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PART I

HIGHLIGHTS OF THIS ISSUE

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

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

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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.

rules and regulations

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

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

Title 10—Energy

CHAPTER II—FEDERAL ENERGY OFFICE

[Ruling 1974–12]

UNRECOUPED INCREASED PRODUCT COSTS WHERE PRICES CHARGED UNDER FIXED-PRICE CONTRACTS ARE LESS THAN THE LAWFUL BASE PRICE

Facts. Firm A, a refiner, sells jet fuel to Firm X and Firm Y, which are air carriers. Firm A's weighted average selling price at which jet fuel was lawfully priced in transactions with the class of purchaser to which Firm X and Firm Y belong was, on May 15, 1973, 20¢ per gallon. Firm A has measured its increased product costs pursuant to § 211.83 for the month of March, 1974 (the month of measurement), and has allocated $340,000 of those costs to jet fuel. Based on an estimated volume of 2,000,000 gallons of jet fuel to be sold in April, 1974 (the current month), Firm A determines increased product costs of 17¢ per gallon to be used in computing the base price of jet fuel for the month of April, 1974. In April, Firm A sells jet fuel to Firm X at a price specified under a fixed-price contract of 25¢ per gallon, and to Firm Y, which does not have a fixed price contract, at the lawful base price of 37¢ per gallon.

Issue. May the increased costs that Firm A allocated to the base price of jet fuel but which it did not recover through sales to Firm X in April, 1974, be carried forward by Firm A and used in computing its increased product cost which may be allocated to the prices of covered products other than special products for the month of May, 1974?

Ruling. Yes. § 212.83(d)(2) provides that "if in any month beginning with October 1973, a firm charges prices for covered products other than special products which result in the recoupment of more or less total revenues than the entire amount of increased product costs calculated pursuant to the general formula and allowable under paragraph (c)(1)(ii) of this section, * * * the amount of increased product costs not recouped may be added to May 15, 1973 selling prices to compute base prices for covered products other than special products in the subsequent month provided that the amount of the increased product cost not recouped and included in computing the base prices of a particular covered product other than a special product is equally applied to each class of purchaser."

In this instance, the price charged to Firm X, 25¢ per gallon, results in the recoupment of 5¢ of increased product cost per gallon, and the price charged to Firm Y, 37¢ per gallon, results in the recoupment of 17¢ of increased product cost per gallon. If Firm A actually sold 2,000,000 gallons of jet fuel during the month, with 1,500,000 gallons sold at 37¢ per gallon to Firm Y, and 500,000 gallons sold at 25¢ per gallon to Firm X, it would have recouped $280,000 of its increased product cost—$225,000 in sales to Firm Y (1,500,000 gallons x $.17) and $25,000 in sales to Firm X (500,000 gallons x $.05).

Thus, of the $340,000 in increased product costs assigned to jet fuel for the month of April, 1974, Firm A would have recouped $280,000 and would have $60,000 in unrecouped increased product costs available to carry forward into its calculation of increased product cost when computing the base prices of covered products other than special products for the month of May, 1974. It should be noted that Firm A could have allocated a lesser amount of its total increased product cost to the price of jet fuel for the month of April, 1974. For example, Firm A could have allocated $100,000 of its increased product cost to jet fuel, which would have resulted in 5¢ per gallon of increased product costs and a base price of 25¢ per gallon of jet fuel. The balance of the $340,000 in increased product cost that was available for use in computing jet fuel base prices could then have been assigned to other covered products other than special products, or could have been voluntarily "banked" for recovery in a subsequent month. Similarly, the $60,000 of increased product cost unrecouped in April, 1974, because of sales to Firm X at less than the lawful base price need not be assigned to jet fuel in computing base prices for a subsequent month, but may be assigned to the prices of some other covered product other than a special product, or may be "banked" until a subsequent month.

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

MAY 21, 1974.

[FR Doc.74–12055 Filed 5–24–74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74–WE–24–AD; Amdt. 39–1853]

PART 39—AIRWORTHINESS DIRECTIVES

AiResearch Model TFE731–2–2B and –1C Engines

Pursuant to the authority delegated to me by the Administrator (31 FR 13697), an airworthiness directive was adopted May 3, 1974, and made effective immediately by telegram dated May 3, 1974, to all known United States operators or owners of aircraft incorporating the AiResearch Model TFE731–2–2B and –1C engines (installed in, but not limited to the AMD Falcon 10 Aircraft). This action results because voltage transients can occur in the aircraft electrical system which can cause improper operation of the engine fuel control computer resulting in flameout and complete power loss. This airworthiness directive requires, before further engine operation, modification of the fuel control computer by removing an internal resistor to disable the latching function of the overspeed protective circuit. The telegraphic AD constituted an interim action. Modifications are under development by the manufacturer. Equivalent procedures may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately to all known operators or owners of aircraft incorporating AiResearch Model TFE731–2–2B and –1C engines. (Installed on, but not limited to, the AMD Falcon 10 Aircraft). These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations.

AIRESEARCH MANUFACTURING COMPANY OF ARIZONA. Applies to AiResearch Model TFE731–2–2B and –1C Engines Installed in, but not Limited to, AMD Falcon 10 Aircraft, Certificated in all categories

(A) Before further engine operation, unless previously accomplished, modify the fuel control computer in accordance with AiResearch Service Bulletin TFE731–76–3002, dated April 25, 1974, or later FAA-approved revisions.

NOTE. The Secretariat General A L Aviation Civile (SGAC), in agreement with AiResearch, has advised that no airplane flight manual modification is required. Immediate implementation by operators of the procedures set forth in AiResearch operating information letter, OI731–2 dated April 20, 1974, is urgently recommended by the agency.

(B) This is interim AD action. Modifications are under development by the manufacturer.

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

This amendment becomes effective May 28, 1974, for all persons except those to whom it was made effective immediately by telegram dated May 3, 1974.

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

Issued in Los Angeles, California, on May 15, 1974.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc.74-12063 Filed 5-24-74;8:45 am]

[Airworthiness Docket No. 72-WE-20-AD; Amdt. 39-1854]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-8 Series Airplanes

Amendment 39-1619 (38 FR 8643), AD 73-7-9, as amended by amendment 39-1696 (38 FR 20443), requires inspection of DC-8 control columns for cracks, removal and replacement, or rework per the limits in the AD. Since the issuance of the last amendment to the AD, McDonnell Douglas has designed a strengthened control column as a replacement for the original column. Fatigue tests and analysis have shown that this column should exhibit a fatigue life at least forty times that of the original design. Based on these data, AD 73-7-9 is being further amended to incorporate the redesigned control column as a terminating action whereby the inspection and rework requirements may be discontinued upon installation of the new column.

Since this amendment provides relief and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made 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, Amendment 39-1619 (38 FR 8643), AD 73-7-9, as amended by amendment 39-1696 (38 FR 20443), is amended as follows:

Add a new paragraph (4) to read:

(4) Replacement of the pilot's and co-pilot's control columns P/N 5614272-1 and 5614272-2 with new control columns P/N 5614272-501 and 5614272-502, respectively, is considered terminating action for this AD and the inspection and rework requirements of the AD may be deleted.

This amendment becomes effective May 30, 1974.

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

Issued in Los Angeles, California, on May 17, 1974.

ROBERT O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.74-12064 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-WE-6]

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

Alteration of Control Zone

On April 5, 1974, a notice of proposed rule making was published in the FEDERAL REGISTER (39 FR 12362) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Victorville, California control zone.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., July 18, 1974.

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

Issued in Los Angeles, California, on May 13, 1974.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

In § 71.181 (39 FR 354) the decsription of the Victorville, Calif. control zone is amended to read as follows:

VICTORVILLE, CALIF.

Within a 5-mile radius of George AFB, Victorville, Calif. (latitude 34°35'45" N., longitude 117°22'55" W.). This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

[FR Doc.74-12067 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-RM-2]

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

Alteration of Transition Area

On April 15, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 13556) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the transition area for Wendover, Utah.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received, and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t., July 18, 1974.

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

Issued in Aurora, Colorado, on May 16, 1974.

I. H. HOOVER,
Acting Director,
Rocky Mountain Region.

In § 71.181 (39 FR 440) amend the transition area at Wendover, Ut., to read:

WENDOVER, UT.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Wendover AF Auxiliary Field (latitude 40°43'41" N., longitude 114°02'12" W.); that airspace extending upward from 1200 feet above the surface within 12.5 miles north and 8.5 miles south of the Bonneville VORTAC 084° and 272° radials, extending from the VORTAC to 23 miles east and west of the VORTAC; and that airspace extending upward from 8500 feet MSL bounded on the north by V6, on the west by V253, on the south by V32, and on the east by a line extending from latitude 40°51'30" N., longitude 112°56'30" W.; north to latitude 41°00'00" N., longitude 112°56'30" W.; thence east to latitude 41°00'00" N., longitude 112°45'00" W., thence north to latitude 41°10'40" N., longitude 112°45'00" W., thence northwest to latitude 41°12'00" N., longitude 112°52'00" W.; thence north via longitude 112°52'00" W., to V6, excluding that portion which falls within the 1200-foot transition area.

[FR Doc.74-12065 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-SW-12]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Granbury, Tex., transition area.

On April 9, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 12871) stating the Federal Aviation Administration proposed to designate a 700-foot transition area at Granbury, Tex.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

In § 71.181 (39 FR 440), the following transition area is added:

GRANBURY, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Granbury Municipal Airport (latitude 32°26'38" N., longitude 97°49'00" W.); and within 1.5 miles each side of the Acton VORTAC 274° radial extending from the 5-mile radius of the Acton VORTAC.

(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, Tex., on May 14, 1974.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.74-12061 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-WE-4]

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

Designation of Transition Area; Correction

On April 26, 1974 FR Doc. 74-9541 was published in the FEDERAL REGISTER (39 FR 14697) which amended Part 71 of the Federal Aviation Regulations by designating a new transition area for Nogales, Arizona. A review of the document revealed that the eastern boundary for the area was incomplete. Action is taken herein to correct this error.

Since this change is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In view of the foregoing, FR Doc. 74-9541 (39 FR 14697) is amended by correcting the description of the Nogales, Arizona transition area in part as follows.

Beginning in line 13 of the transition area description delete "* * * on the E. by the W. boundary of R-2303B, * * *" and substitute therefore, "* * * on the E. by longitude 110° 45′ 00″ W., * * *"

Effective date. The effective date as originally established may be retained. (0901 G.m.t., June 20, 1974)

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

Issued in Los Angeles, California, on May 13, 1974.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc.74-12066 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-SO-54]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Myrtle Beach AFB, S.C., control zone.

The Myrtle Beach AFB control zone is described in § 71.171 (39 FR 354). In the description, an extension is predicated on Conway TACAN 165° radial, which was designated to provide controlled airspace protection for IFR aircraft executing the High TACAN 2 RWY 35 Standard Instrument Approach Procedure. Since the procedure will be cancelled, effective May 23, 1974, it is necessary to alter the control zone description to revoke this extension. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 23, 1974, as hereinafter set forth.

In § 71.171 (39 FR 354), the Myrtle Beach AFB, S.C., control zone is amended as follows:

"* * * Conway TACAN 165° and 335° radials, extending from the 5-mile radius zone to 6.5-miles south and * * *" is deleted and "* * * Conway TACAN 335° radial, extending from the 5-mile radius zone to 6.5 miles * * *" 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 East Point, Ga., on May 15, 1974.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.74-12139 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-SO-26]

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

Alteration of Federal Airways

On March 27, 1974, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (39 FR 11302) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter V-159 from Palm Beach, Fla., to Vero Beach, Fla., and V-267 east alternate from Palm Beach, Fla., to Orlando, Fla.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

Section 71.123 (39 FR 307) is amended as follows:

a. In V-159 "INT Palm Beach 321° and Vero Beach, Fla., 178° radials;" is deleted and "INT Palm Beach 326° and Vero Beach, Fla., 178° radials;" is substituted therefor.

b. In V-267 "INT Palm Beach 321° and Orlando 162° radials;" is deleted and "INT Palm Beach 326° and Orlando 162° radials;" 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 May 17, 1974.

RAYMOND M. MCINNIS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.74-12142 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-WA-4]

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

Alteration of VOR Federal Airway; Correction

On February 1, 1974, FR Doc. 74-2675 was published in the FEDERAL REGISTER (39 FR 4075) amending Part 71 of the Federal Aviation Regulations, by redescribing V-69 and V-69W between Shreveport, La., and El Dorado, Ark., effective May 23, 1974. These airways were based in part on relocation of the Monroe, La., VORTAC. Technical problems associated with commissioning of Monroe at the new location caused a change in the effective date of FR Doc. 74-2675 from May 23, 1974, until July 18, 1974. That change in effective date was published in FR Doc. 74-6320 on March 20, 1974 (39 FR 10428). Additional technical problems with the Monroe VORTAC have made it necessary to further delay the effective date of FR Doc. 74-2675 until August 15, 1974.

Since the delay of the commissioning date of the relocated VORTAC due to technical problems is an administrative matter within the normal expertise of the FAA, and is one upon which the public would have no particular reason to comment, notice and public procedure thereon are unnecessary and this amendment to the FR Doc. may become effective immediately.

In consideration of the foregoing, effective on May 28, 1974, FR Doc. 74-2675 is amended, as hereinafter set forth.

"effective 0901 G.m.t., July 18, 1974," is deleted and "effective 0901 G.m.t., August 15, 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 May 16, 1974.

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

[FR Doc.74-12132 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-EA-14]

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

Designation of Transition Area

On page 11098 of the FEDERAL REGISTER for March 25, 1974, the Federal Aviation Administration published a proposed rule which would designate a Norwich, N.Y., transition area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t., July 18, 1974.

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

Issued in Jamaica, N.Y., on May 10, 1974.

JAMES BISPO,
Deputy Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Norwich, N.Y. transition as follows:

NORWICH, N.Y.

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, 42°34'00" N., 75°31'30" W., of Warren Eaton Airport, Norwich, N.Y.; within a 12.5-mile radius of the center of the airport, extending clockwise from a 071° bearing to a 103° bearing from the airport; within a 13.5-mile radius of the center of the airport, extending clockwise from a 235° bearing to a 351° bearing from the airport.

[FR Doc.74-12140 Filed 5-24-74;8:45 a.m.]

[Airspace Docket No. 73-SW-19]

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

Extension of Effective Date

On July 10, 1973, FR Doc. 73-13875 was published in the FEDERAL REGISTER (38 FR 18363) realigning V-18, V-71, and V-94 in the vicinity of Monroe, La., effective November 8, 1973. These realignments were dependent upon the relocation of Monroe, La., VORTAC. Problems associated with commissioning Monroe VORTAC at its new locations have caused delays to the original and subsequently planned effective date. These problems have now been solved and the effective date for these alterations is changed herein from July 18, 1974, to August 15, 1974.

Since the delay of the commissioning date of the relocated VORTAC due to technical problems is an administrative matter within the normal expertise of the FAA, and is one upon which the public would have no particular reason to comment, notice and public procedure thereon are unnecessary and this amendment to the FR Doc. may become effective immediately.

In consideration of the foregoing, effective on May 28, 1974, FR Doc. 73-13875 is amended, as hereinafter set forth.

"effective 0901 G.m.t., July 18, 1974" is deleted, and "effective August 15, 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 May 16, 1974.

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

[FR Doc.74-12133 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-WA-18]

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

Revocation of Additional Control Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke Control 1180.

Control 1180 (39 FR 15383) was designated on a part time basis to provide for the movement of oceanic air traffic into and from the New York terminal area in the event that a threatened strike by Canadian air traffic controllers should occur and thereby preclude the safe use of air routes through Canadian controlled airspace.

The Federal Aviation Administration (FAA) has been advised that the threat of a Canadian controllers strike has now been terminated and that normal movement of air traffic within Canadian controlled airspace may be expected to continue. Accordingly, action is taken herein to revoke Control 1180.

Since the original requirement for Control 1180 did not develop, there is no longer a need for this designated airspace. Its revocation is therefore a minor matter upon which the public has no desire to comment and notice and public procedure thereon are unnecessary. However, as revocation of Control 1180 will allow a return to normal joint use of the airspace within offshore Warning Areas W-105, W-106, and W-506, good cause exists for making this amendment effective on less than 30-days notice.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective on May 28, 1974, as hereinafter set forth.

In § 71.163 (39 FR 346, 15383), Control 1180 is revoked.

(Sec. 307(a), 1110 Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1510), Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c))

Issued in Washington, D.C., on May 16, 1974.

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

[FR Doc.74-12134 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-WA-16]

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

Revocation of Reporting Points

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the Balboa and Sea Lion Reporting Points. These reporting points are no longer required because their associated routes have been cancelled.

Because this action merely revokes reporting points in accordance with the requirements of current air traffic control procedures without altering any route structures or designated airspace, this action is a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary. In order to provide sufficient time for changes to be made on appropriate aeronautical charts, this amendment is made effective more than 30 days after its publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

Section 71.209 (39 FR 630) is amended by deleting: Balboa INT: and Sea Lion INT: heading and text.

(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 May 16, 1974.

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

[FR Doc.74-12135 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-SW-3]

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

PART 73—SPECIAL USE AIRSPACE

Designation of Temporary Restricted Areas

On March 6, 1974, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (39 FR 8631) stating that the Federal Aviation Administration (FAA) was considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would designate temporary restricted areas adjacent to Fort Polk, La. The restricted areas would be used to contain a joint military exercise "BRAVE SHIELD IX" which is scheduled from 0600 CDT, August 2, 1974, to 1400 CDT, August 5, 1974. Those areas with airspace at or above 14,500 feet MSL would also be included in the continental control area for the duration of their time of designation.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No objections were received.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., July 18, 1974, as hereinafter set forth.

In § 71.151 (39 FR 343) the following temporary restricted areas are included for the duration of their time of designation from 0600 C.D.T. August 2, 1974, to 1400 C.D.T., August 5, 1974:

1. R-3805A Brave Shield IX, La.
2. R-3805B Brave Shield IX, La.
3. R-3805C Brave Shield IX, La.
4. R-3805D Brave Shield IX, La.

In § 73.38 (39 FR 668) the following temporary restricted areas are added:

1. R-3805A BRAVE SHIELD IX, LA.

BOUNDARIES

Beginning at Lat. 31°11'45" N., Long. 92°30'15" W.; to Lat. 31°05'15" N., Long. 92°34'50" W.; to Lat. 30°52'00" N., Long. 92°49'00" W.; to Lat. 30°50'00" N., Long. 93°00'00" W.; to Lat. 30°50'00" N., Long. 93°15'00" W.; to Lat. 31°40'00" N., Long. 93°27'00" W.; to Lat. 31°27'30" N., Long. 93°03'00" W.; to Lat. 31°15'15" N., Long. 92°41'45" W.; to Lat. 31°17'10" N., Long. 92°40'10" W.; to point of beginning, excluding that airspace from 100 feet AGL to and including 800 feet AGL within a 3-mile radius

of the Leesville Airport (Lat. 31°10'02" N., Long. 93°20'32" W.).

Designated altitudes. 100 feet AGL to and including FL 180.

Time of designation. Continuous, 0600 C.D.T., August 2, 1974, to 1400 C.D.T., August 5, 1974.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. United States Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va.

2. R-3805B BRAVE SHIELD IX, LA.

BOUNDARIES

Beginning at Lat. 31°05'15" N., Long. 92°34'50" W.; to Lat. 30°40'00" N., Long. 92°48'50" W.; to Lat. 30°40'00" N., Long. 93°30'00" W.; to Lat. 31°45'25" N., Long. 93°37'15" W.; to Lat. 31°40'00" N., Long. 93°27'00" W.; to Lat. 30°50'00" N., Long. 93°15'00" W.; to Lat. 30°50'00" N., Long. 93°00'00" W.; to Lat. 30°52'00" N., Long. 92°49'00" W., to point of beginning, excluding that airspace from 100 feet AGL to and including 800 feet AGL within a 3-mile radius of the following airports:

Beauregard Parish Airport (Lat. 30°50'00" N., Long. 93°20'30" W.); Leesville Airport (Lat. 31°10'02" N., Long. 93°20'32" W.); Hart Airport (Lat. 31°32'45" N., Long. 93°29'-30" W.).

Designated altitudes. 100 feet AGL to and including FL 180.

Time of designation. Continuous, 0600 C.D.T., August 2, 1974, to 1400 C.D.T., August 5, 1974.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. United States Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va.

3. R-3805C BRAVE SHIELD IX, LA.

BOUNDARIES

Beginning at Lat. 30°40'00" N., Long. 92°48'50" W.; to Lat. 30°24'00" N., Long. 92°58'00" W.; to Lat. 30°20'00" N., Long. 94°00'00" W.; to Lat. 31°10'00" N., Long. 94°30'00" W.; to Lat. 31°18'30" N., Long. 94°27'00" W.; to Lat. 31°51'30" N., Long. 93°55'00" W.; to Lat. 31°45'25" N., Long. 93°37'15" W.; to Lat. 30°40'00" N., Long. 93°30'00" W.; to point of beginning, excluding that airspace 2,500 feet MSL and below within a radius of 20-nautical miles from the Lake Charles VORTAC (Lat. 30°08'29" N., Long. 93°06'20" W.), and excluding that airspace from 400 feet AGL to and including 800 feet AGL within a 3-mile radius of the following airports:

DeQuincy Industrial Airport (Lat. 30°26'-17" N., Long. 93°28'21" W.); Hemphill Airport (Lat. 31°21'00" N., Long. 93°53'33" W.); Jasper County Airport (Lat. 30°53'30" N., Long. 94°02'00" W.); Kirbyville Airport (Lat. 30°-38'45" N., Long. 93°55'00" W.); Newton Airport (Lat. 30°53'03" N., Long. 93°44'30" W.); Pineland Airport (Lat. 31°14'00" N., Long. 93°58'54" W.); San Augustine County Airport (Lat. 31°32'22" N., Long. 94°10'13" W.).

Designated altitudes. 400 feet AGL to and including FL 180.

Time of designation. Continuous, 0600 C.D.T., August 2, 1974, to 1400 C.D.T., August 5, 1974.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. United States Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va.

4. R-3805D BRAVE SHIELD IX, LA.

BOUNDARIES

Beginning at Lat. 31°10'00" N., Long. 92°30'00" W.; to Lat. 30°24'00" N., Long. 92°58'00" W.; to Lat. 30°20'00" N., Long. 94°00'00" W.; to Lat. 31°10'00" N., Long. 94°30'00" W.; to Lat. 31°18'30" N., Long. 94°27'00" W.; to Lat. 31°41'30" N., Long. 94°03'30" W.; to Lat. 31°33'45" N., Long. 93°36'00" W.; to point of beginning.

Designated altitudes. From FL 180 to and including FL 350.

Time of designation. Continuous, 0600 C.D.T., August 2, 1974, to 1400 C.D.T., August 5, 1974.

Controlling agency. Federal Aviation Administration, Houston ARTC Center.

Using agency. United States Air Force Tactical Air Command/USAF Readiness Command (TAC/USAFRED), Langley Air Force Base, Va.

[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 May 16, 1974.

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

[FR Doc.74-12138 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-EA-12]

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

Alteration of Control Zone and Transition Area

On page 11929 of the FEDERAL REGISTER for April 1, 1974, the Federal Aviation Administration published a proposed rule which would alter the Williamsport, Pa., control zone (39 FR 437) and Transition Area (39 FR 614).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. July 18, 1974.

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

Issued in Jamaica, N.Y., on May 10, 1974.

JAMES BISPO,
Deputy Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Williamsport, Pa. control zone and by substituting the following in lieu thereof:

Within a 6-mile radius of the center, 41°14'32" N., 76°55'12" W. of Williamsport-Lycoming County Airport, extending clockwise from a 099° bearing to a 145° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 145° bearing to a 172° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 172° bearing to a 203° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 203° bearing to a 241° bearing from the airport; within a 12.5-mile radius of the center of the airport, extending clockwise from a 241° bearing to a 270° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 270° bearing to a 312° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 312° bearing to a 350° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 350° bearing to a 358° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from a 358° bearing to a 004° bearing from the airport; within a 13-mile radius of the center of the airport, extending clockwise from a 004° bearing to a 099° bearing from the airport; and within 4 miles each side of the Williamsport-Lycoming County Airport ILS localizer east course, extending from the MM to 8.5 miles east of the MM.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Williamsport, Pa. transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 20.5-mile radius of the center, 41°14'32" N., 76°55'12" W. of Williamsport-Lycoming County Airport, extending clockwise from a 025° bearing to a 067° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 067° bearing to a 145° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 145° bearing to a 203° bearing from the airport; within a 20.5-mile radius of the center of the airport, extending clockwise from a 203° bearing to a 316° bearing from the airport; within a 22.5-mile radius of the center of the airport, extending clockwise from a 316° bearing to a 025° bearing from the airport; within 4.5 miles north and 9.5 miles south of the Williamsport-Lycoming County Airport ILS localizer east course, extending from the Picture Rocks, Pa. RBN to 18.5 miles east of the RBN; within 5 miles each side of the Williamsport-Lycoming County Airport ILS localizer east course, extending from the Picture Rocks, Pa. RBN to 13 miles east of the RBN.

[FR Doc.74-12137 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-NE-4]

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

Designation of Transition Area

On page 11433 of the FEDERAL REGISTER dated March 28, 1974, the Federal Aviation Administration published a notice of proposed rulemaking which would designate the Highgate, Vermont, 700-foot transition area.

Interested parties were given 30 days after publication in which to submit writ-

ten data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., July 18, 1974.

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

Issued in Burlington, Mass., on May 14, 1974.

FERRIS J. HOWLAND,
Director,
New England Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Highgate, Vermont, 700-foot Transition Area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an arc of a 5-mile radius circle centered on Franklin County State Airport, Highgate, Vermont (Lat. 44°56'26'' N., 73°05'54'' W.) extending clockwise between the 305° and 050° bearings from the Franklin County State Airport; within an arc of a 7-mile radius circle centered on Franklin County State Airport, extending clockwise between the 050° and 305° bearings of Franklin County State Airport; within 6.5 miles northwest and 4 miles southeast of Plattsburgh, New York VORTAC 060° radial extending from the radius area to the VORTAC, excluding that portion of the Plattsburgh, New York, 700-foot Transition Area.

[FR Doc.74-12143 Filed 5-24-74;8:45 am]

[Airspace Docket No. 74-SO-22]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Designation and Redesignation of Jet Routes

On March 28, 1974, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (39 FR 11433) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would designate J-165 from Charleston, S.C., to Richmond, Va., and extend J-121 from Norfolk, Va., to Charleston, S.C.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No comments were received.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0902 g.m.t., July 18, 1974, as hereinafter set forth.

Section 75.100 (39 FR 699, 14939) is amended as follows:

a. In Jet Route No. 121 "From Jacksonville, Fla.; to Charleston, S.C. From Norfolk, Va., via" is deleted and "From Jacksonville, Fla., via Charleston, S.C.; Norfolk, Va.;" is substituted therefor.

b. J-165 is added to read as follows:

J165 From Charleston, S.C., to Richmond, Va. (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 May 16, 1974.

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

[FR Doc.74-12136 Filed 5-24-74;8:45 am]

[Docket No. 13709; Amdt. No. 917]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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 exists 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 July 4, 1974:

Corpus Christi, Tex.—Corpus Christi Int'l Arpt., VOR Rwy 17 (TAC), Amdt. 18.
Corpus Christi, Tex.—Corpus Christi Int'l. Arpt., VORTAC Rwy 35, Amdt. 3.
Los Angeles, Calif.—Los Angeles Int'l. Arpt., VOR Rwy 25L, Amdt. 6.
Los Angeles, Calif.—Los Angeles Int'l. Arpt., VOR Rwy 25R, Amdt. 6.
The Dalles, Oreg.—The Dalles Municipal Arpt., VOR/DME A, Amdt. 2.

* * * effective June 20, 1974:

Thedford, Nebr.—Thedford Municipal Arpt., VOR Rwy 8, Orig.

* * * effective May 13, 1974:

Memphis, Tenn.—Memphis Int'l. Arpt., VOR Rwy 35R, Amdt. 27, canceled.

* * * effective May 9, 1974:

Atlanta, Ga.—The William B. Hartsfield Atlanta Int'l Arpt., VOR Rwy 27R, Amdt. 6, canceled.

* * * effective April 26, 1974:

Montgomery, N.Y.—Orange County Arpt., VOR Rwy 8, Amdt. 5.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs effective July 4, 1974:

Corpus Christi, Tex.—Corpus Christi Int'l Arpt., LOC (BC) Rwy 31, Amdt. 4.

* * * effective June 6, 1974:

Cleveland, Ohio—Cuyahoga County Arpt., LOC (BC) Rwy 5, Orig.

* * * effective May 13, 1974:

Memphis, Tenn.—Memphis Int'l Arpt., LOC (BC) Rwy 17L, Amdt. 6, canceled.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective July 4, 1974:

Corpus Christi, Tex.—Corpus Christi Int'l. Arpt., NDB Rwy 13, Amdt. 16.
Macon, Ga.—Lewis B. Wilson Arpt., NDB Rwy 5, Amdt. 17.
Titusville, Fla.—TI-CO Arpt., NDB Rwy 18, Amdt. 3.

* * * effective May 13, 1974:

Memphis, Tenn.—Memphis Int'l Arpt., NDB Rwy 35R, Amdt. 13, canceled.

* * * effective May 9, 1974:

Atlanta, Ga.—The William B. Hartsfield Atlanta Int'l. Arpt., NDB Rwy 9L, Amdt. 1, canceled.
Atlanta, Ga.—The William B. Hartsfield Atlanta Int'l. Arpt., NDB Rwy 27R, Amdt. 8, canceled.

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

Corpus Christi, Tex.—Corpus Christi Int'l. Arpt., ILS Rwy 13, Amdt. 15.
Los Angeles, Calif.—Los Angeles Int'l. Arpt., ILS Rwy 24L/R, Amdt. 5.
Los Angeles, Calif.—Los Angeles Int'l. Arpt., ILS Rwy 25L/R, Amdt. 7.
Macon, Ga.—Lewis B. Wilson Arpt., ILS Rwy 5, Amdt. 19.

* * * effective June 20, 1974:

San Francisco, Calif.—San Francisco Int'l. Arpt., ILS Rwy 28L, Amdt. 10.

* * * effective May 13, 1974:

Memphis, Tenn.—Memphis Int'l. Arpt., ILS Rwy 17L, Amdt. 1, canceled.
Memphis, Tenn.—Memphis Int'l. Arpt., ILS Rwy 35R, Amdt. 15, canceled.

* * * effective May 10, 1974:

Bluefield, W. Va.—Mercer Co. Arpt., ILS Rwy 23, Amdt. 1.

Dublin, Va.—New River Valley Arpt., ILS Rwy 6, Amdt. 1.

5. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective July 4, 1974:

Los Angeles, Calif.—Los Angeles Int'l. Arpt., RNAV Rwy 24R, Amdt. 2.
Los Angeles, Calif.—Los Angeles Int'l. Arpt., RNAV Rwy 25L, Amdt. 3.

Correction. In Docket No. 13669, Amendment 914, to Part 97 of the Federal Aviation Regulations, published in the FEDERAL REGISTER dated May 2, 1974, on page 15260, under § 97.29 effective June 13, 1974—Change effective date of Atlanta, Ga.—The William B. Hartsfield Atlanta Int'l. Arpt., ILS Rwy 27L, Amdt. 1, to May 30, 1974.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; (49 U.S.C. 1438, 1354, 1421, 1510), sec. 6(c) Department of Transportation Act, (49 U.S.C. 1655(c)) and (5 U.S.C. 552(a)(1)).

Issued in Washington, D.C., on May 16, 1974.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

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

[FR Doc.74-12068 Filed 5-24-74;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. ER-855; Amdt. 4]

PART 205—INAUGURATION AND TEMPORARY SUSPENSION OF SCHEDULED ROUTE SERVICE AUTHORIZED BY CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

Director, Bureau of Operating Rights

Several sections of Part 205 continue to include outdated references to the "Chief, Routes and Agreements Division, Bureau of Economic Regulations." The purpose of this amendment is to correct those references to read, "Director, Bureau of Operating Rights."

This editorial amendment is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective on June 17, 1974. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 through 385.54).

Accordingly, the Board hereby amends Part 205 of the Economic Regulations (14 CFR Part 205) effective June 17, 1974, and adopted May 22, 1974, as follows:

1. Amend paragraphs (b) and (c) of § 205.8 to read as follows:

§ 205.8 Automatic suspension authority for involuntary postponement of inauguration or involuntary interruption of service.

* * * * *

(b) In the case of delayed inauguration or an interruption of service caused by a strike, the holder shall give immediate notice of such interruption to the Board (marked for the attention of the Director, Bureau of Operating Rights).

(c) If service at a point is interrupted or inauguration delayed for more than three (3) consecutive days for reasons beyond the certificate holder's control other than a strike, the holder shall give notice to the Board marked for the attention of Director, Bureau of Operating Rights) within three (3) days following the date of required inauguration of service or suspension, setting forth the date of suspension and a full and complete statement of the reasons therefor.

2. Amend § 205.11 to read as follows:

§ 205.11 Institution of service after suspension or postponement of inauguration: notice to the Board.

When service is inaugurated following postponement of inauguration, of resumed following suspension under either express or automatic authority, immediate notice thereof shall be given to the Board (marked for attention of the Director, Bureau of Operating Rights), stating the time when service was inaugurated or resumed.

3. Amend § 205.12 to read as follows:

§ 205.12 Strikes; report to be filed.

Within fifteen (15) days following resumption of service after a strike an air carrier shall file a report with the Board (marked for the attention of the Director, Bureau of Operating Rights) containing a list of all flights that were canceled, the date they were canceled, and the date service was restored.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324). Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989 (49 U.S.C. 1324 (note)))

By the Civil Aeronautics Board.

[SEAL] RICHARD LITTELL,
General Counsel.

[FR Doc.74-12156 Filed 5-24-74;8:45 am]

[Reg. ER-856, Amdt. 14]

PART 223—TARIFFS OF AIR CARRIERS: FREE AND REDUCED-RATE TRANSPORTATION

Carriers' Reports; Bureau of Economics

Paragraph (c)(3) of § 223.2 calls for reports thereunder to be filed with the "Bureau of Air Operations." Through reorganization some time ago, that bureau no longer exists, and the function of receiving carriers' reports under § 223.2 has been performed by the Bureau of Economics. The purpose of this amendment is to reflect the organizational change.

This editorial amendment is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective on June 17, 1974. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 through 385.54).

Accordingly, the Board hereby amends Part 223 of the Economic Regulations (14 CFR Part 223) effective June 17, 1974, and adopted May 22, 1974, as follows:

Amend subparagraph (3) of § 223.2(c) to read as follows:

§ 223.2 Persons to whom free and reduced-rate transportation may be furnished.

* * * * *

(c) * * *

(3) Such transportation is reported in a statement addressed to the attention of the Bureau of Economics, Civil Aeronautics Board, Washington, D.C. 20428, and forwarded so as to be received by the Board within ten (10) days after the end of the calendar month in which such transportation took place. Such statement shall list the name of each person provided such free transportation, his company affiliation, the specific nature of the observations made, the particular equipment or component of the aircraft observed, the reasons in-flight observation was deemed necessary, and the dates, flights and points between which such free transportation was provided.

* * * * *

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324). Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989 (49 U.S.C. 1324 (note)))

By the Civil Aeronautics Board.

[SEAL] RICHARD LITTELL,
General Counsel.

[FR Doc.74-12153 Filed 5-24-74;8:45 am]

[Reg. ER-857, Amdt. 3]

PART 231—TRANSPORTATION OF MAIL; MAIL SCHEDULES

Director, Office of Facilities and Operation

Section 231.6 requires filings thereunder to be addressed to the "Office of the Secretary." Through reorganization, the function of receiving such filings is now performed by the Director, Office of Facilities and Operation, and the purpose of this amendment is to reflect the organizational change.

This editorial amendment is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective on June 17, 1974. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 through 385.54).

Accordingly, the Board hereby amends Part 231 of the Economic Regulations (14 CFR Part 231) effective June 17, 1974, and adopted May 22, 1974, as follows:

Amend § 231.6 to read as follows:

§ 231.6 Number of copies; filing address.

Each air carrier shall transmit to the Board three copies of each general schedule or revised page thereof, and three copies of the summary of additions and changes required by § 231.5, accom-

panied by a letter of transmittal (in duplicate if a receipt is desired) listing the general schedule or revised pages and summary that are transmitted for filing. The letter of transmittal and listed enclosures shall be included in one package addressed to: Civil Aeronautics Board, Director, Office of Facilities and Operations, Washington, D.C. 20428.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324). Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989 (49 U.S.C. 1324 (note)))

By the Civil Aeronautics Board.

[SEAL] RICHARD LITTELL,
General Counsel.

[FR Doc.74-12094 Filed 5-24-74;8:45 am]

[Reg. ER-854; Amdt. No. 14]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Charges by Foreign Authorities for Airport and En Route Facilities and Services

By circulation of proposed rulemaking EDR-254, dated September 17, 1973 (Docket 25903) and published at 38 FR 26461 dated September 21, 1973, the Board gave notice that it had under consideration an amendment to Part 241 of its Economic Regulations which would require certificated route and supplemental air carriers to report charges by foreign governments for airport and en route facilities and services on a new quarterly Schedule P-11 of CAB Form 41.[1]

The Board pointed out in EDR-254 that the need for this information arises from the fact that there has been a steady increase in the number of foreign governments levying such charges and the fact that the amounts of these charges have also been increasing. The reported data, the Board said, would insure that it is completely aware of developments in the area of cost recovery policies of foreign governments, and the trends associated therewith.

Comments in response to the notice were submitted by four route air carriers,[2] two supplemental air carriers [3] and the Department of Transportation.

Upon consideration of the comments, the Board has decided to adopt the amendments with modifications hereinafter discussed. Except to the extent modified herein, the tentative findings set forth in the Explanatory Statement of EDR-254 are incorporated herein and made final.

The Flying Tiger Line strongly supports the rule in its entirety and two other respondents—Pan American and The Department of Transportation (DOT)—also strongly support the rule, but, in addition offer various suggestions which they believe will improve the reported data. While TWA does not specifically oppose the rule, it is uncertain whether the data reported will provide the Board with the information it is seeking, and like Pan American and DOT, recommends certain modifications which it feels will rectify asserted deficiencies.

Northwest, Trans International and World object to the rule, stating generally that it would be extremely burdensome and that the proposed report would have little or no practical value since it would provide only total costs incurred for certain services without any reference point or comparative value whatsoever; further, these respondents contend that the proposed recurrent reporting is unnecessary and a one-time study would suffice.

At the outset, the Board has not found the arguments in opposition to the proposed rule to be persuasive. As indicated in EDR-254, the instant rulemaking has been necessitated by the inadequacy of data submitted by air carriers concerning the user charges imposed upon them by foreign governments. Since none of the comments seriously questions our regulatory need for this information, we believe that the reporting burden which this rule would entail is too slight to outweigh the considerations favoring its adoption. However, insofar as some of the comments point out that the proposed report could be improved upon if it were revised to require the reporting of a unit charge for each item of expense, rather than total costs only, we accept the suggestion. The reporting requirement has been modified accordingly.

We are also adopting the suggestion by DOT and Pan American that the proposed single report be separated into two reports—one covering en route charges and the other covering airport charges. Filing these charges separately, in Schedule P-11(a) and P-11(b), respectively, will facilitate the identification of en route charges by route segment. Moreover, since the comments correctly point out that some of the charges are paid to foreign entities other than governments, (e.g., EUROCONTROL in Europe, ASECNA (Agency for Air Navigation Safety) in part of Africa, and COCESNA (Central American Air Navigation Services Corporation) in Central America), we are revising the proposed report so as to extend to such charges as well as those paid to foreign governments.

Northwest, Pan American and TWA all point out that many times billings are received for a combination of services such as communication facilities, air traffic services and meteorological services which are not segregated on the billings. In these instances, the carriers state it is extremely difficult, if not impossible, to separate the costs associated with each. However, the fact that until now billings have not been particularized may signify nothing more than the fact that until now such particularization has not been thought to serve any useful purpose. We will not assume that foreign governments or other entities will henceforth refuse to provide billing particularization in the manner which will be required to enable carriers to comply with the within reporting requirements. Should such a situation develop, we would expect the matter to be brought to our attention, and, where justified by particular circumstances, we would entertain requests for appropriate relief.

TWA states that because of the lack of a basic activity factor it will be most difficult for the Board to compare and/or analyze the differences in charges between airports and countries; TWA further states that, assuming that activity factors can be found to measure the change in rates, a potential distortion could nonetheless occur, period-to-period, as a result of currency fluctuations since Schedule P-11 shows amounts expressed only in U.S. dollars with no provisions for local currency equivalents. Accordingly, TWA suggests that, for meaningful comparisons, the report be modified to indicate charges expressed in U.S. dollars with an average rate of exchange for the period being reported on the form.

While the absence of a basic activity factor might have impaired the value of information reported under the proposed requirement, which called for total costs only, the revised reporting herein, by furnishing a unit charge for each item of expense should achieve the purpose described by TWA. However, we are not adopting TWA's recommendation insofar as it seeks to include the average foreign exchange rate in order to remove potential distortion. The Board believes that this potential distortion does not warrant the additional reporting burden of obtaining average rates of exchange.

In response to a question raised by Northwest, the expenses shown on Schedule P-11 will be reported on the accrual basis, pursuant to section 2-4 of the Uniform System of Accounts and Reports (USAR), but we see no reason to cross-reference or reconcile the P-11 figures to specific objective accounts in the USAR. Also, in response to comments by Northwest and Pan American, we are providing an explanation for the term "Ancillary Aviation Services."

In order to allow ample time for the carriers to establish proper coding and to issue proper instructions to their stations, so that the various expense items can be coded and segregated when the bills are paid, we are making the rule effective July 1, 1974. Expenses incurred thereafter will be covered by the within rule, so that the initial reports hereunder will be filed with respect to the quarter ending September 30, 1974.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241), effective July 1, 1974 and adopted April 9, 1974, as follows:

Section 22 [Amended]

1. Amend paragraph (a) of Section 22—General Reporting Instructions as follows:

(a) Add Schedule P-11(a)—Charges by Foreign Governments and Foreign Entities for En Route Facilities and Serv-

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[1] Filed as part of the original document.

[2] The Flying Tiger Line Inc.; Northwest Airlines, Inc.; Pan American World Airways, Inc.; and Trans World Airlines, Inc.

[3] Trans International Airlines, Inc.; and World Airways, Inc.

ices, and Schedule P–11(b)—Charges by Foreign Governments for Airport Facilities and Services in the List of Schedules in CAB Form 41 report to read:

Schedule No.	Schedule title	Filing frequency
*	* * * * *	
P-10	Payroll	Do.
P-11(a)	Charges by Foreign Governments and Foreign Entities for En Route Facilities and Services.	Do.
P-11(b)	Charges by Foreign Governments for Airport Facilities and Services	Do.
P-41	Taxes	Annually.
*	* * * * *	

(b) Include Schedules P–11(a) and P–11(b) in the list of Due Dates of Schedules in CAB Form 41 for the following due dates: Feb. 10, May 10, Aug. 10 and Nov. 10.

2. Amend Section 24—Profit and Loss Elements to include, following the description of Schedule P–10, the following description of Schedules P–11(a) and P–11(b):

Section 24 [Amended]

Schedule P–11(a)—Charges by Foreign Governments and Foreign Entities for En Route Facilities and Services

(a) Schedule P–11(a) shall be filed by all route air carriers that are performing international operations.

(b) This schedule shall reflect the charges for en route facilities and services by foreign governments and foreign entities, such as communication facilities and navigation aids, air traffic services, meteorological services, and other ancillary aviation services.

(c) Column (1) "Foreign Government or Foreign Entity" shall reflect the names of each foreign government or foreign entity to which charges for services were paid or accrued during the reporting quarter. Examples of foreign entities are: EUROCONTROL in Europe; ASECNA (Agency for Air Navigation Safety) in part of Africa; COCESNA (Central American Air Navigation Services Corporation) in Central America.

(d) Column (2) "Route Segment" shall reflect the direction of each flight on which charges for services were paid or accrued during the reporting quarter; e.g., PAR–GVA for flight from Paris to Geneva.

(e) For each separate entry in columns (1) and (2) show the unit charge and total charges paid or accrued for services during the reporting quarter for each of the various types of services provided in columns (3) through (11). Column (11) "Miscellaneous" shall reflect charges not classified elsewhere.

(f) Columns (9) and (10) "Ancillary Aviation Services" shall include ancillary ground/landing aviation services (ramp and parking fees and field lighting, etc., where identified separately from landing fees).

(g) Column (12) "Grand Total Charges" shall reflect the sum of columns (4), (6), (8), (10) and (11).

Schedule P–11(b)—Charges by Foreign Governments for Airport Facilities and Services

(a) Schedule P–11(b) shall be filed by all route air carriers that are performing international operations.

(b) This schedule shall reflect the charges for airport facilities and services by foreign governments such as throughput charges for aircraft fuel, landing fees, passenger head tax and other ancillary aviation services.

(c) Column (2) "Name of Airport" shall reflect the name(s) of the airport(s) under the jurisdiction of the foreign government to which charges for airport services apply.

(d) Columns (3) and (4) "Thru-Put Charges for Aircraft Fuel" is defined as a gallonage levy by a government or airport commission, assessed against the fuel vendor or concessionaire and passed on to the carrier—in a segregated and identifiable form.

(e) For each separate entry in columns (1) and (2) show the unit charge and total charges paid or accrued for services during the reporting quarter for each of the various types of services provided in columns (3) through (11). Column (11) "Miscellaneous" shall reflect charges not classified elsewhere.

(f) Columns (9) and (10) "Ancillary Aviation Services" shall include ancillary ground/landing aviation services (ramp and parking fees and field lighting, etc., where identified separately from landing fees).

(g) Column (12) "Grand Total Charges" shall reflect the sum of columns (4), (6), (8), (10) and (11).

Section 32 [Amended]

3. Amend paragraph (a) of Section 32—General Reporting Instructions as follows:

(a) Add Schedule P–11(a)—Charges by Foreign Government and Foreign Entities for En Route Facilities and Services, and Schedule P–11(b)—Charges by Foreign Governments for Airport Facilities and Services in the List of Schedules in CAB Form 41 report to read:

Schedule No.	Schedule title	Filing frequency
*	* * * * *	
P-7	Aircraft and Traffic Servicing, Promotion and Sales, and General and Administrative Expense Functions—Group II and Group III Air Carriers.	Do.
P-11(a)	Charges by Foreign Governments and Foreign Entities for En Route Facilities and Services.	Do.
P-11(b)	Charges by Foreign Governments for Airport Facilities and Services	Do.
T-3.1	Statement of Traffic and Capacity Statistics	Monthly.
*	* * * * *	

(b) Include Schedules P–11(a) and P–11(b) in the list of Due Dates of Schedules in CAB Form 41 for the following due dates: Feb. 10, May 10, Aug. 10 and Nov. 10.

Section 34 [Amended]

4. Amend Section 34—Profit and Loss Elements to include, following the description of Schedule P–7, the following description of Schedules P–11(a) and P–11(b):

Schedule P–11(a)—Charges by Foreign Governments and Foreign Entities for En Route Facilities and Services

(a) Schedule P–11(a) shall be filed by all supplemental air carriers that are performing international operations.

(b) This schedule shall reflect the charges for en route facilities and services by foreign governments, such as communication facilities and navigation aids, air traffic services, meteorological services and other ancillary aviation services.

(c) Column (1) "Foreign Government or Foreign Entity" shall reflect the names of each foreign government or foreign entity to which charges for services were paid or accrued during the reporting quarter. Examples of foreign entities are: EUROCONTROL in Europe; ASECNA (Agency for Air Navigation Safety) in part of Africa; COCESNA (Central American Air Navigation Services Corporation) in Central America.

(d) Column (2) "Route Segment" shall reflect the direction of each flight on which charges for services were paid or accrued during the reporting quarter; *e.g.*, PAR–GVA for flight from Paris to Geneva.

(e) For each separate entry in columns (1) and (2) show the unit charge and total charges paid or accrued for services during the reporting quarter for each of the various types of services provided in columns (3) through (11). Column (11) "Miscellaneous" shall reflect charges not classified elsewhere.

(f) Columns (9) and (10) "Ancillary Aviation Services" shall include charges for search and rescue services, etc. (en route).

(g) Column (12) "Grand Total Charges" shall reflect the sum of columns (4), (6), (8), (10) and (11).

Schedule P–11(b)—*Charges by Foreign Governments for Airport Facilities and Services*

(a) Schedule P–11(b) shall be filed by all supplemental air carriers that are performing international operations.

(b) This schedule shall reflect the charges for airport facilities and services by foreign governments such as throughput charges for aircraft fuel, landing fees, passenger head tax and other ancillary aviation services.

(c) Column (2) "Name of Airport" shall reflect the name(s) of the airport(s) under the jurisdiction of the foreign government to which charges for airport services apply.

(d) Columns (3) and (4) "Thru-Put Charges for Aircraft Fuel" is defined as a gallonage levy by a government or air-

port commission, assessed against the fuel vendor or concessionaire and passed on to the carrier—in a segregated and identifiable form.

(e) For each separate entry in columns (1) and (2) show the unit charge and total charges paid or accrued for services during the reporting quarter for each of the various types of services provided in columns (3) through (11). Column (11) "Miscellaneous" shall reflect charges not classified elsewhere.

(f) Columns (9) and (10) "Ancillary Aviation Services" shall include ancillary ground/landing aviation services (ramp and parking fees and field lighting, etc., where identified separately from landing fees).

(g) Column (12) "Grand Total Charges" shall reflect the sum of columns (4), (6), (8), (10) and (11).

5. Amend CAB Form 41[1] by adding new Schedules P-11(a) and P-11(b) in the form attached hereto[1] as appendixes and made a part hereof.

(Secs. 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

NOTE: The reporting requirements herein have been approved by the General Accounting Office in accordance with the Federal Reports Act of 1942, as amended.

[FR Doc.74-12152 Filed 5-24-74;8:45 am]

[Reg. ER-858, Amdt. 3]

PART 244—FILING OF REPORTS BY AIR FREIGHT FORWARDERS, INTERNATIONAL AIR FREIGHT FORWARDERS, AND COOPERATIVE SHIPPERS ASSOCIATIONS

Annual Report; Bureau of Accounts and Statistics

Paragraph (b) of § 244.20 calls for reports thereunder to be addressed to the "Office of Carrier Accounts and Statistics." The name of that office has been changed, for some time, to the "Bureau of Accounts and Statistics," and the purpose of this amendment is to reflect the organizational change.

This editorial amendment is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective on June 17, 1974. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 through 385.54).

Accordingly, the Board hereby amends Part 244 of the Economic Regulations (14 CFR Part 244) effective June 17, 1974 and adopted May 22, 1974, as follows:

Amend paragraph (b) of § 244.20 to read as follows:

§ 244.20 Annual report.

* * * * *

(b) The aforesaid report shall be filed annually and in sufficient time so as to be received by the Board within forty-five (45) days after the termination of the prescribed period. All documents filed in connection with the report shall be considered a part thereof and included within the certification pertaining to the report. The report shall be addressed to the Board, attention of the Bureau of Accounts and Statistics.

* * * * *

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324). Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989 (49 U.S.C. 1324 (note)))

By the Civil Aeronautics Board.

[SEAL] RICHARD LITTELL,
General Counsel.

[FR Doc.74-12154 Filed 5-24-74;8:45 am]

[Reg. ER-859, Amdt. 23]

PART 249—PRESERVATION OF AIR CARRIER ACCOUNTS, RECORDS AND MEMORANDA

Period of Preservation of Records by Supplemental Air Carriers

Category No. 14 of the categories of records listed in § 249.8 describes certain documents pertaining to "Part 295 of the Economic Regulations." Since Part 295 was repealed some time ago, by ER-664, the purpose of this amendment is to delete the present Category No. 14 and to redesignate the present Category No. "15" as "14."

This editorial amendment is issued by the undersigned pursuant to a delegation of authority from the Board to the General Counsel in 14 CFR 385.19, and shall become effective on June 17, 1974. Procedures for review of this amendment by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 through 385.54).

Accordingly, the Board hereby amends Part 249 of the Economic regulations (14 CFR Part 249 effective June 17, 1974, and adopted May 22, 1974 as follows:

Amend § 249.8 by deleting Category No. 14 of the categories of records listed thereunder and redesignate Category No. "15" as "14," the section as amended to read in part as follows:

§ 249.8 Period of preservation of records by supplemental air carriers.

* * * * *

Category of records	Period to be retained
* * * * *	
13. * * *	
14. The following documents pertaining to Part 208 of the Economic Regulations:	
(a) Every Statement of Supporting Information.	2 years
(b) Proof of the commission paid to any travel agent by the carrier.	Do.
(c) Written confirmation and accompanying passenger list, and copy of request therefor and copy of accompanying passenger list, all pursuant to § 208.202b of this chapter.	Do.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324). Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989 (49 U.S.C. 1324 (note)))

By the Civil Aeronautics Board.

[SEAL] RICHARD LITTELL,
General Counsel.

[FR Doc.74-12155 Filed 5-24-74;8:45 am]

Title 15—Commerce and Foreign Trade

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

SUBCHAPTER B—EXPORT REGULATIONS

FOREIGN-BASED WAREHOUSE PROCEDURE AND COMMODITIES SUBJECT TO MONITORING AND SHORT SUPPLY LICENSING

The provisions of the Foreign-Based Warehouse Procedure have been revised to eliminate the assigning of a customer's "C" number on Form FC-243 and replace it with the distributor's assigned "D" number as handwritten on his approved Form FC-143. This will facilitate processing of these forms.

In the past, on an approved Form FC-143, the distributor was assigned (and will continue to be assigned) a distributor's number; for example, D-123. Customers of the distributor were assigned, on their approved Forms FC-243, "C" numbers sequentially keyed to the distributor's number. The first customer of that distributor approved on an FC-243 was assigned number C-123-1; the second, C-123-2; the third C-123-3; etc. Under the revised procedure all customers of a distributor will receive as their reference numbers on approved FC-243's in place of "C" numbers, the same number (a "D" number) as the distributor, handwritten in the "Validation" box, immediately below the stamped validation number. In the example above, the distributor's assigned number is D-123. Therefore, all of the distributor's customers will have the number D-123 indicated on their approved FC-243's and will not be assigned a "C" number. Discontinuing issuance of the sequential "C" numbers will improve service to the exporter by reducing processing time.

The Warehouse Procedure is also clarified by (1) specifying that the reference number to be included on applications for export licenses covering any of the three types of shipments set forth in § 373.4(e)(2), is the distributor's handwritten assigned "D" number, and (2) establishing the letter "H" as the prefix of the stamped validation number in the future.

PART 373—SPECIAL LICENSING PROCEDURES

Accordingly, §§ 373.4(c)(4), 373.4(d)(1) and (2), and 373.4(e)(2) are revised as follows:

§ 373.4 Foreign-based warehouse procedure.

* * * * *

(c) * * *

(4) *Other documents.* In addition to the Forms FC-243 required above, if the customer is located in Switzerland or Yugoslavia, the exporter or his distrib-

[1] Filed as part of original document.

utor must obtain for each transaction a Swiss Blue Import Certificate or a Yugoslav End-Use Certificate showing the United States as the country of origin of the commodities to be distributed. The Swiss Blue Import Certificate need not be submitted to the Office of Export Administration but shall be retained in accordance with the record-keeping provisions described in paragraph (h) of this section. The original of each Yugoslav End-Use Certificate issued, or a reproduced copy if the original is required by the government of the country in which the distributor is located, shall be immediately forwarded by the distributor to the U.S. exporter. The originals or reproduced copies received from the distributor shall be submitted by the U.S. exporter, on a monthly basis to the Office of Export Administration (Room 1617M), U.S. Department of Commerce, Washington, D.C. 20230.

* * * * *

(d) *Action on application to participate in the foreign-based warehouse procedure*—(1) *U.S. exporter.* When a Form FC–143 is approved the exporter will receive two copies of the form with a validation number stamped in the "Validation" box at the lower left corner of the reverse side. The exporter shall keep one copy of the validated form and send the other to his distributor. The validation number includes a facsimile of the U.S. Department of Commerce seal and the letter "H" followed by a series of numbers to indicate the year, month, and day of approval. In addition to the stamped validation number, a distributor's assigned "D" number is handwritten immediately below the validation stamp in the "Validation" box. The distributor's handwritten assigned number consists of the written letter "D" followed by a one, two, or three digit written number. The expiration date is entered in the "Expiration Date" box. Generally, the expiration date is June 30 of the second year following the date on which the Form FC–143 is signed by the U.S. exporter, unless an earlier termination date is requested. The distributor is permitted, until the expiration or revocation of his validated Form FC–143, to distribute or reexport the commodities stocked abroad, without obtaining prior Office of Export Administration approval for each separate individual transaction, to any customer who has been approved by the Office of Export Administration; whether such customer is in the country where the foreign-based stock is located or in any other country. If the Form FC–143 is not approved, the form will be returned to the U.S. exporter with a notice informing him of the reason for this action. The letter of transmittal to any approval customer other than an end user shall notify each customer that he will be receiving from the exporter reprints of the U.S. Department of Commerce "Table of Denial and Probation Orders Currently in Effect" and addenda thereto, listing individuals and firms to whom the consignee may not sell or otherwise dispose of the U.S. commodities received.

(2) *Customer of distributor.* When a Form FC–243, or a letter request covering a foreign government agency, is approved, two validated copies will be sent to the U.S. exporter. An approved form or letter will receive a validation stamp number of the type described in § 373.4 (d)(1). The approved Form FC–243 will have entered, in addition, below the validation stamp, the distributor's handwritten assigned number beginning with the written letter "D", as described in the abovementioned paragraph.[1] The exporter, upon receipt of two copies of Form FC–243, shall keep one copy and shall send the other copy to the foreign office from which the distribution is controlled. These forms and letters shall be used in assuring that distribution under the Foreign-Based Warehouse Procedure will be made only to customers approved by the Office of Export Administration. If the customer is not approved, the Form FC–243, or letter request covering a foreign government agency, will be returned with a notice informing the exporter of the reason. A Form FC–243 is generally valid until June 30 of the second year following the date on which the form is signed by the customer unless an earlier expiration date is requested. An approved letter covering a foreign government agency remains valid until the related Form FC–143 and extensions thereto expire; no renewal need be requested prior to that time.

* * * * *

(e) * * *

(2) *Types of shipments.* A qualified U.S. exporter may apply for export licenses covering any of three different types of shipments under the provisions set forth below. All such license applications must be received in the Office of Export Administration within the validity period of the supporting Forms FC–143 and/or 243.

(i) If a shipment is to be made to a distributor for subsequent distribution under this procedure, the application shall contain the following statement in the space entitled "Additional Information" on the application form, or on an attachment thereto:

The ultimate consignee named in this application is an approved distributor of U.S. commodities stocked abroad and has been assigned distributor's number (*insert Form FC–143 handwritten distributor's "D" number*).

(ii) If an urgent direct shipment to a distributor's customer is to be made, an application may be submitted: *Provided,* That the distributor has notified the U.S. exporter that he has an order from an approved customer for an approved commodity which is not in the distributor's foreign-based stock and for which the customer has an urgent need or specialized requirement. Upon receipt of this license, the U. S. exporter may ship the commodity directly from the United States to his distributor's customer. The license application shall include the following statement in the space entitled "Additional Information" or on an attachment thereto:

The ultimate consignee named in this application is an approved customer of our foreign distributor. Our distributor (*insert Form FC–143 handwritten distributor's "D" number*) requests that shipment be made directly from the United States to fill an urgent need or specialized requirement.

(iii) If a shipment of parts and components is to be made directly to a distributor's customer, an application may be submitted if all of the conditions set forth in paragraph (e)(2)(iii) (*a*) through (*c*) of this section are met. Each order received from the distributor's customer should, whenever possible, include a certification from the customer that he will comply with all the provisions of paragraph (e)(2)(iii) (*a*) and (*b*) of this section. Regardless of whether the certification appears on the order, the U.S. exporter will, at the time of filling the order, transmit a written notification to the customer setting forth these restrictions.

(*a*) The commodities are included on the customer's validated Form FC–243 and represent parts and components that are either for use by the distributor's customer to repair equipment originally manufactured by the U.S. exporter or are used by another party exclusively for this purpose. The parts and components may be authorized for reexport only to the countries listed on the customer's validated Form FC–243. Reexports will not be authorized to Country Group Q, S, W, Y, or Z.

(*b*) The commodities will not be used to repair equipment owned or controlled by, or leased or chartered to, a country in Group Q, S, W, Y, or Z or a national thereof.

(*c*) The commodities are in a quantity which the exporter expects to ship to the customer during the next six calendar months for use in repairing equipment originally manufactured by the exporter's firm. If the licensed quantity proves insufficient, a request for an amendment to increase the quantity may be submitted in accordance with the provisions of Part 372 of this Chapter. However, no amendment will be granted to extend the validity period of such a license. Instead, the exporter should submit a new application for license 30 days prior to the expiration date of the outstanding license, accompanied by a statement showing the total quantity and value of each commodity shipped under the previous license as of the date of the new application.

(*d*) The license application includes the following statement in the space entitled "Additional Information" or on an attachment thereto:

The ultimate consignee named in this application is an approved customer of our foreign distributor (*insert Form FC–143 handwritten distributor's assigned "D" number*). Before making any shipment under this license, if granted, I (we) shall: (1) obtain an export order from the ultimate consignee, (2) wherever possible, obtain a written certification from the ultimate consignee on the export order with regard to the restrictions set forth in § 373.4(e)(2)(iii) of the Export Administration Regulations, and (3) for each shipment notify the ultimate consignee, in writing, of these restrictions.

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

PART 377—SHORT SUPPLY CONTROLS

To provide better continuity in the regulations, the monitoring provisions, which have been divided between Parts 376 and 377, are consolidated in Part 376; the ferrous scrap and petroleum commodities affected by short supply controls are separated into two supplements to Part 377; and the 1974 ferrous scrap licensing system, formerly § 377.4A, is redesignated as § 377.4.

The portions of the Regulations relating to monitoring and short supply are now arranged as follows:

A. § 376.3; Monitoring of Ferrous Scrap. (These provisions were formerly in § 377.1(c).)

B. § 376.5; Monitoring of Fertilizers. (No change.)

C. Supplement No. 1 to Part 376; Ferrous Scrap Subject to Monitoring. (These provisions were formerly in Supplement No. 2 to Part 377.)

D. Supplement No. 2 to Part 376; Reserved for future use. (No change.)

E. Supplement No. 3 to Part 376; Fertilizer Materials Subject to Monitoring. (No change.)

F. § 377; Ferrous Scrap Export Licensing System for 1974. (These provisions were formerly in § 377.4A.)

G. Supplement No. 1 to Part 377; Ferrous Scrap Commodities Subject to Short Supply Licensing Controls. (Title changed as shown.)

H. Supplement No. 2 to Part 377; Petroleum and Products Subject to Short Supply Licensing Controls. (These provisions were formerly in Supplement No. 1 to Part 377.)

Accordingly, the Export Administration Regulations (15 CFR Parts 376 and 377) are amended by redesignating § 377.1(c) as § 376.4, redesignating Supplement No. 2 to Part 377 as Supplement No. 1 to Part 376, redesignating § 377.4A as § 377.4, and establishing a new Supplement No. 2 to Part 377 consisting of the material pertaining to Petroleum and Petroleum Products that heretofore had been located in Supplement No. 1 to Part 377.

Effective date: June 1, 1974.

RAUER H. MEYER,
Director,
Office of Export Administration.

[FR Doc.74-12072 Filed 5-24-74;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

SUBCHAPTER C—PERSONNEL

PART 719—REGULATIONS SUPPLEMENTING THE MANUAL FOR COURTS-MARTIAL

Nonjudicial Punishment and Courts-Martial Procedures

On November 6, 1973, Change 4 of the "Manual of the Judge Advocate General," Department of the Navy was promulgated throughout the Navy. This Change 4 revised, in part, Chapter I of the "Manual of the Judge Advocate General." The revisions concern nonjudicial punishment and courts-martial procedures, the authority to grant immunity, and procedures associated with the administration of military justice in the Navy. Those portions of Change 4 thereof having general applicability and legal effect necessitate a revision of Part 719 of Chapter VI of Title 32 of the Code of Federal Regulations. Accordingly, effective May 24, 1974, Part 719 of Chapter VI of Title 32 of the Code of Federal Regulations is revised to read as follows:

AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 801-940, 5031; and 18 U.S.C. 3481.

NOTE: This Part 719 is derived from Chapter I of the "Manual of the Judge Advocate General."

Subpart A—Nonjudicial Punishment

1. Section 719.101 is amended by revising paragraphs (b)(3), (c), (d), (e)(2) and by adding a new paragraph (f)(8) to read as follows:

§ 719.101 General provisions.

* * * * *

(b) * * *

(3) *Units attached to a ship.* The commanding officer or officer in charge of a unit attached to a ship of the Navy for duty therein should, as a matter of policy while the unit is embarked therein, refrain from exercising his powers to impose nonjudicial punishment, referring all such matters to the commanding officer of the ship for disposition. This policy shall not be applicable to Military Sealift Command vessels operating under a master, nor is it applicable where an organized unit is embarked for transportation only. When an organized unit is embarked for transportation only in a ship of the Navy, the officer in command of such organized unit shall retain the authority possessed over such unit prior to embarkation, including disciplinary authority. Under ordinary circumstances, the internal control and discipline of a unit embarked for transportation only shall be left to the officer of that unit. Nothing in the foregoing shall be construed as impairing the paramount authority of the commanding officer of the ship, including disciplinary authority, over all personnel of the naval service embarked. In the case of units embarked for transportation only, however, the commanding officer of the ship should take disciplinary action under the Uniform Code of Military Justice over members of such embarked units only in

unusual cases concerning incidents occurring on board his ship.

