74–10069 Filed 5–1–74;8:45 am]

[OR 11113]

OREGON

Notice of Proposed Withdrawal and Reservation of Land

APRIL 26, 1974.

The Bureau of Land Management, Department of the Interior, has filed an application, Serial No. OR 11113, for the withdrawal of public land described below, from all forms of appropriation under public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws.

The applicant desires to have the area withdrawn as the Hunter Creek Bog, for the purpose of establishing a research natural area.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing no later than June 1, 1974, to the undersigned officer of the Bureau of Land Management, Department of the Interior, (729 N.E. Oregon St.), P.O. Box 2965, Portland, Oregon 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing potential demand for the land and its resources.

After receipt of comments from interested parties, he will prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested by the Bureau of Land Management.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The land involved in the application is:

WILLAMETTE MERIDIAN

T. 37 S., R. 14 W.,
Sec. 13, SE¼.

The area described contains 160 acres, in Curry County, Oregon.

MARVIN D. LENOUE,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.74-10070 Filed 5-1-74;8:45 am]

NEW MEXICO GRAZING DISTRICT 3 ADVISORY BOARD

Notice of Meeting

Notice is hereby given that the Advisory Board for the Las Cruces, New Mexico Grazing District will hold a meeting and field tour on June 5-6, 1974. The business meeting will start at 1:00 p.m., June 5 at the Ramada Inn, Highway 70-80 East, Deming, New Mexico. The agenda for the meeting will include consideration of BLM's general land exchange policy, a temporary office in Lordsburg, term permits, grazing fees, predator control, acreages withdrawn from grazing privileges for experimental purposes, procedures for making up future agendas, and a preview of the field tour. The meeting will be open to the public.

On June 6 the Board will tour the Phelps-Dodge developments under construction in the Playas Valley and vicinity to observe present and potential impacts upon national resource lands in that area. The tour will leave the Ramada Inn in Deming at 7:30 a.m. and return to Deming about 4:30 p.m. Members of the public who wish to attend must provide their own transportation.

Requests for information about the meeting or field tour should be directed to BLM District Manager, P.O. Box 1420, 1705 North Valley Drive, Las Cruces, New Mexico 88001.

W. K. BARKER,
District Manager.

APRIL 25, 1974.

[FR Doc.74-10071 Filed 5-1-74;8:45 am]

Bureau of Mines

DIRECTOR ET AL.

Redelegation of Authority for Research and Development Contracts and Grants

Bureau of Mines delegations of authority with respect to entering into contracts and making grants, issued June 17, 1971 (36 FR 11674), are revised as set forth below. The numbering system is that of the Bureau of Mines Manual. This document announces the following changes:

Officials in the Eastern Administrative Office, having acquired the capability to enter into and administer research and development contracts, are redelegated the contractual authority of the Director, Bureau of Mines in a limited amount.

Since funds were authorized under the Resource Recovery Act of 1970 (formerly the Solid Waste Disposal Act of October 20, 1965) only through fiscal year ending June 30, 1973, authority formerly redelegated under this Act is terminated.

The revised text in section 215.9 was necessitated by Secretarial Order No. 2953 which established within the Department of the Interior the Mining Enforcement and Safety Administration (MESA) and made it responsible for administering certain functions under the Federal Coal Mine Health and Safety Act of 1969 (Pub. L. 91-173; 30 U.S.C. 801-960) and the Federal Metal and Nonmetallic Mine Safety Act (Pub. L. 89-577; (30 U.S.C. 721-740)) Section 14 of the Order reassigned to the Director, Bureau of Mines and the Administrator, Mining Enforcement and Safety Administration those delegations of authority affected by transfer of program responsibility or abolishment of positions.

RESEARCH CONTRACTS AND GRANTS

SEC. 215.2.1. *Research Contracts.* The Director of the Bureau of Mines may enter into scientific and technological research contracts pursuant to Public Law 89-672 and, with respect to any such contract involving $25,000 or less, may make the determinations specified in paragraph (11), subsection (c) of section 302 of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. sec. 252(c)(11)).

SEC. 215.2.4. *Grants.* With respect to problems related to the programs of the Bureau authorized by statute, the Director of the Bureau of Mines may make grants for the support of basic scientific research to nonprofit institutions of higher education or to nonprofit organizations whose primary purpose is the conduct of scientific research pursuant to 42 U.S.C. secs. 1891 and 1892.

SEC. 215.2.5. *Redelegation.* The authorities granted in section 215.2.1 and 215.2.4 above are redelegated to the following officials:

Deputy Director—Mineral Resources and Environmental Development
Assistant Director—Administration
Chief, Division of Procurement and Property Management

And in amounts not to exceed $500,000:

Chief, Branch of Contracts and Grants
Chief, Western Administrative Office
Chief, Branch of Procurement and Property Operations, Western Administrative Office
Chief, Eastern Administrative Office
Chief, Branch of Procurement and Property Management, Eastern Administrative Office

These authorities may not be redelegated.

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

SEC. 215.9.1. *Delegation of Authority.* Except as provided in 200 DM 1, the Director, Bureau of Mines is authorized to exercise, subject to regulations issued by the Secretary of the Interior, the authority of the Secretary under the Federal Coal Mine Health and Safety Act of 1969 (Pub. L. 91-173; 30 U.S.C. 801-960) with respect to:

A. The initiation of research for the purposes of subsection (c) of section 101 and subsection (b) of section 301 of the Act; and

B. Studies, research, experiments, demonstrations, and the making of grants and contracts under section 501 of the Act, except that the Director shall not make a contract or grant for work which would require an exception to any mandatory standard unless the Administrator, Mining Enforcement and Safety Administration, has first granted an exception for that purpose.

SEC. 215.9.2. *Redelegation of Authority.* In the initiation of research for the purposes of subsections 101(c) and 301(b); and in carrying out the provisions for research, demonstrations, experiments, and studies under section 501 of the Act, the authority of the Director to enter into contracts with, and make grants to, public and private agencies and organizations and individuals is redelegated to the following officials:

Assistant Director—Administration
Chief, Division of Procurement and Property Management

And in amounts not to exceed $500,000:

Chief, Branch of Contracts and Grants
Chief, Western Administrative Office
Chief, Branch of Procurement and Property Operations, Western Administrative Office
Chief, Eastern Administrative Office
Chief, Branch of Procurement and Property Management, Eastern Administrative Office

These authorities may not be redelegated.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

APRIL 26, 1974.

[FR Doc.74-10033 Filed 5-1-74;8:45 am]

National Park Service

[Int Des 74-47]

PROPOSED KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK, ALASKA

Notice of Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed Klondike Gold Rush National Historical Park, Alaska.

The statement considers the establishment, management, and use of the proposed park.

Written comments on the environmental statement are invited and will be accepted for a period of forty-five (45) days following publication of this notice. Comments should be addressed to the Regional Director, Pacific Northwest Region, National Park Service, at the address given below.

Copies are available from or for inspection at the following locations:

Pacific Northwest Region, National Park Service, Fourth and Pike Bldg., Seattle, Wash. 98101.

Alaska State Office, National Park Service, Suite 250, 334 West Fifth Avenue, Anchorage, Alaska 99501.

Juneau Office, National Park Service, Federal Bldg., Room 602, Juneau, Alaska 99801.

Dated: April 25, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.74-10304 Filed 5-1-74;11:31 am]

DEPARTMENT OF HEALTH EDUCATION, AND WELFARE

Food and Drug Administration

PANEL ON REVIEW OF ALLERGENIC EXTRACTS

Notice of Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the following public advisory committee meeting and other required information in accordance with provisions set forth in section 10(a)(1) and (2) of the act:

Committee name	Date, time, place	Type of meeting and contact person
Panel on Review of Allergenic Extracts.	May 24, 9 a.m., Room 121, Bldg. 29, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md.	Open 9 a.m. to 10 a.m., closed after 10 a.m. Clay Sisk, Room 220, Bldg. 29, 9000 Rockville Pike, Bethesda, Md. 20014, 301-496-2883.

Purpose. Reviews and evaluates available data concerning the safety, effectiveness, and adequacy of labeling of currently marketed biological products consisting of products or materials, either singly or in combination, that are administered to man for the diagnosis, prevention, or treatment of allergies and allergic diseases.

Agenda. Open session: Panel orientation; introductory session; and panel organizational matters. Closed session: General review of data submitted and assignments to panel members.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognized that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore provided for this type of discussion to remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among committee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting. Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself or full

public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552(b), or matters that, if in writing, would fall within 5 U.S.C. 552(b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated: April 26, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.74-10048 Filed 5-1-74;8:45 am]

[Docket FDC-D-123; NDA Nos. 8-986 and 10-144]

HYNSON, WESTCOTT, AND DUNNING, INC.

Lutrexin and Trexinest; Notice of Hearing

In the FEDERAL REGISTER of March 22, 1969 (34 FR 5556), the Commissioner of Food and Drugs issued a notice of opportunity for hearing on a proposal to withdraw approval of the new drug applications for Lutrexin Tablets, NDA 8-986, and Trexinest Tablets, NDA 10-144. The grounds for such proposed withdrawal were the Commissioner's conclusion that the drugs lacked substantial evidence of effectiveness for use under the conditions of use prescribed, recommended, or suggested in their labeling. By letter of April 18, 1969, Hynson, Westcott & Dunning, Inc., holder of the NDA's, requested a public hearing on the proposed withdrawal, and in addition asserted that the drugs were no longer new drugs within the meaning of 21 U.S.C. 321(p).

By letter of May 19, 1970, the Commissioner advised Hynson, Westcott & Dunning of the promulgation of new regulations governing requests for a hearing and defining the basic standards of adequate and well-controlled clinical studies which could be considered substantial evidence of effectiveness, then codified at 21 CFR 130.14 and 130.12(a)(5) (recodified as 21 CFR 314.200 and 314.111(a)(5) in the FEDERAL REGISTER of March 29, 1974 (39 FR 11718)), respectively. The Commissioner advised Hynson to amend its request for a hearing to conform to these regulations. On October 16, 1970, subsequent to the dismissal of "Hynson, Westcott & Dunning v. Finch," No. 21112, D. Md., 1970 (a suit in which the firm sought a declaratory judgment that Lutrexin and Trexinest were not subject to the new drug requirements), the firm submitted affidavits of physicians and literature references in support of its contention that there is substantial evidence of effectiveness of Lutrexin and Trexinest and that the products are not new drugs.

After reviewing the submitted material, the Commissioner concluded that no genuine and substantial issue of fact existed requiring a hearing, and therefore entered an order, published in the FEDERAL REGISTER of June 18, 1971 (36 FR 11763), denying a hearing and withdrawing approval of the NDA's for Lutrexin and Trexinest. Hynson, Westcott & Dunning sought review of this order in the United States Court of Appeals for the Fourth Circuit, which vacated the order, holding that withdrawal of approval of the NDA's without a hearing was error. "Hynson, Westcott & Dunning v. Richardson," 461 F. 2d 215 (C.A. 4, 1972). The Supreme Court granted a writ of certiorari, and on June 18, 1973, issued an opinion in which it specifically upheld the validity of the Food and Drug Administration's summary judgment procedures for withdrawal of NDA's and the regulations setting forth criteria for an adequate and well-controlled clinical study. "Weinberger v. Hynson, Westcott & Dunning," 412 U.S. 609 (1973). However, a "majority [of the Court] were of the view that the submission [of Hynson] was sufficient to warrant a hearing" (412 U.S. at 623), and therefore the Court affirmed the Court of Appeals on this issue. The Court held that Lutrexin was not entitled to "grandfather" protection by virtue of section 107(c)(4) of the Drug Amendments of 1962, since it was covered by an effective NDA as of October 9, 1962, the effective date of the Amendments which required proof of efficacy for all new drugs.

With respect to the new drug issue, the Court held that the Food and Drug Administration has jurisdiction to determine the new drug status of a product as a part of or independent of proceedings to withdraw approval of an NDA. The Court specifically held, in determining new drug status, that "the hurdle of 'general recognition' of effectiveness requires at least 'substantial evidence' of effectiveness for approval of an NDA. In the absence of any evidence of adequate and well-controlled investigation supporting the efficacy of Lutrexin, a fortiori Lutrexin would be a 'new drug' subject to the provisions of the act." 412 U.S. at 629-30. Since the Court held that a hearing was necessary to determine the "substantial evidence" issue, the Court stated that "[c]onsequently, any ruling as to Lutrexin's 'new drug' status is premature and must await the outcome of the hearing." 412 U.S. at 632.

Hynson, Westcott & Dunning has not submitted any data in support of the effectiveness of Lutrexin and Trexinest since its submission of October 16, 1970, and the Commissioner concludes that there remains a lack of substantial evidence of the effectiveness of these drugs and that the NDA's should be withdrawn pursuant to 21 U.S.C. 355(e).

Therefore, pursuant to the decision of the Supreme Court and in accordance with the provisions of the Federal Food, Drug, and Cosmetic Act (section 505(e)) and § 314.200(g) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered,*

1. That a public hearing be held to receive evidence on the issue of whether NDA 8-986 (Lutrexin) and NDA 10-144 (Trexinest) should be withdrawn under the provisions of 21 U.S.C. 355(e).

2. That the specific issues to be determined at such hearing are as follows:

a. Whether there exists substantial evidence of the effectiveness of Lutrexin and Trexinest for the conditions of use prescribed, recommended, or suggested in their labeling, i.e., whether there exist adequate and well-controlled clinical studies, as defined by 21 CFR 314.111(a)(5), on the basis of which it could fairly and responsibly be concluded by experts, qualified by scientific training and experience to evaluate the drugs, that the drugs have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

b. Whether, in addition, with respect to Trexinest tablets, the drug complies with the requirements of 21 CFR 3.86 relating to fixed combination drugs, specifically, whether there exists substantial evidence, as defined above, that each component of Trexinest contributes to the claimed effect of the drug, and that the dosage of each component is such that the combination is safe and effective for a significant patient population requiring such concurrent therapy, as defined in the labeling of the drug.

The Commissioner concludes that the only issue to be determined at the hearing is the existence of substantial evidence as outlined above. If, following the hearing, the Commissioner concludes that there is substantial evidence of the effectiveness of Lutrexin and Trexinest, the Commissioner will then consider whether a further hearing is necessary, if requested, to determine whether the products are new drugs, i.e., whether the effectiveness and safety of the drugs are generally recognized among qualified experts. If the Commissioner concludes that substantial evidence of effectiveness is lacking, then a fortiori Lutrexin and Trexinest would be new drugs. "Weinberger v. Hynson, Westcott & Dunning, Inc.," 412 U.S. at 629-30.

The hearing shall take place in Hearing Room 4A-35, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852. The presiding administrative law judge shall be Irving Sommer. The hearing shall convene on June 17, 1974 at 9:30 a.m. Written appearances must be filed with the Hearing Clerk, Food and Drug Administration, Room 6-86,

5600 Fishers Lane, Rockville, MD 20852, not later than May 13, 1974.

Elsewhere in this issue of the FEDERAL REGISTER is a notice of Prehearing Conference, issued by Judge Sommer, setting the prehearing conference for Wednesday, May 15, 1974, at 10:00 a.m. At the Prehearing Conference the Bureau of Drugs will move for an order requiring the advance submission of all documentary evidence to be offered at the hearing pursuant to 21 CFR 314.204 and 314.220. Such submission to occur no later than May 31, 1974.

The hearing will be open to the public. Since only Hynson, Westcott & Dunning requested a hearing, it is the only person who may file appearance as a party. Any interested person, not a party, may appear at and participate in the hearing and shall have the right to present evidence and file pleadings relevant to the issues, so long as an appearance is filed by any such person not later than May 13, 1974.

Dated: April 30, 1974

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-10299 Filed 5-1-74;11:55 am]

[Docket FDC-D-123; NDA Nos. 8-986 and 10-144]

HYNSON, WESTCOTT, AND DUNNING, INC.

Lutrexin and Trexinest; Notice of Prehearing Conference

Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs has ordered that a public hearing be held in this matter.

Pursuant to § 314.204 (21 CFR 314.204) (formerly § 130.18, recodified in the FEDERAL REGISTER of March 29, 1974 (39 FR 11718)), a prehearing conference for the purposes of simplification of the issues; the possibility of obtaining stipulations, admissions of facts, and documents; the limitation of the number of expert witnesses; the scheduling of witnesses to be called; the advance submission of all documentary evidence; and such other matters as may aid in the disposition of this proceeding will be held in Room 4A-35, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852, beginning at 10:00 a.m. on Wednesday, May 15, 1974.

Dated: April 30, 1974.

IRVING SOMMER,
Administrative Law Judge.

[FR Doc.74-10300 Filed 5-1-74;11:55 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION (FULL COUNCIL)

Notice of Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the National Advisory Council on Indian Education (Full Council) will be held on May 11 and 12, 1974, from 9:00 a.m. to 5:00 p.m. (with planning and work session May 10, 1974) at Tamanaca Motel, 1725 Tulane Avenue, New Orleans, La.

The National Advisory Council on Indian Education is established under Section 401 of the Indian Education Act (Pub. 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. Review of Title IV, Part A proposals.
2. Evaluating and planning for NACIE's role in adjusting to program changes.
3. Regular 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 Street, NW., Room 326, Washington, D.C. 20004.

Signed at Washington, D.C. on April 25, 1974.

DWIGHT A. BILLEDEAUX,
Executive Director, National Advisory Council on Indian Education.

[FR Doc.74-10051 Filed 5-1-74;8:45 am]

OFFICE OF EDUCATION

Statement of Organization, Functions and Delegations of Authority

Part 2 (Office of Education) Section 2-B, Organization and Functions, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is hereby amended as follows:

The statement immediately following the Office of Management is hereby amended to read as follows:

OFFICE OF MANAGEMENT

The Office of Management plans, directs and coordinates the activities of all segments of the Office having to do with management planning and evaluation, administrative and business management and operation and management of a program of low interest long-term insured loans for college and vocational students.

The following statement is added immediately following the statement for the Office of Management, Management Systems and Analysis Division:

OFFICE OF GUARANTEED STUDENT LOANS

The Office of Guaranteed Student Loans plans, directs and evaluates all administrative activities associated with the operation and management of a program of low interest long-term insured loans for college and vocational students under which loans made by commercial and other lenders are insured (or reinsured) by the Federal Government and insured by State and nonprofit private agencies. Provides for payments to reduce interest costs to student borrowers and payments of special incentive allowances to lenders including payment of claims on insured loans.

The statement under the heading Bureau of Postsecondary Education, Office of Student Assistance, Division of Insured Loans is deleted in its entirety.

Dated: April 25, 1974.

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

[FR Doc.74-10092 Filed 5-1-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-191; FDAA-422-DR]

ALABAMA

Amendment to Notice of Major Disaster

Notice of major disaster for the State of Alabama, dated April 4, 1974, and amended April 5, 1974, is hereby further amended to include the following counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 4, 1974:

The counties of:

Cleburne Etowah

Dated: April 26, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc.74-10104 Filed 5-1-74;8:45 am]

[Docket No. NFD-189; FDAA-430-DR]

MISSISSIPPI

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Mississippi, dated April 16, 1974, and amended April 20, 1974, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by

the President in his declaration of April 18, 1974.

The counties of:

Adams	Neshoba
Copiah	Newton
George	Pearl River
Jasper	Pike
Jefferson	Rankin
Kemper	

Dated: April 26, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

[FR Doc.74-10095 Filed 5-1-74;8:45 am]

[Docket No. NFD-190; FDAA-431-DR]

WISCONSIN

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11749 of December 10, 1973; and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on April 26, 1974, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Wisconsin resulting from tornadoes, occurring on April 21, 1974, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Wisconsin. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11749, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238, to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. Robert E. Connor, HUD Region 5, to act as the Federal Coordinating Officer to perform the duties specified by Section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Wisconsin to have been adversely affected by this declared major disaster:

The Counties of:

Dodge	Sheboygan
Fond du Lac	Winnebago

This disaster has been designated as FDAA-431-DR.

Dated: April 26, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc.74-10096 Filed 5-1-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 74-120]

ILLINOIS CENTRAL GULF RAILROAD BRIDGE AND ILLINOIS RIVER, MILE 43.2

Proposed Bridge Alteration; Hearing

Notice is hereby given that a public hearing regarding the Illinois Central Gulf Railroad bridge across the Illinois River, at mile 43.2, will be held on Friday, 7 June 1974, at 10:00 a.m. in Room 1612, Federal Building, 1520 Market Street, St. Louis Missouri 63103. This hearing is being held under the authority of section 3 of the Act of June 21, 1940 (Truman-Hobbs Act) 54 Stat. 498 (33 U.S.C. 513); sec. 4(f), 80 Stat. 934, as amended (49 U.S.C. 1653(f)); sec. 6(g)(3), 80 Stat. 937 (49 U.S.C. 1655(g)(3)); 33 CFR 116.20. and 49 CFR 1.46(c)(6).

The existing bridge, which has a swing span, provides approximately 120 feet of horizontal clearance in each of the two draws when measured normal to the channel axis. A number of complaints have been received alleging that the bridge is unreasonably obstructive to navigation. The purpose of the hearing is to determine whether alteration is needed and if so, what alteration is required having due regard for the necessity of free and unobstructed navigation upon the river. The needs of rail traffic will also be considered.

Public comments, views, and data are required for ascertaining whether the bridge unreasonably obstructs navigation, whether vessels have unreasonable difficulty in passing through the bridge, the changes necessary to render navigation through or under the bridge reasonably free, easy and unobstructed, the character and amount of commerce affected, whether the commerce affected is sufficient to justify alteration of the bridge, and the impact of the alteration, if made, upon the quality of the human environment.

Any person who wishes to appear and be heard at this Public Hearing may do so. Persons planning to appear and be heard are requested to notify the Commander, Second Coast Guard District, Federal Building, 1520 Market Street, St. Louis, Missouri 63103, anytime prior to the hearing indicating the amount of time required. Depending upon the number of scheduled statements, it may be necessary to limit the amount of time allocated to each person. Limitations of time allocated, if required, will be announced at the beginning of the hearing. Written statements and exhibits may be submitted in place of, or in addition to oral statements, and will be made a part of the record of the hearing. Such written statements and exhibits may be delivered at the hearing or mailed in advance to Commander, Second Coast Guard District.

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

APRIL 26, 1974.

[FR Doc.74-10036 Filed 5-1-74;8:45 am]

ATOMIC ENERGY COMMISSION

[License No. 29-08449-03E]

ELECTRONS CO.

Issuance of Byproduct Material License

Please take notice that the Atomic Energy Commission has, pursuant to § 32.26 of 10 CFR Part 32, issued License No. 29-08449-03E to Electrons Company, 65 Passaic Avenue, Fairfield, New Jersey 07006, which authorizes the distribution of Model 101 fire detectors to persons exempt from the requirements for a license pursuant to § 32.20 of 10 CFR Part 30.

1. The devices are designed to detect incipient fires by responding to the products of combustion produced by thermal decomposition of building materials or contents prior to the appearance of visible smoke, flame, or appreciable heat. The sensitive element of the detector is an ionization chamber in which air flowing into the chamber is made conductive by alpha particles emitted by americium 241.

2. The byproduct material incorporated in the detector is americium in the oxide form contained in foils manufactured by Nuclear Radiation Developments (Model A-001) or by Amersham/Searle (Model AMM W862). The nominal activity contained in the unit is 3.5 microcuries but the maximum activity is 4.0 microcuries.

3. Each exempt unit will have a label identifying the manufacturer (Electrons Company) and the byproduct material (americium 241) contained in the unit and recommending that the unit be returned to Electrons Company for repair or disposal.

A copy of the license and the license application containing additional information are available for public inspec-

tion at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Maryland April 20, 1974.

For the Atomic Energy Commission.

BERNARD SINGER,
Chief, Materials Branch,
Directorate of Licensing.

[FR Doc.74-9586 Filed 5-1-74;8:45 am]

[Docket No. 50-410]

NIAGARA MOHAWK POWER CORP.

Notice Reconvening Evidentiary Hearing

In the matter of Niagara Mohawk Power Corporation, (Nine Mile Point, Unit 2).

Notice is hereby given that the evidentiary hearing in the above captioned proceeding will be reconvened to receive further evidence on the need for power issue at 9:30 a.m., Thursday, May 2, 1974 in the Atomic Safety and Licensing Board Panel Hearing Room, 12th floor, Landow Building, 7910 Woodmont Avenue, Bethesda, Maryland 20014.

Dated this 26th day of April, 1974 at Washington, D.C.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

[FR Doc.74-10007 Filed 5-1-74;8:45 am]

[Docket No. RM-50-2]

EFFLUENTS FROM LIGHT-WATER COOLED NUCLEAR POWER REACTORS

Hearing

The Commission has determined to hear oral argument in the above-entitled matter on May 21, 1974. The argument will commence at 10:00 a.m.

While participants may present oral argument on any aspect of the proceedings, the Commission is particularly interested in participants' views as to the following matters:

1. Cost-benefit considerations of the rule proposed by the staff in its Concluding Statement dated February 20, 1974, including any necessary backfitting.

2. The need for specific Commission guidance concerning application of Appendix I.

3. Application of standards on a site basis, as opposed to a reactor basis, for gaseous releases.

4. Assumptions underlying the staff's models for calculating doses to individuals from the food pathway.

Any participants who wish to present oral argument to the Commission, and have not submitted a request to date, shall notify the Secretary in writing on or before May 6, 1974. Requests received after that date will not be considered. The Commission may group participants with substantially like interests and may direct that such groups make a single presentation.

The Secretary will notify participants who file timely requests to present oral argument of the place for the argument, the order of presentation, the time allotted, and other procedural details.

It is so ordered.

Dated at Germantown, Maryland this 29th day of April, 1974.

By the Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.74-10283 Filed 5-1-74;11:15 am]

CIVIL AERONAUTICS BOARD

[Docket No. 26546, et al; Order No. 74-4-154]

THE FLYING TIGER LINE INC.

Increased Air Freight Rates; Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of April, 1974.

By tariff revisions bearing a posting date of March 15 and marked to become effective May 1, 1974, The Flying Tiger Line Inc. (Tiger) proposes to increase its domestic air freight rates as follows:

1. Most bulk minimum charges by $1.00;
2. General commodity bulk and container rates for markets, 1,000 miles and under in both directions by 12 percent;
3. Westbound general commodity bulk and container rates for mileages 1,001 through 1,800 by 8 percent—eastbound rates for the same mileages by 12 percent;
4. Eastbound general commodity bulk and container rates over 1,800 miles by 10 percent;
5. Westbound general commodity bulk and container rates over 1,800 miles by 5 percent; and
6. Eastbound and westbound specific commodity rates, with certain exceptions, by 10 percent.

Overall, Tiger is proposing a general commodity rate scale essentially based on rates in effect prior to January 31, 1974, increased by its rates effective on that date and by the rates currently proposed, and adjusted for long-haul/short-haul and eastbound-westbound discrepancies. The carrier asserts that the scale is a significant step toward rationalization of the domestic structure by increasing unjustifiably low rates and eliminating discrimination between markets.

Complaints requesting suspension pending investigation were received from Omark Industries and Tektronix, Inc., both located in Oregon, manufacturers of various types of machinery and metal products. The complaints are directed against proposed increases in specific commodity rates on those products. They variously assert, inter alia, that the complainants are shippers of a significant volume of air freight based on rates negotiated with the airlines; that operating procedures have been established upon the basis of air transport; that the proposed rate increases on top of those recently effected will be excessive, amounting to as much as 21 percent; and that these increases will be very burdensome and will divert the traffic to surface transportation.

In support of its proposal, and in answer to the complaints, Tiger asserts, inter alia, that the increases are necessary to recover increases in fuel costs in spite of improved operating efficiencies, and to implement needed rate structure revisions; that based on a restatement of 1973 operations, at current fuel prices, the proposal would increase annual revenues by $5.2 million and result in a return on investment of 7.4 percent; that without the proposed increase, return on investment would be only 2.3 percent; that in formulating its proposal the carrier was guided by recent Board decisions indicating a preference on the part of the Board for carriers to propose a change in the domestic rate structure; that Tiger has utilized its costing methodology in Docket 22859 adjusted for recent increases in the price of fuel and terminal handling costs; and that neither complainant has substantiated its claim that it cannot afford to pay the increased rates.

Tiger also states that the Board's rate standards, under which rates exceeding the costing formula of the Bureau of Economics for use in the Domestic Air Freight Rate Investigation were suspended, makes it impossible for it to obtain the Board-approved rate of return; that the reason for this is that the Board's standards, limiting the westbound increases would force Tiger to increase eastbound specific commodity rates by very high percentages, which would significantly reduce the volume of traffic; that Tiger's proposal would be consistent with the Board's decision in Phase 9 of the Domestic Passenger-Fare Investigation, in which the Board recognized that coach fares may exceed unit costs, at least for an interim period, but that the Board's freight policies have been completely different by making costs a ceiling for freight rates, and the different increases proposed in general and specific commodity rates by direction, etc., and the variations in the relationship of various rates to costs reflect value-of-service considerations; and that fuel cost increases should properly result in increasing long-haul rates more than short-haul rates.

The proposed rates and charges come within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposals or to permit them to become effective pending investigation.

Tiger has made a showing of increased costs. The Board is aware of the unprecedented hikes in fuel prices in the past several months and believes that increases in rates and charges are warranted to help offset these increased costs. We are also giving weight to the sharp rises in fuel prices occurring most recently.

In our opinion, Tiger has, however, overstated the extent of fuel cost increases in determining its revenue needs.

In its justification, Tiger claims that its fuel price for domestic operations rose by 122.6 percent between a period representing an "average" six-month period for 1973 and March 1, 1974. This percentage of increase was the weighted average of the price increase of 81.5 percent for domestic fuel, and 455.4 percent for international fuel. The weighting factors, in Tiger's formulation, were (1) the 11 percent of total domestic aircraft miles for the 12 months ended June 30, 1973, that was accounted for by domestic legs of international flights for which Tiger allegedly was forced to use bonded international fuel; and (2) the 89 percent that was accounted for by purely domestic aircraft miles.

It appears, however, that the foregoing method saddles domestic rates, to a certain extent, with the sharply increased fuel costs that should be borne chiefly by international traffic. Furthermore, Tiger offers no justification for basing its current proposal in part on the relatively high prices for international fuel as of March 1, 1974. The current volatile situation in fuel supply and prices does not permit any firm basis for long-range forecasting on these factors.

In our opinion, the valid costs for the purpose of evaluating the rates proposed by Tiger, as well as by other carriers, are industry average costs, based upon both all-cargo and combination aircraft, although we agree with Tiger that those costs should reflect the most recent increases in the costs of fuel as well as in other items. We are thus evaluating Tiger's rates upon the basis of industry average costs, thus increased, which result in higher increases for longer hauls than for shorter hauls.

With respect to Tiger's statement that limiting increases for long hauls has forced it to increase unduly eastbound specific commodity rates, we believe that, whereas there is a place for value-of-service as expressed in discount rates for promotional purposes, such rates should not require compensating increases in standard rates above costs. In fact, the only valid rationale for discount rates is such additional support for the overall operation as to permit a reduction in standard rates, or to reduce the pressures for increases in such rates.

In the foregoing circumstances, and upon consideration of the complaints and all other relevant factors, the Board finds that the proposal, generally to the extent it applies to the following rates, should be suspended (see Appendix A [1] for a complete listing of the markets in which the proposed rates are suspended):

1. Eastbound and westbound 100-pound bulk general commodity rates for distances up to 1,000 miles and 200-pound rates 851–1,000 miles;
2. Westbound bulk general commodity rates for markets with lengths of haul 1,001 miles and over in all weight-breaks;
3. Eastbound bulk general commodity rates at the 100-pound weightbreak for markets with lengths of haul 1,251–1,400, 1,551–1,850, and 2,101–2,750 miles;
4. Eastbound bulk general commodity rates at the 200-pound weightbreak, all markets;
5. Eastbound bulk general commodity rates at the 1,000-pound weight-break for markets 1,151–1,500 and 1,701 miles and over.
6. Eastbound bulk general commodity rates at the 2,000-pound weightbreak, 1,151–1,450, and 2,101 miles and over;
7. Eastbound and westbound general commodity Type D container rates and charges for markets over 700 miles;
8. All other container rates and charges in westbound markets over 1,200 miles; and
9. Bulk rates on human remains at all distances.

The remainder of Tiger's proposal appears sufficiently related to costs that the Board will permit it to become effective. While the complainants have incurred substantial increases in their rates during recent months, their rates do not exceed the rates for general commodities and are below costs according to data available to the Board.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly Sections 204(a) and 1002 thereof,

It is ordered, That:

1. Pending hearing and decision by the Board, the rates, charges, and provisions described in Appendix A hereto are suspended and their use deferred to and including July 29, 1974, unless otherwise ordered by the Board and that no change be made therein during the period of suspension except by order or special permission of the Board;

2. Except to the extent granted herein, the complaints of Tektronix, Inc., in Docket 26546 and Omark Industries in Docket 26559 are dismissed; and

3. Copies of this order shall be filed with the tariffs and served upon The Flying Tiger Line Inc., as well as upon Tektronix, Inc. and Omark Industries.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-10080 Filed 5-1-74;8:45 am]

[Docket No. 25280, et al.; Order No. 74-4-145]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Currency Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of April 1974.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA), and adopted by mail vote.

The agreement would revise the application and level of currently effective "negative surcharges" on passenger fares sold in local currency for transportation from certain European countries to various Western Hemisphere points. The negative surcharges on normal and excursion fares in economy-class service, which presently apply only to winter and shoulder-season fares, would now be extended to include peak-season travel. Insofar as adjustments to levels are concerned, the agreement will affect transportation from Europe to United States West Coast points by reducing the negative surcharges on normal economy fares from Austria, Belgium, Germany and the Netherlands from nine, five, thirteen, and nine percent, respectively, to eight, three, twelve and seven percent. For first-class fares, the present fourteen percent negative surcharge from Germany to the U.S. West Coast is proposed to be reduced to twelve percent.

Negative surcharges on European-originating transatlantic fares were originally adopted at conferences held in Nice and Monaco in September/October 1973, and are intended to alleviate inequities resulting from application of IATA currency conversion rules for the calculation of local currency fares for European-originating transportation. All IATA transatlantic passenger fares are specified in terms of U.S. dollars. Adjustments to account for the second (February 1973) dollar devaluation have generaly been accomplished through positive or negative surcharges on local currency fares, which are derived by conversion from the specified basic (dollar) fares using rates of exchange set forth in IATA Resolution 021b. In European countries whose currencies have appreciated in value relative to the dollar, the 021b conversion rates, which reflect pre-devaluation parities, result in unrealistically high local currency fares if negative surcharges are not applied. These negative surcharges, which have been approved by the Board in the interest of establishing a practical stability in air transportation pricing and more realistic currency conversion relationships, are now proposed to be adjusted to reflect more recent developments in exchange markets. We will herein approve the subject agreement, as the Board believes that IATA resolutions which adjust fares and rates to account for currency fluctuations should reflect actual market conditions as closely and as realistically as possible.

For this reason the Board is also taking action herein to condition our previous approvals of IATA Resolutions 021f, 021L, and 021LL governing conversion procedures between foreign currencies and U.S. dollars for sales of foreign-originating transportation destined for U.S. points. The resolutions generally require payment of all fares, rates and charges in the local currency of the country of transportation origination. Where payment is made in another currency, conversion must take place at the local banker's buying rate or the Resolution 021b rate, whichever produces the higher amount. As stated above, the 021b exchange rates reflect parities between the dollar and other currencies which existed prior to the second devaluation of the

[1] Filed as part of the original document.

dolar, and are completely unrealistic in terms of today's market.

Where the foreign local currency has appreciated in value relative to the dollar (such as in Germany), conversion takes place at the market rate of exchange, and the dollars received reflect the actual value of the transportation sold in terms of local currency. However, in cases where the foreign local currency has depreciated relative to the dollar (such as the U.K. and Italy) conversion takes place at the higher, 021b rate and the carrier receives a windfall representing the excess of dollars received over the actual value of the transportation as expressed in terms of the local currency. For instance, a passenger buying a ticket in Italy for travel from Italy to the United States has the option of paying in lire or in dollars. If he pays in dollars the Italian lire tariff is converted into dollars at the 021b rate of 581.50 lire=$1.00, whereas the present market rate is about 623 lire=$1.00, representing a differential of over seven percent. A similar situation exists with respect to cargo rates, particularly collect shipments, where the U.S. importer must pay a significantly higher amount of dollars than if the rates expressed in lire were converted at the bank exchange rate. Conversion of these dollars back into lire by the carrier for remittance abroad can be made at the actual market rate of exchange, and thus the carrier receives a seven percent windfall. The situation is similar for U.K.-originating transportation, where Resolution 021b specifies a conversion rate of $2.6057=£1.00, while the current market value of the pound is only about $2.39, a spread of over nine percent.

The Board has received a great deal of correspondence from U.S. importers of British and Italian goods protesting these unwarranted premiums, and it appears that many importers are attempting to alleviate the problem by giving up the charges collect option, and are transmitting funds to Italy and the United Kingdom to cover prepaid lire or sterling billings. The Board considers this an undue burden on the U.S. importer, and is convinced that the entire situation must be rectified in both the passenger and cargo areas.

For these reasons we are herein conditioning our approval of Resolutions 021f, 021L and 021LL to stipulate that fares, rates and charges in foreign-originating air transportation, set forth in the local currency of the country of origin, shall be converted into dollars at the local banker's buying rate of exchange.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find that the following resolutions, incorporated in Agreement C.A.B. 24279 as indicated, are adverse to the public interest or in violation of the Act:

Agreement CAB	*IATA resolutions*
24279:	
R–1	JT23(Mail 331)022v
	JT123(Mail 724)022v
R–2	JT12(Mail 838)022w
R–3	JT12(Mail 838)022y
R–4	JT12(Mail 838)022z

Accordingly, *It is ordered*, That:

1. Agreement C.A.B. 24279, R–1 through R–4, be and hereby is approved; and

2. The outstanding approvals of Resolutions 021f (Special Conversion Rates), 021L (Special Rules for Fares Currency Adjustments), and O21LL (Special Rules for Currency Adjustments (Cargo Rates)) are subject to the following condition:

For U.S. dollar sales of foreign-originating fares, rates and charges in air transportation as defined by the Act, conversion into dollars of the published fares, rates and charges in the local currency of the country of transportation origination shall take place at the local banker's buying rate of exchange.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-10081 Filed 5-1-74;8:45 am]

PAN AMERICAN AIRWAYS, INC., ET AL.

[Dockets No. 26057; 26075; Order 74-4-149]

Schedule Adjustments and Capacity Limitation Agreements

APRIL 26, 1974.

In matter of Joint application of Pan American World Airways, Inc., Trans World Airlines, Inc., British Caledonian Airways, and British Overseas Airways Corporation for prior Board approval of agreements. Agreement CAB 24110–A1, 24141–A1, 24293.

By Order 73–11–34, November 8, 1973, the Board authorized United States and foreign-flag air carriers providing international scheduled air services to and from the United States to engage in discussions looking toward agreements on schedule adjustments, capacity limitations, and consolidation of operations in foreign air transportation.

Pursuant to that order, discussions have been held, inter alia, between the airlines of the United States and the United Kingdom which provide scheduled services between these two countries.[1] Further discussions to establish maximum capacity levels in certain U.S.-U.K. markets for the summer 1974 period have been held.[2] As a result of the latter discussions certain agreements on capacity limitations in several city-pair markets have been reached, and were filed with the Board on March 19, 1974. These include agreements among Pan American World Airways, Inc. (Pan American), Trans World Airways, Inc. (TWA), British Overseas Airways Corporation (BOAC), and British Caledonian Airways, Inc. (BCAL) regarding the New York-London market (Agreement CAB 24141–A1) and the Los Angeles-London market (Agreement CAB 24293), and an agreement between TWA and BOAC regarding the Chicago-London market (Agreement CAB 24110–A1). In this application, approval of the three agreements is requested.

The New York-London agreement (CAB 24141–A1) provides that Pan American will reduce its 1973 peak summer nonstop round trip weekly frequencies from twenty-eight, utilizing B–747 equipment, to twenty-one, substituting narrow-body B–707 equipment on seven of the latter frequencies. TWA's and BOAC's respective frequencies for the same period will also be reduced from twenty-eight to twenty-one through the deletion of seven of the previous fourteen narrow-body aircraft frequencies. BCAL's maximum scheduled frequencies will remain unchanged at seven, continuing to utilize only narrow-body aircraft.[3]

The Los Angeles-London agreement (CAB 24293) provides that Pan American and TWA will each reduce their respective 1973 peak summer nonstop weekly frequencies from seven to six, continuing to utilize wide-body aircraft. BOAC and BCAL both agree to establish a maximum scheduled nonstop frequency level of six weekly round trips with narrow-body aircraft.[4]

The Chicago-London agreement (CAB 24110–A1) provides that TWA and BOAC will each reduce by one frequency their respective 1973 peak summer nonstop weekly flights utilizing wide-body aircraft, from seven to six, during the period June 1 through September 14, 1974, and also reduce their 1973 frequencies by two flights during the shoulder periods April 28–May 31, and September 15–October 15, 1974.

All of the agreements provide that the carriers may operate extra sections for operational reasons or unusual demand. However, such extra sections operated by each carrier are to be limited in frequency during the period of the respective agreements. During the agreement periods extra section frequencies are to be limited to a maximum of five in any single week and a total of fifteen (for a period) in the New York–London market, to a maximum of three in any single week and a total of six in the Los Angeles-London market, and to a maximum of three and a total of nine in the Chicago-London market.[5]

[1] Agreements reached as a result of these discussions were approved by Order 73–12–109, December 28, 1973 (Chicago-London) until April 27, 1974; by Order 74–1–34, January 4, 1974 (New York-London) until April 27, 1974; and by Order 74–2–93, February 22, 1974 (Miami-London) until March 31, 1974. Also, an agreement was approved by Order 74–1–111, January 23, 1974 (Philadelphia-London) until April 27, 1974, and voluntarily terminated by the parties prior to its expiration.

[2] A transcript of the meeting has been filed with the Board in Docket 26057.

[3] However, BCAL also agrees to establish a maximum scheduled frequency level of four weekly round trips with B–707 equipment between New York and London via an indirect routing.

[4] This maximum frequency level represents an increase of three weekly frequencies for BOAC and of one weekly frequency for BCAL over the 1973 peak summer service. However, in regard to BOAC, it also represents a cutback of one weekly frequency from its IATA planned schedules for 1974.

[5] Such extra sections cannot be published, advertised or otherwise held out to the public.

By their terms, the agreements provide that the specified maximum round trip frequency levels per week in scheduled nonstop service would be implemented, subject to Board approval, on April 28, 1974 and extend through October 15, 1974. In the event of a cessation or curtailment of service by any of the parties resulting from a labor dispute or other cause beyond the control of that party, the limitations of the agreement will be suspended during the period of such cessation or curtailment.

In addition to seeking approval of the agreement, the air carriers request an exemption pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended, and all regulations promulgated in pursuance thereof, to the extent necessary, to permit implementation of the agreement without 10 days prior notice to the Postmaster General.

No comments regarding the agreements have been filed.

In support of their requests, the carriers state that the agreements provide for service reductions which are compelled by the shortage of fuel; that the Federal Energy Office has set the maximum potential supply of fuel available in the United States for international air services at 95 percent of 1972 levels; and that each of the four agreement carriers is experiencing shortages of fuel now and anticipates continued shortages through the 1974 summer/fall season provided for in this agreement.[6] Moreover, the British government has announced mandatory reductions of fuel consumption for international air services which have so far been on the order of 10 percent of consumption in the comparable 1973 months. The applicants state that the combined agreements provide for significant savings in fuel consumption;[7] for a better pattern of services for the traveling public than might result from uncoordinated cutbacks by insuring that each market will retain as much as is reasonably possible under the circumstances;[8] and for better adjustment of the reduced capacity levels to the needs of the traveling public.

Despite the recent lifting on March 18, 1974 of the Arab oil embargo, the problems of the fuel shortage will remain at least for several months. In order to meet the cutback levels, the carriers must make fuel-saving adjustments to their schedules. These agreements help insure that cutbacks necessitated by the fuel situation will be made in a manner which, under the circumstances, provides the best practicable service to the public.

The Board believes that reductions in capacity pursuant to carrier agreements, which are carefully monitored by the Board, will help to provide the public with optimum service. Such agreements can provide the means by which available capacity is operated under schedules that provide the public with the most convenient service practicable under the circumstances, and, in the Board's view, will best serve the public interest.[9]

Moreover, Pan American and TWA are faced with a serious financial crisis caused in great measure by increases in the cost of fuel. TWA reports a before tax loss for the first two months of 1974 on the Atlantic Division of $27.6 million, $14.5 million of which is attributed to increased fuel costs. Pan American estimates a system-wide fuel increase in 1974 of $204 million. As a result of this financial crisis, these carriers have recently made application for federal financial assistance (Dockets 26560 and 26563) and other extraordinary relief (see Order 74–4–104). Thus these measures adopted by the carriers for purposes of fuel conservation, take on a new and added significance substantially affecting the economic stability of Pan American and TWA.