* * * * *

(c) *Nonpunitive measures.* (1) Commanding officers and officers in charge are authorized and expected to use nonpunitive measures, including administrative withholding of privileges not extending to deprivation of normal liberty, in furthering the efficiency of their commands. Such measures may include the temporary withholding of club, base exchange, commissary, theatre, etc., privileges depending upon the nature of the disciplinary infraction involved.

(2) These measures are not punishment and may be administered either orally or in writing. (See paragraph 128c, MCM.) Nonpunitive letters of censure, other than those issued by the Secretary of the Navy, shall not be forwarded to the Bureau of Naval Personnel or the Commandant of the Marine Corps, quoted or appended to fitness reports, or otherwise included in the official departmental records of the recipient. A sample nonpunitive letter of caution is set forth for guidance in Appendix section 1-a.[1]

(d) *Procedures.* The procedures prescribed in paragraph 133b, MCM and in this subsection shall be followed in imposing nonjudicial punishment. The requirements of § 719.102 (d) and (e) are also applicable if a letter of admonition or reprimand is to be imposed as punishment.

(1) *Advice prior to imposition.* Prior to holding mast or office hours, the officer contemplating imposition of nonjudicial punishment shall ensure that the individual concerned is fully advised of his legal rights associated with the possible imposition of nonjudicial punishment. This advice shall contain the following as a minimum:

(i) The offense(s) that the accused is suspected of having committed.

(ii) That the commanding officer is contemplating mast or office hours for the alleged offense(s).

(iii) That, if the accused is not attached to or embarked in a vessel, he has the right to demand trial by court-martial in lieu of mast or office hours.

(iv) That if the accused accepts mast or office hours, he will receive a hearing at which time he will be accorded the following rights:

(A) To be present before the officer conducting the hearing.

(B) To be advised of the offense(s) of which he is suspected.

(C) To have his rights under Article 31 (b) of the Uniform Code of Military Justice explained to him.

(D) To be present during the presentation of all information against him, either by testimony of a witness in person or by the receipt of his written statement(s), copies of the latter being furnished to the accused.

(E) To have available for his inspection all items of information in the nature of physical or documentary evidence to be considered by the officer conducting the hearing.

(F) To have full opportunity to present any matter in mitigation, extenuation, or defense of the offense(s) of which he is suspected.

(G) To be accompanied at the hearing by a personal representative to speak on his behalf, provided by the accused, who, may, but need not, be a lawyer.

(v) That, If he accepts mast or office hours, and if nonjudicial punishment is awarded to him, he will have the right to appeal to higher authority.

(v) That, if he accepts mast or office by court-martial in lieu of mast or office hours, the alleged charges against him may be referred to a court-martial.

(2) *Hearing requirements.* (i) An alleged offender in the Navy or the Marine Corps has the right to be accompanied at his Article 15 hearing by a personal representative to advise him and make a statement on his behalf. An accused's right to be accompanied by a personal representative does not create an obligation on the officer contemplating the imposition of nonjudicial punishment to provide such a personal representative to advise and speak on behalf of the accused. It is the responsibility of the accused to obtain and arrange for the presence of such a personal representative if he wishes one. Such a personal representative may, but need not be, a lawyer. The right to be accompanied by a personal representative does not constitute a right to representation in the sense of paragraph 48, *MCM, 1969 (Rev.)*. The granting of this right does not imply that an Article 15 hearing is to become a formal adversary proceeding.

(ii) The elemental hearing requirements of paragraph 133b, MCM, are expanded to provide that, when there are controverted questions of fact concerning the suspected, offense, witnesses, if present on the same ship, camp, station, or otherwise available, shall be called to testify if this can be done at no cost to the Government.

(iii) In addtion to the specific hearing requirements prescribed in paragraph 133b, MCM, all Article 15 hearings shall, when requested by the alleged offender, be open to the public to the extent permitted by available space unless, in the opinion of the officer contemplating the imposition of nonjudicial punishment, security interests dictate otherwise. The presence of representative members of the command as observers during all Article 15 hearings is authorized and encouraged as a method of dispelling erroneous perceptions which may exist concerning the integrity and fairness of the imposition of nonjudicial punishment. Nothing in this requirement shall preclude the alleged offender from exercising his right to confer privately with the officer contemplating the imposition of nonjudicial punishment to relate matters which, in the opinion of the alleged offender, are of a personal nature.

(3) *Nonjudicial punishment based on report of fact-finding.* (i) If nonjudicial punishment is contemplated on the basis of the record of a court of inquiry or other fact-finding body, a preliminary examination shall be made of such record to determine whether the individual concerned was accorded the rights of a party before such fact-finding body and, if so, whether such rights were accorded with respect to the act or omission for which nonjudicial punishment is contemplated. If the individual concerned was accorded the rights of a party with respect to the act or omission for which nonjudicial punishment is contemplated, such punishment may be imposed without further proceedings. If the individual concerned was not accorded the rights of a party with respect to the offense for which punishment is contemplated, the impartial hearing prescribed in paragraph 133b, MCM, must be conducted. In the alternative, the record of the fact-finding body may be returned for additional proceedings during which the individual concerned shall be accorded the rights of a party with respect to the act or omission for which nonjudicial punishment is contemplated.

(4) *Advice Subsequent to Imposition.* (i) The officer who imposes punishment under Article 15, UCMJ, shall again ensure that the offender is fully informed of his right to appeal.

(e) * * *

(2) *Punishments involving restraint and extra duties.* The punishments of arrest in quarters, correctional custody, confinement on bread and water or diminished rations, extra duties, and restriction, if unsuspended, take effect when imposed upon an accused attached to or embarked in a vessel. When any such punishments are authorized for, and are imposed upon, an accused not attached to or embarked in a vessel, such punishments, if unsuspended, will take effect when imposed; *Provided however,* That if an accused indicates an intent to appeal his punishment at the time of imposition of nonjudicial punishment, such punishment will be stayed pending completion of such appeal, unless the accused requests otherwise. If an accused does not indicate an intent to appeal at the time of imposition of nonjudicial punishment but later indicates an intent to appeal in a timely manner, as prescribed by paragraph (f) of this section further serving of punishment will be stayed pending completion of such appeal, unless the accused requests otherwise. As with forfeiture and detention, any prior punishment involving restraint will be completed before the second begins to run. In addition, commanding officers and officers in charge at sea may, when the exigencies of the service require, defer execution of correctional custody and confinement on bread and water or diminished rations for a reasonable period of time, not to exceed fifteen days, after imposition. When correctional custody is to be served in a regular confinement facility, the conditions of service and the provisions for release therefrom shall be as prescribed in the Corrections Manual. Otherwise, correctional custody shall be imposed and

[1] Filed as part of original document.

administered in accordance with SEC NAVINST 1640.7 series.

(8) *Contents.* In accordance with the requirements of paragraph 135, *MCM, 1969 (Rev.)*, appeals will be submitted in writing and may include the appellant's reasons for regarding the punishment as unjust or disproportionate. The contents of the forwarding endorsement of the officer who imposed the punishment should normally include:

(i) Comment on any assertions of fact contained in the letter of appeal which the officer who imposed the punishment considers to be inaccurate or erroneous.

(ii) Recitation of any facts concerning the offenses which are not otherwise included in the appeal papers. If such factual information was brought out at the mast or office hours hearing of the case, the endorsement should so state and include any comment in regard thereto made by the appellant at the mast or office hours. Any other adverse factual information set forth in the endorsement, unless it recites matter already set forth in official service record entries, should be referred to appellant for comment, if practicable, and he should be given an opportunity to submit a statement in regard thereto or state that he does not wish to make any statement.

(iii) As an enclosure, a copy of the completed mast report form (NAVPERS 1626/7 (Rev. 5–72)) or office hours report form (NAVMC 10132PD (Rev. 7–66)).

(iv) As enclosures, copies of all documents and signed statements which were considered as evidence at the mast or office hours hearing, or if the nonjudicial punishment was imposed on the basis of the record of a court of inquiry or other factfinding body in accordance with paragraph (d)(3) of this section, a copy of that record, including the findings of fact, opinions and recommendations, together with copies of any endorsements thereon.

(v) As an enclosure, a copy of the appellant's record of performance as set forth on service record page 9 (Navy) or NAVMC 118(3) (Marine).

* * * * *

2. Revise § 719.103(d)(2) as follows:

§ 719.103 Designation of additional convening authorities.

(d) * * *

(2) If authority to convene special or summary courts-martial is desired for commanding officers other than those listed in subparagraphs (3) and (4) of this paragraph, and such commanding officers are not empowered by statute or regulation to convene such courts, a letter shall be forwarded to the Judge Advocate General, via the Chief of Naval Operations or the Commandant of the Marine Corps, as appropriate, with the request that authorization be obtained from the Secretary of the Navy pursuant to Article 23(a)(7), UCMJ, or Article 24(a)(4), UCMJ, as appropriate.

* * * * *

3. Revise § 719.107(c) as follows:

§ 719.107 Restrictions on exercise of court-martial jurisdiction.

* * * * *

(c) *Units attached to a ship.* The commanding officer or officer in charge of a unit attached to a ship of the Navy for duty therein should, as a matter of policy while the unit is embarked therein, refrain from exercising any power he might possess to convene and order trial by special or summary court-martial, referring all such matters to the commanding officer of the ship for disposition. The foregoing policy does not apply to Military Sealift Command vessels operating under a master, nor is it applicable where an organized unit is embarked for transportation only. When an organized unit is embarked for transportation only in a ship of the Navy, the officer in command of such organized unit shall retain the authority possessed over such unit prior to embarkation, including disciplinary authority. Under ordinary circumstances, the internal control and discipline of a unit embarked for transportation only shall be left to the commanding officer of that unit. Nothing in the foregoing shall be construed as impairing the paramount authority of the commanding officer of the ship, including disciplinary authority, over all personnel of the naval service embarked. In the case of units embarked for transportation only, however, the commanding officer of the ship should take disciplinary action under the Uniform Code of Military Justice over members of such embarked units only in unusual cases concerning incidents occurring on board his ship.

* * * * *

4. Revise § 719.112 (a), (b), (d)(7) and (f) to read as follows:

§ 719.112 Authority to grant immunity from prosecution.

(a) *General.* In certain cases involving more than one participant, the interests of justice may make it advisable to grant immunity, either transactional or testimonial, to one or more of the participants in the offense in consideration for their testifying for the Government in the investigation and/or the trial of the principal offender. Transactional immunity, as that term is used in this section, shall mean immunity from prosecution for any offense or offenses to which the compelled testimony relates. Testimonial immunity, as that term is used in this section, shall mean immunity from the use, in aid of future prosecution, of testimony or other information compelled under an order to testify (or any information directly or indirectly derived from such testimony or other information). The authority to grant either transactional or testimonial immunity to a witness is reserved to officers exercising general court-martial jurisdiction. This authority may be exercised in any case whether or not formal charges have been preferred and whether or not the matter has been referred for trial. The approval of the Attorney General of the United States on certain orders to testify may be required, as outlined below.

(b) *Procedure.* The written recommendation that a certain witness be granted either transactional or testimonial immunity in consideration for testimony deemed essential to the Government shall be forwarded to the cognizant officer exercising general court-martial jurisdiction by the trial counsel in cases referred for trial, the pretrial investigating officer conducting an investigation upon preferred charges, the counsel or recorder of any other factfinding body, or the investigator when no charges have been prefererd. The recommendation shall state in detail why the testimony of the witness is deemed so essential or material that the interests of justice cannot be served without the grant of immunity. The officer exercising general court-martial jurisdiction shall act upon such request after referring it to his staff judge advocate for consideration and advice.

* * * * *

(d) * * *

(7) If the witness refused to comply with the order, whether contempt proceedings were instituted, or are contemplated, and the result of the contempt proceeding, if concluded. A copy of this correspondence together with a verbatim transcript of the witness' testimony, authenticated by the military judge, should be provided to the Judge Advocate General at the conclusion of the trial. No testimony or other information given by a civilian witness pursuant to such an order to testify (or any information directly or indirectly derived from such testimony or other information) may be used against him in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

* * * * *

(f) *Form of grant.* In any case in which a military witness is granted transactional immunity, the general court-martial convening authority should execute a written grant substantially in the form set forth in appendix section A–1–d(1). In any case in which a military witness is granted testimonial immunity, the general court-martial convening authority should execute a written grant substantially in the form set forth in appendix section A–1–d(2).[1]

* * * * *

5. Revise § 719.120(e)(5) as follows:

§ 719.120 Preparation of records of trial.

* * * * *

(e) * * *

(5) *Court-Martial Data Form.* [Reserved]—Pending printing and availability in the Navy Supply System of NAVJAG 5813/1 (Rev. 6–72), refer to

[1] Filed as part of the original document.

JAGNOTE 5813 of 14 July 1972 for instructions.

* * * * *

6. Revise § 719.122(b) as follows:

§ 719.122 Review by staff judge advocate.

* * * * *

(b) *Distribution of staff judge advocate's review.* In addition to the requirements of paragraph 85d, MCM, and § 719.120(e)(2), a copy of the review of the staff judge advocate shall be forwarded to the military defense counsel and a copy shall be forwarded to the command at which the accused is to be confined in order that it may be available to those charged with developing an institutional program for the individual. In addition to the foregoing, one copy of the review of the staff judge advocate shall be forwarded to the President, Naval Clemency and Parole Board, Washington, D.C. 20370, in those cases wherein the sentence includes confinement for eight months or more, or an unsuspended punitive discharge. The original and all copies must be legible.

* * * * *

7. Revise § 719.125(b) (1) and (2) as follows:

§ 719.125 Review of summary and special courts-martial.

* * * * *

(b) *Special courts-martial involving a bad conduct discharge*—(1) *Action by convening authority who is an officer exercising general court-martial jurisdiction.* When an officer exercising general court-martial jurisdiction is the convening authority of a special court-martial which involves a bad conduct discharge, and if such discharge is approved by him, the record shall be forwarded directly to the Navy Appellate Review Activity for review by the Navy Court of Military Review. In taking his action on the record, such a convening authority shall follow the procedures set forth in paragraph 85, MCM. In addition to forwarding the record of trial in accordance with paragraph 94a(3), MCM, such a convening authority will forward a copy of his action on the record to the military defense counsel of record.

(2) *Action by reviewing authority (officer exercising general court-martial jurisdiction).* In special court-martial cases where the sentence as approved by the convening authority who is not an officer exercising general court-martial jurisdiction includes a bad conduct discharge, review will be accomplished in accordance with paragraph 94a(3), MCM, and thereafter the reviewing authority, in addition to forwarding the record of trial in accordance with paragraph 94a(3), MCM, will forward a copy of his action on the record, or, where review under Article 65(b), UCMJ, cannot be accomplished in the field, as described hereinafter, a copy of the letter explaining why review under Article 65 (b), UCMJ, was not accomplished, to the military defense counsel of record.

* * * * *

8. Revise § 719.128 as follows:

§ 719.128 Criminal activity, disciplinary infractions, and court-martial report.

(a) [Reserved] Pending printing and availability in the Navy Supply System of NAVJAG 5800/9 (Rev. 7–72) and NAVJAG 5800/9A (Rev. 7–72) refer to JAGNOTE 5800 of 10 August 1972 for instructions.

* * * * *

9. Revise § 719.141(a) as follows:

§ 719.141 Court-martial forms.

(a) *List.* The forms listed below are used in courts-martial by the naval service:

STD 1156	Public Voucher for Fees and Mileage of Witnesses
STD 1157	Claim for Fees and Mileage of Witness
DD 453	Subpoena for Civilian Witness
DD 454	Warrant of Attachment
DD 455	Report of Proceedings to Vacate Suspension
DD 456	Interrogatories and Depositions
DD 457	Investigating Officer's Report
DD 458	Charge Sheet
DD 490	Verbatim Record of Trial
DD 491	Summarized Record of Trial
DD 493	Extract of Military Records of Previous Convictions
DD 494	Court-Martial Data Sheet (Optional)
DD 1722	Request for Trial Before Military Judge Alone
NAVJAG	5800/9 Criminal Activity, Disciplinary Infractions and Court-Martial Report (Rev. 7–72) and 5800/9A Supplemental Report (Rev. 772)
NAVJAG	5813/1 Court Martial Data (Rev. 6–72)
NAVJAG	5813/2 Court Martial Case Report (Rev. 6–69)

* * * * *

10. Revise § 719.144 (c) and (d) as follows:

§ 719.144 Application for relief under Article 69, UCMJ, in cases which have been finally reviewed.

* * * * *

(c) *Contents of applications.* All applications for relief shall contain:

(1) Full name of the applicant;

(2) Social Security number and branch of service, if any;

(3) Present grade if on active duty or retired, or "civilian" or "deceased" as applicable;

(4) Address at time the application is forwarded;

(5) Date of trial;

(6) Place of trial;

(7) Command title of the organization at which the court-martial was convened (convening authority);

(8) Command title of the officer exercising general court-martial jurisdiction over the applicant at the time of trial (supervisory authority);

(9) Type of court-martial which convicted the applicant:

(10) General grounds for relief which must be one or more of the following:

(i) Newly discovered evidence;

(ii) Fraud on the court;

(iii) Lack of jurisdiction over the accused or the offense;

(iv) Error prejudicial to the substantial rights of the accused;

(10) An elaboration of the specific prejudice resulting from any error cited. (Legal authorities to support the applicant's contentions may be included, and the format used may take the form of a legal brief if the applicant so desires);

(11) Any other matter which the applicant desires to submit; and

(12) Relief requested.

The applicant's copy of the record of trial will not be forwarded with the application for relief, unless specifically requested by the Judge Advocate General.

(d) *Signatures on applications.* Unless incapable of making application himself, the applicant shall personally sign his application under oath before an official authorized to administer oaths. If the applicant is incapable of making application, the application may be signed under oath and submitted by applicant's spouse, next of kin, executor, guardian, or other person with a proper interest in the matter.

11. Revise § 719.145(a) as follows:

§ 719.145 Set off of indebtedness of a person against his pay.

(a) *Court-martial decisions.* When the United States has suffered loss of money or property through the offenses of selling or otherwise disposing of, or willfully damaging, or losing military property, willfully and wrongfully hazarding a vessel, larceny, wrongful appropriation, robbery, forgery, arson, or fraud for which persons, other than accountable officers as defined in NAVSUPMAN paragraph 1136(a)(b), have been convicted by court-martial, the amount of such loss constitutes an indebtedness to the United States which will be set off against the final pay and allowances due such persons at the time of dismissal, discharge, or release from active duty.

12. Add new § 719.151:

§ 719.151 Furnishing of advice and counsel to accused placed in pretrial confinement.

The Department of the Navy Corrections Manual, SECNAVINST 1640.9, reiterates the requirement of Article 10, UCMJ, that, when a person is placed in pretrial confinement, immediate steps should be taken to inform the confinee of the specific wrong of which he is accused and try him or to dismiss the charges and release him. The Corrections Manual requires that this information normally will be provided within 48 hours along with advice as to the confinee's right to consult with lawyer counsel and his right to prepare for trial. Lawyer counsel may be either a civilian lawyer provided by the confinee at his own expense or a military lawyer provided by the Government. If a confinee requests to confer with a military lawyer, such lawyer should normally be made available for consultation within 48 hours after the request is made.

H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

MAY 20, 1974.

[FR Doc.74–12100 Filed 5–24–74;8:45 am]

PART 725—DISPOSITION OF CASES INVOLVING PHYSICAL DISABILITY

Miscellaneous Amendments

The Disability Evaluation Manual, Department of the Navy, was revised on November 9, 1971, and changes were made in the regulations contained therein pertaining to medical boards and physical evaluation boards. In order to have these changes accurately set forth in the Code of Federal Regulations, Subparts C and E of Part 725, Chapter VI, of Title 32, Code of Federal Regulations, are revised to read as follows:

Subpart C—Medical Boards

Sec.

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Subpart E—Physical Evaluation Boards

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Subpart C—Medical Boards

§ 725.301 Convening authority.

(a) A Medical Board may be convened by the commander of a fleet, force, squadron, or flotilla, by commanding generals of Fleet Marine Force units, or by the commandant, commander or commanding officer of a shore (field) activity of the Department of the Navy, upon any member of the Armed Forces under his command, on the recommendation of the medical officer of the command to which such person is attached. A Medical Board may also be convened by the Chief of Naval Operations, the Commandant of the Marine Corps, the Chief of Naval Personnel, or the Chief, Bureau of Medicine and Surgery.

(b) Individual cases shall be referred to the Board, in such manner as the convening authority directs.

§ 725.302 Composition.

(a) Medical Boards will be composed of two Medical Corps officers of the Armed Forces or Public Health Service. A third member may be assigned at the discretion of the convening authority.

(b) One of the Medical Board members shall be a senior officer with detailed knowledge of the directives pertaining to standards of medical fitness and unfitness, disposition of patients, and disability separation procedures. Whenever possible, the Medical Board shall be composed of the Chief of Service (or his designated representative) and the medical or dental officer responsible for the patient's care. Other medical or dental officers may be assigned as the convening authority directs.

(c) When a member of the medical board does not have training in the specialty of the patient's primary impairment, appropriate specialty consultations shall be obtained prior to consideration of the case by the medical board.

(d) When the party before the board is a reservist, the membership of the board shall include Reserve representation. In any instance where Reserve members are not available, the convening authority shall so indicate in his forwarding endorsement.

(e) In cases involving questions of mental competency, the membership of the board shall include a psychiatrist.

§ 725.303 Purpose.

The medical board serves to report upon the present state of health of any member of the Armed Forces and as an administrative board by which the convening authority or higher authority obtains a considered clinical opinion regarding physical fitness of service personnel.

§ 725.304 Necessity for accurate medical evaluation.

(a) Although medical and dental officers do not determine physical unfitness for service, they should be familiar with the basic policies and concepts to be able to carry out the responsibility for identifying members whose physical fitness for full duty may be in doubt. There is no provision or authority for waiving a defect that would interfere with a member's ability to reasonably perform his duties. It is not possible to list and define all the medical factors that may compromise a member's ability to reasonably perform his duties; however, SECNAVINST 1830.3B provides certain guidelines on conditions which normally render an individual unfit because of physical disability and should be referred to in questionable cases. On the other hand, there is no substitute for competent and mature military medical judgment in appraising all the relevant factors in a given case.

(b) The mere presence of a physical defect does not in itself automatically require or justify referring a case to a PEB. The test must always be whether the defect interferes with the member's reasonable performance of his assigned duties. Initial enlistment and commissioning physical standards must not be confused with physical capability to perform duty. Once he is enlisted or commissioned, the fact that a member may later fall below initial entry standards does not require that his case be referred to a PEB. Similarly, there are prescribed minimum physical standards for special duties such as flying. Disqualification for special duties does not necessarily imply physical unfitness unless the disqualifying defect would also interfere with performance of other duties. Medical board evaluation is appropriate only in instances where the member's ability to reasonably perform military service is in doubt.

(c) Information contained in medical boards may play an important role in determining the rights of an individual to certain benefits (such as pensions, compensation, promotion, retirement, income tax exemptions, etc.). It is, therefore, essential to include in the report all available information with adequate documentation concerning the origin, nature, aggravation by service, and other significant facts concerning all the member's conditions which unfit the member and those which do not.

§ 725.305 Board procedure.

(a) The board shall consider and report upon the case of a member who is referred to it by competent authority. It shall require and examine such records in the case as are necessary to formulate a considered conclusion regarding the member's present state of health and the recommendations required. The board's report and recommendations shall be discussed with the member provided it is considered by competent medical authority that such discussion will not adversely affect his health.

(b) Unless it is considered that the information contained in the board's report might have an adverse affect on the member's physical or mental health.

(1) The member shall be allowed to read the board's report or be furnished a copy thereof;

(2) Significant findings and opinions and recommended disposition shall be brought to the member's attention;

(3) He shall be afforded an opportunity to submit a statement in rebuttal to any portion of the board's report. If a member submits a statement in rebuttal, the board shall review same and make any change which is considered appropriate or prepare a statement in surrebuttal.

(c) The NAVMED Form 6100/2 statement concerning the findings and recommendations of the board shall be completed, referred to the member for signature, and witnessed. This form and statement in rebuttal, if applicable, shall accompany the board's report but shall not be incorporated into it.

§ 725.306 Board preparation.

(a) The medical board report shall be submitted to the convening authority on NavMed Form 6100/1 (Medical Board Report Cover Sheet). The SF 502 (Narrative Summary) may be used for the body of the board's report provided the SF 502 includes all pertinent data concerning the case; otherwise, the body of the report shall be prepared on plain white bond paper.

(1) The cover sheet shall be completed in accordance with the guidelines set forth in article 18–24, ManMed.

(2) The body of the report shall present, in narrative form, all pertinent data concerning each complaint, symp-

tom, disease, injury or disability presented by the member which causes or is alleged to cause impairment of health. The facts should be presented briefly and concisely. Emphasis must be placed on the detailed recording of each physical disability in such a manner that subsequent evaluation by adjudicative bodies can be made on the basis of the records.

(3) The narrative section of the board's report should be no more and certainly no less than a well written narrative summary and should answer the following questions:

(i) Why did the patient enter the hospital?

(ii) What physical findings (negative and positive) were found?

(iii) What were the results of pertinent laboratory and X-ray tests?

(iv) What medical or surgical treatment was rendered?

(v) What is the current physical condition of the patient at the time the medical board is written?

(vi) What is the prognosis and recommendation of the board concerning the disposition to be effected in the case?

(vii) What instructions were given to the patient, such as medication to be taken, physical restrictions, etc.?

(viii) Have all conditions and abnormalities been recorded?

(b) Since the medical board is considered the heart of the naval disability evaluation system, incomplete, inaccurate, misleading, or delayed reports may result in an injustice to the member or the Government. The history of his illness; objective findings on examinations; results of X-ray and laboratory tests; reports of consultations; and subjective conclusions with the reasons therefor, are pertinent evidence to support findings and recommendations. The mere presence of a physical disability does not necessarily render the member unfit for duty. The board's report shall clearly reflect the member's functional impairment, if any.

(1) Apparent contradictions in the records, such as disagreement with a report or consultation, should be thoroughly explained. The condition of a patient following therapy, his response thereto, the degree of severity of his disease or injury, and, when appropriate, their effect on his functional ability must be described in detail.

(c) If a previous medical board has been prepared, it is not necessary to repeat the detailed information contained therein pertaining to past history. In such cases, attention may be invited to the previous report and the description of the present illness restricted to the interval history and currently pertinent data.

(d) Any facts which are not a matter of record or of personal knowledge to a member of the board, but which are based on the member's own statement, should be recorded as "according to the member's own statement." Medical-social reports must be held in the strictest confidence, should not be shown to the member, and information derived therefrom shall not be entered in the board's report. Such data are obtained primarily for the benefit of the patient in diagnosis and treatment, and may be utilized for the purpose of further interrogation of the patient if pertinent. Any additional history so obtained from the patient or from other sources contacted as a result of "lead information" may be incorporated as a part of the history of the case.

(e) In the following instances, the board's report shall contain a statement concerning the member's capability to manage his own affairs:

(1) All psychoses.

(2) Organic brain disorders when the board's report indicates impairment of judgment.

(3) Psychoneuroses, severe, where possible impairment of judgment is indicated.

(4) Any case in which a member has previously been declared incapable of managing his own affairs.

(5) All psychiatric cases of sufficient severity to require further hospitalization.

(f) Except where considered necessary, the information reported on the cover sheet need not be repeated in the body of the board's report.

§ 725.307 Patients who refuse medical, dental, or surgical treatment.

(a) When a member refuses to submit to recommended therapeutic measures for a remedial defect or condition which has interfered with his performance of duty and following prescribed therapy the member is expected to be fit for full duty, the following procedures shall apply:

(1) After being counseled concerning the matter, any member of the naval service who refuses to submit to recommended medical, surgical, dental or diagnostic measures, other than routine treatment for minor or temporary disabilities, shall be transferred to a naval hospital for further evaluation and appearance before a medical board. (See article 3–14, ManMed, concerning compulsory medical or surgical treatment.)

(2) The board shall study the case, inquire into the merits of the individual's refusal to submit to treatment, and report the facts with appropriate recommendations.

(b) In surgical cases, the board's report shall contain answers to the following questions:

(1) Is surgical treatment required to relieve the incapacity and restore the individual to a duty status, and may it be expected to do so?

(2) Is the proposed surgery an established procedure that qualified and experienced surgeons ordinarily would recommend and undertake?

(3) Considering the risks ordinarily associated with surgical treatment, the patient's age and general physical condition, and his reasons for refusing treatment, is the refusal reasonable or unreasonable? (Fear of surgery or religious scruples may be considered, along with all the other evidence, for whatever weight may appear appropriate.)

(c) As a general rule, refusal of minor surgery should be considered unreasonable in the absence of substantial contraindications. Cases of major surgical operations may be reasonable or unreasonable, according to the circumstances. The age of the patient, previous unsuccessful operations, existing physical or mental contraindications, and any special risks, should all be taken into consideration.

(d) As a matter of policy, surgery shall not be performed on a person over his protest if he is mentally competent.

(e) In medical, dental or diagnostic cases, the board should show the need and risk of the recommended procedure.

(f) If a medical board decides that a diagnostic, medical, dental or surgical procedure is indicated, these findings must be made known to the patient. The board's report shall show that the patient was afforded an opportunity to submit a written statement explaining the grounds for his refusal, and any statement submitted shall be forwarded with the board's report. The patient should be advised that even if his disability originally arose in line of duty, its continuance would be attributable to his unreasonable refusal to cooperate in its correction; and that the continuance of the disability might, therefore, result in the member's separation without benefits.

(g) The patient should be advised that section 1207 of Title 10, U.S. Code, precludes disposition of his case under Chapter 61 of Title 10, U.S. Code, if his disability is due to intentional misconduct or willful neglect, or if it was incurred during a period of unauthorized absence. He should be further advised that benefits from the Veterans' Administration will be dependent upon a finding that his disability is in line of duty and is not due to his own willful misconduct. He should be further advised that the Social Security Act contains special provisions relating to benefits for "disabled" persons, and certain provisions relating to persons disabled "in line of duty" during service in the Armed Forces. In many instances persons deemed to have "remediable" disorders have been held not "disabled" within the meaning of that term as used in the statute, and Federal courts have upheld that interpretation. One who is deemed unreasonably to have refused to undergo available surgical procedures may be deemed both "not disabled" and "not in the line of duty."

(h) The board's report will be forwarded direct to the Central PEB except in those cases where the convening authority desires that the case be referred for Departmental review.

§ 725.308 Disposition of report.

The report of the medical board shall be signed by all the members of the board and transmitted to the convening authority.

§ 725.309 Action by convening authority.

(a) When the indicated disposition is appearance before a physical evaluation board and the convening authority of the medical board concurs and is the Commanding Officer of a naval hospital or U.S. Naval Hospital, the Commanding Officer of the Naval Submarine Medical Center, or the Commandant of the Fourteenth Naval District, he shall endorse and forward an original and two copies of the medical board report and other required documents to the Central PEB located in the Office of Naval Disability Evaluation, Washington, D.C. 20390. In this connection, a copy of the member's current Health Record, injury report or investigative report (when appropriate), and the following clinical record documents shall accompany the medical board report—a copy (photostatic, quickcopy, typed, etc.) of the history, physical examination, doctor's progress notes, all laboratory, X-ray, and operative reports, copies of previous medical board reports relating to the condition for which the member is presently being reported on, and all consultations. Colored photographs (2 x 2 color slides are acceptable) should be provided in those cases involving scarring with disfigurement, pigmentation, or in cases of unusual deformities such as ankylosis of individual fingers. In addition, a copy of the request for a statement of service shall be attached (see § 725.313). Orders shall not be issued for personal appearance before a PEB until, and unless, the ONDE (Central PEB) advises the appropriate authority that the member has requested personal appearance before the PEB. Also, orders for personal appearance shall not be issued in the case of mentally incompetent members.

(b) When the convening authority of the medical board is other than the above and referral to a PEB is the recommended disposition, the medical board report shall be forwarded to the Chief of Naval Personnel or the Commandant of the Marine Corps, for appropriate action.

(c) When the recommended disposition is appearance before a PEB and the convening authority of the medical board does not concur, the convening authority shall advise the member concerned of his nonconcurrence and afford the member an opportunity to submit a statement in rebuttal. The convening authority shall then forward the medical board report, the member's signed statement, and a full statement setting forth his reasons for nonconcurrence to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, via the Chief, Bureau of Medicine and Surgery, for determination as to disposition to be effected.

(d) Orders for a personal appearance before a PEB empowered to conduct a formal hearing shall be issued by the authority which referred a case to the Disability Evaluation System upon notification from the Director, ONDE, that such appearance has been requested by the party or that a formal hearing is in the best interest of the party and the Government. Personnel who are in a patient status shall be transferred from hospital to hospital for personal appearance before a PEB in accordance with U.S. Navy Travel Instructions. Transportation through facilities of the Medical Air Evacuation System shall be utilized to the fullest extent possible.

(e) If further hospitalization is indicated, the member shall be retained on the sicklist until recommended findings have been made by the Central PEB. If further hospitalization is not indicated, the member may be discharged from the sicklist and transferred to a nearby appropriate administrative command to await counseling. The member shall not be sent home awaiting orders, granted other than emergency leave, or transferred to another activity until the recommended findings of the Central PEB have been received and accepted by the member. In those cases where the member has been discharged from the sicklist and does not accept the recommended findings of the Central PEB, the member shall be transferred through medical channels to the appropriate hospital for a formal hearing.

(f) The convening authority of a medical board for good and sufficient reason, and with the consent of the member concerned, may withdraw any case he has referred to the Central PEB so long as the case is still before the Central PEB and recommended findings have not yet been made. If recommended findings have been made by the Central PEB and the convening authority considers that good and sufficient reasons exist for withdrawal of the case from the Disability Evaluation System, the convening authority may, with the consent of the member concerned, request the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, or the Chief, Bureau of Medicine and Surgery, to withdraw the case under the provisions of Subpart H of this part.

§ 725.310 Line of duty/misconduct reports.

In each case in which a member of the naval service incurs an injury which might result in a permanent disability or which results in his physical inability to perform duty for a period exceeding 24 hours (as distinguished from a period of hospitalization for evaluation or observation), findings concerning line of duty and misconduct must be made. Responsibility to order investigation in such cases is contained in the JAG Manual, section 0806. Whenever a copy of the report of investigation or injury report is not forwarded with the medical board report, a copy of all communications initiated by the hospital, with copies of all replies received, to obtain a copy of the investigative or injury report shall be attached to the medical board report with a statement explaining the circumstances of the injury. The statement shall include the name and address of the command having responsibility for the investigation, or a finding of not misconduct and in line of duty.

§ 725.311 Cases involving discipline.

(a) When a medical board report is considered necessary and an administrative involuntary separation or court-martial proceedings or investigative proceedings are pending, indicated, or have been completed, and in cases of uncompleted sentences of courts-martial involving confinement where the disciplinary features of the case warrant resolution prior to or in connection with further disposition, the medical board report together with all pertinent facts relative to the disciplinary aspects of the case shall be submitted to the Navy Department for such administrative action as is deemed warranted and no orders directing disposition or authorizing the appearance of the member before a PEB shall be issued by the convening authority.

(b) The Chief of Naval Personnel or Commandant of the Marine Corps, as appropriate, may either direct disciplinary processing, direct disability processing, or direct concurrent disciplinary and disability processing of the member's case.

§ 725.312 Request for medical records.

When the indicated disposition of the medical board is referral to a PEB and the convening authority concurs and is the Commanding Officer of a naval hospital or U.S. Naval Hospital, the Commanding Officer of the Naval Submarine Medical Center, or the Commandant of the Fourteenth Naval District, he shall advise BUMED (Code 3342), and request that the member's medical records be forwarded to the ONDE (Central PEB). In all other cases, where the indicated disposition is referral to a PEB, the Central PEB shall take such action as may be necessary to obtain the medical records. (See: art. 18-25 ManMed.)

§ 725.313 Requests for statements of service.

The command responsible for making the determination that a member's case be referred to a PEB (generally the convening authority of the medical board, the Chief of Naval Personnel, or the Commandant of the Marine Corps) shall initiate a request to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, that a statement of service for the member concerned be provided to the Central PEB. Requests addressed to the Chief of Naval Personnel shall be sent to Pers-E. Requests addressed to the Commandant of the Marine Corps shall be sent to Code DM. All requests should be by message, when appropriate, and should include the member's social security number, full name, grade or rate and Navy Enlisted Classification code (NEC) or Military Occupation Speciality (MOS), when appropriate. (See: art. 18-26, ManMed.)

§ 725.314 Terminal/death imminent cases.

(a) The provisions of this section apply to members of the Navy and the

Marine Corps who are patients in a hospital.

(b) It is not within the mission of the Department of the Navy to provide definitive medical care to members on active duty requiring prolonged hospitalization, who are unlikely to return to duty. The time at which a member should be processed for disability separation must be determined on an individual basis, taking into consideration the interests of both the Government and the member. However, before initiating disability evaluation procedures on a patient who has been identified as a terminal case, the hospital commanding officer shall insure that "optimum hospital improvement" has been attained. When "optimum hospital improvement" has been attained, disposition of the patient shall be governed by humanitarian consideration, with due regard for the economic conditions of the patient and his beneficiaries. However, terminal cases shall neither be retained nor separated solely for the purpose of increasing their retirement or separation benefits.

(c) Normally, a terminal medical case will be processed in accordance with the instructions of the other chapters of this Manual. However, if death is so imminent as to preclude completion of routine procedures, and application of the criteria set forth in paragraph (b) of this section warrants early separation of a member, whose case has not been presented to a PEB, a message report from the hospital commanding officer, or telephone communication, if necessary, shall be made directly to the Office of Naval Disability Evaluation, Washington, D.C., providing information necessary for disposition to be made. Outside of normal working hours these communications shall be made to the Duty Officer, Bureau of Medicine and Surgery. Such communications shall include the following information, insofar as possible:

(1) Member's full name, rank/rate, SSN, USN/USNR, USMC/USMCR;

(2) Member's duty station (i.e., activity holding records);

(3) Dependency status (i.e., single, married, children, other relatives listed in available Emergency Data personnel records);

(4) Whether member has Government insurance and amount;

(5) Status of member as regards Retired Serviceman's Family Protection Plan;

(6) Approximate length of ACTIVE service;

(7) Life expectancy (i.e., hours or days);

(8) Diagnosis and diagnostic nomenclature number (IDCA);

(9) If death is imminent, as a result of an injury, as opposed to a disease:

(i) Duty status of member at time of accident (i.e., leave or liberty, authorized or unauthorized);

(ii) Opinion of investigating officer, regarding line of duty/conduct;

(iii) Brief of circumstances of accident, including time and date of injury.

(d) In a case in which the PEB proceedings have already been forwarded to the Office of Naval Disability Evaluation and then death becomes imminent, such fact shall be made known to the Office of Naval Disability Evaluation immediately, so that action may be expedited, if warranted. Outside of normal working hours, the procedure described in paragraph (c) of this section shall be followed.

(e) Commanding officers of naval hospitals or other authorized persons shall insure that the spouse, or (if there is no spouse) the legal guardian or custodian of the child or children of mentally incompetent members, is promptly advised of her/his right to request the Secretary of the Navy to make an election in their behalf regarding the Retired Serviceman's Family Protection Plan.

(f) Upon effecting a member's disability retirement, the member, or his next of kin if the member is mentally incompetent (including unconsciousness resulting from disease or injury), shall be immediately advised of the right to file for "Disabled Veterans' Insurance" under the National Service Life Insurance Act, as amended 38 U.S.C. 722. In cases of mental incompetence, as defined in this subsection, if the next of kin or some other close family member to whom this information can be furnished is not available, so apprise the Chief of Naval Personnel or the Commandant of the Marine Corps (DN), as appropriate, immediately of that fact, and as to the date on which, and the person to whom, such information was furnished.

§ 725.315 Expedited disability separation.

(a) The provisions of this section apply only to members of the Navy and Marine Corps who are patients in a service hospital.

(b) When it appears obvious at the time of admission to the hospital that a member's condition is of such a nature that he is never likely to return to duty, and immediate transfer to a Veterans Administration Hospital is medically indicated, the member may be processed for physical disability retirement prior to attaining optimum hospital improvement in the service hospital. The medical officer treating the case will, within the first 10 days of the member's hospitalization, inform the hospital commanding officer, who shall immediately forward the following information to the ONDE (PRC) by speedletter (air mail where appropriate, telephone in extreme cases), with information copies to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, the Judge Advocate General, and the Chief, Bureau of Medicine and Surgery. Simultaneously, if indicated, a request to the Armed Services Medical Regulating Office (ASMRO) for bed designation in a VA hospital should be submitted, if the member requires further hospitalization and the member can be transported. The speedletter shall refer to this paragraph and shall state:

(1) Member's full name, rank/rate, SSN, USN/USNR, USMC/USMCR;

(2) Member's duty station (i.e., activity holding records);

(3) A VA Claim has been prepared and reviewed by a VA representative and is ready for submission upon execution of TDRL orders;

(4) Approximate length of ACTIVE service.

(5) Diagnosis and diagnostic nomenclature number (appending an interim Narrative Summary, to include a description of functional impairment);

(6) If the condition which renders the member unfit is the result of an injury, as opposed to a disease:

(i) Duty status of member at time of accident (i.e., leave or liberty, authorized or unauthorized);

(ii) Opinion of investigating officer regarding line of duty/conduct;

(iii) Brief of circumstances of accident. In addition to the interim Narrative Summary, there shall be appended to the speedletter report a statement signed by the member concerned agreeing to the special processing of his case and waiving his right to a full and fair hearing before a physical evaluation board (NAVMED Form 1900/1).

(c) Subject to the availability of space and facilities and capabilities of the professional staff, hospital commanding officers may approve requests from members processed under this paragraph for retention in a service hospital until optimum service hospital improvement has been achieved.

(d) In those instances where the member, after counseling, declines special processing of his case, he shall sign a statement to that effect, to be made a permanent part of his record, and his case shall be processed routinely in accordance with applicable provisions of this part.

(e) Hospital commanding officers shall, upon transfer of a member to a Veterans Administration Hospital, request that the VA hospital forward to the ONDE (PRC) a copy of the Narrative Summary prepared upon the member's discharge from treatment, or interim summaries at six-month intervals, whichever is appropriate.

Subpart E—Physical Evaluation Boards

§ 725.519 Recommended findings, members on active duty for 30 days or less, or training duty under 10 U.S.C. 270(b).

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H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

MAY 17, 1974.

[FR Doc.74-12101 Filed 5-24-74;8:45 am]

SUBCHAPTER D—PROCUREMENT, PROPERTY PATENTS, AND CONTRACTS

PART 736—DISPOSITION OF PROPERTY

Excess and Surplus Property

Part 736 of Chapter VI of Title 32 of the Code of Federal Regulations pertains to the disposal of excess and surplus property under the jurisdiction of the Department of the Navy. Pertinent reg-

ulations within the Department of the Navy have been revised, and those having general applicability and legal effect warrant a corresponding revision of the Code of Federal Regulations. Accordingly, effective May 24, 1974, Part 736 of Chapter VI of Title 32 of the Code of Federal Regulations is revised to read as follows:

1. Section 736.1 is amended by revising the introductory paragraph and paragraph (c) to read as follows:

§ 736.1 General.

Real and personal property under the jurisdiction of the Department of the Navy, exclusive of battleships, aircraft carriers, cruisers, destroyers, and submarines (referred to as warships in this part) and certain public domain lands and mineral interests, may be disposed of under the authority contained in the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended (40 U.S.C. 471), in this part referred to as the Federal Property Act. The Federal Property Act places the responsibility for the disposition of excess and surplus property located in the United States, Puerto Rico, and the Virgin Islands with the Administrator of General Services, and for disposition of such property located in foreign areas, with the head of each executive agency. The Act of August 10, 1956 (70A Stat. 451; 10 U.S.C. 7304, 7305, 7307) and Executive Order 11765 of January 21, 1974, (39 FR 2577) provide authority for the disposal of warships as well as other vessels stricken from the Naval Vessel Register. The United States Maritime Commission, however, is authorized to dispose of surplus vessels, other than warships, or 1,500 gross tons or more which the Commission determines to be merchant vessels or capable of conversion to merchant use (40 U.S.C. 484(i)). Accordingly, in disposing of its property, the Department of the Navy is subject to applicable regulations of the Administrator of General Services and the Secretary of Defense, and, in regard to potential merchant vessels other than warships, to determinations of the United States Maritime Commission. In general, property of the Department of the Navy, which becomes excess to its needs, may not be disposed of to the general public until it has been determined to be surplus after screening such property with the other military departments of the Department of Defense and all other agencies of the Government, and after it has been offered for donation to the educational institutions.

* * * * *

(c) The Department of Defense Disposal Manual and directives issued by the Department of the Navy cover the disposition of all property of the Department including disposition under the Federal Property Act. The Navy Personnel Property Disposal Manual and the Marine Corps Supply Manual contain information and operating instructions for the guidance of field personnel in disposing of personal property at Navy and Marine Corps installations, respectively. Section XXIV of Navy Procurement Directives contains similar information applicable to the disposition of contractor inventory. These publications are available for inspection at the Naval Material Command Headquarters, Washington, D.C.; at the offices of the Commandants of the several Naval Districts; and at various Navy and Marine Corps installations.

2. Section 736.3 is revised to read as follows:

§ 736.3 Sale of personal property.

(a) The sale of personal property determined to be surplus or foreign excess or for exchange purposes is authorized by the Federal Property Act and regulations of the Administrator of General Services (see § 736.1(a)). Certain vessels stricken from the Naval Vessel Register may be sold under the act of August 19, 1956, (70A Stat. 451, 10 U.S.C. 7305).

(b) Sales are by sealed bid, auction, spot bid or, under limited conditions prescribed by law, negotiated method. A deposit, generally 20 percent of the amount bid, is normally required of each bidder. Awards are usually made to the highest acceptable bidder. Normally property may not be removed from Government control until full payment is made. Arrangements must be made by the successful bidder to remove the property within the time limit prescribed in the invitation to bid or sales contract. The Government reserves the right to withdraw any property from sale when in the best interest of the Government.

(1) The Department of Defense has a contact point for any person interested in purchasing surplus Department of Defense personal property within the United States. The contact point is the Defense Surplus Bidders Control Office, Defense Logistics Service Center, Federal Center Building, Battle Creek, Michigan. This office maintains a single bidders list for all military departments. The list is arranged to show each person's buying interests, both geographically and with respect to categories of property. The categories of property (together with an application blank) are listed in a pamplet "How to Buy Surplus Personal Property From The Department of Defense," prepared by the Defense Logistics Services Center, Defense Supply Agency, Battle Creek, Michigan.

(2) Retail sales at fixed prices based on the current market value are conducted by certain Defense property disposal offices.

Sections 736.5 (d), (e), and (h) is revised to read as follows:

§ 736.5 Disposition of real and personal property under special statutory authority.

* * * * *

(d) *Disposition of vessels.* Vessels stricken from the Naval Vessel Register may be sold by the Department of the Navy under the authority and subject to the limitations of the Federal Property Act (sections 203(i), 63 Stat. 386, 40 U.S.C. 484(i)) and the act of August 10, 1956, (70A Stat. 451; 10 U.S.C. §§ 7304, 7305, 7307) and Executive Order 11765 (39 FR 2577). However, pursuant to section 203(i) of the Federal Property Act (40 U.S.C. 484(i)), the United States Maritime Commission disposes of vessels, other than warships, if over 1,500 gross tons and determined by the Maritime Commission to be merchant vessels or capable of conversion to merchant use. Vessels may be sold for scrapping or for use under such authority or, if such sale is not feasible, the Naval Ship Systems Command may arrange for the demolition of a vessel and sale of the resulting materials by an authorized selling activity as set forth in § 736.3.

(e) *Exchange of sale of property for replacement purposes.* Under the authority of section 201(c) of the Federal Property Act (40 U.S.C. 481(c)) and of the Armed Services Procurement Regulations, the Department of the Navy is authorized in the procurement of new equipment, to exchange or sell similar items which are not excess to its needs, and apply the exchange allowance or proceeds of sale in whole or part payment for the items procured.

* * * * *

(h) *Assistance in major disaster relief.* Under the act of December 31, 1970, (42 U.S.C. 4401–4485) and subject to directions of the Director of the Office of Emergency Preparedness, certain excess personal property may be utilized for or donated to States and local governments for relief of suffering and damage resulting from major disasters. Surplus property may also be disposed of to States for sale to small business concerns affected by specific disasters such as hurricanes.

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H. B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

MAY 17, 1974.

[FR Doc.74-12102 Filed 5-24-74;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER IV—SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

PART 401—SEAWAY REGULATIONS

Penalty Procedures

On pages 21921–21923 of the FEDERAL REGISTER of August 14, 1973, and page 24210 of the FEDERAL REGISTER of September 6, 1973, there was published a document which established a new Subpart C to Part 401, Seaway Regulations of the Saint Lawrence Seaway Development Corporation. Subpart C deals with the Assessment, Mitigation or Remission of Penalties for violations of the regulations.

On March 22, 1974 a revision of Subpart A—Regulations and Subpart B—

Rules by consolidating the two subparts into Subpart A—Seaway Regulations was published. Therefore, the purpose of this document is to revise Subpart C to change references to "Seaway regulations and rules" to "Seaway regulations".

Since public procedures have already been accomplished on this Subpart C, and only editorial changes are being made here, this document is effective immediately.

Subpart C—Assessment, Mitigation or Remission of Penalties, is revised to read as follows:

Subpart C—Assessment, Mitigation or Remission of Penalties

AUTHORITY: Sec. 106 of Pub. L. 92-340, 86 Stat. 424.

Subpart C—Assessment, Mitigation or Remission of Penalties

§ 401.201 Delegation of Authority.

(a) The Secretary of Transportation, by 49 CFR 1.50a, has delegated to the Administrator of the Saint Lawrence Seaway Development Corporation the authority vested in him under the Ports and Waterways Safety Act of 1972, Pub. L. 92-340, as it pertains to the operation of the Saint Lawrence Seaway.

(b) The Administrator hereby authorizes the Corporation's Resident Manager to administer this statute in accordance with the procedures set forth in this subpart.

§ 401.202 Statute providing for assessment, mitigation or remission of civil penalties.

Title I of the Ports and Waterways Safety Act of 1972 authorizes the assessment and collection of a civil penalty of not more than $10,000 from anyone who violates a regulation issued under that Title.

§ 401.203 Reports of violations of Seaway regulations and instituting and conducting civil penalty proceedings.

(a) Violations of Seaway regulations, Subpart A of this Part, will be brought to the attention of the alleged violator at the time of detection whenever possible. When appropriate, there will be a written notification of the fact of the violation. This notification will set forth the time and nature of the violation and advise the alleged violator relative to the administrative procedure employed in processing civil penalty cases. The alleged violator will be advised that he has 15 days in which to appear before the Resident Manager or submit a written statement for consideration. The Resident Manager shall, upon expiration of the 15-day period, determine whether there has been a violation of the Seaway regulations.

(b) If the Resident Manager decides that a violation of Seaway regulations has occurred, a determination will be made as to whether to invoke no penalty at all and close the case or whether to invoke a part or full statutory penalty. In either event, a written notice of the decision shall be given to advise the violator. If a penalty is assessed, such notice will advise the violator of his right to petition for relief within 15 days or such longer period as the Resident Manager, in his discretion, may allow. The Resident Manager may mitigate the penalty or remit it in full, except as the latter action is limited to paragraph (f) of this section. The violator may, if he desires, appear in person before the Resident Manager. If the violator does not apply for relief but instead maintains that he has not committed the violation(s) charged, and the Resident Manager, upon review, concludes that invocation of the penalty was proper, no remission or mitigation action will be taken. On the other hand, should the violator petition the Resident Manager for relief without contesting the determination that a violation did, in fact, occur, relief may be granted as the circumstances may warrant.

(c) When the penalty is mitigated, such mitigation will be made conditional upon payment of the balance within 15 days of the notice or within such other longer period of time as the Resident Manager in his discretion may allow.

(d) The violator may appeal to the Administrator from the action of the Resident Manager. Any such appeal shall be submitted to the Administrator through the Resident Manager within 15 days of the date of notification by the Resident Manager, or such longer period of time as the Resident Manager, in his discretion, may allow.

(e) Should the alleged violator require additional time to present matters favorable to his case at any stage of these penalty proceedings, a request for additional time shall be addressed to the Resident Manager who will grant a reasonable extension of time where sufficient justification is shown.

(f) Under the following circumstances, the Corporation's General Counsel shall forward cases involving violations of the Seaway regulations to the United States Attorney with the recommendation that action be taken to collect the assessed statutory penalty;

(1) When, within the prescribed time, the violator does not explain the violation, appeal for mitigation or remission, or otherwise respond to written notices from the Resident Manager; or

(2) When, having responded to such inquiries, the violator fails or refuses to pay the assessed or mitigated penalty, or to appeal to the Administrator, within the time prescribed; or

(3) When the violator denies that the violation(s) was committed by him, the Resident Manager, upon review, disagrees and the violator thereafter fails to respond to the demand, appeal to the Administrator, or to remit payment of the assessed penalty within the time prescribed (see § 401.203(b)); or

(4) When the violator fails to pay within the prescribed time the penalty as determined by the Administrator after consideration of the violator's appeal from the action of the Resident Manager.

(g) If a report of boarding or on investigation report submitted by a Corporation employee or investigative body discloses evidence of violation of a Federal criminal statute, the Corporation's General Counsel, in accordance with § 401.204, shall refer the findings to the United States Attorney for appropriate action.

§ 401.204 Criminal penalties.

(a) Prosecution in the Federal courts for violations of Seaway regulations enforced by the Corporation which provide, upon conviction, for punishment by fine or imprisonment is a matter finally determined by the Department of Justice. This final determination consists of deciding whether and under what conditions to prosecute or to abandon prosecution.

(b) The Corporation's General Counsel is hereby authorized to determine whether or not a violation of a Seaway regulation carrying a criminal penalty is one which would justify referral of the case to the United States Attorney.

(c) The Corporation's General Counsel will identify the regulations which were violated and make specific recommendations concerning the proceedings to be instituted by the United States Attorney in every case.

(d) Referral of a case to the United States Attorney for prosecution terminates the Corporation's authority with respect to the criminal aspects of a violation.

§ 401.205 Civil and criminal penalties.

(a) If a violation of a Seaway regulation carries a criminal penalty, the Corporation's General Counsel is hereby authorized to determine whether to refer the case to the United States Attorney for prosecution in accordance with § 401.204, which outlines the appropriate procedure for handling criminal cases.

(b) The decision of the United States Attorney as to whether to institute criminal proceedings shall not bar the initiation of civil penalty proceedings by the Resident Manager.

§ 401.206 Procedure for payment of civil penalty for violation of Seaway regulation.

(a) The payment must be by money order or certified check payable to the order of the Saint Lawrence Seaway Development Corporation when mailed to the Resident Manager. If the payment is made in person at the offices of the Saint Lawrence Seaway Development Corporation, the payment may be in cash or by postal money order or check payable to the order of the Saint Lawrence Seaway Development Corporation.

(b) The payment of any penalty is acknowledged by written receipt.

(c) If the penalty paid is determined by the Resident Manager to have been improperly or excessively imposed, the payor will be notified and requested to submit an application for a refund which should be mailed to the Saint Lawrence Seaway Development Corporation, attention of the Resident Manager. Such application must be made by the payor within one year of the date of the notification provided for in this section.

(d) In the event the alleged violator is about to leave the jurisdiction of the United States, he will be required, before being allowed to depart, to post a bond in the amount and manner suitable to the Resident Manager, from which bond any subsequent assessed or mitigated penalty may be satisfied.

Effective date: May 28, 1974.

(68 Stat. 92–97 (33 U.S.C. 981–990, as amended), and sec. 104, Pub. L. 92–340, 86 Stat. 424; 49 CFR 1.50a (37 FR 21943))

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION,
[SEAL] D. W. OBERLIN,
Administrator.

[FR Doc.74–12087 Filed 5–24–74;8:45 am]

Title 24—Housing and Urban Development

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

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

[Docket No. R–74–269]

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Standards and Financing

The Department of Housing and Urban Development is amending Part 201 of Title 24 of the Code of Federal Regulations, Subpart B, "Mobile Home Loans." The amendments would require that:

1. Where mobile homes are to be placed on lots serviced by wells and septic tanks, and there is no applicable sanitary code, the borrower or dealer shall obtain a certification from a sanitary engineer that the site is in conformation with HUD sanitary standards.

2. Maximum loan amount be limited to 113 percent of the manufacturer's invoice. The present regulation permits a loan amount up to 115 percent of the manufacturer's invoice. A reduction in the amount financed is indicated in order to improve loan quality.

3. Costs of transportation or freight of the mobile home would not be permitted to be included in the amount financed. The present regulation permits such costs to be included as a separate item in a loan.

4. Setup charges are increased from $200 to $400 for a mobile home and from $400 to $600 for mobile homes consisting of two or more modules. The increase allows for costs of "tie-downs". Costs of transporting the home from the dealer's lot to the borrower's site may also be included.

5. Dealers approved by insured lenders must agree to sell repossessed mobile homes upon request of the insured lender.

6. Minimum downpayments would be revised to require a minimum cash downpayment of 5 percent of the first $3,000 total cost of the home and 10 percent of any amount in excess of $3,000. The previous requirement was that the downpayment be 5 percent of the first $6,000 and 10 percent of the amount in excess of $6,000.

7. The insurance premium payable by the insured lender will be increased from thirty-three one hundredths of 1 percent per annum to fifty-four hundredths of 1 percent per annum. This charge reflects prospective actuarial analysis.

8. The sales commission allowable to a dealer for the resale of a repossessed mobile home would be increased from 3 percent to 7 percent. This increase in sales commission is necessary to facilitate sales of repossessed homes.

9. The claims procedure is amended to provide that the retail value of a repossessed home will be deducted from the unpaid amount of the obligation. Present procedures provide for deduction of the wholesale value.

The Secretary has determined that advance notice and public procedure are unnecessary and would delay the amendments from becoming effective and it is in the public interest that the amendments become effective in less than the 30 day period referred to in 5 U.S.C. 553(d) and that good cause exists for making these amendments effective on May 28, 1974. Interested persons may submit written comments or suggestions, addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. A copy of each communication will be available for public inspection during regular business hours at the above address.

Accordingly, Subchapter B of Chapter II is amended as follows:

(1) In § 201.525(c)(2) is amended to read as follows:

§ 201.525 Mobile home location standards.

* * * * *

(c) * * *

(2) The insured shall obtain from the borrower or the dealer a certification made by an authorized local official establishing that the site has adequate sanitary facilities and is in conformance with applicable sanitary code in the jurisdiction in which the mobile home is located. If there is no local sanitary code the borrower or the dealer shall obtain a certification from a sanitary engineer that the site is in conformance with sanitary standards proscribed by HUD Minimum Property Standards.

* * * * *

(2) Section 201.530 is amended to read as follows:

§ 201.530 Maximum loan amount.

(a) *Basic limitation.* The mobile home loan proceeds shall not exceed the lesser of $10,000 ($15,000 where the mobile home is composed of two or more modules) or 113 percent of the total price for such home, as stated in the manufacturer's invoice (113 percent of the wholesale blue book price, if a previously financed used mobile home is involved). The charges and fees authorized in paragraph (b) of this section may be added to the loan, if the inclusion of such items does not increase the total loan proceeds to more than $10,000 ($15,000 where the mobile home is composed of two or more modules).

(b) *Permissible charges and fees.* The following charges and fees are authorized:

(1) Filing or recording fees and charges.

(2) Documentary stamp taxes.

(3) State and local sales taxes.

(4) Costs of comprehensive and extended coverage insurance and a vendor's single interest coverage. The term of the initial policy shall not exceed 5 years.

(5) Itemized setup charges, including costs of "tie-downs", by the dealer for installing the mobile home on site and transportation costs from the dealer's lot to the site, not to exceed $400 or where the mobile home consists of two or more modules, $600.

(3) Section 201.535 is amended to read as follows:

§ 201.535 Borrower's minimum investment.

The borrower shall make a minimum cash downpayment of at least 5 percent of the first $3,000 of the total cost of the mobile home as shown in the purchase contract (excluding permissible charges and fees provided for in § 201.530(b)) plus 10 percent of any amount in excess of $3,000.

(4) In § 201.595 a new paragraph (e) is added to read as follows:

§ 201.595 Dealer investigation, approval and control.

* * * * *

(e) The insured shall require a written agreement from the dealer that the dealer shall agree to sell, at the request of the insured, any home which is repossessed by the insured.

(5) Section 201.625 is amended to read as follows:

§ 201.625 Rate of insurance charge.

The insured shall pay to the Commissioner an insurance charge equal to fifty-four one hundredths (0.54) of 1 percent per annum of the net proceeds of any eligible loan reported and acknowledged for insurance. In computing the insurance charge, no charge shall be made for a period of 14 days or less, and a charge for a month shall be made for a period of more than 14 days.

(6) Paragraph (a) and paragraph (c)(4) of § 201.680 are amended to read as follows:

§ 201.680 Amount of claim.

(a) Deduct from the unpaid amount of the obligation (net unpaid principal and the earned portion of the financing charge, at the time of default) the actual sales price obtained for the mobile home following its repossession, or the appraised value of the mobile home, whichever amount is greater. The determination of appraised value (for the purposes of this paragraph) shall be made by the Commissioner, at his option, on the basis of either retail value listed in a current accepted value rating publication (establishing wholesale and retail value for comparable mobile homes in the geographic rating area) or on the basis of an actual appraisal of the mobile home. The Commissioner's determination of appraised value shall be binding on the insured for the purposes of establishing its loss.

* * * * *

(c) * * *

(4) A sales commission to the dealer for the resale of the repossessed mobile home, not to exceed 7 percent of the sales price.

(Sec. 7(d), 79 Stat. 670, 42 U.S.C. 3535(d); sec. 2, 48 Stat. 1246, 12 U.S.C. 1703)

Effective date. These amendments are effective May 28, 1974.

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

[FR Doc.74-12178 Filed 5-24-74;8:45 am]

[Docket No. R-74-270]

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Mobile Home Interest Rate Increase

The Department of Housing and Urban Development is amending § 201.540 to revise the maximum allowable interest rate on mobile home loans insured under this part to a maximum annual percentage rate of 11.25 percent.

The Secretary has determined that such change is necessary to meet the mobile home loan market in accordance with his authority contained in 12 U.S.C. 1709-1, as amended by Pub. L. 93-234.

The Secretary has also determined that advance notice and public procedure are unnecessary and that good cause exists for making this amendment effective in less than the 30 day period referred to in 5 U.S.C. 3535(d), and for making this amendment effective on May 28, 1974.

Accordingly, § 201.540 is amended as follows:

(1) Paragraph (a) is revised, paragraph (b) is revoked and paragraph (c) is redesignated as paragraph (b).

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 11.25 annual percentage rate per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

(b) *Prepayment rebate.* If an obligation is paid in full prior to maturity, the insured shall rebate the full unearned charge, where such rebate is $1 or more. Where the law of the jurisdiction permits an acquisition or minimum retained charge, such charge may be deducted from the rebate.

(Sec. 7(d) 79 Stat. 670 (42 U.S.C. 3535(d); sec. 2, 48 Stat. 1246 12 U.S.C. 1703; 12 U.S.C. 1709-1 as amended by Pub. L. 93-234.)

Effective date. This amendment is effective May 28, 1974.

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

[FR Doc.74-12175 Filed 5-24-74;8:45 am]

CHAPTER III—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-74-255]

PART 390—GUARANTY OF MORTGAGE-BACKED SECURITIES

Subpart A—Pass-Through Type Securities

ELIGIBLE ISSUERS OF SECURITIES; MINIMUM ISSUANCE OF MORTGAGE-BACKED SECURITIES

On March 6, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 8629) by the Department of Housing and Urban Development proposing revisions in the guidelines for eligible issuers of GNMA mortgage-backed securities and to change the minimum issuance amount of GNMA mortgage-backed securities.

Interested persons were given 30 days in which to submit written comments or suggestions. Comments and suggestions were received from trade associations, a regional HUD office, a mortgage banker, and other interested parties.

Comments germane to the reduction of the minimum issuance amount were all favorable. In addition, four letters were received which contained the following specific suggestions: (a) A reduction of the application fee, (b) the creation of a hearing procedure when GNMA declines to contract to guarantee an issue of mortgage-backed securities, (c) the elimination of the categories of sex and age from the proposed § 390.3(b), in view of the fact they go beyond statutory laws, and (d) the additional revision of the first sentence of proposed § 390.3(c) by adding "except where such practices, ethics, and standards are in conflict with the purposes of Title VI of the Civil Rights Act of 1968, an Executive Order 11063."

(a) There can be no reduction in the application fee because program costs, including the cost of printing and preparing the securities, reviewing the submission, and processing the application are not reduced because the minimum issue amount is reduced.

(b) A hearing procedure is neither needed nor required by law to be available for use when GNMA declines to enter a contract to guarantee an issuance of mortgage-backed securities. An issuer does not gain a continuing right to engage in future guaranty transactions merely because GNMA enters into a contract to guarantee an initial issue of securities, since each such transaction is a separate contractual undertaking into which GNMA must enter specially. Any applicant would always have the right to immediate recourse to any remedies it might have in court, in case of a denial. More importantly, GNMA will honor requests for meetings or conferences to review reasons for its declinations and to receive new information.

(c) GNMA's programs prohibit discrimination on the basis of race, color, religion, and national origin in accordance with existing statutory laws and Departmental regulations. Including the additional categories of "sex and age" is a recognition that such discrimination violates the spirit if not the letter of the law. It is noteworthy that the Federal Home Loan Bank has recently included proscriptions against discrimination on the additional grounds of sex and age.

(d) The recommendation to amend the first sentence of proposed § 390.3(c) would create an ambiguity in the proposed section. The main objective of the paragraph is to constitute notice of an unpublished program requirement. Paragraph (b) of § 390.3 sets out the policy against discrimination to which GNMA expects issuers to adhere. GNMA would not approve issuers that adhere to a practice that breaches the policy against discrimination; to infer otherwise would work a disservice on the program.

Additionally, § 390.3(a) is also being amended to require that issuers of modified pass-through securities based on and backed by mortgages on mobile homes have a minimum net worth of at least $500,000. This program change was not included in the notice published on March 6, 1974 (39 FR 8629) inasmuch as the decision to change the program was made after publication of the notice. The change in the net worth requirement is necessitated by the co-insurance provision in the modified mobile home program being implemented by GNMA for mortgage-backed securities. Although this amendment will be effective upon publication, interested persons are invited to submit written data, views, or statements, in triplicate, to the Rules Docket Clerk, Office of the General Counsel, Room 10245, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410. All relevant material received will be considered for any future modification of the section.

In order to expedite preparation and issuance of mortgage-backed securities based on mobile home loans in response to anticipated applications for the modified program, good cause exists for waiving postponement of the effective date for this amendment of Part 390.

Accordingly, Part 390 is amended as follows:

1. Section 390.3 is revised to read:

§ 390.3 Eligible issuers of securities.

(a) Any mortgagee, including a State or local governmental instrumentality, which has been approved by the Federal Housing Administration and which has adequate experience and facilities to issue mortgage-backed securities may be approved for a guaranty by the Association, except that no guaranty shall be made of any security which is tax exempt under the Internal Revenue Code of 1954. No issue of securities will be approved for guaranty unless the Issuer has net worth, in assets acceptable to the Association, in the following amounts:

(1) For straight pass-through securities, $100,000.

(2) For modified pass-through securities based on and backed by mortgages upon one- to four-family residences, (i) not less than 2 percent of the first $5 million of modified pass-through securities outstanding after such issue, and (ii) not less than 1 percent on all such securities outstanding over $5 million, but in no case need such net worth exceed $250,000.

(3) For modified pass-through securities based on and backed by mortgages on mobile homes, $500,000.

(4) For modified pass-through securities other than those described in subparagraphs (2) and (3) of this paragraph, (i) not less than 3 percent of the first $5 million of modified pass-through securities outstanding after such issue, and (ii) not less than 2 percent on the succeeding $5 million of such securities, and (iii) not less than 1 percent on all over $10 million, provided that the minimum net worth shall be at least $100,000, but in no case need net worth exceed $500,000.

(b) No Issuer will be approved if, at the time of application for commitment, its lending policies permit any discrimination based on race, religion, color, sex, national origin, or age, or the Issuer is not in compliance with any rules, regulations, or orders issued under Title VI of the Civil Rights Act of 1964, with Executive Order 11063, Equal Opportunity in Housing, issued by the President of the United States on November 20, 1962, and with the Fair Housing Law of 1968, in accordance with FHA and VA rules and regulations; any failure to be in compliance therewith will be considered a basis for rejecting an application. Subsequent thereto, an eligible Issuer shall continue to comply with the above rules, regulations, or orders; failure so to comply for a period of 60 days after the date on which written notice of such failure has been delivered via registered mail by GNMA to the Issuer, may be considered the basis for default.

(c) All Issuers must conduct their business operations in accordance with accepted mortgage banking practices, ethics, and standards. In the event that an Issuer does not comply with such practices, ethics, and standards, the Association may reject further applications received from an Issuer until such time as the Association is satisfied that the Issuer has resumed business operations in accordance with accepted mortgage banking practices, ethics, and standards.

2. Section 390.5(b) is amended to read as follows:

§ 390.5 Securities.

* * * * *

(b) *Issue amount.* Each issue of guaranteed securities must be in a minimum face amount of $1 million, *Provided* That in the case of modified pass-through securities based on and backed by mortgages on mobile homes or projects said minimum face amount is $500,000. The total face amount of any issue of securities cannot exceed the aggregate unpaid principal balances of the mortgages in the pool.

* * * * *

(Sec. 306(g), 82 Stat. 540 (12 U.S.C. 1721); Bylaws of the Association, 35 FR 2606, Feb. 5, 1970, 36 FR 11229, June 9, 1971)

Effective date. This regulation is effective May 28, 1974.

WOODWARD KINGMAN,
President, Government National Mortgage Association.

[FR Doc.74-12177 Filed 5-24-74;8:45 am]

Title 7—Agriculture

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

[Lemon Reg. 640]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period May 26–June 1, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.940 Lemon Regulation 640.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, 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 Lemon 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 lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons continues active as trade is stocking for the Memorial Day Holiday. Average f.o.b. price was $6.15 per carton the week ended May 18, 1974, compared to $6.02 per carton the previous week. Track and rolling supplies at 175 cars were up 20 cars from last week.

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

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation 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 lemons 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 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 lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with

this 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 May 21, 1974.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period May 26, 1974 through June 1, 1974, is hereby fixed at 275,000 cartons.

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

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

Dated: May 22, 1974.

FRED DUNN,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–12222 Filed 5–24–74;8:45 am]

[Lime Reg. 1]

PART 911—LIMES GROWN IN FLORIDA

Limitation of Handling

This regulation fixes the quantity of Florida limes that may be shipped to fresh market during the weekly regulation period May 26, 1974–June 1, 1974. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 911. The quantity of limes so fixed was arrived at after consideration of the total available supply of Florida limes, the quantity currently available for market, lime prices, and the relationship of season average returns to the parity price for Florida limes.

§ 911.401 **Lime Regulation 1.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911; 37 FR 10497), 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), and upon the basis of the recommendations and information submitted by the Florida Lime 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 limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of limes that may be marketed during the ensuing week stems from the production and marketing situation confronting the Florida lime industry.

(i) The committee has submitted its recommendation with respect to the quantity of limes which it deems advisable to be handled during the succeeding week. Such recommendation results from consideration of the factors enumerated in the order. The committee further reports the fresh market demand for limes is currently below normal levels due to cool weather and the Holiday next week. The supply of fresh limes available is greater than markets require. Fresh shipments for the weeks ended May 18, 1974 and May 11, 1974, were 19,055 bushels and 13,815 bushels, respectively.

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

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation 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 Florida limes, 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 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 limes; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this 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 May 21, 1974.

(b) *Order.* (1) The quantity of limes grown in Florida which may be handled during the period May 26, 1974, through June 1, 1974, is hereby fixed at 18,000 bushels.

(2) As used in this section, "handled" and "limes" have the same meaning as when used in said amended marketing agreement and order, and "bushel" means 55 pounds of limes.

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

Dated: May 22, 1974.

FRED DUNN,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–12220 Filed 5–24–74;8:45 am]

[Peach Reg. 1]

PART 918—FRESH PEACHES GROWN IN GEORGIA

Limitation of Shipments

This regulation requires that peaches grown in Georgia shipped to points outside of Georgia, other than those shipped in bulk to adjacent markets, be mature, not exceed 1 percent decay, and be at least 1¾ inches in diameter, during the period May 27, through August 31, 1974.

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of fresh peaches grown in the State of Georgia, 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 recommendation of the Industry Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that this regulation will tend to effectuate the declared policy of the act.

(2) This regulation is based upon an appraisal of the crop and current and prospective market conditions. Production is estimated to be less than half that of last season. Hence, the regulation is minimal and is designed primarily to prevent the handling of peaches which would be less than satisfactory to consumers at designations other than destinations in adjacent markets. Such action is deemed to be reasonable and necessary in the circumstances and in the interest of producers and consumers. The exception with respect to peaches in bulk shipped to destinations in adjacent markets follows the custom and pattern of prior years and is designed to permit the movement to those markets of peaches of such qualities and sizes as are acceptable in the adjacent markets but are not suitable for distribution in competition with peaches from other areas in more distant markets.

(3) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than May 27, 1974. The committee held an open meeting on May 3, 1974, after giving due notice thereof, to consider supply and market conditions for fresh peaches grown in Georgia, 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; necessary supplemental data for consideration in connection with the specification of the provisions of this regulation were not available until May 15, 1974; the provisions of this 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 peaches. Shipments of the early varieties of the current crop of peaches are expected to begin on or about May 27, 1974, and this regulation should be applicable, insofar as practicable, to all shipments of such peaches in order to effectuate the declared policy of the act; and compliance with this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 918.316 Peach Regulation 1.

Order. (a) No handler shall ship during the period May 27, through August 31, 1974, except peaches in bulk to destinations in the adjacent markets, any peaches which:

(1) Are not mature or exceed 1 percent decay.

(2) Are smaller than 1¾ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1¾ inches in diameter.

(b) The maturity regulations contained in § 918.400 of this part shall be applicable to any shipment of peaches to destinations in the adjacent markets but the inspection requirement contained in § 918.64 of this part shall not be applicable to any shipment of peaches in bulk to destinations in the adjacent market, except for peaches in new containers, during the period specified in paragraph (a) of this section.

(c) When used herein, the terms "handler," "adjacent markets," "peaches," "peaches in bulk," and "ship" shall have the same meaning as when used in the aforesaid amended marketing agreement and order, and the terms "U.S. No. 1," "mature," and "diameter" shall have the same meaning as when used in the revised United States Standard for Peaches (7 CFR 51.1210–51.1223).

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

Dated: May 22, 1974.

FRED DUNN,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.74–12221 Filed 5–24–74;8:45 am]

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

[Docket No. AO–364–A8; Milk Order 121]

PART 1121—MILK IN THE SOUTH TEXAS MARKETING AREA

Order Amending Order

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 South Texas 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) *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 theh effective date hereof, the handling of milk in the South Texas marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1121.1 General provisions.

DEFINITIONS

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

GENERAL PROVISIONS

§ 1121.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1121.2 South Texas marketing area.

"South Texas marketing area", hereinafter called the "marketing area", means all territory, including all piers, docks, and wharves connected therewith, and all craft moored thereat, and territory occupied by Government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments, within the boundaries of the following counties, all in the State of Texas:

Angelina.
Austin.
Brazoria.
Brazos.
Chambers.
Colorado.
Fort Bend.
Galveston.
Grimes.
Hardin.
Harris.
Houston.
Jackson.
Jasper.
Jefferson.
Liberty.
Madison.
Matagorda.
Montgomery.
Nacogdoches.
Newton.
Orange.
Polk.
San Jacinto.
Trinity.
Tyler.
Walker.
Waller.
Washington.
Wharton.

§ 1121.3 Route disposition.

"Route disposition" means any delivery (including any delivery by a vendor or disposition at a plant store) of fluid milk products classified as Class I milk, other than a delivery to a plant.

§ 1121.4 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed and/or packaged. Separate facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a plant under this definition if the milk transferred at such facilities can be identified as receipts from specific farmers until the milk is received at a plant. Facilities used only as a distribution point for storing fluid milk products in transit for route disposition shall not be a plant under this definition.

§ 1121.5 Distributing plant.

"Distributing plant" means a plant approved by any duly constituted State or municipal health authority, or acceptable to any agency of the State or Federal Government for the disposition of Grade A fluid milk products in the marketing area, at which milk products are received, processed and/or packaged, and from which there is route disposition of fluid milk products in the marketing area.

§ 1121.6 Supply plant.

"Supply plant" means any plant approved by an appropriate health authority to supply fluid milk for distribution as Grade A milk in the marketing area and from which fluid milk products are moved to a distributing plant.

§ 1121.7 Pool plant.

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

(a) Any distributing plant from which during the month there is:

(1) Route disposition, except filled milk, in the marketing area equal to 10 percent or more of the receipts of Grade A milk at such plant; and

(2) Total route disposition, except filled milk, equal to 50 percent or more of the receipts of Grade A milk at such plant.

(b) A supply plant:

(1) During any month in which 50 percent or more of the receipts of Grade A milk from dairy farmers and handlers pursuant to § 1121.9(c) at such plant is moved as fluid milk products, except filled milk, in bulk to pool distributing plants; or

(2) During each of the months of January through August, if such plant was a pool plant pursuant to paragraph (b)(1) of this section during each of the immediately preceding months of September through December, unless the operator of such plant had filed with the market administrator before the first day of any month a written request that such plant not be a pool plant for each month through August during which it does not otherwise qualify as a pool plant.

(c) Any plant operated by a cooperative association which has been approved by any duly constituted State or municipal health authority and at which milk is received from dairy farmers holding permits or authorization from such health authority, and at least 50 percent or more of the producer milk of members of such cooperative association is physically received during the month at pool plants of other handlers described in paragraph (a) of this section or is transferred to such pool plants from a plant of the cooperative association.

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

(1) A producer-handler plant;

(2) A governmental agency plant;

(3) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(4) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(5) A plant meeting the requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order, and either qualifies as a fully regulated distributing plant under such other Federal order subject to paragraph (d)(3) and (4) of this section, or from such plant greater qualifying shipments are made as a supply plant during the month to plants regulated under such other order than are made to plants regulated under this part, except that this subparagraph shall not apply during the months of January through August if such plant retains automatic pooling status under this part pursuant to paragraph (b)(2) of this section.

§ 1121.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another Federal order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month but which is neither an other order plant, a governmental agency plant, nor a producer-handler plant.

(d) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant, a governmental agency plant, nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units (other than to pool plants) in the marketing area during the month.

(e) "Governmental agency plant" means a plant owned and operated by a governmental agency or establishment which processes or packages milk or filled milk that is distributed in the marketing area. Such plant shall be exempt from all provisions of this part.

§ 1121.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to producer milk which it causes to be diverted pursuant to § 1121.13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk of its producer members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to, such cooperative association;

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

(e) A producer-handler; or

(f) Any person in his capacity as the operator of an other order plant from which there is route disposition in the marketing area.

§ 1121.10 Producer-handler.

"Producer-handler" means any person who:

(a) Produces milk and operates a distributing plant;

(b) Receives no milk from other dairy farmers;

(c) Disposes of no other source milk (except that represented by nonfat solids used in the fortification of fluid milk products) as Class I milk;

(d) Receives from pool plants not more than a total of 5,000 pounds of fluid milk products during the month or 5 percent of his Class I disposition, whichever is less; and

(e) Furnishes satisfactory proof to the market administrator that the maintenance, care and management of all dairy animals and other resources necessary to produce the entire amount of fluid milk handled (excluding transfers from pool plants) and the operation of the plant are each the personal enterprise of and at the personal risk of such person.

§ 1121.11 [Reserved]

§ 1121.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved for consumption as Grade A milk by any duly constituted State or municipal health authority which is:

(1) Received at a pool plant; or

(2) Diverted by a handler for his account pursuant to the provisions of § 1121.13.

(b) "Producer" shall not include:

(1) A governmental agency which operates a plant exempt pursuant to § 1121.8(e);

(2) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(3) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1121.44(a)(8)(iii) and the corresponding step of § 1121.44(b); and

(4) Any person with respect to milk produced by him which is reported as diverted to an other order plant if any portion of such person's milk so moved is assigned to Class I under the provisions of such other order.

§ 1121.13 Producer milk.

"Producer milk" means skim milk and butterfat for each handler's account in milk from producers as follows:

(a) With respect to operations of a pool plant:

(1) Received directly from such producers;

(2) Received from a handler described in § 1121.9(c); and

(3) Diverted by the operator of such pool plant to a nonpool plant that is not a producer-handler plant nor a governmental agency plant for his account, subject to the conditions of paragraph (c) of this section.

(b) With respect to additional receipts by a cooperative association handler:

(1) Diverted by such cooperative association from the pool plant of another handler to a nonpool plant that is not a producer-handler plant nor a governmental agency plant for the account of such cooperative association, subject to the conditions of paragraph (c) of this section; and

(2) Received by such cooperative association from producers' farms as a handler described in § 1121.9(c) in excess of the quantity delivered to pool plants pursuant to paragraph (a)(2) of this section.

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account a total quantity of milk not in excess of one-third of the total producer milk of its members received at all pool plants during the month. Diversions in excess of such quantity shall not be producer milk and the diverting cooperative shall specify the dairy farmers whose diverted milk is ineligible as producer milk. If the cooperative association fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by such cooperative association;

(2) A handler operating a pool plant may divert for his account milk of producers other than members of a cooperative association diverting milk pursuant to paragraph (c)(1) of this section, in a total quantity not in excess of one-third of the milk at such pool plant during the month from producers who are not members of such a cooperative association. Milk diverted in excess of such quantity shall not be producer milk and the diverting handler shall specify the dairy farmers whose diverted milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by such handler and;

(3) For the purposes of location adjustments pursuant to §§ 1121.52 and 1121.75, diverted milk shall be priced at the location of the nonpool plant to which diverted.

§ 1121.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1121.40(b)(1) from any source other than producers, handlers described in § 1121.9(c), or pool plants;

(b) Receipts in packaged form from other plants of products specified in § 1121.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1121.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1121.40(b)(1)) for which the handler fails to establish a disposition.

§ 1121.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package) or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1121.40 (b) or (c)(1) (i) through (v) if it contains by weight at least 80 percent water and 6.5 percent nonfat

milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1121.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1121.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1121.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

HANDLER REPORTS

§ 1121.30 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 quantities 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 § 1121.9(c);

(3) Receipts of fluid milk products and bulk fluid cream 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 products specified in § 1121.40(b)(1); 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 in the marketing area.

(c) Each handler described in § 1121.9(b) and (c) shall report:

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

(2) The utilization or disposition of all such receipts.

(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.

§ 1121.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1121.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1121.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1121.32 Other reports.

(a) Each handler who causes milk to be diverted for his account directly from producers' farms to a nonpool plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and in §§ 1121.30 and 1121.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1121.40 Classes of utilization.

Except as provided in § 1121.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1121.30 shall be classified 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 as otherwise provided in paragraph (b) and (c) of this section; and

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

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

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section 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 skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1121.15; and

(6) In shrinkage assigned pursuant to § 1121.41(a) to the receipts specified in § 1121.41(a)(2) and in shrinkage specified in § 1121.41 (b) and (c).

§ 1121.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1121.30, 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 or a bulk fluid cream 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 and milk received from a handler described in § 1121.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1121.9(c), 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 2 percent;

(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 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 or Class III 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 or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products 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 § 1121.9 (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.

§ 1121.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1121.44(a)(12) and the corresponding step of § 1121.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1121.44(a)(7) or the corresponding step of § 1121.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1121.44(a)(11) or (12) or the corresponding steps of § 1121.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1121.40.

(c) *Transfers to producer-handlers and governmental agency plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a fluild milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat

transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a governmental agency plant, or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1121.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1121.43 General classification rules.

In determining the classification of producer milk pursuant to § 1121.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1121.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1121.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1121.40, 1121.41, and 1121.42;

(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 in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1121.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1121.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1121.9(a) for each of his pool plants separately and of each handler described in § 1121.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1121.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1121.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1121.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1121.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series begin-

ning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1121.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler (excluding any duplication of Class I utilization resulting from reported Class I transfers between pool plants of the handler);

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1121.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) and (ii) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler), with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from Class II and Class III combined pursuant to this subparagraph exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(ii) Should the pounds of skim milk to be subtracted from Class I pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount, beginning with the nearest plant at which Class I utilization is available;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii), (iii), and (iv) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1121.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler (excluding any duplication of utilization in each class resulting from transfers between pool plants of the handler);

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a

quantity of skim milk to be subtracted from Class II and Class III combined that exceeds the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III combined shall be increased (increasing as necessary Class III and then Class II to the extent of available utilization in such classes at the nearest other pool plant of the handler, and then at each successively more distant pool plant of the handler) by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount; and

(iv) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from Class I that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in Class I shall be increased by an amount equal to such excess quantity to be subtracted, and the pounds of skim milk in Class II and Class III combined shall be decreased by a like amount (decreasing as necessary Class III and then Class II). In such case, the pounds of skim milk remaining in each class at this allocation step at the handler's other pool plants shall be adjusted in the reverse direction by a like amount beginning with the nearest plant at which Class I utilization is available;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1121.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

§ 1121.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1121.44(a)(12) and the corresponding step of § 1121.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1121.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

CLASS PRICES

§ 1121.50 Class prices.

Subject to the provisions of § 1121.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.68.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1121.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1121.52 Plant location adjustments for handlers.

(a) For that milk which is received from producers at a pool plant located (1) in Fayette County, Tex., or (2) north of U.S. Highway 90 and 60 miles or more from the nearer of the city halls in Beaumont and Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and which is classified as Class I milk subject to the limitations of paragraph (c) of this section, the price specified in § 1121.50(a) shall be reduced 1.5 cents per 10 miles of distance or fraction thereof that such plant is located from the Houston city hall by shortest hard-surfaced highway distance as determined by the market administrator: *Provided,* That the location adjustment at a plant located in Gregg, Harrison, or Smith Counties, Tex., shall be minus 30 cents and that the location adjustment pursuant to this paragraph for any plant located in Zone I as defined in the North Texas order, Part 1126, shall not result in a price less than the applicable Class I price at such plant location pursuant to the North Texas order.

(b) For that milk which is received from producers at a pool plant which is beyond 60 miles from the nearer of the city halls in Beaumont and Houston, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and south of the northern boundaries of the Texas counties of Matagorda, Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit and which is classified as Class I milk subject to the limitations of paragraph (c) of this section, the price specified in § 1121.50(a) shall be increased by any amount by which such price is less than the applicable Class I price at the same location pursuant to Part 1130 regulating the handling of milk in the Corpus Christi marketing area.

(c) For purposes of calculating such location adjustments, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of 95 percent of receipts at such plant from producers and handlers described in § 1121.9(c), plus the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants having the same Class I price, next to transferor-plants having a higher Class I price, and then in sequence to plants having a lower Class I price beginning with the plant at which the highest Class I price would apply.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (b) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1121.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1121.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1121.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1121.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1121.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1121.44(a)(14) and the corresponding step of § 1121.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1121.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1121.44 (a)(9) and the corresponding step of § 1121.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1121.44(a)(7) (i) through (iv) and the corresponding step of § 1121.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1121.44(a)(7) (v) and (vi) and the corresponding step of § 1121.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1121.44(a)(11) and the corresponding step of § 1121.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1121.40 (b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

§ 1121.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(a) Combine into one total the values computed pursuant to § 1121.60 for all handlers who have made the reports prescribed in § 1121.30 for the month and who have made the payments required pursuant to § 1121.71 for the preceding month;

(b) Add not less than one-fourth of the unobligated cash balance on hand in the producer-settlement fund;

(c) Add the aggregate of the values of the minus location adjustments pursuant to § 1121.75, and subtract the aggregate of the values of the plus location adjustments pursuant to § 1121.75;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1121.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents.

§ 1121.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1121.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1121.71, 1121.76, and 1121.77, subject to the provisions of § 1121.78, and from which he shall make all payments to handlers pursuant to §§ 1121.72 and 1121.77.

§ 1121.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1121.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1121.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1121.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1121.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1121.71(a)(2) exceeds the amount computed pursuant to § 1121.71(a)(1). If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. Any amount due to a handler pursuant to this section may be reduced by the amount of any unpaid balances due the market administrator from such handler pursuant to §§ 1121.71, 1121.77, 1121.78, 1121.85, and 1121.86.

§ 1121.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price for such month computed pursuant to § 1121.61, as adjusted pursuant to §§ 1121.74 and 1121.75, and less the amount of payment made pursuant to paragraph (b) of this section. If by such date such handler has not received full payment for such month pursuant to § 1121.72, he may reduce his total payments to all producers uniformly by not more than the amount of reduction in payments from the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each month, to each producer (1) for whom payment is not made pursuant to paragraph (c) of this section, and (2) who has not discontinued delivery of milk to such handler, a partial payment for milk received from such producer during the first 15 days of such month computed at not less than the Class III price for 3.5 percent milk of the preceding month, without deduction for hauling.

(c) On or before the 13th and 23d days of each month, in lieu of payments pursuant to paragraphs (a) and (b) of this section respectively, to a cooperative association which so requests, with respect to producers for whose milk such cooperative association is authorized to collect payments, an amount equal to the sum of the individual payments otherwise payable to such producers. Such payment shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 1121.31.

(d) As follows, to each cooperative association for milk for which it is the handler pursuant to § 1121.9(c):

(1) On or before the 23d day of the month, a partial payment for milk received during the first 15 days of such month, at not less than the amount specified in paragraph (b) of this section; and

(2) On or before the 13th day of the following month, in final settlement, the value of such milk received during the month, at the applicable uniform price, as adjusted pursuant to §§ 1121.74 and 1121.75, less the amount of payment made pursuant to paragraph (d)(1) of this section.

(e) On or before the 13th day after the end of the month, for milk received from the pool plant of a cooperative association, to such cooperative association not less than the value of such milk as classified pursuant to § 1121.42(a) at the respective class prices, as adjusted by the butterfat differential specified in § 1121.74, that are applicable at the location of the transferee-handler's pool plant.

§ 1121.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1121.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments pursuant to § 1121.73, the uniform price computed pursuant to § 1121.61 to be paid for such milk received at a pool plant at which a location adjustment pursuant to § 1121.52 (a) or (b) applies will be subject to a location adjustment (plus or minus) equal to that specified in such section.

(b) The uniform price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price under paragraph (a) of this section, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

§ 1121.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1121.30(b) and 1121.31 (b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant;

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1121.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1121.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1121.60 for such handler shall include, in lieu of the value of other source milk specified in § 1121.60(f) less the value of such other source milk specified in § 1121.71(a)(2)(ii), a value of milk determined pursuant to § 1121.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the par-

tially regulated distributing plant during the month equivalent to the requirements of § 1121.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1121.30(b) and 1121.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1121.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1121.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1121.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

§ 1121.77 Adjustment of accounts.

Whenever verification by the market administrator of any handler's reports, books, records, accounts, or payments discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1121.78 Changes on overdue accounts.

The unpaid obligation of a handler pursuant to §§ 1121.71, 1121.76, 1121.77, 1121.85, or 1121.86 shall be increased three-fourths of 1 percent per month beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due: Provided, that—

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously computed pursuant to this section; and

(b) For the purpose of this section any unpaid obligation that was determined at a date later than that previously prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

Administrative Assessment and Marketing Service Deduction

§ 1121.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th 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 (including that described in § 1121.13(a)(2) and such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1121.44(a)(7) and (11) and the corresponding steps of § 1121.44(b), except such other source milk that is excluded from the computations pursuant to § 1121.60 (d) and (f); and

(c) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1121.76(a)(2).

§ 1121.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1121.73, shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such monies shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of such month pay such deductions to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which deduction was computed for each such producer.

Advertising and Promotion Program

§ 1121.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1121.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, and educational and other programs designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1121.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1121.113(b), is authorized one Agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1121.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one Agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one Agency representative. For the purpose of the Agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1121.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the Agency representatives.

§ 1121.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1121.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written accept-

ance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1121.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association having less than the required 5 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order and annually thereafter the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives as the case may be and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1121.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1121.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1121.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1121.110 and 1121.117.

§ 1121.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1121.110 and 1121.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(f) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(g) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1121.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1121.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1121.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1121.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of wilful misconduct, gross negligence, or those which are criminal in nature.

§ 1121.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1121.121 Duties of the market administrator.

Except as specified in § 1121.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1121.113(c).

(b) Set aside the amounts subtracted under § 1121.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1121.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1121.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1121.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b) (2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1121.110 through 1121.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1121.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1121.70.

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

Effective date: August 1, 1974.

Signed at Washington, D.C., on May 22, 1974.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.74-12106 Filed 5-24-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

PART 5A-1—GENERAL

Contingent Fees; Debarred, Suspended, and Ineligible Bidders; Reporting Possible Antitrust Violations

This change to the General Services Administration Procurement Regulations (GSPR) updates the procedures on contingent fees; debarred, suspended and ineligible bidders; and reporting possible antitrust violations in GSPR 5A.

The table of contents of Part 5A-1 is amended to delete §§ 5A-1.507-70, 5A-1.508, 5A-1.508-1, 5A-1.508-2, 5A-1.508-3, 5A-1.606, 5A-1.606-51, 5A-1.606-52, and add the following:

Subpart 5A-1.6—Debarred, Suspended, and Ineligible Bidders

Sec.

5A-1.602 Establishment and maintenance of a list of concerns or individuals debarred, suspended, or declared ineligible.

5A-1.604-1 Procedural requirements relating to the imposition of debarment.

5A-1.605 Suspension of bidders.

Subpart 5A-1.9—Reporting Possible Antitrust Violations

5A-1.902 Documents to be transmitted.

Subpart 5A-1.5—Contingent Fees

Section 5A-1.507 is revised to read as follows:

§ 5A-1.507 Use of Standard Form 119.

Upon receipt of Standard Form 119, the contracting officer shall obtain advice of Counsel as to the legality and general propriety of the relationship disclosed thereon. Also, the contracting officer may request the Office of Investigations to develop further information if the facts available are deemed insufficient for a proper decision. After careful review and evaluation of all the information obtained, the contracting officer shall render a decision in writing which shall be made a part of the contract file.

Subpart 5A-1.6—Debarred, Suspended, and Ineligible Bidders

1. Section 5A-1.602 is added as follows:

§ 5A-1.602 Establishment and maintenance of a list of concerns or individuals debarred, suspended, or declared ineligible.

(a) The Office of Investigations has established and maintains a consolidated list of debarred, suspended, or ineligible concerns and individuals, pursuant to § 1-1.602, designated as the GSA Debarred Bidders List. Its use is mandatory on all GSA procuring activities. That office also is responsible for reproduction and distribution of the GSA Debarred Bidders List.

(b) Entry on the GSA Debarred Bidders List shall be made:

(1) In the case of a GSA administrative debarment or suspension, upon notification of the imposition of debarment or suspension by the Administrator, by a Commissioner, or by a hearing authority; and

(2) In the case of statutory debarments, EEO noncompliance or ineligibility, upon appropriate notification from the Comptroller General, the Secretary of Labor, or the head of the debarring agency.

(c) The GSA Debarred Bidders List is marked "For Official Use Only."

(d) The cause for each entry on the GSA Debarred Bidders List shall be identified in accordance with § 1-1.602.

2. Section 5A-1.604-1 is added as follows:

§ 5A-1.604-1 Procedural requirements relating to the imposition of debarment.

(a) *Initiating a debarment action.* Administrative debarment will be initiated by the appropriate Commissioner primarily concerned in accordance with § 1-1.604-1. The notice of proposed debarment shall apprise the concern or individual that if a hearing is desired a request therefor must be made within 20 days following receipt of the notice. The notice shall be sent by registered or certified mail, return receipt requested, to the last known address of the concern or individual. A copy of the notice shall be furnished to the Office of Investigations.

(b) *Debarment by other agencies.* The basis for each debarment made by another executive agency is reviewed by the Office of Investigations to determine whether similar debarment action should be recommended within GSA. The Office of Investigations shall notify the Commissioner primarily concerned of debarments by another agency and the reasons therefor, who may take similar action to debar. The end of the period of such debarment shall coincide with the original debarment action. GSA debarment action shall not be initiated solely on the basis of a debarment by another agency if the debarment by GSA would not become effective at least 90 days prior to the termination date of the debarment by the other agency. However, in such cases, the Office of Investigations may be requested to include the name of the firm or individual on the Review List of Bidders (see § 5A-1.1205).

(c) *Investigations.* (1) When a contracting activity suspects the commission of offenses or irregularities which might support debarment or suspension, it shall forward a request for investigation and a statement of pertinent circumstances, to the appropriate Assistant Commissioner, Regional Commissioner, or other equivalent authority, for review and, if appropriate, referral to the Office of Investigations.

(2) The Office of Investigations will investigate the circumstances as expeditiously as possible, and report the results to the service primarily concerned with a recommendation as to whether debarment or suspension should be invoked. All data compiled in support of such reports of investigation shall, upon request, be made available for review by the service primarily concerned.

(d) *Hearings.* (1) Hearings requested in connection with debarment proceedings shall be conducted before the Administrator or his representative (herein called the hearing authority). An opportunity shall be afforded to the concern or individual to appear with witnesses and counsel to show cause why the concern or individual should not be debarred. Where a concern or individual requests a hearing and fails to appear, the hearing authority shall consider the case on the basis of the records and in-

formation made available to it. Accordingly, in any instance where a party has requested a hearing, he may elect to forego the submission of oral testimony and may submit a written statement with any information relating thereto in opposition to the proposed action. Whenever a proposed debarment is referred to a hearing authority for a hearing, it shall determine or recommend whether or not debarment is warranted under the particular circumstances and, where debarment is warranted, shall also determine the period thereof pursuant to § 1-1.604(c).

(2) The procedure to be used in the conduct of a hearing relating to debarement shall insofar as practicable be similar to that used by the Board of Contract Appeals in the conduct of a hearing relating to a contract dispute. Hearings shall be held, if feasible, within 30 days after the receipt of the request for a hearing.

(e) *Notice of disposition of debarment hearings.* When a proposed debarment is upheld, the concern or individual shall be notified by the Commissioner primarily concerned of the decision and of the period of debarment. If a proposed debarment is not upheld, the concern or individual shall be so notified. A copy of each notification shall be furnished to the Office of Investigations.

3. Section 5A-1.605 is added as follows:

§ 5A-1.605 Suspension of bidders.

Suspension may be invoked by the appropriate Commissioner primarily concerned in accordance with § 1-1.605. The notice of suspension shall be sent by registered or certified mail, return receipt requested, to the last known address of the concern or individual in question. A copy of the notice shall be furnished to the Office of Investigations.

Subpart 5A-1.9—Reporting Possible Antitrust Violations

1. Section 5A-1.901 is revised as follows:

§ 5A-1.901 General.

If any bid or offer received evidence violation of antitrust laws, a notification shall be forwarded to the appropriate Assistant Commissioner, Regional Commissioner, or other equivalent authority for review and processing as warranted by the facts reported. Any means of communication available, including personal contact, may be used in reporting irregularities.

2. Section 5A-1.902 is added as follows:

§ 5A-1.902 Documents to be transmitted.

Written notifications shall be submitted in duplicate and prepared in narrative form. Each notification shall be accompanied by the documents and information required by §§ 1-1.902 and 1-1.903. If legal Counsel determines that the material evidences violation of the antitrust laws, the material shall be transmitted by the Commissioner primarily concerned, to the Assistant Attorney General, Antitrust Division, Department of Justice. If further evidence is needed, it is the joint responsibility of the contracting officer and the Office of Investigations to obtain and assemble such additional evidence.

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

Effective date. These regulations are effective on the date shown below.

Dated: May 13, 1974.

M. J. TIMBERS,
Commissioner,
Federal Supply Service.

[FR Doc.74-12128 Filed 5-24-74;8:45 am]

PART 5A-16—PROCUREMENT FORMS

PART 5A-53—CONTRACT ADMINISTRATION

PRELIMINARY NOTICE OF DEFAULT

The change to the General Services Administration Procurement Regulations (GSPR) consolidates three Preliminary Notice of Default form letters into one for the sake of economy and efficiency.

The table contents for Part 5A-16 is amended to delete §§ 5A-16.950-2718 and 5A-16.950-2719, and to revise the following entry: 5A-16.950-2720 GSA Form 2720, Preliminary Notice of Default.

Subpart 5A-53.4—Contract Performance

Section 5A-53.472 is amended as follows:

§ 5A-53.472 Use and issuance of preliminary notice of default.

(a) Quality Assurance Specialists (QAS) are only authorized to issue a preliminary notice of default pursuant to paragraph (a)(i), Article 11, General Provisions (Supply Contract). (See § 5A-53.103.) This authorization applies to stock and nonstock contracts requiring source inspection, excluding Federal Supply Schedule contracts, and AID contracts awarded by Central Office. With approval from the Director of the appropriate procuring activity, the contracting officer may direct the QAS to obtain clearance from the contracting officer prior to issuing a preliminary notice of default. When preliminary notices of default are issued by the QAS, he shall immediately notify the contracting officer of such action by mailing a copy of all notices to the contracting officer the same day they are furnished to the contractor.

* * * * *

(d) GSA Form 2720, Preliminary Notice of Default (see § 5A-16.950-2720) is designed for use by the QAS in connection with the contract administration authorization stated in § 5A-53.472 (a). GSA Form 2721, Attachment A, (Preliminary Notice of Default), (see § 5A-16.950-2721) may be used in conjunction with GSA Form 2720, where appropriate. Detailed procedures involving the QAS issuing preliminary notice of default letters are set forth in FSS P 2900.5, chap. 9.

NOTE: Copies of the form illustrated in § 5A-16.950-2720 are filed with the original document.

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

Effective date. These regulations are effective on the date shown below.

Dated: May 9, 1974.

M. J. TIMBERS,
Commissioner,
Federal Supply Service.

[FR Doc.74-12129 Filed 5-24-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18262; FCC 74-470]

PART 89—PUBLIC SAFETY RADIO SERVICES

FUTURE USE OF CERTAIN FREQUENCY BAND

Second Report and Order

Correction

In FR Doc. 74-10598 appearing at page 16847 in the issue of Friday, May 10, 1974, make the following changes to § 89.751 (g) table:

1. Change the "W. longitude" entry for "Akron, Ohio" to read 81°30'44".
2. Change the "N. latitude" entry for "Chicago, Ill." to read 41°52'28".
3. Change the "W. longitude" entry for "Fort Worth, Tex." to read 97°19'44".

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-57, Amdt. Nos. 172-22, 173-77]

PART 172—LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL MATERIALS SUBJECT TO PARTS 170-189 OF THIS SUBCHAPTER

PART 173—SHIPPERS

Acetic Anhydride

On December 28, 1973, the Hazardous Materials Regulations Board ("the Board") published Amendments 172-22, 173-77, and 178-30 in Docket No. HM-57 (38 FR 35467) which identified specifically by name a number of corrosive materials that would have been shipped as "Corrosive liquids, n.o.s." or "Corrosive solids, n.o.s." pursuant to the amendments dated March 23, 1972 (37 FR 5946). In the amendments published on December 28, 1973, the Board required that acetic anhydride be packaged according to the requirements set forth in § 173.247.

Four petitions for reconsideration of this amendment have been received: Tennessee Eastman Company, Fisher Scientific Company, Celanese Chemical Company, and Union Carbide Corporation. These companies advised the Board that the type of packaging in use at this time for this material was the packaging authorized in § 173.245. Further, each petitioner reported very satisfactory expe-

rience when using packaging authorized in § 173.245.

One commenter elaborated on the hazards of acetic anhydride, setting forth valid reasoning why this material is significantly different than the other materials covered in § 173.247. This section of regulation is more stringent in its packing requirements and all petitioners argued that such restrictions were inordinate for the less hazardous material, acetic anhydride.

Each petitioner admitted that the proposed change in packaging, when published in notice form, was overlooked and for that reason no comments were submitted. In the amendment, a change in format in presenting the new regulations resulted in bringing the matter to petitioners attention.

The Board has reviewed these petitions, and on the basis of the facts presented and the arguments for reconsideration, agrees that the regulations for acetic anhydride appear to be overly restrictive in that packaging heretofore in transportation usage for over several billions of pounds would no longer be authorized. More appropriately, packagings as authorized for acetic acid in § 173.245 (including glacial acetic acid) should be authorized.

In consideration of the foregoing, 49 CFR Parts 172 and 173 are amended as follows:

I. In § 172.5 paragraph (a), the List of Hazardous Materials is amended as follows:

§ 172.5 List of hazardous materials.

(a) * * *

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
(change)				
Acetic anhydride	Cor	173.244, 173.245	Corrosive	1 gallon.

* * * * * * *

II. (A) In Part 173 Table of Contents, § 173.247 (see Amdt. 173–77–38 FR 35467) is amended by deleting the first commodity "Acetic anhydride;".

(B) In § 173.247 (see Amdt. 173–77–38 FR 35467), the Heading and the introductory text of paragraph (a) are amended by deleting the first commodity "Acetic anhydride" in both listings.

This amendment is effective September 30, 1974. However, compliance with the regulations, as amended herein, is authorized immediately.

(Transportation of Explosives Act, (18 U.S.C. 831–835), sec. 6, Department of Transportation Act, (49 U.S.C. 1655); Title VI, sec. 902(h), Federal Aviation Act of 1958, (49 U.S.C. 1421–1430, 1472(h), 1655(c)).)

JAMES F. RUDOLPH,
Board Member for the Federal Aviation Administration.

ROBERT A. KAYE,
Board Member for the Federal Highway Administration.

MAC. E. ROGERS,
Board Member for the Federal Railroad Administration.

[FR Doc.74–12150 Filed 5–24–74;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 32—HUNTING

Crescent Lake National Wildlife Refuge, Nebr.

The following special regulation is issued and is effective May 28, 1974.

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

NEBRASKA

CRESCENT LAKE NATIONAL WILDLIFE REFUGE

Public hunting of sharp-tailed grouse and ring-necked pheasants on the Crescent Lake National Wildlife Refuge, Nebraska, is permitted only on the area designated by signs as open to hunting. This open area, comprising approximately 40,900 acres, is delineated on maps available at refuge headquarters, Ellsworth, Nebraska 69340, and from the Regional Director, U.S. Fish and Wildlife, 10597 West Sixth Avenue, Denver, Colorado 80215. Hunting of sharp-tailed grouse and ring-necked pheasants is permitted during the established State seasons. Hunting shall be in accordance with all applicable State regulations covering the hunting of sharp-tailed grouse and ring-necked pheasants subject to the following special conditions:

(1) Vehicle entrance and travel will be permitted only on designated, well-defined trails. No vehicle travel is permitted beyond posted points, or off the designated trails in the hills or meadows.

(2) No overnight camping is permitted.

(3) No open fires are permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1975.

RONALD L. PERRY,
Refuge Manager, Crescent Lake National Wildlife Refuge, Ellsworth, Nebraska 69340.

MAY 17, 1974.

[FR Doc.74–12125 Filed 5–24–74;8:45 am]

PART 32—HUNTING

Crescent Lake National Wildlife Refuge, Nebr.

The following special regulation is issued and is effective May 28, 1974.

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

NEBRASKA

CRESCENT LAKE NATIONAL WILDLIFE REFUGE

Public hunting of antelope and deer on the Crescent Lake National Wildlife Refuge, Nebraska is permitted only on the area designated by signs as open to hunting. This open area, comprising approximately 40,900 acres, is delineated on maps available at Refuge headquarters, Ellsworth, Nebraska, and from the Regional Director, U.S. Fish and Wildlife, 10597 West Sixth Avenue, Denver, Colorado 80215. Hunting of antelope and deer shall be in accordance with all applicable State regulations covering the hunting of antelope and deer subject to the following conditions:

(1) Vehicle entrance and travel will be permitted only on designated well-defined trails. No vehicle travel is permitted beyond posted points, or off the designated trails in the hills or meadows.

(2) No overnight camping is permitted.

(3) No open fires are permitted.

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 through December 31, 1974.

RONALD L. PERRY,
Refuge Manager, Crescent Lake Nat'l Wildlife Refuge, Ellsworth, Nebraska 69340.

MAY 17, 1974.

[FR Doc.74–12127 Filed 5–24–74;8:45 am]

proposed rules

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1201]

TYPE 62 SHADE-GROWN CIGAR-LEAF TOBACCO

Proposed Handling

Notice is hereby given that pursuant to the amended marketing agreement and Amended Order No. 195 (7 CFR Part 1201), regulating the handling of Type 62 shade-grown cigar-leaf tobacco grown in the designated production area of Florida and Georgia, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), expenses in the amount of $1,500 will be incurred by the Control Committee during the fiscal period ending January 31, 1975, for its maintenance and functioning of the order.

As a result, it will be necessary to make assessments in the amount of 60 cents per 1,000 pounds of tobacco for each eligible handler to provide the necessary funds to meet these expenses.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112–A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250, not later than May 31, 1974. All documents filed should be in quadruplicate.

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)).

Signed at Washington, D.C., on May 21, 1974.

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

[FR Doc.74–12108 Filed 5–24–74;8:45 am]

[7 CFR Part 1201]

TYPE 62, CIGAR-LEAF TOBACCO

Proposed Suspension of Certain Provisions of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of Type 62 shade-grown cigar-leaf tobacco grown in designated production area of Florida and Georgia is being considered for the fiscal period ending January 31, 1975.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112–A, Administration Building, United States Department of Agriculture, Washington, D.C., 20250, not later than May 31, 1974. All documents filed should be in quadruplicate.

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)).

The provision proposed to be suspended is as follows:

§ 1201.53 Initial regulation fixing number of leaves that may be handled.

Commencing with the fiscal period ending on January 31, 1963, and continuing until such time as suspended, modified, or terminated pursuant to this part: (a) The maximum number of leaves primed from any tobacco plant during a fiscal period that are eligible for handling is fixed at 18 plus the additional number of leaves provided in § 1201.55(b)(2); and (b) the maximum number of leaves primed from all tobacco plants during such fiscal period that may be handled is fixed at the number of tobacco leaves equal to 18 multiplied by the total number of tobacco plants grown during such fiscal period.

[27 FR 4763, May 19, 1962]

The Control Committee has requested this suspension because substantially reduced plantings will not meet the expected demand. The suspension of the provisions in § 1201.53 would eliminate the need to count leaves and provide needed flexibility among growers.

Signed at Washington, D.C., on May 21, 1974.

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

[FR Doc.74–12109 Filed 5–24–74;8:45 am]

[7 CFR Part 1207]

POTATO RESEARCH AND PROMOTION PLAN

Proposed Expenses and Rate of Assessment

Consideration is being given to the approval of the expenses and rate of assessment, hereinafter set forth, which were recommended by the National Potato Promotion Board, established pursuant to the Potato Research and Promotion Plan (7 CFR Part 1207; 37 FR 5008).

This research and promotion program is effective pursuant to the Potato Research and Promotion Act (title III of Pub. L. 91–670, 91st Congress, approved January 11, 1971, 84 Stat. 2041).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same, in quadruplicate, with the Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than June 12, 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)).

The proposals are as follows:

§ 1207.403 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period beginning July 1, 1974, and ending June 30, 1975, by the National Potato Promotion Board for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate will amount to $1,968,937.

(b) The rate of assessment to be paid by each designated handler in accordance with the provisions of the plan shall be 1 cent ($0.01) per hundredweight of assessable potatoes handled by him as the designated handler thereof during said fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as an operating monetary reserve.

(d) Terms used in this section have the same meaning as when used in the Potato Research and Promotion Plan.

Dated: May 21, 1974.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.74–12107 Filed 5–24–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[42 CFR Part 72]

TURTLES, TORTOISES, TERRAPINS

Sale and Shipment Curbs

An order published in the FEDERAL REGISTER of November 18, 1972, (37 FR 24670) amended Parts 71 and 72 of Title 42, Code of Federal Regulations, by establishing § 71.171 through § 71.176 (42 CFR 71.171–71.176) which provide for a general prohibition on the importation of certain small pet turtles and viable tur-

tle eggs, and § 72.26 (42 CFR 72.26) which requires that pet turtles shipped in interstate commerce be tested for, and certified free of, *Salmonella* and *Arizona* organisms by the appropriate public health officials in the State of origin. The order was based upon epidemiological investigations that have shown that small pet turtles are a particularly significant source and reservoir of bacteria of the genera *Salmonella* and *Arizona*, both of which can cause, among other things, acute gastrointestinal illness in humans.

There is evidence, however, that the certification requirement has had limited effectiveness in preventing contaminated turtles from reaching pet owners. Although the certification program appears to have curtailed the number of turtles being shipped in interstate commerce, a recent survey of turtles certified between December 1972 and December 1973 completed by the Public Health Service, Center for Disease Control shows that 54 percent of the turtles were contaminated by *Salmonella* and *Arizona* when retested some time subsequent to certification. The State of New Jersey has sampled six lots of turtles shipped to that State and detected *Salmonella* in five of the lots. Furthermore, the Food and Drug Administration has taken five selective samples of turtles certified by State health authorities and found *Salmonella* and *Arizona* organisms in three of the five samples. Four out of five selective water samples in which turtles have been held were positive for *Salmonella*. Moreover, the Center for Disease Control has reported cases of salmonellosis in California, Oregon, and Tennessee associated with turtles from certified lots.

Studies of salmonellosis have resulted in estimates that 14 percent of all cases of salmonellosis are turtle-associated. (See the article by Steven H. Lamm et al., "Turtle-Associated Salmonellosis," in the *American Journal of Epidemiology*, 95: 511 (1972), available for review in the office of the Hearing Clerk.)

Since the present certification program is not preventing contaminated turtles from reaching the market, the Commissioner believes additional steps are required and is therefore publishing two proposals for consideration.

The first proposal is a complete ban on the sale and distribution of small turtles, and is similar to a proposal made in a petition to the Commissioner by Consumers Union of United States, Inc., Washington, DC Office, 1714 Massachusetts Ave., NW., Washington, DC 20036. Subsequent to the filing of the Consumers Union petition, the Humane Society of the United States with principal offices at 1604 K Street, NW., Washington, DC 20006, and the Animal Welfare Institute, P.O. Box 3650, Washington, DC 20007, have submitted petitions in support of the Consumers Union petition on humane grounds, as well as for health reasons. The Animal Welfare Institute emphasized that small turtles sold in pet shops are not miniature, but baby turtles, i.e., mostly red-eared sliders, which under proper care can attain a shell length ranging from 6 to 11 inches and can live more than 40 years in captivity; yet 90 percent of the pets survive only 4 to 6 months. Copies of these petitions and their attachments may be reviewed at the office of the Hearing Clerk.

The second proposal would seek to control turtle-associated disease without imposing a general ban on the sale of turtles by improving the certification scheme and by imposing additional requirements on the sale and shipment of turtles. This proposal was developed as the only alternative to a general prohibition, but the Commissioner believes it is cumbersome and unlikely to be completely effective.

The Commissioner has, however, reached no final conclusion as to which course of action should be taken; comments are therefore invited in regard to both proposals.

I.

The Commissioner's first proposal would prohibit the sale and other distribution of viable turtle eggs and live turtles with a carapace length of less than 4 inches. The proposal contains an exemption for bona fide scientific, educational, or exhibitional purposes, however.

Under the Public Health Service Act, the Commissioner has the authority to extend a prohibition on distribution to all turtles and turtle eggs, whether or not they have passed through interstate commerce, if in his judgment such a complete ban would be necessary for effective control over the interstate spread of turtle-associated diseases. Although the proposed ban has been drafted to apply to all distribution, the Commissioner specifically invites comments on whether it would be more appropriate for the prohibition to apply only to the interstate shipment of small turtles and turtle eggs.

Therefore, pursuant to provisions of the Public Health Service Act (sec. 361, 58 Stat. 703; (42 U.S.C. 264)) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that Part 72 of Title 42 of the Code of Federal Regulations be amended by revising § 72.26 to read as follows:

§ 72.26 Turtles.

(a) *Definition.* As used in this section the term "turtles" includes all animals commonly known as turtles, tortoises, terrapins, and all other animals of the order *Testudinata*, class *Reptilia* except marine species (families *Dermachelidae* and *Cheloniidae*).

(b) *Sales; general prohibition.* Except as otherwise provided in this section, viable turtle eggs and live turtles with a carapace length of less than 4 inches shall not be sold, held for sale, or offered for any other type of commercial or public distribution.

(c) *Destruction of turtles or turtle eggs; criminal penalties.* (1) Any viable turtle eggs or live turtles with a carapace length of less than 4 inches which are held for sale or offered for any other type of commercial or public distribution shall be subject to destruction, by or under the supervision of an officer or employee of the Food and Drug Administration in accordance with the following procedures:

(i) Any District Office of the Food and Drug Administration, upon detecting viable turtle eggs or live turtles with a carapace length of less than 4 inches which are held for sale or offered for any other type of commercial or public distribution shall serve upon the person in whose possession such turtles or turtle eggs are found a written demand that such turtles or turtle eggs be destroyed, under the supervision of said District Office, within 10 working days from the date of promulgation of the demand. The demand shall recite with particularity the facts which justify the demand. After service of the demand, the person in possession of the turtles or turtle eggs shall not sell, distribute, or otherwie dispose of any of the turtles or turtle eggs except to destroy them under the supervision of the District Office, unless and until the Director of the Bureau of Foods withdraws the demand for destruction after an appeal pursuant to paragraph (c) (1) (ii) of this section.

(ii) The person on whom the demand for destruction is served may either comply with the demand or, within 10 working days from the date of its promulgation, appeal the demand for destruction to the Director of the Bureau of Foods, Food and Drug Administration. The demand for destruction may also be appealed, within the same period of 10 working days, by any other person having a pecuniary interest in such turtles or turtle eggs. In the event of such an appeal, the Bureau Director shall provide an opportunity for hearing, by written notice to the appellant(s) specifying a time and place for the hearing, to be held within 14 days from the date of the notice but not within less than 7 days unless by agreement with the appellant(s).

(iii) Appearance by any appellant at the hearing may be by mail or in person, with or without counsel. The hearing shall be conducted by the Bureau Director or his designee, and a written summary of the proceedings shall be prepared by the person presiding. Any appellant shall have the right to hear and to question the evidence on which the demand for destruction is based, including the right to cross-examine witnesses, and he may present oral or written evidence in response to the demand.

(iv) If, based on the evidence presented at the hearing, the Bureau Director finds that the turtles or turtle eggs were held for sale or offered for any other type of commercial or public distribution in violation of this section, he shall affirm the demand that they be destroyed under the supervision of an officer or employee of the Food and Drug Administration; otherwise, the Bureau Director shall issue a written notice that the prior demand by the District Office is withdrawn. If the Bureau Director affirms the demand for destruction he shall order that the de-

struction be accomplished within 10 working days from the date of the promulgation of his decision. The Bureau Director's decision shall be accompanied by a statement of the reasons for the decision. The decision of the Bureau Director shall constitute final agency action, appealable in the courts.

(v) If there is no appeal to the Director of the Bureau of Foods from the demand by the FDA District Office and the person in possession of the turtles or turtle eggs fails to destroy them within 10 working days, or if the demand is affirmed by the Director of the Bureau of Foods after an appeal and the person in possession of the turtles or turtle eggs fails to destroy them within 10 working days, the District Office shall designate an officer or employee to destroy the turtles or turtle eggs. It shall be unlawful to prevent or to attempt to prevent such destruction of turtles or turtle eggs by the officer or employee designated by the District Office. Such destruction will be stayed if so ordered by a court pursuant to an appeal in the courts as provided in paragraph (c)(1)(iv) of this section.

(2) Any person who violates any provision of this section, including but not limited to any person who sells, offers for sale, or offers for any other form of commercial or public distribution viable turtle eggs or live turtles with a carapace length of less than 4 inches, or who refuses to comply with a valid final demand for destruction of turtles or turtle eggs (either an unappealed demand by an FDA District Office or a demand which has been affirmed by the Director of the Bureau of Foods pursuant to appeal), shall be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both, for each violation, in accordance with section 368 of the Public Health Service Act (42 U.S.C. 271).

(d) *Exceptions.* The provisions of this section are not applicable to:

(1) Live turtles and viable turtle eggs used for bona fide scientific, educational, or exhibitional purposes, other than use as pets.

(2) Marine turtles excluded from this regulation under the provisions of paragraph (a) of this section and eggs of such turtles.

II.

The Commissioner's second proposal would improve the certification scheme and impose additional requirements on the sale and shipment of turtles.

There are at least two possible reasons why the certification process has had only limited effectiveness in preventing contaminated turtles from entering interstate commerce: (a) Various chemical agents, having a bactericidal effect upon treated turtles, appear to decrease the sensitivity of the present testing procedures. Such agents only temporarily reduce the number of the pathogenic bacteria so that turtles may appear to be free of contamination at the time of a certification examination; however, after the turtles are introduced into marketing channels, the treatment's effect is dissipated and the turtles resume the shedding of pathogenic bacteria, and (b) turtles can become infected after shipment from exposure to a contaminated environment.

Therefore, this second proposal would improve and supplement the existing certification scheme. Firstly, additional scientific work has been directed to improving the sensitivity of the laboratory testing procedures in order that *Salmonella* and *Arizona* organisms can be detected in turtles with greater certainty and these improved procedures are included in the proposed amendment to the regulation. The Commissioner has determined that in order to detect the very low numbers of *Salmonella* and *Arizona* organisms shed by chemically treated turtles, the additional use of enrichment media is required in the methodology to increase the number of organisms to levels where they can be successfully detected in differential media. Additional kinds of differential media are also being included in the methodology for still greater sensitivity of detection. Available data demonstrate that these changes in the methodology will increase the sensitivity of detection about five times.

Secondly, the Food and Drug Administration is considering the negotiation of contracts with several States to assist them in identifying and removing contaminated turtles from retail outlets.

Finally, the second proposal contains additional requirements to be imposed on the shipment and sale of turtles, i.e., that all retail displays of turtles be accompanied by a prominent warning sign, that all retail transactions involving turtles be accompanied by a warning leaflet containing a list of precautions, and that all interstate shipments of turtles be accompanied by a sufficient number of signs and leaflets for the retailer to comply with these requirements.

The proposal would require that a shipper provide at least twice as many warning leaflets as the number of turtles in a shipment. Since some leaflets will be lost to prospective buyers who take one and decide not to buy a turtle, or who buy a turtle and take extra leaflets, this excess of leaflets beyond the number of turtles in a shipment is necessary so that the retailer will receive enough leaflets for all turtle sales. (The retailer would have an independent duty to procure such signs and leaflets if he should not receive a sufficient supply accompanying a turtle shipment.)

The proposed warning leaflet would be "affixed to each package of turtles sold at retail." Affixing the warning leaflet, especially on opaque packages, is preferable to inserting the leaflet into each package, because a large number of turtle purchasers are children who may disregard a loose leaflet, and the chances are greater than an affixed leaflet will not be lost and will be seen and read by parents.

These proposed warnings should give a prospective buyer the relevant health information upon which to base his decision regarding the purchase of pet turtles. Should he decide to accept the risks of turtle ownership, the precautionary information would enable the purchaser and his family to minimize the chances of contracting salmonellosis.

Therefore, pursuant to provisions of the Public Health Service Act (sec. 361, 58 Stat. 703; (42 U.S.C. 264)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that Part 72 of Title 42 of the Code of Federal Regulations be amended by revising § 72.26 to read as follows:

§ 72.26 Turtles.

(a) *Definitions.* As used in this section:

(1) The term "turtles" includes all animals commonly known as turtles, tortoises, terrapins, and all other animals of the order *Testudinata*, class *Reptilia* except marine species (families *Dermachelidae* and *Cheloniidae*).

(2) The term "State of origin" as used in paragraph (b)(1) of this section means the State or possession in which the turtles or turtle eggs were originally hatched or produced.

(b) *Interstate shipment; general prohibition.* Except as otherwise provided in this section, viable turtle eggs and live turtles with a carapace length of less than 4 inches shall not be transported or offered for sale after shipment in interstate commerce unless all of the following requirements are met:

(1) *Certification.* The shipment shall be accompanied by a certificate issued by the health authority of the State of origin certifying that the turtles or turtle eggs are free of bacteria of the *Salmonella* and *Arizona* genera. After shipment in interstate commerce the same intact shipment of live turtles or viable turtle eggs shall not require further such certification under provisions of this section; however, if at any subsequent point in its distribution such shipment becomes commingled or intermingled with a lot that has not been so certified, then such turtles or turtle eggs shall not be offered for sale or further transported in interstate commerce unless the entire lot has been tested and certified free of bacteria of the *Salmonella* and *Arizona* genera by the health authority of the State or possession in which such commingling or intermingling occurred.

(2) *Warning signs and leaflets.* (i) The shipment shall be accompanied, in sufficient numbers for retail display purposes, by a prominent warning sign or placard. There shall be at least one such sign or placard for every 200 turtles or fraction thereof. Such warning sign shall consist of the following statements:

WARNING—HANDLING TURTLES MAY RESULT IN SALMONELLA INFECTIONS

Turtles are Known Carriers of *Salmonella* and Related Infectious Organisms

Before Purchasing Turtles Read Precautions Supplied by the Seller

The statement shall be printed in bold face type in letter sizes not less than ½ inch in height.

(ii) In addition, each shipment shall be accompanied by a sufficient number

of warning leaflets so that each retail purchaser of a turtle will receive a leaflet. There shall be at least twice as many leaflets as turtles in a shipment. Such leaflet shall consist of the following statements:

WARNING

HARMFUL BACTERIA MAY BE PRESENT IN TURTLES

Turtles are known to be carriers of *Salmonella* and other bacteria which can be harmful to man. Many of these bacteria occur naturally in the intestinal tract of turtles and can contaminate your food and kitchen if turtles are handled or kept in the kitchen. In man, these bacteria cause abdominal pain, nausea, fever, and diarrhea as a result, usually, of the ingestion of foods or beverages that are contaminated. *Salmonella* infection also can be caused by placing contaminated hands or other objects into the mouth.

Recent studies indicate that an estimated 14 percent of human cases of *Salmonella* infections are caused by pet turtles which harbor *Salmonella* bacteria in their intestinal tract. Other bacteria associated with turtles may cause other illnesses. Most of these illnesses occur in children.

These findings show the need for the careful handling and segregation of pet turtles in the home.

TO PROTECT YOURSELF AND YOUR FAMILY, PLEASE TAKE THE FOLLOWING PRECAUTIONS

1. Wash hands thoroughly after handling turtles, or any water or object that has been in contact with the turtle.
2. Keep turtles, the turtle bowl, and turtle water away from food, from food preparation utensils, and from places where foods are prepared. Do not clean the turtle bowl in the kitchen sink or in other areas where food preparation utensils may become contaminated.
3. Clean the turtle bowl with a strong cleaning solution and sanitize with a household disinfectant after cleaning.
4. Warn children about the dangers of touching their faces, foods, or other objects after handling turtles, the turtle bowl, or the turtle water.

Such warning leaflet statements shall be printed in letters not less than 1/16 inch in height, except that the initial word "Warning" shall be printed in bold face capitals on one line in a type size not less than 1/4 inch in height and separated from the text which follows by a space at least equal to twice the height of the largest letter in the word; the caption "Harmful Bacteria May Be Present in Turtles" shall be printed in bold face capitals on one line following the word "Warning" and separated from the text which follows by a space at least equal to twice the height of the largest letter appearing in the caption; and the caption "To Protect Yourself and Your Family, Please Take the Following Precautions" shall be printed in bold face capitals on one or two lines and separated from other text by a space at least equal to twice the height of the largest letter appearing in the caption.

(iii) The requirements of paragraph (b)(2) concerning warning signs and leaflets, shall apply only to shipments of turtles and not to shipments of turtle eggs.

(c) *Retail sale of turtles; warning signs and leaflets.* The following requirements shall apply to all retail sales of turtles, whether or not the turtles have been shipped in interstate commerce prior to retail sale:

(1) The retailer shall prominently exhibit a warning sign or placard meeting the requirements of paragraph (b)(2)(i) of this section in such proximity to the retail display of turtles that it is likely to be seen and read by prospective purchasers.

(2) The retailer shall affix to each package of turtles sold a warning leaflet which meets the requirements of paragraph (b)(2)(ii) of this section.

(3) If, for any reason, a retailer does not have the required signs and leaflets, he shall not make any sales of turtles until he procures the required signs and leaflets and employs them in the manner required by this paragraph. If any criminal action charging a retailer with violation of any part of this paragraph, it shall be no defense that a turtle shipper may have violated paragraph (b) of this section by failing to provide the signs or leaflets. Retailers of turtles have an independent duty to acquire the signs and leaflets, and to employ them in the manner required by the paragraph, before making any sales.

(d) *Certification; test procedures.* Certification of freedom from bacteria of the *Salmonella* and *Arizona* genera may be issued by the health authority of the appropriate State or possession on the basis of the examination of 60 turtles or 60 turtle eggs from each shipment, regardless of the size of the shipment. The examination shall be conducted in a laboratory licensed in microbiology pursuant to section 353 of the Public Health Service Act and shall utilize the following procedure adapted from "Official Methods of Analysis of the Association of Offlical Analytical Chemists," 11th Edition[1] sections 41.024–41.040, pages 845–851:

(1) Place five turtles in each of 12 sterile glass containers with a capacity of 1,000 milliliters (larger capacity containers should be used if necessary to avoid overcrowding).

(2) Add 50 milliliters of sterile distilled water to each of the containers of turtles.

(3) Cover each container with sterile aluminum foil and hold the turtles in the containers at room temperature (about 25° C.) for at least 72 hours.

(4) Do not remove the foil cover or add food, water, or other materials to the containers during the holding period.

(5) After a minimum of 72 hours remove the turtles from the containers using a sterile forceps.

(6) From each of the 12 containers transfer 20-milliliter portions of the residual water into separate containers containing 180 milliliters each of selenite cystine broth and tetrathionate broth (enrichment cultures). See "Official Methods of Analysis of the Association of Offlical Analytical Chemists" 11th Edition,[1] Section 41.024(b)(1) and (c). Incubate enrichment cultures 24 hours ±2 hours at 35° C. and then complete the isolation and identification of *Salmonella* and *Arizona* according to methods specified in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Edition,[1] Section 41.027(a) paragraph 2 through Section 41.040, pages 848–852.

(7) In the examination of turtle eggs rinse 60 eggs with sterile distilled water to remove visible extraneous matter from the shells. Place the 60 rinsed eggs into a sterile blender container. Replace blender lid and homogenize eggs for 2 minutes at low speed. Transfer 20-milliliter portions of blended egg material into separate containers containing 180 milliliters each of selenite cystine broth and tetrathionate broth. See "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Edition, Section 41.024(b)(1) and (c). Incubate enrichment cultures 24 hours ±2 hours at 35° C. and then complete the isolation and identification of *Salmonella* and *Arizona* according to methods specified in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Edition,[1] section 41.027(a) paragraph 2 through section 41.040, pages 848–852.

(8) Upon completion of the laboratory examination, the examining laboratory shall submit a report to the health officer of the appropriate state or possession, or his delegated representative. The laboratory report shall specify the name and address of the producer or shipper (consignor) and of the consignee, the number and species of turtles or turtle eggs intended for interstate shipment, and the results of the examination, and it shall be signed by the examining microbiologist or director of the examining laboratory. Certification of freedom from bacteria of the *Salmonella* and *Arizona* genera may be issued if, to the satisfaction of the health authority of the appropriate State or possession, the laboratory examination has been performed according to the procedure specified in this section, and all specimens examined were free of bacteria of the *Salmonella* and *Arizona* genera.