Based on the foregoing, it is concluded that the agreements with respect to the scheduled service between the United States and the United Kingdom should be approved subject to certain conditions. The service proposed in these agreements reasonably satisfies the needs of the traveling public as well as saving large amounts of fuel. It will also result in considerable financial savings for the carriers. The United States-United Kingdom market is characterized by a multiplicity of frequencies and use of wide-body aircraft which have experienced low load factors in the past. The maximum scheduled frequencies and reductions in equipment size provided by the agreements are estimated by the carriers to result generally in substantial load factor increases.[10] Moreover, the traveling public will continue to receive a satisfactory frequency of service.[11]

The Board has repeatedly stated that the transfer of freed capacity to nonagreement markets will not be tolerated.[12] Moreover, in accordance with our prior orders, and in order to effectively monitor the implementation of this agreement, jurisdiction will be retained, pursuant to section 412 of the Act, for the purpose of modifying, amending or revoking our approval of the agreements at any future date. Furthermore, each part to the agreements will be required separately to report within 15 days after the end of each month any schedule changes in the U.S.–U.K. markets during the term of the agreement (see Appendix).[13] Therefore the Board will be able to react as necessary or appropriate to changes in the fuel or financial problems of the airlines which may warrant any modification or reconsideration of these agreements.

Consideration has been given to the implication of the proposed agreement on Pan American's and TWA's employees. For the reasons detailed at length in Order 73–12–32, December 7, 1973, which are equally applicable herein, it is concluded that the public interest does not require the imposition of any labor protective conditions.

It is found that enforcement of section 405(b) of the Act, requiring 10 days' notice of schedule changes to the Postmaster General, would be an undue burden upon the air carrier applicants by reason of the limited extent of, and unusual circumstances affecting their op-

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[6] The carriers state that in practice, the 95 percent level established by the FEO is a maximum level of fuel availability which the carriers have not been able to enjoy. The restraints of the marketplace have been even harsher than the regulatory restraints in this area, since many suppliers have been unable or unwilling to provide the carriers with their full allotments, and since fuel suppliers vary significantly from one locale to another. We note that following the announcement of the lifting of the Arab oil embargo, the Administrator of the FEO stated that supplies of jet fuel for airlines could increase soon as a result of petroleum allocation changes presently under study. It nevertheless appears that a fuel shortage will continue for several months. Moreover, as the Energy Office has emphasized, an undue relaxation of fuel conservation efforts will inevitably produce fuel shortages even under anticipated future supplies.

[7] Pan American estimates that in the New York-London market it would save 579,739 gallons per week based upon the 1973 June–September peak summer period, or 385,787 gallons per week based upon IATA planned schedules for the 1974 corresponding months, during each week that the agreement is in effect. TWA estimates that its fuel savings in this market would amount to 191,163 gallons per week based on the 1973 June–September peak summer period, or 385,343 gallons per week based upon IATA planned schedules for the 1974 corresponding months. BOAC estimates its weekly fuel savings in this market at 230,328 gallons.

In the Chicago-London market TWA estimates its weekly fuel savings at 61,848 gallons during the June–September 1974 period, and at 123,695 gallons during the shoulder periods April 28 to May 31, 1974, and September 16, to October 15, 1974. BOAC estimates that it will save 57,121 gallons per week during the corresponding 1974 peak summer period and 114,242 gallons per week during the corresponding shoulder periods.

In the Los Angeles-London market, Pan American estimates its weekly fuel savings at 88,528 gallons, and TWA estimates a weekly fuel savings of 81,642 gallons. BOAC estimates that it would require 198,503 additional gallons per week, based upon its 1974 increase of three weekly frequencies over its 1973 operations for April 28, 1974 to October 15, 1974. However, based upon its IATA planned schedules of seven frequencies for the same period BOAC estimates it will save 47,379 gallons per week.

[8] The carriers estimate the peak period seat load factor on nonstop flights will increase as a result of the agreements as follows: New York-London from 53 percent to 70 percent; Los Angeles-London from 66 percent to 68 percent; Chicago-London from 51 percent to 60 percent.

[9] Order 74–1–111, January 23, 1974; Order 74–2–84, February 21, 1974; Order 74–4–4, April 2, 1974.

[10] See footnote 8, supra.

[11] Likewise, it does not appear that our action here will significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act, since the carriers will have to reduce their schedules in any event because of the fuel shortage. Our action herein merely helps to insure that such reductions will be accomplished in a rational manner.

[12] American Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc., Order 73–10–110; Order 74–2–84, *supra*; Order 74–4–4, *supra*.

[13] Such reports will enable the Board to analyze such schedule change(s) to insure that freed capacity is not being unnecessarily shifted to nonagreement markets.

erations and is not in the public interest, particularly in light of the reduced fuel supplies.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.13, it is found that the capacity reduction agreements discused herein are not adverse to the public interest nor in violation of the Act and should be approved subject to the conditions stated herein; and that the air carriers' request for an exemption from the provisions of section 405(b) of the Act and any regulations promulgated pursuant thereto, should be granted to the extent necessary to permit the filing of schedules on less than 10 days' prior notice to the Postmaster General and to the Board.

ACCORDINGLY, *It is ordered*, That:

1. Agreements CAB 24110–A1, 24141–A1 and 24293 be and they hereby are approved pursuant to section 412 of the Act, subject to the following conditions:

(a) Jurisdiction shall be retained in order to modify, amend or revoke approval at any time, or take whatever other action may be deemed appropriate;

(b) Schedule changes resulting pursuant to the agreement herein approved which occur at any of the controlled high-density airports [34] and which result in the vacating of slots allocated by the Airline Scheduling Committees of the respective airports pursuant to authority granted in Order 73–12–94, shall not be refilled by the carrier applicants, nor be reallocated to other carriers by the Airline Scheduling Committees, *Provided, however*, That slots originally vacated may be reinstated in the same agreement market by the vacating carrier to the extent such carrier vacates another flight (at the same airport) which operates plus or minus three hours of the flight to be reinstated; [35]

(c) Any schedule changes resulting pursuant to the agreement herein approved shall be reported to the Board within 15 days after the end of each month in accordance with the format of Appendix A; [36] copies of such reports shall be provided to all carriers requesting them;

2. Within 28 days hereafter, each carrier shall file with the Board's Docket Section, and shall provide to each carrier requesting one, a report containing the following additional data for the United States-United Kingdom markets herein:

a. Seats operated in 1972 and 1973 (April through October).

b. Passengers carried in 1972 and 1973.

c. Forecast passengers in 1974.

d. Projected seats in 1974.

e. Equipment type to be operated in the market.

f. Calculations in developing fuel savings for this market.

g. 1972/1973/1974 fuel use by month for the system of each carrier.[37]

h. 1972/1973/1974 fuel use by month in the agreement market.

3. Pan American and TWA be and they hereby are relieved from the provisions of section 405(b) of the Act, and from all regulations enacted in pursuance thereof, to the extent necessary to permit the implementation of the subject modifications without 10 days' prior notice to the Postmaster General;

4. Copies of the order shall be served on the Departments of Defense, Justice and Transportation; the U.S. Postal Service; the Port Authority of New York and New Jersey; City of Chicago, Department of Aviation; City of Los Angeles, Director of Aviation; and all certificated route and supplemental air carriers.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within seven days after the date of service of this order.

This order shall be effective immediately and filing of a petition for review shall not preclude such effectiveness.

This order shall be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,[38]
Secretary.

[FR Doc.74–10213 Filed 5–1–74;8:45 am]

[34] John F. Kennedy International Airport and O'Hare International Airport.

[35] Order 73–12–32, *supra;* Order 74–2–84, *supra;* 74–4–4, *supra.*

[36] As previously required of TWA and Pan American by Order 74–2–84, *supra*, the air carriers shall separately file with the Board's Docket Section a report stating, on a system-wide basis, average seat miles operated per gallon of fuel used, by type of equipment and shall maintain records, subject to inspection by the Board or by such other persons as the Board may authorize, detailing the fuel used each month, throughout its system, on a city-pair and flight-by-flight basis (including charter operations).

[37] As to BOAC and BCAL this data refers only to all U.S.-U.K. markets.

[38] Appendix A filed as part of the original document.

APPENDIX A

	Type of equipment				
	2-Engine	3-Engine narrow body	4-Engine narrow body	3-Engine wide body	4-Engine wide body
	Agreements market(s)				
Miles scheduled weekly in preceding general schedule filed with CAB.[1]					
Changes contained in this general schedule.					
Miles scheduled weekly in this general schedule.					
	Non-Agreement market(s)[2]				
Miles scheduled weekly in preceding general schedule filed with CAB.[1]					
Changes contained in this general schedule.					
Miles scheduled weekly in this general schedule.					

[1] This information may be omitted by foreign air carriers in their first monthly report.
[2] Applicable to U.S. air carriers and to foreign air carriers with respect to non-agreement U.S. markets.

COMMISSION ON HIGHWAY BEAUTIFICATION

SUSPENSION OF DEADLINES FOR CONSULTANTS

APRIL 29, 1974.

Notice is hereby given by the Commission on Highway Beautification that all deadlines set for May 1, 1974 for its consultants are suspended.

LEO A. BYRNES,
Staff Director and Counsel.

[FR Doc.74–10015 Filed 5–1–74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PORTUGAL

Entry or Withdrawal From Warehouse for Consumption

APRIL 29, 1974.

On March 21, 1974, the Governments of the United States and Portugal exchanged notes further amending the comprehensive Bilateral Cotton Textile Agreement of November 17, 1970. Among the provisions of the agreement, as amended, is one establishing a specific limit for Categories 46 and 47 combined for the agreement year which began on January 1, 1974.

Accordingly, there is published below a letter of April 29, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that the amounts of cotton textile products in Category 46/47 produced or manufactured in Portugal which may be entered or withdrawn from warehouse for consumption in the United States during the twelve-month period which began on January 1, 1974 be limited to 89,805 dozen. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

APRIL 29, 1974.

DEAR MR. COMMISSIONER: This directive amends but does not cancel the directive issued to you on December 20, 1973 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textiles and cotton textile products produced or manufactured in Portugal.

The first paragraph of the directive of December 20, 1973 is hereby amended, effective as soon as possible, to include a level of restraint of 89,805 dozen for cotton textile products in Categories 46 and 47 combined for the twelve-month period which began on January 1, 1974. This level has not been adjusted to reflect any entries made on or after January 1, 1974.

In carrying out this directive, entries of cotton textile products in Category 46 produced or manufactured in Portugal which have been exported to the United States from Portugal prior to January 1, 1974, shall, to the extent of any unfilled balances, be charged against the level of restraint established for such goods during the period January 1, 1973 through December 31, 1973. In the event that the level of restraint for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

Cotton textile products in Category 47 produced or manufactured in Portugal and which have been exported to the United States prior to January 1, 1974, shall not be subject to this directive.

Cotton textile products in Category 47 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

The level of restraint set forth above is subject to adjustment pursuant to the provisions of the bilateral agreement of November 17, 1970, between the Governments of the United States and Portugal which provide, in part, that within the aggregate limit, the limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 25, 1974 (39 FR 3430).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Portugal and with respect to imports of cotton textiles and cotton textile products from Portugal have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74-10147 Filed 5-1-74;8:45 am]

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE CZECHOSLOVAK SOCIALIST REPUBLIC

Entry or Withdrawal From Warehouse for Consumption

APRIL 29, 1974.

On August 29, 1969, the United States Government concluded a comprehensive bilateral cotton textile agreement with the Government of the Czechoslovak Socialist Republic concerning exports of cotton textile products from the Czechoslovak Socialist Republic to the United States over a two-year period beginning on May 1, 1969. The bilateral agreement was extended for an additional two-year period beginning May 1, 1971 and has been further extended for four years beginning May 1, 1973. Among the provisions of the agreement, as extended, are those establishing an aggregate limit for the 64 categories and within the aggregate limit a specific limit on Category 26 (other than duck) for the agreement year beginning on May 1, 1974.

Accordingly, there is published below a letter of April 29, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textile products in Category 26 (other than duck) produced or manufactured in the Czechoslovak Socialist Republic which may be entered or withdrawn from warehouse for consumption in the United States for the twelve-month period beginning May 1, 1974 and extending through April 30, 1975, be limited to the designated level. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

APRIL 29, 1974.

DEAR MR. COMMISSIONER: Pursuant to the Bilateral Cotton Textile Agreement of August 29, 1969, as extended, between the Governments of the United States and the Czechoslovak Socialist Republic, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit effective May 1, 1974 and for the twelve-month period extending through April 30, 1975, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 26 (other than duck),[1] produced or manufactured in the Czechoslovak Socialist Republic, in excess of the level of restraint for the period of 1,276,281 square yards.

Cotton textile products in Category 26 (other than duck),[1] produced or manufactured in the Czechoslovak Socialist Republic and which have been exported prior to May 1, 1974, shall, to the extent of any unfilled balances, be charged against the level of restraint established for such goods during the period May 1, 1973 to April 30, 1974. In the event that the level of restraint established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

The level of restraint set forth above is subject to adjustment pursuant to the provisions of the bilateral agreement of August 29, 1969, as extended, between the Governments of the United States and the Czechoslovak Social Republic which provide, in part, that within the aggregate limit, the limitation on Category 26 (other than duck) [1] may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 25, 1974 (39 FR 3430).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Czechoslovak Socialist Republic and with respect to imports of cotton textile products from the Czechoslovak Socialist Republic have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74-10148 Filed 5-1-74;8:45 am]

[1] The T.S.U.S.A. Nos. for duck fabric not covered by this directive are:
320.--01 through 04, 06, 08
321.--01 through 04, 06, 08
322.--01 through 04, 06, 08
326.--01 through 04, 06, 08
327.--01 through 04, 06, 08
328.--01 through 04, 06, 08

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN COLOMBIA

Entry or Withdrawal From Warehouse for Consumption

Correction

In FR Doc. 74-9524 appearing on page 14537 of the issue for Wednesday, April 24, 1974, in the table which is included in the appended letter, the 4th, 6th, 7th, and 8th entries in the right-hand column, now reading "9/16", "22/26", "22/26", and "22/27", respectively, should read "16", "26", "26", and "27", respectively.

ENVIRONMENTAL PROTECTION AGENCY

[OPP-32000/50]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency published in

the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before July 1, 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 for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after this 60-day period.

APPLICATIONS RECEIVED

EPA File Symbol 34144-R. Anderson Water Engineering Co., 843 West Monroe Street, Chicago, Illinois, 60607. *Chemitrol Algaecide.* Active Ingredients: Poly[oxyethylene (dimethyliminio)ethylene (dimethyliminio)-ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1526-UOO. Arizona Agrochemical Company, P.O. Box 21537, Phoenix, Arizona 85036. *Agro-Chem Texaphene 6-E Methyl Parathion 3-E Emulsifiable.* Active Ingredients: Toxaphene 52.5%; Methyl Parathion (O,O-dimethyl O-p-nitrophenyl phosphorothioate) 26.3%; Xylene 15.2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 1526-479. Arizona Agrochemical Company, P.O. Box 21537, Phoenix, Arizona 85036. *Agro-Chem Brand Torbidan 28.* Active Ingredients: Toxaphene 66.6% Methyl Parathion (O,O-dimethyl O-p-nitrophenyl phosphorothioate) 16.8%; Xylene 11.6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10506-E. Boron Oil Company, 1882 Guildhall Building, Cleveland, Ohio 44115. *Boron Garden Lite Contains Oil of Citronella.* Active Ingredients: Charcoal Lighter Fluid 99.75%; Oil of Citronella 0.25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871-II. Farmcraft, Inc., 1800 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Sevin 10 Thiodan 3.* Active Ingredients: Carbaryl (1-Napthyl N-methylcarbamate) 10.0%; Endosulfan (Hexachloro - hexahydro - methano - 2,4,3 benzodioxathiepin) 3.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871-IT. Farmcraft, Inc., 8900 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Thiodan 3.* Active Ingredients: Hexachloro - hexahydro - methano-2,4,3 benzodioxathiepin (Endosulfan or Thiodan) 3.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871-OE. Farmcraft, Inc., 8900 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Phosdrin 2.* Active Ingredients: Phosdrin Alpha 2-carbomethoxy-1-methylvinyl dimethyl phosphate 1.2%; Related compounds 0.8%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871-OG. Farmcraft, Inc., 1800 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Monitor 2.5.* Active Ingredients: O,S-Dimethyl phosphoramidothioate 2.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871-ON. Farmcraft, Inc. 1800 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Malathion 5.* Active Ingredients: O,O-dimethyl-dithiophosphate of diethylmercaptosuccinate (Malathion) 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871-OL. Farmcraft, Inc., 8900 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Dust Phosdrin 2 Thuricide 216M.* Active Ingredients: Bacillus thuringiensis Berliner, potency of 480 International Units (at least 600 thousand viable spores) per milligram 0.096%; Phosdrin alpha 2-carbomethoxy-1-methylvinyl dimethyl phosphate 1.200%; Related compounds 0.800%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1871-OR. Farmcraft, Inc., 1800 SW Commercial Street, Tigard, Oregon 97223. *Farmcraft Malathion 5E.* Active Ingredients: Malathion O,O,-dimethyl dithiophosphate of diethyl mercaptosuccinate 57.0%; Xylene Range Aromatic Solvent 34.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 279-1449. FMC Corporation, Agricultural Chemical Division, 100 Niagara Street, Middleport, New York 14105. *Captan 10 Dust Fungicide.* Active Ingredients: Captan 10.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2269-RAT. Gold Kist Inc., P.O. Box 2210, Atlanta, Georgia 30301. *GK MP-M-T Spray.* Active Ingredients: Toxaphene 54.11%; Malathion 13.53%; O,O-dimethyl O-p-nitrophenyl thiophosphate 13.53%; Xylene 14.73%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2269-RAA. Gold Kist Inc., P.O. Box 2210, Atlanta, Georgia 30301. *Toxaphene Malathion ULV Insecticide for Cotton.* Active Ingredients: Toxaphene 56.3%; Malathion 14.1%; Xylene 28.9%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124-TIO. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 200.* Active Ingredients: Copper (from basic copper sulfate) expressed as metallic 14.9%. Method of support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124-TON. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 202.* Active Ingredients: Sulfur 44.5%; Copper (from basic copper sulfate) expressed as metallic 7.3%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124-TOR. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 210.* Active Ingredients: Sulfur 45.4%; Copper (from basic copper sulfate) expressed as metallic 7.4%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124-TOG. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 206.* Active Ingredients: Sulfur 43.6%; Copper (from basic copper sulfate) expressed as metallic 7.1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124-TOL. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 214.* Active Ingredients: Sulfur 44.5%; Copper (from basic copper sulfate) expressed as metallic 7.3%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124-TOU. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 204.* Active Ingredients: Copper (from basic copper sulfate) expressed as metallic 14.3%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124-TOE. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Spray Mix No. 208.* Active Ingredients: Copper (from basic copper sulfate) expressed as metallic 15.6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124-INL. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Diazinon AG 500 Insecticide.* Active Ingredients: O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 48.25%; Xylene 39.54%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 2124-INU. W. R. Grace & Co., Agricultural Chemicals, 100 North Main Street, Memphis, Tennessee 38101. *Naco Diazinon 4 EC Insecticide.* Active Ingredients: O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 47.33%; Aromatic petroleum derivative solvent 30.60%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31970-I. Haynes Chemical Company, P.O. Box 30, East Grand Forks, Minnesota 56721. *Super-Chem.* Active Ingredients: Maneb (Manganese ethylenebisdithiocarbamate) 44.6%; Copper 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 31970-T. Haynes Chemical Company, P.O. Box 30, East Grand Forks, Minnesota 56721. *Super Chem-Plus.* Active Ingredients: Maneb (Manganese ethylenebisdithiocarbamate) 44.6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5905-GAL Helena Chemical Company, Clark Tower, 5100 Poplar Avenue, Suite 2900, Memphis, Tennessee 38137.

Helena Brand Pro-Lin Weed Killer. Active Ingredients: Linuron 3-(3,4-dichlorophenyl)-1-Methoxy-1-Methlurea 9.67%; Propazine (2-chloro-4,6-bis (isopropyl-amino)-s-triazine 10.31%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5905-UNI. Helena Chemical Company, Clark Tower, 5100 Poplar Avenue, Suite 2900, Memphis, Tennessee 38137. *Helena Brand Parathion 8 Flowable Insecticide Concentrate.* Active Ingredients: Parathion 79.6%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 299-RIU. C. J. Martin, P.O. Box 1089, Nacogdoches, Texas 75961. *Martin's Lindane Concentrate.* Active Ingredients: Lindane (Gamma isomer of benzene hexachloride) 10.68%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7946-U. J. J. Mauget Co., P.O. Box 3422, Burbank, California 91504. *Fungisol.* Active Ingredients: Hydrolysed Benomyl Methyl 2-benzimidazole-carbamate 2.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 7946-L. J. J. Mauget Co., P.O. Box 3422, Burbank, California 91504. *Fungi-sol.* Active Ingredients: Benomyl lactate, 1-(butylcarbamoyl) 2-(methylamino)-benzimidozlium lactate 1.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021-RGRU. McLaughlin Gornley King Company, 8810 Tenth Avenue, North, Minneapolis, Minnesota 55427. *D-Trans Intermediate 1981.* Active Ingredients: D-trans Allethrin (allyl homolog of Cinerin I) 5.00%; Pyrethrins 5.60%; Piperonyl butoxide, technical 40.00%; N-octyl bicycloheptene dicarboximide 20.00%; Petroleum distillate 29.40%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021-RGRL. McLaughlin Gornley King Company, 8810 Tenth Avenue, North, Minneapolis, Minnesota 55427. *Pyrocide Fogging Concentrate 7219.* Active Ingredients: 2,2 dichlorovinyl dimethyl phosphate 0.46%; Other related compounds 0.04%; Pyrethrins 2.00%; Piperonyl butoxide, technical 4.00%; N-octyl bicycloheptene dicarboximide 4.00%; Petroleum distillate 89.50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021-RGNG. McLaughlin Gornley King Company, 8810 Tenth Avenue, North, Minneapolis, Minnesota 55427. *Pyrocide Aerosol Mix 7204.* Active Ingredients: Pyrethrins 7.8%; Piperonyl butoxide, technical 12.0%; N-octyl bicycloheptene dicarboximide 8.0%; Petroleum distillate 72.2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1021-RGNI. McLaughlin Gomley King Company, 8810 Tenth Aveue, North, Minneapolis, Minnesota 55427. *Pyrocide Aerosol Mix 7214.* Active Ingredients: Pyrethrins 1.67%; Piperonyl butoxide, technical 16.67%; Petroleum distillate 30.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1812-ERN. Parramore & Griffin, P.O. Box 188, Valdosta, Georgia 31601. *New Liquid Super 8.* Active Ingredients: Sulfur as S 69.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 359-399. Rhodia Inc., Chipma Division, P.O. Box 2009, New Brunswick, New Jersey 08903. *Sled-A-Leaf "L".* Active Ingredients: Sodium Chlorate ($NaClO^3$) 18.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 707-REE. Rohm and Haas, Independence Mall West, Philadelphia, Pennsylvania 19105. *Stam F-32 Post-Emergence Grass and Weed Killer.* Active Ingredients 3',4'-Dichloropropionanilide 25%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 538-RRG. O. M. Scott & Sons Co., Marysville, Ohio 43040. *(Scotts) ProTurf Nematocide.* Active Ingredients: Ethoprop (O-ethyl-S,S-dipropyl-phosphorodithioate) 5.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 538-RRU. O. M. Scott & Sons Co., Marysville, Ohio 43040. *(Scotts) Proturf 101V Broad Spectrum Fungicide.* Active Ingredients: Chlorothalonil (Tetraoloisophthalonitrile) 9.50%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: April 24, 1974.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.74-9854 Filed 5-1-74;8:45 am]

ALTERNATIVE WASTE TREATMENT MANAGEMENT TECHNIQUES AND SYSTEMS

Extension of Time for Comments

Pursuant to section 304(d)(2) of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), the Environmental Protection Agency (EPA) gave notice on March 25, 1974 (39 FR 11135) of the availability of a report entitled "Alternative Waste Management Techniques for Best Practicable Waste Treatment".