(e) *Destruction of turtles or turtle eggs; criminal penalties*—(1) *Destruction.* Any live turtles or viable turtle eggs which have been transported in interstate commerce without a certificate required by paragraph (b)(1) of this section, and any live turtles of viable turtle eggs which are held for sale or offered for any other type of commercial or public distribution and are found to contain bacteria of the *Salmonella* or *Arizona* genera when sampled and tested by a

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

method appropriate for determination of the presence of such bacteria in the turtles or turtle eggs, and any live turtles or viable turtle eggs which are held for sale or offered for any other type of commercial or public distribution and are found to be held in water which contains bacteria of the *Salmonella* or *Arizona* genera when tested by an appropriate method, shall be subject to destruction, by or under the supervision of an officer or employee of the Food and Drug Administration in accordance with the following procedures:

(i) Any District Office of the Food and Drug Administration, upon detecting live turtles or viable turtle eggs which have been transported in interstate commerce without a certificate required by paragraph (b)(1) of this section, or which are held for sale or offered for any other type of commercial or public distribution and which contain, or are held in water containing, bacteria of the *Salmonella* and *Arizona* genera, shall serve upon the person in whose possession such turtles or turtle eggs are found a written demand that such turtles or turtle eggs be destroyed, under the supervision of said District Office within 10 working days from the date of promulgation of the demand. The demand shall recite with particularity the facts which justify the demand. After service of the demand, the person in possession of the turtles or turtle eggs shall not sell, distribute, or otherwise dispose of any of the turtles or turtle eggs except to destroy them under the supervision of the District Office, unless and until the Director of the Bureau of Foods withdraws the demand for destruction after an appeal pursuant to paragraph (e)(1)(ii) of this section.

(ii) The person on whom the demand for destruction is served may either comply with the demand or, within 10 working days from the date of its promulgation, appeal the demand for destruction to the Director of the Bureau of Foods, Food and Drug Administration. The demand for destruction may also be appealed, within the same period of 10 working days, by any other person having a pecuniary interest in such turtles or turtle eggs. In the event of such an appeal, the Bureau Director shall provide an opportunity for a hearing, by written notice to the appellant(s) specifying a time and place for the hearing, to be held within 14 days from the date of the notice but not within less than 7 days unless by agreement with the appellant(s).

(iii) Appearance by any appellant at the hearing may be by mail or in person, with or without counsel. The hearing shall be conducted by the Bureau Director or his designee, and a written summary of the proceedings shall be prepared by the person presiding. Any appellant shall have the right to hear and to question the evidence on which the demand for destruction is based, including the right to cross-examine witnesses, and he may present oral or written evidence in response to the demand.

(iv) If, based on the evidence presented at the hearing, the Bureau Director finds that the turtles or turtle eggs were transported in interstate commerce without a certificate in violation of this section, or that the turtles or turtle eggs were held for sale or offered for any other type of commercial or public distribution and that they contain, or are held in water which contains bacteria of the *Salmonella* or *Arizona* genera, the Bureau Director shall affirm the demand that they be destroyed under the supervision of an officer or employee of the Food and Drug Administration; otherwise, the Bureau Director shall issue a written notice that the prior demand by the District Office is withdrawn. If the Bureau Director affirms the demand for destruction he shall order that the destruction be accomplished within 10 working days from the date of the promulgation of his decision. The Bureau Director's decision shall be accompanied by a statement of the reasons for the decision. The decision of the Bureau Director shall constitute final Agency action, appealable in the courts.

(v) If there is no appeal to the Director of the Bureau of Foods from the demand by the FDA District Office and the person in possession of the turtles or turtle eggs fails to destroy them within 10 working days, or if the demand is affirmed by the Director of the Bureau of Foods after an appeal and the person in possession of the turtles or turtle eggs fails to destroy them within 10 working days, the District Office shall designate an officer or employee to destroy the turtles or turtle eggs. It shall be unlawful to prevent or to attempt to prevent such destruction of turtles or turtle eggs by the officer or employee designated by the District Office. Such destruction will be stayed if so ordered by a court pursuant to an appeal in the courts as provided in paragraph (e)(1)(iv) of this section.

(2) *Criminal penalties.* Any person who violates any provision of this section, including but not limited to any person who transports live turtles or viable turtle eggs in interstate commerce without a certificate required by paragraph (b)(1) of this section, or who offers for sale live turtles or viable turtle eggs which have been transported in interstate commerce without such a certificate, or who ships turtles in interstate commerce without accompanying warning signs and leaflets required by paragraph (b)(2) of this section, or who offers turtles for retail sale without complying with the requirements of paragraph (c) of this section, or who refuses to comply with a valid final demand for destruction of turtles or turtle eggs (either an unappealed demand by an FDA District Office or a demand which has been affirmed by the Director of the Bureau of Foods pursuant to appeal), shall be subject to a fine of not more than $1,000 or imprisonment for not more than 1 year, or both, for each violation in accordance with section 368 of the Public Health Service Act (42 U.S.C. 271).

(f) *Exceptions.* The provisions of this section are not applicable to:

(1) Live turtles and viable turtle eggs used for bona fide scientific, educational, or exhibitional purposes, other than use as pets.

(2) Lots of less than seven live turtles or less than seven viable turtle eggs or any combination of such turtles and turtle eggs totaling less than seven.

(3) Marine turtles excluded from this regulation under the provisions of paragraph (a)(1) of this section and eggs of such turtles.

Interested persons may on or before July 29, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding these alternative proposals. Received comments may be seen in the above office during working hours, Monday through Friday.

NOTE: Incorporation by reference provisions approved by the Director of the FEDERAL REGISTER September 25, 1972.

Dated: May 20, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.74–12114 Filed 5–24–74;8:45 am]

Social Security Administration

[20 CFR Part 405]

[Regs. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians; Appeals by Provider

In the matter of determining the reasonable costs for therapy services furnished under arrangements with providers of services, clinics, rehabilitation agencies, and public health agencies.

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the regulations set forth in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. Pursuant to section 251(c) of the Social Security Amendments of 1972 (Pub. L. 92–603), the proposed amendment to Subpart D of Regulations No. 5 of the Social Security Administration (20 CFR Part 405) would provide for the establishment of criteria for determining the reasonable cost of the services of physical, occupational, speech, and other therapists furnished under arrangements with a provider of services, a clinic, a rehabilitation agency, or a public health agency, effective with cost reporting periods beginning after the month final regulations to implement this provision become effective.

The proposed amendments to the regulations are applicable to all therapy services, but will be applied to individual therapy services or disciplines by means of separate guidelines. The initial guidelines issued to providers will concern physical therapy, which is the most common therapy service provided under arrangements by geographical area. These physical therapy guidelines will be issued at the time the regulations are

promulgated. Guidelines for the other therapy services, however, will be developed at a later date, after consultation with the appropriate professional organizations. Therefore, in no event will the limitation under this provision be applied to an individual therapy service until the guideline for that particular therapy has been issued. Until that time, the cost of the other therapy services will continue to be evaluated so that such costs do not exceed what a prudent and cost-conscious buyer would pay for the given services. Salary data compiled by the Bureau of Labor Statistics for August 1972 will be used initially in determining the 75th percentile level of salaries in an area. These data will be updated through use of a wage index. Guidelines derived from other statistically valid data may be used in place of the Social Security Administration guidelines based on BLS data provided such alternative guidelines are submitted to and approved in advance by the Social Security Administration. In addition to the salary equivalents, an allowance will also be made for fringe benefits, special nonemployee expenses, travel time, administrative or supervisory duties, and for overtime when services are performed by a therapist in excess of the standard workweek. Where a provider contracts with a therapist for provision of supplies and equipment, as well as services, the costs of such supplies and equipment will be recognized as allowable provider costs to the same extent such cost would have been recognized if incurred directly by the provided.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before June 27, 1974.

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

(Secs. 1102, 1814(b), 1833(a), 1871, 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 302, as amended, 79 Stat. 331; (42 U.S.C. 1302, 1395f(b), 1395l(a), and 1395hh).)

(Catalog of Federal Domestic Assistance Program Nos. 13.800, Health Insurance for the Aged—Hospital Insurance; and 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated: March 29, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: May 17, 1974.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare.

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is further amended by adding § 405.432 to read as set forth below:

§ 405.432 Reasonable cost of physical and other therapy services furnished under arrangements.

(a) *Principle.* The reasonable cost of the services of physical, occupational, speech, and other therapists, and services of other health specialists (other than physicians), furnished under arrangements with a provider of services, a clinic, a rehabilitation agency or a public health agency, shall not exceed an amount equivalent to the prevailing salary and additional costs that would reasonably have been payable by the provider or other organization had such services been performed by such person in an employment relationship, plus the cost of other expenses incurred by such person in furnishing services under such an arrangement. However, if the services of a therapist are required on a limited part-time basis, or to perform intermittent services, payment may be made on the basis of a reasonable rate per unit of service, even though this rate may be greater per unit of time than salary-related amounts, where the greater payment is, in the aggregate, less than the amount that would have been paid had a therapist been employed on a full-time or regular part-time salaried basis. The provisions of this section shall be effective for cost reporting periods beginning after the month final regulations become effective.

(b) *Definitions*—(1) *Prevailing salary.* The prevailing salary is the prevailing hourly salary rate based on the 75th percentile of salary ranges paid by providers in the geographic area, by type of therapy, to therapists working full time in an employment relationship.

(2) *Fringe benefit and expense factor.* The standard fringe benefit and expense factor takes account of fringe benefits, such as vacation pay, insurance premiums, pension payments, allowances for job-related training, meals, etc., generally received by an employee therapist, and expenses, such as maintaining an office, appropriate insurance, etc., an individual not working as an employee might incur.

(3) *Adjusted hourly salary equivalency amount.* The adjusted hourly salary equivalency amount is the prevailing hourly salary rate plus the standard fringe benefit and expense factor. This amount is determined on a periodic basis for appropriate geographic areas.

(4) *Travel allowance.* A standard travel allowance is an amount that will be recognized, in addition to the adjusted hourly salary equivalency amount.

(5) *Limited part-time or intermittent services.* Therapy services will be held to be on a limited part-time or intermittent basis if the provider or other organization requires the services of a therapist or therapists on an average of less than 15 hours per week. This determination shall be made by dividing the total hours of service furnished during the reporting period by the number of weeks of service in the reporting period regardless of the number of days in each week in which services were performed.

(6) *Guidelines.* Guidelines are the amounts published by the Social Security Administration reflecting the application of paragraph (b)(1), (2), (3) and (4) of this section to an individual therapy service and a geographical area.

(7) *Administrative responsibility.* Administrative responsibility is the performance of those duties which normally fall within the purview of a department head or other supervisor. This term does not apply to directing aides or other assistants in rendering direct patient care.

(c) *Application.* (1) Under this provision, the Social Security Administration will establish criteria for use in determining the reasonable cost of physical, occupational, speech, and other therapy services and the services of other health specialists (other than physicians) furnished by individuals under arrangements with a provider of services, a clinic, a rehabilitation agency, or a public health agency. It is recognized that providers have a wide variety of arrangements with such individuals. These individuals may be independent practitioners or employees of organizations furnishing various health care specialists. This provision does not require change in the substance of these arrangements.

(2) Where therapy services are performed under arrangements at a provider site on a full-time or regular part-time basis, the reasonable cost of such services may not exceed the amount determined by taking into account the total number of hours of service rendered by the therapist, the adjusted hourly salary equivalency amount appropriate for the particular therapy in the geographic area in which the services are rendered, and a standard travel allowance factor.

(3) Where therapy services are performed under arrangements on a limited part-time or intermittent basis at the provider site, the reasonable cost of such services will be evaluated on a reasonable rate per unit of service basis, except that payment for these services, in the aggregate, during the cost reporting period, may not exceed the amount which would be determined to be reasonable under paragraph (c)(2) of this section, had a therapist furnished the provider or other organization 15 hours of service per week on a regular part-time basis for the weeks in which services were rendered by the non-employee therapist.

(4) Where a home health agency arranges for services to be performed at the beneficiary's residence or in other situations where therapy services are not performed at a provider site, the reasonable cost of such services will be evaluated on a unit of time basis, by taking into account the total number of hours of service rendered by the therapist, the adjusted hourly salary equivalency amount appropriate for the particular therapy in the geographic area in which the services are rendered, and a standard travel allowance factor for each visit. However, where records of time are unavailable, or found to be inaccurate because of failure to follow accepted recordkeeping practices, each home health agency visit is considered the equivalent of one hour of service. In such cases, the reasonable cost of such

services will be determined by taking into account the number of visits made by the therapist under arrangements with such agency, the adjusted hourly salary equivalency amount appropriate for the particular therapy in the geographical area in which the services are rendered, and a standard travel allowance factor.

(5) These provisions are applicable to individual therapy services or disciplines by means of separate guidelines by geographical area and will apply to costs incurred after issuance of the guidelines but no earlier than the beginning of the provider's cost reporting period described in paragraph (a) of this section. Such guidelines will be published by the Social Security Administration and distributed to each provider of services. Until a guideline is issued for a specific therapy or discipline, costs will be evaluated so that such costs do not exceed what a prudent and cost-conscious buyer would pay for the given service.

(d) *Additional allowances.* (1) Where a therapist supervises other therapists or has administrative responsibility for operating a provider's therapy department, a reasonable allowance may be added to the adjusted hourly salary equivalency amount by the intermediary based on its knowledge of the differential between therapy supervisors' and therapists' salaries in similar provider settings in the area.

(2) Where a therapist performing services under arrangements furnishes equipment and supplies used in rendering therapy services, the cost of the equipment and supplies may be included in the allowable costs of the therapy department, provided the cost does not exceed the amount the provider, as a prudent and cost-conscious buyer, would have been able to include as allowable cost.

[FR Doc.74-12130 Filed 5-24-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 74-WE-22-AD]

LOCKHEED MODEL L-1011-385-1 AIRPLANES

Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to the Lockheed L-1011-385-1 series airplane. The L-1011 cargo door is designed to unlock, unlatch, and open electrically. The basic airplane design includes two control switches per door, either of which can open the door while the airplane is on the ground. (Airplanes with an airstair have four switches at the C-2 cargo door.)

A single electrical failure could cause a cargo door to open while the airplane is on the ground including the take-off roll. This condition exists on L-1011-385-1 airplanes, with Lockheed serial numbers 1002 thru 1066 not modified per LAC Service Bulletin 093-52-045, dated October 18, 1973. The proposed airworthiness directive will require the modification of each cargo door control system as defined in LAC Service Bulletin 093-52-045, dated October 18, 1973, or later FAA-approved revisions.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, PO Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received on or before June 25, 1974 will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date of comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend §39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

LOCKHEED. Applies to Model L-1011-385-1 Series Aircraft With Lockheed Serial Numbers 1002 Through 1066, Certificated in all Categories.

Compliance required within 1,000 hours additional time in service after the effective date of this AD, unless already accomplished.

To prevent a single failure from causing a cargo door to open during takeoff roll, accomplish one of the following:

(a) Modification as described in Lockheed Service Bulletin 093-52-045 dated October 18, 1973, or later FAA-approved revisions.

(b) Equivalent modifications, approved by the Chief, Aircraft Engineering Division, FAA Western Region.

Aircraft may be flown to a base where maintenance may be performed per FAR's 21.197 and 21.199.

Issued in Los Angeles, Calif., on May 15, 1974.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc.74-12062 Filed 5-24-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-GL-14]

CONTROL ZONE

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a control zone at Jefferson, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before June 27, 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 Regional Air Traffic Division Chief.

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.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

All requirements have been met for the designation of a control zone at the Ashtabula County Airport, Jefferson, Ohio. Weather reporting services and surface communications will be provided by the Ashtabula County Control Tower. Accordingly, the Jefferson, Ohio, control zone must be established for the protection of IFR air traffic utilizing the Ashtabula County Airport.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.171 (39 FR 354), the following control zone is added:

JEFFERSON, OHIO

Within a 5-mile radius of the Ashtabula County Airport (latitude 41°46'40" N., longitude 80°41'45" W.); within 3 miles each side of the Jefferson, Ohio VORTAC 242° radial, extending from the 5-mile radius zone to 8.5 miles SW of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Des Plaines, Ill., on May 9, 1974.

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

[FR Doc.74-12069 Filed 5-24-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-SO-55]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71

of the Federal Aviation Regulations that would alter the Oneida, Tenn., 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 27, 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 Oneida transition area described in § 71.181 (39 FR 440) would be amended as follows: "* * * long, 84°-35'10" W.) * * *" would be deleted and "* * * long. 84°35'10" W.); within 3 miles each side of the 055° bearing from Scott RBN (lat. 36°27'26" N., long. 84°-35'11" W.), extending from the 5.5-mile radius area to 8.5 miles northeast of the RBN * * *" would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR aircraft executing the NDB RWY 23 Standard Instrument Approach Procedure to Scott Municipal Airport, utilizing the Scott (private) Nondirectional Radio Beacon.

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

Issued in East Point, Ga., May 15, 1974.

DUANE W. FREER,
Acting Director, Southern Region.

[FR Doc.74-12141 Filed 5-24-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

ETHYL 3-METHYL-4-(METHYLTHIO) PHENYL (1-METHYLETHYL)PHOSPHORAMIDATE

Tolerances and Exemptions for Pesticide Chemicals

Chemagro Division of Baychem Corp., P.O. Box 4913, Kansas City, MO 64120, submitted a petition (PP 4E1458) proposing establishment of a tolerance for combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1 - methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on bananas at 0.1 part per million.

Based on consideration given data submitted in the petition and other relevant material it is concluded that:

1. The nematocide is useful for the purpose for which the tolerance is being proposed.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry and § 180.6(a)(3) applies.

3. The nematocide should be listed with the cholinesterase-inhibiting pesticides in § 180.3(e)(5).

4. The proposed tolerance will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 512 (21 U.S.C. 346a (e))), it is proposed that Part 180 be amended as follows:

1. In § 180.3(e)(5), by alphabetically inserting in the list of cholinesterase-inhibiting pesticides a new item, as follows:

§ 180.3 Tolerances for related pesticide chemicals.

* * * * *

(e) * * *
(5) * * *

Ethyl 3-methyl-4-(methylthio) phenyl (1 - methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites.

* * * * *

2. In Subpart C, by adding a new § 180.349 as follows:

§ 180.349 Ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl)phosphoramidate; tolerance for residues.

A tolerance of 0.1 part per million is established for combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity bananas.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, on or before June 27, 1974, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons may, on or before June 27, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated: May 20, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-12098 Filed 5-24-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 81]

[Docket No. 20050; RM No. 2306; FCC 74-513]

NOME, ALASKA

Petition for Waiver of Rules

1. RCA Alaska Communications, Inc. (RCA Alascom) has filed an application for modification, petition for rulemaking and request for rule waiver. By these pleadings RCA Alascom seeks temporary and permanent authority to use the frequency 5370 kHz at its Alaska Fixed Public/Public Coast II-A and II-B station, call signs WGG-55/WKR located at Nome, Alaska.

2. Alascom has filed an application for modification of its station at Nome, Alaska. No opposition to the application has been filed. However, coordination with the Interdepartment Radio Advisory Committee has shown that this frequency is presently shared with other Federal Government stations and therefore this frequency will be authorized on a noninterference basis to the existing Federal Government facilities. Further, extensive analysis of the use of 5370 kHz at Nome by Alascom and by the Commission's staff, indicates that no interference to any other station is likely to result by the grant of these requests. Accordingly, a waiver of the rules to permit such use during the pendency of this rule making proceeding appears warranted. If, in fact, interference should result, such operation should bring it to light. In such a case, the temporary authority will cease until termination of this rule making proceeding. The waiver to permit this operation, on a noninterference basis, will be granted in the ordering paragraphs below.

3. Amendment of the rules to permit permanent use of 5370 kHz at Nome also appears warranted.

4. In view of the above, *it is ordered*, That § 81.713 of the rules is waived to permit use of the frequency 5370 kHz at Nome, Alaska pending the termination of this proceeding provided that no interference results to any other station.

5. The proposed amendment as set forth in the attached Appendix is issued pursuant to the authority contained in section 303 of the Communications Act of 1934, as amended.

6. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before June 28, 1974, and reply comments on or before July 8, 1974. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs or comments shall be furnished the Commission. All comments received in response to this notice of proposed rulemaking and order will be available for public inspection in the Docket Refer-

ence Room in the Commission's Offices in Washington, D.C.

Adopted: May 14, 1974.

Released: May 17, 1974.

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

In § 81.713 the table is amended by adding the paired frequencies 5370 kHz and 5134.5 kHz to read as follows:

§ 81.713 Pairing of common carrier and Alaska-public fixed frequencies.

The pairing of frequencies available for communication between common carrier fixed stations (CCFS), as set forth in § 81.712, and Alaska-public fixed stations (APFS), as set forth in § 81.711, is given in the following table.

For communication with common carrier stations located at	Frequencies available until Jan. 1, 1974		Frequencies available after Jan. 1, 1974	
	CCFS transmit (kHz)	APFS transmit (kHz)	CCFS transmit (kHz)	APFS transmit (kHz)
Anchorage	3183	2256	3183	3365
	5370	3357		5137.5
		5137.5		2253
Bethel	2604	2632	2604	2629
				5204.5
Cold Bay	2312	2694	3244	2691
	3241	5137.5		
	4035			
Cordova	2312	2632	2312	2632
Fairbanks	3167.5	2632	3167.5	3354
		3357		5207.5
		5207.5		
Juneau	2784	2694	2784	2694
	3241	3357	3241	3357
Ketchikan	2604	2256	2604	2256
	3303	2776	3180	2776
King Salmon	3303	2644	3164.5	2466
Kodiak	2784			
	2604	2474	2781	2474
Kotzebue	2604	2466	2601	2463
Nome	2784		5370	5134.5
	2400	2474	2784	2471
Sitka	2400	2240		
Unalaska	2312	2632	3238	3362
	4035	3365	5370	5134.5

[FR Doc.74-12008 Filed 5-24-74;8:45 am]

FEDERAL ENERGY OFFICE

[10 CFR Part 210]

"SUMMER FILL" AND OTHER "DATING" PROGRAMS

Proposed Rulemaking

The Federal Energy Office hereby gives notice of a proposal to amend Title 10 of the Code of Federal Regulations, Part 210, to clarify whether suppliers will be required to maintain the terms of "summer fill" programs, or other "dating" programs, in connection with the supply of covered products to purchasers. Under the terms of such programs, purchasers supplied with covered products over specified periods of time have not been required to pay for the products until the end of the specified period.

Section 210.62(a) now states:

> Suppliers will deal with purchasers according to normal business practices. Nothing in this program shall be construed to require suppliers to sell to purchasers who do not arrange proper credit or payments for products. However, no supplier may require or impose more stringent credit terms or payment schedules on purchasers than the normal business practices of the supplier for that class of purchaser (e.g., COD purchasers) during the base period, nor may any supplier modify any other normal business practice so as to result in circumvention of any provision of this chapter.

FEO proposes to amend § 210.62(a) to read as follows:

§ 210.62 Normal business practices.

(a) Suppliers will deal with purchasers of an allocated product according to normal business practices in effect during the appropriate base period for that allocated product as set forth in Part 211. Nothing in this program shall be construed to require suppliers to sell to purchasers who do not arrange proper credit or payments for products. However, no supplier may require or impose more stringent credit terms or payment schedules on purchasers than those in effect for that class of purchaser (e.g., COD purchasers) on May 15, 1973. Nor may any supplier modify any normal business practice so as to result in circumvention of any provision of this chapter. "Summer fill" programs or other "dating" programs are among the normal business practices to which this paragraph applies.

* * * * *

This proposed amendment to the regulations is to make clear that credit terms are to be treated generally under the regulations as a function of price. This means that, since prices are determined under Part 212 by reference to the May 15, 1973 price, credit terms will also be determined generally by reference to the May 15, 1973 price. (See, e.g., FEO Ruling 1974-10, 39 FR 15140, May 1, 1974) FEO believes this approach is reasonable for credit terms which are, as a practical matter, intended to be applicable for an indefinite period.

However, the FEO is aware that "summer fill" programs and other "dating" programs that provide for special credit terms cannot readily be treated under the regulations as a function of a May 15, 1973 price. Although such programs necessarily entail certain credit terms, the programs are intended to apply only for a specific time period and should properly be regarded as a business practice which, in effect, supersedes for a specified portion of time, the prices and credit terms which would otherwise be in effect. Since "dating" programs necessarily extend only for a specified period of time, they cannot adequately be dealt with as a function of a May 15, 1973 price.

Thus, the issue to be considered in this rulemaking proceeding is whether § 210.62(a) should be revised clearly to require suppliers to maintain the terms of dating programs which were in effect during the appropriate base period. It should be emphasized that no question exists concerning the obligations of suppliers to supply their 1972 base period customers who were supplied under summer-fill or dating programs, but only as to whether the terms and conditions of such programs will need to be maintained.

To make this determination, FEO needs to be fully advised as to the extent of such programs and their purposes and effects. To the extent that such programs are important to attaining the objectives of the Emergency Petroleum Allocation Act of 1973, the FEO believes they ought to be continued.

FEO has been advised of certain specific programs that were in effect during the summer of 1972 and for many years prior to that. Under one program, certain refiners sold No. 2 fuel oil to wholesale customers under a "summer fill" program. Under that program, all No. 2 fuel oil delivered to a wholesale purchaser between May 1 and September 30 did not have to be paid for until October 10, and a 1 percent discount was provided for payment prior to that date. Also, any price reduction between May 1 and September 30 would be applicable to all fuel oil delivered during that period.

As a result of this program, FEO is advised that the wholesale purchasers concerned were encouraged to and did construct additional fuel oil storage capacity. This capacity was, in effect, financed by the savings to the wholesale purchasers under the summer fill program, and the capacity, in turn, relieved the refiner-suppliers of the need to construct their own storage capacity.

The FEO believes such a summer fill program serves a substantial function in the overall allocation program by insuring that existing storage capacity for heating oil is fully utilized, and that it therefore appears that such programs should be continued. Moreover, monthly allocations are currently being made to purchasers based on their 1972 volumes which were, in turn, at least in part influenced by the availability of the summer fill terms. It would not seem to be appropriate to require purchasers now to make current payments for those volumes that were received under dating programs in 1972. Accordingly, FEO proposes to resolve this rulemaking as expeditiously as possible, and to the extent that summer fill programs are required to be maintained, they will be effective for the same time periods in 1974 as they were in the base period.

If any wholesale purchaser with an entitlement to purchase in May, 1974, which is based on supplies received under the terms of a summer fill program in 1972, does not take the full amount of its entitlement because of the current unavailability of summer fill terms, and if this proceeding is resolved to require such summer fill programs to be maintained, the unused portion of the entitlement will be carried forward to a subsequent month.

The purpose of this rulemaking proceeding is to elicit information on all such types of summer fill or dating programs which were business practices during the base period for the particular allocated product, with a view toward determining which of these practices should be continued as reasonably necessary means of

helping to fulfill the objectives of the Emergency Petroleum Allocation Act of 1973. Interested parties should describe each such program or plan in detail, the rationale for the plan and for its discontinuance (if it has been discontinued), how long the plan has been in effect, the reliance placed by interested parties on the continuation of the plan, the effects of the withdrawal of the plan on the allocation program and on the interested parties, the kinds and quantities of product involved in the plan, the estimated cost of credit to the supplier and to the purchaser for the costs of product over the time periods involved, and any other information that is relevant to a determination in this matter.

Interested parties are invited to participate in this rulemaking by submitting written data, views or arguments with respect to the supplier and to the purchaser for the costs of product over the time periods involved, and any other information that is relevant to a determination in this matter.

Interested persons are invited to participate in this rulemaking by submitting written data, views or arguments with respect to the proposed regulations set forth in this notice to the Executive Secretariat, Federal Energy Office, Box AK, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on the documents submitted to the Federal Energy Office Executive Secretariat with the designation "Proposed Regulations on Summer Fill and Other Dating Programs." Fifteen copies should be submitted. All comments received by June 7, 1974, and all other relevant information will be considered by the Federal Energy Office before final action is taken on the proposed regulations.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, E.O. 11748; 38 FR 33575)

In consideration of the foregoing it is proposed to amend § 210.62(a) of Part 210, Chapter II, Title 10 of the Code of Federal Regulations as set forth above.

Issued in Washington, D.C., May 21, 1974.

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

[FR Doc.74-12056 Filed 5-24-74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

FEDERAL POWER COMMISSION

[Docket No. RI74-229, etc.]

AMOCO PRODUCTION CO. ET AL.

Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject To Refund [1]

MAY 17, 1974.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Chapter I], and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] MARY B. KIDD, *Acting Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets No.
RI74-229	Amoco Production Co	529	6	El Paso Natural Gas Co. (San Juan Basin Area, La Plata, County, Colo.) (Rocky Mountain Area).	$200	4-19-74		6-20-74	24.0	24.5	
	do	530	6	do	500	4-19-74		6-20-74	24.0	24.5	
RI74-63		614	2	Mountain Fuel Supply Co. (Middle Baxter Basin Field, Sweetwater County, Wyo.) (Rocky Mountain Area).	5,530	4-19-74		4-20-74	38.4	[1] 39.936	RI74-63.
RI74-230	American Petrofina Co. of Texas.	[2] 24	12	El Paso Natural Gas Co. (Blanco Field, Rio Arriba County, N. Mex.) (San Juan Basin) (Rocky Mountain Area).	1,620	4-19-74		6-20-74	[3] 28.6	[3] 28.5	
RI74-231	Chevron Oil Co., Western Division.	1	[4] 10	El Paso Natural Gas Co. (Ratherford Field, San Juan County, Utah-Aneth Field Sub Area) (Rocky Mountain Area).		4-22-74	[5] 5-23-74	[7] [16] Accepted			
			11	do	632	4-22-74		10-23-74	[6] [7] 21.57	[6] [7] 28.32	
RI74-232	Gulf Oil Corp	450	1	El Paso Natural Gas Co. (Blanco Pictured Cliffs Field, San Juan County, N. Mex., San Juan Basin Area) (Rocky Mountain Area).	1,839	4-29-74		6-30-74	[3] 24.0	[3] 28.5	
RI73-171	Belco Petroleum Corp	5	11	El Paso Natural Gas Co. (Big Piney Field, Lincoln and Sublette Counties Wyo., Uinta-Green River Basin Sub Area) (Rocky Mountain Area).	$810	4-22-74		4-23-74	[3] 27.2025	[3] 27.6075	RI73-171.
RI73-171	do	6	21	do	27,540	4-22-74		4-23-74	[3] 27.2025	[3] 27.6075	RI73-171.
RI73-196	do	7	12	Mountain Fuel Supply Co. (Piney (Birch Creek) Field, Sublette County, Wyo., Uinta-Green River Basin Sub Area) (Rocky Mountain Area).	320	4-22-74		4-23-74	32.16	32.48	RI73-196.
RI-74-233	Champlin Petroleum Co.	125	[8] 1	Mountain Fuel Supply Co. (Brady Area, Sweetwater County, Wyo., Uinta-Green River Basin Sub Area) (Rocky Mountain Area).		4-18-74	5-19-74	[16] Accepted			
	do		2	do	112,380	4-18-74		10-19-74	23.75	[8] [12] 42.48	R-74-66.
	do		3	do	3,275	4-25-74		(15)	23.75	[10] [12] 24.462	
				do	10,200	4-25-74		10-19-74	42.48	[8] [13] 44.18	
RI74-66	Amoco Production Co	582	3	Colorado Interstate Gas Co. (Antelope Field, Sweetwater County, Wyo., Uinta-Green River Basin Sub Area) (Rocky Mountain Area).	12,748	4-26-74		4-27-74	45.53	[10] [13] 47.3512	

*Unless otherwise stated, the pressure base is 15.025 lb/in²a.
[1] Includes a double amount of contractually due tax reimbursement.
[2] Considered "New gas" pursuant to Opinion No. 639.
[3] Subject to upward and downward Btu adjustment from a base of 1,000 Btu.
[4] Letter agreement dated Mar. 21, 1974.
[5] Converted from 22 cent at 15.025 lb/in²a.
[6] 24 cent base rate plus upward Btu adjustment from 1,000 Btu of 4.32 (1,180 Btu gas).
[7] The pressure base is 14.73 lb/in²a.
[8] Contract amendment dated Oct. 26, 1973.
[9] Applicable to wells drilled subsequent to July 1, 1972, covered under contrac dated Oct. 26, 1973.
[10] Applicable to wells drilled before July 1, 1972, covered under contract dated Sept 27, 1971.
[11] 40 cent base rate plus 2.48 cent upward Btu adjustment for 1,062 Btu gas.
[12] Includes a double amount of the contractually due tax reimbursement.
[13] 41.02 cent base rate plus 4.51 cent upward Btu adjustment for 1,110 Btu gas plus 1.8212 cent tax.
[14] Accepted 30 days after filing as shown in the "Effective Date" Columa.
[15] Accepted as of date of filing.

The proposed rates of Amoco Production Company under FPC Gas Rate Schedule Nos. 529 and 530, American Petrofina Company and Gulf Oil Corporation exceed the applicable area ceiling rate in Order No. 435 and are suspended for one day.

The proposed rate increases of Belco Petroleum Corporation reflect contractually due reimbursement of the recent increase in the Wyoming severance tax. Since the underlying rates are being collected subject to refund, the proposed tax reimbursement increases are suspended for one day in the same proceedings.

Amoco Production Company under FPC Gas Rate Schedule Nos. 614 and 582 and Champlin Petroleum Company in Supplement No. 3 to its FPC Gas Rate Schedule No. 125 also reflect the recent increase in the Wyoming severance tax. Since the underlying rates are being collected subject to refund, Amoco's increases are suspended in the existing rate proceedings for one day after the date of filing. Champlin's increase to 24.462 cents is accepted and its increase to 44.18 cents is suspended for the same period that its base rate increase to 42.48 cents in Supplement No. 2 is suspended. Amoco and Champlin in these filings propose a double amount of the contractually due tax reimbursement so as to collect tax reimbursement on past production as well as on future production. They shall file rate decreases reflecting only contractually due tax reimbursement for future production after tax reimbursement on past production has been recovered.

Champlin's proposed 42.48 cents per Mcf rate exceeds the area ceiling rate in Order No. 435 and is suspended for five months because of rate level sought. The related amendatory contract is accepted for filing after expiration of the statutory notice period. Such acceptance does not constitute certificate authorization for sales from the acreage added by that amendment.

[FR Doc.74-11950 Filed 5-24-74;8:45 am]

[Docket No. G-18919, etc.]

ATLANTIC RICHFIELD CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MAY 20, 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 June 6, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-18919 (G-5303) CF 5-1-74	Atlantic Richfield Co. (successor to Skelly Oil Co.,) P.O. Box 2819, Dallas, Tex. 75221.	Kansas-Nebraska Natural Gas Co., Inc., Hugoton Field, Finney County, Kans.	[1] 12.0	14.65
CI62-1004 E 4-24-74	Dinero Oil Co. (successor to Petroleum Evaluation and Management Co., Inc.), 600 Southwest Tower, Houston, Tex. 77002.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., acreage in Willacy County, Tex.	17.24347	14.65
CI64-672 E 4-26-74	Petroleum Corp., of Texas successor to Cities Service Oil Co.), P.O. Box 911, Breckenridge, Tex. 76024.	Northern Natural Gas Co., Acreage in Meade County, Kans.	16.0	14.65
CI74-544 A 4-4-74	Texaco, Inc., P.O. Box 2420, Tulsa, Okla. 74102.	Kansas-Nebraska Natural Gas Co., Inc., Alkali Butte Field, Fremont County, Wyo.	[2] [3] 50.0	14.65
CI74-577 (CS72-430) F 4-15-74	Phillips Petroleum Co. (successor to Cardinal Petroleum Co. and National Bulk Carriers, Inc.), Bartlesville, Okla. 74004.	Montana-Dakota Utilities Co., Garland Field, Park County, Wyo.	[2] [3] 24.0	14.73
CI74-597 (CS72-430) F 4-15-74	do	Montana-Dakota Utilities Co., Big Polecat Field, Park County, Wyo.	[3] 26.	15.025
CI74-598 (CS72-430) (CS72-434) 4-15-74	do	Montana-Dakota Utilities Co., Whistle Creek Field, Park County, Wyo.	[3] [4] 42.0	15.025
CI74-599 (CS72-430) (CS72-434) F 4-15-74	do	Montana-Dakota Utilities Co., Big Polecat Field, Park County, Wyo.	[3] [5] 42.0	15.025
CI74-600 (CS72-430) (CS72-434) F 4-15-74	do	do	[3] [6] 42.0	15.025
CI74-601 (CS72-430) F 4-15-74	Phillips Petroleum Co. (successor to Cardinal Petroleum Co.).	Montana-Dakota Utilities Co., South East Byron Field, Big Horn County, Wyo.	[3] [6] 42.0	15.025
CI74-602 (CS72-430) F 4-15-74	do	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Allen Field, Morgan County, Colo.	[3] 18.0	14.65
CI74-605 A 4-25-74	Koch Industries, Inc., P.O. Box 2256, Wichita, Kans. 67201.	Southern Natural Gas Co., Unknown Pass Field, Orleans Parish, La.	[2] [3] 30.0	15.025
CI74-606 (G-12150) F 4-26-74	Petroleum Corp. of Texas (successor to Cities Service Oil Co.) P.O. Box 911, Breckenridge, Tex. 76024.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Southwest Camp Creek Field, Beaver County, Okla.	18.285	14.65
CI74-607 (G-12149) F 4-25-74	do	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Mocane Field, Beaver County, Okla.	18.285	14.65
CI74-609 (CI73-159) B 4-26-74	Texas Oil & Gas Corp., Fidelity Union Tower, Dallas, Tex. 75201.	Banquete Gas Co., a division of Crestmont Oil & Gas Co., Odem Field, San Patricio County, Tex.	(7)	(7)
CI74-610 A 4-26-74	TransOcean Oil, Inc., 1700 First City East Bldg., Houston, Tex. 77002.	Michigan-Wisconsin Pipe Line Co., Block 306, West Cameron Area, offshore Louisiana.	[8] 32.0	15.025

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI74-614 (CI66-1063) B 5-2-74	River Corp., 9900 Clayton Rd., St. Louis, Mo. 63124.	Texas Gas Transmission Corp., Block 4 Field, offshore Cameron Parish, Louisiana.	Nonproductive	
CI74-615 A 5-2-74	Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., Woodward No. 1 Unit, Texas County, Okla.	[9] 35.0	14.65

[1] Subject to downward Btu adjustment.
[2] Subject to upward and downward Btu adjustment.
[3] Applicant is willing to accept a certificate at the area ceiling rate.
[4] Subject to upward Btu adjustment; estimated adjustment is 30 cents per Mcf.
[5] Subject to upward Btu adjustment; estimated adjustment is 5.124 cents per Mcf.
[6] Subject to upward Btu adjustment; estimated adjustment is 5.04 cents per Mcf.
[7] Buyer's resale of Applicant's gas to United Gas Pipe Line Co. has been abandoned.
[8] Applicant is willing to accept a certificate at the area ceiling rate of 26 cents per Mcf.
[9] Applicant is willing to accept a certificate at an initial rate of 21.315 cents per Mcf, subject to upward and downward Btu adjustment; however, the contract price is 35 cents per Mcf, subject to upward and downward Btu adjustment.

[FR Doc.74-11957 Filed 5-24-74;8:45 am]

[Docket No. CI74-555, etc.]

CURTIS S. GREEN, ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MAY 20, 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 June 13, 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.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI74-555 (CI66-176) F 3-28-74	Curtis S. Green (successor to Skelly Oil Co.), P.O. Box 1383, Tulsa, Okla. 74101.	Arkansas Louisiana Gas Co., Caulkerville, Cecil, and Mansfield Fields, Logan, Franklin, and Scott Counties, Ark.	16.24	14.7
CI74-613 A 5-1-74	Ashland Oil, Inc., P.O. Box 1503, Houston, Tex., 77001.	Michigan Wisconsin Pipe Line Co., acreage in Major County, Okla.	[1] [2] 51.41605	14.65
CI74-616 (CI69-859). B 5-2-74	McMoRan Properties, Inc., 1012 Pere Marquette Bldg., New Orleans, La. 70112.	Southern Natural Gas Co., Diamond Field, Plaquemines Parish, La.	Depleted	
CI74-618 (CI72-279) B 4-29-74	Petroleum, Inc., 300 West Douglas, Wichita, Kans. 67202.	Natural Gas Pipeline Co. of America, acreage in Texas County, Okla.	Depleted	
CI74-619 (G-4579) F 4-29-74	Petroleum Corp. of Texas (successor to Cities Service Oil Co.), P.O. Box 911, Breckenridge, Tex. 76024.	Northern Natural Gas Co., Hugoton Field, Texas County, Okla.	13.401	14.65
CI74-620 4-29-74 [3]	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79163.	Panhandle Eastern Pipe Line Co., Walgamott Field, Woods County, Okla.	[1] [4] 18.552	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI74-621 (CI71-87) B 4-29-74	Petroleum, Inc	Cities Service Gas Co., acreage in Texas County, Okla.	Depleted	
CI74-623 (CS72-430) F 4-26-74	Phillips Petroleum Co. (successor to Cardinal Petroleum Co.), Bartlesville, Okla. 74004.	Kansas-Nebraska Natural Gas Co., Inc., Lobo Field, Washington County, Colo.	[1] 15.0	14.73
CI74-625 A 5-3-74	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Putnam Field, Dewey County, Okla.	[1] [4] 37.45	14.65
CI74-627 (CI67-1572) B 5-6-74	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Natural Gas Pipeline Co. of America, Cemetary Field, Eddy County, N. Mex.	Depleted	
CI74-631 (G-19248) F 5-6-74	Petroleum Corp. of Texas (successor to Anadarko Production Co.), P.O. Box 911, Breckenridge, Tex. 76024.	Northern Natural Gas Co., Hugoton Field, Finney County, Kans.	[1] 10.543	14.65
CI74-632 (CI61-1664) F 5-3-74	Petroleum Corp. of Texas (successor to Cities Service Oil Co.).	Oklahoma Natural Gas Gathering Corp., Ringwood Field, Major County, Okla.	13.195	14.65
CI74-633 (CI70-225) F 4-8-74 [2]	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
CI74-634 (CI70-249) F 4-8-74 [2]	do	Panhandle Eastern Pipe Line Co., Aledo Field, Shallow formation, Custer and Dewey Counties, Okla.	[1] 22.7614	14.65
CI74-635 (CI65-1204) F 5-3-74	Petroleum Corp. of Texas (successor to Cities Service Oil Co.).	Panhandle Eastern Pipe Line Co., Northwest Oakdale Field, Woods County, Okla.	18.2852	14.65
CI74-636 (CI60-823) F 5-8-74	Petroleum Corp. of Texas (successor to Anadarko Production Co.).	Panhandle Eastern Pipe Line Co., Taloga Field, Morton County, Kans.	[7] 19.089	14.65
CI74-639 (CI66-176) F 5-8-74	Monsanto Co. (successor to Skelly Oil Co.), 5051 Westheimer, 1300 Post Oak Tower, Houston, Tex. 77027.	Arkansas Louisiana Gas Co., Arkoma Area, Pittsburg County, Okla.	[8] 16.24	14.65
CI74-640 (CI61-1083) F 5-8-74	Petroleum Corp. of Texas (successor to Anadarko Production Co.), P.O. Box 911, Breckenridge, Tex. 76024.	Panhandle Eastern Pipe Line Co., Hugoton Field, Texas County, Okla.	13.0	14.65
CI74-641 (CS72-430) F 4-26-74	Phillips Petroleum Co., (successor to Cardinal Petroleum Co.), Bartlesville, Okla. 74004.	Kansas-Nebraska Natural Gas Co., Inc., Pawnee Creek, Logan County, Colo.	[1] 15.0	14.73

[1] Subject to upward and downward Btu adjustment.
[2] Applicant is willing to accept a certificate conditioned in accordance with Opinion No. 586.
[3] Applicant proposes to cover its own interest in the sale of natural gas heretofore authorized to be made by Yucca Petroleum Co., now holder of a small producer certificate.
[4] Applicant is willing to accept a certificate conditioned to the applicable area rate.
[5] Includes 2.97 cents per Mcf downward Btu adjustment.
[6] Previously noticed erroneously as a total succession on Apr. 25, 1974, in Docket No. CI60-175 et al.
[7] Includes 1.08 cents per Mcf upward Btu adjustment.
[8] Subject to downward Btu adjustment and subject to a deduction for compression by buyer.

[FR Doc.74-11958 Filed 5-24-74;8:45 am]

[Docket No. RI74-196]

AMOCO PRODUCTION CO.

Petition for Special Relief

MAY 20, 1974.

Take notice that on March 29, 1974, Amoco Production Company, (Petitioner), Post Office Box 5910-A, Chicago, Illinois 60680, filed a petition for special relief in Docket No. RI74-196. Petitioner seeks a rate increase in excess of the applicable ceiling prescribed in Opinion No. 586 for sale of natural gas to Cities Service Gas Company (Cities) from the Hugoton-Anadarko Area under its FPC Gas Rate Schedule No. 84. The proposed rates are 38.5¢ per Mcf for gas produced from the Panama-Council Grove Field and 33.5¢ per Mcf for gas produced from all other formations under the subject rate schedule. The increase in annual revenues at the proposed rates is estimated at almost $23 million. In consideration therefor Petitioner proposes to undertake an extensive exploration and development program pursuant to an Exploration and Development Agreement dated March 1, 1974, between Petitioner and Cities covering more than one million acres subject to Petitioner's lease rights in the State of Wyoming to find and develop gas reserves from which up to 2 trillion cubic feet of gas will be sold to Cities.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 10, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-12075 Filed 5-24-74;8:45 am]

[Docket No. E-7769]

DELMARVA POWER AND LIGHT CO.

Compliance Filing

MAY 20, 1974.

Take notice that on May 2, 1974, Delmarva Power and Light Company, Delmarva Power and Light Company of Maryland, and Delmarva Power and Light Company of Virginia (collectively, Delmarva) filed their joint Report of Compliance with the Commission's Order issued herein on April 1, 1974.

Delmarva reports as follows:

1. Pursuant to Ordering Paragraph (B) of the Order of April 1, 1974, Delmarva has previously filed with this Commission, with a covering letter dated April 30, 1974, revised Fuel Adjustment Clauses in all of its FPC Electric Tariffs and Wholesale Rate Schedules which contain such clauses.

2. Pursuant to Ordering Paragraph (C) of such Order, and the Commission's letter of March 13, 1974, Delmarva has provided to the Commission calculations which show the computation of the Delaware Five Percent Utilities Tax, under a covering letter dated April 19, 1974.

3. Pursuant to Ordering Paragraph (D) of such Order, Delmarva and its Subsidiaries have calculated the difference, with respect to each of the customers entitled to refund, between the amounts collected under the suspended tariffs for service since March 1, 1973 and the amounts resulting from application of the settlement rates provided in the Stipulation and Agreement. The interest on such difference, by months, has also been calculated at the rate of 7 percent per year, from the date of each successive payment by each customer, to April 25, 1974, on which date refund was made or credited as the case may be.

4. Pursuant to Ordering Paragraph (E) of such Order, Delmarva has previously filed with this Commission, with a covering letter dated April 11, 1974, the revised tariff sheets and rate schedule supplement in conformity with the terms of the Stipulation and Agreement herein approved.

Delmarva submits that it has complied fully with the Commission's order of April 1, 1974 and that this proceeding in Docket No. E-7769 should be terminated.

Copies of the Report of Compliance are on file with the Commission and are available for public inspection. Any person desiring to comment upon the Report of Compliance should file such comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 31, 1974.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-12077 Filed 5-24-74;8:45 am]

[Docket No. CI74-638]

WALTER W. HEARD, JR. (OPERATOR), ET AL.

Notice of Application

MAY 20, 1974.

Take notice that on May 9, 1974, Walter W. Heard, Jr. (Operator), et al. (Applicant), P.O. Box 1306, Natchez, Mississippi 39120, filed in Docket No. CI74-638 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery

of natural gas in interstate commerce to Trunkline Gas Company (Trunkline) from the Little Creek Field Area, LaSalle Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that he commenced the sale of natural gas on March 7, 1974, from the subject acreage to Trunkline within the contemplation of § 157.29 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for two years from the end of the emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 15,000 Mcf of gas per month at 45.0 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 10, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-12078 Filed 5-24-74;8:45 am]

[Docket No. RI74-188]

INDEPENDENT OIL & GAS ASSOC. ET AL.

Extension of Time and Postponement of Hearing

MAY 20, 1974.

Independent Oil & Gas Association of West Virginia

v.

Consolidated Gas Supply Company
Columbia Gas Transmission Corporation
Carnegie Natural Gas Company
Equitable Gas Company

On May 15, 1974, Independent Oil and Gas Association of West Virginia filed a motion for an extension of the procedural dates fixed by the Order issued May 10, 1974 in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of direct testimony and evidence by IOGA, May 31, 1974.
Service of direct testimony and evidence by Respondents, June 21, 1974.
Service of direct testimony and evidence by staff & interveners, July 1, 1974.
Service of Rebuttal testimony and evidence, July 9, 1974.
Hearing, July 17, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-12076 Filed 5-24-74;8:45 am]

[Docket No. E-8424]

JERSEY CENTRAL POWER AND LIGHT CO.

Extension of Time and Postponement of Prehearing Conference and Hearing

MAY 20, 1974.

On March 14, 1974, The Boroughs of Madison, New Jersey, et al., filed a motion for an extension of the procedural dates fixed by notice issued March 14, 1974, in the above-designated matter. On March 21, 1974, a notice was issued deferring the procedural dates. On May 16, 1974, The Boroughs of Madison, New Jersey, et al., filed an amended motion for an extension of time.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Service of testimony and exhibits by Intervenors, June 14, 1974.
Service of rebuttal evidence by the Company, July 10, 1974.
Prehearing Conference and Hearing, July 16, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-12080 Filed 5-24-74;8:45 am]

[Docket No. E-8172]

KENTUCKY UTILITIES CO.

Certification of Settlement Agreement and Hearing Record

MAY 20, 1974.

Take notice that on April 15, 1974, the Presiding Administrative Law Judge certified to the Federal Power Commission (1) a Settlement Agreement between Kentucky Utilities Company (KU) and the Commission Staff and (2) the hearing record in this docket.

The Settlement Agreement between KU and the Commission Staff, dated April 5, 1974, relates to KU's proposed rates to Old Dominion Power Company. These proposed rates would increase KU's annual revenues some $261,000, and the Commission Staff has agreed that these rates are just and reasonable and should be permitted to become effective as of September 1, 1973.

The record from the Prehearing Conference held in this docket on April 1, 1974, additionally relates to: (1) a proposed Settlement Agreement between KU and the City of Paris, Kentucky, for which the Commission Staff has filed comments in support of the agreement with the exception of two clauses which both parties to the agreement have agreed to delete; and (2) the joinder of both the Commission Staff and KU to a motion of the Intervenor Cities[1] to dismiss the section 206 investigation in regard to KU's rates to Cities.

Copies of this certification are on file with the Commission and are available for public inspection. Any person desiring to comment upon matters contained in this certification should file such comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 30, 1974.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-12079 Filed 5-24-74;8:45 am]

[Docket No. E-8784]

MINNESOTA POWER AND LIGHT CO.

Firm Power Service Agreement

MAY 20, 1974.

Take notice that on May 6, 1974 Minnesota Power and Light (MPL) tendered for filing pursuant to section 35 of the Commission's regulations, a Firm Power Service Agreement dated January 22, 1974 between the Village of Aitkin, Minnesota and MPL. MPL states that this agreement replaces Federal Power Commission Rate Schedule No. 94 and will have no anticipated effect upon revenue.

MPL requests that the Commission accept for filing this agreement to become effective as soon as possible under the Commission's regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 31, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this

[1] The Electric and Water Plant Board of the City of Frankfort, the City Utilities Commission of Barbourville, the City of Bardstown, Bardwell City Utilities, the Electric Plant Board of Benham, Berea College, the City Utilities Commission of Corbin, the City of Falmouth, the City of Madisonville, the City of Nicholasville, and the Municipal Light and Water Plant of Providence, Kentucky.

filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-12081 Filed 5-24-74;8:45 am]

[Docket No. RP74-80]

NORTHERN NATURAL GAS CO.

Order Providing for Hearing, Establishing Procedures, Accepting and Suspending Proposed Revised Tariff Sheets, Permitting Interventions, and Consolidating Proceedings

MAY 20, 1974.

On April 11, 1974, Northern Natural Gas Company (Northern) tendered for filing revised tariff sheets[1] proposing changes in its FPC Gas Tariff, Third Revised Volume No. 1, Original Volume No. 2, to become effective on May 27, 1974. The proposed changes would increase revenues from jurisdictional sales by $42,949,000 based on the twelve months ended December 31, 1973, as adjusted. The filing also includes proposed tariff revisions applying generally to curtailment of sales to electrical generating plants which Northern states is for the purposes of protecting deliveries of gas to residential and other small volume consumers and for conserving available sources of gas supply.

Northern states that the reasons for the proposed increase in rate levels are: (1) increased revenues needed to provide a return of 9¾ percent on the test period rate base, (2) increased annual depreciation provision, (3) reduction in sales volumes, (4) increased cost of obtaining new gas supplies, (5) additional construction and increases in wages and supplies and expenses, and (6) increased income, property and payroll taxes.

Northern indicates that all of the proposed increase will be reflected in the commodity portion of its jurisdictional rates and that Northern will recover approximately 32 percent of its allocated fixed costs from its demand revenues and 68 percent from its commodity revenues. In accordance with the Order Approving Rate Settlement, issued by the Commission on January 4, 1974, in Docket Nos. RP71-107 (Phase II) and RP72-127, the burden shall be on Northern to justify any jurisdictional commodity rate levels which reflect less than 75 percent of allocated fixed costs.

Northern requests whatever waiver of the Commission's regulations is necessary to allow inclusion of purchased gas cost as determined in accord with Paragraph 20 of Northern's Purchased Gas Adjustment (PGA) Clause, in lieu of that specified in Schedule H(1)-3 of § 154.63(f) of the Commission's regulations. Rates reflecting these purchased gas costs were effectuated on December 27, 1973, pursuant to the PGA rate increase filing of October 25, 1973, as approved by Commission Order issued December 26, 1973. Therefore, waiver of Commission regulations is not required to allow inclusion of the purchased gas cost as determined in accord with Paragraph 20 of Northern's PGA clause.

Opinion No. 618, issued May 11, 1972, in Docket Nos. CP70-69, et al., (47 FPC 1202) which authorized Northern to connect to its system a new supply of gas in the State of Montana, subjected Northern to a condition that in any rate filing made by Northern pursuant to § 4(e) of the Natural Gas Act to become effective within eight years from the date of initial delivery of Montana gas, Northern shall not include a cost for Montana gas which exceeds the unit cost derived by use of an annual delivered volume of 41 Bcf. The present rate filing includes a cost for Montana gas that does exceed the unit cost derived by use of the 41 Bcf. On May 1, 1974, Northern filed a Petition to Amend the Commission Order accompanying Opinion No. 618 wherein Northern requested that it no longer be subject to this condition.

We shall permit this cost for Montana gas to be included in the filing and to become effective, subject to refund, after suspension; *provided, however,* That should the Commission not grant Northern's Petition to Amend The Commission Order Accompanying Opinion No. 618 before the date the proposed rates take effect, subject to refund, Northern shall file substitute tariff sheets which reflect a cost for Montana gas which does not exceed the unit cost derived by use of an annual delivered volume of 41 Bcf.

Northern proposes to utilize the unit-of-production method for computing depreciation which will result in an increased annual depreciation rate becoming effective, subject to refund on October 27, 1974. However, in section VII(f) of the Docket Nos. RP71-107, et al. Rate Settlement, approved by Commission Order dated January 4, 1974, Northern agreed that any portion of its next general rate increase represented by proposed increases in the section VII depreciation rate will not be collected and retained by Northern prior to December 27, 1974. Northern proposes to credit the customers' bills for the billing months of November and December, 1974 by the amount of increase in depreciation expense above that allowed in the settlement agreement in Docket Nos. RP71-107, et al. However, since the settlement agreement explicitly disallowed this depreciation rate increase, we shall require Northern to file substitute tariff sheets which reflect the depreciation rates prescribed in section VII(f) of the Docket Nos. RP71-107, et al., Rate Settlement.

We note that Northern has included in the tariff sheets proposed herein costs associated with uncertificated facilities.[2] We shall permit the costs associated with these facilities to be included in the filing and to become effective, subject to refund, after suspension; *provided, however,* That should such facilities not be certificated and placed into service on the date the proposed rates take effect, subject to refund, Northern shall file substitute tariff sheets including rates which reflect only those facilities which have been certificated.

Northern requests that the Commission grant an extension of the advance payment tracking provision set forth in Section V of the Settlement Agreement in Docket Nos. RP71-107, et al., as approved by Commission Order dated January 4, 1974, in Docket Nos. RP71-107, et al. Northern cites Ordering Paragraph I of the January 4, 1974, order which provided that the advance payment tracking provision contained in the settlement agreement would terminate at the time Northern's next section 4(e) rate case takes effect, subject to refund, without prejudice to Northern's right to request an extension of the tracking provision in its next section 4 rate increase filing.

Sections 154.38(d) (3), (4) and (5) of the regulations provide that no permanent automatic rate adjustment provisions shall be permitted for natural gas companies except for purchased gas and research and development expenditures. We have only permitted advance payment tracking provisions when they are a part of an approved rate settlement agreement[3] wherein the Commission has reviewed all of the pipeline's costs, including advance payments, and revenues and has determined that an advance payment tracking provision is proper for the period the settlement remain in effect; i.e. until the next section 4 rate increase becomes effective, subject to refund. Accordingly, we shall deny Northern's request for an extension of its advance payment tracking authority.

The filing was noticed on April 18, 1974, with protests and petitions to intervene due on or before May 6, 1974. (See Appendix B for List of Petitioners to Intervene). We shall permit all of the foregoing petitioners to intervene.

We note that in the January 4, 1974, order approving the Rate Settlement in Docket No. RP71-107 (Phase II) and RP72-127, we remanded the issues of conjunctive (group) billing and cost-of-service treatment for post-1969 leases in the Hugoton-Anadarko area (Hugoton-Anadarko issue) for hearing and established procedural dates. On April 18, 1974, the Commission Staff filed a motion to change the procedural dates for the reserved issues and to sever the trial of the Hugoton-Anadarko issue from the trial of the group billing issue and to consolidate the Hugoton-Anadarko issue with the advance payments proceeding in Docket No. RP74-75. Staff's motion indicated that this would expedite the resolution of the Hugoton-Anadarko issue since Staff neeeded only a seven week extension in its service date on that issue while a four and one half month extension was required as to the issue of group billing. In response to Staff's motion, Iowa Public Service Company (IPS) filed

[1] The revised tariff sheets are listed in Appendix A.

[2] Dallas Center Underground Storage Project; Docket No. CP72-251.

[3] Order No. 499, issued December 28, 1973, in Docket No. RP74-4; Southern Natural Gas Company, Docket No. RP72-91, et al., issued April 13, 1973.

a motion to dismiss the group billing issue or, in the alternative, to consolidate the trial of that issue with the proceedings in this docket. IPS alleges that the question is now moot since the problems which gave rise to the issue have been resolved because of Northern Natural Gas Company's curtailment plan. The Northern States Power Companies and Central Telephone and Utilities Corporation filed statements in support of IPS' motion.

Our review of IPS' request to dismiss the group billing issue indicates that it is not persuasive. We have required the issue of conjunctive (group) billing to be raised in several proceedings, as well as in this proceeding [1] and thus believe that it would be improper to dismiss this issue. However, since a trial of the group billing issue in this docket involves issues of law and fact substantially the same as those in Docket No. RP71–107, et al., we shall sever the trial of the group billing issue from the trial of the Hugoton-Anadarko issue in that docket, and grant IPS' motion to consolidate the trial of the group billing issue in Docket No. RP71–107, et al. with the instant proceeding and make it subject to the procedural dates established herein. Moreover, we shall consolidate the trial of the Hugoton-Anadarko issue with the proceeding in Docket No. RP74–75 for purposes of hearing and decision and make it subject to the procedural dates established therein.

Review of the non-curtailment and curtailment sections of the instant filing indicates that the issues raised therein may require development in an evidentiary proceeding. The proposed curtailment amendments and the proposed non-curtailment changes tendered by Northern on April 11, 1974, have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. We believe that the issues pertaining to Northern's proposed revised curtailment provisions should be heard separately from the hearing on the non-curtailment issues. Accordingly, we shall establish procedures to expedite both hearings.

The Commission finds: (1) The rates proposed by Northern have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Northern's FPC Gas Tariff as proposed to be amended in Docket No. RP74–80, and that the revised tariff sheets filed therein be suspended, and the use thereof deferred as hereinafter ordered.

(3) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(4) Good cause exists to permit the above mentioned petitioners to intervene in this proceeding.

(5) Northern's request to extend the advance payment tracking provision set forth in section V of the Settlement Agreement approved by Commission Order issued January 4, 1974, in Docket Nos. RP71–107, et al., should be denied.

(6) Good cause exists to grant Staff's motion to sever the trial of the group billing and Hugoton-Anadarko issues, and to consolidate the trial of the Hugoton-Anadarko issue with the proceedings in Docket No. RP74–75.

(7) Good cause exists to deny IPS' motion to dismiss the group billing issue and grant its motion to consolidate the trial of the group billing issue in Docket No. RP71–107, et al. with the instant proceeding.

(8) Good cause exists to require Northern to file substitute tariff sheets reflecting the depreciation rates prescribed in section VII(f) of the Docket Nos. RP71–107, et al., Rate Settlement.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, and the Commission's rules and regulations, a public hearing shall be held on October 22, 1974, in a hearing room of the Federal Power Commission, Washington, D.C. 20426, concernnig the lawfulness of the rates, charges, classification, and services (exclusive of the curtailment issues discussed below) contained in Northern's FPC Gas Tariff, as proposed to be amended in Docket No. RP74–80.

(B) On or before September 10, 1974, the Commission staff shall serve its prepared testimony and exhibits on the non-curtailment issues. The prepared testimony and exhibits of any and all intervenors on non-curtailment issues shall be served on or before September 24, 1974. Any rebuttal evidence by Northern on non-curtailment issues shall be served on or before October 8, 1974.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)) shall preside at the hearing initiated by this order, and shall conduct such hearing in accordance with the Natural Gas Act, the Commission's rules and regulations, and the terms of this order.

(D) The procedural dates for service of prepared testimony and exhibits and for hearings for the curtailment issues herein shall be set by future order of the Commission.

(E) On or before June 10, 1974, Northern shall file with the Commission, with service on all parties to this proceeding, a statement setting forth the specific proposed tariff sheets (including any that give notice of cancellation of existing sheets) that pertain to the issues involved in its curtailment procedures, both present and proposed, as well as the specific parts of its testimony and exhibits pertaining to those issues.

(F) Pending hearing and decision thereon, Northern's proposed revised sheets tendered on April 11, 1974, are hereby suspended and the use thereof deferred until October 27, 1974, and until such time as they are made effective in the manner provided in the Natural Gas Act subject to Ordering Paragraph H; *Provided, however,* That if the Commission does not grant Northern's Petition to Amend the Commission Order accompanying Opinion No. 618 before October 27, 1974, Northern shall file substitute tariff sheets which reflect a cost for Montana gas which does not exceed the unit cost derived by use of an annual delivered volume of 41 Bcf and; *Provided, further,* That if certificate approval has not been granted in Docket No. CP72–251 by October 27, 1974, Northern shall file substitute tariff sheets reflecting exclusion of costs associated with the facilities which are the subject of the aforementioned dockets.

(G) Northern's request to extend the advance payment tracking provision set forth in Section V of the Settlement Agreement approved by Commission Order issued January 4, 1974, in Docket Nos. RP71–107, et al., is hereby denied.

(H) Within 30 days of the date of this order, Northern shall file substitute tariff sheets reflecting the depreciation rates prescribed in section VII(f) of the Docket Nos. RP71–107, et al., Rate Settlement.

(I) Staff's motion to sever the trial of the group billing and Hugoton-Anadarko issues and to consolidate the trial of the Hugoton-Anadarko issue with the proceedings in Docket No. RP74–75 is granted. The trial of the Hugoton-Anadarko issue shall be governed by the procedural dates established in Docket No. RP74–75.

(J) IPS' motion to dismiss the group billing issue is denied but its motion to consolidate the trial of the group billing issue in Docket No. RP71–107, et al. with the instant proceeding is granted. The trial of this issue shall be governed by the procedural dates established in this proceeding.

(K) The aforementioned petitioners for intervention shall be permitted to intervene in this proceeding, subject to the Commission's rules and regulations; *Provided, however,* That the admission of such intervenors shall not be construed as recognition by the Commission that it might be aggrieved by any orders entered in this proceeding and *Provided, further,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in their petitions to intervene.

(L) Nothing contained herein should be construed as limiting rights of the parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(M) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.[5]

[SEAL] MARY B. KIDD,
Acting Secretary.

[1] See Northern Natural Gas Company, ---- FPC ----, issued January 4, 1974, in Docket No. RP71–107, et al. (mimeo, p. 13).

[5] Commissioner Brooke, dissenting, filed as part of the original document.

APPENDIX A—NORTHERN NATURAL GAS COMPANY REVISED TARIFF SHEETS FILED

Third Revised Volume No. 1.
Fifth Revised Sheet No. 4a.
Third Revised Sheet No. 19.
Fourth Revised Sheet No. 23.
Third Revised Sheet No. 59.
Third Revised Sheet No. 59a.
Third Revised Sheet No. 59b.
First Revised Sheet No. 59d.
Original Sheet Nos. 124, 125, 126, 127, and 128.
Original Volume No. 2.
Second Revised Sheet No. 1c.
Third Revised Sheet No. 509.
Third Revised Sheet No. 514.
Third Revised Sheet No. 522.
Third Revised Sheet No. 525.