Since a larger number of requests for the document were received than originally anticipated, response to some requests is being delayed until more copies can be printed. Therefore, the last sentence of the March 15, 1974 notice (39 FR 11135), which reads "Comments may be submitted on or before May 9, 1974" is hereby revised to read "Comments may be submitted on or before June 10, 1974."

Dated: April 26, 1974.

JAMES L. AGEE,
Acting Assistant Administrator for Water and Hazardous Materials.

[FR Doc.74-10110 Filed 5-1-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Supplement No. 5]

CANADA-U.S.A. TV AGREEMENT OF 1952 (TIAS-2594)

Amendment of Table A

APRIL 25, 1974.

(Supplement to the table of Canadian television channel allocations within 250 miles of the Canada-U.S.A. border, dated March 21, 1973, as revised to January 20, 1973).

This supplement corrects Supplement No. 3, dated September 20, 1973, to show a correct mileage of 190 miles rather than 170 miles appearing in the footnote for the deleted channel.

Supplement No. 3 is corrected to read as follows:

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canadian-U.S.A. Television Agreement has been amended as follows:

City and province	Channel No.	
	Delete	Add
Brandon, Manitoba	2-[1]	2-[2]

[1] Brandon site to be located no less than 190 miles from co-channel allocation at Grand Forks, N.Dak.

[2] Brandon site to be located no less than 170 miles from co-channel assignment at Grand Forks, N.Dak., with site coordinates 48°08'24" N., 97°59'28" W., and limited to 100 kilowatts maximum ERP and 1,000 feet EHAAT, or the equivalent, in the general direction of Grand Forks, N.Dak.

Further amendments to Table A will be issued as public notices in the form of numbered supplements or recapitulated lists.

Copies of the basic Table of Allocations may be obtained from ABS Duplicators, Inc., 1732 Eye St., Washington, D.C. 20006, telephone (202) 298-5537.

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc.74-10059 Filed 5-1-74;8:45 am]

FEDERAL MARITIME COMMISSION

[Docket No. 74-16]

U.S. AND CANADIAN CROSS-BORDER TRAFFIC

Notice of Intent To Waive Statutory Requirements

Pursuant to section 35 of the Shipping Act, 1916, (46 U.S.C. 833a), notice is hereby given that the Federal Maritime Commission is considering exempting certain types of freight traffic subject to its jurisdiction from the tariff filing requirements of section 18(b) of said Act to the extent specified herein.

Agreement No. 10090, a cooperative working arrangement among five U.S. Conferences and four Canadian Conferences serving the Canadian and U.S. East Coast-Europe trades, is presently before this Commission for approval pursuant to section 15 of the Shipping Act, 1916, (published at Vol. 38 FR No. 199, p. 28719). This Agreement provides, inter alia, that the members of the U.S. Conferences will apply the rates, terms and conditions of the Canadian Conferences on cargo originating in or destined to Canada which moves through U.S. ports and that the members of the Canadian Conferences will apply the rates, terms and conditions of the U.S. Conferences on cargo originating in or destined to the U.S. east of the 76th meridian which moves through Canadian ports. Pursuant to section 18(b) of the Shipping Act, 1916, rates on both types of traffic would have to be filed with this Commission subject to appropriate statutory notice. However, in consideration of the fact

that it might be extremely difficult, if not impossible, for the carriers engaging in such cross-border traffic to conform to the terms of Agreement No. 10090 and also meet the statutory requirements of section 18(b), we are considering exempting them from those requirements.

If the Commission decides to approve Agreement No. 10090, it intends to consider whether compliance with section 18(b) is necessary in the above described circumstances to fulfill any valid regulatory purpose and whether waiver of the filing requirements will or will not substantially impair effective regulation by the Commission, be unjustly discriminatory, or be dertimental to commerce.

Comments with reference to this matter including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 on or before May 13, 1974.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-10009 Filed 5-1-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI60-175, etc.]

CERTIFICATES OF CONVENIENCE AND NECESSITY; CERTAIN COMPANIES

Applications, Abandonment of Service and Petitions To Amend [1]

APRIL 25, 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 May 22, 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
CI60-175..... C 4-11-74	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	El Paso Natural Gas Co., Basin Dakota Field, Rio Arriba County, N. Mex.	[1] 24.98	15.025
CI61-1461..... E 4-8-74	Odessa Natural Corp. (Operator) et al. (successor to El Paso Products Co.), P.O. Box 3986, Odessa, Tex. 79760.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., East Rock Springs Field, Sweetwater County, Wyo.	[1] 15.0	14.65
CI66-890..... D 4-12-74	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	Texas Eastern Transmission Corp., Rayne Field, Acadia Parish, La.	(2)	.....
CI70-225..... E 4-8-74	American Petrofina Co. of Texas (Operator) et al. (successor to River Corp.), P.O. Box 2159, Dallas, Tex. 75221.	Panhandle Eastern Pipe Line Co., Aledo Field, Custer and Dewey Counties, Okla.	[1] 18.605	14.65
CI70-249..... E 4-8-74	do.....	Panhandle Eastern Pipe Line Co., Aledo Field, Shallow formation, Custer and Dewey Counties, Okla.	[1] 22.7614	14.65
CI73-46..... C 4-11-74	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., Blanco Pictured Cliffs and Undesignated Fruitland Fields, San Juan County, N. Mex.	[3] 28.5	15.025
CI74-543..... (G-18828) B 3-29-74	Smith, Fankhauser, Voight & York, P.O. Box 1873, Corpus Christi, Tex. 78403.	South Texas Natural Gas Gathering Co., Donna Field, Hidalgo County, Tex.	Nonproductive.	
CI74-553..... (CI68-152) B 4-4-74	Devon Corp., 3300 Liberty Tower, Oklahoma City, Okla. 73102.	Columbia Gas Transmission Corp., Washington District, Kanawha County, W. Va.	Depleted	.....
CI74-554..... (CI68-308) B 4-8-74	J. P. Owen et al., P.O. Box 51288, O.C.S., Lafayette, La. 70505.	United Gas Pipe Line Co., Nroth Kent Bayou, Terrebonne Parish, La.	Depleted	.....
CI74-562..... (CI70-1028) B 4-11-74	Texaco, Inc., P.O. Box 60252, New Orleans, La. 70160.	Texas Eastern Transmission Corp., Block 95, Main Pass Area, offshore Louisiana.	Depleted	.....
CI74-563..... (G-12709) B 4-10-74	Sun Oil Co., P.O. Box 2880, Dallas, Tex. 75221.	Coastal States Gas Producing Co., Hidalgo Field, Hidalgo County, Tex.	Depleted	.....
CI74-566..... A 4-12-74	Amoco Production Co., P.O. Box 50879, New Orleans, La. 70150.	Columbia Gas Transmission Corp., Lake Boudreaux Field, Terrebonne Parish, La.	[1] 53.7	15.025
CI74-567..... A 4-12-74	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112.	Natural Gas Pipeline Co. of America, Block 172 Field, West Cameron Area, offshore Louisiana.	[4] 50.0	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] Subject to upward and downward Btu adjustment.
[2] Acreage has become nonproductive or never was productive of gas.
[3] Applicant is willing to accept a certificate at an initial price of 24 cents per M ft³, subject to upward and downward Btu adjustment; however, the contract price is 28.5 cents per M ft³, subject to upward and downward Btu adjustment.
[4] Applicant is willing to accept a certificate at an initial rate of 26 cents per M ft³, subject to upward and downward Btu adjustment; however, the contract price is 50 cents per M ft³, subject to upward and downward Btu adjustment.

[FR Doc.74-9970 Filed 5-1-74;8:45 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

FEDERAL RESERVE SYSTEM

AMERICAN HERITAGE SHARES, INC.

Formation of Bank Holding Company

American Heritage Shares, Inc., East Lansing, Michigan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 93.69 per cent of the voting shares of State Bank of Michigan, Coopersville, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 20, 1974.

Board of Governors of the Federal Reserve System, April 24, 1974.

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

[FR Doc.74-10021 Filed 5-1-74;8:45 am]

BARCLAYS BANK OF NEW YORK

Order Approving Application for Merger of Banks

Barclays Bank of New York, New York, New York ("Applicant"), a member

State bank of the Federal Reserve System, has applied for the approval of the Board of Governors of the Federal Reserve System pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) of the merger of that bank with First Westchester National Bank, New Rochelle, New York ("First Westchester Bank") under the charter and title of Applicant. As an incident to the merger, the present offices of First Westchester Bank would become branches of the resulting bank.

As required by the Act, notice of the proposed merger, in the form approved by the Board, has been published, and reports on competitive factors have been requested from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. The Board has considered this application and all comments and views in light of the factors set forth in the Act.

Applicant is a subsidiary of Barclays Bank International Limited, London, England ("BBIL"), which in turn is a subsidiary of Barclays Bank Limited, London, England ("BBL"). BBL, with total assets of approximately $24 billion as of December 31, 1972, is the seventh largest commercial bank in the Western World. BBIL has total assets of about $9 billion. Both BBL and BBIL are registered bank holding companies through their control of Applicant and of Barclays Bank of California (assets of $249 million).

Applicant, with deposits of $48.5 million as of December 31, 1973, is the 70th largest of 112 banking organizations located in the Metropolitan New York banking market[1] and controls less than 0.1 percentage point of the market's total deposits.[2] Applicant is engaged primarily in wholesale banking services on local, national and international levels, but also provides some retail banking services through three branches in the market.[3] Barclays Bank International also maintains two branches in New York City which provide primarily international banking services. These offices hold approximately $159 million in deposits.

First Westchester Bank, which is also located in the Metropolitan New York banking market, holds deposits of approximately $178 million (as of December 31, 1973), representing 0.2 percent of the total deposits in commercial banks in the market and thereby ranks as the thirty-third largest banking organization therein. The resulting bank would rank twenty-eighth in the market and hold approximately 0.3 percent of market deposits. Due to the contrast between Applicant's banking business and First Westchester Bank's banking business it does not appear that any significant existing competition would be eliminated upon consummation of this proposal.

Applicant is engaged predominantly in international wholesale operations, whereas First Westchester is essentially a local institution serving consumers and businesses in the areas surrounding its 18 offices in Westchester County. Although Applicant, with financial assistance from its parent companies, could expand its retail operations and establish additional offices in Westchester County, the amount of additional future competition would not be significant in the context of the Metropolitan New York market. Applicant presently competes in the market with many major domestic banking organizations, including several that are comparable in size to BBL and have extensive international operations. The substantial managerial and financial resources of BBL, First Westchester's new parent organization, in combination with the branch network and retail expertise of First Westchester Bank, should provide additional competition to the major domestic organizations operating in the market. Accordingly, it is concluded that consummation of the proposed merger would not have any significant adverse effect on existing or potential competition in any relevant area.

The financial and managerial resources of Applicant and First Westchester Bank are satisfactory, and the prospects for the resulting bank are favorable. Consequently, banking factors are consistent with approval of the application.

Applicant intends to increase interest rates on four year certificates of deposit to more competitive levels, to introduce daily compounding of interest on time and savings deposits, to implement a lower schedule of checking account service charges at First Westchester Bank's offices, and to offer travelers checks without a service charge. In addition, Applicant would offer international banking services at First Westchester Bank's offices. Thus, convenience and needs factors lend slight weight toward approval of the application. It is the Board's judgment that consummation of the proposal would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors of the Federal Reserve System,[4] effective April 24, 1974.

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

[FR Doc.74-10016 Filed 5-1-74;8:45 am]

[1] The Metropolitan New York market is defined as the five boroughs of New York City, Nassau, Westchester, Putnam, and Rockland counties, a portion of Suffolk County in New York, portions of Bergen and Hudson Counties in New Jersey, and a portion of Fairfield County in Connecticut.

[2] Unless otherwise noted, all banking data are as of June 30, 1972.

[3] The establishment of an additional branch in Manhattan has been approved.

[4] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher, Holland, and Wallich. Absent and not voting: Chairman Burns.

COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank

Commerce Bancshares, Inc., Kansas City, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire more than 80 percent of the voting shares of Farmers and Merchants Bank, Bolivar, Missouri ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and the views of Grandview Bank & Trust Company, Grandview, Missouri, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the third largest bank holding company and banking organization in Missouri, controls 26 subsidiary banks with aggregate deposits of approximately $1 billion, representing 7.7 percent of the total commercial bank deposits in Missouri.[1] Acquisition of Bank would increase Applicant's share of State deposits by the addition of .10 percent and would not result in a significant increase in the concentration of banking resources in the State.

Bank (deposits of $14.0 million) is the second largest of five banks in Polk County (which approximates the relevant banking market), and controls almost 29 percent of the total deposits in commercial banks in the market. The largest bank in the market controls almost 40 percent of the market deposits, and Applicant's acquisition of Bank would not result in Applicant's gaining a dominant share of the market's banking resources.

Applicant's subsidiary bank closest to Bank is located in Willard, Missouri, approximately 24 miles south of Bolivar, and there is no meaningful present competition between any of Applicant's subsidiary banks and Bank. The town of Bolivar is the only town in Polk County that has experienced rapid growth in the past decade. This growth is expected to continue, and may increase competition between Bank and Applicant's subsidiary banks located in the Springfield-Willard area. This possible future competition is not regarded as significant. De novo entry into the Polk County market is regarded as relatively unlikely due to the low population and rural orientation of Polk County. Nor does it appear that "foothold" entry into the market is an attractive alternative. The Board concludes that competitive considerations are consistent with approval of the application.

In its consideration of this application, the Board has examined the covenant not to compete which was executed in con-

[1] All banking data are as of June 30, 1973, and reflect holding company formations and acquisitions approved through January 31, 1974.

nection with the proposal, and considered the question of whether such a covenant is contrary to the standards respecting competition and the public interest which the Board is required to consider under the Banking Holding Company Act. The Board finds that the provisions of this covenant are consistent with such standards, and that its presence in the record does not require denial of the application.

The financial and managerial resources and future prospects of Applicant are regarded as satisfactory; those of Bank are also regarded as satisfactory, particularly in view of Applicant's commitment to increase Bank's capital account, which has not kept pace with Bank's deposit growth, upon consummation of the acquisition. Accordingly, considerations relating to the banking factors lend some weight toward approval of the application. Although the major banking needs of the residents in the area are being adequately served at the present time, the proposed affiliation is likely to result in the provision of some services which cannot presently be profitably provided by banks of the size prevailing in the area, such as trust services. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[2] effective April 24, 1974.

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

[FR Doc.74-10024 Filed 5-1-74;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Authorization for Domestic Open Market Operations

In accordance with § 271.5 of its rules regarding availability of information, notice is given that on January 4, 1974, paragraph 1(a) of the Committee's authorization for domestic open market operations was amended to increase from $2 billion to $3 billion the limit on changes between Committee meetings in System Account holdings of U.S. Government and Federal agency securities, effective immediately, for the period ending with the close of business on January 22, 1974.

NOTE—For paragraph 1(a) of the directive see 36 FR 22697.

By order of the Federal Open Market Committee, April 25, 1974.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.74-10019 Filed 5-1-74;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Authorization for System Foreign Currency Operations

In accordance with § 271.5 of its rules regarding availability of information there is set forth below paragraph 2 of the Committee's Authorization for Foreign Currency Operations in the form that became effective February 1, 1974.

The Federal Open Market Committee directs the Federal Reserve Bank of New York to maintain reciprocal currency arrangements ("swap" arrangements) for the System Open Market Account for periods up to a maximum of 12 months with the following foreign banks, which are among those designated by the Board of Governors of the Federal Reserve System under § 214.5 of Regulation N, Relations with Foreign Banks and Bankers, and with the approval of the Committee to renew such arrangements on maturity:

Foreign bank	*Amount of arrangement (millions of dollars equivalent)*
Austrian National Bank	250
National Bank of Belgium	1,000
Bank of Canada	2,000
National Bank of Denmark	250
Bank of England	2,000
Bank of France	2,000
German Federal Bank	2,000
Bank of Italy	3,000
Bank of Japan	2,000
Bank of Mexico	180
Netherlands Bank	500
Bank of Norway	250
Bank of Sweden	300
Swiss National Bank	1,400
Bank for International Settlements:	
Dollars against Swiss francs	600
Dollars against other European currencies	1,250

By order of the Federal Open Market Committee, April 25, 1974.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.74-10014 Filed 5-1-74;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of January 21-22, 1974

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on January 21-22, 1974.[1]

The information reviewed at this meeting indicates that growth in real output of goods and services was slow in the fourth quarter of 1973, in part because of the fuel situation. Prices continued to rise sharply in December, reflecting additional increases for petroleum products and widespread advances among other goods and services. A further weakening in activity and sharp rise in prices appear to be in prospect for early 1974. In December nonfarm payroll employment changed little, and the unemployment rate increased further. Wage rates have continued to rise substantially in recent months, although not so sharply as prices.

Major foreign currencies have depreciated further against the dollar since mid-December, and some foreign monetary authorities have continued to sell dollars in exchange markets. Steep price increases imposed by oil-producing countries have heightened fears of economic disruption in many countries and of large and erratic international flows of funds.

The narrowly defined money stock increased substantially in the last 2 months of 1973, partly reflecting increased foreign deposits, but it has changed little on balance over recent weeks. Net inflows of consumer-type time deposits remained sizable at both banks and nonbank thrift institutions. Bank credit expansion, which was moderate over the closing months of 1973, has accelerated in recent weeks as banks have stepped up issuance of large-denomination CD's. Since mid-December, interest rate movements have been mixed; yields on most long-term securities and on Treasury bills have risen on balance, while some private short-term rates have declined.

(20 U.S.C. 1301, 1302(c), 1303)

(n) The application shall include suitable procedures to assure that Federal funds made available for the project will not be commingled with State or local funds.

(20 U.S.C. 1303(b)(1)(C))

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to resisting inflationary pressures, cushioning the effects on production and employment growing out of the oil shortage, and maintaining equilibrium in the country's balance of payments.

To implement this policy, while taking account of the forthcoming Treasury financing and of international and domestic financial market developments, the Committee seeks to achieve bank reserve and money market conditions consistent with moderate growth in monetary aggregates over the months ahead.

By order of the Federal Open Market Committee, April 25, 1974.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.74-10018 Filed 5-1-74;8:45 am]

L.W.J.S. CORP.

Formation of Bank Holding Company

L.W.J.S. Corporation, Gower, Missouri, has applied for the Board's ap-

[2] Voting for this action: Governors Sheehan, Bucher, Holland and Wallich. Voting against this action: Vice Chairman Mitchell and Governor Brimmer. Absent and not voting: Chairman Burns. Dissenting Statement of Governors Mitchell and Brimmer filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City.

[1] The Record of Policy Actions of the Committee for the meeting of January 21-22, 1974, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

proval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of The Farmers Bank of Gower, Gower, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the Office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 20, 1974.

Board of Governors of the Federal Reserve System, April 24, 1974.

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

[FR Doc.74-10022 Filed 5-1-74;8:45 am]

MOUNTAIN FINANCIAL SERVICES, INC.

Formation of Bank Holding Company

Mountain Financial Services, Inc., Denver, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of all of the voting shares of Northwest State Bank, Arvada, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the Office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 21, 1974.

Board of Governors of the Federal Reserve System, April 25, 1974.

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

[FR Doc.74-10025 Filed 5-1-74;8:45 am]

SOUTHLAND BANCORPORATION

Formation of Bank Holding Company

Southland Bancorporation, Mobile, Alabama, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of all of the voting shares of the successor by merger to (1) The Merchants National Bank of Mobile, Mobile, Alabama; (2) City National Bank of Birmingham, Birmingham, Alabama; and (3) First National Bank of Fairhope, Fairhope, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than May 23, 1974.

Board of Governors of the Federal Reserve System, April 25, 1974.

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

[FR Doc.74-10017 Filed 5-1-74;8:45 am]

TENNESSEE VALLEY BANCORP, INC.

Acquisition of Bank

Tennessee Valley Bancorp, Inc., Nashville, Tennessee, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of the successor by merger to The Union Bank, McEwen, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than May 22, 1974.

Board of Governors of the Federal Reserve System, April 24, 1974.

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

[FR Doc.74-10023 Filed 5-1-74;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

APPLICATIONS FOR ELECTRIC FACE EQUIPMENT STANDARD

Notice of Opportunity for Public Hearing

Applications for Initial Permits for Noncompliance with the Electric Face Equipment Standard have been received for items of equipment in the underground coal mines listed below.

ICP Docket No. 4453-000, L. PARTIN COAL COMPANY, L Partin No. 5 Mine, Mine ID No. 15 02352 0, Gilley, Kentucky 41818.

In accordance with the provisions of section 305(a)(2) (30 U.S.C. 865(a)(2)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., P.L. 91-173), notice is hereby given that requests for public hearing as to an application for an initial permit may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

APRIL 25, 1974.

[FR Doc.74-10013 Filed 5-1-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR NEUROBIOLOGY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Neurobiology to be held at 9 a.m. on May 30 and 31, 1974, in Room 338 at 1800 G Street, NW., Washington, D.C. 20550.

The purpose of the Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects. The agenda will be devoted to the review and evaluation of research proposals.

This meeting is concerned with matters which are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

Individuals requiring further information about this Panel may contact Dr. James H. Brown, Program Director, Neurobiology Program, Room 333, 1800 G Street, NW., Washington, D.C. 20550.

T. E. JENKINS,
Assistant Director
for Administration.

APRIL 30, 1974.

[FR Doc.74-10064 Filed 5-1-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

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 April 29, 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

Health Resources Administration: Impact of State Certificate of Need Laws on Health Care Costs and Utilization; Form HRABHSR 0423, Singletime, HRD/Lowry, Hospitals and Nursing Homes.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Policy Development and Research: Housing Assistance Supply Experiment Enrollment Application, Form, Annually, CVA/Sunderhauf, Households in two Sample SMSA's.

REVISIONS

DEPARTMENT OF DEFENSE

Department of the Air Force: Unsymmetrical Dimethyl Hydrazine (UDMH) Inventory, Management RCS Report, Form, Weekly, Sheftel, Contractors.

Defense Supply Agency: Surplus Property Bidders Application, Form DLSC 340, Occasionally, Sheftel, Individual Public Business Firms.

DEPARTMENT OF THE INTERIOR

Bureau of Mines: Coke and Coal-Chemical Materials, Form 6–1370–A, Annually, Raynsford, Producers of Coke and Coal-Chemical Materials.