APPENDIX B

Timely petitions to intervene and notices of intervention:

Kansas-Nebraska Natural Gas Company, Inc.
Central Telephone & Utilities Corporation.
Northern Central Public Service Company, Division of Donovan Companies, Inc.
Iowa Southern Utilities Company.
Iowa Power and Light Company.
Lake Superior District Power Company.
Wisconsin Power and Light Company.
Minnesota Natural Gas Company.
Michigan Power Company.
Wisconsin Gas Company.
Farmland Industries, Inc.
Terra Chemicals International, Inc.
Great Plains Natural Gas Company.
Minnesota Municipal Utilities Association.
Northern Municipal Defense Group.
North Central Public Service Corporation.
Iowa-Illinois Gas and Electric Company.
Michigan Wisconsin Pipe Line Company.
City of Crete, Nebraska.
Utilities Section of League of Nebraska Municipalities.
Nowiowa Public Service Company.
Iowa Electric Light and Power Company.
Metropolitan Utilities District of Omaha.
Northwestern Public Service Company.
Southern Rate Authority.
Michigan Public Service Commission.
Iowa State Commerce Commission.

Protests:

City of Fairbury, Nebraska.

[FR Doc.74-12082 Filed 5-24-74;8:45 am]

[Docket No. ID-1732]

JERRY G. REMMEL

Notice of Application

MAY 20, 1974.

Take notice that on May 15, 1974, Jerry G. Remmel (Applicant), filed an initial application with the Federal Power Commission, pursuant to Section 305(b) of the Federal Power Act, seeking authority to hold the following positions:

Treasurer, Wisconsin Electric Power Company, Public Utility.
Treasurer, Wisconsin-Michigan Power Company, Public Utility.

Wisconsin Electric is engaged principally in the generation, transmission, distribution and sale of electric energy to 222 communities in a territory having an area of approximately 4,000 square miles in southeastern Wisconsin, including the metropolitan Milwaukee area, and having an estimated population of 1,885,000. Company also sells power at wholesale and supplies steam for heating in a portion of the downtown business section of Milwaukee.

Wisconsin-Michigan is engaged principally in the generation, transmission, distribution and sale of electric energy in a territory having an area of approximately 8,600 square miles in the Fox River Valley and northern Wisconsin and in the upper peninsula of Michigan, and having an estimated population of 247,000. Electric service is furnished in 173 communities, of which 107 are in Wisconsin and 66 are in Michigan. Company also sells power at wholesale. In addition, Company is engaged in the distribution of natural gas to 15 Wisconsin communities with an estimated population of 130,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 14, 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. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-12083 Filed 5-24-74;8:45 am]

[Docket No. RP74-39-10]

TEXAS EASTERN TRANSMISSION CORP. (TOWN OF SMYRNA, TENNESSEE)

Postponement of Hearing

MAY 20, 1974.

On May 8, 1974, the Town of Smyrna filed a motion for postponement of the hearing scheduled for May 28, 1974, by Order issued April 26, 1974. The motion states that neither Texas Eastern Transmission Corporation nor Staff have any objection to the motion.

Upon consideration, notice is hereby given that the hearing is postponed to June 4, 1974, at 10 a.m., (e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-12084 Filed 5-24-74;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

LOAN TO GOVERNMENT OF BRAZIL GUARANTEED BY UNITED STATES

Public Notice of Invitation To Bid by Financial Institutions

I. *Invitation to bid—Classes of bidders.* The Department of the Treasury, acting for the Department of Defense, by this notice and under the terms and conditions hereof invites bids on the interest rate on a $5,000,000 loan to the Government of Brazil, hereinafter referred to as the borrower. The loan is described in Section V hereof. Bidding hereunder shall be subject to the "Regulations Governing the Sales of Treasury Bonds Through Competitive Bidding" (31 CFR Part 340) insofar as applicable.

The purpose of the loan is to provide private financing for the purchase by the borrower of defense articles and services from United States sources in furtherance of the Foreign Military Sales Act, as amended, Pub. L. 90-626, October 22, 1968, 82 Stat. 1326; 22 U.S.C. 2571-2793 and Executive Order 11501, December 22, 1969, 34 FR 20169.

Bids will be received only from incorporated banks, trust companies, recognized dealers in investment securities, and other financial institutions doing business in the United States. Bids must be submitted to the Federal Reserve Bank of New York in accordance with the provisions of the last section hereof.

II. *United States Government guaranty of loan.* The loan agreement provides that the obligation of the lender is to be conditioned upon the issuance by the United States of a guaranty of timely payment of 100 percent of the principal and 100 percent of the interest thereon by the borrower. The guaranty will further provide that the United States agrees that any claim which it may now or hereafter have against any beneficiary for any reason whatsoever shall not affect in any way the right of any other beneficiary to receive full and prompt payment of any amount otherwise due under this guaranty.

In addition, the borrower covenants at section 5(b) of the loan agreement that

> Any claim which it may now or hereafter have against any person, corporation, firm or association or other entity (including without limitation, the United States, DOD, any Bank, any assignee of any Bank, and any supplier of the Defense items) in connection with any transaction, for any reason whatsoever, shall not affect the obligation of the Borrower to make the payments required to be made to the Undersigned under this Loan Agreement, or under the Notes, and shall not be used or asserted as a defense to the payment of such obligation or as a setoff, counterclaim, or deduction against such payments.

The guaranty, which is authorized by the Foreign Military Sales Act, will be made by the Government of the United States acting through the Department of Defense. The Act provides that "any guaranties issued hereunder shall be backed by the full faith and credit of the United States."

III. *Tax exemptions.* There will be no—

(a) Federal income tax resulting from section 7.1 of the loan agreement which will provide that the borrower shall pay to the lender the guaranty fee charged to the latter by the Department of Defense; (The lender will be acting merely as a conduit.)

(b) Federal stamp tax; or

(c) Tax imposed by the borrower.

IV. *The loan, promissory notes, participations—eligibility for purchase by national banks as collateral for treasury tax and loan accounts, etc.* (a) Because of the guaranty, the loan, the promissory notes and the participations are deemed to be fully and unconditionally guaranteed obligations of the United States backed by its full faith and credit. Accordingly, they will not be subject to the lending limits of national banks or to the limitations and restrictions concerning dealing in, underwriting and purchase of investment securities.

(b) Section 1.4 of the loan agreement authorizes the sale of participations to legal entities doing business in the United States. Such participations will be acceptable from special depositaries of public money at their face amount to secure deposits under Department of the Treasury Circular No. 92, current revision (31 CFR Part 203): *Provided*, That they adequately identify the loan and meet the following conditions:

(1) The participation certificate contains the following provision: "Participant may assign or endorse over this participation certificate to the (*Name of the Federal Reserve Bank or Branch of the territory in which the participant is located*) in connection with a pledge of collateral security to protect a Treasury tax and loan account under Treasury regulations published at Title 31, Code of Federal Regulations, Part 203. In the event that this participation certificate is assigned to (*Same bank or branch as above*), it shall not be further assigned or sub-divided without prior written notice to that bank and the prior written consent of this bank."

(2) The participation certificate is supported by the original or certified copies of the guaranty agreement relating to the basic loan and the necessary power of attorney and resolution in favor of the Reserve Bank as prescribed in 31 CFR 203.8(d).

(3) The guaranty agreement provides that the guaranty referred to therein is transferable to any participant or beneficiary.

V. *Description of loan agreement.* The principal features of the loan are as follows:

(a) There will be a commitment fee payable semiannually of one-quarter of one percent (¼ of 1%) per annum on the daily average unused amount of the commitment. The commitment fee will be calculated on a 365-day basis and actual days elapsed.

(b) There will be a commitment period from the "date of execution" of the loan agreement to and including December 31, 1974 or such earlier date as the entire commitment of the lender shall have been utilized. For this purpose, the "date of execution" will be the date on which the loan agreement is signed on behalf of the borrower or the date on which the Department of Defense executes the guaranty agreement, whichever is later.

(c) The minimum drawdown under the loan agreement will be $500,000.

(d) The principal is to be repayable in four consecutive annual installments as follows: May 31, 1975—$500,000; May 31, 1976—$500,000; May 31, 1977—$2,000,000 and May 31, 1978—$2,000,000.

(e) Interest is payable on a fixed semiannual basis beginning November 30, 1974 and thereafter on May 31 and November 30 of each year until the entire principal has been repaid.

VI. *Submission of bids—acceptance and opening of bids.* Each bid shall be submitted in triplicate on the letterhead of the bidder and shall specify a single annual rate of interest which shall apply on a 365-day basis only to the portion of the loan in use. The rate shall be expressed as a percent per annum not to exceed three decimals, for example, 5.125 percent. Each bidder may submit a bid for the entire amount of the loan or portions thereof in multiples of $2,500,000.

Bidders should fill in the blanks in the loan agreement (except for the date of the loan agreement itself) and should furnish three signed copies when submitting the bids. Most of the blanks are self-explanatory. At section 7.1., the guaranty fee will be 1/400th of the amount of the principal liability under the guaranty.

The bids should be enclosed in sealed envelopes and must be received in the Securities Department of the Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045, not later than 11:00 a.m., e.d.t., on May 31, 1974.

Bids will be opened at the Federal Reserve Bank at 11:00 a.m., e.d.t., on May 31, 1974. In determining the successful bids, those specifying the lowest rate of interest will be accepted. Upon award of the bids, the Government of the United States will promptly secure the signature of the borrower to the loan agreement, as well as to necessary copies thereof, and will return one copy.

Copies of the loan agreement, of the exhibits and of the guaranty agreement may be obtained upon request from the Department of the Treasury, Bureau of the Public Debt, Room 200, Washington Building, Washington, D.C. 20226, or by telephoning (202) 964-2992 or (202) 964-8241.

Dated: May 20, 1974.

[SEAL] PAUL A. VOLCKER,
Under Secretary of the Treasury for Monetary Affairs.

[FR Doc.74-12070 Filed 5-24-74;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

ENVIRONMENTAL QUALITY AWARD ADVISORY COMMITTEE

Notice of Establishment

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the Department of Defense Environmental Quality Award Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its establishment.

The charter for the Department of Defense Environmental Quality Award Advisory Committee is as follows:

Designation. The Department of Defense Environmental Quality Award Committee, hereinafter referred to as "the Committee" is hereby established as being in the public interest in connection with the performance of duties imposed on the Department of Defense by statute.

Purpose. The purpose of this Committee is to provide an unbiased objective review and appraisal of selected Defense installations' environmental quality programs with respect to fulfilling the requirements under applicable environmental statutes. The Committee will operate under the Federal Advisory Committee Act (Pub. L. 92-463), Executive Order 11686, and implementing OMB and DoD regulations.

Duties. This award was established to stimulate command interest in environmental quality and to recognize innovative leadership and improve the visibility of this important program. The award is to be presented annually to the military installation which has conducted the most outstanding environmental quality program during the preceding calendar year. Selection is to be based on recommendations made by the judging committee with respect to fulfilling environmental responsibilities as stipulated in applicable environmental statutes.

Membership. The Committee shall be composed of not more than seven members. The Assistant Secretary of Defense (Health and Environment) or his designee shall serve as Chairman and the Assistant Secretary of Defense (Installations and Logistics) or his designee shall assist the Chairman. The remaining members shall be recognized professional or laymen environmentalists from other Federal or State agencies, environmental or conservation organizations, professional societies, schools or universities.

Non-DoD members of the Committee shall be selected and appointed by the Assistant Secretary of Defense (Health and Environment) with the approval of the Secretary of Defense or his designated representative. Tenure for the members outside of DoD is one year; however, they may be reappointed.

Meetings. The Committee shall meet once each year. The Chairman of the Committee, who will be in attendance at all meetings, is authorized to approve all meetings and agenda in advance and to adjourn any meeting when he determines adjournment to be in the public interest.

Responsible Official. The report of the Committee shall be made to the Secretary of Defense through the Assistant Secretary of Defense (Health and Environment).

Support. The Office of the Assistant Secretary of Defense (Health and Environment) is responsible for providing necessary administrative staff services, support and facilities to the Committee.

Resources. The estimated operating cost of the Committee is $1,500 for one year. Less than one-twelfth man-year of full-time staff is required.

Duration and Termination Date. The Committee will terminate in two years, or when its services are no longer required, whichever is sooner. Should the requirement for the Committee continue beyond the termination date, the Assistant Secretary of Defense (Health and Environment) may request continuation of the Committee.

Date Filed: May 21, 1974.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Comptroller).

[FR Doc.74-12086 Filed 5-24-74;8:45 am]

NATURAL RESOURCES CONSERVATION ADVISORY COMMITTEE

Public Meeting

Pursuant to the provisions of Pub. L. 92-463 and Executive Order 11686, notice is hereby given the Secretary of Defense Natural Resources Conservation Advisory Committee will meet in open meeting at 10 a.m. in Room 1E801, #4, the Pentagon, Washington, D.C. on Tuesday, June 25, 1974.

The purpose of this annual meeting is to review the natural resources conservation programs of each of the following installations, which will be visited by the committee prior to the meeting:

Fort Knox, Kentucky
Fort Campbell, Kentucky
Naval Ammunition Depot, Crane, Indiana
Marine Corps Air Station, Kaneohe Bay, Hawaii
Eglin AFB, Florida
Vandenburg AFB, California

The committee will formulate recommendations to the Secretary of Defense for improvements in the conservation area at these and other Defense installations and recommend to the Secretary the installation which has made the most improvement in natural resources conservation and enhancement during the past three calendar years.

Specific information may be obtained after June 15, 1974 by inquiry to Mr. Francis B. Roche, Director, Real Property and Natural Resources, OASD (I&L), the Pentagon, Washington, D.C. 20301, telephone: OX7-7227, autovon 227-7227.

Dated: May 21, 1974.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc.74-12085 Filed 5-24-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit has been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:
Dr. Daniel K. Odell
Assistant Professor
Division of Biology
School of Marine and Atmospheric Science
University of Miami
Miami, Florida 33149

1. Application to the Director, Bureau of Sport Fisheries and Wildlife, for a permit to take an endangered species.

2. Endangered species to be taken: manatee, *Trichechus manatus latirostris.*

3. Desired effective date: 1 January 1974 or as soon as possible.

4. Applicant:
Daniel K. Odell, Ph.D.
Assistant Professor
Division of Biology
School of Marine and Atmospheric Science
University of Miami
10 Rickenbacker Causeway
Miami, Florida 33149
Phone: 305-350-7310 (or 7311, 7312).

5. Description of applicant (also see attached curriculum vitae):
a. date of birth: 16 November 1945.
b. height: 5 feet 9 inches.
c. weight: 155 pounds.
d. color of hair: brown.
e. color of eyes: hazel.
f. sex: male.
g. Institutional affiliations:
School of Marine and Atmospheric Science
University of Miami
10 Rickenbacker Causeway
Miami, Florida 33149
Dr. Warren Wooster, Dean.
h. Cooperating organizations:
U.S. National Park Service
Everglades National Park
P.O. Box 279
Homestead, Florida 33030
Mr. Jack Stark, Superintendent.

6. Location of permitted activity: State of Florida.

7. Additional information—Marine Mammal Permit: Scientific Research.

a. The purpose of taking dead manatees will be to obtain information on the ecology and population biology of the species. The animals will be taken within the State of Florida whenever they become available. Only dead animals will be taken and no attempt will be made to take live animals. A separate permit to take manatees under the provisions of the Marine Mammal Protection Act of 1972 has been applied for.

b. Description of marine mammal to be taken:
1. manatee, *Trichechus manatus latirostris.*
2. size of stock: unknown.
3. number to be taken: as many dead animals as become available.
4. age, sex, and size of animals: unknown.
5. condition of animals: dead animals only.

c. Transportation and maintenance: Since this is a request for a permit to take dead animals, no special transportation and maintenance facilities are required.

d. Scientific Research Project: Title: Ecology and Population Biology of the Manatee.

Although no formal research proposal has been submitted as of this date, the following paragraphs include the essential components of the proposal.

The ecology of the manatee, *Trichechus manatus latirostris,* in the State of Florida is not well understood and was not studied in any detail until recently. Hartman (1972) reviewed the pertinent literature and reported on a study of the manatee primarily in the area of Crystal River, Florida. The purpose of my proposed research is to study the manatee primarily from the viewpoint of population ecology. Initial work will be conducted within the Everglades National Park and will consist of two phases: (1) Population estimation and (2) examination of dead animals. The research program will be expanded along the appropriate lines upon completion of the initial phases of research. The population will be localized and estimated through the use of aerial and boat surveys. The examination of dead manatees will provide much needed data on the general biology of the species and is the reason for this permit application.

As many dead manatees as possible will be examined and the following types of data recorded. Each animal will be weighed, if possible, and a standard set of measurements taken. An autopsy will be performed. Organ weights will be taken and a thorough search for parasites made. Tissue samples will be taken for pesticide residue analyses. The reproductive organs will be examined grossly and histologically. Age will be determined by sectioning the teeth. The skull, and in some cases the entire skeleton, will be prepared and placed in the University of Miami collections. An attempt will be made to ensure that the maximum use is obtained from each carcass.

The data obtained from these animals will allow me to estimate several important population parameters including longevity, age at sexual maturity, number of young born per female per year, and mortality rates, as well as growth rates. One of the main sources of mortality appears to be collisions with power boats. Determination of pesticide residue content could be of great importance in that residues may effect manatee reproduction.

The goals of the project are to assess the manatee population size in the areas under study, estimate the optimum populations for the areas, and estimate the maximum sustainable yield. These goals are in line with the Marine Mammal Protection Act of 1972. All of the resultant data will be used by the National Park Service and the State of Florida in the formulation of sound management practices for the manatee.

Reference: Hartman, D.S. 1972. Behavior and ecology of the Florida Manatee. Ph.D. thesis. Cornell University, Ithaca, New York. 284 pp.

e. Endangered Species: Justification of need.

The manatee is an endangered species. In order to increase our knowledge of the species so that it can be properly protected and managed specimens must be available for study. There are no alternatives. This research project will not further deplete the stock since only dead animals will be used and no live animals will be taken.

8. *Certification.* I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Dated: April 16, 1974.

DANIEL K. ODELL,
Assistant Professor, Biology.

Documents and other information submitted in connection with this applica-

tion are available for public inspection during normal business hours at the Bureau's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FSF/LE), Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. All relevant comments received no later than July 1, 1974 will be considered.

Dated: May 22, 1974.

KEITH M. SCHREINER,
Acting Associate Director, Bureau of Sport Fisheries and Wildlife.

[FR Doc.74-12161 Filed 5-24-74;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a pe mritha ing application for a permit has been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:
Jacksonville Zoological Society & Park
8605 Zoo Road
Jacksonville, Florida 32218

DIRECTOR,
Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, Washington, D.C.

APRIL 15, 1974.

DEAR SIR: In accordance with rules and regulations, Title 50—Wildlife and Fisheries, Part 17, pertaining to Importation of Endangered Species, Exemptions, paragraph (b), Zoological, Educational, Scientific, or Preservation permit, the Jacksonville Zoological Park submits the following information in applying for an import permit:

(i) Jacksonville Zoological Park, 8605 Zoo Road, Jacksonville, Florida 32218, Telephone: 904 765-4431.

(ii) One Female Cheetah, *Acinouyx jubatus.*

(iii) Being already in possession of one male cheetah, and one female cheetah, and having had detailed information from Lynn A. Griner, D.V.M., Ph.D., of San Diego Zoological Garden who is developing a successful cheetah breeding program and knowledge of other successful cheetah breeding programs, we have determined that in order for cheetahs to breed in our Zoo, we must develop a proper sex ratio.

Having advertised, without success, in the AAZPA bulletin, Vol. XIV, No. 12, December, 1973, for one female cheetah already in captivity in this country, we are seeking to obtain a wild caught cheetah from F. J. Zeehandelaar, Inc. This animal was captured on a farm where she did harm to domesticated animals.

When those animals can be bred successfully in captivity whose continued existence in the wild is threatened, we are protecting that species from possible extinction. The Jacksonville Zoological Park is dedicated to the propagation of rare and endangered wildlife. To that end we are anxious to cooperate with zoos which are attempting, either with or without success, to breed cheetah, thereby increasing our knowledge and experience of these animals to ensure greater success. An important new innovation which will maximize the success of cooperative breeding programs around the world is the creation of "studbooks", and we will certainly participate in that effort.

(iv) The animals will be transported from S.W. Africa to West Germany during the lifetime of the enclosed export permit in the usual manner by air or sea and will be held indefinitely in West Germany at the facilities of L. Ruhe, pending granting of the U.S.D.I. import permit. Upon granting of such permit, the animals will be flown non-stop from Frankfurt, West Germany, to New York's J. F. Kennedy Airport in crates measuring 50" long by 27" high. Upon arrival at J.F.K. Airport, the animal will be carried from the A.S.P.C.A. animal port at J.F.K. pending clearance through U.S.A. government agency and arrangements for immediate air transportation to Jacksonville.

(v) The cheetah will be kept at the facilities of Jacksonville Zoological Park. A blueprint of the cage in which the animal will be housed is included with this application. The cage is under construction and will be completed prior to the animal's arrival.

We are including with this application a copy of the letter from Dr. Lynn A. Griner, who is conducting the cheetah breeding program at the San Diego Zoological Garden. We will be following the basic guidelines described by Dr. Griner for introduction of the cats.

Our cheetah enclosure will be viewed by the public, however, there will be ample and suitable retreat areas for the animals to insure the cheetahs feeling of security.

(vi) The Jacksonville Zoo is a U.S.D.A. approved Zoo. The Zoo has had successful breeding programs of rare and endangered species, including Siberian tigers, Black jaguar, Brown hyena, Spectacled bear and Grizzly bear. Current members of our staff have participated in these programs and have maintained excellent health and longevity records for these animals.

(vii) Contract Enclosed.

(viii) I further hereby certify that I have read and am familiar with the regulations contained in Title 50 part 13, of the Code of Federal Regulations and the other applicable parts and sub-chapter B of Chapter 1 of title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Dated: April 15, 1974.

TIMOTHY J. KRAUSE,
Director.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Bureau's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FSF/LE), Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. All relevant comments received no later than July 1, 1974 will be considered.

Dated: May 22, 1974.

KEITH M. SCHREINER,
Acting Associate Director, Bureau of Sport Fisheries and Wildlife.

[FR Doc.74-12166 Filed 5-24-74;8:45 am]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Notice is hereby given that the following application for a permit has been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:
Mr. John F. Cuneo, Jr.,
Hawthorne Circus Company
Libertyville, Illinois 60048

HAWTHORN CIRCUS CO.
Libertyville, Ill., April 4, 1974.

MR. LYNN A. GREENWALT,
Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, Washington, D.C.

DEAR MR. GREENWALT: This letter is an application for a permit under section 10 (a) of the Endangered Species Act of 1973 (the "Act"), 87 Stat. 884, authorizing the applicant to deliver, receive, carry, transport, and ship in interstate commerce, and in foreign commerce among the United States, Canada and Mexico (regardless of whether the permitted activities in such foreign commerce shall constitute for purposes of the Act importation into or exportation from the United States) the twenty tigers subsequently described in this application and their progeny, all for the purpose of exhibiting and/or putting on performances with any or all of such tigers in geographically disparate localities. The applicant requests that the tenure of this permit run from the date it is issued until December 31, 1975.

This application is made pursuant to 50 CFR 13.12 and 17.23, as readopted under the Act, 39 FR 1444 (1/9/74). The applicant seeks only to travel freely with the tigers he already possesses and their progeny. This application has nothing to do with purchasing tigers from others, with taking tigers out of the wild, or with bringing into this country tigers now located abroad.

The applicant submits that the acts to be covered by the permit will enhance the propagation and survival of the affected species, i.e., tigers (*panthera tigris*), through the breeding program established by the applicant to support his performing troupe.

The applicant. The applicant's name is John F. Cuneo, Jr., doing business as Hawthorn Circus Company. His address is Hawthorn Circus Company, Libertyville, Illinois 60048. His phone number is 312-EM-2025.

The applicant is male, was born on April 12, 1931, stands 6'1" tall, weighs 180 pounds and has blonde hair and blue eyes. He has been engaged in the business of raising and training animals for approximately 25 years. The only business that will have to do with the animals to be covered by the permit is Hawthorn Circus Company, the name under which the applicant does business.

Other personnel. Applicant's wife, Herta Klauser Cuneo, assists him in training, performing with and caring for the animals. She is the daughter of the former Superintendant of Menagerie of the Circus Krone in Munich, Germany. She, too, has had long experience in raising exotic animals in captivity, starting before she reached her 10th birthday. The tigers are under the personal care of applicant or his wife virtually all of the time.

Applicant is also assisted by M. William Golden, who participates in the training of applicant's tigers and performs with them. Mr. Golden began training animals at the age of 15 and has worked with big cats for 13 years. In addition, applicant employs one full-time caretaker, and uses one-third of the time of another caretaker, for the tigers to be covered by the permit.

Location of permitted activities. Performances by applicant's tigers, which consist for the most part of running, jumping, leaping, sitting up, rolling over, rolling barrels, lying down in a row and forming pyramids, are put on throughout the year in places across the United States and in Canada and Mexico. The troupe is continuously on tour. In 1973 applicant's tigers played in 24 communities in the United States and Canada and a similar schedule is envisioned for 1974, plus a trip to Mexico. In 1973, applicant's tigers performed in localities as geographically diverse as Patterson, New Jersey, Greensboro, North Carolina, San Antonio, Texas, Flint, Michigan, and Niagara Falls, Ontario, Canada. Thus, the permitted activities, the movement of the tigers across state and specified international boundaries, will be conducted at various places in much of the North American continent.

The animals. The twenty tigers currently owned by the applicant consist of ten adults, all purchased by the applicant from U.S. zoos or animal parks, and ten non-mature animals or cubs, all of whom are offspring of the applicant's adult tigers born in the course of his breeding program. Seven of the applicant's ten adult tigers are males. Three of these are twelve years old. The other four are 8, 5, 4 and 3 years old, respectively. The 8- and 4-year old animals are pure Bengal tigers. The 3-year old is pure Sumatran. The remaining male tigers are of mixed subspecies. The applicant's three female tigers consist of two 7-year old animals and one 10-year old. The 10-year old and one of the 7-year olds are pure Bengal tigers. The other 7-year old is of mixed subspecies.

All but one of the applicant's ten tiger cubs were born in 1973. They consist of three 9-month old females, (two of mixed subspecies and one pure Bengal tiger), two 9-month old males (one of mixed subspecies and one pure Bengal tiger), one 5-month old pure Bengal tiger, three 5-month old females (two of mixed subspecies and one pure Bengal), and finally, one 18-month old female white tiger, who is pure Bengal.

All of the applicant's tigers of mixed subspecies are part Bengal and part Siberian.

Housing and transportation. Each of the applicant's adult tigers has his own traveling cage measuring 7½ feet long by 4 feet wide. For purposes of transportation and feeding the tigers area kept separately in their own cages. At other times, however, two groups of cages are put together and the inner sides of them are lifted to make one large cage for each of two groups of adult animals. In addition, the four 5-month old cubs are kept together, as are the five 9-month old cubs plus, on frequent occasions, the 18-month old white tiger cub.

The cages for the adult tigers have steel bars while those for the cubs have stamped metal panels. All of the cages have steel floors for safety. A large piece of plywood is placed on top of the cage floor to keep the animals from contact with the cold metal. The plywood is replaced twice a year. Plywood hanging covers are affixed to the cages where necessary to avoid drafts and to protect against cold. All of the cages for the Adult tigers have fluorescent lighting.

The troupe travels with a "squeeze" cage for veterinary work. The sides of the cage come together, making it easier to administer to the tigers' needs.

All arenas in which applicant's tigers perform provide applicant with heated space (unless the weather is warm enough for the tigers without artificial heat). The arenas also provide water and electricity. When traveling, the troupe stops every three to four hours to water the animals.

The applicant feeds his tigers only horsemeat (with bones) or beef. Each adult eats 10–15 lbs. of meat a day. The applicant coats or dusts the meat with a mixture of 50 percent calcium lactate and 50 percent pervinal powder as a vitamin and mineral supplement. The applicant carries with him a 5,000 lb. freezer for food for his animals.

At every stop on the tour, where there is sufficient space and the weather is appropriate, the applicant sets up a circular cage 40 feet in diameter for exercising the tigers and, on occasion, for practicing with them.

The applicant's tigers are watched by a caretaker from about 8 or 9 each morning until about midnight every night. The caretaker cleans every cage with a long-handled sweeper and receptable as soon as any dirt is made, and white pine sawdust is sprinkled in the cage to absorb liquids. Every day before feeding, each cage is emptied of its occupant and thoroughly cleaned.

The tigers are transported in specially designed trucks well insulated with styrofoam for warmth. The trucks may be opened on the bottoms and sides to provide ventilation.

The breeding program. In 1972 the applicant embarked upon a breeding program for his tigers that, he submits, has been eminently successful. During that year two cubs were born to one of his adult females. One died of a congential heart defect. The other, applicant's white tiger, survived. During 1973, applicant's breeding program produced 11 cubs, all of whom have survived. Applicant traded two of those cubs in August, 1973, to the Japanese Village and Deer Park in Buena Park, California, for the adult Sumatran tiger that is now part of applicant's troupe. Applicant hopes to breed 9 to 11 cubs this year and 12 to 15 in 1975.

As soon as the applicant considers that one of his female tigers is pregnant, he puts her into a separate cage by herself. As soon as the litter is born, he separates the cubs from their mother. The cubs are raised personally by applicant's wife. Until they are three or four months old, they live in a bassinet in the house trailer occupied by the applicant and his wife while on tour. The cubs are bottle fed as long as necessary. They are brought up on KMR, a product of the Borden Company made especially for cats, which is supplemented by Zoopreme as the animals get older. By the time the cubs are two years old, their diet is 100 percent meat. The cubs exercise in a playpen approximately 8 x 16 feet in area until they are about 6 months old, when they grow too big for that facility.

Applicant submits that the fact that his adult tigers are engaged in regular performances at different places throughout the course of the year keeps them in excellent physical health, mentally alert and energetic. He believes that the rigors of traveling and performing are conducive to a superior physical and mental condition that leads to healthy pregnancies and strong offspring. In addition, because he carries substantially more male tigers than female, every time a female tiger comes in season, she is courted a number of times by each of the applicant's male animals. The very number of couplings, which the applicant believes is important to the successful breeding of tigers, helps to assure that the female becomes pregnant at each opportunity.

The applicant's breeding program is part and parcel of his business of operating a traveling tiger act. Tigers that he breeds will be worked into the act as they are trained, and older animals will be phased out. These older animals and any younger tigers bred by the applicant but not used by him will be sold to zoos and others who would hopefully be interested in further breeding. The applicant's success in breeding tigers to date and the continued success in that endeavor that he expects in the immediate future demonstrate that the activities for which he now seeks a permit, which are the activities for which he breeds tigers, serve to enhance the propagation or survival of that species.

The applicant is, of course, most willing to participate in a cooperative breeding program and to maintain or contribute data to a studbook. He is currently communicating with zoos in India and England and with Dr. Hoff of the North Carolina State Zoo, now being built between Raleigh and Greensboro, concerning a breeding program for white tigers.

Certification. The applicant certifies that he has read and is familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and he further certifies that the information submitted in this application for a permit is complete and accurate to the best of his knowledge and belief. He understands that any false statement herein may subject him to the criminal penalties of 18 U.S.C. 1001.

Respectfully submitted,

JOHN F. CUNEO, Jr.,
Applicant.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Bureau's office in Suite 600, 1612 K Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FSF/LE), Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. All relevant comments received no later than July 1, 1974 will be considered.

Dated: May 22, 1974.

KEITH M. SCHREINER,
Director, Acting Associate Bureau of Sport Fisheries and Wildlife.

[FR Doc.74–12167 Filed 5–24–74;8:45 am]

MARINE MAMMAL PERMIT

Receipt of Application

Notice is hereby given that the following applicant has applied for a permit to import marine mammals for scientific research as authorized by section 101(a)(1)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), governing the taking and importing of marine mammals. The Director of the Bureau of Sport Fisheries and Wildlife, United States Department of the Interior, finds the following application sufficient for consideration.

The applicant, Branch of Paleontology and Stratigraphy, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California 94025 (C. A. Repenning), proposes to import skeletal parts of one polar bear already obtained and being held by the Canadian Wildlife Service.

The applicant states, "A portion of the research performed at this office is based in the study of the evolutionary history, taxonomy and functional morphology of mammals. For this purpose a collection of modern mammals is maintained for comparison fossil forms and for functional analysis.

"The Organic Charter of the U.S. Geological Survey specified that all collections shall be transferred to the (U.S.) National Museum of Natural History when no longer needed for the research of the Geological Survey. From time to time specimens are transferred to the National Museum."

The applicant further states that the specimen for which the permit is requested was collected during the research activities of the Canadian Wildlife Service on polar bears.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Director is sending copies of the application to the Marine Mammal Commission.

Documents submitted in connection with this application are available for public inspection during normal business hours at the Bureau's office in Suite 600, 1612 K Street, NW., Washington, D.C., and the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1500 Plaza Building, 1500 NE Irving Street, Portland, Oregon 97208.

Interested persons may comment on this application by submitting written data or views, preferably in triplicate, to the Director (FSF/LE), Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. All relevant comments received no later than July 1, 1974, will be considered.

Dated: May 22, 1974.

KEITH M. SCHREINER,
Acting Associate Director, Bureau of Sport Fisheries and Wildlife.

[FR Doc.74-12163 Filed 5-24-74;8:45 am]

ENDANGERED SPECIES PERMIT

Receipt of Application

Notice is hereby given that the following application for a permit has been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant:
The Lincoln Park Zoological Gardens
100 West Webster Street
Chicago, Illinois 60614

DECEMBER 13, 1973.

DIRECTOR,
Bureau of Sport Fisheries & Wildlife, U.S. Department of the Interior, Washington, DC 20240.

DEAR SIR: The Lincoln Park Zoological Gardens, 100 West Webster Street, Chicago, Illinois, 60614, AC312 294-4660, hereby applies for a permit to import a trio, one male, two female, Afghanistan Leopards (*Panthera pardus saxicolor*) under the Endangered Species Act.

We primarily wish to import these animals to establish another breeding group in captivity.

Two female Afghanistan, more commonly known as Persian Leopards, are at the Kabul Zoo in Afghanistan. Please find enclosed the export license issued by Dr. Jallal, the Director of the Committee of Zoological Projects in Afghanistan, Kabul. This license states that one female was born in the spring of 1972 and hand reared on the bottle and living in the Kabul Zoo since then. It is possible this animal was brought to the Zoo as a young kitten after its mother was shot by fur traders. This is apparently not uncommon according to Kullmann (1968). The Kabul Zoo received others in this manner in 1964 and 1965 (Kullmann 1968) and I do not think it is unreasonable to assume it still occasionally happens.

The second female was born in the Kabul Zoo in the spring of 1973 according to the permit. That the two females are apparently unrelated is a stroke of good fortune. When we are able to locate a male we will be able to begin our breeding program with three apparently unrelated animals.

These two animals are presently owned by the German firm of Clauss Gollembek, International Zoo Agency, 6202 Wiesbaden-Biebrich, P.O. Box 9511, West Germany. Please find enclosed a copy of a letter of September 20, 1973 from Gollembek stating terms which we agreed to. Only one Leopard is mentioned in this letter. Gollembek likes to do business via the telephone and we have had a number of trans-Atlantic conversations regarding this matter.

In our first conversation he said there were two Leopards although he only put one on his price list, which I am also enclosing. Please find my letter of September 25, 1973 to Gollembek, agreeing to a price of DM5,500, also enclosed. The total price then, for the two Leopards will be DM11.000 ($4,200 U.S.).

We have already begun a search for a zoo-born male. The International Zoo Yearbook, 13, indicates five zoos have *Panthera pardus saxicolor* in their collections. West Berlin 1/1; Cincinnati 2/3; Cologne 1/3; Kabul 0/3; and Leipzig 2/2. A total of 6/12, 3/5 of which were zoo-born. Please find enclosed letters I have written to these zoos regarding the possibility of obtaining a male. I have also written to the Hamburg Zoo which was listed as having bred Persian Leopards in Volumes 3-5 of the International Zoo Yearbook. However, they are not listed as having any now. Other zoos are listed in various volumes of the International Zoo Yearbooks as having had Persian Leopards in their collections, but if they ever actually had the *saxicolor* race they apparently have them no longer.

There is apparently little difference between the husbandry of the Persian and the more common races of *Panthera pardus*. Zoos keeping them seem to breed them. 8 of the present 18 in captivity were born in a zoo; 44%. Of the zoos breeding them, Cincinnati has been the most successful with 11 born, 6 of these surviving. Hamburg has had 3, Cologne 2, and Leipzig 1. Of course this data is through 1971. We know at least Kabul has bred them since, as well. Since little is truly known of this particular subspecies of *Panthera pardus*, I have asked each of these zoos if there is any difference in their husbandry as compared to the more common races.

While Lincoln Park Zoo has never kept this particular race of Leopard we have had a great deal of experience and success with the big cats. At this time we keep three groups of Black Leopards (*Panthera pardus* var. niger), 3/4/2, the two most recent births occurring on September 28, 1973. These two are the third litter of third generation Black Leopards born at Lincoln Park Zoo. That this is recognized as most important is witnessed by the fact that the American Association of Zoological Parks and Aquariums presented its Edward H. Bean Award for the year's most significant birth, 1972, to Lincoln Park Zoo for the breeding of Black Leopards into the third generation. (A young male Black Leopard was imported from the Amsterdam Zoo under USDI Endangered Species permit ES-341.)

Since November 1960 we have had a total of 42 Black Leopards born in Lincoln Park Zoo from two pairs of animals. Although we no longer keep the spotted form at the present time in a three-year period between 1966 and 1969 we had 19 born from a single pair. Therefore in a 13 year period there has been a total of 61 individuals of the species *Panthera pardus* born at Lincoln Park. Unfortunately records are sketchy prior to 1967 so it is difficult to say exactly how many survived. However, we do know that since then 27 of 40 lived to be sent to other institutions or are still at Lincoln Park. Eight of the 13 that did not survive were stillborn from the spotted pair.

The Snow Leopard (*Panthera uncia*) can be found in the same areas in Afghanistan as the Persian Leopard; the Hindu-Kush and the Afghan Pamir Mts. (Naumann & Nogge, 1973). Kullmann, has in fact, expressed the belief that *Panthera pardus saxicolor* should really be considered a sub-species of Snow Leopard. However, no evidence exists to verify this hypothesis. Regardless, the species are closely allied. Since 1960 36 Snow Leopards have been born at Lincoln Park Zoo; 28 of them since 1967. 7 were born in 1973 alone and, although one was stillborn, 4 of the 6 cubs were hand-reared successfully. These 4, more significantly, were half second-generation animals. Their mothers were born at Lincoln Park in 1969. An article is being prepared at the present time for International Zoo Yearbook, 15, on the techniques used in hand-rearing these cubs since no written material is available on this subject at present. (A male Snow Leopard was imported, as a mate for one of our females, from the Helsinki Zoo, under USDI Endangered Species Permit ES-324.)

Lincoln Park Zoo has been equally successful in breeding other big cats as follows: 57 African Lions (*Panthera leo*) since October 1960; 31 Jaguars (*Panthera onca*) between January 1961 and April 1971; 52 Bengal Tigers (*Panthera tigris bengalensis*) since June 1956; and 12 registered Siberian Tigers (*Panthera tigris altaica*) since March 1972.

Although the smaller cats are not as closely related to *Panthera pardus* Lincoln Park has done well with them also, as follows: 42 Mt. Lions (*Felis concolor*) since April 1963; 28 Servals (*Felis serval*) since 1967; 5 Marbled Cats (*Felis marmorata*) since December 1972; 9 Caracal (*Felis caracal*) between November 1967 and April 1969; 6 Asiatic Golden Cats (*Felis temminckii*) between February 1967 and February 1969; and 5 Leopard Cats (*Felis bengalensis*) between March 1963 and February 1968.

Lincoln Park Zoo also has a young pair of Asiatic Lions (*Panthera leo persica*) just reaching maturity imported under USDI Endangered Species Permit ES-76. They are beginning to show signs of sexual maturity and we hope to have young sometime in 1974.

The one individual who will have complete jurisdiction of the breeding program with the Persian Leopards is Dr. Lester E. Fisher, Director, Lincoln Park Zoo, although the entire professional staff will be involved in the program. Dr. Fisher has been director of Lincoln Park Zoo for the past 11 years and has been associated with the zoo for over 26 years. Dr. Fisher is immediate Past President of the American Association of Zoological Parks and Aquariums, a member of the International Union of Directors of Zoological Gardens and a veterinarian with an international reputation.

If we are allowed to import this trio of Persian Leopards they will be housed in the large cat building with the rest of the large *Felidae*. In Afghanistan they are found in

"inaccessible mountain forests with cliffs, ravines and mountain streams, impassable thickets at a height of 1,000 to 1,500 meters (3,250 to 4,875 ft.) and up to 3,500 meters (11,375 ft.)," and have "long fur, very pale in colour" (Hassinger, 1973). From this it can be deduced that these Leopards live in cold weather and can acclimate to one of our outdoor cages where we have successfully kept and bred Snow Leopards, Mt. Lions and Siberian Tigers. The cage size is 12 ft. deep, 16 ft. long and 20 ft. high. The cages have wooden platforms as shelves as well as large wooden boxes for shelter. The Leopards will also have access to an indoor cage via a transfer door. This cage is the size of the outdoor one, but also has a tree trunk embedded in the concrete floor for a scratching post. Water is available at all times free choice.

It is interesting to note that a number of authorities expressed at least the passing thought that *Panthera pardus saxicolor* is intermediate between Snow Leopards and Spotted Leopards (Lydekker, 1893 and 1896 and Kullmann, 1968).

The exact range of *Panthera pardus saxicolor* is in some doubt. Lydekker (1893) gives it as Baluchistan and Sind, Haltenorth and Trense (1956) say Persia and Baluchistan as does Ellerman and Morrison-Scott (1966). It appears that this race ranges from Iran through southern Afghanistan (Baluchistan) to West Pakistan (Sind). Prater (1965) says it may occur in India. It also appears certain that it occurs in the Hindu-Kush or Northeastern Afghanistan since some specimens were collected in Nuristan and the Pamirs both in this northern area (Naumann & Nogge, 1973).

It is difficult to assess the status of *Panthera pardus saxicolor* in the wild. As far as I can determine no one has done so as yet. The IUCN has not included them specifically in either Red Book, 1966 or 1972. However, in the 1972 edition of the Red Book it is stated *Panthera pardus* "generally persists throughout its range wherever there is habitat which provides it with food and cover". Much of the Afghan territory is inaccessible and undoubtedly the Leopard continues to exist there (Hassinger, 1973).

That the Persian Leopard is continually harassed by man is also undoubtedly true. Though their main food in Afghanistan is wild goats and sheep Leopards "cause a lot of damage among domestic animals" (Hassinger, 1973). In July, 1965 Kullmann (as reported by Hassinger, 1973) made a trek to the Pesch Valley and found fresh Leopard tracks at a height of 2,000 meters (6,500 ft.). During the night 5 sheep were missing and later on that day the skull of a cow that had been recently killed by a Leopard was found. It is practically axiomatic that wherever wildlife comes into conflict with man, wildlife loses. There is no evidence to show this situation is any different.

Kullmann (1968) reports two young leopard cubs were brought to him by a hunter in January of 1964 who had shot their mother. He also reports getting another in December of that year as well as seeing skins of many races of leopards on sale at the Bazaar in Kabul. This includes Snow Leopards as well, incidentally. Naumann & Nogge (1973) continue to report being able to obtain skins of leopards up to the present time.

The importation of the two female Persian Leopards will have no impact on the wild population since they are both in the Kabul Zoo. While it is true that one may have originated in the wild it was raised in the zoo from a kitten. The exportation of both these animals is also approved by the appropriate department of the Afghanistan government. Shooting for hides and protection of domestic animals still occurs in Afghanistan.

We feel we are justified in bringing in these animals as we think we will be able to breed them and add to the captive population.

All animals in Lincoln Park Zoo are assigned inventory numbers and each has a separate inventory card on which all pertinent data are entered. Record-keeping is the responsibility of the professional staff. Dennis A. Meritt, Jr., Curator of Mammals is directly responsible for record-keeping in the large cats. Mark A. Rosenthal, Associate Curator and Saul L. Kitchener, Assistant Director, also help in various ways in the areas of record-keeping, management and husbandry. Please find enclosed *curriculum vitae* for these individuals.

Since 1967 records have been kept on all animals in the zoo. We cooperate with all the international stud-books and keep pedigree records on some of our own animals not covered as yet by a stud-book. Black Leopards and Grant's Gazelles, for example. We will naturally continue to cooperate with all stud books. We also plan on continuing our commitment to cooperative breeding programs with other zoos. In the recent past we traded zoo-born male Snow Leopards with the Helsinki Zoo; a female for male Siberian Tiger with the Bronx Zoo; and purchased a male Black Leopard from the Amsterdam Zoo all in order to establish different blood lines.

Lincoln Park Zoo is involved in a great many cooperative breeding programs with other zoos at present. Please find a list of these appended.

Lincoln Park Zoo and the Lincoln Park Zoological Society Docent organization have formed a committee, the Docent Behavioral Group, to aid us in observation of all aspects of animal behavior. This group consists of a hard-core of about ten extremely dedicated individuals who have been trained by zoo staff. They have proved themselves keen observers and of great help to us. From May 18 to December 1, 1973 this group spent 745½ hours observing various projects around the zoo. If needed they can be used in a project involving the Persian Leopards.

Our director, Dr. Lester E. Fisher, is a veterinarian and we have a consulting veterinarian, Dr. Erich Maschgan, as well. Dr. Maschgan makes usual rounds twice a week and is also on call 24 hours a day.

Lincoln Park Zoo is deeply concerned about conservation and towards this end cooperates with international stud-books and conservation organizations. Once a project is begun it is carried out indefinitely or until a time the project is proven unfeasible. If we are allowed to import a trio of Persian Leopards we would consider it our moral obligation to attempt to propagate the species and dispose of offspring only in such a way as to further the future of the species in captivity.

The shipping arrangements will be handled by Kuhne and Nagel, Inc., 7111 Barry Avenue, Chicago, Illinois AC312 297-5950. This firm also has offices in Kabul, Afghanistan. We have already been in contact with this firm and since they are old well established freight forwarders there should be a minimum of difficulty with the shipment. I have been assured the animals will be shipped in approved crates. At present it appears the animals will go from Kabul to Frankfurt then non-stop to Chicago where we plan on clearing the animals through customs as rapidly as possible.

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Very truly yours,

SAUL L. KITCHENER,
Assistant Director,
Lincoln Park Zoological Gardens.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Bureau's office in Suite 600, 1612 K Street, NW, Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FSF/LE), Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. All relevant comments received no later than July 1, 1974 will be considered.

Dated: May 22, 1974.

KEITH M. SCHREINER,
Acting Associate Director, Bureau of Sport Fisheries and Wildlife.

[FR Doc.74-12162 Filed 5-24-74;8:45 am]

Office of the Secretary

[INT DES 74-58]

NATIONAL RESOURCE LANDS MANAGEMENT ACT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management, Department of the Interior, has prepared a draft environmental statement for the "National Resource Lands Management Act."

The proposed legislation provides for the management, protection, development and sale of lands administered by the Bureau of Land Management. The statement describes the impact that the legislation would have on the environment.

Copies are available from the Director, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240, with limited supply available from Bureau of Land Management State Offices in Anchorage, Alaska; Phoenix, Arizona; Sacramento, California; Denver, Colorado; Boise, Idaho; Billings, Montana; Reno, Nevada; Santa Fe, New Mexico; Portland, Oregon; Salt Lake City, Utah; and Cheyenne, Wyoming.

Comments concerning the environmental statements and impacts should be addressed to Director, Bureau of Land Management, 18th and C Streets, NW, Washington, D.C. 20240. These comments must be submitted on or before July 12, 1974 to be considered in the preparation of the final environmental statement.

Dated: May 21 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.74-12124 Filed 5-24-74;8:45 am]

Office of the Secretary

HOWARD A. BECK

Statements of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of March 29, 1974.

Dated: March 29, 1974.

HOWARD A. BECK.

[FR Doc.74-12117 Filed 5-24-74;8:45 am]

JAMES S. BROADDUS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of March 29, 1974.

Dated: March 29, 1974.

JAMES S. BROADDUS.

[FR Doc.74-12118 Filed 5-24-74;8:45 am]

EDWARD R. COWLES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 23, 1974.

Dated: April 23, 1974.

EDWARD R. COWLES.

[FR Doc.74-12119 Filed 5-24-74;8:45 am]

FREDERICK W. HOEY

Statements of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) Sale of $5,000 in AT&T stock.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 29, 1974.

Dated: April 29, 1974.

FREDERICK W. HOEY.

[FR Doc.74-12151 Filed 5-24-74;8:45 am]

JOHN A. McMAHON

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) I own stock in the following: Northeast Utilities, Canadian International Power Co., Freeport Minerals, Federal Mogul Corp.
(3) No change.
(4) No change.

This statement is made as of April 4, 1974.

Dated: April 4, 1974.

JOHN A. McMAHON.

[FR Doc.74-12120 Filed 5-24-74;8:45 am]

LEROY J. SCHULTZ

Statements of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 9, 1974.

Dated: April 9, 1974.

LEROY J. SCHULTZ.

[FR Doc.74-12121 Filed 5-24-74;8:45 am]

[INT FES 74-25]

PROPOSED MASTER PLAN, PADRE ISLAND NATIONAL SEASHORE, TEXAS

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed master plan for Padre Island National Seashore, Texas.

The environmental statement considers an updated master plan to be used as a guide for future management and use of the National Seashore. Proposed master plan concepts include an expansion of the existing Malaquite Beach development, provisions for access to the Laguna Madre and to the seashore across the Mansfield Channel, a beach transportation system, an extension of the road system, a boundary adjustment, and land classification.

Copies are available for inspection at the following locations:

Southwest Regional Office
National Park Service
Old Santa Fe Trail
Post Office Box 728
Santa Fe, New Mexico 87501

Assistant to the Regional Director, Texas
National Park Service
819 Taylor Street
Ft. Worth, Texas 76102

Office of the Superintendent
Padre Island National Seashore
Post Office Box 8560
Corpus Christi, Texas 78412

Dated: May 22, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

[FR Doc.74-12179 Filed 5-24-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE

Public Meeting

Pursuant to the provisions of section 10(a)(2) of Pub. L. 92-463, notice is hereby given of a meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Committee will meet in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 a.m., local time, on June 11, 1974.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the Committee includes the receipt and review of market supply and demand information incidental to consideration of the need for modification of current grade and size limitations applicable to domestic and export shipments of the named fruits.

The names of Committee members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: May 20, 1974.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.74-12110 Filed 5-24-74;8:45 am]

Farmers Home Administration

[Notice of Designation Number A049]

LOUISIANA

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following parish in Louisiana:

Rapides

The Secretary has found that this need exists as a result of a natural disaster consisting of heavy rainfall in September and October 1973.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Edwin W. Edwards that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 12, 1974, for physical losses and February 14, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 21st day of May 1974.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.74-12105 Filed 5-24-74;8:45 am]

Forest Service

CIBOLA NATIONAL FOREST GRAZING ADVISORY BOARD

Notice of Meeting

The Cibola National Forest Grazing Advisory Board will meet Wednesday, June 19, 1974 at 11 a.m. in the Conference Room of the Grants State Bank, 824 W. Santa Fe Avenue, Grants, New Mexico 87020.

The purpose of this meeting will be:

1. Review decisions made by the Forest Supervisor. This review is to decide whether the Forest Supervisor acted correctly in revoking temporary grazing permits that the permittees refused to use.

2. To decide whether the Forest Supervisor acted correctly in reissuing a temporary permit to graze to an eligible recipient.

The meeting will be open to the public. Persons who wish to attend should notify Supervisor Lloyd through telephone number 766-2185 or at 10308 Candelaria NE, Albuquerque, New Mexico 87112. Written statements may be filed with the committee before or after the meeting.

Dated: May 13, 1974.

W. L. LLOYD,
Forest Supervisor.

[FR Doc.74-12089 Filed 5-24-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

[Organization and Function Order 45-1]

BUREAU OF DOMESTIC COMMERCE

Organization and Functions

This order supersedes the material appearing at 38 FR 9326 of April 13, 1973, effective April 26, 1974.

SEC. 1. *Purpose.* This order delegates authority to the Deputy Assistant Secretary for Domestic Commerce and prescribes the organization and functions of the Bureau.

SEC. 2. *Delegations of authority.* .01 Pursuant to section 5.03 of Department Organization Order 10-3 of November 11, 1973, the following authorities delegated to the Assistant Secretary, DIB by the Secretary of Commerce are hereby delegated to the Deputy Assistant Secretary for Domestic Commerce:

a. Such provisions of the Act of February 14, 1903 (15 U.S.C. 1512 et seq.; 15 U.S.C. 171 et seq.), as amended, to foster, promote, and develop the domestic commerce of the United States, as are necessary to the performance of the Bureau's functions; and

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

.02 For purposes of the following authority the Deputy Assistant Secretary for Domestic Commerce shall serve as Deputy to the Deputy Assistant Secretary for Domestic and International Business and shall act in the latter's absence:

a. The Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, et seq.), conferred on the Secretary under Executive Order 10480, dated August 14, 1953, as amended, except the authority with respect to transportation facilities and the creation of new agencies within the Department of Commerce;

b. Executive Order 11490 of October 28, 1969, as it relates to the development of national emergency preparedness plans and programs concerning production functions;

c. The National Security Act of 1947 (50 U.S.C. 401 et seq.) as amended, as it relates to mobilization preparedness responsibilities assigned thereunder;

d. The Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98-98h), as amended, with respect to the acquisition of stocks of materials for defense purposes;

e. Executive Order 11179 of September 22, 1964, with respect to the establishment and training of the National Defense Executive Reserve; and

f. Executive Order 10421 of December 31, 1952, providing for the physical security of facilities important to the national defense.

.03 The Deputy Assistant Secretary for Domestic Commerce may redelegate authorities listed in § 2.01 to any employee of the Bureau of Domestic Commerce or to any other appropriate officer or agency of the Government subject to such conditions in the exercise of such authority as he may prescribe.

SEC. 3. *Organization and line of authority.* .01 The Bureau of Domestic Commerce shall be headed by the Deputy Assistant Secretary for Domestic Commerce who shall be the Director and who shall report and be responsible to the Assistant Secretary for Domestic and International Business, except that for purposes of the administration of the Defense Production Act of 1950, he shall report and be responsible to the Deputy Assistant Secretary for Domestic and International Business. The Deputy Assistant Secretary shall be assisted by a Deputy Director who shall perform the functions of the Deputy Assistant Secretary during the latter's absence.

.02 The Bureau of Domestic Commerce shall consist of the following principal organizational elements:

Office of Domestic Business Policy
Office of Business Research and Analysis
Office of Industrial Mobilization
Office of the Ombudsman for Business

SEC. 4. *Functions.* The Bureau of Domestic Commerce shall;

.01 Perform the following functions:

a. Provide a working forum of business and the Federal Government on domestic business policy issues, particularly economic and financial issues, consumer protection, labor-management relations, industrial development of marine resources, industrial pollution, and short-supply export controls;

b. Collect, analyze, and maintain factual data on U.S. industries, exclusive of data related to the fiber, textile, and apparel sector of the industrial economy, which shall be the responsibility of the Bureau of Resources and Trade Assistance. This information will be used in support of policy decisions and program actions by the Bureau of Domestic Commerce, as well as other parts of the Department and the Government. Both domestic and international data shall be included in categories such as production, pricing, inventories, marketing, labor, financing, taxation, and location and size of companies;

c. Provide business assistance and advice to the Nation's business community.

.02 Perform the following action specifically required by law:

a. Certify U.S. firms as "bona fide motor-vehicle manufacturers" qualified to trade under the provisions of the U.S.-Canadian Automotive Agreement; and prepare the President's Annual Report to Congress concerning implementation of the Automotive Products Trade Act of 1965;

.03 Perform the following national defense and industrial mobilization functions:

a. Assist in achieving, through administration of priorities and allocations and other means, an adequate supply of strategic, critical, and other products and materials for defense and defense-supporting activities and essential civilian

needs, including the timely completion of current military, atomc energy, and space programs for production, construction, and research and development; and

b. Participate in the development of national plans to assure maximum readiness of the industrial resources of the United States including the means for administering them, to meet any future demands of any national emergency.

SEC. 5. *Effect on other orders.* This order supersedes DIBA Organization and Function Order 45–1 of March 2, 1973.

Effective date: April 26, 1974.

TILTON H. DOBBIN,
Assistant Secretary for Domestic and International Business.

[FR Doc.74-12148 Filed 5-24-74;8:45 am]

[Organization and Function Order 45-2]

BUREAU OF DOMESTIC COMMERCE

Organization and Function

This order effective April 26, 1974 supersedes the material appearing at 38 FR 9327 of April 13, 1973.

SEC. 1. *Purpose.* This order prescribes the organization and assignment of functions within the Bureau of Domestic Commerce.

SEC. 2. *Organization and Structure.* The organization structure and line of authority of the Bureau of Domestic Commerce (the "Bureau") shall be as depicted in the attached organization chart. A copy of the chart is on file with the original of this document in the Office of the Federal Register.

SEC. 3. *Delegation of authority.* The following authority delegated to the Deputy Assistant Secretary for Domestic Commerce, is hereby redelegated to the Director, Office of Business Research and Analysis in accordance with section 2.03 of DIBA Organization and Function Order 45–1:

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

SEC. 4. *Office of the Deputy Assistant Secretary.* .01 The Deputy Assistant Secretary for Domestic Commerce, shall be responsible to the Assistant Secretary for Domestic and International Business and shall determine the objectives of the Bureau, formulate the policies and programs for achieving those objectives and direct execution of the programs. For the purpose of administration of the Defense Production Act of 1950, as amended, the Deputy Assistant Secretary shall report to the Deputy Assistant Secretary for Domestic and International Business and shall act as his Deputy.

.02 The "Deputy Director" shall assist in the direction of the Bureau and perform the functions of the Director in the latter's absence.

.03 The "Deputy Assistant Secretary" shall supervise and direct the following organizational components:

a. Office of the Deputy Assistant Secretary
b. Office of Domestic Business Policy
c. Office of Business Research and Analysis
d. Office of Industrial Mobilization
e. Office of the Ombudsman for Business

SEC. 5. *Office of Domestic Business Policy.* .01 The "Office of the Director" includes: The "Director" who shall plan and direct the execution of policies and programs of the Office, and the "Deputy Director" who shall assist in the direction of the Office and perform the functions of the Director in his absence. The Director shall supervise and direct the following organizational components:

.02 The "Business Policy Development Division" shall conduct research and development policy options to improve domestic business practices. In addition to analysis of economic issues, general studies and analyses shall be performed on issues such as productivity, research and development, transfer of technology, tax, investment incentives, and management techniques.

.03 The "Industrial Relations Division" shall analyze Federal policies and industry practices that affect industrial efficiency and develop such policy options as will promote optimum utilization of human resources. The Division's area of responsibility shall include policy matters relating to labor-management relations, conditions of work, employee benefits, labor law and practices, and international labor organizations and activities.

.04 The "Legislation Division" shall review proposed legislation on business-related issues and develop policy positions on such matters. Based on current major economic issues, the Division shall research and develop Department legislative initiatives. It shall prepare and coordinate within the Bureau the preparation of responses to legislative inquiries, and coordinate its activities with the Office of the General Counsel.

.05 The "Environmental Affairs Division" shall conduct studies and develop policy options to insure a balanced environmental approach to industrial pollution problems and the development of land and marine resources. It shall provide economic and technological assessments of legislative and regulatory proposals and evaluate specific industry impacts as appropriate.

.06 The "Financial Analysis Division" shall analyze production, price, and market trends; and analyze and formulate domestic financial policy options having significance for the U.S. economy.

SEC. 6. *Office of Business Research and Analysis.* .01 The "Office of the Director" includes: the Director who shall plan and direct the execution of policies and programs of the Office, and the "Deputy Director" who shall assist in the direction of the Office and perform the functions of the Director in his absence. The Director shall supervise and direct the following organizational components:

.02 "Special Reports and Forecasting Staff" shall compile special purpose tabulations and reports involving more than one industry or business segment; shall develop techniques and methods for improving forecasting of measures of activity for specific industries and business segments; and shall be responsible for publication of industrial outlook reports covering economic and industry analysis and trends for major industries.

.03 The "Industry Sector Divisions," as listed below, shall be generally responsible for the development and maintenance of data necessary to make a current assessment of the key factors affecting their sectors' competitive position in domestic and international markets. The Divisions shall also monitor problem commodities for short-supply export controls.

Consumer Goods and Services Division
Materials Division
Construction and Forest Products Division
Transportation and Capital Equipment Division
Science and Electronics Division

.04 The "Research Division" shall obtain and maintain data to support the activities of the industry sector divisions; provide an analytical and forecasting capability in support of the Bureau's programs; and maintain the publications/editorial activities required to support the Bureau's outputs.

SEC. 7. *Office of Industrial Mobilization.* .01 The "Office of the Director" includes: the Director who shall plan and direct the execution of policies and programs of the Office, and the "Deputy Director" who shall assist in the direction of the Office and perform the functions of the Director in his absence. The Director shall supervise and direct the following organizational components:

.02 The "Mobilization Readiness Division" shall develop and test the organizational plans and procedures for the Bureau to assume the responsibility for industrial production, construction, and distribution in the event of national emergencies; assist and guide industry in preparing for the conduct of emergency operations to assure the continuity of required production; and recruit and train Executive Reservists to assume major responsibilities in the event of a national emergency.

.03 The "Industrial Resources Division" shall provide guidance and recommendations to the Office of Emergency Preparedness on matters relating to the National Stockpile Program, including the establishment of objectives, development of procurement programs and purchase specifications, special instructions, disposal programs, storage manuals and special studies; provide staff support for the Chairman, NATO Industrial Planning Committee, and the Co-Chairman, U.S./Canada Emergency Industrial Production and Materials Committee; and investigate and report on alleged impact of imports on national security.

.04 The "Industrial Evaluation Division" shall identify industrial facilities

of exceptional importance to the national security, mobilization readiness, post-attack survival, and recovery; specify standards for assessing and evaluating their production capabilities; supervise the preparation of industrial analyses of critically important products and industrial services, including essential survival items; conduct industrial feasibility studies to determine capabilities to meet national emergencies; and provide liaison between the Bureau and the Resource Analysis office of the Office of Preparedness/GSA.

.05 The "Mobilization Operations and Plans Division" shall support current national defense requirements by administering the Defense Materials System and the Defense Priorities System under Title I of the Defense Production Act of 1950, as amended and extended; plan for and maintain emergency measures for regulating industrial production and distribution during emergency situations; and develop plans for natural disasters and implement them as necessary.

SEC. 8. *Office of the Ombudsman for Business.* .01 The "Office of the Director" includes: The "Director" who shall plan and direct the execution of policies and programs of the Office, and shall also serve as the Department's Ombudsman for Business.

.02 The "Office of the Ombudsman for Business" shall receive and answer questions of Federal programs of interest to business; assist business by providing a focal point for receiving and handling communications involving information, complaints, criticisms and suggestions about Government activities relating to business; arrange conferences with appropriate officials within the Department and in other agencies, and follow up on referrals to determine whether further assistance is necessary and appropriate; and develop suggested changes to remedy the causes of business complaints about the Federal Government, as appropriate. In carrying out its functions, the Office shall not represent, intervene on behalf of or otherwise seek to assist business and individuals on specific matters, cases, or issues before Federal regulatory agencies or before Federal departments exercising a regulatory function with respect thereto; nor shall it participate in, intervene in, or in any way seek to influence, the negotiation or renegotiation of the terms of contracts between business and the Government. The Office shall also operate a centralized word processing unit serving the Bureau's needs.

SEC. 9. *Administrative, Public Affairs and Field Services.* .01 The "Office of Public Affairs for Domestic and International Business Administration" shall furnish public affairs and information services to Bureau organization units.

.02 The "Directorate of Administrative Management", Domestic and International Business Administration shall furnish management, budget, personnel, travel and administrative services to Bureau organization units. The Directorate will also serve as liaison with Departmental elements providing other administrative services to Bureau organization units.

.03 Field support necessary to Bureau of Domestic Commerce activities will be provided by the district offices of the "Office of Field Operations."

SEC. 10. *Effect on other orders.* This Order supersedes DIBA Organization and Function Order 45–2 of December 4, 1972.

Effective date: April 26, 1974.

PAUL T. O'DAY,
Acting Deputy Assistant Secretary for Domestic Commerce.

JOHN M. DUNN,
Deputy Assistant Secretary for Domestic and International Business.

Approved:

JUDITH S. CHADWICK,
Deputy Assistant Secretary for Administrative Management.

[FR Doc.74–12149 Filed 5–24–74;8:45 am]

[Organization and Function Order 41–1; Amdt. 1]

THE OFFICE OF THE ASSISTANT SECRETARY FOR DOMESTIC AND INTERNATIONAL BUSINESS

Organization and Functions

This order effective April 23, 1974 amends the material appearing at 39 FR 2780 of January 24, 1974.

DIBA Organization and Function Order 41–1, dated December 19, 1973, is hereby amended as follows:

1. In section 3. The Deputy Assistant Secretary for Domestic and International Business is revised to read:

Sec. 3. The Deputy Assistant Secretary for Domestic and International Business shall perform such duties as the Assistant Secretary shall assign and shall assume the duties of the Assistant Secretary in the latter's absence.

.01 In addition the following authorities delegated to the Assistant Secretary for Domestic and International Business by the Secretary of Commerce are hereby delegated to the Deputy Assistant Secretary for Domestic and International Business:

a. The Defense Production Act of 1950, as amended, (50 U.S.C. App. 2061, et seq.) conferred on the Secretary under Executive Order 10480, dated August 14, 1953, as amended, except authority with respect to transportation facilities and the creation of new agencies within the Department of Commerce;

b. Executive Order 11490 of October 28, 1969, as it relates to the development of national emergency preparedness plans and programs concerning production functions;

c. The National Security Act of 1947 (50 U.S.C. 401 et seq.) as amended, as it relates to mobilization preparedness responsibilities assigned thereunder;

d. The Strategic and Critical Materials Stockpiling Act, (50 U.S.C. 98–98h), as amended, with respect to the acquisition of stocks of materials for defense purposes;

e. Executive Order 11179 of September 22, 1964, with respect to the establishment and training of the National Defense Executive Reserve; and

f. Executive Order 10421 of December 31, 1952, providing for the physical security of facilities important to the national defense.