DEPARTMENT OF LABOR

Bureau of Labor Statistics: Log of Occupational Injuries and Illnesses, Summary of Occupational Injuries and Illnesses, Form OSHA 100, 102, Occasionally, Ellett, All Employers in Private Industries.

DEPARTMENT OF STATE

Passport Application, Form DSP–11, Occasionally, Caywood, Applicants.

Tennessee Valley Authority: Annual Report on Distribution and Use of TVA Fertilizers, Form TVA 5486, Annually, Lowry, All Distributors Using TVA Fertilizers.

U.S. CIVIL SERVICE COMMISSION

Survey of Compensation Practices, Form, Singletime, EDLR/Raynsford, State and Local Government.

EXTENSIONS

FEDERAL HOME LOAN BANK BOARD

Lender's Schedule of Housing Opportunity Allowances, Form FHLBB, Monthly, Evinger (x).

FEDERAL RESERVE BOARD

Weekly Condition Report of Large Commercial Banks, Form FR 416, Weekly, Hulett (x).

Monthly Report on Maturities of Outstanding Negotiable Time Deposits in Denominations of $100,000 or More, Form FR 416b, Monthly, Hulett (x).

Weekly Report of Loans, Securities, and Total Assets of Member Banks, Form FR 644, Weekly, Hulett.

Interest Rates Charged on Selected Types of Loans Made During the Calendar Week Ended, Form FR 835, Weekly, Hulett.

Quarterly Supplement to the Monthly Survey on Interest Rates Charged on Selected Types of Loans, Form FR 835a, Quarterly, Hulett.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74–10222 Filed 5–1–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

DETERMINATION TO ESTABLISH AN ADVISORY COMMITTEE

After consultation with the Director of the Office of Management and Budget and with the concurrence of the members of the Commission, I, Ray Garrett, Jr., Chairman of the Securities and Exchange Commission, have determined that the establishment of an advisory committee under the Federal Advisory Committee Act to be designated as the Securities and Exchange Commission Advisory Committee on the Implementation of a Central Market System (the "Committee"), to be in the public interest in connection with the performance of duties imposed on the Commission under the federal securities laws, particularly the Securities Exchange Act of 1934.

The Committee is established to assist the Commission in implementing its proposals for a central market system and in insuring that such a system will meet the coming needs of this country's capital markets over the next few decades, consistent with the public interest and the protection of investors. Specifically, the Committee is to study and submit recommendations to the Commission on such matters as:

1. The appropriate structure for regulatory supervision of the central market system;
2. The nature and scope of the Commission's role during the process of implementing the Commission's plans for a central market system;
3. The ways in which a central market system should be structured in order effectively to meet the needs of our capital markets, the public interest, the protection of investors and the maintaining of fair and orderly markets for securities;
4. The needs and perspectives of the users of a central market system including issuers of and investors in securities, as well as securities professionals; and
5. The appropriate resolution of fundamental policy issues relating to the central market system's operations.

RAY GARRETT, Jr.,
Chairman, Securities and Exchange Commission.

[FR Doc.74–10075 Filed 5–1–74;8:45 am]

[File No. 500–1]

STRATTON GROUP, LTD.

Notice of Suspension of Trading

APRIL 24, 1974.

The common stock of Stratton Group, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Stratton Group, 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 April 25, 1974 through May 4, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–10076 Filed 5–1–74;8:45 am]

[File No. 500–1]

HOME-STAKE PRODUCTION CO.

Notice of Suspension of Trading

APRIL 24, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Home-Stake Production Company 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 April 25, 1974 through May 4, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–10077 Filed 5–1–74;8:45 am]

SELECTIVE SERVICE SYSTEM

[Temp. Instruction No. 631–15]

Registrants Processing Manual

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portion of that Manual is considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER.

BYRON V. PEPITONE,
Director.

APRIL 24, 1974.

Temporary Instruction No. 631–15.
Issued: April 19, 1974.
Subject: Correction to Table 631–14, RPM.
A revised Table No. 631–14 is being issued to correct a typographical error. (RSN 183 should have shown the date JUN 18, rather

than JUN 8.) The revised page, consisting of Table No. 631–13 (MAR 20, 1974) and Table No. 631–14 (Rev. APR 19, 1974), is attached, and will replace the page containing undated Tables Nos. 631–13 and 631–14 which shall be removed from the RPM and destroyed.

This Temporary Instruction will terminate upon completion of the required action.

TABLE NO. 631-13.—*1975 Random Sequence by Date*

MARCH 20, 1974.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	
1	070	191	026	328	214	253	119	079	204	038	042	115	1
2	134	116	053	152	161	309	192	082	028	143	187	211	2
3	041	155	260	212	343	180	290	360	051	084	158	071	3
4	077	341	292	223	289	361	318	295	151	193	251	209	4
5	002	018	228	023	348	345	031	148	024	145	063	043	5
6	349	128	007	030	156	121	195	317	337	311	019	166	6
7	087	219	165	227	331	320	062	131	108	321	353	138	7
8	215	333	056	200	169	020	225	262	271	132	078	113	8
9	229	067	340	286	198	307	270	033	061	171	083	300	9
10	173	244	344	306	177	240	354	099	302	358	236	196	10
11	352	312	250	032	012	027	176	081	029	093	105	350	11
12	058	185	139	179	117	254	086	085	040	259	118	197	12
13	060	356	006	256	111	313	231	268	124	010	297	201	13
14	189	235	042	048	346	129	243	220	222	364	296	308	14
15	109	315	102	213	338	135	178	127	245	172	068	146	15
16	246	003	103	325	234	130	122	096	281	052	182	072	16
17	101	357	046	330	106	175	363	080	342	224	059	034	17
18	055	159	261	335	016	183	351	241	120	258	210	194	18
19	208	301	257	282	045	263	066	094	150	319	293	097	19
20	199	076	136	075	057	322	280	305	233	324	174	092	20
21	044	188	049	283	232	203	147	294	160	073	036	255	21
22	269	133	267	206	247	011	025	279	275	009	157	336	22
23	355	114	226	141	209	326	167	329	291	274	098	091	23
24	264	090	008	190	248	239	013	199	004	272	022	153	24
25	362	207	237	170	314	202	218	327	273	287	017	163	25
26	164	242	265	277	249	288	140	088	123	069	037	181	26
27	323	252	162	125	112	005	039	265	359	285	316	238	27
28	278	001	035	216	089	298	221	021	347	142	284	332	28
29	184		054	365	014	230	304	154	276	144	095	310	29
30	303		015	065	137	186	217	107	110	149	104	266	30
31	168		334		074		339	064		126		050	31

1975 RANDOM SEQUENCE BY SEQUENCE NUMBER

TABLE NO. 631–14

[Rev. April 19, 1974]

001	Feb. 28	049	Mar. 21
002	Jan. 5	050	Dec. 31
003	Feb. 16	051	Sept. 3
004	Sept. 24	052	Oct. 16
005	June 27	053	Mar. 2
006	Mar. 13	054	Mar. 29
007	Mar. 6	055	Jan. 18
008	Mar. 24	056	Mar. 8
009	Oct. 22	057	May 20
010	Oct. 13	058	Jan. 12
011	June 22	059	Nov. 17
012	May 11	060	Jan. 13
013	July 24	061	Sept. 9
014	May 29	062	July 7
015	Mar. 30	063	Nov. 5
016	May 18	064	Aug. 31
017	Nov. 25	065	Apr. 30
018	Feb. 5	066	July 19
019	Nov. 6	067	Feb. 9
020	June 8	068	Nov. 15
021	Aug. 28	069	Oct. 26
022	Nov. 24	070	Jan. 1
023	Apr. 5	071	Dec. 3
024	Sept. 5	072	Dec. 16
025	July 22	073	Oct. 21
026	Mar. 1	074	May 31
027	June 11	075	Apr. 20
028	Sept. 2	076	Feb. 20
029	Sept. 11	077	Jan. 4
030	Apr. 6	078	Nov. 8
031	July 5	079	Aug. 1
032	Apr. 11	080	Aug. 17
033	Aug. 9	081	Aug. 11
034	Dec. 17	082	Aug. 2
035	Mar. 28	083	Nov. 9
036	Nov. 21	084	Oct. 3
037	Nov. 26	085	Aug. 12
038	Oct. 1	086	July 12
039	July 27	087	Jan. 7
040	Sept. 12	088	Aug. 26
041	Jan. 3	089	May 28
042	Mar. 14	090	Feb. 24
043	Dec. 5	091	Dec. 23
044	Jan. 21	092	Dec. 20
045	May 19	093	Oct. 11
046	Mar. 17	094	Aug. 19
047	Nov. 1	095	Nov. 29
048	Apr. 14	096	Aug. 16

1975 RANDOM SEQUENCE BY NUMBER—Con.

097	Dec. 19	148	Aug. 5
098	Nov. 23	149	Oct. 30
099	Aug. 10	150	Sept. 19
100	Jan. 20	151	Sept. 4
101	Jan. 17	152	Apr. 2
102	Mar. 15	153	Dec. 24
103	Mar. 16	154	Aug. 29
104	Nov. 30	155	Feb. 3
105	Nov. 11	156	May 6
106	May 17	157	Nov. 22
107	Aug. 30	158	Nov. 3
108	Sept. 7	159	Feb. 18
109	Jan. 15	160	Sept. 21
110	Sept. 30	161	May 2
111	May 13	162	Mar. 27
112	May 27	163	Dec. 25
113	Dec. 8	164	Jan. 26
114	Feb. 23	165	Mar. 7
115	Dec. 1	166	Dec. 6
116	Feb. 2	167	July 23
117	May 12	168	Jan. 31
118	Nov. 12	169	May 8
119	July 1	170	Apr. 25
120	Sept. 18	171	Oct. 9
121	June 6	172	Oct. 15
122	July 16	173	Jan. 10
123	Sept. 26	174	Nov. 20
124	Sept. 13	175	June 17
125	Apr. 27	176	July 11
126	Oct. 31	177	May 10
127	Aug. 15	178	July 15
128	Feb. 6	179	Apr. 12
129	June 14	180	June 3
130	June 16	181	Dec. 26
131	Aug. 7	182	Nov. 16
132	Oct. 8	183	June 18
133	Feb. 22	184	Jan. 29
134	Jan. 2	185	Feb. 12
135	June 15	186	June 30
136	Mar. 20	187	Nov. 2
137	May 30	188	Feb. 21
138	Dec. 7	189	Jan. 14
139	Mar. 12	190	Apr. 24
140	July 26	191	Feb. 1
141	Apr. 23	192	July 2
142	Oct. 28	193	Oct. 4
143	Oct. 2	194	Dec. 18
144	Oct. 29	195	July 6
145	Oct. 5	196	Dec. 10
146	Dec. 15	197	Dec. 12
147	July 21	198	May 9

1975 RANDOM SEQUENCE BY NUMBER—Con.

199	Aug. 24	283	Apr. 21
200	Apr. 8	284	Nov. 28
201	Dec. 13	285	Oct. 27
202	June 25	286	Apr. 9
203	June 21	287	Oct. 25
204	Sept. 1	288	June 26
205	Mar. 26	289	May 4
206	Apr. 22	290	July 3
207	Feb. 25	291	Sept. 23
208	Jan. 19	292	Mar. 4
209	Dec. 4	293	Nov. 19
210	Nov. 18	294	Aug. 21
211	Dec. 2	295	Aug. 4
212	Apr. 3	296	Nov. 14
213	Apr. 15	297	Nov. 13
214	May 1	298	June 28
215	Jan. 8	299	May 23
216	Apr. 28	300	Dec. 9
217	July 30	301	Feb. 19
218	July 25	302	Sept. 10
219	Feb. 7	303	Jan. 30
220	Aug. 14	304	July 29
221	July 28	305	Aug. 20
222	Sept. 14	306	Apr. 10
223	Apr. 4	307	June 9
224	Oct. 17	308	Dec. 14
225	July 8	309	June 2
226	Mar. 23	310	Dec. 29
227	Apr. 7	311	Oct. 6
228	Mar. 5	312	Feb. 11
229	Jan. 9	313	June 13
230	June 29	314	May 25
231	July 13	315	Feb. 15
232	May 21	316	Nov. 27
233	Sept. 20	317	Aug. 6
234	May 16	318	July 4
235	Feb. 14	319	Oct. 19
236	Nov. 10	320	June 7
237	Mar. 25	321	Oct. 7
238	Dec. 27	322	June 20
239	June 24	323	Jan. 27
240	June 10	324	Oct. 20
241	Aug. 18	325	Apr. 16
242	Feb. 26	326	June 23
243	July 14	227	Aug. 25
244	Feb. 10	328	Apr. 1
245	Sept. 15	329	Aug. 23
246	Jan. 16	330	Apr. 17
247	May 22	331	May 7
248	May 24	332	Dec. 28
249	May 26	333	Feb. 8
250	Mar. 11	334	Mar. 31
251	Nov. 4	335	Apr. 18
252	Feb. 27	336	Dec. 22
253	June 1	337	Sept. 6
254	June 12	338	May 15
255	Dec. 21	339	July 31
256	Apr. 13	340	Mar. 9
257	Mar. 19	341	Feb. 4
258	Oct. 18	342	Sept. 17
259	Oct. 12	343	May 3
260	Mar. 3	344	Mar. 10
261	Mar. 18	345	June 5
262	Aug. 8	346	May 14
263	June 19	347	Sept. 28
264	Jan. 24	348	May 5
265	Aug. 27	349	Jan. 6
266	Dec. 30	350	Dec. 11
267	Mar. 22	351	July 18
268	Aug. 13	352	Jan. 11
269	Jan. 22	353	Nov. 7
270	July 9	354	July 10
271	Sept. 8	355	Jan. 23
272	Oct. 24	356	Feb. 13
273	Sept. 25	357	Feb. 17
274	Oct. 23	358	Oct. 10
275	Sept. 22	359	Sept. 27
276	Sept. 29	360	Aug. 3
277	Apr. 26	361	June 4
278	Jan. 28	362	Jan. 25
279	Aug. 22	363	July 17
280	July 20	364	Oct. 14
281	Sept. 16	365	Apr. 29
282	Apr. 19		

[FR Doc.74-9909 Filed 5-1-14;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 08/08-5033]

FIRST VENTURE CAPITAL CORP.

Issuance of License To Operate as a Small Business Investment Company

On September 27, 1973, a notice was published in the FEDERAL REGISTER (38 FR 26983) stating that First Venture Capital Corporation, located at 46 South 700 East, Salt Lake City, Utah 84102, had filed an application with the Small Business Administration, pursuant to 13 CFR 107.102 (1974) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958 (the Act), as amended.

The period for comment ended October 12, 1973.

Notice is hereby given that, having considered the application and other pertinent information, SBA has issued license no. 08/08-5033 to First Venture Capital Corporation.

Dated: April 26, 1974.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-10006 Filed 5-1-74;8:45 am]

[Disaster Loan Area 1046; Amdt. 2]

TENNESSEE

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Tennessee as a major disaster area following tornadoes beginning on or about April 3, 1974, applications for disaster relief loans will be accepted by the Small Business Administration from tornado victims in the following counties: Bedford, Blount, Cannon, Carter, Cumberland, Davidson, Decatur, De Kalb, Dickson, Fentress, Hamblen, Hamilton, Henderson, Jackson, Johnson, Loudon, Marshall, Meigs, Monroe, Overton, Pickett, Polk, Rutherford, Scott, Trousdale, Warren, White, and Wilson and adjacent affected areas. (See 39 FR 13822 and 39 FR 14650)

Applications may be filed at the:

Small Business Administration, District Office, 1012 Parkway Towers, 404 James Robertson Parkway, Nashville, Tenn. 37219.

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Pub. L. 93-24.

Applications for disaster loans under this announcement must be filed not later than June 10, 1974.

Dated: April 11, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-10005 Filed 5-1-74;8:45 am]

[Disaster Loan Area 1046; Amdt. 3]

TENNESSEE

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Tennessee as a major disaster area following tornadoes beginning on or about April 3, 1974, applications for disaster relief loans will be accepted by the Small Business Administration from tornado victims in the following additional county: Hancock, and adjacent affected areas. (See 39 FR 13822, 39 FR 14650 and amendment 2 this issue).

Applications may be filed at the:

Small Business Administration
District Office
Suite 1012 Parkway Towers
404 James Robertson Parkway
Nashville, Tennessee 37219

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Pub. L. 93-24.

Applications for disaster loans under this announcement must be filed not later than June 18, 1974.

Dated: April 22, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-10004 Filed 5-1-74;8:45 am]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance

FEDERALLY ASSISTED CONSTRUCTION CONTRACTS

Ohio; Equal Employment Opportunity Requirements

Clarification of the Approval of Ohio EEO Requirements by Director of Office of Federal Contract Compliance and Opportunity for Appeal of Director's Determination to Assistant Secretary for Employment Standards.

As Director of the Office of Federal Contract Compliance, I have received a request for clarification of my approval of the Ohio EEO requirements published in the FEDERAL REGISTER on April 11, 1974 (39 FR 13210). Specifically, the request for clarification questions whether the scope of my approval includes the State's Proposed Implementing Rules and Regulations of the DPW Regulations on EEO.

In an effort to clarify the extent of my determination, the notice of approval published in the FEDERAL REGISTER on April 11, 1974, is amended to read as follows:

2. *Decision.* After careful review of the State of Ohio's requirements, in accordance with the provisions of 41 CFR 60-1.4 (b)(2), I have determined that the Governor's Executive Order of January 27, 1972, and Final Order of November 30, 1973, establishing new State EEO bid conditions for the standard metropolitan statistical areas of Akron, Cincinnati, Cleveland, Columbus, Dayton, Toledo and Youngstown, are not inconsistent with Executive Order 11246, as amended, and not incompatible with the implementation of Federal minority hiring and/or training plans in operation in the State of Ohio. Accordingly, I have approved these Ohio requirements, and the State may include them in federally assisted construction contracts. My approval does not now extend to the State's Proposed Implementing Rules and Regulations of the DPW Regulations on EEO inasmuch as they are only in the formative stage at this time, and thus were not considered.

Signed at Washington, D.C., this 29th day of April 1974.

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

[FR Doc.74-10154 Filed 5-1-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[NOTICE NO. 34]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

APRIL 26, 1974.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary Interstate Commerce Commission, Washington, D.C. 20423.

facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 730 (Sub-No. 363), filed March 21, 1974. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94604. Applicant's representative: Alfred G. Krebs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric, located at or near Godard, Kans., as an off route point in connection with carrier's authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Wichita, Kans., or Kansas City, Mo.

No. MC 2202 (Sub-No. 462), filed March 20, 1974. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William Slabaugh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), serving the warehouse site of Western Electric located at or near Martinsburg, W. Va. as an off-route point.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Baltimore, Md.

No. MC 2900 (Sub-No. 254), filed March 4, 1974. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, Fla. 32209. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) Between Baltimore, Md., and the junction of U.S. Highway 13 and Delaware Highway 404, serving the termini for the purpose of joinder only: From Baltimore over Maryland Highway 2 to junction U.S. Highway 50, thence over U.S. Highway 50 to junction Maryland Highway 404, thence over Maryland Highway 404 to the Maryland-Delaware State Boundary line, thence over Delaware Highway 404 to junction U.S. Highway 13, and return over the same route; (2) Between Charleston, W. Va., and junction of Interstate Highway 77 and U.S. Highway 30, serving the termini for the purpose of joinder only: From Charleston over Interstate Highway 77 to junction U.S. Highway 30, and return over the same route; (3) Between junction Interstate Highway 77 and U.S. Highway 30 and junction U.S. Highway 23 and U.S. Highway 25, serving the termini for the purpose of joinder only: From junction Interstate Highway 77 and U.S. Highway 30 over U.S. Highway 30 to junction U.S. Highway 250, thence over U.S. Highway 250 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction U.S. Highway 23, thence over U.S. Highway 23 to junction U.S. Highway 25, and return over the same route; (4) Between Charleston, W. Va., and junction U.S. Highway 70 and Interstate Highway 65, serving the junctions of Interstate Highway 64 and Interstate Highway 65 and the termini for the purpose of joinder only: From Charleston over Interstate Highway 64 to junction Interstate Highway 65, thence over Interstate Highway 65 to junction U.S. Highway 70, and return over the same route; and (5) Between Hazlehurst, Ga., and Macon, Ga., serving the termini for the purpose of joinder only: From Hazlehurst over U.S. Highway 23 to junction Georgia Highway 19, thence over Georgia Highway 19 to junction Interstate Highway 16, thence over Interstate Highway 16 to Macon, and return over the same route, in (1) through (5) above, as alternate routes for operating convenience only, serving no intermediate points, in connection with carrier's authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Jacksonville, Fla., or Washington, D.C.

No. MC 2900 (Sub-No. 256), filed March 18, 1974. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, 2050 Kings Road, Jacksonville, Fla. 32209. Applicant's representative: S. E. Somers, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving Upland, Alexandria, Hartford City, Dunkirk, New Castle, and Winchester, Ind., as off-route points in connection with carrier's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Muncie, or Indianapolis, Ind.

No. MC 18535 (Sub-No. 56), filed March 21, 1974. Applicant: HICKLIN MOTOR LINE, INC., Railroad Avenue, P.O. Box 377, St. Matthews, S.C. 29135. Applicant's representative: Lawrence M. Gressette, P.O. Box 346, St. Matthews, S.C. 29315. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips, wood shavings, sawdust, and bark*, from Orangeburg, S.C., and Elgin, S.C., to Augusta, Ga.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbia, or Charleston, S.C.

No. MC 25869 (Sub-No. 119), filed March 22, 1974. Applicant: NOLTE BROTHERS TRUCK LINE, INC., 6217 Gilmore Avenue, Omaha, Nebr. 68107. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from St. Louis, Mo., to Omaha, Nebr.

NOTE.—Applicant can provide all of the requested service by tacking separately issued grants of authority. It seeks here to eliminate the gateway now required at Churdan, Iowa, and points within 25 miles thereof. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 29120 (Sub-No. 178), filed March 18, 1974. Applicant: ALL-AMERICAN, INC., 900 West Delaware, Sioux Falls, S. Dak. 57101. Applicant's representative: Michael J. Ogborn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report

in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, chromes, skins, and commodities in bulk), from Sterling, Colo., to points in Illinois, Wisconsin, Michigan, Indiana, Ohio, Kentucky, and Missouri, restricted to traffic originating at the plantsites or warehouses of Sterling Colorado Beef Packers at or near Sterling, Colo., and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 29120 (Sub-No. 179), filed March 18, 1974. Applicant: ALL-AMERICAN, INC., 900 West Delaware, P.O. Box 769, Sioux Falls, S. Dak. 57101. Applicant's representative: Michael J. Ogborn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, chromes, skins, and commodities in bulk), from Denver, Colo., to points in Illinois, Wisconsin, Michigan, Indiana, Ohio, Kentucky, and Missouri, restricted to traffic originating at Denver, Colo. and destined to the named destination States.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 29910 (Sub-No. 143), filed March 22, 1974. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901. Applicant's representative: Thomas Harper, P.O. Box 43–Kelley Building, Fort Smith, Ark. 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric Company located at or near Goddard, Kans., as an off-route point in connection with applicant's operations at Wichita, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 30844 (Sub-No. 500), filed March 25, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, Iowa 50702. Applicant's representative: Paul Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except commodities in bulk) as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from Wichita, Kans., to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hamshire, New Jeresy, New York, Ohio, Pennsylvania, Vermont, Virginia, and West Virginia, restricted to shipments originating at the plant sites and facilities of Kansas Beef Industries and Cudahy Packing Co. at the above named origin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 41432 (Sub-No. 141), filed March 22, 1974. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, P.O. Box 10125, Dallas, Tex. 75207. Applicant's representative: W. P. Furrh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of PPG Industries, Inc., located at or near Wichita Falls, Tex., as an off-route point in connection with carrier's authorized regular route operations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex., or Fort Worth, Tex.

No. MC 45656 (Sub-No. 19), filed March 25, 1974. Applicant: ANDERSON TRUCK LINE, INC., 531 W. Harper Ave., Highway 321 South, P.O. Drawer 191, Lenoir, N.C. 28645. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Toccoa, Ga., to Lenoir, N.C.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 51146 (Sub-No. 370), filed March 22, 1974. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54304. Applicant's representative: Neil DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum beverage cans and can ends*, from the plantsite of Kaiser Aluminum and Chemical Corporation at Edison, N.J., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin, and Wyoming; and (2) *used empty pallets, skids, shrouds*, from the destination area noted in (1) above to the plant site of Kaiser Aluminum and Chemical Corporation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 52110 (Sub-No. 140), filed March 22, 1974. Applicant: BRADY MOTORFRATE, INC., P.O. Box No. 1000, Staunton, Va. 24401. Applicant's representative: Francis W. McInverny, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plant site of Minnetonka Labs, located at or near Chanhassen, Minn., as an off-route point in connection with carrier's regular route operations:

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. or Minneapolis-St. Paul, Minn.

No. MC–56553 (Sub-No. 26), filed March 22, 1974. Applicant: PULASKI HIGHWAY EXPRESS, INC., 640 Hamilton Street, Nashville, Tenn. 37203. Applicant's representative: A. O. Buck, 614 Hamilton Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between the plantsite of the Reynolds Aluminum Company, located at or near Sheffield, Ala., and Memphis, Tenn.: From Sheffield, Ala., over U.S. Highway 43 to junction Alabama Highway 20, thence over Alabama Highway 20 to the Alabama-Tennessee State line, thence over Tennessee Highway 69 to junction U.S. Highway 64, thence over U.S. Highway 64 to Memphis, and return over the same route, serving no intermediate points, restricted to service at Memphis, Tenn. to that portion of Memphis and its commercial zone, as defined by the Commission, lying wholly within Tennessee; and (2) Between the plantsite of Reynolds Aluminum Company, located at Sheffield, Ala., and junction U.S. Highway 43 and the Tennessee-Alabama State line: From Sheffield, Ala., over U.S. Highway 43 to junction U.S. Highway 43 and the Tennessee-Alabama State line, and return over the same route, serving no intermediate points.

NOTE.—Applicant states that the purpose of this application is to remove its restrictions in Sub-Nos. 16 and 20. If a hearing is deemed necessary, the applicant requests it be held at Nashville, Tenn., or Florence, Ala.

No. MC 60014 (Sub-No. 35), filed March 18, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: Edward J. Conto (same address as applicant). Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Bethlehem Steel Corporation, at Lackawanna, N.Y., to points in Illinois, Indiana, Ohio, Wisconsin, and the Lower Peninsula of Michigan.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 61440 (Sub-No. 140), filed March 25, 1974. Applicant: LEE WAY MOTOR FREIGHT, INC., 3000 West Reno, Oklahoma City, Okla. 73108. Applicant's representative: Richard H. Champlin, P.O. Box 82488, Oklahoma City, Okla. 73108. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric located at or near Goddard, Kans., as an off-route point in connection with applicant's regular route operations at Wichita, Kans.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Kansas City, Mo.

No. MC 61592 (Sub-No. 315), filed December 26, 1973. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, P.O. Box K, Bettendorf, Iowa 52722. Applicant's representative: E. A. DeVine (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from points in Oregon and Washington, to points in California.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Tacoma, Wash.

No. MC 69116 (Sub-No. 166), filed March 25, 1974. Applicant: SPECTOR FREIGHT SYSTEM, INC., 205 West Wacker Drive, Chicago, Ill.: 60606. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric Company, Inc., located at or near Goddard, Kans., as an off-route point in connection with applicant's regular-route operation to and from Wichita, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Washington, D.C.

No. MC 74321 (Sub-No. 96), filed March 15, 1974. Applicant: B. F. WALKER, INC., P.O. Box 17B, 1555 Tremont Place, Denver, Colo. 80217. Applicant's representative: Richard P. Kissinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, which by reason of size or weight require special handling or the use of special equipment and commodities which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (2) *Self propelled articles*, transported on trailers, and *related machinery, tools, parts and supplies* moving in connection therewith; (3) *Iron and steel and iron and steel articles;* (4) *Pipe*, other than iron and steel, together with fittings; and (5) *Construction materials*, between points in Colorado, on the one hand, and, on the other, points in Idaho, Utah, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Denver, Colo., or Salt Lake City, Utah.

No. MC 82841 (Sub-No. 144), filed March 25, 1974. Applicant: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Nucor Steel, Division of Nucor Corporation, located at or near Norfolk, Nebr., to points in Colorado, Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 85255 (Sub-No. 49), filed February 14, 1974. Applicant: PUGET SOUND TRUCK LINES, INC., P.O. Box 24526 (3720 Airport Way S.), Seattle, Wash. 98124. Applicant's representative: Clyde H. MacIver, 1001 Fourth Avenue, Suite 3712, Seattle, Wash. 98154. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), between Chehalis, Wash., and Olympia, Wash.: From Chehalis over Interstate Highway 5 to Olympia, and return over the same route, in connection with carrier's regular and irregular route operations between Portland, Oreg., and Blaine, Wash.

NOTE.—Applicant indicates that the purpose of this application is to eliminate an Aberdeen, Wash., gateway. If a hearing is deemed necessary, applicant does not specify location.

No. MC 95084 (Sub-No. 99), filed March 15, 1974. Applicant: HOVE TRUCK LINE, a Corporation, Stanhope, Iowa 50246. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery, equipment, and implements;* (2) *Loaders;* (3) *Attachments and accessories* for (1) and (2) above; and (4) *Parts*, for (1), (2), and (3) above, from Madison, S. Dak., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Kansas City, Mo.

No. MC 95540 (Sub-No. 897), filed March 4, 1974. Applicant: WATKINS MOTOR LINES, INC., 1940 Monroe Drive, P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products, cooked bakery goods*, not frozen, in cans and in cartons, in vehicles equipped with mechanical refrigeration, from Little Rock, Ark., to points in Alabama, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, South Carolina, South Dakota, Virginia, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 95540 (Sub-No. 898), filed March 25, 1974. Applicant: WATKINS MOTOR LINES, INC., 1940 Monroe Drive, P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, from Jacksonville (Morgan County), Ill., to points in Louisiana, Mississippi, Arkansas, Alabama, Georgia, Florida, North Carolina, South Carolina, and Tennessee, restricted to traffic originating at the plantsite of Anderson Clayton Foods, located at or near Jacksonville, Ill., and destined to the named destination points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 95876 (Sub-No. 149), filed March 25, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, hardboard, veneer, wood paneling, wallboard, and particle board, and materials, supplies and accessories*, used in connection therewith, from Oshkosh, Wis., to points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Pennsylvania, Ohio, Rhode Island, Virginia, Vermont, West Virginia, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 100449 (Sub-No. 46), filed March 25, 1974. Applicant: MALLINGER TRUCK LINE, INC., R.F.D. 4, Fort Dodge, Iowa 50501. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsites and storage facilities of Kitchens of Sara Lee, located at Chicago and Deerfield, Ill., to points in Kansas, Oklahoma, and Texas, restricted to traffic originating at the above origins.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 100666 (Sub-No. 277), filed March 15, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 3535 NW. 58th, 280 National Foundation Life Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from New Orleans, La., to points in Alabama, Arkansas, Mississippi, Missouri, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 104123 (Sub-No. 75), filed March 15, 1974. Applicant: JOHN SCHUTT, JR., INC., 4361 River Road, Tonawanda, N.Y. 14207. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry aluminum chiloride*, in bulk, in tank vehicles, (1) from Erie and Niagara Counties, N.Y., to points in North Dakota, South Dakota, Minnesota, Nebraska, Iowa, Kansas, Missouri, Oklahoma, Arkansas, Texas, and Louisiana; (2) from Brainards, N.J., and Elkton, Md., to Ashtabula, Ohio, Baltimore, Md., Institute, W. Va., West Elizabeth, Pa., Staten Island, N.Y., and points in North Dakota, South Dakota, Minnesota, Nebraska, Iowa, Kansas, Missouri, Oklahoma, Arkansas, Texas, and Louisiana; and (3) from LaPorte, Tex., to points in Ashtabula, Ohio, Baltimore, Md., Institute, W. Va., West Elizabeth, Pa., and Staten Island, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 105045 (Sub-No. 48), filed March 15, 1974. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, Ind. 47701. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heavy machinery and equipment*, (2) *heavy machinery and equipment parts* and (3) *tanks and tank components*, between points in Burlington County, N.J., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 106674 (Sub-No. 129), filed March 18, 1974. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Carl Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rock salt*, from Evansville, Ind., to points in Kentucky and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 107295 (Sub-No. 700), filed February 14, 1974. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings*, complete, knocked down, or in section, (2) *building sections and building panels*, (3) *parts and accessories*, used in the installation and completion (1) and (2) above, and (4) *metal prefabricated structural components and panels and accessories* used in the installation and completion thereof, from Jamestown, Ohio, to points in the United States (except Alaska, Arkansas, Illinois, Indiana, Iowa, Kentucky, Hawaii, Michigan, Missouri, Ohio, Tennessee, and Wisconsin).

Note.—Applicant can presently serve points in the territory sought insofar as the buildings involved in this application are concerned through various gateways based on authority in M.C. 107295 Parts A, B, and Sub-Nos. 5, 49, 86, 90, and 510. The purpose of this application in part is to eliminate various gateways. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 107403 (Sub-No. 894), filed March 25, 1974. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative; John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Gasoline and fuel oils*, in bulk, in tank vehicles, from Clermont, Ind., to points in Kentucky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107527 (Sub-No. 52), filed March 14, 1974. Applicant: POST TRANSPORTATION CO., a Corporation, P.O. Box 4827, Carson, Calif. 90745. Applicant's representative: R. Sherman Kirksey, 1970 E. 213th Street, Carson, Calif. 90745. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sulfur trioxide without stabilizer*, from Carson, Calif., to points in Seattle, Wash., under contract with Stauffer Chemical Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif.

No. MC 108053 (Sub-No. 126), filed March 14, 1974. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., P.O. Box 129, Fremont, Nebr. 68025. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Pana, Ill., Dubuque, Iowa, and St. Paul, Minn., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 109124 (Sub-No. 20), filed March 21, 1974. Applicant: SENTLE TRUCKING CORPORATION, 210 Alexis Road, Toledo, Ohio 43612. Applicant's representative: James M. Burtch, 100 E. Broad Street, Suite 1800, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products*, from Maple Grove, Ohio, to points in Pennsylvania (except Allegheny, Brown, Butler, Lawrence, and Mercer Counties), New York, Maryland, West Virginia, and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 110563 (Sub-No. 136), filed March 25, 1974. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, Ohio Building, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 W. Washington, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk, in tank vehicles), from the plantsites and warehouse facilities utilized by Beatrice Foods Co., located at or near Archbold, Ohio, to points in Pennsylvania, Maryland, Delaware, New Jersey, New York, Connecticut, Massachusetts, New Hampshire, Maine, Vermont, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Toledo, or Columbus, Ohio.

No. MC 110988 (Sub-No. 309), filed March 25, 1974. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, Wis. 54956. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt cake* in bulk, in hopper type vehicles, from Otsego, Mich., to points in St. Louis, Mo.-East St. Louis, Ill., commercial zones and to points in Iowa, Kentucky, Michigan, Minnesota, Missouri, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 112822 (Sub-No. 321), filed March 18, 1974. Applicant: BRAY LINES INCORPORATED, 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from Wynnewood, Okla., to points in Illinois, Indiana, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 113106 (Sub-No. 41), filed March 19, 1974. Applicant: BLUE DIAMOND COMPANY, a Corporation, 4401 E. Fairmount Avenue, Baltimore, Md. 21224. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers and closures* for containers, *and materials, supplies and equipment* used in the manufacture of glass containers (except commodities in bulk), and returned shipments of the above-specified commodities, (a) between Brockway, Pa., on the one hand, and, on the other, points in New York, New Jersey, Maryland (except Baltimore), and Virginia; (b) between Washington, Pa., on the one hand, and, on the other, points in New York and New Jersey; (c) between Freehold, N.J., on the one hand, and, on the other, points in New York and Pennsylvania; and (d) between Jersey City and Carteret, N.J., on the one hand, and, on the other, points in New York on and west of Interstate Highway 81, points in Pennsylvania on and west of Interstate 81 and 83, and points in Maryland, Delaware, Virginia, and the District of Columbia; and (2) *Plastic containers, and materials, supplies, and equipment*, used in the manufacture of plastic containers (except commodities in bulk), between Mt. Carmel, Pa., on the one hand, and, on the other, points in New York, New Jersey, Delaware, Maryland, Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113495 (Sub-No. 63), filed March 26, 1974. Applicant: GREGORY HEAVY HAULERS, INC., 51 Oldham Street, P.O. Box 60628, Nashville, Tenn. 37206. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles* weighing 15,000 pounds or more, *and related machinery, tools, parts, and supplies* moving in connection therewith, between points in Spotsylvania County, Va., on the one hand, and, on the other, points in that part of the United States in and east of Arkansas, Iowa, Louisiana, Minnesota, and Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 113908 (Sub-No. 310), filed March 22, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vinegar and vinegar stock*, in bulk, (a) from Kansas City, Mo., and Memphis, Tenn., to Terre Haute, Ind.; and (b) from Holland, Mich., to Memphis, Tenn.; and (2) *Neutral and distilled spirits and* alcohol, in bulk, from Lake Alfred, Fla., to Rogers, Ark., Kansas City, Mo., Charlotte, N.C., Memphis, Tenn., and Houston, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., Chicago, Ill., or Washington, D.C.

No. MC 113908 (Sub-No. 314), filed March 25, 1974. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid animal and poultry feed ingredients*, in bulk, from Cabool, Mo., to Wolcott, Kans., and Omaha, Nebr.; (2) *Vinegar and vinegar stock*, in bulk, from Nixa, Mo., to points in Wisconsin; and (3) *Neutral and distilled spirits and alcohol*, in bulk, from Owensboro, Ky. to Chicago, Ill., and Montgomery, Ala.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo., Chicago, Ill., or Washington, D.C.

No. MC 114004 (Sub-No. 141), filed March 20, 1974. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. 72209. Applicant's representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Steuben and Oneida Counties, N.Y., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 114273 (Sub-No. 170), filed March 18, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Building, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities utilized by Spencer Foods, Inc. at or near Schuyler and Fremont, Nebr., to points in Connecticut, Delaware, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at the above named origin.

NOTE. Common control may be involved. If a hearing is deemed necessary applicant requests it be held at Washington, D.C.

No. MC 114274 (Sub-No. 28), filed March 25, 1974. Applicant: VITALIS TRUCK LINES, INC., 137 NE. 48th Street Place, Des Moines, Iowa 50306. Applicant's representative: William H. Towle, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Section A and C of Appendix I to the *Report of Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Swift and Company, located at or near Des Moines, Marshalltown, Ames, Sioux City, and Glenwood, Iowa, to points in Tennessee, North Carolina, South Carolina, Georgia, and Florida, restricted to the transportation of traffic originating at the above-named origin points and destined to points in the above-named states.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 114457 (Sub-No. 189), filed March 22, 1974. Applicant: DART TRANSIT COMPANY, a Corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Bridgeport, Imlay City, and Memphis, Mich., to points in Ohio, Indiana, Kentucky, Illinois, Wisconsin, Iowa, Missouri, Minnesota, Kansas, Nebraska, South Dakota, and North Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Detroit, Mich.

No. MC 114632 (Sub-No. 70), filed March 8, 1974. Applicant: APPLE LINES, INC., 212 SW. Second, Madison, S. Dak. 57042. Applicant's representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsites and warehouse facilities utilized by the

Kitchens of Sara Lee, at Chicago and Deerfield, Ill., to points in Arkansas, Iowa, Kansas, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas, restricted to traffic originating and destined to the named points.

NOTE.—Applicant holds contract carrier authority in MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114632 (Sub-No. 72), filed March 25, 1974. Applicant: APPLE LINES, INC., 212 SW. Second, Madison, S. Dak. 57042. Applicant's representative: Robert A. Appelwick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as defined by the Commission in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from Fergus Falls, Minn., to points in Illinois, Indiana, Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, restricted to traffic originating at the plantsite and facilities utilized by John Morrell and Co.

NOTE.—Applicant holds contract carrier authority in MC–129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115691 (Sub-No. 29), filed March 25, 1974. Applicant: MURPHY TRANSPORTATION, INC., 1414 Crawford Avenue., Anniston, Ala. 36201. Applicant's representative: John P. Carlton, 903 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron valves, hydrants, fittings, service boxes, indicator posts, floor stands, and accessories*, from the plant site of Dresser Manufacturing Division of Dresser Industries, Inc., Anniston Operation, at Anniston, Ala., to points in Alabama, Arkansas, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, the lower peninsula of Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 115691 (Sub-No. 30), filed March 25, 1974. Applicant: MURPHY TRANSPORTATION, INC., 1414 Crawford Avenue, Anniston, Ala. 36201. Applicant's representative: John P. Carlton, 903 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit, pipe and cable*, and *fittings and attachments* therefor, from Glendale (Marshall County), W. Va., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Missouri, Nebraska, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116004 (Sub-No. 32), filed March 22, 1974. Applicant: TEXAS-OKLAHOMA EXPRESS, INC., P.O. Box 47112, Dallas, Tex. 75247. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 75247. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site and facilities of Western Electric Company, Inc., located at or near Goddard, Kans., as an off-route point in connection with applicant's regular route operations at Wichita, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans., or Kansas City, Kans.

No. MC 117883 (Sub-No. 189), filed March 21, 1974. Applicant: SUBLER TRANSFER, INC., 791 East Main Street, P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, chocolate, chocolate coating, cocoa, cocoa butter, cocoa compounds, and flavoring syrup*, from points in Derry Township (Dauphin County), Pa., to points in Indiana, Michigan, and those points in Ohio on and west of Ohio State Routes 13 and 93, restricted to traffic originating at the plantsite and storage facilities of Hershey Foods Corporation, located at the named origin, and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 117940 (Sub-No. 120), filed March 25, 1974. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as defined by the Commission in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from Fergus Falls, Minn., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and District of Columbia, restricted to traffic originating at the plantsite and facilities utilized by John Morrell and Company.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 117940 (Sub-No. 121), filed March 25, 1974. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from New Hampton, Iowa, to points in Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, and the District of Columbia.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 117940 (Sub-No. 123), filed March 25, 1974. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsites and facilities utilized by the Kitchens of Sara Lee located at or near Deerfield and Chicago, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC–114789 Sub-No. 1 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 118202 (Sub-No. 35), filed March 25, 1974. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge St., Winona, Minn. 55987. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides or commodities in bulk), from the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., to points in Illinois, Indiana, Michigan, Minnesota, Iowa, Nebraska, North Dakota, South Dakota, Missouri, Oklahoma, Maine, Massachusetts, Connecticut, Delaware, New York, New Jersey, Pennsylvania, Ohio, New Hampshire, Maryland, Rhode

Island, Virginia, West Virginia, Vermont, and the District of Columbia; and (2) *meat, meat products, meat by-products, foodstuffs, canning plant materials, equipment, and supplies* (except hides or commodities in bulk) from Illinois, Indiana, Michigan, Minnesota, Iowa, Nebraska, New York, Delaware, North Dakota, South Dakota, Missouri, Oklahoma, Maine, Massachusetts, Connecticut, New Jersey, Pennsylvania, Ohio, New Hampshire, Maryland, Rhode Island, Virginia, West Virginia, Vermont, and the District of Columbia, to the plantsite and warehouse facilities utilized by Geo. A. Hormel & Co., at or near Beloit, Wis., restricted to traffic originating at and destined to the points named above.

NOTE.—Applicant holds contract carrier authority in MC 134631 (Sub-No. 4) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minenapolis, Minn.

No. MC 118520 (Sub-No. 9), filed March 19, 1974. Applicant: ALASKA TRUCK TRANSPORT, INC., P.O. Box 1994, Anchorage, Alaska 99510. Applicant's representative: John M. Stern, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ores and ore concentrates*, between points in Alaska on the one hand, and, on the other, points in Montana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fairbanks, Alaska or Anchorage, Alaska.

No. MC 118535 (Sub-No. 61), filed March 25, 1974. Applicant: TIONA TRUCK LINE, INC., 111 S. Prospect, Butler, Mo. 64730. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed and dry feed ingredients*, (1) from Kansas City, Mo., to points in Arkansas, New Mexico, Oklahoma, and Texas; and (2), from Danville, Ill., to Kansas City, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 118535 (Sub-No. 62), filed March 26, 1974. Applicant: TIONA TRUCK LINE, INC., 111 S. Prospect, Butler, Mo. 64730. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry organic fertilizer, soil conditioners, organic fertilizer materials, and organic fertilizer ingredients*, from Caldwell, Tex., to points in Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, and Wisconsin. sin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 118806 (Sub-No. 34), filed March 22, 1974. Applicant: ARNOLD BROS. TRANSPORT, LTD., 739 Lagimodiere Boulevard, Winnipeg, Manitoba, Canada R2J0T8. Applicant's representative: Daniel C. Sullivan, 327 South La Salle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fans, blowers, and air exchange systems*; and (2) *parts and attachments* for fans, blowers, and air exchange systems, from the ports of entry on the International Boundary line between Canada and the United States in Minnesota, to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant does not specify location.

No. MC 119656 (Sub-No. 27), filed March 25, 1974. Applicant: NORTH EXPRESS, INC., 219 E. Main Street, Wilnamac, Ind. 46996. Applicant's representative: Donald W. Smith, Suite 2465. One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from Cleveland, Niles, Warren, and Youngstown, Ohio, to points in Illinois, and Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119738 (Sub-No. 2), filed March 26, 1974. Applicant: HAGGARD HEAVY HAULING, INC., 2100 Guinotte, Kansas City, Mo. 64120. Applicant's representative: Louis J. Amato, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Carlinville, Sparta, Irvington, Flora, and Centralia, Ill., and Louisiana, Mo., to points in Iowa, Nebraska, Kansas, Missouri, and Minnesota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Kans., or St. Louis, Mo.