.02 For the purpose of the authorities delegated in Section .01 a.—f. above, the Deputy Assistant Secretary for Domestic Commerce shall report to the Deputy Assistant Secretary for Domestic and International Business, and shall serve as his deputy and act in his absence.

.03 The Deputy Assistant Secretary for Domestic and International Business may exercise other authorities of the Assistant Secretary as applicable to performing the functions assigned to him in this order.

.04 The Deputy Assistant Secretary for Domestic and International Business may redelegate his authority subject to such conditions in the exercise of such authority as he may prescribe.

Effective date: April 23, 1974.

TILTON H. DOBBIN,
Assistant Secretary for Domestic and International Business.

[FR Doc.74–12099 Filed 5–24–74;8:45 am]

National Bureau of Standards

GRAPHIC REPRESENTATION OF THE CONTROL CHARACTERS OF ASCII

Proposed Federal Information Processing Standard

Under the provisions of Pub. L. 89–306, the Secretary of Commerce is authorized to establish uniform Federal ADP Standards. A proposed standard on graphic representation of the control characters of ASCII that is based upon the Federal adoption of voluntary industry standards which were developed by the American National Standards Institute is being recommended for Federal use. This proposed standard specifies methods of graphical representation for the 34 characters of ASCII (American Standard Code for Information Interchange) (FIPS 1) for which a graphical representation is not indicated in FIPS 1.

Prior to the submission of a final endorsement of this proposal to the Secretary of Commerce for approval, it is essential to assure that proper consideration is given to the needs and views of manufacturers, the public and state and local governments. The purpose of this notice is to solicit such views.

The proposed Federal Information Processing Standard contains two basic sections: (1) An announcement section which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specification section which deals with the technical requirements of the standard. Both sections are provided in their entirety in this notice.

The specification section of the proposed standard is a copyrighted document and is reproduced in the FEDERAL REGISTER by permission of the American National Standards Institute. Additional copies of the specification section may be purchased from the American National Standards Institute, 1430 Broadway, New York, New York 10018 at a cost of $3.50.

Interested parties may submit comments to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, on or before August 26, 1974.

Dated: May 17, 1974.

RICHARD W. ROBERTS,
Director.

SECTION I

FIPS PUB ------

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION ------, DATE ----------

Announcing the Standard for Graphic Representation of the Control Characters of ASCII (FIPS 1)

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949 as amended, Public Law 89-306 (79 Stat. 1127), and as implemented by Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 CFR (Code of Federal Regulations).

Name of Standard. Graphic Representation of the Control Characters of ASCII.

Category of Standard. Hardware Standard, Interchange Codes and Media.

Explanation. This standard specifies graphical representation for the 34 characters of ASCII (American Standard Code for Information Interchange) (FIPS 1) for which a graphical representation is not indicated in FIPS 1. Graphical representations are given for the 32 control functions of columns 0 and 1 as well as the characters "Space" and "Delete". Two forms of graphical representations for each of the 34 characters are provided: a pictorial symbol, and a 2-letter alphanumeric code.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Institute for Computer Sciences and Technology, National Bureau of Standards.

Cross Index.

a. FIPS PUB 1, Federal Standard Code for Information Interchange.

b. FIPS PUB 15, Subsets of the Standard Code for Information Interchange.

Specifications. This standard adopts in whole American National Standard X3.32-1973, Graphic Representation of the Control Characters of ASCII, which was developed and approved by the American National Standards Institute.

Qualifications. This standard specifies two types of graphic representations of the control characters of ASCII. One type is a single-symbol pictorial representation and the other type is a two-letter alphanumeric representation. It is not intended that one representation be implemented to the exclusion of the other. The selection of the particular type to be used or specified is a decision to be made based upon the operational requirements of a given system. In certain instances, it may be desirable to implement a subset of the graphic control characters provided in the standard. In these cases, the National Bureau of Standards should be consulted for advice prior to the finalization of the technical specifications involved.

Special Information. An appendix to the standard shows two dot matrix examples for 7 x 9 and 5 x 7 dot patterns for the two-symbol alphanumeric representations of the 34 specified characters of ASCII as given in FIPS 1 (ANSI X3.4-1968). These are for information purposes only and should not be cited in technical specifications without prior arrangements and consultation with the National Bureau of Standards. Matrix representation of graphic characters as a standard is under study and consideration by the standards organizations concerned.

Applicability. This standard is applicable to equipment that prints or displays graphic representations of any or all of the control characters of ASCII (FIPS 1) or of the characters "Space" or "Delete". It is also applicable to the printing of graphic representations of such characters on media, such as perforated tape, punched cards or listings.

Implementation Schedule. This standard becomes effective one year after the publication date of this FIPS PUB. All applicable equipment ordered after this date must be in conformance with this standard unless a waiver has been obtained in accordance with the procedure described below. Exceptions to this standard are made in the following cases:

a. For equipment installed or on order prior to the effective date of this FIPS PUB.

b. Where procurement actions are into the solicitation phase (i.e., Request for Proposals or Invitation for Bids have been issued) on the effective date of this FIPS PUB.

Waiver Procedure. Heads of agencies may waive the provisions of the implementation schedule. Proposed waivers relating to the procurement of non-conforming equipments will be coordinated in advance with the National Bureau of Standards. Letters should be addressed to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234. They should describe the nature of the waiver and set forth the reasons therefor.

Sixty days should be allowed for review and response by the National Bureau of Standards. The waiver is not to be made until a reply from the National Bureau of Standards is received; however, the final decision for granting the waiver is a responsibility of the agency head.

SECTION II

ANSI

X3.32-1973

AMERICAN NATIONAL STANDARD GRAPHIC REPRESENTATION OF THE CONTROL CHARACTERS OF AMERICAN NATIONAL STANDARD CODE FOR INFORMATION INTERCHANGE

1. Scope.

1.1 This standard provides a graphic representation of the control characters given in columns 0 and 1 of the Standard Code table contained in American National Standard Code for Information Interchange, X3.4-1968 (ASCII). It also provides for the normally nonprinting character SPACE (position 2/0 of the ASCII table) and for the character DELETE (position 7/15 of the ASCII table).

1.2 The standard contains two alternatives sets of representations: a pictorial representation and an alphanumeric representation.

2. Application.

These representations are intended for use in the display of control characters on devices, where the graphic representation of these normally nonprinting characters is required. Among the devices included are paper tape punches, diagnostic printers, and cathode-ray tube devices.

3. Qualifications.

3.1 There may be no need to implement all symbols.

3.2 Each pictorial or alphanumeric representation is to be considered as a single symbol. It may occupy either one or more than one position on a printed or displayed line, depending on the implementation. Pictorial and alphanumeric representation may be intermixed in a single display.

3.3 The precise font design for the symbols is not a part of the standard.

3.4 This standard does not abrogate the use of the three character abbreviations defined in ASCII for applications where they are desired.

3.5 While optical recognition of the graphic representations given in this standard may be feasible, machine readability was not an objective of the standard.

4. Standard Graphic Representations

Code Position	Character	Pictorial Representation	Alphanumeric Representation
0/0	NUL		NU
0/1	SOH		SH
0/2	STX		SX
0/3	ETX		EX
0/4	EOT		ET
0/5	ENQ		EQ
0/6	ACK		AK
0/7	BEL		BL
0/8	BS		BS
0/9	HT		HT
0/10	LF		LF

NOTE: The pictorial representation of 0/5 is a schematic representation of ✠ which may also be used when equipment allows.

AMERICAN NATIONAL STANDARD X3.32-1973

Code Position	Character	Pictorial Representation	Alphanumeric Representation
0/11	VT		VT
0/12	FF		FF
0/13	CR		CR
0/14	SO		SO
0/15	SI		SI
1/0	DLE		DL
1/1	DC1		D1
1/2	DC2		D2
1/3	DC3		D3
1/4	DC4		D4
1/5	NAK		NK
1/6	SYN		SY

AMERICAN NATIONAL STANDARD X3.32-1973

Code Position	Character	Pictorial Representation	Alphanumeric Representation
1/7	ETB		EB
1/8	CAN		CN
1/9	EM		EM
1/10	SUB		SB
1/11	ESC		EC
1/12	FS		FS
1/13	GS		GS
1/14	RS		RS
1/15	US		US
2/0	SP		SP
7/15	DEL		DT

5. Legend.
5.1 Control Characters
NUL—Null
SOH—Start of Heading (CC)
STX—Start of Text (CC)
ETX—End of Text (CC)
EOT—End of Transmission (CC)
ENQ—Enquiry (CC)
ACK—Acknowledge (CC)
BEL—Bell (audible or attention signal)
BS—Backspace (FE)
HT—Horizontal Tabulation (punched card skip) (FE)
LF—Line Feed (FE)
VT—Vertical Tabulation (FE)
FF—Form Feed (FE)
CR—Carriage Return (FE)
SO—Shift Out
SI—Shift In
DLE—Data Link Escape (CC)
DC1—Device Control 1
DC2—Device Control 2
DC3—Device Control 3
DC4—Device Control 4 (Stop)
NAK—Negative Acknowledge (CC)
SYN—Synchronous Idle (CC)
ETB—End of Transmission Block (CC)
CAN—Cancel
EM—End of Medium
SUB—Substitute
ESC—Escape
FS—File Separator (IS)
GS—Group Separator (IS)
RS—Record Separator (IS)
US—Unit Separator (IS)
DEL—Delete [1]
5.2 Graphic Character.
SP—Space (normally nonprinting)
NOTE: CC—Communication Control
FE—Format Effector
IS—Information Separator

APPENDIX

(This Appendix is not a part of American National Standard Graphic Representation of the Control Characters of American National Standard Code for Information Interchange, X3.32–1973, but is included for information purposes only.)

FONT DESIGN CONSIDERATIONS FOR THE ALPHANUMERIC REPRESENTATIONS

A1. 7 x 9 Dot Pattern.

The 7 x 9 dot pattern representation given in Table A1 illustrates the feasibility of implementing the standard. It can also be used as a guide for designing vector-generated or hard-type character representations.

A2. 5 x 7 Dot Pattern.

The 5 x 7 dot pattern representation given in Table A1 illustrates the feasibility of reducing the entropy required to form the characters and still retain legibility.

A3. Meaning of Symbols.

Symbols selected in pictorial representations are similar to some currently in use in five-level applications. They should cause no ambiguity, since their meaning can be easily derived from the context in which they are used.

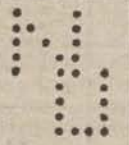
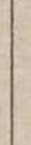
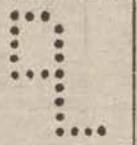
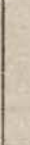
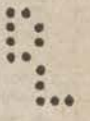
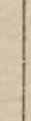
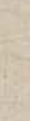
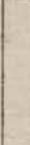
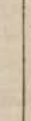
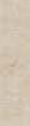
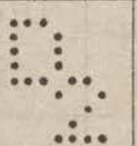
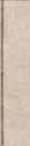
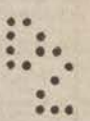
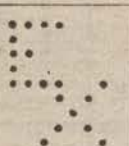
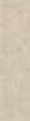
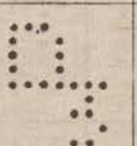
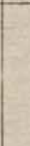
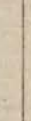
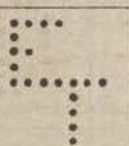
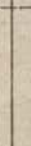
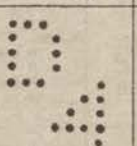
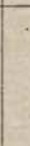
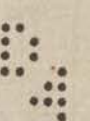
A4. Criteria for Symbols.

Symbols were chosen to be: (1) clearly printable by impact printers, (2) clearly displayable by matrix devices, (3) interpretable with no ambiguity, and (4) suggestive of the control function to be performed. Not all of these criteria were met for all symbols; however, the best possible compromise was adopted.

[1] In the strict sense, DEL is not a control character.

APPENDIX

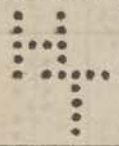
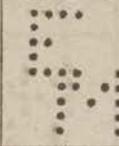
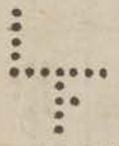
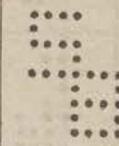
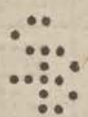
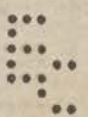
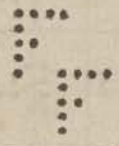
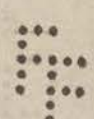
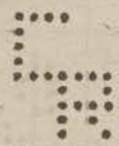
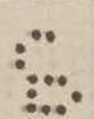
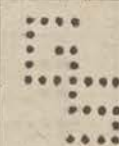
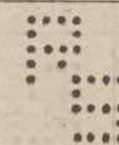
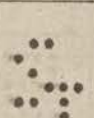
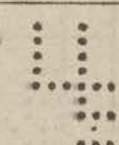
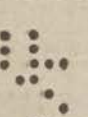
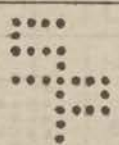
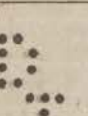
Table A1
Dot Pattern Representation

Character	7 X 9 Matrix		5 X 7 Matrix		Character	7 X 9 Matrix		5 X 7 Matrix	
NUL					DLE				
SOH					DC1				
STX					DC2				
ETX					DC3				
EOT					DC4				
ENQ					NAK				
ACK					SYN				
BEL					ETB				
BS					CAN				

(Continued on next pages)

APPENDIX

Table A1 – *Continued*

Character	7 X 9 Matrix		5 X 7 Matrix		Character	7 X 9 Matrix		5 X 7 Matrix	
HT					EM				
LF					SUB				
VT					ESC				
FF					FS				
CR					GS				
SO					RS				
SI					US				
SP					DEL				
NL									

NOTE: NL is the abbreviation for New Line, which is defined in ASCII as an alternate definition to the code for Line Feed (LF). Its graphic representation in this table is for information only.

[FR Doc.74–11878 Filed 5–24–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

DIAGNOSTIC RESEARCH ADVISORY GROUP

Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Diagnostic Research Advisory Group, National Cancer Institute, June 12, 1974, Cascades Meeting Center, Williamsburg, Virginia. This meeting will be open to the public on June 12, 1974 from 12:30 p.m. to 1 p.m. to discuss the current state of art in cancer diagnosis, as well as future research plans. Attendance by the public will be limited to space available. The meeting will be closed to the public on June 12, 1974 from 1 p.m. to 2:30 p.m. to evaluate approximately five contract proposals in accordance with the provisions set forth in section 552(b) 4 of Title 5, U.S. Code and section 10(d) of Pub. L. 92–463.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the open/closed meeting and a roster of committee members.

Irvin C. Plough, Executive Secretary, Building 31, Room 3A04, National Institutes of Health, Bethesda, Maryland 20014 (301/496–1591) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.825, National Institutes of Health).

Dated: May 22, 1974.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.74–12247 Filed 5–24–74;8:45 am]

Office of Education

GRANTS FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES

Notice of Acceptance of Applications for Filing

Notice is hereby given that the following described applications for Federal financial assistance in the construction of noncommercial educational broadcasting facilities have been accepted for filing as of the respective dates indicated below under the provisions of Title III, Part IV of the Communications Act of 1934, as amended (47 U.S.C. 390–399), and in accordance with 45 CFR 60.8.

Any interested person may, pursuant to 45 CFR 60.10, on or before June 27, 1974, file comments regarding these applications with the Chief, Educational Broadcasting Facilities Branch, Division of Technology and Environmental Education, Office of Education, Washington, D.C. 20202.

EDUCATIONAL RADIO

New Wave Corporation, 915 East Broadway, Columbia, Missouri, 65201, File No. 203–R/T0099SC, for the expansion of noncommercial educational FM radio station KOPN, broadcasting on 89.5 MH/z, Columbia, MO. Proposal determined acceptable: December 14, 1973. Estimated project cost: $66,960. Grant request: $50,210. Application signed by: Gerald Patrick Kelecher, Station Manager.

State College of Arkansas, Conway, Arkansas 72032, File No. 204–R/T0121SC, for the expansion of noncommercial educational FM radio station KASC broadcasting on 91.5 MH/z, Conway, Arkansas. Proposal determined acceptable: December 18, 1973. Estimated project cost: $40,000. Grant requested: $30,000. Application signed by: Silas D. Snow, President.

Couture School Board District #27, Public Broadcasting, Belcourt, North Dakota 58316, File No. 205–R/T0202SC, for the establishment of a noncommercial educational FM radio station broadcasting on 90.9 MH/z, Belcourt, ND. Proposal determined acceptable: March 28, 1974. Estimated project cost: $68,698. Grant requested: $51,524. Application signed by: Daniel Jerome, Superintendent.

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

This notice issued in Washington, D.C.

Dated: May 23, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.74–12286 Filed 5–24–74;8:45 am]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Public Meeting Change of Location

Notice is hereby given that the meeting of the National Advisory Council on Extension and Continuing Education which was scheduled to be held on June 6–7, 1974, in San Clemente, California will be held on the same dates but at a different location. The meeting will now be held in San Antonio Room of the Sheraton Inn, 1380 Harbor Island Drive, San Diego, California. The meetings on both days will begin at 9 a.m. local time.

Dated: May 20, 1974.

EDWARD A. KIELOCH.

[FR Doc.74–12091 Filed 5–24–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRCRAFT TYPE CERTIFICATION AND SERVICE DIFFICULTIES

Consultative Conference

The Department of Transportation, Federal Aviation Administration, will hold a consultative conference June 6 and 7, 1974, at the Washington Hilton Hotel, 1919 Connecticut Avenue, NW., Washington, D.C. 20009, to discuss the following subjects related to aircraft type certification and the correction of service difficulties on type certificated products:

1. Aircraft pressure containment and the protection of airplane occupants from sudden decompression hazards.
2. Equivalent level of safety findings.
3. Application of probability terminology in type certification.
4. Airworthiness directives (ADs).

The objectives of the conference will be to provide for an exchange of information and opinions between all interested persons, and, to encourage further studies on the subjects discussed. The discussions will be open to the public.

Persons planning to attend the conference are requested to direct their inquiries to:

Department of Transportation
Federal Aviation Administration
Flight Standards Service, AFS–1
800 Independence Avenue, SW.
Washington, D.C. 20591

Issued in Washington, D.C., on May 17, 1974.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[FR Doc.74–12181 Filed 5–24–74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50–320]

METROPOLITAN EDISON CO. ET AL.

Application for Facility Operating License

In an application dated April 22, 1968, Jersey Central Power & Light Company, Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960, filed an application for authorization to construct and operate a pressurized water nuclear reactor, designated as the Oyster Creek Nuclear Station, Unit 2, on the applicant's site in Lacey Township, Ocean County, New Jersey. A notice of receipt of application was published in the FEDERAL REGISTER on June 19, 1968 (33 FR 9038).

In license application Amendment No. 6 dated March 10, 1969, filed jointly by Jersey Central Power & Light Company and Metropolitan Edison Company, P.O. Box 542, Reading, Pennsylvania 19603, the applicants requested authorization to construct and operate the previously designated Oyster Creek Nuclear Station, Unit 2, at the Three Mile Island Nuclear Station in Londonderry Township, Dauphin County, Pennsylvania. The proposed reactor was redesignated as the Three Mile Island Nuclear Station, Unit 2, and is presently under construction adjacent to and just south of the Three Mile Island Nuclear Station, Unit 1.

Notice is hereby given that the Atomic Energy Commission (the Commission) has received an application for facility operating license for Three Mile Island Nuclear Station, Unit 2 (the facility). In license application Amendment No. 13 dated April 4, 1974, filed jointly by Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company (the applicants), the applicants have requested authorization, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, to possess, use, and operate the facility, a pressurized water nuclear reactor, at a steady-state power level of 2772 megawatts thermal.

The applicants will share ownership of the Three Mile Island Nuclear Station,

Unit 2, and Metropolitan Edison Company will have complete responsibility for the engineering, design, construction, operation and maintenance of the facility.

Copies of Amendments 6 and 13 covering the relocation and joint ownership of the facility are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Local Public Document Room established at the Government Publications Section, State Library of Pennsylvania, Harrisburg 17126.

The applicants have also filed, pursuant to the National Environmental Policy Act of 1969, and the regulations of the Commission in Appendix D to 10 CFR Part 50, an environmental report dated December 10, 1971, as supplemented, which is incorporated in the Final Safety Analysis Report by reference. The environmental report, which discusses environmental considerations related to the proposed operation of the facility, is available for inspection at the above mentioned locations, and also at the State Clearinghouse, Office of State Planning and Development, P.O. Box 1323, Harrisburg, Pennsylvania 17120, and at the Tri-County Regional Planning Commission, 341 South Cameron Street, Harrisburg, Pennsylvania 17101. The Office of the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, issued a Final Environmental Statement relating to both construction and operation of the facility in December 1972 (37 FR 26144). An updated Final Environmental Statement related to operation of the facility will be prepared, notice of availability of which will be published in the FEDERAL REGISTER.

The Commission will consider the issuance of a facility operating license to Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company, which would authorize the applicants to possess, use, and operate the Three Mile Island Nuclear Station, Unit 2, in accordance with the provisions of the license and the Technical Specifications appended thereto, upon: (1) the completion of a favorable safety evaluation on the application by the Commission's Directorate of Licensing; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 50, Appendix D; (3) the receipt of a report on the applicants' application for a facility operating license by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR Chapter I. Construction of the facility was authorized by Provisional Construction Permit No. CPPR-66, issued by the Commission on November 4, 1969. Construction of the facility is anticipated to be completed by May 1, 1977.

Prior to issuance of any operating license, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the construction permit. In addition, the license will not be issued until the Commission has made the findings reflecting its review of the application under the Act, which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicants will be required to execute an indemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

The facility is subject to the provisions of Section C of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits were issued prior to January 1, 1970. Notice is hereby given, pursuant to 10 CFR Part 2, "Rules of Practice", and Appendix D to 10 CFR 50, "Licensing of Production and Utilization Facilities", that the Commission is providing an opportunity for hearing with respect to whether, considering those matters covered by Appendix D to 10 CFR Part 50, the provisional construction permit in the captioned proceeding should be continued, modified, terminated or appropriately conditioned to protect environment values.

By June 27, 1974, the applicant may file a request for a hearing, and any member of the public whose interest may be affected by the proceeding may file a request for a public hearing in the form of a petition for leave to intervene (1) as respects, considering those matters covered by Appendix D to 10 CFR Part 50 of the Commission's regulations, (a) whether the provisional construction permit should be continued, modified, terminated or appropriately conditioned to protect environmental values and/or (b) the issuance or denial of an operating license or its appropriate conditioning to protect environmental values, and alternatively, or jointly (2) as respects issuance of the operating license in consideration of those matters covered by 10 CFR Part 50 of the Commission's regulations. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission or an atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR § 2.714. As required in 10 CFR § 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room 1717 H Street NW., Washington, D.C., by June 27, 1974. A copy of the petition and/or request should also be sent to the Chief Hearing Counsel, Office of the General Counsel, Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545, and to George F. Trowbridge, Esq., Shaw Pittman, Potts & Trowbridge, 910 17th Street NW., Washington, D.C. 20006, attorney for the applicant.

A petition for leave to intervene which is not timely will not be granted unless the Commission, the presiding officer, or the Atomic Safety and Licensing Board designated to rule on the petition determines that the petitioner has made a substantial showing of good cause for failure to file on time and after considering those factors specified in 10 CFR § 2.714(a)(1)-(4) and § 2.714(d).

For further details pertinent to the matters under consideration, see the application for the facility operating license dated April 4, 1974; the applicants' revised Environmental Report dated December 10, 1971; Amendment No. 1 thereto dated March 3, 1972, and Amendment No. 2 dated April 30, 1973; the Draft Detailed Statement dated June 1972; and the Final Environmental Statement dated December 1972, which are available for public inspection at the above mentioned locations in Washington, D.C., and Harrisburg, Pennsylvania.

As they become available, the following documents may be inspected at the above locations: (1) the safety evaluation report prepared by the Directorate of Licensing; (2) the Commission's updated Final Environmental Statement; (3) the report of the Advisory Committee on Re-

actor Safeguards on the application for facility operating license; (4) the proposed facility operating license; and (5) the technical specifications, which will be attached to the proposed facility operating license.

Copies of the above items, when available, may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

For the Atomic Energy Commission.

Dated at Bethesda, Maryland, this 20th day of May 1974.

KARL KNIEL,
Chief, Light Water Reactors Branch 2-2, Directorate of Licensing.

[FR Doc.74-12257 Filed 5-24-74;8:45 am]

[Docket No. 50-423]

MILLSTONE POINT CO., ET AL.

Evidentiary Hearing

In the matter of The Millstone Point Co., et al. (The Millstone Nuclear Power Station, Unit No. 3).

The evidentiary hearing in the captioned proceeding will resume on Monday, June 17, 1974, 9:30 a.m., at the Licensing Board Panel Hearing Room, No. 1202, 7910 Woodmont Avenue, Bethesda, Maryland.

It is so ordered.

Dated at Bethesda, Maryland, this 20th day of May, 1974.

ATOMIC SAFETY AND LICENSING BOARD,
EDWARD LUTON,
Chairman.

[FR Doc.74-12059 Filed 5-24-74;8:45 am]

[Docket Nos. 50-354; 50-355]

PUBLIC SERVICE ELECTRIC AND GAS CO.

Evidentiary Hearing

In the matter of Public Service Electric and Gas Co. (Hope Creek Generating Station, Units 1 and 2).

The evidentiary hearing in the captioned proceeding will resume on Friday, May 31, 1974, 9:30 a.m., at the Licensing Board Panel Hearing Room, No. 1202, 7910 Woodmont Avenue, Bethesda, Maryland.

It is so ordered.

Dated at Bethesda, Maryland, this 20th day of May, 1974.

ATOMIC SAFETY AND LICENSING BOARD,
EDWARD LUTON,
Chairman.

[FR Doc.74-12058 Filed 5-24-74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Notice of Meeting

MAY 24, 1974.

The Management-Labor Textile Advisory Committee will meet at 2:00 p.m. on June 12, 1974, in Room 6802, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

The Committee, which is comprised of 40 members having special expertise in the textile and apparel industry, advises Department officials on conditions in the textile industry and on trade in textiles and apparel.

The agenda for the meeting is as follows:

1. Review of Import Trends.
2. Implementation of Textile Agreements.
3. Report on Conditions in the Domestic Market.
4. Other Business.

A limited number of seats will be available to the public. The public will be permitted to file written statements with the committee before or after the meeting. To the extent time is available at the end of the meeting the presentation of oral statements will be allowed.

Portions of future meetings which concern subjects not listed above will be open to public participation unless it is determined, in accord with section 10(d) of the Federal Advisory Committee Act and the OMB Circular A-63 (revised) of March 27, 1974 on Advisory Committee Management, that specifically identified portions will be closed.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74-12301 Filed 5-24-74;10:01 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council on Environmental Quality from May 13 through May 17, 1974. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines, the minimum period for public review and comment on draft environmental impact statements is on or before July 8, 1974.

Copies of individual statements are available for review from the originating agency. Back copies will also be available from a commercial source, the Environmental Law Institute, of Washington, D.C.

ATOMIC ENERGY COMMISSION

Contract: For nonregulatory matters: Mr. W. Herbert Pennington, Office of Assistant General Manager, E-201, AEC, Washington, D.C. 20545, 301-973-4241. For regulatory matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, P-722, AEC, Washington, D.C. 20545, 301-973-7373.

Draft

Legislation to amend the Price-Anderson Act, May 14: The statement refers to proposed legislation which would amend the Price-Anderson Act (sec. 170 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2210). The requirement of the Act that certain licensees provide financial protection and be idemnified for public liability claims arising out of a nuclear incident would be extended for 10 years, from August 1, 1977 to August 1, 1987. Other aspects of the legislation would provide a mechanism which would result in the phasing out of government indemnity now provided through appropriated funds; and change the maximum amount of liability insurance required by law. (ELR Order No. 40793.)

Douglas Point Station, Units 1 and 2, Charles County, Md., May 14: Proposed is the issuance of construction permits to the Potomac Electric Power Company for Units 1 and 2 of the Douglas Point Nuclear Generating Station. The identical boiling water reactors will produce 3579 MWT each, which will be converted to 1178 MWE (net); safety design ratings of 3758 MWT and 1237 MWE are considered in the statement. Cooling will be accomplished through natural draft wet towers, with water drawn from the Potomac River at a maximum of 108,000 gpm. Construction will convert 200 acres forest land to industrial use; new transmission line will require 464 acres for right-of-way. (ELR Order No. 40794.)

Final

St. Lucie Plant, Unit 2, Florida, May 17: Proposed is the issuance of a construction permit to the Florida Power and Light Company for a second unit at the St. Lucie Plant, which is located on Hutchinson Island, midway between Fort Pierce and Stuart. The 2560 MWt reactor will allow a production of 850 MWe (gross); a future power level of 2700 MWt is anticipated. Exhaust steam for both units of the Plant will be cooled by water pumped from and discharged to the Atlantic Ocean. There may be some adverse impacts to local turtle populations. Comments made by: AHP, USDA, DOC, HEW, DOI, DOT, EPA, FPC, and state and local agencies. (ELR Order No. 40808.)

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Transmission Line, Apalachicola National Forest, Fla., May 17: Proposed is the granting of an application for a right-of-way for a 230 KV transmission line across the Apalachicola National Forest. The line would connect the Hopkins Power Plant with a Florida Power Corp. transmission line between St. Marks and Crawfordsville. There will be adverse impact to aesthetics, forest enjoyment, commercial forestry, and potential airport (Tallahassee) expansion (72 pages). (ELR Order No. 40809.)

Eureka-Grave Creek Unit, Kootenai National Forest, Mont., May 15: Proposed is the implementation of a multiple use plan for the 93,585 acre Eureka-Grave Creek Planning Unit of the Kootenai National Forest. Management values will include wilderness; big game forage; grizzly bear habitat; watershed protection; timber production; recreation; and visual resources. There will be adverse impact from timber harvest and road construction (131 pages). (ELR Order No. 40802.)

Cascade Head Area, Siuslaw National Forest, Tillanook and Lincoln Counties, Oreg., May 14: The statement evaluates legislation that would extend the boundary of the Siuslaw National Forest to include lands in the Cascade Head-Salmon River Area, in

order to protect the area's unique values. The action would result in controls upon commericial and residential development; opportunities for mass public recreation will be given up in favor of dispersed forms of use (64 pages). (ELR Order No. 40787.)

Final

Spruce Budworm Suppression, Lake County, Minn., May 15: Proposed is the treatment of 3,500 acres of forest land within the Finland State Forest, in order to prevent or minimize further spruce-budworm caused tree mortality and reduce high budworm populations until logging operations are able to remove the mature timber. The insecticide mexacarbate (Zectran R) will be applied aerially, in conjunction with continuing salvage operations. Some nontarget areas will be adversely affected (69 pages). Comments made by: Concerned citizens. (ELR Order No. 40800.)

South Fork Yaak Planning Unit, Kootenai, National Forest, Lincoln County, Mont., May 14: The statement refers to the proposed implementation of a revised multiple use plan for the South Fork Yaak Planning Unit, Yaak Ranger District, Kootenai National Forest. Approximately 47,000 acres have been stratified into six management situations, for such values as big game winter forage production, timber harvesting, recreation, and livestock grazing. Adverse impact will include the construction of roads in presently roadless areas, soil and vegetative disturbance, and air and noise pollution (116 pages). Comments made by: DOI, EPA, USDA, and state agencies. (ELR Order No. 40788.)

Porcupine/Buffalo Horn Unit, Gallatin National Forest, Gallatin County, Mont., May 15: The statement refers to the proposed implementation of a revised multiple use plan for the Porcupine/Buffalo Horn Planning Unit of the Gallatin National Forest. The 46,167 acre Unit is broken into four subunits; the majority of the Unit will be maintained in a roadless state, with some road construction on two drainages. There will be aerial logging, one highly developed campground, and three minimum-developd end-of-road facilities. Two trails will be constructed, and one will be reconstructed. Impact will be to elk and other wildlife, and to watersheds (approximately 200 pages). Comments made by: EPA, DOI, USDA, state and local agencies, and concerned citizens. (ELR Order No. 40803.)

SOIL CONSERVATION SERVICE

Draft

Chicod Creek Watershed (2), Pitt and Beaufort Counties, N.C., May 17: The revised statement refers to a watershed protection project on the Chicod Creek Watershed. Project measures will include land treatment; 66 miles of stream channel work; two wildlife wetland preservation areas; one warm-water impoundment; eleven rock structures; 30 water-control structures; and 10 sediment traps. Adverse impact will include the commitment of 76 acres of cropland, 140 acres of upland forest; and 360 acres of hardwood wildlife habitat to project measures; and the reduction of carrying capacity on 657 acres of wetland habitat and 14 miles of stream fishery (three volumes). (ELR Order No. 40819.)

Final

Assunpink Creek Watershed Project, Mercer and Monmouth Counties, N.J., May 13: The statement refers to a watershed protection, recreation, flood prevention, and water storage project on the Assunpink Creek Watershed. Project measures include land treatment, multiple-purpose structures, and channel works. Adverse impact will include the permanent inundation of 197 acres of wetlands and the temporary inundation of 415 acres of wetlands (183 pages). Comments made by: COE, HEW, DOI, DOT, EPA, DRBC, state agencies, and concerned citizens. (ELR Order No. 40779.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN–PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202–693–7168.

Draft

Talkeetna, Flood and Bank Erosion Control, Alaska, May 13: The statement refers to the proposed construction of a 600 ft. sand and gravel dike, 1,000 ft. of bank grading and seeding, and 1,400 ft. of rock revetment. The purpose of the structural measures is to prevent bank erosion by flood waters of the Talkeetna and Susitva Rivers. Approximately 2 acres of vegetation along the riverbanks will be lost (Anchorage District) (68 pages).

Ala Wai Harbor, Oahu, Hawaii, May 13: The statement refers to a proposed harbor protection project for Ala Wai Harbor. Project measures would include a 1,910 foot long, 90 foot wide revetted mole, parallel to and 110 feet seaward of the existing breakwater; and construction of new permanent berthing facilities for 64 boats. Adverse impact will include the loss of 4.5 acres of reef flat, and the disturbance of associated marine biota (55 pages). (ELR Order No. 40766.)

Flood Control, Saginaw and Flint Rivers, Genesee County, Mich., May 17: Proposed is a flood control project for the Flint River. Project measures include the realignment and modification of 11,000 feet of the Flint River, and 8,900 feet of Swartz and Thread Creek, tributaries to the Flint. The project is designed to provide protection against a once in 67 year flood. Adverse impact will include construction disruption, and increases in suspended sediment levels (Detroit District) (33 pages). (ELR Order No. 40810.)

Flood protection, Wears Creek, Jefferson City, Mo., May 15: Proposed is a flood protection project in Wears Creek in Jefferson City. Project measures will include a covered conduit and the filling of the surrounding area by hydraulic fill. Adverse impact will include construction disruption, and relocation of 135 residences and 70 businesses (Kansas City District). (ELR Order No. 40797.)

Candy Lake, Candy Creek, Osage County, Okla., May 13: The statement refers to the proposed Candy Lake located in Osage County on Candy Creek. Project purposes are flood control, water supply, recreation, and fish and wildlife. The project consists of an earth dam, a reinforced concrete outlet works, an uncontrolled spillway, and project buildings and access roads. Adverse impacts are the inundation of 2,170 acres of land and 7.5 miles of Candy Creek, displacement of pipelines, powerlines and telephone lines, and relocation of 8 families. (Tulsa District) (103 pages). (ELR Order No. 40778.)

Hay Creek Flood Control Project, Birdsboro, Pa., May 13: The project involves the construction of approximately 4,150 linear feet of levees and floodwalls along portions of Hay Creek. The East Main and and East First Bridges will be raised by 6 and 4 feet respectively, to accommodate the levees and floodwalls. The Penn Central Railroad Bridge is to be modified by moving the center pier 16 ft. eastward so that it would be out of the Hay Creek channel. There will be temporary adverse effects of construction including traffic congestion, noise, and turbidity. (Philadelphia District) (70 pages). (ELR Order No. 40786.)

San Juan Harbor, Maintenance Dredging, Puerto Rico, May 13: The project consists of maintaining the authorized depths of San Juan Harbor navigation channels by the removal of shoaled materials. Approximately 3,190,000 cu. yds. of material will be removed and placed in upland and ocean disposal areas in scheduled FY–74 and FY–75 maintenance. Adverse impacts include the destruction of some benthic organisms, temporary turbidity and siltation caused by dredging, loss of vegetation in the upland disposal area, and some organisms will be covered at the offshore disposal site (Jacksonville District) (44 pages). (ELR Order No. 40784)

Final

St. Lucie Inlet (2), Florida, May 13: The statement refers to the proposed deepening of St. Lucie Inlet, the extension of the north jetty, and the construction of a south jetty. Dredged sand will be used for beach nourishment; removed rock will be used for jetty construction. Adverse impact will be to marine biota (Jacksonville District) (approximately 100 p.). Comments made by: USCG, DOT, DOI, EPA, HUD, DOC, USDA, and state agencies. (ELR Order No. 40773.)

Saylorville Flood Control Project, Des Moines River, Polk County, Iowa, May 17: The statement refers to the continuation of construction of the Saylorville Lake multipurpose project for flood control, low-flow augmentation, fish and wildlife management, and recreation. The project includes a 6,750 foot crest-length, 105 foot high earth fill dam on the Des Moines River, with a permanent pool of 5,400 acres and a full flood pool of 16,700 acres. Also included is the Big Creek sub-impoundment and its 885 acre lake. Adverse impact will include the loss of wildlife habitat and archeological sites, and the displacement of residents. (Rock Island District). Comments made by: EPA, DOI, USDA, DOT, state agencies, and concerned citizens. (ELR Order No. 40807.)

Clinton Local Protection Project, Clinton County, Iowa, May 17: The statement refers to a flood control project which protects the City of Clinton on the Mississippi River. Project measures include earthen levee, floodwalls, interior drainage facilities, and pumping stations. Some riverine habitat will be lost in Joyce and Beaver Islands (55 pages). Comments made by: EPA, DOC, DOI, USDA, DOT, state and local agencies, and concerned citizens. (ELR Order No. 40814.)

Freeport Harbor Navigation Project, Brazoria County, Tex., May 17: The project involves the altering of the existing 36-foot navigation project, by easing a channel bend near the Gulf Intracoastal Waterway and Brazosport turning basin, and increasing the size of the vessel maneuvering area at the north of Brazos Harbor Channel. Adverse impacts include the removal of some bottom dwelling organisms, and the loss of 135 acres of vegetation due to the disposal of dredged materials. Dredging operations will cause localized and temporary increases in turbidity. Comments made by: DOI, DOC, EPA, USCG, state and local agencies, and concerned citizens. (ELR Order No. 40826.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630, Waterside Mall, Washington, D.C. 20460, 202–755–0940.

Final

Water Control Plant, District of Columbia, May 17: Proposed is the expansion (from 240 mgd to 309 mgd), and upgrading of the existing D.C. water pollution control facilities. Onsite disposal of undigested plant sludge by incineration is planned, with the ash residue transported to approved sanitary landfills for ultimate disposal. Comments made by: USCG, USDA, DOI, DOC, COE, EPA,

GSA, USN, state and local agencies. (ELR Order No. 40806.)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, 202–386–6084.

Draft

Montana-Wyoming Pipeline, Docket No. CP73–340, Carbon and Chauteau Counties, Mont., May 17: Proposed is the granting of a certificate to the Colorado Interstate Gas Company for the construction of a 223 mile, 16 inch pipeline, a 114 mile, 16 inch pipeline loop, a compressor/dehydration station, and other appurtenant facilities. The pipeline would extend from the Elk Basin Field to the Bearpaw Mountain Area. There will be impact to "man, soil vegetation, wildlife, water quality, air quality, and noise levels." (ELR Order No. 40815).

Refugio-Waha Project, Docket CP73–260, several counties, Texas, May 17: Proposed is the issuance of a certificate to the El Paso Natural Gas Company for the construction and operation of certain facilities necessary for the transportation of new natural gas supplies from a Transco pipeline in Refugio County to El Paso's main system near Coyanosa. Project measures will include 418.5 miles of 24 inch pipeline, 5 compressor stations, and appurtenant facilities. There would be impact on "man, wildlife, vegetation, soil, water and air quality, and noise levels" (166 pages). (ELR Order No. 40813.)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Contact: Mr. Paul Cromwell, Acting Director, Office of Environmental Affairs, Office of the Assistant Secretary for Administration and Management, Room 3718, HEW-North, Washington, D.C. 20202, 202–963–4456.

Final

Community Health Facility, Elko County, Nev., May 17: The statement refers to the proposed construction of a replacement hospital at Owyhee, on the Duck Valley Shoshone-Paiute Indian Reservation. The new facility will provide major curative and preventative health programs planned to meet the needs of 2,000 people. The present facilities are considered inadequate. Temporary adverse effects will result from construction activities. Comments made by: EPA, DOD, HEW, AHP, DOT, and local agencies. (ELR Order No. 40804.)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Mr. Richard H. Broun, Acting Director, Office of Community and Environmental Standards, Room 7206, 451 7th Street SW., Washington, D.C. 20410, 202–755–5980.

Draft

Demolition of Pruitt-Igoe Public Housing, St. Louis, Mo., May 13: The statement refers to the proposed demolition of 30 eleven story buildings of the Pruitt-Igoe Housing Complex, and the removal of rubble from the site. The housing is considered to be uninhabitable, vandalized, vermin-infested, and otherwise dangerous. Adverse impact of the action will include the cost of removal; disruption of traffic; increased air and noise pollution levels; and the decline in the use of existing services, such as schools and health facilities (94 pages). (ELR Order No. 40769.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202–343–3891.

NATIONAL PARK SERVICE

Draft

F. D. Roosevelt National Historic Site, New York, May 17: Proposed is the implementation of a master plan for the management of the Franklin D. Roosevelt National Historic Site in Hyde Park, New York. The Roosevelt Site will be managed in conjunction with the Vanderbilt Mansion National Historic Site, also in Hyde Park. Administrative and management functions of the site would be relocated; tax revenue to the town would be decreased by the acquisition of the Morgan estate and a portion of the Kessler property (51 pages). (ELR Order No. 40818.)

DEPARTMENT OF JUSTICE

Contact: Mr. William Cohen, Land and Natural Resources Division, Room 2129, Department of Justice, Washington, D.C. 20530, 202–737–2730.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Final

Southeast Tennessee Regional Correctional Facility, Marion County, Tenn., May 17: The statement refers to the proposed construction of a Regional Correctional Facility which will accommodate 400 inmates. The Facility will be located on a 45 acre site in the Prentice Cooper State Forest, ten miles northwest of Chattanooga, and will comprise a complex of minimum and medium security quarters, day rooms, classrooms, a library, chapel, medical clinic, and related structures. Adverse impact of the project will include the release of wastewater effluent to an adjacent creek, and the change in land use from forestry to institutional (95 pages). Comments made by: EPA, DOI, USDA, state and local agencies, and concerned citizens. (ELR Order No. 40820.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202–426–4357.

FEDERAL AVIATION ADMINISTRATION

Draft

Seattle-Tacoma International Airport, Wash., May 17: Proposed is the acquisition of 317 acres of land adjacent to the Seattle-Tacoma International Airport, in order to comply with FAA land use compatibility recommendations. The action will result in the displacement of 700 families and the closure of two schools, necessitating economic and social readjustments. (ELR Order No. 4081.)

Final

Thief River Falls Airport, Pennington County, Minn., May 13: The project will include the acquisition of 410 acres in fee title and 243 acres in easement; the widening and extending of the NW/SE runway from 90′ x 5100′ to 150′ x 6500′; the construction of parallel taxiways; and the installation of lighting. Eight families will be displaced by the project; two roads will be relocated; air and noise pollution levels will increase (41 pages). Comments made by: USDA, DOI, EPA, COE, DOT, and state and local agencies. (ELR Order No. 40782.)

Stanly County Airport, Albemarle, Stanly County, N.C., May 17: The project is the construction of a new public-use airport located in Albemarle. Of the 160 acres of land that will be acquired, 42 acres of trees will be cleared. Construction includes: a 75′ x 3,900′ runway, 150′ x 400′ aircraft parking apron, stub taxiway, partial parallel taxiway to the S/W end, installation of lighting systems, and construction of maintenance, storage and T-hangar areas. The project will displace wildlife and introduce high air and noise pollution levels into a new area (32 pages). Comments made by: EPA, USDA, DOI, and state agencies. (ELR Order No. 40816.)

Dallas-Fort Worth Regional Airport, Tex., May 13: The statement refers to the proposed continuation of the development of the Dallas-Fort Worth Airport. The project consists of: acquisition of 17,520 acres of land; construction of two N/S parallel runways and a NW/SE runway; installation of associated lighting and navaids; construction of associated taxiways, ramps and maintenance areas; construction of 4 terminals, service structures, spine roadway system, and an intra-airport transit system. Adverse impacts are the use of land, and increased levels of air and noise pollution (2 volumes). Comments made by: EPA, HEW, DOT, HUD, USDA, DOI, COE, FPC, state and local agencies. (ELR Order No. 40775.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

S.R. 39, Sterling Rd. to Springfield, Idaho, May 15: The project involves the construction of a rural 2-lane highway from Sterling Rd. to Springfield in Bingham County. The length of the project will be 7 miles. Adverse impacts are disruption and severance to some existing agricultural units, and the displacement of 1 family and the possible displacement of 1 business (53 pages). (ELR Order No. 40801.)

Freeway 520, Hardin and Grundy Counties, Iowa, May 17: Proposed is the construction of Freeway 520, from U.S. 65 to one half mile west of the Grundy-Black Hawk County line, a distance of approximately 37.6 miles. The four lane highway will require from 1400 to 1500 acres of high quality cropland for right-of-way (137 pages). (ELR Order No. 40817.)

Interstate 90, Garrison East and West, Powell County, Mont., May 13: The statement refers to the proposed construction of a segment of I–90 in Powell County between Butte and Missoula. The project begins 1.8 miles northwest of Garrison and extends 7.5 miles, southeast, generally along existing U.S. 10, where it joins completed I–90 north of Deer Lodge. Adverse impacts are the use of 217 acres of agricultural land, increased air and noise pollution levels, and the disruption of stream banks and stream at the Little Blackfoot River bridge site (38 pages). (ELR Order No. 40777).

New Hampshire Route 101–A, Hillsborough County, N.H., May 15: The project involves the construction of New Hampshire Rte. 101–A from Amherst to Nashua in Hillsborough County. The 4-lane facility will have a length of 4 miles. Adverse impacts include increased noise levels, acquisition of 15 acres of land, and displacement of 9 families and 4 businesses. (ELR Order No. 40799.)

State Trunk Highway 28, Sheboygan County, Wis., May 17: Proposed is the construction, on new location, of 4.8 miles of State Trunk Highway 28, from Sheboygan Falls to the city of Sheboygan. Some additional land will be required for right-of-way, and a number of homes will be displaced (84 pages). (ELR Order No. 40812.)

Final

Alabama State Route 110 and I–85, Montgomery County, Ala., May 14: The proposed project is the construction of a new two-lane highway to provide access to the Auburn University extension from Alabama State Route 110 and Interstate 85. Project length is 2.2 miles. Approximately 60 acres of rural land will be acquired for right-of-way. There will be an increase in air pollution by vehicle emission and noise (50 pages). Comments made by: EPA, HUD, DOT, HEW, USDA, COE, DOI, and state agencies. (ELR Order No. 40792.)

U.S. 10, Otter Tail County, Minn., May 15: Proposed is the improvement of a 22 mile

segment of U.S. 10 to a four lane expressway. The project will extend from Pelham to the town of Wadena. New York Mills and Bluffton are located within the improvement. Approximately 410 acres of right-of-way is needed for the facility; 8 families and 1 business will be displaced. Other adverse effects of the action are temporary increases in noise and air pollution during construction, and loss of vegetative cover. Comments made by: EPA, USDA, DOT, DOI, HEW, and state agencies. (ELR Order No. 40795.)

U.S. 26, Mitchell to Scotts Bluff, Morrill and Scotts Bluff County, Nebr., May 13: The statement refers to the construction of a freeway from Mitchell to Scotts Bluff. Adverse impacts include the acquisition of land, relocation of wildlife, displacement of families, and disturbances normally associated with construction (74 pages). Comments made by: USDA, HUD, DOI, EPA, and state agencies. (ELR Order No. 40772.)

I–93, Hillsborough and Merrimack Counties, N.H., May 13: The project involves the construction of I–93 beginning near Candia Road in Manchester and continuing 5.9 miles to the F. E. Everett Turnpike in the town of Hooksett. Adverse environmental impacts include relocation of 123 families and 19 businesses, a temporary increase in siltation caused by bridge construction, and an increase in noise levels (approx. 300 pages). Comments made by: EPA, USDA, HEW, HUD, DOI, DOC, FPC, DOT, COE, USCG, and state and local agencies, and concerned citizens. (ELR Order No. 40771.)

US 66, I–40, and SR 39, Quay County, N. Mex., May 14: The project entails the reconstruction of US 66 and SR 39 to four lane facilities, in order to meet specifications required by the construction of I–40. The project begins east of Tucumari and extends 14.04 miles easterly to a point two miles east of San Jon. Adverse impact will include the loss of 900 acres of range and farm land, increases in air and noise pollution, and the relocation of 3 families and 2 businesses. (46 pages). Comments made by: DOI and state and local agencies. (ELR Order No. 40791.)

12th Avenue North, Fargo, Cass County, N. Dak., May 14: The proposed project consists of constructing a 63-foot curb and gutter section from the Interstate 29 interchange to 29th Street. The project is on 12th Avenue. Length of the project and the amount of land to be acquired is unspecified. One business will be displaced. Increases in noise levels will occur (113 pages). Comments made by: EPA, DOT, and state and local agencies. (ELR Order No. 40790.)

US–62 and SH–80A, Fort Gibson, Muscogee County, Okla., May 13: Proposed is the improvement of US 62 by relocation from the Arkansas River, northeasterly 6.8 miles bypassing Fort Gibson on the south, and the extension of SH 80A from Fort Gibson south 1.1 mile to connect to US 62. Adverse impacts include the displacement of 13 families and the reduction of area pasture lands, cultivated lands and woodlands (118 pages). Comments made by: EPA, DOI, USDA, HEW, COE, USCG, and state and local agencies. (ELR Order No. 40774.)

Cross Valley Expressway, Luzerne County, Pa., May 15: The statement refers to the construction of the Cross Valley Expressway, a 2.5 mile four lane, limited access highway on new location in Luzerne County. Adverse impacts include acquisition of both public and private park and recreation land and the displacement of 226 families. A 4(f) determination is to be made on Connolly Field, Scanlon Field, and Park Place (189 pages). Comments made by: USDA, DOI, DOC, EPA, and state and local agencies. (ELR Order No. 40796.)

U.S. Route 521, Lancaster County, S.C., May 15: The project involves the widening of U.S. Route 521 for 13 miles. The amount of land to be acquired is unspecified. Ten families and one business will be displaced. An increase in noise pollution will occur (24 pages). Comments made by: DOC, DOI, COE, HUD, and state agencies. (ELR Order No. 40798.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Final

Philadelphia Airport High Speed Rail Line, Pennsylvania, May 17: The action involves the filing of an application for Federal capital grant assistance to construct a rapid rail system between Suburban Station Penn Center, Philadelphia and the passenger terminal at the Philadelphia International Airport. The line will be 9 miles long. Aerial portion of the line will have severe visual and acoustical impact on the Tinicum Wildlife Preserve. One scrap metal establishment will be displaced, and portions of a playground and P.E. Company will be acquired. Adverse impacts will occur to fish and wildlife habitat in the Tinicum Wildlife Reserve. Comments made by: EPA, DOT, DOI, HUD, USDA, DOC, COE, and state and local agencies. (ELR Order No. 40805.)

U.S. COAST GUARD

Final

Ohio River Bridge, Huntington, W. Va.-Ohio, May 13: The statement refers to the proposed construction of a bridge across the Ohio River from Guyandotte, West Virginia to Proctorville, Ohio. The entire length of the project is 1.5 miles of 2 lane roadway. Adverse impacts include increased air and noise pollution levels, and the displacement of 6 businesses and 25 families. A 4(f) determination is to be made concerning the Guyandotte Public Use Area in West Virginia. Comments made by: DOT, EPA, DOI, COE, DOC, HEW, state and local agencies, and concerned citizens. (ELR Order No. 40783.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.74–12073 Filed 5–24–74;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

ARCHITECTURAL GLASS

Proceeding for Development of Proposed Consumer Product Safety Standard

The Consumer Product Safety Commission has preliminarily determined that hazards associated with architectural glass present unreasonable risks of death or injury; and that one or more consumer product safety standards are necessary to eliminate or reduce those unreasonable risks of injury. The purpose of this notice is to commence a proceeding pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056) for the development of a consumer product safety standard applicable to architectural glass. The development period for this standard shall end on or before October 25, 1974. The Commission may by notice in the FEDERAL REGISTER extend the period for development if it finds for good cause that a different period of time is appropriate.

As used in this notice, the term "architectural glass" includes glass and other glazing materials sold to or used, consumed or enjoyed by consumers in or around a permanent or temporary household or residence, a school, in recreation, or otherwise. Examples of areas where architectural glass covered by this Notice may be used include the following: (a) Doors, including storm doors and combination doors, in residential and other buildings occupied or used by consumers; (b) all windows including fixed panels or sidelites in residential and other buildings occupied or used by consumers; (c) shower doors and enclosures in residential and other buildings occupied or used by consumers; and (d) bath tub enclosures in residential and other buildings occupied or used by consumers.

Persons interested in submitting existing standards or offering to develop a standard must follow the regulations issued under section 7 of the Consumer Product Safety Act (16 CFR 1105.1 through 1105.9) concerning the submission of existing standards, offers to develop standards and the development of standards. Relevant portions of the procedures for submitting an existing standard as a proposed consumer product safety standard, or offering to develop a consumer product safety standard, are repeated below. These regulations are published in the FEDERAL REGISTER of May 7, 1974 (39 FR 16202), a copy of which is available from the Office of the Secretary, Consumer Product Safety Commission, 1750 K Street NW., Washington, D.C. 20207.

On June 20, 1973, the Consumer Safety Glazing Committee (hereinafter identified as CSGC) petitioned the Consumer Product Safety Commission pursuant to section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) to commence a proceeding for the development of a consumer product safety standard for architectural glass.

On November 1, 1973, the Commission, on the basis of information submitted by the CSGC, consideration of injury data reported by the National Electronic Injury Surveillance System (NEISS), and review of information gathered by the National Commission on Product Safety, granted CSGC's petition requesting that the Commission commence a proceeding to develop a consumer product safety standard for architectural glass.

Copies of the petition, the briefing package prepared for the Commission by CPSC staff in connection with the petition, and the research data referred to above, are available for public inspection in the Office of the Secretary.

In accordance with section 7(b) of the Act and regulations issued under section 7 of the Act (16 CFR 1105.1 through 1105.9), this notice (a) identifies the product and the nature of the risks of injury associated with the product; (b) is based on a determination that a consumer product safety standard is necessary to eliminate or reduce the risks of injury; (c) includes information with respect to existing standards known to the Commission which may be relevant to this proceeding; and (d) invites any person to submit an existing standard as a proposed consumer product safety standard or to submit

an offer to develop a proposed consumer product safety standard for architectural glass.

NATURE OF THE RISK OF INJURY

Information about injuries associated with architectural glass which indicate a need for remedial action has been developed by Commission staff and other sources. They include the following:

1. Hearings of the National Commission Product Safety, 1968–1970, primarily Volume III (pp. 1–217), Supplement II (pp. 291–362 and 457–495) and Summary (pp. 12–13).

2. National Electronic Injury Surveillance System, Surveillance Data reported July 1, 1972, through June 30, 1973. During the period from July 1, 1972, through June 30, 1973, it is estimated that 187,000 injuries associated with architectural glass were treated in hospital emergency rooms.

3. Hazard analysis of in-depth investigations conducted by the Food and Drug Administration and subsequently by the Consumer Product Safety Commission.

Copies of the information indicated above are available for public inspection in the Office of the Secretary.

After review of the information reported by the sources listed above, the Commission has preliminarily determined that the hazards associated with architectural glass present unreasonable risks of death or injury. The hazards and the nature of the risks of injury include the following:

1. Lacerations, contusions, abrasions and other injury or death resulting from walking or running into glass doors or panels believed to be open or mistaken as a means of ingress or egress; or pushing against glass panels in an attempt to open a door.

2. Lacerations, contusions, abrasions and other injury or death resulting from accidentaly falling into or through doors with glass, fixed panels or sidelites, windows, bathtub enclosures and shower stalls.

3. Lacerations, contusions, abrasions, and other injury or death resulting from opening, closing, washing or otherwise handling windows.

4. Lacerations, contusions, abrasions, and other injury or death resulting from the act of installing, replacing, storing or otherwise manipulating glass panels in doors, flat fixed panels or sidelites, windows, bathtub enclosures and shower stalls, or from broken glass in doors, flat fixed panels or sidelites, windows, bathtub enclosures and shower stalls.

EXISTING STANDARDS

The Commission has received information about the existence and provisions of the following standards and specifications which may be relevant to this proceeding:

1. Federal Housing Administration, "Minimum Property Standards for One and Two Family Living Units," FHA #300, November 1966, and 55 revisions, section 711.

2. Federal Housing Administration, "Minimum Property Standards for Multi-Family Housing," FHA #2600, February 1971, Section M611.

3. American National Standards Institute Standards ANSI Z97.1–1972, "Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings." (First promulgated in 1966.)

4. American Insurance Association, Building Officials and Code Administrators International, Inc., International Conference of Building Officials, and Southern Building Code Congress, "One and Two Family Dwelling Code," 1971 Edition, sections R–208 and R–209.

5. Building Officials and Code Administrators International, Inc. "The BOCA Basic Building Code/1970," section 858.46.

6. Canadian Government Specifications Board, "Standard for Glass: Safety for Building Construction," 12–GP–1b, 1971.

7. Consumer Safety Glazing Committee, "Model Safety Glazing Bill," 1973 Edition (First published in 1970).

8. Glass Tempering Association, "Engineering Standards Manual," 1969, section 5, Specifications 643–16, rev. #1.

9. International Conference of Building Officials, "Uniform Building Code," 1973 Edition, sections 1711, 5406.

10. Southern Building Code Congress, "Southern Standard Code," 1973 Edition, section 2703.1.

11. Codes and laws from 32 states.

With regard to these standards, the Commission makes the following observations:

The Federal Housing Administration Standards (identified in 1 and 2 above) apply only to buildings for which financing is insured by FHA. The FHA standards refer to ANSI Z97.1–1966, which has been superseded by ANSI Z97.1–1972. (Revisions in the FHA Standards soon to be implemented by the Department of Housing and Urban Development will refer to ANSI Z97.1–1972.) The FHA standards permit visual or physical barriers for architectural glass located in some areas as substitutes for the use of safety glazing, a practice shown to be inadequate during the hearings conducted by the National Commission on Product Safety.

ANSI Z97.1–1972 (identified in 3 above) is a safety standard. It and an earlier version, ANSI Z97.1–1966, are cited as the performance tests for many other laws, codes and standards. The performance specification of ANSI Z97.1–1972 requires that a glazing panel be subjected to impacts at three successively higher energy levels, with the breakage pattern being evaluated at the lowest energy level at which breakage occurs. The tests and specifications appear to be inadequate for the following reasons:

1. They do not require tests at higher energy levels once breakage has occurred at lower energy levels.

2. The specifications requiring testing at higher energy levels may be too restrictive for smaller panel sizes or for architectural glass used in some locations such as windows.

3. The tests and specifications do not provide objective criteria for evaluating the break-safe performance characteristics of architectural glass.

4. The tests and specifications may be too subjective to evaluate certain potential safety glazing materials, primarily plastics.

Details of these deficiencies are included to the briefing package dated May 13, 1974, prepared by the Commission staff in connection with the petition submitted by the CSGC. This package is available for public inspection in the Office of the Secretary.

The building codes (identified in 4, 5, 9 and 10 above) permit use of visual barriers as alternatives to the use of safety glazing. As previously indicated, this practice was shown, during the hearings conducted by the National Commission on Product Safety, to be inadequate in preventing injuries.

The CSGC Model Bill (identified in 7 above) provides that the performance requirements established in ANSI Z97.1–1972 apply to glass or glazing material installed in specified "hazardous locations". Since the Model Bill incorporates ANSI Standard Z97.1–1972, the deficiencies noted above in connection with that standard are also applicable here.

The 32 state laws and codes (identified in 11 above) are essentially combinations of the CSGC Model Bill and the ANSI Z97.1–1972 performance standard. In many states, the acts were originally drafted to conform with earlier performance specifications or were made less stringent by local amendments. Thus, they are not uniform and, in many jurisdictions, are out of date.

The other standards (identified in 6 and 8 above) are essentially similar to ANSI Z97.1–1966, which has been superseded.

In addition, the FHA standards, the building codes, and the CSGC Model Bill do not specify that safety glazing should be required for windows.

A copy of the foregoing standards is available for public inspection in the Office of the Secretary.

INVITATION TO OFFERORS

Pursuant to section 7 of the Act and the regulations issued under section 7 (16 CFR 1105.1 through 1105.9), an invitation is hereby extended to all standards-writing organizations, trade associations, consumer organizations, professional or technical societies, testing laboratories, university or college departments, wholesale or retail organizations, Federal, State or local government agencies, engineering or research and development establishments, ad hoc associations, or any companies or persons (hereinafter called persons) to submit to the Commission on or before June 27, 1974, either of the following:

1. One or more existing standards as a proposed consumer product safety standard in this proceeding; or

2. An offer to develop one or more proposed consumer product safety standards applicable to architectural glass to reduce or eliminate any or all of the unreasonable risks of injury associated with architectural glass identified in this Notice.

Persons who are not members of an established organization may form a group for the express purpose of submitting offers and developing standards. Such groups are referred to in the regulations implementing section 7 (16 CFR 1105.1 through 1105.9) as ad hoc associations. An offer by an ad hoc association may be submitted by an individual member if the offer states that it is submitted on behalf of the members of the association. The individual member submitting the offer shall submit to the Commission a notarized copy of a power of attorney from each member of the association authorizing the individual member to submit an offer on behalf of each other member.

SUBMISSION OF EXISTING STANDARDS

Persons may submit a standard previously issued or adopted by any private or public organization or agency, domestic or foreign, or any international standards organization, that contains safety-related requirements which the person believes would be adequate to prevent or reduce the unreasonable risks of injury associated with architectural glass.

To be considered for promulgation as a proposed consumer product safety rule, standards previously issued or adopted must be written in a manner appropriate for use as a Federal Mandatory Standard. Such standards must consist of (1) requirements as to performance, composition, contents, design, construction, finish, or packaging, or (2) requirements that a consumer product be marked with or accompanied by clear and adequate warnings or instructions, or requirements respecting the form of warnings or instructions, or (3) any combination of (1) and (2).

The submission should, to the extent possible:

1. Identify the specific portions of the existing standard which are appropriate for inclusion in the proposed rule;
2. Be accompanied, to the extent that such information is available, by a description of the procedures used to develop the standard and a listing of the persons and organizations that participated in the development and approval of the standard;
3. Be supported by test data and other relevant documents or materials to the extent that they are available;
4. Contain suitable test methods which shall be reasonably capable of being performed by the Commission and by persons subject to the act or by private testing facilities;
5. Include data and information to demonstrate that compliance with the standard would be technically practicable;
6. Include data and information, to the extent that it can reasonably be obtained, on the potential economic effect of the standard, including the potential effect on small business and international trade. The economic information should include data indicating (1) the types and classes as well as the approximate number of consumer products which would be subject to the standard; (2) the probable effects of the standard on the utility, cost, and availability of the products; (3) any potential adverse effects of the standard on competition; and (4) the standard's potential disruption or dislocation, if any, of manufacturing and other commercial practices.
7. Include information, to the extent that it can reasonably be obtained, concerning the potential environmental impact of the standard.

OFFERS TO DEVELOP STANDARDS

Any person may submit an offer to develop a proposed consumer product safety standard for architectural glass. Each offer shall include a detailed description of the procedure the offeror will utilize in developing the standard. Each offer shall also include:

1. A description of the plan the offeror will use to give adequate and reasonable notice to interested persons (including individual consumers, manufacturers, distributors, retailers, importers, trade associations, professional and technical societies, testing laboratories, Federal and State agencies, educational institutions, and consumer organizations), of their right and opportunity to participate in the development of the standard;
2. A description of the method whereby interested persons who have responded to the notice may participate, either in person or through correspondence, in the development of the standard; and
3. A realistic estimate of the time required to develop the standard, including a detailed schedule for each phase of the standard development period.

Each offeror shall submit with the offer the following information to supplement the description of the standard development procedure:

1. A statement listing the number and experience of the personnel, including voluntary participants, the offeror intends to utilize in developing the standard. This list should distinguish between (i) persons directly employed by the offeror, (ii) persons who have made a commitment to participate, (iii) organizations that have made commitments to provide a specific number of personnel and (iv) other persons to be utilized, although unidentified and uncommitted at the time of the submission of the offer. The educational and experience qualifications of these personnel relevant to the development of the standard should also be included in the statement. This list should include only those persons who will be directly involved in person in the development of the standard; and
2. A statement describing the type of facilities or equipment which the offeror plans to utilize in developing the standard and how the offeror plans to gain access to the facilities or equipment.

Prior to accepting an offer to develop a standard, the Commission may require minor modifications of the offer as a condition of acceptance.

CONTRIBUTIONS TO THE OFFEROR'S COST

The Commission may, in accepting an offer, agree to contribute to the offeror's cost in developing a proposed consumer product safety standard in any case in which the Commission determines:

1. That a contribution is likely to result in a more satisfactory standard than would be developed without a contribution; and
2. That the offeror is financially responsible.

If an offeror desires to be eligible to receive a financial contribution from the Commission toward the offeror's cost of developing a proposed consumer product safety standard, the offeror shall submit with his offer to develop a standard:

1. A request for a specific contribution with an explanation as to why the contribution is likely to result in a more satisfactory standard than would be developed without a contribution;
2. A statement asserting that the offeror will employ an adequate accounting system that is in accordance with generally accepted accounting principles to record standard development costs and expenditures; and
3. A request for an advance payment of funds if necessary to enable the offeror to meet operating expenses during the development period.

SUBMISSION OF INFORMATION

All submissions, offers, inquiries, or other communications concerning this Notice should be addressed to: Secretary, Consumer Product Safety Commission, 1750 K Street NW., Washington, D.C. 20207, telephone (202) 634–7700.

All submissions made in response to this notice should be in 5 copies if possible, and must be received by the Office of the Secretary, Consumer Product Safety Commission, not later than June 27, 1974, to be considered in this proceeding.

Dated: May 22, 1974.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.74–12074 Filed 5–24–74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

MOBIL CHEMICAL CO.

Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 4F1493) has been filed by Mobil Chemical Co., P.O. Box 26683, Richmond, VA 23261, proposing establishment of tolerances (40 CFR Part 180) for negligible residues of the herbicide bifenox (methyl 5 - (2,4-dichlorophenoxy)-2-nitrobenzoate) in or on the raw agricultural commodities soybeans; soybean forage and hay; and field corn grain, fodder, and forage at 0.05 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure utilizing a halogen-specific microcoulometric detector.

Dated: May 20, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74–12096 Filed 5–24–74;8:45 am]

RHODIA INC.

Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; U.S.C. 346a(d)(1)), notice is given that a petition (PP 4F1491) has been filed by Rhodia Inc., Chipman Division, 120 Jersey Avenue, New Brunswick, NJ 08903, proposing establishment of tolerances (40 CFR Part 180) for combined negligible residues of the herbicide oxadiazon (2-*tert*-butyl-4-(2,4 - dichloro-5-isopropoxyphenyl)-Δ^2-1,3,4-oxadiazolin-5-one) and its metabolites (2 - tert - butyl-4-(2,4-dichloro-5-hydroxyphenyl) - Δ^2-1,3,4-oxadiazolin-5-one and 2 - carboxyisopropyl-4-(2,4-dichloro - 5 - isopropoxyphenyl) - Δ^2-1,3,4-oxadiazolin-5-one) in or on the raw agricultural commodities pome fruits and stone fruits at 0.05 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas-liquid chromato-

graphic procedure utilizing an electron-capture detector.

Dated: May 20, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74-12097 Filed 5-24-74;8:45 am]

SHELL CHEMICAL CO.

Filing of Pesticide and Food Additive Petitions

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 408(d)(1), 409(b)(5), 68 Stat. 512; 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348(b)(5)), notice is given that a pesticide petition (PP 4F1492) has been filed by Shell Chemical Co., Suite 300, 1700 K Street NW, Washington, D.C. 20006, proposing establishment of tolerances (40 CFR Part 180) for residues of the insecticide hexakis (beta,beta-dimethylphenethyl) distannoxane in or on the raw agricultural commodities apples, pears, and citrus fruits at 4 parts per million.

Notice is also given that the same firm has filed a related food additive petition (FAP 4H5050) proposing establishment of a food additive tolerance (21 CFR Part 121) for residues of the insecticide in dried apple pomace at 15 parts per million resulting from application of the insecticide to growing apples.

The analytical method proposed in the pesticide petition is a procedure in which the insecticide is reacted with concentrated hydrochloric acid. The chlorinated derivative is measured by a gas chromatographic procedure with an electron capture detector.

Dated: May 20, 1974.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.74-12095 Filed 5-24-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

CABLE TELEVISION TECHNICAL ADVISORY COMMITTEE PANEL 6

Public Meeting

MAY 21, 1974.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the CTAC Panel 6 Committee on June 18, 1974, to be held at 2025 M Street, NW., Washington, D.C., in Room 6331 (Conference Room). The time of the meeting is 10 a.m.

The agenda is as follows:

(1) Review of Draft Reports.
(2) Establish schedule for Final Reports.
(3) Review recommendations for extended Rule Modifications as prepared by Harold Munn.
(4) Set date, time and place for next meeting.

Any member of the public may attend or may file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Inquiries may be directed to Mr. Cort Wilson, FCC, 1919 M Street, NW., Washington, D.C. 20554—(202) 632-9797.

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

[FR Doc.74-12144 Filed 5-24-74;8:45 am]

STANDARD BROADCAST APPLICATIONS

Notice of Availability

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on June 28, 1974, the standard broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on June 27, 1974, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on June 27, 1974. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.571(c) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to section 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

Adopted: May 16, 1974.

Released: May 21, 1974.

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

APPENDIX

BP-14016 NEW, Tracy, California
West Side Radio
Req: 710 kHz, 500 W, DA-1, U

BP-19519 KOMW, Omak, Washington
KOMW, Inc.
Has: 680 kHz, 1 kW, Day
Req: 680 kHz, 5 kW, Day

BP-19545 NEW, Dickinson, North Dakota
Badlands Broadcasting Co.
Req: 1460 kHz, 5 kW, DA-N, U

BP-19547 NEW, St. Matthews, South Carolina
Central Carolina Broadcasting Corp.
Req: 710 kHz, 1 kW, DA, Day

BP-19580 NEW, Pageland, South Carolina
Pageland Broadcasting Corporation
Req: 1510 kHz, 500 W, Day

BP-19587 NEW, Bayou Vista, Louisiana
Teche Broadcasting Corporation
Req: 1170 kHz, 250 W, Day

BP-19588 NEW, Wabasha, Minnesota
Obed S. Borgen
Req: 1190 kHz, 1 kW, Day

BP-19589 WTGR, Myrtle Beach, South Carolina
Grand Strand Broadcasting Corporation
Has: 1520 kHz, 250 W, Day
Req: 1520 kHz, 5 kW, DA, Day

BP-19595 NEW, St. George, Utah
Albert L. Crain
Req: 890 kHz, 10 kW, 50 kW-LS, DA-N, U

BP-19596 NEW, Polson, Montana
Lake County Broadcasters, A Limited Partnership
Req: 1050 kHz, 1 kW, Day

BP-19597 NEW, Soperton, Georgia
Center Broadcasting Co. (H. Fred Tippett, tr/as)
Req: 1000 kHz, 1 kW, Day

[FR Doc.74-12145 Filed 5-24-74;8:45 am]

[Docket No. 19882-19885; FCC 74R-183]

JIMMIE H. HOWELL, ET AL.

Memorandum Opinion and Order Enlarging Issues

In re Applications of Jimmie H. Howell, Milton, Florida; Docket No. 19882, File No. BP-19402; H. Byrd Mapoles, tr/as, Mapoles Broadcasting Co., Milton, Florida; Docket No. 19883, File No. BP-19403; Aaron J. Wells, Milton, Florida; Docket No. 19884, File No. BP-19430; Radio Santa Rosa, Inc., Milton, Florida; Docket No. 19885, File No. BP-19431, For construction permits.

1. The mutually exclusive applications of Jimmie H. Howell (Howell), Mapoles Broadcasting Company (Mapoles), Aaron J. Wells (Wells), and Radio Santa Rosa, Inc. (Santa Rosa) for a construction permit for a standard broadcast station were designated for hearing by Commission Order, 44 FCC 2d 43, released December 4, 1973. Now before the Review Board is a petition to enlarge issues, filed December 26, 1973, by Wells requesting the addition of financial issues against Howell, character and real party in interest issues against Mapoles, and staffing and financial issues against Santa Rosa.[1]

FINANCIAL ISSUES AGAINST HOWELL

2. In his application Howell estimates first year costs of operation of $20,400, a figure which Wells alleges is patently unreasonable. Not only is Howell's estimate significantly lower than those of the other applicants, petitioner contends,[2] but it also includes no allocations

[1] Also before the Board are the following related pleadings: comments and partial opposition, filed January 24, 1974, by the Broadcast Bureau; opposition, filed January 25, 1974, by Howell; opposition, filed January 25, 1974, by Santa Rosa; opposition, filed January 25, 1974, by Mapoles; reply, filed February 15, 1974, by Wells.

[2] The estimates of the other applicants are $36,000 (Mapoles), $48,000 (Santa Rosa) and $54,105 (Wells). Since H. Byrd Mapoles plans to share facilities with his station WXBM-FM in Milton, Florida, his costs do not provide an accurate basis for projecting first year expenses, Wells maintains. The average of the other two estimates is approximately $51,000, he submits.

for preoperational costs, legal and engineering expenses, insurance, taxes, repairs and maintenance, automobile and travel expenses and the Commission's grant fee, and it provides only $12,000 for first year staff salaries. The latter figure assumes that Howell will draw no salary while serving his proposed station as manager, engineer, salesman and newsman, but according to petitioner, this assumption is an unrealistic one. In his application, Howell states that he will rely on his income as an elected county official and his wife's income as the owner of a clothing store during his station's first year of operation; but, Wells argues, since Howell has not revealed his income or that of his wife, and since his financial statement does not reflect sufficient liquid assets to enable him to live without income for a year, it must be concluded that Howell will have to rely on some income from the station and that his proposed salary estimates are therefore too low. Moreover, even if Howell's estimated costs were reasonable, Wells maintains, his available funds would not be sufficient to meet his proposed expenses. Thus, Wells notes that the personal financial statement of Jimmie H. Howell and Margot M. Howell dated June 30, 1973, lists "cash in banks" totalling $28,463.93, and "loans payable to bank" of $27,700.60, but that the Howells' prior personal financial statement of February 28, 1973, lists "cash in banks" of $3,909.30 and "notes payable to bank" of $2,893.50. According to Wells, these figures suggest that Howell borrowed a significant sum from the bank in order to achieve his present financial position. Moreover, the application does not indicate the terms of the loan or when it falls due, Wells argues, and Howell therefore cannot rely upon its proceeds to meet his expenses. Petitioner also disputes Howell's reliance on $5,250 in accounts receivable, arguing that the accounts have not been "aged" and certified collectable within 90 days as required under paragraph 4(b) of Section III of the application form, and alleges further that Howell has not established that his projection of $39,600 in profits for the first year of operation is reasonable. Howell bases his revenue estimates on his own personal broadcasting experience in the community to be served by his station and in nearby communities, but under Tri-Cities Broadcasting Corp., 10 FCC 2d 490, 11 RR 2d 609 (1967), this experience does not constitute the "convincing showing" that estimated revenues are valid required by Ultravision Broadcasting Co., 1 FCC 2d 544, 5 RR 2d 343 (1965), Wells contends. Thus, petitioner concludes, Howell has available only about $2,000 in existing capital and a $60,000 bank loan with which to meet his unreasonably low estimate of $65,003.70 in construction and first year operating costs.

3. The broadcast Bureau disputes Wells' contentions that Howell's estimated costs are unreasonable and his available funds insufficient. The disparity between Howell's estimate and those of the other applicants can be explained by the difference in the amounts each proposes to spend on salaries, the Bureau maintains, and this difference, in turn, can be attributed to the fact that Howell will perform several functions for his proposed station without salary. As for Wells' charges that significant items have been omitted from Howell's estimates, the Bureau notes that no preoperational period has been specified by Wells, that legal and engineering expenses are included under construction costs in the application, and that Howell apparently has a financial cushion large enough to cover any incidental expenses.[3] At the same time, the Bureau suggests that other significant expenses may have been omitted from the application. For example, while Howell states that his news staff will consist of the station manager and program director and that his station will utilize the ABC or CBS radio network for national and international news, he has made no provision for the program director's salary or for network expenses, the Bureau contends. Turning to Howell's available funds, the Bureau maintains that the applicant can meet his estimated first year expenses of $50,125[4] with the proceeds of a $60,000 bank loan already committed to him, making an inquiry into his other assets unnecessary, absent a showing that his costs have been understated by an amount exceeding $10,000. Howell, in opposition, also maintains that his available funds are sufficient to meet his proposed expenses, citing his cash on hand of $35,000, his $60,000 bank loan, and his other assets including accounts receivable and real estate.[5] In support of the accuracy of his proposed expenses and revenues, Howell asserts that his estimates are based on his personal knowledge of the community's social, business and governmental life and his extensive broadcasting experience, and should be accepted as valid for that reason. Finally, Howell contends that his salary of $7,200 plus expenses[6] as a County Commissioner of Santa Rosa County coupled with his wife's income as the owner of a dress shop, is more than enough to sustain him during the first year of his station's operation.

4. In reply, Wells argues that Howell has not justified his estimated expenses or explained his failure to include allowances for the expense items cited by Wells and by the Bureau, items which Wells maintains could easily exceed any $10,000 cushion Howell may have. The Bureau's argument that Howell's expenses should be reduced to reflect deferred credit from his equipment supplier is erroneous, Wells contends, since Howell's application does not indicate any reliance on such credit and Howell's expenses will therefore total at least the $65,003.70 figure used in his application. In view of Howell's failure to address the questions raised by Wells concerning his cash on hand and the terms of the loan under which he obtained this cash, in view of his failure to disclose his wife's income, and in view of his failure to substantiate his estimated revenue with economic data rather than personal opinion, the applicant cannot be assumed to have adequate funds to meet even this low estimate of his first year expenses, petitioner concludes, and his financial position is thus sufficiently unclear to require the addition of the requested issues.

5. The Review Board is of the view that petitioner has raised sufficient questions concerning Howell's financial proposal to justify the addition of cost estimate and fund availability issues. With respect to Howell's alleged assets, the Board notes that his $28,463.93 of "cash in banks" appears to represent the proceeds of a loan whose terms have not been specified, that his $5,250 of accounts receivable has not been substantiated in the manner required under paragraph 4(b) of Section III of the application form, that his revenue estimates have not been validated according to the standards established in Tri-Cities Broadcasting Corp., supra and Ultravision Broadcasting Co., supra, and that the marketability and liquidity of his real estate has not been adequately demonstrated. See Vista Broadcasting Co., Inc., 18 FCC 2d 636, 16 RR 2d 838 (1969); Seaboard Broadcasting Corp., 24 FCC 2d 259, 19 RR 2d 538 (1970). Thus, Howell can claim only the proceeds of his $60,000 bank loan plus a few thousand dollars in liquid assets to meet his first year costs of operation. Since Howell has failed to disclose his wife's income, thereby casting doubt on the couple's ability to live for a year without income from the station, and since he has also failed to include expenditures for a program director, network affiliation costs, and various other miscellaneous items in his proposal, the Board can only conclude that Howell's estimates of costs may be inaccurate and that his actual expenses may be significantly higher than those identified in his application. Therefore, even if we accept the Bureau's argument that Howell should be credited with a $10,000 cushion because of deferred credit from his equipment supplier, we still cannot be reasonably certain that his assets will be sufficient to meet his construction and first year operation costs. In order to resolve these questions and determine whether or not

[3] The Bureau also notes that Wells' charges are not supported by the affidavit of an experienced broadcaster.

[4] In his petition, Wells estimates that Howell's first year expenses will total $65,003.70. The Bureau, however, maintains that this figure is incorrect in that it does not reflect deferred credit from Howell's equipment supplier. The correct figure according to the Bureau is $50,125.

[5] The June 30, 1973 personal financial statement of Jimmie H. Howell and Margot M. Howell lists equity in real estate of $100,713.

[6] The opposition states in one place that Howell's salary is $7,200 a year plus expenses and in another that it is $7,500 plus expenses.

Howell is qualified to be a Commission licensee, the Board will add appropriate financial issues.

CHARACTER ISSUE AGAINST MAPOLES

6. From 1958 until 1973, H. Byrd Mapoles served as general manager of Station WEBY, a standard broadcast station licensed to his father Clayton W. Mapoles. In a Decision denying WEBY's application for renewal [7] the Commission found that in the spring and summer of 1966, Clayton W. Mapoles violated the fairness and personal attack doctrines, intentionally misrepresented facts to the Commission, and demonstrated a lack of candor and disregard of his responsibilities unacceptable for a broadcast licensee. Wells here requests an issue inquiring into H. Byrd Mapoles' involvement in the rule violations and misrepresentations which occurred at WEBY and the effect of such involvement on his basic or comparative character qualifications. This issue was not resolved during the WEBY proceeding, Wells maintains, because Clayton W. Mapoles, and not his son, was the licensee of the station responsible to the Commission. But now that H. Byrd Mapoles proposes to become the licensee, his role in the station's activities must be explored, petitioner contends, citing Fidelity Broadcasting Corp., 27 FCC 2d 52, 20 RR 2d 1176 (1971). As evidence that H. Byrd Mapoles played a significant part in WEBY's operation, Wells cites the fact that Mapoles served as general manager of the station during the period in question and the fact that his familiarity with the issues in the proceeding was recognized by counsel for his father [8] and by the Commission.[9] Further, H. Byrd Mapoles may have himself been guilty of misrepresentation during the proceeding, Wells alleges, citing statements made by Mapoles during the Commission's investigation which, petitioner claims, raise serious questions concerning Mapoles' candor and honesty.[10] These questions, as well as the question of H. Byrd Mapoles' involvement with WEBY's activities, must be resolved before the applicant can be found qualified to be a licensee of the Commission, petitioner asserts.

7. Mapoles, in opposition, argues that Wells' petition is procedurally defective, in that it fails to include affidavits of persons having personal knowledge of the facts or to request official notice of relevant documents, and is also incorrect on the merits. The Commission did not attempt to make H. Byrd Mapoles a party to the WEBY proceeding, Mapoles asserts, and in any event, there is affirmative evidence in that proceeding that H. Byrd Mapoles did not violate the Commission's Rules or misrepresent facts to the Commission.[11] Wells, in reply disputes Mapoles' claim that the record in the WEBY proceeding shows him innocent of any misconduct. H. Byrd Mapoles' conduct was not considered in that proceeding, Wells asserts, and the record thus establishes neither his guilt nor his innocence. Only a specific inquiry into this question can resolve the matter once and for all, Wells concludes.

8. While we agree with the Bureau that a relitigation of the WEBY proceeding is not in order, the Board also supports the Bureau's position that petitioner has raised serious questions concerning H. Byrd Mapoles' association with WEBY. In its Decision denying WEBY's license renewal application, the Commission expressly noted conflicts between the testimony of H. Byrd Mapoles and that of other witnesses in the proceeding, but found it unnecessary to resolve these conflicts in reaching its ultimate conclusions. Thus Mapoles' argument that the Commission has absolved him of all blame in the WEBY affair is clearly erroneous, and his role in that station's violations of Commission rules and subsequent attempts to conceal those violations from the Commission has yet to be determined. Under these circumstances, Fidelity Broadcasting Corp., supra, mandates further inquiry into the matter [12] and we will accordingly add an issue focusing exclusively on H. Byrd Mapoles' conduct and its effect on his basic and/or comparative qualifications.

REAL PARTY IN INTEREST ISSUE AGAINST MAPOLES

9. In support of his contention that Clayton W. Mapoles will retain an active interest in his son's proposed station, Wells cites the fact that the senior Mapoles has sold the WEBY equipment to his son on liberal terms and the fact that the senior Mapoles attempted to assign the WEBY license to his son at the outset of the WEBY renewal proceeding. Petitioner also submits the affidavit of Aaron J. Wells which states that Clayton W. Mapoles has suggested to Wells that he (Wells) operate the radio station with the two Mapoles. Mapoles, for its part, challenges the accuracy of Wells' affidavit with affidavits from Clayton W. Mapoles and H. Byrd Mapoles, the former denying any offer to Wells and the latter denying any agreement between the two Mapoles to control or operate the proposed station. Wells, in reply, repeats his claim that Clayton W. Mapoles suggested a merger between Wells and his son and argues that the affidavits of Clayton W. Mapoles and H. Byrd Mapoles offer no evidence to the contrary.

10. The Review Board will not add the requested issue. As the Bureau notes in its comments, the tests for determining whether a person is a real party in interest is whether that person has an ownership interest in the proposed station or is in a position to control its operation. See Sumiton Broadcasting Co. Inc., 15 FCC 2d 400, 14 RR 2d 1000 (1968). Wells' affidavit is too vague and equivocal to provide the necessary evidence to meet this test, and the family relationship between the two Mapoles, standing alone, does not warrant a conclusion that one will control the other. See Northeast Oklahoma Broadcasting, Inc., 42 FCC 2d 237, 27 RR 2d 524 (1973). Likewise, the claims that Clayton W. Mapoles attempted to assign his WEBY license to his son and that he then sold his son the station's broadcast equipment on favorable terms do not, in our view, raise a substantial question as to whether the senior Mapoles is an undisclosed party in interest. Consequently, there is no basis for the requested issue and it will not be added.

STAFFING ISSUE AGAINST SANTA ROSA

11. According to Wells, Santa Rosa's staffing proposal is clearly inadequate to effectuate its proposed programming. Santa Rosa proposes to offer 32 hours and 38 minutes a week of staff-produced news, public affairs and other programming, Wells maintains, but its staff will consist of only six people: a general manager, a full-time announcer, a part-time announcer, an engineer, a secretary-receptionist and a salesman. Since the engineer, salesman, and secretary-receptionist cannot be expected to assist in the planning of programs to any significant degree because of their other responsibilities, only the manager and

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[7] Milton Broadcasting Co., 34 FCC 2d 1036, 24 RR 2d 369 (1972).

[8] Wells states that H. Byrd Mapoles was characterized by his father's counsel as a "major part of the case" and a "major witness" during a prehearing conference.

[9] In a Memorandum Opinion and Order denying Clayton W. Mapoles' request for termination of the WEBY proceeding because of his ill health, 12 FCC 2d 354, 12 RR 2d 1077 (1968), the Commission stated that H. Byrd Mapoles, general manager of the station, appeared to have personal knowledge of the relevant facts and could therefore provide substantial assistance to counsel.

[10] The statements involve H. Byrd Mapoles' claim that he offered reply time to a local candidate for political office who complained of being personally attacked by a WEBY editorial, his claim that the candidate never responded to the offer, and his claim that he had heard a non-defamatory version of the editorial in question. While the truth of the first statement was not expressly determined by the Commission which chose to focus on Clayton W. Mapoles' conduct, Wells maintains, the Commission's finding that the candidate did in fact come to the station and request air time directly contradicts Mapoles' second statement. Wells further asserts that H. Byrd Mapoles later repudiated the third statement himself. Finally, petitioner suggests that H. Byrd Mapoles may have been responsible for the disappearance of a tape of the challenged editorial.

[11] With regard to the specific statements cited by Wells, see footnote 10, supra, Mapoles alleges that the Commission made no specific findings concerning H. Byrd Mapoles' offer of reply time and did not find that the non-defamatory version of the editorial in question was never aired. Further, no justification for an inquiry into the missing tapes has been offered by petitioner, Mapoles asserts.

[12] The Bureau notes that the applicant in Fidelity had been a 10 percent shareholder in the station where violations occurred, while H. Byrd Mapoles had no ownership interest in WEBY. However, the Board like the Bureau does not consider this difference significant, since, in its view the primary concern in Fidelity was the applicant's active association with the station's affairs rather than his ownership interest.

the two announcers will be able to assume programming responsibility, Wells contends. These three staff members cannot prepare almost 33 hours of programming, petitioner asserts, and therefore, a staffing issue against Santa Rosa should be added.[13]

12. The Review Board has long held that where a staffing proposal is not, on its face, incapable of effectuation, it will not specify an adequacy of staff issue absent specific allegations that the proposal cannot be carried out. See Radio Geneva, Inc., 42 FCC 2d 254, 27 RR 2d 1680 (1973). As Santa Rosa demonstrates in its opposition, its proposed staff will have to produce only about 11½ hours of programming per week, since the remainder of its news, public affairs, and other programming will be supplied by a national network, a state news correspondent, local organizations, or its secretary-receptionist. Santa Rosa also argues persuasively that its general manager[14] and announcer should be able to meet these production needs during the day, but that if additional time is required, its general manager will have every evening free for program work since the station will operate only during the daytime hours. The Board agrees with Santa Rosa that this staffing proposal is not, on its face, incapable of effectuation, especially since staffing issues have not been added where applicants have proposed longer hours and/or smaller staffs than those planned here.[15] We also agree with Santa Rosa and the Bureau that Wells' allegations concerning the adequacy of Santa Rosa's proposed staff lack the specificity and support required by § 1.229(c) of the rules. Under this circumstances, the Board feels that the addition of the requested issue is unwarranted.

FINANCIAL ISSUE AGAINST SANTA ROSA

13. Santa Rosa's application lists available funds of $142,667.35 to meet mits, creating the impression that the first year costs of $134,376.62, Wells subapplicant has a surplus of funds in an amount of $8,291.73. In truth, however, Santa Rosa has omitted significant cost items which will increase its expenses by more than $8,000, petitioner contends, making it necessary to add an issue inquiring into the applicant's financial qualifications. Specifically, Wells alleges that Santa Rosa's cost estimate excludes the following items:[16] insurance—$1,000, legal and accounting—$1,500, repairs and maintenance—$600, promotion and advertising—$500, automobile and travel—$500, Commission grant fee—$1,800, additional full-time staff person—$7,200.[17] Since these items total over $13,000, they will more than offset Santa Rosa's $8,000 cushion, Wells argues.

14. Santa Rosa, in opposition, submits that Wells' charges are based on speculation rather than fact and his list of items allegedly omitted from its application is unsupported by any documentation. With respect to these items, Santa Rosa argues that the Commission grant fee is included in its allocation for legal expenses, that promotion and advertising expenses are traditionally tied to revenue generated and need not be included as fixed operating expenses, citing James P. Francis, 41 FCC 2d 303, 27 RR 2d 1337 (1973), that the same is true of travel expenses, citing Virginia Broadcasters, 22 FCC 2d 227, 18 RR 2d 763 (1970), and that the estimates for the remaining items are totally unsupported. Santa Rosa further maintains that its financial cushion totals over $22,000, rather than $8,291.73, since its application includes, in addition to its specified surplus, $1,200 in miscellaneous operating expenses, $6,300 for music royalties and sales staff salaries, both of which are revenue-related expenses rather than operating costs,[18] a $6,000 cushion for construction costs, and nearly $1,000 in existing capital. Thus, Santa Rosa concludes, even if the non-revenue-related items cited by Wells are included in its operating costs, and even if his contention that an additional full-time employee must be hired is accepted, its surplus funds will still be adequate to meet all necessary expenses. The Bureau also opposes the requested financial issue, arguing that its addition would be justified only if a staffing issue against Santa Rosa were added as well.

15. In view of the fact that we have not added a staff adequacy issue against Santa Rosa and in view of the fact that several of the items allegedly omitted by Santa Rosa in calculating its operating costs are either included in its estimates (the Commission grant fee) or payable from revenue received rather than from operatnig funds (advertising, promotion, and travel), the Review Board will not add the requested issue. The only items cited by Wells which could arguably be charged to Santa Rosa—legal and accounting fees, insurance, and repairs and maintenance—total only $3,100, according to petitioner's own estimates. Since this figure falls well below Santa Rosa's stated surplus of $8,291.73, as well as its claimed total additional funds of over $22,000, we must conclude that Santa Rosa has adequate funds to meet construction costs and first year costs of operation.

16. *Accordingly, it is ordered,* That the petition to enlarge issues, filed December 26, 1973, by Aaron J. Wells is granted to the extent indicated below, and is denied in all other respects; and

17. *It is further ordered,* That the issues in this proceeding are enlarged to include the following issues:

1. To determine with respect to the application of Jimmie H. Howell:

(a) Whether the applicant's estimate of first year costs of operation is reasonable;

(b) Whether the applicant has adequate funds available to meet construction costs and first year costs of operation;

(c) Whether, in light of the evidence adduced under the above issues, the applicant is financially qualified to construct and operate his proposed station.

2. To determine the extent of H. Byrd Mapoles' involvement and culpability in violations of the Commission's Fairness Doctrine and personal attack rules which occurred at Station WEBY while he was station manager, and in willful misrepresentations to the Commission concerning same, and the effect of such involvement and/or misrepresentations upon his basic or comparative character qualifications.

18. *It is further ordered,* That the burdens of proceeding with the introduction of evidence and proof under Issue 1 added herein shall be on Jimmie H. Howell; and

19. *It is further ordered,* That the burden of proceeding with the introduction of evidence under Issue 2 added herein shall be on Aaron J. Wells, and the burden of proof shall be on Mapoles Broadcasting Company.

Adopted: May 16, 1974.

Released: May 21, 1974.

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

[FR Doc.74-12146 Filed 5-24-74;8:45 am]

[13] As further evidence of the inadequacy of Santa Rosa's staffing proposal, Wells submits that no one staff member is devoted to news programming and no news director is proposed, even though the applicant plans to offer almost fifteen hours of local, regional, and world news per week.

[14] Wells' assertion that Santa Rosa proposes no news director is incorrect, Santa Rosa argues, since its application specifically states that Robert E. Smith, its proposed general manager, will direct its news programming.

[15] See, for example, Colorado West Broadcasting Co., 39 FCC 2d 407, 26 RR 2d 893 (1973) (no staffing issue added where applicant proposed to operate 130 hours a week with three full-time employees and two part-time employees); Radio Geneva, Inc., supra (no issue added where applicant proposed to operate unlimited time FM broadcast station with staff of five persons); Tri-County Broadcasting Co., 27 FCC 2d 1013, 21 RR 2d 380 (1971) (no issue added where applicant proposed to operate daytime-only station with four full-time employees); and Martin Lake Broadcasting Co., 23 FCC 2d 721, 19 RR 2d 277 (1970) (no issue added where applicant proposed to operate daytime-only station with three full-time employees and a part-time general manager).

[16] The cost of each item is based on Wells' own estimates.

[17] Wells' claim that Santa Rosa will require the services of an additional full-time staff person is based on his argument that Santa Rosa's proposed staff is inadequate to meet its programming needs. See paragraph 12, supra.

[18] Santa Rosa cites James B. Francis, supra, for the proposition that music royalties are revenue-related expenses and Virginia Broadcasters supra, for the proposition that sales staff salaries are revenue-related expenses.

FEDERAL MARITIME COMMISSION

NORTH ATLANTIC DISCUSSION AGREEMENT

Extension of Agreement

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the

Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the field Offices located at New Francisco, California, and San Juan, York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 17, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to consttute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:
Howard A. Levy, Esq.
Suite 631
17 Battery Place
New York, New York 10004

Agreement No. 9989-3, among the member lines of the North Atlantic Discussion Agreement, extends the effective period of the basic agreement for an additional six months.

By Order of the Federal Maritime Commission.

Dated: May 22, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-12160 Filed 5-24-74;8:45 am]

SEATRAIN LINES, INC. AND BORINQUEN LINES, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 17, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:
Mr. Fermin Mendez
Rate Manager
Seatrain Lines, Inc.
Port Seatrain
Weehawken, New Jersey 07087

Agreement No. 9986-1, between Seatrain Lines, Inc. and Borinquen Lines, Inc., modifies the basic agreement of the parties by amending Articles 1, 2 and 3 thereof to provide for the addition of ports of call of Borinquen in the Caribbean, specifically the islands of Antiqua, St. Kitts, St. Barthelemy, Tortola and St. Martin.

By Order of the Federal Maritime Commission.

Dated: May 22, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-12157 Filed 5-24-74;8:45 am]

IBERIA/U.S. ATLANTIC DISCUSSION AGREEMENT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 17, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

MODIFICATION OF AGREEMENT

Notice of agreement filed by:
Howard A. Levy, Esq.
Suite 631
17 Battery Place
New York, New York

Agreement No. 10058-1, among the parties to the Iberia/U.S. Discussion Agreement, modifies the basic agreement by changing from six months to two years the period for which the parties may seek additional approval of the basic agreement. In conjunction with this proposed change, the parties have also applied for an extension of the basic agreement from its scheduled expiration date of August 15, 1974 for two years or, in lieu thereof, for six months or any other period which the Commission may deem to be reasonable in the circumstances.

Dated: May 22, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-12158 Filed 5-24-74;8:45 am]

[Independent Ocean Freight Forwarder License No. 1391]

GUY G. SORRENTINO

Order of Revocation

Guy G. Sorrentino, 80 Broad Street, New York, New York 10004 voluntarily surrendered his Independent Ocean Freight Forwarder License No. 1391 for revocation, effective May 21, 1974.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(f) (dated 9/15/73);

It is ordered, That Independent Ocean Freight Forwarder License No. 1391 be and is hereby revoked effective May 21, 1974, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Guy G. Sorrentino.

AARON W. REESE,
Managing Director.

[FR Doc.74-12159 Filed 5-24-74;8:45 am]

FEDERAL RESERVE SYSTEM

UNITED MISSOURI BANCSHARES, INC.

Acquisition of Bank

United Missouri Bancshares, Inc., Kansas City, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Westport Bank, Kansas City, 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)).

Notice of subject application was published in the FEDERAL REGISTER on March

1, 1974 (39 FR 7998). Additionally, in accordance with section 3(b) of the Act (12 U.S.C. 1842(b)), notice of receipt of subject application was duly given to the Commissioner of Finance of the State of Missouri. Within the time prescribed by law, the Commissioner submitted to the Board in writing his statement expressing disapproval of the application. Accordingly, the Board, on March 15, 1974, ordered that a hearing be held on subject application pursuant to section 3(b) of the Act (39 FR 10190). The hearing commenced April 3, 1974, at the Federal Reserve Bank of Kansas City, at which time the Administrative Law Judge granted Applicant's motion for continuance in order that Applicant might prepare and submit to the Board amendments to subject application.

Notice is hereby given that the amendments have been received by the Board and the application, as amended, 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 amended application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 15, 1974.

Board of Governors of the Federal Reserve System, May 23, 1974.

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

[FR Doc.74-12196 Filed 5-24-74;8:45 am]

FOREIGN-TRADE ZONES BOARD

[Docket No. 4-74]

SAN JOSE, CALIF.

Notice Application for a Foreign-Trade Zone and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of San Jose, California, requesting a grant of authority for the establishment of a foreign-trade zone in that community. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81), and the regulations of the Board (15 CFR Part 400). Under California law (Cal. Gov. Code § 6302) the City, as a public corporation, is authorized to make such applications.

The proposal calls for a zone covering 26.2 acres within a new 500-acre industrial park, known as the International Business Park, situated in the area adjacent to and south of Trimble Road about one-half mile east of Nimitz Freeway, San Jose, Santa Clara County, California. Bordering the southern part of San Francisco Bay and the San Francisco/Oakland Customs port of entry, the San Jose area is served by all modes of transportation including two rail lines adjacent to the site and the international airports of San Jose, San Francisco and Oakland.

The application includes economic data and information concerning the basis for a zone facility to serve the special Customs needs of the area's business community especially its high technology electronics industries. A number of firms have responded to a survey conducted by the City indicating their interest in using the zone for operations involving such items as communications and telecommunications test equipment, semiconductor devices, calculators, technical tools, fine measuring devices, and dried fruits.

Operational responsibilities for the zone will be assigned by the City of San Jose to its Economic Development Corporation. EDC will in turn enter into a long-term agreement with the owner of the industrial park, International Business Park, Inc., which will serve as operational manager of the zone.

In accordance with the Board's regulations an examiners committee has been appointed to investigate the application and report thereon to the Board. The committee consists of:

Hugh J. Dolan (Chairman)
Hearing Commissioner
Office of Export Administration, Room 3518
U.S. Department of Commerce
Washington, D.C. 20230

George K. Brokaw
District Director of Customs
U.S. Customs Service
555 Battery Street
P.O. Box 2450
San Francisco, California 94126

Colonel James L. Lammie
District Engineer
U.S. Army Engineer District San Francisco
100 McAllister Street
San Francisco, California 94102

In connection with its investigation of the proposal the examiners committee will hold a public hearing beginning at 9 a.m. local time, July 2, 1974, at the City Council Chambers (Room 290), City Hall, 801 N. 1st Street, San Jose, California. The purpose of the hearing is to help inform interested persons on the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners committee.

Interested persons or their representatives will be given the opportunity to present their views at the hearing. Such persons should by June 21, 1974 notify the Board's Executive Secretary in writing at the below address of their desire to be heard. In lieu of an oral presentation written statements may be submitted to the examiners committee through the Executive Secretary at any time from the date of this notice until 15 days after the conclusion of the hearing. A copy of the application and accompanying exhibits will be available during this time period for public inspection at each of the following locations:

City Manager's Office
City Hall, Room 436
801 N. 1st Street
San Jose, California 95110

Office of the District Director of Customs
U.S. Customs Service, Room 319
555 Battery Street
San Francisco, California 94126

Office of the Executive Secretary
Foreign-Trade Zones Board
U.S. Department of Commerce, Room 6886B
14th and Constitution Avenue, N.W.
Washington, D.C. 20230

Dated: May 22, 1974.

JOHN J. DA PONTE, JR.,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc.74-12214 Filed 5-24-74;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

BULLION HOLLOW COAL CO. INC.

Applications for Renewal Permits Electric Face Equipment Standard; Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 have been received for items of equipment in underground coal mines as follows:

ICP Docket No. 4320-000, BULLION HOLLOW COAL COMPANY, INC., Mine No. 19, Mine ID No. 44 01295 0, Wise, Virginia.
- ICP Permit No. 4320-001 (Osborne 6.5 X14X18 Push Out Car, Ser. No. 77),
- ICP Permit No. 4320-002 (Wise 65X14X 18 Push Out Coal Car, Ser. No. THR-3 #75),
- ICP Permit No. 4320-003 (Wise THR-B Push Out Coal Car, Ser. No. 94),
- ICP Permit No. 4320-004 (Wise THR-3 Push Out Coal Car, Ser. No. 84),
- ICP Permit No. 4320-005 (Kersey 444 Rubber Tire Tractor, Ser. No. 6),
- ICP Permit No. 4320-006 (Wise 4-S-L1 Rubber Tire Tractor, Ser. No. 2),
- ICP Permit No. 4320-007 (Wise 4-S-L1 Rubber Tire Tractor, Ser. No. 1),
- ICP Permit No. 4320-008 (Wise 4-S-L1 Rubber Tire Tractor, Ser. No. 313),
- ICP Permit No. 4320-009 (Wise 4-S-L1 Rubber Tire Tractor, Ser. No. 346),
- ICP Permit No. 4320-010 (Wise 4-S-L1 Rubber Tire Tractor, Ser. No. 351),
- ICP Permit No. 4320-011 (Wise 4-S-L1 Rubber Tire Tractor, Ser. No. 321),
- ICP Permit No. 4320-012 (Wise 4-S-L1 Rubber Tire Tractor, Ser. No. 3).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal 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.

MAY 21, 1974.

[FR Doc.74-12060 Filed 5-24-74;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

PROGRAMS FOR ATLANTA, GEORGIA

Public Meeting

Notice is hereby given, Pub. L. 92–463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on June 21, 1974 at 1 p.m.–5 p.m., and June 22, 1974 at 9 a.m.–5 p.m., at the Atlanta Public Schools, 224 Central, Southwest, Atlanta, Georgia 30303.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The meeting is called to work on criteria and committee organization for the purpose of examining current successful compensatory education programs in Atlanta, Georgia.

Because of limited space, all persons wishing to attend should call for reservations by June 10, 1974, Area Code 202/382–6945.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 13th Street, NW, Suite 1012, Washington, D.C.

Signed at Washington, D.C. on May 22, 1974.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc. 74–12093 Filed 5–24–74;8:45 am]

SUBCOMMITTEE REPORTS AND MATERIALS

Public Meeting

Notice is hereby given, Pub. L. 92–463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on June 14, 1974 at 1 p.m.–4 p.m., and June 15, 1974 at 9 a.m.–3:30 p.m., at 425 13th Street, NW, Suite 1012, Washington, D.C. 20004.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The meeting is called to hear subcommittee reports and to review materials prepared by the Council for the subcommittee.

Because of limited space, all persons wishing to attend should call for reservations by June 10, 1974, Area Code 202/382–6945.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 13th Street, NW, Suite 1012, Washington, D.C.

Signed at Washington, D.C. on May 21, 1974.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.74–12092 Filed 5–24–74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ENERGY RESEARCH AND DEVELOPMENT ADVISORY COUNCIL

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Energy Research and Development Advisory Council to be convened from 9 a.m. until approximately 4 p.m. on June 13, 1974, in Room 540 at the National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

The Advisory Council was established by the President on June 29, 1973, and announced in his Energy Statement of the same date. The objective of the Council is to help ensure the development of comprehensive technological programs to meet the Nation's energy needs.

The agenda for this meeting shall include discussions on the following topics:

1. Status of Energy Legislation.
2. Establishment of Fission Energy Working Group.
3. Future Activities of the Council.

Information regarding the meeting may be obtained by contacting Dr. Paul P. Craig, National Science Foundation, by telephone (202–632–7810) or by mail (Office of Energy R&D Policy, Room 537, 1800 G Street NW., Washington, D.C. 20550). Individuals planning to attend this meeting should inform Dr. Craig's office prior to the meeting.

Dated: May 14, 1974.

T. E. JENKINS,
Assistant Director for Administration.

[FR Doc.74–12131 Filed 5–24–74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

FEDERAL SAFETY ADVISORY COUNCIL ON OCCUPATIONAL SAFETY AND HEALTH

Notice of Meeting

Notice is hereby given that the Federal Safety Advisory Council on Occupational Safety and Health, established under section 3(a) of Executive Order 11612 of 1971, Occupational Safety and Health Programs for Federal Employees, will meet on June 10, 1974, starting at 9 am, in Room 216 ABC, Main Labor Building, 14th & Constitution Avenue, NW, Washington, D.C.

The agenda provides for a discussion and finalization of a draft proposal of federal safety and health regulations. The draft proposal has been submitted to the Federal Safety Advisory Council members.

The Council welcomes written data, views, or arguments concerning safety and health regulations as applied to the Federal Government including comments on the specific proposal being considered. Such data should be submitted in 20 copies to the Office of Federal Agency Safety Programs, OSHA, as far in advance of the meeting as practical. Any such submissions will be included in the record of the meeting.

Persons wishing to orally address the Council at the meeting concerning any of the agenda items should submit a written request to the Council staff no later than June 7, 1974. This request and any other questions about the meeting may be addressed to:

Gerald F. Scannell
Director
Office of Federal Agency Safety Programs
Room 410
1726 M Street, NW
Washington, D.C. 20210
Phone: (202) 961–3130

Signed at Washington, D.C., at 21st day of May, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74–12147 Filed 5–24–74;8:45 am]

Office of the Secretary

WESTLAND SHOE CORP.

Investigation Regarding Workers' Adjustment Assistance

The Department of Labor has received a Tariff Commission report containing an affirmative finding under section 301 (c)(2) of the Trade Expansion Act of 1962 with respect to its investigation of a petition for determination of eligibility to apply for adjustment assistance filed on behalf of the workers and former workers of the Westland Shoe Corp., Biddeford, Maine, a wholly owned subsidiary of Standard Prudential Corp., New York, N.Y. (TEA–W–232).

In view of the report and the responsibilities delegated to the Secretary of Labor under section 8 of Executive Order 11075 (28 FR 473), the Acting Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under Title III, Chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatend to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views or arguments relating to the subjects of investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. on or before June 3, 1974.

Signed at Washington, D.C. this 20th day of May 1974.

MARVIN M. FOOKS,
Acting Director, Office of Foreign Economic Policy.

[FR Doc.74-12088 Filed 5-24-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 516]

ASSIGNMENT OF HEARINGS

MAY 22, 1974.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 119777 Sub-266, Ligon Specialized Hauler, Inc., now assigned June 18, 1974, at Washington, D.C., is postponed indefinitely.

MC-F-12110, Arkansas-Best Freight System, Inc.—Purchase—Harry N. Nicklaus and Albert P. Nicklaus, now assigned June 26, 1974, at Washington, D.C., is cancelled.

MC-113855 Sub 281, International Transport, Inc., is assigned for hearing on July 8, 1974 (1 week) in Pick-Congress Hotel, 520 S. Michigan, Chicago, Ill., and July 22, 1974 (1 week), at the Kahler Plaza Hotel, 808 South 20th St. at 8th Ave., South, Birmingham, Ala.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-12170 Filed 5-24-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MAY 22, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before June 7, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC-25798 (Sub-No. E7), filed April 16, 1974. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Huburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* in containers, in vehicles equipped for temperature control, from points in Kentucky on and west of U.S. Highway 231, to points in Virginia, on, south and east of U.S. Highway 360 beginning at the Chesapeake Bay, thence along U.S. Highway 360 to its intersection with U.S. Highway 15, thence along U.S. Highway 15 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateway of Hendersonville, N.C.

No. MC-51146 (Sub-No. E2), filed April 23, 1974. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: D. F. Martin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

In proposal 1:

(a) *Paper and paper products* (except commodities in bulk), from points in Minnesota, to points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi (except points west of Interstate Highway 55), Louisiana (except points west and south of a line commencing at the Mississippi-Louisiana State line and extending south along U.S. Highway 51 to the intersection of Interstate Highway 10, thence east along Interstate Highway 10 to the Louisiana-Mississippi State line), and to Evansville, Ind., Memphis, Tenn., and the District of Columbia. (b) *Materials and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), and *returned shipments of paper and paper products*, restricted against the transportation of drums, pails, and cans, from points in the destination territory described in (1) above, to points in Minnesota.

In proposal 4:

(a) *The commodities* described in proposal 1(a) above, from points in Minnesota (except those points south of U.S. Highway 12) to points in Mississippi, Louisiana (except points west of a line commencing at the Arkansas-Louisiana State line and extending south along U.S. Highway 165 to the intersection of U.S. Highway 167, thence south along U.S. Highway 167 to the Vermillion Parish line, thence along the eastern boundary of the Vermillion Parish line to the Gulf of Mexico), Arkansas (except points west of a line commencing at the Missouri-Arkansas State line and extending south along Arkansas Highway 1 to the intersection of U.S. Highway 65, thence south along U.S. Highway 65 to the Arkansas-Louisiana State line), Missouri (except points west of U.S. Highway 67), and points in that part of the St. Louis-East St. Louis Commercial Zone within Illinois, and points in Illinois on and south of U.S. Highway 460. (b) *Materials and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), and *returned shipments of paper and paper products*, restricted against the transportation of drums, pails, and cans, from points in the destination territory described in (a) above to points in the origin territory.

In proposal 9:

(a) *The commodities* described in proposal 1(a) above, from points in Wisconsin (except those points south of U.S. Highway 18), to points in Texas, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, and Oklahoma (except those points north of Interstate Highway 40). (b) *The commodities* described in proposal 1(b) above from points in the destination territory described in (a) above to points in the origin territory described in (a) above.

In proposal 13:

(a) *The commodities* described in proposal 1(a) above, from points in Wisconsin (except those points west and south of a line beginning at the Michigan-Wisconsin State line and extending south along U.S. Highway 51 to the junction of U.S. Highway 51 and U.S. Highway 18, thence east along U.S. Highway 18 to Lake Michigan), to points in Kansas, Oklahoma, Missouri, and Nebraska (except those points north of Interstate Highway 80). (b) *The commodities* described in proposal 1(b) above from points in the destination territory described in (a) above to points in the origin territory described in (a) above.

In proposal 17:

(a) *The commodities* described in proposal 1(a) above, from points in Wisconsin (except those points south of a line beginning at the junction of the Minnesota-Wisconsin State line and Wisconsin Highway 33, thence along Wisconsin Highway 33 to the junction of Wisconsin Highway 33 and Wisconsin Highway 23, thence east along Wisconsin Highway 23 to Lake Michigan), to Evansville, Ind., and points in that part of the St. Louis-East St. Louis commercial zone, within Illinois, and points in Illinois on and south of U.S. Highway 460. (b) *The commodities* described in proposal 1(b) above, from points in the destination territory described in (a) above, to points in the origin territory described in (a) above. The purpose of the filing of proposals 1, 4, 9, 13, and 17 is to eliminate the gateway of Columbus, Wis.

In proposal 2:

(a) *Paper and paper products, plastic bags, liners and films and textile bags* (except commodities in bulk), from points in Minnesota to points in Nebraska, Texas, Kansas (except those points east of U.S. Highway 75), and Oklahoma (except points east of a line beginning at the junction of the Oklahoma-Kansas State line and U.S. Highway 75, thence south along U.S. Highway 75 to the junction of U.S. Highway 75 and U.S. Highway 64, thence southeast along U.S. Highway 64 to the Oklahoma-Arkansas State line). (b) *Returned and rejected shipments and materials, equipment, and supplies* (except commodities in bulk), from points in the destination territory described in (a) above, to points in Minnesota.

In proposal 3:

(a) *The commodities* described in proposal 2(a) above, from points in Minnesota (except points south of U.S. Highway 12), to points in Kansas (except points west of U.S. Highway 75), Oklahoma (except points south of a line commencing at the Kansas-Oklahoma State line and extending south along U.S. Highway 75 to the intersection of U.S. Highway 64, thence southeast along U.S. Highway 64 to the Oklahoma-Arkansas State line) and Missouri (except points east and north of a line commencing at the Iowa-Missouri State line and extending south along U.S. Highway 71 to the intersection of U.S. Highway 60, thence east along U.S. Highway 60 to the intersection of U.S. Highway 63, thence southeast along U.S. Highway 63 to the Missouri-Arkansas State line). (b) *The commodities* described in proposal 2(b) above, from points in the destination territory described in (a) above to points in the origin territory described in (a) above.

In proposal 52:

Paper and paper products (except commodities in bulk), from Eau Claire, Wis., to points in that part of South Dakota south of a line beginning at the Wyoming-South Dakota State line and extending along South Dakota Highway 34 to the junction of South Dakota Highway 34 and U.S. Highway 14, thence east along U.S. Highway 14 to the junction of U.S. Highway 14 and South Dakota Highway 37, thence along South Dakota Highway 37 to the junction of South Dakota, Highway 37 and South Dakota Highway 38, thence along South Dakota Highway 38 to the South Dakota-Iowa State line, and points in Nebraska. The purpose of the filing of proposals 2, 3, and 52 is to eliminate the gateway of Sibley, Iowa.

In proposal 5:

(a) *Paper and paper products* (except commodities in bulk), from points in Minnesota (except points north and west of a line beginning at the Wisconsin-Minnesota State line and extending west along U.S. Highway 2 to the intersection of Minnesota Highway 65, thence south along Minnesota Highway 65 to the intersection of U.S. Highway 65, thence south along U.S. Highway 65 to the Minnesota-Iowa State line) to points in California (except those points north and east of a line beginning at Noyo, Calif., and extending east along California Highway 20 to the junction of California Highway 20 and Interstate Highway 5, thence south along Interstate Highway 5 to the United States-Mexico International Boundary line). (b) *Materials and supplies* used in the manufacture of paper and paper products (except commodities in bulk and commodities which because of size or weight require the use of special equipment), from the destination territory described in (a) above, to the origin territory described in (a) above.

In proposal 14:

(a) *Paper and paper products* (except commodities in bulk) from points in Wisconsin (except points west and south of a line beginning at the Wisconsin-Michigan State line and extending south along U.S. Highway 51 to the intersection of U.S. Highway 10, thence east along U.S. Highway 10 to Lake Michigan), to points in that part of South Dakota south of Interstate Highway 90 and points in Nebraska. (b) *Materials and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk), and *returned shipments of paper and paper products*, restricted against the transportation of drums, pails, and cans from the destination territory described in (a) above, to the origin territory described in (a) above. The purpose of the filing of proposals 5 and 14 is to eliminate the gateway of Wisconsin Rapids, Wis.

In proposal 16:

Cellulose materials and products, paper and paper products, and materials, equipment, and supplies used in the production and distribution of the above-described commodities (except commodities in bulk and commodities requiring special equipment), between points in Wisconsin, on the one hand, and, on the other, Chicago, Ill.

In proposal 6:

Cellulose materials and products, paper and paper products, and materials, equipment, and supplies used in the production and distribution of the above-described commodities (except commodities in bulk and commodities requiring the use of special equipment), restricted against the transportation of pulpboard, pulpboard products, and waste paper, between points in Minnesota, on the one hand, and, on the other, Chicago, Ill.

In proposal 39:

(a) *Paper and paper products* (except drums, pails, and cans) and *products* produced or distributed by manufacturers and converters of paper and paper products (except drums, pails, and cans, and commodities in bulk, in tank or hopper-type vehicles, and commodities requiring special equipment), from Brokaw and Mosinee, Wis., to Chicago, Ill. (b) *Returned shipments* of the commodities described in (a) above, and *materials, equipment, and supplies* used in the manufacture and distribution of the products authorized in (a) above (except commodities in bulk, in tank or hopper-type vehicles, and commodities requiring special equipment), from Chicago, Ill., to Brokaw and Mosinee, Wis.

In proposal 40:

(a) *Paper and paper products* (except commodities in bulk and commodities requiring special equipment), from Stevens Point and Columbus, Wis., to Chicago, Ill. (b) *Materials and supplies* used in the manufacture or distribution of paper and products (except commodities in bulk and commodities requiring the use of special equipment), and *returned shipments of paper and paper products* from Chicago, Ill., to Stevens Point and Columbus, Wis.

The authority described in (a) and (b) above is restricted against the transportation of drums, pails, and cans.

In proposal 41:

(a) *The commodities* described in proposal 40(a), from Biron, Wisconsin Rapids, Port Edwards, and Nekoosa, Wis., to Chicago, Ill. (b) *The commodities* described in proposal 40(b) from Chicago, Ill., to Nekoosa, Wisconsin Rapids, Port Edwards, and Biron, Wis.

The authority described in (a) and (b) above is restricted against the transportation of drums, pails, and cans. The purpose of the filing of proposals 16, 6, 39, 40, and 41 is to eliminate the gateway of Chicago Heights, Ill.

In proposal 18:

Cellulose materials and products, paper and paper products, and materials and supplies used in the production and distribution of the above described commodities (except commodities in bulk and commodities requiring the use of special equipment) between Chicago, Ill., on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Idaho, Montana, Arizona, Wyoming (except points south of a line commencing at the South Dakota-Wyoming State line and extending west along U.S. Highway 16 to the intersection of U.S. Highway 20, thence west along U.S. Highway 20 to the Idaho-Wyoming State line), and Utah (except points north and east of a line commencing at the Wyoming-Utah State line and extending southwest along Interstate Highway 80 to the intersection of U.S. Highway 50 and thence east along U.S. Highway 50 to the Colorado-Utah State line). The purpose of the filing of proposal 18 is to eliminate the gateways of Chicago Heights, Ill., and Green Bay, Wis.

In proposal 51:

Paper and paper products (except commodities in bulk and commodities requiring the use of special equipment), from Eau Claire, Wis., to Chicago, Ill. The purpose of filing proposal 51 is to eliminate the gateway of Chicago Heights, Ill.

In proposal 7:

Cellulose materials and products, paper and paper products, and materials and supplies used in the production and distribution of the above-described commodities (except commodities in bulk), between points in Wisconsin (except those points west of a line commencing at the Upper Peninsula of Michigan-Wisconsin State line and extending west

along U.S. Highway 8 to the intersection of U.S. Highway 51, thence south along U.S. Highway 51 to the intersection of U.S. Highway 18, thence east along U.S. Highway 18, to the western boundary of Milwaukee County, thence south and east along Milwaukee County boundary to Lake Michigan), on the one hand, and, on the other, points in Washington, Oregon, California, Idaho, Nevada, Arizona, Utah, Montana (except points east of Interstate Highway 15), Colorado (except points east of a line extending from the Wyoming-Colorado State line and extending along Colorado Highway 13 to the intersection of U.S. Highway 24, thence southeast along U.S. Highway 24 to the Colorado-New Mexico State line), and New Mexico (except points north and east of a line commencing at the Colorado-New Mexico State line and extending south along U.S. Highway 285 to the intersection of Interstate Highway 40, thence east along Interstate Highway 40 to the New Mexico-Texas State line).

In proposal 19:

The commodities described in proposal 7 above, between points in Illinois (except points in the Chicago commercial zone as defined by the Commission, points in that part of the St. Louis-East St. Louis commercial zone within Illinois, and points in Illinois on and south of U.S. Highway 460), on the one hand, and, on the other, points in Washington, Idaho (except points south of U.S. Highway 12), and Oregon (except points south and east of a line commencing at Newport and extending north along U.S. Highway 101 to the intersection of Oregon Highway 18, thence east along Oregon Highway 18 to the intersection of Oregon Highway 99W, thence northeast along Oregon Highway 99W, to the intersection of Interstate Highway 5, thence north on Interstate Highway 5 to the Oregon-Washington State line).

In proposal 20:

The commodities described in proposal 7 above (restricted against the transportation of paper and paper products originating at Lockland, Hamilton, Cincinnati, Middletown, and Cleveland, Ohio), between points in Ohio, on the one hand, and, on the other, points in Washington, Oregon, Idaho, Montana, California (except points east of Interstate Highway 15), Nevada (except points east of Interstate Highway 15), Utah (except points east and south of a line commencing at the Arizona-Utah State line and extending north along U.S. Highway 91 to the intersection of U.S. Highway 40, thence east along U.S. Highway 40 to the Utah-Colorado State line), Wyoming (except points south and east of a line commencing at the South Dakota-Wyoming State line and extending west along Interstate Highway 90 to the intersection of Interstate Highway 25, thence south along Interstate 25 to the intersection of Wyoming Highway 220, thence southwest along Wyoming Highway 220 to the intersection of Wyoming Highway 789, thence south along Wyoming Highway 220 to the intersection of Wyoming Highway 789, thence south along Wyoming Highway 789 to the Wyoming-Colorado State line).

In proposal 21:

The commodities described in proposal 7 above, restricted against the transportation of cardboard cartons from points in Tennessee, between points in Tennessee (except those points in Tennesseee in the Memphis commercial zone), on the one hand, and, on the other, points in Washington, Oregon (except points south and east of a line commencing at Florence, and extending east along Oregon Highway 126 to the intersection of Interstate Highway 5, thence north along Interstate Highway 5, to the Oregon-Washington State line), Idaho (except points south of U.S. Highway 12), and Montana (except points south of a line commencing at the North Dakota-Montana State line and extending southwest along Montana Highway 200 to the intersection of Montana Highway 16, thence southwest along Montana Highway 16 to the intersection of U.S. Highway 10, thence west along U.S. Highway 10 to the intersection of U.S. Highway 12, thence along U.S. Highway 12 to the Montana-Idaho State line).

In proposal 22:

The commodities described in proposal 7 above, between points in the Lower Peninsula of Michigan, on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Idaho, Montana, Utah, Arizona, and Wyoming (except points south and east of a line commencing at the Nebraska-Wyoming State line and extending west along U.S. Highway 20 to the intersection of Wyoming Highway 789, thence south along Wyoming Highway 789 to the Wyoming-Colorado State line).

In proposal 23:

The commodities described in proposal 7 above, between points in the Upper Peninsula of Michigan, on the one hand, and, on the other, points in Colorado, New Mexico, Utah, Arizona, California, Nevada, Oregon, Washington (except points east of a line commencing at the Canadian boundary-Washington State line and extending south along U.S. Highway 395 to the intersection of Interstate Highway 90, thence east along Interstate Highway 90 to the Washington-Idaho State line), Idaho (except points north of a line commencing at the Oregon-Idaho State line and extending east along U.S. Highway 30 to the intersection of U.S. Highway 30N, thence east along U.S. Highway 30N, to the Idaho-Wyoming State line), and Wyoming (except points north of a line commencing at the Idaho-Wyoming State line and extending east along U.S. Highway 30N, to the intersection of U.S. Highway 30, thence east along U.S. Highway 30 to the Wyoming-Nebraska State line).

In proposal 24:

The commodities described in proposal 7 above, between points in West Virginia, on the one hand, and, on the other, points in Washington, Oregon, Idaho, Montana, Wyoming, Utah (except points south and east of a line commencing at the Colorado-Utah State line and extending west along Interstate Highway 70 to the intersection of Utah Highway 26, thence northwest along Utah Highway 26 to the intersection of Interstate Highway 15, thence south along Interstate Highway 15 to the Utah-Arizona State line), Nevada (except points south of Interstate Highway 15), and California (except points south of a line commencing at the Nevada-California State line and extending southwest along Interstate Highway 15 to the intersection of Interstate Highway 10, thence southeast along Interstate Highway 10 to the intersection of California Highway 86, thence south along California Highway 86 to the United States-Mexico International Boundary line).

In proposal 25:

The commodities described in proposal 7 above, between points in Kentucky (restricted against the transportation of paper and paper products originating at Florence and points in its commercial zone, and further restricted against the transportation of cardboard cartons from points in Kentucky), on the one hand, and, on the other, points in Montana, Washington, Idaho (except points south of U.S. Highway 12), California (except points south of Interstate Highway 80), and Oregon (except those points south and east of a line commencing at the California-Oregon State line and extending northeast along U.S. Highway 395 to the intersection of U.S. Highway 20, thence east along U.S. Highway 20 to the Oregon-Idaho State line).

In proposal 26:

The commodities described in proposal 7 above, between points in Pennsylvania, on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Arizona, Utah, Idaho, Montana, Wyoming, and Colorado (except points south of a line commencing at the Utah-Colorado State line and extending east along U.S. Highway 6 to the intersection of U.S. Highway 138, thence northeast along U.S. Highway 138 to the intersection of Colorado Highway 113, thence north along Colorado Highway 113 to the Colorado-Nebraska State line).

In proposal 27:

The commodities described in proposal 7 above, between points in Wisconsin (except points west of a line commencing at the Upper Peninsula of Michigan-Wisconsin State line and extending south along U.S. Highway 41 to the boundary of Milwaukee County and extending south and thence east along the Milwaukee County boundary to Lake Michigan), on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Arizona, Utah, Idaho, Montana, Wyoming, Colorado, and New Mexico.

In proposal 28:

The commodities described in proposal 7 above, between points in Indiana (except points in the Evansville commercial zone as defined by the Commission), on the one hand, and, on the other, points in Washington, Oregon, Montana, Wy-

oming (except points south of a line commencing at the South Dakota-Wyoming State line and extending west along U.S. Highway 16 to the intersection of U.S. Highway 20, thence west along U.S. Highway 20 to the Wyoming-Idaho State line), Idaho (except points in Bear Lake, Caribou and Franklin Counties), Nevada (except points south of U.S. Highway 40), and California (except points in and south of Santa Cruz, Santa Clara, Merced, Mariposa, and Mono Counties).

In proposal 31:

Plywood and plywood products as are manufactured or distributed by manufacturers or converters of cellulose materials and products, and paper products, from Jacksonville, N.C., to points in Washington, Oregon, Idaho, Montana, Wyoming, California (except points south of Monterey, Fresno, and Mono Counties), Nevada (except points south of U.S. Highway 6), Utah (except points in Washington, Garfield, Kane, and San Juan Counties), and Colorado (except points south of a line commencing at the Nebraska-Colorado State line and then south along Colorado Highway 113 to the intersection of U.S. Highway 6, thence west along U.S. Highway 6 to the Colorado-Utah State line).

In proposal 38:

(a) *Paper and paper products* (except drums, pails, and cans), and *products* produced or distributed by manufacturers and converters of paper and paper products (except drums, pails, and cans, and commodities in bulk, in tank or hopper-type vehicles), from Brokaw and Mosinee, Wis., to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, and New Mexico. (b) *Returned shipments* of the commodities, specified in (a) above, and *materials, equipment, and supplies* used in the manufacture and distribution of the products authorized in (a) above, except commodities in bulk, in tank or hopper-type vehicles, from points in the destination states named in (a) above, to Brokaw and Mosinee, Wis.

In proposal 42:

(a) *Plywood and plywood products combined with veneer and plastics* as are manufactured or distributed by manufacturers or converters of cellulose materials and products, and paper products from Marshfield, Wis., to points in Washington, Oregon, California, Idaho, Nevada, Utah, Colorado, Arizona, New Mexico, Montana (except points east of a line commencing at the Canadian-United States International Boundary line and extending south along Montana Highwy 233, to the intersection of U.S. Highway 87, thence south along U.S. Highway 87 to the Montana-Wyoming State line), and Wyoming (except points east of U.S. Highway 87). (b) *Materials and supplies* used in the manufacture and distribution of the commodities described in (a) above, from points in the destination territory in (a) above to Marshfield, Wis.

In proposal 43:

Dimension lumber, cut stock lumber, veneer, and plywood as are manufactured or distributed by manufacturers or converters of cellulose materials and products, and paper products, from Ridgway, Pa., and points within five miles thereof, to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, and New Mexico (except points south and east of U.S. Highway 54). The purpose of the filing of proposals 7, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 31, 38, 42, and 43 is to eliminate the gateway of Green Bay, Wis.

In proposal 8–A:

1. *Paper and paper products* (except commodities in bulk, drums, pails, and cans) and

2. *Products* produced or distributed by manufacturers and converters of paper and paper products (except drums, pails, and cans, and commodities in bulk, in tank or hopper type vehicles), from points in Wood, Portage, Marathon, Lincoln, and Oneida Counties, Wis., to points in Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota (except points north and east of a line commencing at the United States-Canadian International Boundary line and extending south along North Dakota Highway 1 to the intersection of Interstate Highway 94, hence east along Interstate Highway 94 to the North Dakota-Minnesota State line), Missouri, Arkansas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, points in that part of the St. Louis-East St. Louis commercial zone within Illinois, and points in Illinois on and south of U.S. Highway 460, Memphis, Tenn., Evansville, Ind., and the District of Columbia.

3. *Return shipments* of the commodities specified in (1) and (2) above, and materials, equipment, and supplies used in the manufacture and distribution of the products authorized in (1) and (2) above, except commodities in bulk, in tank or hopper type vehicles, from points in the destination territory described above, to points in the origin counties named above. The purpose of filing proposal 8–A is to eliminate the gateway of Mosinee, Wis.

In proposal 8–B:

1. *Paper and paper products* (except commodities in bulk) from points in Wood, Portage, Marathon, Lincoln, and Oneida Counties, Wis., to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, Montana, Wyoming, Colorado, and Mexico.

2. *Materials and supplies* used in the manufacture of paper and paper products (except commodities in bulk and commodities which because of size or weight require the use of special equipment from points in the destination States named in (1) above to points in the origin counties named in (1) above).