No. MC 119777 (Sub-No. 291), filed March 15, 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: *Carbon and graphite articles* (except in bulk), *including anodes, electrolytic bath electrodes, furnace electrodes, lineal shapes, plates and rods, and carbon refractory material*, from St. Marys, Punxsutawney, and points in Benzinger Township, (Elk County), Pa.; and Niagara Falls, N.Y., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nevada, New Mexico, North Carolina, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, and Washington.

NOTE.—Applicant holds contract carrier authority in MC 126970 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119777 (Sub-No. 292), filed March 21, 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: *Electrical insulation*, from the plantsite or sites of Spaulding Fibre Co., Inc., at or near North Rochester, N.H., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119988 (Sub-No. 62), filed March 25, 1974. Applicant: GREAT WESTERN TRUCKING CO., INC., Rt. 3, Box 870, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the plantsite and warehouse facilities of PPG Industries, Inc., at or near Wichita Falls, Tex., to points in North Carolina, South Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Wisconsin, Illinois, Minnesota, Iowa, Missouri, Arkansas, Louisiana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Nevada, Washington, Oregon, and California.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 123255 (Sub-No. 41), filed March 13, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fiberglas materials and fiberglas products, fibrous glass mineral wool products, fibrous glass textile materials, fibrous glass textile products, plastic materials* and *plastic products* (except plastic bottles), and *raw materials, supplies, machinery, and equipment* used in the manufacture and packing of such commodities, (a) between Newark, Ohio, and Huntingdon, Pa., on the one hand, and, on the other, points in Ohio, Pennsylvania, West Virginia, Kentucky, New York, Indiana, Illinois, Michigan, Wisconsin, Missouri, and points in Kansas within the Kansas City, Kans., Commercial Zone, as defined by the Commission; and (b) between Newark, Ohio, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, Connecticut, Massachusetts, Rhode Island, and the District of Columbia; (2) *fiberglas materials and fiberglas products, fibrous glass mineral*

wool products, fibrous glass textile materials, fibrous glass textile products, and *plastic materials,* and *plastic products* (except plastic bottles), from points in Ohio, to points in Pennsylvania, West Virginia, Kentucky, New York, Indiana, Illinois, Michigan, Wisconsin, Missouri, Delaware, Maryland, New Jersey, Connecticut, Massachusetts, Rhode Island, the District of Columbia, and points in that part of Kansas within the Kansas City, Kans., Commercial Zone, as defined by the Commission.

(3) *Equipment, materials, and supplies* (except commodities in bulk, in tank, Hopper or dump vehicles) used in the installation and erection of fiberglas materials and products, *fibrous glass mineral wool products, plastic materials and plastic products* when moving in mixed shipments with such materials and products, between Newark, Ohio, on the one hand, and, on the other, points in Pennsylvania, West Virginia, Kentucky, New York, Indiana, Illinois, Michigan, Wisconsin, Missouri, Delaware, Maryland, New Jersey, Connecticut, Massachusetts, Rhode Island, the District of Columbia, and points in Kansas within the Kansas City Commercial Zone; (4) *fiberglas materials and fiberglas products, fibrous glass mineral wool products, fibrous glass textile materials, fibrous glass textile products, plastic materials and plastic products, raw materials, supplies, machinery, and equipment* (except commodities in bulk, in tank, hopper, or dump vehicles) used in the manufacture and packing of such commodities, and *equipment, materials, and supplies* (except commodities in bulk, in tank, hopper, or dump vehicles) used in the installation and erection of fiberglas materials and products, fibrous glass mineral wool products, and plastic materials and plastic products, when moving in mixed shipments with such materials and products, between Newark, Ohio, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Maine, Mississippi, North Carolina, New Hampshire, South Carolina, Tennessee, Vermont, and Virginia; and

(5) *Composition board* and *accessories* incidental to the installation of composition board, from Newark, Ohio, to points in Indiana, Michigan, Illinois, Kentucky, West Virginia, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Tennessee, North Carolina, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Wisconsin, Minnesota, and the District of Columbia, restricted in paragraph (1) through (4) to shipments originating at or destined to the plantsites, warehouses or shipping facilities of Owens-Corning Fiberglas Corporation, at Toledo, Ohio, and in paragraph (5), restricted to shipments originating at or destined to the plantsites, warehouses or shipping facilities of National Gypsum Company, at Buffalo, N.Y.

NOTE.—Applicant seeks by this application to convert its Permits in MC 81968 Subs 19, 20, 23, and 25, into a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123379 (Sub-No. 8), filed March 22, 1974. Applicant: BRUBAKER TRANSFER, INC., 103 North Major, Eureka, Ill. 61530. Applicant's representative: Samuel G. Harrod, 107 East Eureka Avenue, Eureka, Ill. 61530. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *New display cases and store fixtures,* from plant site of Robersonville Products Co., Robersonville, N.C., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, District of Columbia, and West Virginia, under a continuing contract with Robersonville Products Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Raleigh, N.C.

No. MC 123407 (Sub-No. 163), filed March 25, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Aluminum sulphate* in bags, from Pine Bend, Minn., to points in South Dakota, North Dakota, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Washington, D.C.

No. MC 123407 (Sub-No. 164), filed March 25, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic pipe, fittings, couplings, and materials and supplies* used in the installation thereof, from Henderson, Ky., to points in Montana, Wyoming, Colorado, New Mexico, Texas, Kansas, Nebraska, South Dakota, North Dakota, Minnesota, Iowa, Missouri, Arkansas, Oklahoma, Louisiana, Mississippi, Tennessee, Kentucky, Illinois, Wisconsin, Michigan, Indiana, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, West Virginia, Ohio, Pennsylvania, and New York.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 123407 (Sub-No. 165), filed March 25, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk), from Minneapolis, Minn., St. Louis, Mo., Lawrence, Kans., Lee Summit, Mo., Barberton, Ohio, Syracuse, N.Y., Midland and Ludington, Mich., to points in North Dakota, South Dakota, Montana, and Wyoming.

NOTE.—Common control may be involved If a hearing is deemed necessary, applicant requests it be held at Billings, Mont., or Washington, D.C.

No. MC 123407 (Sub-No. 166), filed March 25, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Animal feed supplements,* from Hardin, Mont., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont., or Washington, D.C.

No. MC 123872 (Sub-No. 21), filed March 21, 1974. Applicant: W & L MOTOR LINES, INC., State Road 1148, P.O. Box 2607, Hickory, N.C. 28601. Applicant's representative Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts,* from Dallas, Ennis, and Fort Worth, Tex., and Hominy and Oklahoma City, Okla., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 123872 (Sub-No. 22), filed March 21, 1974. Applicant: W & L MOTOR LINES, INC., State Road 1148, P.O. Box 2607, Hickory, N.C. 28601. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts,* from Cincinnati and Mason, Ohio, and Winchester, Ky., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 124212 (Sub-No. 76), filed March 22, 1974. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Road, Cleveland, Ohio 44130. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum coke,* from points in Delaware and New Jersey, to the plantsite of Lehigh Portland Cement Company at Union Bridge, Md.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 125254 (Sub-No. 27), filed March 18, 1974. Applicant: DONALD L. MORGAN, doing business as MORGAN TRUCKING CO., 1201 East 5th Street, P.O. Box 714, Muscatine, Iowa 52761. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste and scrap paper and materials and supplies* used in the manufacture of insulation (except in bulk), from points in Indiana, Illinois, Wisconsin, Minnesota, and Nebraska, to Muscatine, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Chicago, Ill.

No. MC 125650 (Sub-No. 10), filed March 14, 1974. Applicant: MOUNTAIN PACIFIC TRUCKING CORPORATION, Route 2, Missoula, Mont. 59801. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Frozen pies and cakes*, (1) from McMinnville and Portland, Oreg., to points in Montana (except Great Falls), Idaho, and Spokane, Wash.; (2) from McMinnville and Portland, Oreg., to points in Wyoming, and Wasatch, Morgan, Davis, Salt Lake, Weber, Cache, Box Elder, Rich, and Tooele Counties, Utah; and (3) from McMinnville and Portland, Oreg., to Pierce, Snohomish, King, Thurston, Benton, Walla Walla, and Yakima Counties, Wash.; (b) *Frozen fruits, frozen vegetables, frozen juices, frozen meats, and frozen prepared foods*, from the Portland, Oreg., commercial zone to points in Idaho, Spokane, Wash., and points in Davis, Salt Lake, and Weber Counties, Utah.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 126899 (Sub-No. 73), filed March 21, 1974. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, Paducah, Ky. 42001. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, in containers, and related advertising materials;* from Baltimore, Md., to Hopkinsville, Ky., *and empty malt beverage containers* on return.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Evansville, Ind., or Louisville, Ky.

No. MC 127468 (Sub-No. 8), filed March 22, 1974. Applicant: LTD. INC., 3250 South Western Avenue, Chicago, Ill. 60608. Applicant's representative: Ronald N. Cobert, 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: *Electrical appliances and equipment, and materials and supplies* used in the manufacture, sale, and distribution of electrical appliances and equipment, (1) between Chicago, Ill., Dumas, Ark., Coushatta, La., Forest and Waynesboro, Miss., Elkin, N.C., Denmark and Manning, S.C., Dayton, Knoxville, and McMinnville, Tenn., and Milwaukee, Wis., on the one hand, and, on the other, points in Orangeburg County, S.C., and Atlanta, Ga., and (2) between points in Orangeburg County, S.C., on the one hand, and, on the other, Atlanta, Ga., under contract with Sunbeam Corporation and John Oster Manufacturing Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 127541 (Sub-No. 3), filed March 25, 1974. Applicant: GARITH ANDERSON, P.O. Box 1, Osseo, Minn. 55369. Applicant's representative: Gary J. Meyer, 3735 N. Highway 52, Robbinsdale, Minn. 55422. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glazed concrete blocks*, from Maple Grove Village, Minn., to points in Illinois, under contract with Zenith Glazed Products Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 128007 (Sub-No. 61), filed March 21, 1974. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Factory built conventional homes and buildings; plumbing fixtures and accessories; window casings, parts, and accessories; door casings, parts, and accessories; carpeting; building hardware and trim; and household appliances*, from the plantsite and/or storage facilities of Homes and Structures of Pittsburg, Kansas, Inc., at or near Pittsburg, Kans., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming; and (2) *materials and supplies* used in the manufacture of part (1) above, from points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Oklahoma, Tennessee, Texas, Virginia, Wisconsin and Wyoming, to the plantsite and/or storage facilities of Homes and Structures of Pittsburg, Kansas, Inc., at or near Pittsburg, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 128664 (Sub-No. 6), filed March 22, 1974. Applicant: KARDUX TRANSFER, INC., 1907 Roby Avenue, Muscatine, Iowa 52761. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting: *Animal, poultry, fish and pet food* (except in bulk), from the plantsite of Doane Products at or near Muscatine, Iowa, to points in Illinois, Indiana, Michigan, Minnesota, Nebraska, Ohio, South Dakota, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC–136552 (Sub-No. 1), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 129631 (Sub-No. 42), filed March 21, 1974. Applicant: PACK TRANSPORT, INC., 3975 S. 300 West, Salt Lake City, Utah 84107. Applicant's representative: Max D. Eliason, P.O. Box 2602, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gypsum wallboard, lath, and plaster* (gypsum products), from points in Clark County, Nev., to points in Utah and Idaho; and (2) *Aluminum articles and iron and steel articles*, between points in Webster County, Utah., on the one hand, and, on the other, points in North Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Ogden or Salt Lake City, Utah.

No. MC 133655 (Sub-No. 72), filed March 22, 1974. Applicant: TRANSNATIONAL TRUCK, INC., P.O. Box 4168, Amarillo, Tex. 79105. Applicant's representative: Neil DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, plastic bags, liners and film, textile bags, and material, equipment, and supplies* used in the manufacture and distribution of the above described commodities, between Sibley, Iowa, on the one hand, and, on the other, points in Montana, Wyoming, Idaho, and Colorado.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 133689 (Sub-No. 49), filed March 25, 1974. Applicant: OVERLAND EXPRESS, INC., 651 First St. SW., P.O. Box 2667, New Brighton, Minn. 55112. Applicant's representative: Daniel C. Sullivan, 327 South La Salle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Doors;* (2) *entrance systems;* (3) *chimney systems;* (4) *venting systems;* (5) *parts, attachments, and accessories* of (1), (2), (3) and (4), from Fredericksburg, Va., to points in North Dakota, South Dakota, Nebraska, Iowa, Minnesota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 133689 (Sub-No. 52), filed March 22, 1974. Applicant: OVERLAND

EXPRESS, INC., 651 First St. SW., P.O. Box 2667, New Brighton, Minn. 55112. Applicant's representative: Daniel C. Sullivan, 327 South La Salle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Foodstuffs* (except potatoes, potato products, and potato by-products); (b) *food ingredients;* and (c) *related equipment, materials, and supplies*, when moving with foodstuffs and food ingredients (except commodities in bulk), from Caribou and Presque Isle, Maine, to points in North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Kentucky, Indiana, Michigan, Ohio, West Virginia, Tennessee, New York (except points east of I–81), and Pennsylvania (except points east of U.S. Highway 219); and (2) *returned and rejected shipments of the above described commodities*, from the destination states named in (1) above to Caribou and Presque Isle, Maine.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 134068 (Sub-No. 16) (AMENDMENT), filed December 27, 1973, published in the FR issue of February 22, 1974, and republished as amended this issue. Applicant: KODIAK REFRIGERATED LINES, INC., 3336 East Fruitland Avenue, Vernon, Calif. 90058. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products and puddings*, from points in Wisconsin and Minnesota, to points in Arizona, California, Idaho, New Mexico, Oregon, and Washington; (2) *gift packages, foodstuffs, advertising material, and related equipment and supplies*, from Madison and Sun Prairie, Wis., to points in Arizona, California, Idaho, New Mexico, Oregon, and Washington; and (3) *butter*, from points in California, Oregon, and Washington, to points in Minnesota and Wisconsin.

NOTE.—The purpose of this republication is to delete Wisconsin in (1) as a destination point and to include Washington. Applicant states that the requested auhority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 134145 (Sub-No. 46), filed March 20, 1974. Applicant: NORTH STAR TRANSPORT, INC., Route No. 1, Thief River Falls, Minn. 56701. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machines, computing, and parts, materials, and supplies* (except commodities in bulk), used in the manufacture or operation thereof, from Rochester, Mount Clemens, and Kalamazoo, Mich., to points in Minneapolis-St. Paul, Minn., under contract with Computer Peripherals, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134806 (Sub-No. 21), filed March 19, 1974. Applicant: B–D–R TRANSPORT, INC., P.O. Box 813, Brattleboro, Vt. 05301. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Oils and greases, finishing compounds, and supplies for tanning leather* (except commodities in bulk), from points in Massachusetts, Exeter, N.H., Newark, N.J., and Brattleboro, Vt., to points in San Francisco, Alameda, Napa, Solano, San Mateo, and Santa Cruz Counties, Calif., under contract with West Coast Tanners Production Club.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Washington, D.C.

No. MC 134922 (Sub-No. 69), filed March 18, 1974. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: L. C. Cypert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Screw conveyors, bucket elevators, idlers, pulleys, and component parts*, from the plantsite of FMC Corporation, in Lee County, Miss., to points in the United States (except Alaska and Hawaii); and (2) *materials, supplies and equipment* used in the manufacture of screw conveyors, bucket elevators, idlers, pulleys, and component parts, from points in the United States (except Alaska and Hawaii), to the plantsite of FMC Corporation, in Lee County, Miss., both (1) and (2) restricted against the transportation of commodities in bulk, and those which because of size or weight require the use of special equipment.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Little Rock, Ark.

No. MC 135018 (Sub-No. 3), filed March 25, 1974. Applicant: SEAHORSE TRANSPORT, INC., No. 11 Southside Road, Port Brownsville, Tex. 78520. Applicant's representative: J. Max Harding, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, and equipment* utilized in the manufacture, sale, and distribution of electric switches, from West Hartford, Conn., to Brownsville, Tex., under a continuing contract or contracts with Carlingswitch, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135874 (Sub-No. 40), filed March 20, 1974. Applicant: LTL PERISHABLES, INC., 132nd and "Q" Streets, Omaha, Nebr. 68137. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plant site and warehouse facility of Jeno's, Inc., at Duluth, Minn., to points in Iowa, Kansas, Nebraska, South Dakota, and Missouri, restricted to traffic destined to the named states.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 136221 (Sub-No. 23), filed March 21, 1974. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., 210 St. Mary's Drive, Suite G, P.O. Box 5067, Oxnard, Calif. 93030. Applicant's representative: Joseph E. Rebman, 1230 Boatmen's Building, 314 N. Broadway, St. Louis, Mo. 63102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *New furniture*, (1) From the facilities of the Wickes Furniture, Division of The Wickes Corporation, located at or near Merrillville, Indiana (Lake County), to points in that part of Illinois on, north, and east of a line beginning at the Indiana-Illinois state line at the intersection of U.S. Highway 24 and said state line and extending westerly along U.S. Highway 24 to junction Illinois Highway 47, thence north along U.S. Highway 47 to junction U.S. Highway Alternate 30, thence east along U.S. Highway Alternate 30 to Lake Michigan; (2) From the facilities of The Wickes Furniture, Division of The Wickes Corporation, located at or near Wheeling, Illinois (near Chicago), and Itaska, Illinois (near Chicago), to points in that part of Wisconsin on, south, and east of a line beginning at Lake Michigan at Racine, Wisconsin, and extending westerly along Wisconsin Highway 11 to junction Wisconsin Highway 67, thence south along Wisconsin Highway 67 to junction Wisconsin Highway 36, thence south along Wisconsin Highway 67 and 36 to the Wisconsin-Illinois state line; (3) From the facilities of The Wickes Furniture Division of The Wickes Corporation located at or near Willowbrook, Illinois (near Chicago), Wheeling, Illinois (near Chicago), Itaska, Illinois (near Chicago), and Harvey, Illinois (near Chicago), to points in that part of Indiana on and east of a line beginning at Lake Michigan at Tremont, Indiana due north of Indiana Highway 49), thence south along Indiana Highway 49 to junction Indiana Highway 14, thence west along Indiana Highway 14 to Illinois-Indiana state line; and (B), *Return or rejected shipments* of the above specified commodities, from points in described destination territories in (1), (2), and (3) above to respective described points of origin in (1), (2), and (3) above, (A) and (B) above, under contract with Wickes Furniture, division of the Wickes Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., St. Louis, Mo., or Washington, D.C.

No. MC 136220 (Sub-No. 8), filed March 25, 1974. Applicant: ROY SULLIVAN, doing business as SULLIVAN TRUCKING CO., 1705 N. E. Woodland, Ponca, Okla. 74601. Applicant's representative: Dean Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Haskell, Latimer, LeFlore, and Pittsburg Counties, Okla., and Johnson and Logan Counties, Ark., to points in Morris County, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Oklahoma City, Okla.

No. MC 136315 (Sub-No. 3), filed March 15, 1974. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A, Philadelphia, Miss. 39350. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty Bank Bldg., P.O. Box 22628, Jacksonville, Miss. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and forest products*, treated or untreated, from points in Lamar County, Ala., and Calhoun and Neshoba Counties, Miss., to points in Maine, Massachusetts, New Jersey, Connecticut, Rhode Island, New York, North Carolina, Vermont, New Hampshire, Delaware, Maryland, Virginia, South Carolina, West Virginia, and the District of Columbia.

NOTE.—Applicant holds contract carrier authority in MC 123905 Subs 5 and 15, and desires to retain certain contracts if approved, therefore, applicant seeks approval of dual operations. If a hearing is deemed necessary, the applicant requests it be held at Jackson, Miss.

No. MC 136343 (Sub-No. 28), filed March 25, 1974. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* in packages, *pepper* in packages in mixed shipment with salt in packages, and *materials and supplies*, used in the agriculture, water treatment, food processing, wholesale grocery and institutional supply, industrial in mixed shipments with salt in packages, from facilities of Morton Salt Co., Division of Morton-Norwich Products, Inc., located at or near Rittman, Ohio, to points in Maryland, Delaware, and the District of Columbia.

NOTE.—Common and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 136711 (Sub-No. 9) filed March 25, 1974. Applicant: DAVID G. McCORKLE, doing business as McCORKLE TRUCK LINE, 2780 South High, P.O. Box 95181, Oklahoma City, Okla. 73109. Applicant's representative: Dean Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Haskell, Latimer, LeFlore, and Pittsburg Counties, Okla., and Johnson and Logan Counties, Ark., to points in Morris County, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Oklahoma City, Okla.

No. MC 136786 (Sub-No. 50), filed March 25, 1974. Applicant: ROBCO TRANSPORTATION, INC., Room 205, 3033 Excelsior Boulevard, Minneapolis, Minn. 55416. Applicant's representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of Swift Fresh Meat Co. at Marshalltown, Des Moines, Glenwood, Sioux City, and Ames, Iowa, to points in North Carolina, South Carolina, Florida, Georgia, and Alabama, restricted to shipments originating at and destined to the named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 136825 (Sub-No. 1), filed March 22, 1974. Applicant: ENDICOTT TRUCKING CO., a Corporation, 1193 Refugee Road, Columbus, Ohio 43207. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as dealt in by electronic equipment and supply stores between the facilities of Radio Shack, Division of Tandy Corporation, at Columbus, Ohio, on the one hand, and, on the other, points in New Jersey, Delaware, Maryland, District of Columbia, North Carolina, South Carolina, and Virginia, under continuing contract with Radio Shack, Division of Tandy Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 138313 (Sub-No. 10), filed March 13, 1974. Applicant: MACK E. BURGESS, doing business as BUILDERS TRANSPORT, 409 14th Street SW., Great Falls, Mont. 59404. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feeds and feed ingredients*, between points in Washington, Oregon, Minnesota, North Dakota, South Dakota, Nebraska, Montana, Wyoming, Iowa, Idaho, Utah, and Colorado.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont., or Missoula, Mont.

No. MC 138926 (Sub-No. 4), filed March 25, 1974. Applicant: GENCOM, INC., R.R. #4, Marshall, Mo. 65340. Applicant's representative: Thomas P. Rose, Jefferson Building, P.O. Box 205, Jefferson City, Mo. 65101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Inedible animal fat*, in bulk, between points in Saline County, Mo., on the one hand, and, on the other, points in Illinois, Iowa, Nebraska, Kansas, Oklahoma, Arkansas, Texas, Tennessee, Kentucky, Wisconsin, New Mexico, and Colorado; (2) *dry meat and bone meal*, in bulk, between points in Carroll County, Mo., on the one hand, and, on the other, points in Illinois, Iowa, Nebraska, Kansas, Oklahoma, Arkansas, Texas, Tennessee, Kentucky, Wisconsin, New Mexico, and Colorado, under a continuing contract with Alvin Hahn and Bill Phillips, doing business as Hahn & Phillips Grease Co. of Marshall, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jefferson City or Kansas City, Mo.

No. MC 138946 (Sub-No. 3), filed March 25, 1974. Applicant: MARKET INDUSTRIES, LTD., Boise Cascade Bldg., Room 927, 1600 SW. 4th, Portland, Oregon 97204. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pickles, relishes, and sauerkraut and commodities* otherwise exempt from economic regulation under Section 203(B)(6) of the Interstate Commerce Act, when moving in mixed shipments with pickles, relishes, and sauerkraut, from Portland and Scappoose, Oreg., to points in California, under contract with Steinfeld's Products Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Portland, Oregon.

No. MC 139021 (Sub-No. 2), filed March 1, 1974. Applicant: 212 AUTO SALES, INC., 325 US-20, East, P.O. Box 251, Michigan City, Ind. 46360. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used cars and pick-up trucks* sold at auctions by truck-away service, between the auction sites of Grand Rapids Auto Auction, Inc., at or near Hudsonville, Mich.; Flint Auto Auction, Flint, Mich.; Dealers Auto Auction, Indianapolis, Ind.; Indiana Auto, Inc., Fort Wayne, Ind.; and Mid States Auto Auction, South Bend, Ind.; on the one hand, and, on the other, points in Michigan, Ohio, Minnesota, Wisconsin, Illinois, and Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich., or Chicago, Ill.

No. MC 139036 (Sub-No. 2), filed March 22, 1974. Applicant: LEONARD

GUSTAFSON, doing business as CHIPMUNK EXPRESS, Route 1—Box 61, Rapid River, Mich. 49878. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodchips, bark, wood slabs, and pulpwood*, from points in the Upper Peninsula of Michigan, to points in Illinois, Indiana, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Milwaukee, Wis., or Lansing, Mich.

No. MC 139243 (Sub-No. 2), filed March 18, 1974. Applicant: DAVISON TRANSPORT, INC., Sunset Avenue, North Bend, Ohio 45052. Applicant's representative: Melvin E. Marmer 17th Floor Central Trust Tower, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials* in bulk, in dump trucks, from North Bend, Ohio, to points in Ohio, Indiana, Kentucky, and Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, Columbus, Ohio, or Washington, D.C.

No. MC 139244 (Sub-No. 1), filed March 25, 1974. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, Ill. 52626. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers* (except those designed to be drawn by passenger automobiles), *trailer chassis*, in initial movements, in truckaway service, *accessories, equipment, and parts* thereof when moving with trailers and chassis, truck bodies, roll back equipment loaders, winches, hoists, axles, truck utility boxes, wheels, gears, lift gates, brakes, and vehicle light testing equipment, from the plantsites, warehouse, and facilities of Schien Body and Equipment Company located in Macoupin County, Ill., to points in the United States (except Alaska and Hawaii); (2) *Steel sheets, steel coils, steel channels, channel iron bar stock, and steel tubing*, from points in Lake and Porter Counties, Ind., and Youngstown, Ohio, to the plantsites, warehouses, and facilities of Schien Body and Equipment Company located in Macoupin County, Ill.; (3) *Commodities, materials, and supplies* used in the manufacture of trailers (except those designed to be drawn by passenger automobiles), trailer chassis, truck bodies, roll back equipment loaders, and truck utility boxes, from points in the United States (except Alaska and Hawaii), to the plantsites, warehouses, and facilities of Schien Body and Equipment Company located in Macoupin County, Ill.; and (4) *Trailers* (except those designed to be drawn by passenger automobiles), in initial movements, in truckaway service, from Denver, Colo., Birmingham and Haleyville, Ala., and Ashdown, Ark., to the plantsites, warehouses, and facilities of Schien Body and Equipment Company located in Macoupin County, Ill.; (1) through (4) above, inclusive, under contract with Schien Body and Equipment Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., Springfield, Ill., or St. Louis, Mo.

No. MC 139298 (Sub-No. 1), filed March 19, 1974. Applicant: KEDNEY WAREHOUSE COMPANY, a Corporation, 9th and University, Grand Forks, N. Dak. 58201. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Grand Forks, Walsh, Traill, Steele, Griggs, Nelson, Pembina, Cavalier, Ramsey, Eddy, and Foster Counties, N. Dak., and Polk, Marshall, Norman, Pennington, Kittson, Roseau, Red Lake, and Clearwater Counties, Minn., restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Grand Forks or Fargo, N. Dak.

No. MC 139322 (Sub-No. 2), filed March 18, 1974. Applicant: FUSONI'S EXPRESS, INC., 8 Carver Circle, Canton, Mass. 02020. Applicant's representative: Frank M. Cushman, 36 South Main Street, Sharon, Mass. 02067. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Misses' and women's hanging garments, cartoned goods, and accessories*, in vehicles especially equipped internally for the transportation thereof, between Touraine Stores, Inc., warehouse location, Campanelli Park, Braintree, Mass., and points in New Hampshire and Maine, under contract with Touraine Stores, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 139420 (Sub-No. 3), filed March 21, 1974. Applicant: ART GREENBERG, doing business as GLACIER TRANSPORT, P.O. Box 428, Grand Forks, N. Dak. 58201. Applicant's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing materials, and supplies*, from points in Park County, Wyo., Chicago and Joliet, Ill., Kansas City, Mo., Florence, Ky., and Dubuque, Iowa, to points in North Dakota, and those points in Minnesota on and west of U.S. Highway 71 and on and north of U.S. Highway 12.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak., or either St. Paul or Minneapolis, Minn.

No. MC 139422 (Sub-No. 1), filed March 19, 1974. Applicant: D & J TRANSPORT, INC., P.O. Box 367, Ray, N. Dak. 58849. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt and salt products*, from the plant site of Hardy Salt Co., near Williston, N. Dak., to points in Montana, South Dakota, and Wyoming, and (2) *salt*, in bulk only, from the plant site of Hardy Salt Co. near Williston, N. Dak., to points in Minnesota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Williston or Fargo, N. Dak.

No. MC 139427 (Sub-No. 2), filed March 22, 1974. Applicant: DAVID L. NORDICK AND DOUGLAS D. HAUGH, a Partnership, doing business as NORDICK TRUCKING, 13164 Lakeview Granada Dr., Lakeside, Calif. 92040. Applicant's representative: Donald Murchison, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Missile air frame and wing assemblies, missile containers, and empty packaging material*, used, between El Cajon, Calif., and Tucson, Ariz., under a continuing contract or contracts with Ametek Straza.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Diego, Calif., or Los Angeles, Calif.

No. MC 139484 (Sub-No. 2), filed March 25, 1974. Applicant: CLIFTON ROGERS AND RONALD HEMMEN, a Partnership, doing business as ROGERS TRUCK LINE, P.O. Box 97, Webster City, Iowa 50595. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilities of Iowa Beef Processors, Inc., located at or near Denison, Fort Dodge, Le Mars, and Mason City, Iowa, and West Point, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 139528 (Sub-No. 1), filed March 22, 1974. Applicant: SCOVILLE OIL COMPANY, a Corporation, P.O. Box 248, London, Ky. 40741. Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St. NW., Washington, D.C. 20036.

Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline, No. 1 fuel oil and No. 2 fuel oil*, in bulk, in tank vehicles, from Knoxville, Tenn., to London, Corbin, Livingston, and Mt. Vernon, Ky., under contract with Curry Oil Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 139621, filed March 18, 1974. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, Ill. 61102. Applicant's representative: Robert D. Higgins (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank trucks, from McFarland, Wis., to points in Illinois, under a continuing contract or contracts with Forest City Oil Co., Rockford, Ill., and Griffin Oil Co., Rockford, Ill.

NOTE.—Applicant holds common carrier authority in MC 115651 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 139622, filed March 18, 1974. Applicant: INTERSTATE MOVING AND STORAGE, INC., 6965 Commerce Ave., El Paso, Tex. 79915. Applicant's representative: Hugh H. Trotter, Jr. (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* as are dealt in by retail department stores, from the facilities of Montgomery Ward & Co., Inc., at El Paso, Tex., to retail customers of Montgomery Ward & Co., Inc., at Luna, Dona Ana and Otero Counties, N. Mex., and El Paso and Hudspeth Counties, Tex., and (2) *returned shipments* of like commodities from the above named points, to the facilities of Montgomery Ward & Co., Inc., at El Paso, Tex., under a continuing contract with Montgomery Ward & Co., Inc., El Paso, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at El Paso or Amarillo, Tex., Albuquerque, N. Mex., or Dallas, Tex.

No. MC 139629 (Sub-No. 1), filed March 21, 1974. Applicant: BOOTH REFRIGERATED LINES, INC., 1308 16th Avenue, Central City, Nebr. 68826. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except meats and meat products), from Grand Island, York, and Omaha, Nebr., to points in Illinois, Iowa, Minnesota, South Dakota, and Wisconsin, restricted to traffic originating at the facilities utilized by Delicious Foods Co., at Grand Island, Nebr., and destined to points in the above-named destination states.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Lincoln, or Omaha, Nebr.

No. MC 139632, filed March 11, 1974. Applicant OMER CHOQUETTE TRUCKING, INC., Newport, Vt. 05855. Applicant's representative: Adrien R. Paquette, 200 St. James St., Suite 900, Montreal, Province of Quebec H2Y 1M1 Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemical fertilizer products*, in bulk and in bags, from ports of entry on the International Boundary line between the United States and Canada, located at Rouse's Point, N.Y., North Troy, Vt., Derby Line, Vt., and Norton, Vt., to points in Clinton County, N.Y., Grand Isle, Franklin Chittenden, Orleans, Lamoille, Addison, Caledonia, Orange, Rutland, Washington and Windsor Counties Vt., and Coos, and Grafton Counties, N.H., under contract with Brockville Chemical Industries, Ltd., and its subsidiary, Brockville Fertilizers Inc.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Montpelier, Vt., or Albany, N.Y.

No. MC 139649, filed March 18, 1974. Applicant: ARLINGTON SALVAGE AND WRECKER COMPANY, a Corporation, 1203 Bernita Street, Jacksonville, Fla. 32211. Applicant's representative: Sol H. Proctor, 1107 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Disabled or wrecked vehicles or trailers*, (2) *salvaged or used parts* for vehicles or trailers when being transported on the same vehicle and at the same time as commodities set forth in (1) above; and (3) *replacement vehicles or trailers* for the commodities as set forth in (1) above, between Jacksonville, Fla., on the one hand, and, on the other, points in Alabama, Georgia, Louisiana, North Carolina, South Carolina, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 139650, filed March 21, 1974. Applicant: WHITLEY COUNTY CONCRETE AND SUPPLY CO., INC., P.O. Box 69, Williamsburg, Ky. 40769. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Williamsburg, Ky., on the one hand, and, on the other, points in Whitley, McCreary, Pulaski, Laurel, Knox, Rockcastle, and Bell Counties, Ky., restricted to traffic having a prior or subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lexington, Ky., or Frankfort, Ky.

No. MC 139659, filed March 22, 1974. Applicant: BRIGHT TRUCKING, INC., 1st Avenue and 16th Street, St. Cloud, Minn. 56301. Applicant's representative: J. Max Harding, 605 South 14th St., P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and warehouse facilities utilized by Landy Packing Co., at or near St. Cloud, Minn.; Landy, Incorporated, at or near Minneapolis, Minn.; and Landy of Wisconsin, at or near Eau Claire, Wis., to points in the United States (except Alaska and Hawaii), and (2) *materials, supplies, and equipment* (except commodities in bulk), utilized in the manufacture, sale, and distribution of the commodities described in (1) above, from points in the United States (except Alaska and Hawaii), to the plantsites and warehouse facilities utilized by Landy Packing Co., at or near St. Cloud, Minn.; Landy, Incorporated, at or near Minneapolis, Minn.; and Landy, of Wisconsin, at or near Eau Claire, Wis., under continuing contracts with Landy Packing Co.; Landy, Incorporated; and Landy of Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 139660, filed March 22, 1974. Applicant: M. E. HETTINGER, doing business as FORD MOVING COMPANY, 2654 Summer Ave., P.O. Box 12571, Memphis, Tenn. 38112. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Store and office furniture and fixtures, uncrated*, from the plantsite and warehouse facilities of Rice, Inc., located at or near Memphis, Tenn., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Oklahoma, Ohio, South Carolina, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 139662, filed March 19, 1974. Applicant: GARLAND D. TOWE, GARLAND W. PIKE, AND BENJAMIN E. SMITH, a Partnership, doing business as TOWE-PILE GRAIN AND SUPPLY COMPANY, Route 2 Hertford, N.C. 27944. Applicant's representative: Garland D. Towe (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry bulk fertilizer and fertilizer materials*, from points in Nansemond County, and Norfolk, Va., to points in Pasquotank, Perquimans, Gates, Hertford, and Northampton Counties, N.C., under contract with Swift Agricultural and Chemical Company.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, the appli-

cant requests it be held at Elizabeth City, N.C.

No. MC 139663, filed March 25, 1974. Applicant: HASKINS & SON, INC., 815 Max Avenue, Lansing, Mich. 48915. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap iron and metal*, in bulk, between points in Michigan, Ohio, Illinois, and Indiana (except Wabash and Atwood, Ind.).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

PASSENGER APPLICATIONS

No. MC 66561 (Sub-No. 3), filed March 18, 1974. Applicant: COWELL COACH LINE, INC., doing business as INTERSTATE COACH, a Corporation, 14 Taunton Green, Taunton, Mass. 02780. Applicant's representative: Mary E. Kelley, 11 Riverside Ave., Medford, Mass. 02155. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special-round-trip operations, beginning and ending at Providence, E. Providence, Cranston, and Pawtucket, R.I., Stoughton, Mass., and points in Plymouth and Bristol Counties, Mass., and extending to the track of Yankee Greyhound Racing Association, Inc., located at Seabrook, N.H.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 139630, filed March 15, 1974. Applicant: EVERGREEN EQUIPMENT CORP., 558 Belmont Avenue, Haledon, N.J. 07508. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and newspapers and express*, in the same vehicle with passengers, Between Long Valley, Washington Township, N.J., and New York, N.Y.: From Long Valley Washington Township, N.J., over N.J. Highway 24 to junction U.S. Highway 206, thence over U.S. Highway 206 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction Interstate Highway 495, thence over Interstate Highway 495 to and through the Lincoln Tunnel to New York, N.Y., and return over the same routes, serving intermediate points in Washington Township, Chester Township, Chester Borough, Mount Olive Township, and Roxbury Township, the latter limited to those on and west of the junction of U.S. Highway 206 and Interstate 80.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 139635, filed March 15, 1974. Applicant: STATION WAGON SERVICE, INC., P.O. Box 153, 429 Minnisink Road, Totowa, N.J. 07511. Applicant's representative: George A. Olsen, 69 Tonnelle Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in executive car service not exceeding 4 passengers plus driver, between points in Passaic County, and Bergen County, N.J., Fairfield, Caldwell, West Caldwell, North Caldwell, Cedar Grove (Essex County, N.J.), Montville, Lincoln Park, Pequannock, Butler, Riverdale (Morris County, N.J.), on the one hand, and, on the other, Newark Airport, N.J., points in the New York, N.Y., Commercial Zone as defined by the Commission, Westchester, Nassau and Suffolk Counties, N.Y., and Fairfield County, Conn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 139652, filed March 25, 1974. Applicant: RALEIGH LINES, INCORPORATED, c/o Rivers Edge Club, Somerset, Wis. 54205. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority socght to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, and *baggage of passengers* in a separate vehicle, in charter operations, and in round-trip sightseeing and pleasure tours, beginning and ending at points in Burnett, Barron, Rusk, Polk, and St. Croix Counties, Wis., and extending to points in the United States (including Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn. or St. Paul, Minn.

BROKER APPLICATIONS

No. MC 130233, filed March 18, 1974. Applicant: WINSTON-SALEM TOURS, INC., 480 Carolina Circle, Winston-Salem, N.C. 27104. Applicant's representative: Sue C. Shore (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker*, at Forsyth County, N.C., to sell or offer to sell to motor, rail, and water carriers, the transportation of *Passengers and their baggage*, with chaperones in charter operations, beginning and ending at points in Forsyth County, N.C., and extending to points in the United States (except Alaska and Hawaii). If a hearing is deemed necessary, applicant requests it be held at Charlotte or Raleigh, N.C.

No. MC 130234, filed March 21, 1974. Applicant: BLUEFIELD AUTOMOBILE CLUB, 622 Commerce St., P.O. Box 90, Bluefield, W. Va. 24701. Applicant's representative: A. B. Norconk, Jr. (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Bluefield, W. Va., to sell or offer to sell the transportation of *groups of passengers and their baggage*, in contract motor carrier service for group tours arranged by the Bluefield Automobile Club, beginning and ending at Bluefield, W. Va., and extending to points in the United States including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Bluefield W. Va., or Charleston, W. Va.

No. MC 130236, filed March 25, 1974. Applicant: EXEC-VAN SYSTEMS, INC., 51 Weaver Street, Greenwich, Conn. 06830. Applicant's representative: Ronald I. Shapss, 744 Broad Street, Newark, N.J. 07102. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Boston, Mass.; Chicago, Ill.; Denver, Colo.; Los Angeles, Calif.; New York, N.Y.; Palm Beach, Fla.; San Francisco and San Jose, Calif.; Washington, D.C.; and Greenwich, Conn., to sell or offer to sell the transportation of *Household goods* as defined by the Commission, between points in the United States including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

By the Commission.

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

[FR Doc.74-9935 Filed 5-1-74;8:45 am]

[Notice No. 499]

ASSIGNMENT OF HEARINGS

APRIL 29, 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 May 2, 1974.

MC 116073 Sub-31, Barrett Mobile Home Transport, Inc., Extension—Buildings (13 Western States); MC 116073 Sub-35, Barrett Mobile Home Transport, Inc., Extension—Buildings (Arizona); and MC 116073 Sub-85, Barrett Mobile Home Transport, Inc., Extension—Idaho (Moorhead, Minn.), now assigned continued hearing June 10, 1974, at Great Falls, Montana, will be held at the Hospitality Room, First Federal Savings & Loan, 601 First Ave. North.

MC-119792 Sub 38, Chicago, Southern Transportation Co., Inc., now assigned June 5, 1974, at New Orleans, La., is cancelled and the application is dismissed.

MC 116073 Sub-31, Barrett Mobile Home Transport, Inc., Extension—Buildings (13 Western States); MC 116073 Sub-35, Barrett Mobile Home Transport, Inc., Extension—Buildings (Arizona); and MC 116073 Sub-85, Barrett Mobile Home Transport, Inc., Extension—Idaho (Moorhead, Minn.), now assigned continued hearings June 12,

1974, at Billings, Mont., will be held in Room 246, U.S. Post Office Bldg., 2602 First Ave. North; now assigned continued hearing June 17, at Denver, Colo., will be held in Room 587, Tax Court, U.S. Federal Bldg., 19th & Stout Streets; now assigned June 24, 1974, at Pierre, S. Dak., will be held in Room 440, 4th Floor, Federal Bldg.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-10087 Filed 5-1-74;8:45 am]

[No. AB-1 (Sub-No. 23)]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY

Abandonment Between Elmhurst and Villa Park, in Du Page County, Ill.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding, because this proceeding does not represent a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, et seq., and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Du Page County, Ill., 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 22nd day of April 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD,
Secretary.

[No. AB-1 (Sub-No. 23)]

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY ABANDONMENT BETWEEN ELMHURST AND VILLA PARK, IN DU PAGE COUNTY, ILL.

The Interstate Commerce Commission hereby gives notice that by order dated April 22, 1974, it has been determined that the proposed abandonment of the line of Chicago and North Western Transportation Company between milepost 17.12 near Elmhurst and milepost 17.9 near Villa Park, in Du Page County, Ill., a distance of 0.78 mile, if approved by the Commission, would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that traffic over this line has been minimal and demand for service has been sporadic. Nearby alternative rail access is available and there will be a minimal impact on the area's total transportation scheme. In addition, the abandonment would facilitate the planned development of a park on the abandoned rail right-of-way. 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 May 17, 1974.

[FR Doc.74-10089 Filed 5-1-74;8:45 am]

[No. AB-12 (Sub-No. 8)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between South El Monte and Baldwin Park, Los Angeles County, Calif.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding, because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Los Angeles County, Calif., 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 22nd day of April 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD,
Secretary.

[No. AB-12 (Sub-No. 8)]

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT BETWEEN SOUTH EL MONTE AND BALDWIN PARK, LOS ANGELES COUNTY, CALIF.

The Interstate Commerce Commission hereby gives notice that by order dated April 22, 1974, it has been determined that the proposed abandonment of a line of the Southern Pacific Transportation Company between South El Monte and Baldwin Park, Los Angeles County, Calif., a distance of 4.36 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(c) of the NEPA.

It was concluded, among other things, that inasmuch as no traffic has moved over the subject line for the past two years and no shippers rely on the services of this line, abandonment will have little effect on land use plans or transportation patterns. If abandonment is approved, the right-of-way may be utilized as a mass transportation bus corridor. The abandonment will, therefore, facilitate the improvement of mass transportation in Los Angeles County.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request to 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 May 17, 1974.

[FR Doc.74-10090 Filed 5-1-74;8:45 am]

[No. AB-12 (Sub-No. 13)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Portion Winters Branch Between Vaca Valley and Esparto, in Solano and Yolo Counties, Calif.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding, because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in newspapers of general circulation in Solano and Yolo Counties, Calif., 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 22nd day of April 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD,
Secretary.

[No. AB-12 (Sub-No. 13)]

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT PORTION WINTERS BRANCH BETWEEN VACA VALLEY AND ESPARTO, IN SOLANO AND YOLO COUNTIES, CALIF.

The Interstate Commerce Commission hereby gives notice that by order dated April 22, 1974, it has been determined that the pro-

posed abandonment of the line of the Southern Pacific Transportation Company between Vaca Valley and Esparto, Calif., a distance of approximately 21.95 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(c) of the NEPA.

It was concluded, among other things, that traffic over this line is not substantial and is decreasing. Alternative motor carrier service in the area is adequate, therefore, there will be a minimal impact on the area's total transportation scheme. There are no development plans in the area, and land use will remain primarily dedicated to agriculture.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available for public inspection upon request to 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 May 17, 1974.

[FR Doc.74-10088 Filed 5-1-74;8:45 am]

[Amendment No. 5 to I.C.C. Order No. 88 Under Revised Service Order No. 994]

PENN CENTRAL TRANSPORTATION CO.

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 88 (Penn Central Transportation Co., George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., Trustees) and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 88 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., October 31, 1974, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., November 30, 1973, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent for all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 30, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-10091 Filed 5-1-74;8:45 am]

LIST OF FEDERAL REGISTER PAGES AND DATES—MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

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