In proposal 11:

1. *Paper and paper products* (except commodities in bulk), from points in Wisconsin to points in California, Washington (except points east of a line commencing at the United States-Canadian International Boundary line and extending south along Interstate Highway 5 to the intersection of Interstate Highway 90, thence southeast along Interstate Highway 90 to the intersection of U.S. Highway 97, thence along U.S. Highway 97 to the Washington-Oregon State line), Oregon (except points east of U.S. Highway 395), Nevada (except points east and north of a line commencing at the Oregon-Nevada State line and extending south along U.S. Highway 95 to the intersection of U.S. Highway 40, thence east along U.S. Highway 40 to the Nevada-Utah State line), and Arizona (except points east of U.S. Highway 89).

2. *Materials and supplies* used in the manufacture of paper and paper products (except commodities in bulk and commodities which because of size or weight require the use of special equipment from points in the destination territory described in (1) above, to points in Wisconsin).

In proposal 12:

1. *The commodities* described in proposal 8–B(1) above from points in Wisconsin (except points west of U.S. Highway 51), to points in Washington, Oregon, California, Nevada, Idaho, Utah, Arizona, New Mexico, Wyoming, Montana (except points east of a line commencing at the United States-Canadian International Boundary line and extending south along Montana Highway 233 to the intersection of U.S. Highway 87 at Havre, thence along U.S. Highway 87 to the Montana-Wyoming State line), and Colorado (except points east of a line commencing at the Nebraska-Colorado State line and extending south along Colorado Highway 71 to the intersection of U.S. Highway 287, thence southeasterly along U.S. Highway 287 to the Colorado-Oklahoma State line).

2. *The commodities* described in proposal 8–B(2) above, from points in the destination territory described above to points in the origin territory described above.

In proposal 29:

Plywood and plywood products from Jacksonville, N.C., to points in North Dakota and South Dakota.

In proposal 30:

Plywood and plywood products from Jacksonville, N.C., to points in Nebraska (except points south of U.S. Highway 6).

In proposal 50:

Paper and paper products from Eau Claire, Wis., to points in Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Iowa, Washington, Oregon, Nevada, and California. The purpose of the filing of proposals 8–B, 11, 12, 29, 30, and 50 is to eliminate the gateway of Marshfield, Wis.

In proposal 10:

(a) *Paper and paper products* (except commodities in bulk), from points in Wisconsin to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, New York, Delaware, Maryland, Virginia, North Carolina, and the District of Columbia. (b) *Materials and supplies* used in the manufacture and distribution of paper products (except commodities in

bulk), from points in the destination territory named in (a) above, to points in Wisconsin.

Paper and paper products (except commodities in bulk), from Plymouth, N.C., to points in Washington, Oregon, California, Nevada, Arizona, Utah, Idaho, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Texas (except points west of a line extending from the Oklahoma-Texas State line southwest along U.S. Highway 377 to Del Rio, and thence west from Del Rio, Texas over unnumbered highway to the Mexican-United States International Boundary line), Oklahoma (except points south and east of a line commencing at the Texas-Oklahoma State line and extending northeast along U.S. Highway 69 to the intersection of Interstate Highway 40, thence east along Interstate Highway 40 to the Oklahoma-Arkansas Site line), Arkansas (except points east of a line commencing at the Oklahoma-Arkansas State line east along U.S. Highway 271 to the intersection of U.S. Highway 71, thence north along U.S. Highway 71 to the Arkansas-Missouri State line) and Missouri (except points east of a line commencing at the Arkansas-Missouri State line and then north along U.S. Highway 67 to the intersection of U.S. Highway 50 Bypass, thence east on U.S. Highway 50 Bypass to the Mississippi River), shipments of pulpboard and fibreboard limited to movements in mixed loads with the commodities described above.

In proposal 37:

Paper and paper products (except commodities in bulk), from the plantsites of the United States Envelope Company at Williamsburg, Pa., Springfield, Mass., and Enfield and Rockville, Conn., to points west of the western boundaries of Minnesota, Iowa, Illinois, Kentucky, Tennessee, and Alabama.

In proposal 47:

Paper and paper products (except commodities in bulk), from the plant and warehouse sites of Weyerhaeuser Company at Miquon, Pa., and Fitchburg, Mass., to points in and west of North Dakota, South Dakota, Nebraska, Arkansas, and Mississippi.

In proposal 48:

Paper fiber shipping containers, from the plant and warehouse sites of the Weyerhaeuser Company at Delair and Barrington, N.J., to points in and west of North Dakota, South Dakota, Nebraska, Missouri, Arkansas, and Mississippi.

In proposal 54:

Paper and paper products (except commodities in bulk), from Plattsburgh and Lyons Falls, N.Y., to points in and west of North Dakota, South Dakota, Iowa, Missouri, Arkansas, and Mississippi, and Evansville, Ind.

In proposal 57:

Paper and paper products (except commodities in bulk), from the plant site of Finch-Pruyn & Company, Inc., at Glens Falls, N.Y., to points in and west of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Arkansas, and Mississippi, and Evansville, Ind. The purpose of the filing of proposals 10, 34, 37, 47, 54, and 57 is to eliminate the gateway of Muncie, Ind.

In proposal 15:

Paper and paper products (except commodities in bulk), from points in Wisconsin (except points north and west of a line commencing at the Michigan-Wisconsin State line and extending along U.S. Highway 8 to the intersection of Wisconsin Highway 13, thence south along Wisconsin Highway 13 to the intersection of Interstate Highway 90, thence south along Interstate Highway 90 to the Wisconsin-Illinois State line), to points in South Dakota (except points south of Interstate Highway 90), and North Dakota (except those points east and north of a line commencing at the Canadian-United States International Boundary line and extending south along North Dakota Highway 1 to the intersection of Interstate Highway 94, thence east along Interstate Highway 94 to the North Dakota-Minnesota State line). The purpose of the filing of proposal 15 is to eliminate the gateway of Eau Claire, Wis.

In proposal 32:

Paper and paper products (except commodities in bulk, pulpboard, pulpboard products, and waste paper), from Plymouth, N.C., to points in Kentucky (except points east of a line commencing at the Ohio-Kentucky State line, thence southwest along U.S. Highway 68 to the intersection of U.S. Highway 31E, thence southwest along U.S. Highway 31E to the Kentucky-Tennessee State line). The purpose of filing proposal 32 is to eliminate the gateway of Portsmouth, Ohio.

In proposal 33:

Paper and paper products (except commodities in bulk, pulpboard, pulpboard products, and waste paper), from Plymouth, N.C., to Cleveland, Ohio, and points in its commercial zone as defined by the Commission, Akron, Ohio, and points within 25 miles thereof. The purpose of filing proposal 33 is to eliminate the gateway of Salem, Ohio.

In proposal 35:

Paper and paper products (except commodities in bulk), from Plymouth, N.C., to points in Pennsylvania (except points east of a line commencing at the New York-Pennsylvania State line, and then south along U.S. Highway 62 to the intersection of Pennsylvania Highway 8, thence south, along Pennsylvania Highway 8 to the intersection of U.S. Highway 19 at Pittsburgh, thence south along U.S. Highway 19 to the intersection of U.S. Highway 40, thence west along U.S. Highway 40, to the Pennsylvania-West Virginia State line), shipments of pulpboard and fibreboard will be limited to movements in mixed loads with the other commodities described above. The purpose of filing proposal 35 is to eliminate the gateway of Liverpool, Ohio.

In proposal 36:

Paper and paper products, and cellulose materials and products produced or distributed by manufacturers and converters of paper products (except commodities in bulk), from the plant sites of the United States Envelope Company at Williamsburg, Pa., Springfield, Mass., and Enfield and Rockville, Conn., to points in Kentucky and Tennessee (except Memphis and points in its commercial zone), restricted against the transportation of pulpboard, pulpboard products, and waste paper to points in Kentucky.

In proposal 45:

Paper and paper products (except commodities in bulk), from the plant sites and warehouse facilities of the Weyerhaeuser Company, at Miquon, Pa., to points in Kentucky and Tennessee (except Memphis and points in its commercial zone as defined by the Commission), restricted against the transportation of pulpboard, pulpboard products, and waste paper to points in Kentucky.

In proposal 46:

Paper and paper products (except commodities in bulk), from the plant and warehouse sites of the Weyerhaeuser Company at Fitchburg, Mass., to points in Kentucky and Tennessee (except Memphis and points in its commercial zone as defined by the Commission), restricted against the transportation of pulpboard, pulpboard products, and waste paper to points in Kentucky.

In proposal 49:

Paper fiber shipping containers, from the plant sites and warehouse facilities of Weyerhaeuser Company at Delair and Barrington, N.J., to points in Kentucky and points in Tennessee (except points east of U.S. Highway 27, and points in the Memphis commercial zone). The purpose of filing proposals 36, 45, 46, and 49 is to eliminate the gateway of Gallipolis, Ohio.

In proposal 44:

Paper and paper products (except commodities in bulk), from the plant and warehouse sites of the Weyerhaeuser Company at Fitchburg, Mass., to points in Pennsylvania (except points north and east of a line commencing at the Ohio-Pennsylvania State line and extending east along U.S. Highway 62 to the intersection of Pennsylvania Highway 8, thence south along Pennsylvania Highway 8 to the intersection of Pennsylvania Highway 51, thence south along Pennsylvania Highway 51, to the intersection of Pennsylvania Highway 857, thence south along Pennsylvania Highway 857 to the Pennsylvania-West Virginia State line).

In proposal 53:

Paper and paper products (except commodities in bulk), from Lyons Falls, N.Y., to points in Kentucky, Tennessee (except Memphis and points in its commercial zone as defined by the Commission), Alabama (except points on and north of U.S. Highway 78, and Mobile, and points in its commercial zone as defined by the Commission), and West Virginia (except points east of a line commencing at the Maryland-West Virginia State line and extending south along U.S. Highway 219, to the intersection of West Virginia Highway 39, thence east along West Virginia Highway 39 to the West Virginia-Virginia State line), restricted against the transportation of pulpboard,

pulpboard products, and waste paper to points in Kentucky.

In proposal 56:

Paper and paper products (except commodities in bulk), from Plattsburgh, N.Y., to points in Tennessee (except Memphis, and points in its commercial zone), Kentucky, Alabama (except points on and north of U.S. Highway 78, Mobile, and points in its commercial zone as defined by the Commission), and West Virginia (except points east of a line commencing at the Pennsylvania-West Virginia State line and extending south along U.S. Highway 119 to the intersection of U.S. Highway 250, thence south along U.S. Highway 250 to the West Virginia-Virginia State line), restricted against the transportation of pulpboard, pulpboard products, and waste paper.

In proposal 58:

Paper and paper products (except commodities in bulk), from Glens Falls, N.Y., to points in Tennessee (except Memphis, and points in its commercial zone), Alabama (except points on and north of U.S. Highway 78, Mobile, and points in its commercial zone as defined by the Commission), and West Virginia (except points east of a line commencing at the Pennsylvania-West Virginia State line and extending south along U.S. Highway 119 to the intersection of U.S. Highway 250, thence south along U.S. Highway to the West Virginia-Virginia State line), restricted to the transportation of shipments originating at the plant site of Finch-Pruyn & Company, Inc., at Glens Falls, N.Y. The purpose of the filing of proposals 44, 53, 56, and 58 is to eliminate the gateway of E. Liverpool, Ohio.

In proposal 55:

Paper and paper products, from Plattsburgh and Lyons Falls, N.Y., to points in Alabama and Memphis, Tenn.

In proposal 59:

Paper and paper products, from Glens Falls, N.Y., to points in Alabama (except points north and east of a line beginning at the Tennessee-Alabama State line and extending south along U.S. Highway 431 to the intersection of U.S. Highway 278, thence east along U.S. Highway 278 to the Alabama-Georgia State line), and Memphis, Tenn., restricted to the transportation of shipments originating at the plant site of Finch-Pruyn Company, Inc., at Glens Falls, N.Y. The purpose of the filing of proposals 55 and 59 is to eliminate the gateway of South Bend, Ind.

No. MC–95540 (Sub-No. E145), filed April 22, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212–5299 Roswell Rd. N.E., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, and *meats and meat products*, from Buffalo, N.Y., to points in Texas on and south of a line beginning at the Sabine River, and thence along Interstate Highway 10 to San Antonio, thence along U.S. Highway 90 to Del Rio, thence along unnumbered Highway to the Rio Grande River. The purpose of this filing is to eliminate the gateway of Tifton, Ga.

No. MC–95540 (Sub-No. E209), filed April 28, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212–5299 Roswell Rd. N.E., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Aberdeen, Frederick, and Baltimore, Md., to points in Louisiana. The purpose of this filing is to eliminate the gateway of points in Pike and Spaulding County, Ga.

No. MC–110525 (Sub-No. E118), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the District of Columbia to points in Colorado. The purpose of this filing is to eliminate the gateways of S. Charleston, W. Va., and Addyston, Ohio.

No. MC–110525 (Sub-No. E120), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the District of Columbia to points in Idaho. The purpose of this filing is to eliminate the gateways of Institute, W. Va., and Addyston, Ohio.

No. MC–110525 (Sub-No. E121), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the District of Columbia to points in Illinois. The purpose of this filing is to eliminate the gateway of Bridgeville, Pa.

No. MC–110525 (Sub-No. E125), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *liquid chemicals*, in bulk, in tank vehicles, from the District of Columbia to points in Kentucky. The purpose of this filing is to eliminate the gateway of Institute, W. Va.

No. MC–110525 (Sub-No. E130), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension-Addyston*, 63 M.C.C. 667, in bulk, in tank vehicles, from the District of Columbia to points in Mississippi. The purpose of this filing is to eliminate the gateway of Institute, W. Va.

No. MC–110525 (Sub-No. E131), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* as defined in *The Maxwell Co., Extension-Addyston*, 63 M.C.C. 667 (except bituminous products and materials), in bulk, in tank vehicles, from the District of Columbia to points in Missouri. The purpose of this filing is to eliminate the gateways of Morgantown and Natrium, W. Va.

No. MC–110525 (Sub-No. E189), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from points in Georgia to points in Michigan. The purpose of this filing is to eliminate the gateways of Copperhill, Tenn., and Louisville, Ky.

No. MC–110525 (Sub-No. E212), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from points in Indiana to points in Connecticut. The purpose of this filing is to eliminate the gateways of Pittsburgh, Pa., and Newark, N.J.

No. MC–110525 (Sub-No. E213), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downington, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, as defined in *The Maxwell Co., Extension-Addyston*, 63 M.C.C. 677, in bulk, in tank vehicles, from points in Indiana to points in Delaware. The purpose of this filing is to eliminate the gateways of Follansbee and Natrium, W. Va.

No. MC–110525 (Sub-No. E214), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from points in Indiana to the District of Columbia. The purpose of this filing is to eliminate the gateways of Pittsburgh, Pa., and Baltimore, Md.

No. MC–110525 (Sub-No. E216), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from points in Indiana to points in Maine. The purpose of this filing is to eliminate the gateways of Clairton, Pa., and Syracuse, N.Y.

No. MC–110525 (Sub-No. E217), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from points in Indiana to points in Massachusetts. The purpose of this filing is to eliminate the gateways of Pittsburgh, Pa., and Newark, N.J.

No. MC–110525 (Sub-No. E218), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from points in that part of Indiana on and north of Interstate Highway 70 to points in Maryland. The purpose of this filing is to eliminate the gateway of S. Charleston, W. Va.

No. MC–110525 (Sub-No. E220), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulks, in tank vehicles, from points in Indiana, to points in New Jersey. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

No. MC–110525 (Sub-No. E260), filed May 8, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 19335, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, as defined in The Maxwell Co., Extension-Addyston, 63 M.C.C. 677, in bulk, in tank vehicles, from points in Louisiana to points in West Virginia. The purpose of this filing is to eliminate the gateway of S. Charleston, W. Va.

No. MC–113362 (Sub-No. E6), filed May 5, 1974. Applicant: ELLSWORTH FREIGHT LINES, INC., 1105½ 8th Ave., NE., Austin, Minn. 55912. Applicant's representative: Milton D. Adams, P.O. Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail, and grocery stores, from Chicago, Ill., to (1) those points in Minnesota on and west of a line beginning at the Iowa-Minnesota State line, thence along Interstate Highway 35 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Minnesota Highway 13, thence along Minnesota Highway 13 to junction Minnesota Highway 21, thence along Minnesota Highway 21 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Minnesota Highway 101, thence along Minnesota Highway 101 to Minnesota Highway 152, thence along Minnesota Highway 152 to St. Cloud, thence along U.S. Highway 10 to junction Minnesota Highway 371, thence along Minnesota Highway 371 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Minnesota Highway 72, thence along Minnesota Highway 72 to Baudette, Minn., and (2) to those points in Iowa on, north, and west of a line beginning at Sioux City, Iowa, thence along U.S. Highway 20 to junction U.S. Highway 71 thence along U.S. Highway 71 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction Iowa Highway 4, thence along Iowa Highway 4 to junction Iowa Highway 3, thence along Iowa Highway 3 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Iowa-Minnesota State line, and (3) to Humboldt, Iowa. The purpose of this filing is to eliminate the gateway of Lakota, Iowa.

No. MC–113362 (Sub-No. E12), filed May 5, 1974. Applicant: ELLSWORTH FREIGHT LINES, INC., 1105½ 8th Ave., NE, Austin, Minn. 55912. Applicant's representative: Milton D. Adams, P.O. Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, between Des Moines, Iowa, and those points in Iowa east of U.S. Highway 69 and on and north of Interstate Highway 80, on the one hand, and, on the other, those points in Indiana north of U.S. Highway 40. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC–114019 (Sub-No. E20), filed May 1, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Rd., Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish and seafoods*, fresh and frozen, (a) from points in that part of Iowa on, north, and west of a line beginning at the junction of U.S. Highway 65 and the Missouri–Iowa State line, thence along U.S. Highway 65 to the junction of U.S. Highway 65 and Interstate Highway 80, thence along Interstate Highway 80 to the Iowa–Illinois State line, to Pittsburgh, Pa., Rochester, and Buffalo, N.Y., Louisville, Ky., and points in Ohio, and those in Indiana on and north of U.S. Highway 150, (b) from points in that part of Wisconsin east of a line beginning at the junction of the Wisconsin–Michigan State line and U.S. Highway 13, thence south along U.S. Highway 13 to Wisconsin Dells, thence south along U.S. Highway 12 to Madison, thence south along Wisconsin Highway 69 to the Wisconsin–Illinois State line, to points in Nebraska, Kansas, and Missouri and Denver, Colo., and those points in Illinois in, south, and east of Hancock, McDonough, Fulton, Peoria, Woodford, Livingston, Grundy, Will, DuPage, and Cook Counties.

The authority described in (a) and (b) above is restricted to the transportation of the commodities described therein to shipments moving from, to, or between warehouses, and wholesale, retail, or chain outlets of food business houses, or when moving from, to, or between food processing plants, or warehouses or other facilities of such plants. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC–114019 (Sub-No. E21), filed May 2, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products and dairy supplies, butter and butter substitutes, eggs, cheese, buttermilk, frozen condensed milk, frozen cream and dressed poultry and rabbits*, from points in Wisconsin and Iowa, to Cleveland, Columbus, and Lima, Ohio; Pittsburgh and Scranton, Pa.; points in that part of New York south of Lake Ontario, and the following highways: U.S. Highway 104 and New York Highway 69 from Oswego to Utica, New York Highway 5 from Utica to Schenectady, and New York Highway 7 from Schenectady to the New York–Vermont State line, including points on the designated portions of these highways, to points in that part of New Jersey on and south of New Jersey Highway 3 from Weehawken to Passaic and on and east of New Jersey Highway 7 from Passaic to Newark, and points in Connecticut, Massachusetts, and Rhode Island, restricted to the transportation of shipments moving from, to, or between warehouses and wholesale, retail, or chain outlets of food business houses, or when moving from, to, or between food processing plants, or warehouses or other facilities of such plants. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC–114019 (Sub-No. E25), filed May 1, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, and foods not frozen when transported in the same vehicle

with frozen foods, in vehicles equipped with mechanical refrigeration, (a) from points in Wisconsin and Iowa, to points in Kentucky on and east of Interstate Highway 65, points in West Virginia, Maryland, Delaware, New Jersey (except points in the New York, N.Y., and Philadelphia, Pa., commercial zones as defined by the Commission), Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont, Maine, the District of Columbia, and those points in Ohio in and east of Trumbull, Portage, Summit, Wayne, Holmes, Coschocton, Muskingum, Perry, Hocking, Athens, and Meigs Counties, (b) from points in Milwaukee, Racine, and Kenosha Counties, Wis., to points in Iowa, Nebraska, North Dakota, and South Dakota, (c) from points in Dodge, Washington, and Waukesha Counties, Wis., to points in Nebraska, (d) from points in Jefferson, Roch, and Walworth Counties, Wis., to points in North Dakota on and west of U.S. Highway 83, points in Harding, Butte, Lawrence, Meade, Pennington, and Fall River Counties, S. Dak., and points in and west of Cherry, Blaine, Loup, Valley, Howard, Hall, Clay, and Thayer Counties, Nebr.

The authority described in (a) through (d) above is restricted to the transportation of shipments moving from, to, or between warehouses, and wholesale, retail, or chain outlets of food business houses, or when moving from, to or between food processing plants, or warehouses or other facilities of such plants. The purpose of this filing is to eliminate the gateways of Chicago, Ill., and Wheeling, W. Va.

No. MC–114019 (Sub-No. E31), filed May 2, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Rd., Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in packages and containers, from points in Illinois and Indiana and points in that part of Ohio on and north of a line beginning at the junction of U.S. Highway 30 and the Indiana-Ohio State line, thence east along U.S. Highway 30 to the junction of U.S. Highway 30 and U.S. Highway 62 at Canton, thence east along U.S. Highway 62 to the Ohio-Pennsylvania State line, to points in Delaware, Maryland, and Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Akron, Ohio.

No. MC–124211 (Sub-No. E22), filed April 22, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Motor vehicle parts, accessories, and supplies* (except commodities in bulk, and commodities, which, because of their size and weight, require the use of special equipment), (a) from Flint, Mich., Toledo, Ohio, points in that part of Virginia on and north of U.S. Highway 60, and points in that part of Nebraska on, and east, and north of a line beginning at the Nebraska-South Dakota State line, thence south over U.S. Highway 77, to the junction of Nebraska Highway 2, thence over Nebraska Highway 2 to the Nebraska-Iowa State line, to points in Arizona and New Mexico; (b) from points in Nebraska (except Johnson, Nemaha, Pawnee, and Richardson Counties, Nebr., and except Columbus and Rushville, Nebr.) to points in Kentucky (except Louisville, Ky., and points in Kentucky within the Cincinnati, Ohio, commercial zone, as defined by the Commission) and points in Louisiana, Mississippi, and Tennessee; (c) from points in Nebraska (except Columbus and Rushville, Nebr.) to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia. The purpose of this filing is to eliminate the gateway of Council Bluffs, Iowa.

No. MC–128383 (Sub-No. E54), filed May 6, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Dulles International Airport, Fairfax and Loudoun Counties, Va., and Miami International Airport, at or near Miami, Fla., restricted to the transportation of traffic having a prior or subsequent movement by air, and further restricted against the transportation of traffic moving to said Miami International Airport having a subsequent movement beyond Miami, Fla., in foreign commerce. The purpose of this filing is to eliminate the gateway of Philadelphia International Airport, Philadelphia, Pa.

No. MC–128383 (Sub-No. E56), filed May 6, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), between Washington National Airport, Gravelly Point, Va., and Miami International Airport, at or near Miami, Fla., restricted to the transportation of traffic having a prior or subsequent movement by air, and further restricted against the transportation of traffic moving to said Miami International Airport having a subsequent movement beyond Miami, Fla., in foreign commerce. The purpose of this filing is to eliminate the gateway of Philadelphia International Airport, Philadelphia, Pa.

No. MC–128383 (Sub-No. E57), filed May 6, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Friendship International Airport, Anne Arundel County, Md., and Miami International Airport, at or near Miami, Fla., restricted to the transportation of traffic having a prior or subsequent movement by air, and further restricted against the transportation of traffic moving to said Miami, International Airport having a subsequent movement beyond Miami, Fla., in foreign commerce. The purpose of this filing is to eliminate the gateway of Philadelphia International Airport, Philadelphia, Pa.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74–12174 Filed 5–24–74;8:45 am]

[Notice 90]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before June 17, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–74955. By order entered May 16, 1974, the Motor Carrier Board approved the transfer to Joseph Gilchrist, Old Forge, Pa., of that portion of the operating rights set forth in Certificate No. MC–135367, issued May 1, 1972, to Leonard J. Mickavicz, Taylor, Pa., authorizing the transportation of lamps, lamp shades, wall plaques, light bulbs, and fluorescent and incandescent lamp fixtures from specified plant sites in Pennsylvania, to points in Illinois, Indiana, Ohio, Michigan, West Virginia, Virginia, Maryland, and New Jersey; and parts, materials, and supplies used in the manufacture of lamp shades from points in the above-named States to the specified plant sites in Pennsylvania. Ken-

neth R. Davis, 999 Union St., Taylor, Pa. 18517, practitioner for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-12173 Filed 5-24-74;8:45 am]

[Notice 73]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 22, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 139792 (Sub-No. 1 TA), filed May 13, 1974. Applicant: J. A. COFFEY, doing business as C & M GARAGE & WRECKER SERVICE, 3601 West 70th Street, Shreveport, La. 71108. Applicant's representative: William D. Lynch, P.O. Box 912, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles and trailers* that have been wrecked, disabled or abandoned; replacement vehicles or trailers for the previously mentioned commodities (excluding mobile homes and house trailers designed to be drawn by passenger automobiles), in truckaway service, when moving in wrecker service, between points in Arkansas, Louisiana, Mississippi, and Texas, for 180 days. SUPPORTING SHIPPERS: Steel Sales & Service, Inc., 4302 West 70th Street, Shreveport, La. 71108; Red Ball Motor Freight, Inc., Shreveport Terminal, 1214 Airport Drive, Shreveport, La. 71107; and McLean Trucking Company, Terminal Manager, Shreveport, Box 8668, Shreveport, La. 71108. SEND PROTESTS TO: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 139795 TA, filed May 13, 1974. Applicant: ROBERT PAGE TRUCKING, Route #1, Saranac, Mich. 48881. Applicant's representative: J. M. Neath, Jr., 900—One Vandenberg Center, Grand Rapids, Mich. 49502. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts and components of automated egg production systems*, including the building parts and components in which the system operates, from Gettysburg, Pa.; Sheridan, Mich.; Ludington, Mich.; Rockford, Mich.; and Russellville, Ky., to points in Howard, Fayette, Mitchell, Chickasaw, Wapello, and Mahaska Counties, Iowa; St. Louis and Nobles Counties, Minn.; Adams and Boulder Counties, Colo.; and Salt Lake County, Utah, for 180 days. SUPPORTING SHIPPER: Cycle Systems, Inc., 9290 Belding Road, Rockford, Mich. 49341. SEND PROTESTS TO: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 139796 TA, filed May 14, 1974. Applicant: POPE DRIER, Route #1, Bonne Terre, Mo. 63628. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds*, from East St. Louis, Ill., to points in Missouri on and east of U.S. Highway 65, for 180 days. SUPPORTING SHIPPER: Dixie Mills Co., 10th and Walnut St., East St. Louis, Ill. 62202. SEND PROTESTS TO: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

MOTOR CARRIERS OF PASSENGERS

No. MC 139778 (Sub-No. 1 TA), filed May 8, 1974. Applicant: RANCOCAS VALLEY BUS SERVICE, INC., P.O. Box 394, Moorestown, N.J. 08057. Applicant's representative: Charles W. Heuisler, One Centennial Square, E. Euclid Avenue, Haddonfield, N.J. 08033. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, between Cherry Hill Township and Haddon Township in Camden County, N.J. and Maple Shade Township in Burlington County, N.J., on the one hand, and, on the other, Philadelphia, Pa., under continuing contracts with the Haddon View Apartments, Haddon Township, N.J.; Towers of Windsor Park, Cherry Hill, N.J.; Somerset House Apartments, Cherry Hill, N.J.; and Moorestown Plaza, Ltd., operating as Kings Highway Towers, Maple Shade, N.J., for 180 days. SUPPORTING SHIPPERS: Haddon View Apartments, Haddon Township, N.J.; Towers of Windsor Park, Cherry Hill, N.J.; Somerset House Apartments, Cherry Hill, N.J.; and Moorestown Plaza, Ltd., operating as Kings Highway Towers, Maple Shade, N.J. SEND PROTESTS TO: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 139793 TA, filed May 13, 1974. Applicant: MATIA LIMOUSINE SERVICE, INC., 3632 Stoneleigh Road, Cleveland Heights, Ohio 44121. Applicant's representative: Lewis S. Witherspoon, 88 East Broad Street, Suite 1330, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, *sengers* who are employees of Penn *sengers* who are employees of the Penn Central Transportation Company in special operations, for the account of the Penn Central Transportation Company, between points in Ohio, on the one hand, and, points along the right-of-way of the Penn Central Transportation Company in Pennsylvania and New York on the other hand, for 180 days. RESTRICTION: Restricted to the use of nine (9) passenger vehicles. SUPPORTING SHIPPER: The Penn Central Transportation Company, Cleveland Union Terminal Building, Cleveland, Ohio 44113. SEND PROTESTS TO: Franklin D. Bail, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 181 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 139794 TA, filed May 13, 1974. Applicant: SOMERSET LIMOUSINE SERVICE, INC., 488 N. Bridge Street, Somerville, N.J. 08876. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations in non-scheduled door to door service of not more than six passengers in any one vehicle not including driver, between points in Hunterdon, Mercer, Middlesex, Morris and Somerset Counties, N.J., on the one hand, and, on the other, John F. Kennedy International Airport and LaGuardia Airport, New York, N.Y.; Newark International Airport, Newark, N.J.; and Philadelphia International Airport, Philadelphia, Pa., for 180 days. SUPPORTING SHIPPERS: The Singer Company, Ltd. (Industrial Sewing Products Div. & Textile Machinery Div.), 275 Centennial Ave., Piscataway, N.J. 08854; Wharton, Stewart & Davis, 50 West St., Somerville, N.J. 08876; FMC Corporation, P.O. Box 8, Princeton, N.J. 08540; Research-Cottrell, Inc., P.O. Box 750, Bound Brook, N.J. 08805; Ortho Pharmaceutical Corp., Route 202, Raritan, N.J. 08869; and four individuals such as Mr. Lewis C. Murdock, Holland Road, Peapack, N.J. 07977. SEND PROTESTS TO: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

By The Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-12168 Filed 5-24-74;8:45 am]

[Notice 72]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 21, 1974.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 99780 (Sub-No. 40 TA), filed May 9, 1974. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 NE. Bond Street, Mlg: P.O. Box 1345 (Box zip 61601), Peoria, Ill. 61603. Applicant's representative: John R. Zang (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those commodities of unusual value, Classes A and B explosives, household goods as defined by the Commission and commodities in bulk), from the storage facilities and customers of the Dry Storage Corporation in the Chicago Commercial Zone to Milwaukee, Wis., and to points located within the Milwaukee Commercial Zone and to St. Louis, Mo., and to points located within the St. Louis Commercial Zone and to Detroit, Mich., and to points located within the Detroit Commercial Zone and to that portion of Iowa bounded on the west by Route 169 and by the state line to the North, South, and East, restricted to traffic originating at the above specified points and destined to the above destinations, for 180 days. SUPPORTING SHIPPER: Dry Storage Corporation, 2005 West 43rd Street, Chicago, Ill. 60609. SEND PROTESTS TO: District Supervisor Richard K. Shullaw, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 135678 (Sub-No. 2 TA) (Correction), filed February 27, 1974, published in the FEDERAL REGISTER issue of March 18, 1974, and republished as corrected this issue. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 SW. 10th Street, Oklahoma City, Okla. 73125. Applicant's representative: Rufus H. Lawson, 2400 NW. 23rd Street, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, and those of unusual value) between Amarillo, Tex., and its Commercial Zone and Texola, Okla.: From Amarillo, Tex., and its Commercial Zone, via U.S. 66 (I.H. 40), to Texola, Okla., and return over the same route, serving no intermediate points, for 180 days.

NOTE.—Applicant states that he does intend to tack with his authority in Docket No. MC 135678 Sub 1. SUPPORTING SHIPPERS: There are approximately 79 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 NW. Third, Oklahoma City, Okla. 73102.

NOTE.—The purpose of this republication is to change the territory description.

No. MC 139734 TA (Correction), filed April 24, 1974, published in the FEDERAL REGISTER issue of May 14, 1974, and republished as corrected this issue. Applicant: WHITAKER TRANSPORTATION COMPANY, INC., 1300 Market Street, Bay 20, Chattanooga, Tenn. 37402. Applicant's representative: Virgil H. Smith, 1587 Phoenix Blvd., Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, and those injurious or contaminating to other lading), from points in Catoosa, Chatooga, Gordon, Murray, Walker, and Whitfield Counties, Ga., to Chattanooga, Tenn., restricted to traffic having a subsequent movement by freight forwarders, from Chattanooga, Tenn., for 180 days. SUPPORTING SHIPPER: Western Carloading Co., Inc., 1000 Chattahoochee Ave. NW., Atlanta, Ga. 30325, and Universal Carloading & Distr. Co., Inc., 345 Hudson Street, New York, N.Y. 10014. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803 1808 West End Building, Nashville, Tenn. 37203.

NOTE.—The purpose of this republication, is to add the length of time that the applicant wants to operate. The phrase 180 days was omitted in previous publication.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-12169 Filed 5-24-74;8:45 am]

[Notice 88]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 22, 1974.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-75170. By application filed May 17, 1974, JOULE YACHT TRANSPORT, INC., 345 Ft. Salonga Rd., Northport, NY 11768, seeks temporary authority to lease the operating rights of L & S BOAT TRANSPORTATION CO., INC., P.O. Box 10387, St. Petersburg, FL 33713, under section 210a(b). The transfer to JOULE YACHT TRANSPORT, INC., of the operating rights of L & S BOAT TRANSPORTATION CO., INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-12171 Filed 5-24-74;8:45 am]

[Notice 89]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 22, 1974.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-75177. By application filed May 20, 1974, MARTIN TRUCK LINE, INC., Highway 45 North, Henderson, TN 38340, seeks temporary authority to lease the operating rights of E. W. PEERY, doing business as PEERY TRUCKING CO., Miston, TN 38056, under section 210a(b). The transfer to MARTIN TRUCK LINE, INC., of the operating rights of E. W. PEERY, doing business as PEERY TRUCKING CO., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

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PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

■

REHABILITATION PROGRAMS AND ACTIVITIES

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Parts 401, 402]

REHABILITATION PROGRAMS AND ACTIVITIES

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Secretary of Health, Education, and Welfare. The proposed regulations revise Chapter IV of Title 45 of the Code of Federal Regulations in order to implement the provisions of the Rehabilitation Act of 1973 (Pub. L. 93–112).

Part 401 of Chapter IV, as revised, covers grants made to State vocational rehabilitation agencies under the State plans for vocational rehabilitation services. The Rehabilitation Act of 1973 has substantially revised the content and format of the State plans for vocational rehabilitation services and, in addition, has broadened the scope of vocational rehabilitation services provided to handicapped individuals under the State plan.

Subpart A of Part 401 includes new and revised definitions necessary to conform with the requirements and intent of the Act. Such new and revised definitions include "construction of a rehabilitation facility," "criminal act," "employability," "establishment of a rehabilitation facility," "evaluation of rehabilitation potential," "handicapped individual," "local agency," "outcome and service goals," "physical and mental restoration services," "physical or mental disability," "public safety officer," "rehabilitation facility," "severely handicapped individual," "State," "State agency," "State plan," "vocational rehabilitation services," "works of art" and "workshop."

Subpart B of Part 401 covers the content of the State plans for vocational rehabilitation services. New requirements include an annual submittal of State plan programming descriptions and an annual evaluation of the effectiveness of the State's vocational rehabilitation program. Other new requirements include State agency policy consultation with individuals with special interest in the State's rehabilitation program, the designation of the severely handicapped as the first priority in the selection of handicapped individuals to receive services, the development of an individualized written rehabilitation program for each handicapped individual with the full participation of the individual being served, and the provision of newly authorized vocational rehabilitation services such as telecommunications and post-employment services.

Subpart C covers the financing of State vocational rehabilitation programs. Grants to States for the conduct of vocational rehabilitation programs are subject to the provisions of OMB Circular A–102, except for the provisions concerning matching and cost-sharing. Payments to States will be related to an evaluation of a State's performance in conducting its vocational rehabilitation program in terms of the general standards for evaluation developed by the Secretary.

Subpart D includes revised regulations covering the payment of costs of vocational rehabilitation services to disability beneficiaries from the Social Security Trust funds under Title II of the Social Security Act.

Subpart F covers the newly established grant program for the innovation and expansion of vocational rehabilitation services under the State plan.

Part 402, as revised, includes all grants and other assistance available for special vocational rehabilitation program purposes.

Subpart A of Part 402 establishes administrative provisions common to all grants and contracts awarded for any special program purpose under the Act.

Subpart B of Part 402 covers projects designed primarily to provide services to handicapped individuals. Special projects and demonstrations to provide services to the spinal cord injured, the older blind, the deaf, and other handicapped individuals, as well as client assistance projects are newly established under the Rehabilitation Act of 1973. (Projects with industry and projects to serve handicapped migratory agricultural workers were previously covered in Part 403 and the projects for the provision of vocational training services had previously appeared in Part 404.)

Subpart C covers grant programs designed primarily to assist rehabilitation facilities and sheltered workshops. (This material has previously appeared in Part 404.)

Subpart D includes the rehabilitation research program with its newly authorized special research activities in the areas of rehabilitation engineering, spinal cord injury, end-stage renal disease, and international activities. (Regulations covering the rehabilitation research program had previously appeared in Part 405.)

Subpart E includes rehabilitation training. (This material had previously appeared in Part 406.)

Subpart F, covering the National Center for Deaf-Blind Youths and Adults, had previously appeared as Part 407.

Subpart G covers special activities designed to evaluate the effectiveness of programs and projects supported under the Act.

Subpart H covers technical assistance available for special purposes under the Act. (As previously authorized, this material had appeared in Part 404.)

Federal financial assistance extended under this chapter is subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Federal financial assistance is also subject to the provisions of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. ch. 16) concerning nondiscrimination of handicapped persons under Federal grants.

The principal agency for carrying out the programs and activities authorized under Titles I, II, and III of the Rehabilitation Act of 1973 is the Rehabilitation Services Administration within the Department of Health, Education, and Welfare.

In carrying out the rehabilitation research program under Title II of the Act, the Secretary through the Commissioner will establish the expertise and technological competence to develop, support, and stimulate the development and utilization of innovative methods of applying advanced medical technology, scientific achievements, and psychological and social knowledge to solve rehabilitation problems. The Secretary through the Commissioner will administer the rehabilitation research program with appropriate consultation from the National Science Foundation and the National Academy of Sciences.

After promulgation of these regulations, guidelines will be issued by the Commissioner. These guidelines will be designed to provide the additional information necessary to assure full implementation of rehabilitation programs in conformity with the Act and the regulations.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are received in writing by the Commissioner, Rehabilitation Services Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013 on or before June 27, 1974. Such comments will be available for public inspection in room 5324 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m., to 5 p.m. (Area Code 202, 245–0950).

(Catalog of Federal Domestic Assistance Program Nos. 13.746, Rehabilitation Services and Facilities-Basic Support; 13.747, Vocational Rehabilitation Services for Social Security Disability Beneficiaries; 13.757, Comprehensive Social and Rehabilitation Research; 13.763, Rehabilitation Services and Facilities-Special Projects)

Dated: May 17, 1974.

FRANK CARLUCCI,
Acting Secretary.

Chapter IV of Title 45 of the Code of Federal Regulations is amended by revising Subparts A, B, C, D and F of Part 401; by adding a new Part 402; and by deleting Parts 403, 404, 405, 406, 407 and 408, as follows:

PART 401—THE STATE VOCATIONAL REHABILITATION PROGRAM

Subpart A—Definitions

Sec.

Subpart B—State Plans for Vocational Rehabilitation Services

STATE PLAN CONTENT: ADMINISTRATION

AUTHORITY: Sec. 400(b), 87 Stat. 386 (29 U.S.C. 780(b)); and sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

Subpart A—Definitions

§ 401.1 Terms.

Unless otherwise indicated in this part, the terms below are defined as follows:

(a) "Act" means the Rehabilitation Act of 1973 (29 U.S.C. ch. 16).

(b) "Blind" means persons who are blind within the meaning of the law relating to vocational rehabilitation in each State.

(c) "Construction of a rehabilitation facility" means:

(1) The construction of new buildings, the acquisition or existing buildings, or the expansion, remodeling, alteration or renovation of existing buildings which are to be utilized for rehabilitation facility purposes; or

(2) The acquisition of initial equipment of such new, newly acquired, newly expanded, newly remodeled, newly altered, or newly renovated buildings.

(d) "Criminal act" means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication, or otherwise, the person engaging in the act, omission or possession was legally incapable of committing a crime.

(e) "Department" means the Department of Health, Education, and Welfare

(f) "Eligible" or "eligibility" when used in relation to an individual's qualification for vocational rehabilitation services, refers to a certification that:

(1) A physical or mental disability is present;

(2) A substantial handicap to employment exists; and

(3) Vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.

(g) "Employability" refers to a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; or other gainful work.

(h) "Establishment of a rehabilitation facility" means:

(1) The acquisition, expansion, remodeling, or alteration of existing buildings, necessary to adapt them to rehabilitation facility purposes or to increase their effectiveness for rehabilitation facility purposes;

(2) The acquisition of initial equipment for such buildings for such purposes; or

(3) The initial staffing of a rehabilitation facility, for a period not to exceed 4 years and 3 months.

(i) "Evaluation of rehabilitation potential" means, as appropriate, in each case:

(1) A preliminary diagnostic study to determine that an individual has a physical or mental disability and a substantial handicap to employment, and that vocational rehabilitation services are needed;

(2) A diagnostic study consisting of a comprehensive evaluation of pertinent factors, which bear on the individual's handicap to employment and rehabilitation potential;

(3) An appraisal of the individual's work behavior and ability to develop work patterns suitable for successful job performance;

(4) Any other goods or services provided for the purpose of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services;

(5) Referral;

(6) The administration of evaluation services;

(7) The provision of vocational rehabilitation services to an individual for a total period not in excess of 18 months for the purpose of determining whether such individual is a handicapped individual for whom a vocational goal is feasible, including the initiation and con-

tinuing development of an individualized written rehabilitation program; and

(8) A periodic assessment of the results of the provision of such services to ascertain whether an individual is a handicapped individual for whom a vocational goal is feasible.

(j) "Family member" or "member of the family" means any relative by blood or marriage of a handicapped individual and other individuals living in the same household with whom the handicapped individual has a close interpersonal relationship.

(k) "Handicapped individual" means an individual

(1) Who has a physical or mental disability; and

(2) Who has a substantial handicap to employment; and

(3) Who is expected to benefit in terms of employability from the provision of vocational rehabilitation services, or for whom an extended evaluation of rehabilitation potential is necessary for the purpose of determining whether he might benefit in terms of employability from the provision of vocational rehabilitation services.

(l) "Local agency," except where the context indicates otherwise, means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has the sole responsibility under an agreement with the State agency to conduct a vocational rehabilitation program in the locality under the supervision of such State agency in accordance with the State plan.

(m) "Maintenance" means payments to cover a handicapped individual's basic living expenses, such as food, shelter, clothing, and other subsistence expenses necessary to derive the full benefit of other vocational rehabilitation services being provided in order to achieve such individual's vocational rehabilitation objective or to enable an evaluation of such individual's rehabilitation potential.

(n) "Management services and supervision" for small business enterprises includes inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve small business enterprises operated by severely handicapped individuals. "Management services and supervision" does not include those services or costs which pertain to the ongoing operation of the individual business enterprise after the initial establishment period.

(o) "Nonprofit," as applied to a rehabilitation facility, agency or organization, means a rehabilitation facility, agency, or organization owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(p) "Occupational license" means any license, permit or other written authority required by a State, city or other governmental unit to be obtained in order to enter an occupation or enter a small business.

(q) "Outcome and service goals" means those objectives, established by the State agency and consistent with those set by the Secretary in his instructions with respect to the annual State plan, which are measurable in terms of service expansion or program improvement in specified program areas, and which the State agency plans to achieve during a specified period of time.

(r) "Physical and mental restoration services" means those services which are necessary to correct or substantially modify within a reasonable period of time a physical or mental condition which is stable or slowly progressive, and includes:

(1) Medical or corrective surgical treatment;

(2) Diagnosis and treatment for mental or emotional disorders by a physician skilled in the diagnosis and treatment of such disorders or by a psychologist licensed or certified in accordance with State laws and regulations;

(3) Dentistry;

(4) Nursing services;

(5) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;

(6) Convalescent or nursing home care;

(7) Drugs and supplies;

(8) Prosthetic, orthotic or other assistive devices essential to obtaining or retaining employment;

(9) Eyeglasses and visual services;

(10) Podiatry;

(11) Physical therapy;

(12) Occupational therapy;

(13) Speech or hearing therapy;

(14) Psychological services;

(15) Treatment of either acute or chronic medical complications and emergencies which are associated with or arise out of the provision of physical and mental restoration services; or are inherent in the condition under treatment;

(16) Special services for the treatment of individuals suffering from end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and

(17) Other medical or medically related rehabilitation services. (The provision that the condition is stable or slowly progressive does not apply when physical and mental restoration services are provided under an extended evaluation of rehabilitation potential.)

(s) "Physical or mental disability" means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's activities or functioning.

(t) "Public safety officer" means a person serving the United States or a State or unit of general local government, with or without compensation, in any activity pertaining to:

(1) The enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces;

(2) A correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees;

(3) A court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, parolees;

(4) Firefighting, fire prevention, or emergency rescue missions.

(u) "Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals:

(1) Vocational rehabilitation services which shall include under one management, medical, psychological, social, and vocational services;

(2) Testing, fitting, or training in the use of prosthetic and orthotic devices;

(3) Prevocational conditioning or recreational therapy;

(4) Physical and occupational therapy;

(5) Speech and hearing therapy;

(6) Psychological and social services;

(7) Evaluation of rehabilitation potential;

(8) Personal and work adjustment;

(9) Vocational training with a view toward career advancement (in combination with other rehabilitation services);

(10) Evaluation or control of specific disabilities;

(11) Orientation and mobility services and other adjustment services to the blind; and

(12) Transitional or extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market; *Provided*, That all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the State.

(v) "Secretary," except when the context indicates otherwise, means the Secretary of Health, Education, and Welfare.

(w) "Severely handicapped individual" means a handicapped individual,

(1) Who has a severe physical or mental disability which seriously limits his functional capacities (mobility, communication, self-care, self-direction, work tolerance, or work skills) in terms of employability; and

(2) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time, and

(3) Who has one or more physical or mental disabilities resulting from amputation, arthritis, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple scle-

rosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, and renal failure, or another disability or combination of disabilities determined on the basis of an evaluation of rehabilitation potential to cause comparable substantial functional limitation.

(x) "Small business enterprise" means a small business operated by severely handicapped individuals under the management and supervision of the State agency or its nominee. Such businesses include only those selling, manufacturing, processing, servicing, agricultural, and other activities which are suitable and practical for the most effective utilization of the skills and aptitudes of severely handicapped individuals, and provide gainful employment or self-employment commensurate with the time devoted by the operator or operators to the business, the cost of establishing the business, and other factors of an economic nature.

(y) "State" means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(z) "State agency" or "State vocational rehabilitation agency" means the sole State agency designated to administer (or supervise local administration of) the State plan for vocational rehabilitation services. The term includes the State agency for the blind, if designated as the sole State agency with respect to that part of the plan relating to the vocational rehabilitation of the blind. For purpose of American Samoa, the term means the Governor of American Samoa and for purpose of the Trust Territory of the Pacific Islands, the term means the High Commissioner of the Trust Territory of the Pacific Islands.

(aa) "State plan" means the annual State plan for vocational rehabilitation services, or the vocational rehabilitation services part of a consolidated rehabilitation plan, which includes the annual State plan for vocational rehabilitation services and the State's plan for its program for persons with developmental disabilities developed under the Developmental Disabilities Services and Facilities Construction Act.

(bb) "Substantial handicap to employment" means that a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) impedes an individual's occupational performance, by preventing his obtaining, retaining, or preparing for employment consistent with his capacities and abilities.

(cc) "Transportation" means necessary travel and related expenses in connection with transporting handicapped individuals and their attendants or escorts for the purpose of providing vocational rehabilitation services under the State plan and may include relocation and moving expenses necessary for the achievement of a vocational rehabilitation objective.

(dd) "Visual services" means visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids, as prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select.

(ee) (1) "Vocational rehabilitation services," when provided to a handicapped individual, means:

(i) Evaluation of rehabilitation potential, including diagnostic and related services, incidental to the determination of eligibility for, and the nature and scope of, services to be provided;

(ii) Counseling, guidance, and referral services;

(iii) Physical and mental restoration services;

(iv) Vocational and other training services, including personal and vocational adjustment, books, and other materials;

(v) Maintenance during rehabilitation, not exceeding the estimated cost of subsistence;

(vi) Transportation in connection with the rendering of any vocational rehabilitation service;

(vii) Services to members of a handicapped individual's family when such services are necessary to the adjustment or rehabilitation of the handicapped individual;

(viii) Interpreter services for the deaf;

(ix) Reader services, rehabilitation teaching services, and orientation and mobility services for the blind;

(x) Telecommunications, sensory, and other technological aids and devices;

(xi) Recruitment and training services for handicapped individuals to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate public service employment;

(xii) Placement in suitable employment;

(xiii) Post-employment services, including follow-along;

(xiv) Occupational licenses, tools, equipment, and initial stocks and supplies; and

(xv) Such other goods and services which can reasonably be expected to benefit a handicapped individual in terms of his employability.

(2) "Vocational rehabilitation services," when provided for the benefit of groups of individuals, also includes:

(i) In the case of any type of small business enterprise operated by individuals with the most severe handicaps under the supervision of the State agency, management services, and supervision and acquisition of vending facilities or other equipment and initial stocks and supplies;

(ii) The establishment of a rehabilitation facility;

(iii) The construction of a rehabilitation facility; and

(iv) The provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized written rehabilitation program of any one handicapped individual.

(ff) "Works of art" means those items which may be in the nature of fixtures that are incorporated in facilities primarily because of their esthetic value. The cost of a work of art which is in the nature of a fixture shall be the estimated additional cost of incorporating those special esthetic features which exceed the general requirements of excellence of architecture and design.

(gg) "Workshop" means a rehabilitation facility, or that part of a rehabilitation facility, engaged in a production or service operation and which is operated for the primary purpose of providing gainful employment or professional services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist.

Subpart B—State Plans for Vocational Rehabilitation Services

STATE PLAN CONTENT; ADMINISTRATION

§ 401.2 The State plan: General requirements.

(a) *Purpose.* In order for a State to be eligible for grants for any fiscal year from the allotments of funds under title I of the Act, it shall submit for such fiscal year a State plan meeting Federal requirements. The State plan shall provide for financial participation by the State, or if the State so elects, by the State and local agencies jointly, and shall provide that it will be in effect in all political subdivisions of the State, except as specifically provided in § 401.11 (Shared funding and administration of special joint projects or programs) and § 401.12 (Waiver of Statewideness).

(b) *Form and content.* The State plan shall contain, in the form prescribed by the Secretary, a description of the State's vocational rehabilitation program, the plans and policies to be followed in carrying out the program, and such other information prescribed by the Secretary. The State plan shall consist of:

(1) A part providing detailed commitments appropriate to the requirements of the Act and all regulations, policies and procedures established by the Secretary, which commitments shall be amended or reaffirmed annually, and

(2) A part containing a fiscal year programming description, which shall be submitted annually and which shall be based on the findings of the continuing Statewide studies (§ 401.18), the annual evaluation of the effectiveness of the State's program in meeting established goals and priorities (§ 401.18), and other pertinent reviews and studies. Such annual programming description shall include:

(i) Changes in policy and procedure resulting from the continuing Statewide studies and the annual evaluation of the effectiveness of the program;

(ii) Estimates of the number of handicapped individuals who will be served with funds provided under the Act;

(iii) A description of the methods used to expand and improve services to the most severely handicapped;

(iv) A description of the order of selection (§ 401.31) of individuals to whom vocational rehabilitation services will be provided (unless the State agency demonstrates that it is serving all eligible handicapped individuals who apply); and

(v) A statement of the general outcome and service goals to be achieved for handicapped individuals in each priority category within the order of selection in effect in the State and the time within which such goals may be achieved.

(c) *Separate part relating to rehabilitation of the blind.* If a separate State agency for the blind administers or supervises the administration of that part of the State plan relating to the rehabilitation of the blind, such part of the State plan shall meet all requirements as to submission, amendment, and content prescribed by the Act and this part, as though it were a separate State plan.

(d) *Consolidated rehabilitation plan.* The State may elect to submit a consolidated rehabilitation plan which includes the State plan for vocational rehabilitation services and the State's plan for its program for persons with developmental disabilities as developed under the Developmental Disabilities Services and Facilities Construction Act: *Provided, however,* That the agency or agencies administering such State's program for persons with developmental disabilities have concurred in the submission of such a consolidated rehabilitation plan. A consolidated rehabilitation plan must comply, and be administered in accordance with, this Act and the Developmental Disabilities Services and Facilities Construction Act. If the Secretary finds that all such requirements are satisfied, he may approve the consolidated rehabilitation plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each program included therein, or he may request the State to submit separate plans for each program.

(e) *Amendment.* The State plan shall provide that it will be amended whenever necessary to reflect any material change in any applicable phase of State law, organization, policy, or agency operations which affects the administration of the State plan. Such amendments shall be submitted before they are put into effect or within a reasonable time thereafter.

§ 401.3 Review of State plan by Governor.

The State plan shall be submitted to the State Governor for his review and comments, and shall provide that the Governor will be given an opportunity to review and comment on all amendments and long-range program planning projections or other periodic reports, except for periodic statistical or budget and other fiscal reports. The Office of the Governor will be afforded a specified period in which to review such material and any comments made will be transmitted to the Department with the documents.

§ 401.4 State plan submittal and approval.

(a) The State plan shall be submitted for approval within 90 days following the effective date of this part, and for each fiscal year thereafter, no later than May 1 of the year preceding the fiscal year for which the State plan is submitted. Any State plan or amendment meeting the requirements of the Act and of this part shall be approved, except as provided under § 401.2(d) in the case of a consolidated rehabilitation plan.

(b) No State plan, or modification thereof, shall be finally disapproved without first affording the State reasonable notice and opportunity for a hearing.

§ 401.5 Withholding of funds.

(a) *When withheld.* When after reasonable notice and opportunity for hearing to the State agency, it is found that:

(1) The State plan, or the vocational rehabilitation services part of the consolidated rehabilitation plan, has been so changed that it no longer complies with the requirements of section 101(a) of the Act, or

(2) In the administration of the State plan, or the vocational rehabilitation services part of the consolidated rehabilitation plan, there is a failure to comply substantially with any provision of such plan, further payments under section 111 or 121 may be withheld, suspended, or limited as provided by section 101(c) of the Act. The State agency will be notified of the decision made.

(b) *Judicial review.* The decision to withhold, suspend, or limit payments described in paragraph (a) of this section may be appealed to the U. S. district court for the district in which the capital of the State is located. The court will review the action on the record in accordance with the provisions of Chapter 7 of Title 5, United States Code.

(c) *Informal discussions.* Hearings described in paragraph (a) of this section will not be called until after reasonable effort has been made to resolve the questions involved by conference and discussion with State officials. Formal notification of the date and place of a hearing does not foreclose further negotiations with State officials.

§ 401.6 State agency for administration.

(a) *Designation of sole State agency.* The State plan shall designate a State agency as the sole State agency to administer the State plan, or to supervise its administration in a political subdivision of the State by a sole local agency. In the case of American Samoa, the State plan shall designate the Governor; in the case of the Trust Territory of the Pacific Islands, the State plan shall designate the High Commissioner.

(b) *Designated State agency.* The State plan shall provide that the designated State agency, except for American Samoa and the Trust Territory of the Pacific Islands, and except for a designated State agency for the blind as specified in paragraph (c) of this section, shall be:

(1) A State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation of handicapped individuals; such agency must be an independent State commission, board, or other agency, the major function of which is vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, with authority, subject to the supervision which derives from the Office of Governor, to define the scope of the program within the provisions of State and Federal law, and to direct its administration without external administrative controls; or

(2) The State agency administering or supervising the administration of education or vocational education in the State; or

(3) A State agency which includes at least two other major organizational units, each of which administers one or more of the State's major programs of public education, public health, public welfare, or labor.

(c) *Designated State agency for the blind.* Where the State agency which provides assistance or services to the adult blind is authorized under State law to provide vocational rehabilitation services to such individuals, such agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for the blind or to supervise the administration of such part in a political subdivision of the State by a sole local agency.

(d) *Authority.* The State plan shall set forth the authority under State law for the administration or supervision of the administration of the program by the sole State agency, and the legal basis for administration by sole local rehabilitation agencies, if applicable. The State plan shall provide that the State agency shall submit a list of all laws and interpretations thereof by appropriate State officials, directly pertinent to the basic authority and organization for administration or supervision of the vocational rehabilitation program.

(e) *Responsibility for administration.* The State plan shall provide that all decisions affecting eligibility for, and the nature and scope of vocational rehabilitation services to be provided, will be made by the State agency through its organizational unit, or by a local agency under its supervision, and that this responsibility will not be delegated to any other agency or individual.

(f) *Designation of a new State agency.* A new State plan must be submitted within 90 days following the designation of a new State agency.

§ 401.7 Organization of the State agency.

(a) *Organization.* The State plan shall describe the organizational structure of the State agency, including a

description of organizational units, the programs and functions assigned to each, and the relationships among such units within the State agency. Such descriptions shall be accompanied by organizational charts reflecting:

(1) The relationship of the State agency to the Governor and his office and to other agencies administering major programs of public education, public health, public welfare, or labor of parallel stature within the State government, and

(2) The internal structure of the State agency. The organizational structure shall provide for all the vocational rehabilitation functions for which the State agency is responsible, for clear lines of administrative and supervisory authority, and shall be suited to the size of the vocational rehabilitation program and the geographic areas in which the program must operate.

(b) *Organizational unit.* Where the designated State agency is of the type specified in § 401.6(b)(2) or (3), or § 401.6(c), the State plan shall provide that the agency (or each agency, where two such agencies are designated), shall include a vocational rehabilitation bureau, division or other organizational unit which:

(1) Is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation of handicapped individuals, and is responsible for the administration of such State agency's vocational rehabilitation program, which must include the determination of eligibility for and the provision of services under the State plan;

(2) Has a full time administrator in accordance with § 401.8; and

(3) Has a staff employed on such rehabilitation work of such organizational unit, all or substantially all of whom are employed full time on such work.

(c) *Location of organizational unit.* (1) The State plan shall provide that the organizational unit, specified in paragraph (b) of this section, shall be located at an organizational level and shall have an organizational status within the State agency comparable to that of other major organizational units of such agency, or in the case of an agency described in § 401.6(b)(2), the unit shall be so located and have such status, or the administrator of such unit shall be the executive officer of such State agency. In evaluating the comparability of the organizational level and the organizational status of the unit, the Secretary will give consideration to such factors as the directness of the reporting line from the administrator of the organizational unit for vocational rehabilitation to the chief officer of the designated State agency; the title, status and grade of the administrator of the organizational unit for vocational rehabilitation as compared with those of the heads of other organizational units of the State agency; the extent to which the administrator of the organizational unit for vocational rehabilitation can determine the scope and policies of the vocational rehabilitation program; and the kind and degree of authority delegated to the administrator of the organizational unit for the administration of the vocational rehabilitation program.

(2) In the case of a State which has not designated a separate State agency for the blind as provided for in § 401.6, such State may, if it so desires, assign responsibility for the part of the plan under which vocational rehabilitation services are provided for the blind to one organizational unit of the State agency and assign responsibility for the rest of the plan to another organizational unit of such agency, with the provisions of paragraphs (b) and (c)(1) of this section applying separately to each of such units.

§ 401.8 State administrator.

The State plan shall provide that there shall be a State administrator who shall direct the State agency specified in § 401.6(b)(1) or the organizational unit specified in § 401.7(b), and who shall be required to devote his full time and efforts to the vocational rehabilitation program, or the vocational and other rehabilitation of handicapped individuals.

§ 401.9 Local administration.

(a) The State plan shall provide that, when the plan is administered in a political subdivision through a sole local agency, such local administration shall be based on a written agreement with the State agency, which: (1) will indicate that the local agency will conduct a vocational rehabilitation program under the supervision of the State agency in accordance with the State plan and in compliance with Statewide standards established by the State agency, including standards of organization and administration; (2) will define the nature and extent of the supervision by the State agency and the basis on which the State agency participates financially in its locally administered vocational rehabilitation programs; and (3) will indicate whether the local agency will utilize another local public or nonprofit agency in the provision of vocational rehabilitation services to handicapped individuals, and the arrangements for such utilization.

(b) If the State plan provides for local administration, the State plan shall further provide that the sole local agency shall be responsible for the administration of all aspects of the program within the political subdivision which it serves: *Provided, however,* That a separate local agency serving the blind may administer that part of the plan relating to the rehabilitation of the blind, under the supervision of the State agency for the blind.

§ 401.10 Methods of administration.

The State plan shall provide that the State agency will employ such methods of administration as are found necessary by the Secretary for the proper and efficient administration of the plan, and for the carrying out of all functions for which the State is responsible under the plan and this part.

§ 401.11 Shared funding and administration of special joint projects or programs.

In order to permit the carrying out of a special joint project or program to provide services to handicaped individuals, the State agency may request the Secretary to authorize it to share funding and administrative responsibility for a joint project or program with another agency or agencies of the State, or with a local agency. The Secretary will approve a request for the shared funding and administration of a special joint project or program which he has determined will more effectively accomplish the purposes of the Act and may also waive the provision of § 401.2(a) that the State plan be in effect in all political subdivisions of the State. The State plan shall provide in such cases that each such special joint project or program shall be based on a written agreement which shall:

(a) Describe the nature and scope of the joint project or program, the services to be provided to handicapped individuals and the respective roles of each participating agency both in the provision of services and in the administration of such services and in the share of the costs to be assumed by each;

(b) Specify the initial term of the joint project or program, and plans for anticipated continuation;

(c) Provide a budget showing for each fiscal year the financial participation by the State agency and each participating agency;

(d) Provide written assurance that funds will be legally available for purposes of the joint project or program;

(e) Provide that the State agency shall annually evaluate the effectiveness of each project or program with special attention to its vocational rehabilitation objectives;

(f) Assure that the State agency and each participating agency will furnish such information and reports as the Secretary may require to determine whether the activities are achieving the purposes of the project or program and warrant continuation; and

(g) Assure that the State vocational rehabilitation agency's portion of the joint project or program will comply with applicable requirements of the Act and this part.

§ 401.12 Waiver of Statewideness.

If the State agency desires to carry out activities in one or more political subdivisions through local financing in order to promote the vocational rehabilitation of substantially larger numbers of handicapped individuals or the vocational rehabilitation of individuals with particular types of disabilities, the State plan shall identify the types of activities which will be carried out in this manner. The State plan shall provide in such cases that the State agency will:

(a) Obtain a full written description of any such activity to be carried out in a particular political subdivision and will obtain written assurance from the political subdivision that the non-Federal

share of funds is available to the State agency;

(b) Require that its approval be given to each individual proposal before the proposal is put into effect in a political subdivision;

(c) Have sole responsibility for administration (or supervision if the vocational rehabilitation program is administered by local agencies) of the program in a particular local political subdivision in accordance with § 401.6, except to the extent that funding and administrative responsibility will be shared with respect to a joint program under § 401.11;

(d) Assure that all requirements of the State plan shall apply to such activities, except the requirement that the program be in effect in all political subdivisions of the State, and except that the provision of § 401.82 may be applicable for Federal financial participation in expenditures for carrying out such activities; and

(e) Furnish such information and reports as the Secretary may require.

§ 401.13 Cooperative programs utilizing third party funds.

(a) The State plan shall provide that, when the State's share of the cost of a cooperative program for the purpose of providing vocational rehabilitation services or engaging in administrative activities of the State agency is made available in whole or in part by a State or local public agency other than the State vocational rehabilitation agency, such cooperative program shall be based on a written agreement which:

(1) Describes the goals to be achieved and the activities to be undertaken to achieve these goals;

(2) Provides for an annual budget;

(3) Provides that expenditures for vocational rehabilitation services and the administration thereof or for engaging in State agency administrative activities for which Federal financial participation is claimed will be under the control and at the discretion of the State agency;

(4) Provides that where services to individuals are involved, only handicapped individuals shall be served by the cooperative program; and

(5) Provides for periodic evaluation of the extent to which the cooperative program has achieved defined goals as determined on the basis of established criteria and procedures for such evaluations.

(b) The State plan shall assure that services provided in such a cooperative program are vocational rehabilitation services:

(1) Which are not services of the cooperating agency to which the handicapped individual would be entitled if he were not an applicant or client of the State vocational rehabilitation agency, and

(2) Which represent new services or new patterns of services of the cooperating agency.

(c) The State plan shall further provide that the State agency will assure that the costs of administrative activities made available, in whole or in part by a State or local public agency other than the State vocational rehabilitation agency, are not costs which are attributable to the general expense of the State or locality in carrying out the administrative functions of the State or local government.

§ 401.14 Staffing of State agency.

The State plan shall provide that staff in sufficient number and with appropriate qualifications will be available to carry out all functions required under the Act and this part.

§ 401.15 Standards of personnel administration.

(a) The State plan shall set forth the State agency's standards of personnel administration consistent with State licensure laws and regulations and other pertinent laws and regulations applicable to its own employees and those of local agencies operating under its supervision. Rates of compensation and minimum qualifications shall be established for each class of position commensurate with the duties and responsibilities of that class. The State plan shall set forth the policies of the State agency with respect to the qualifications, selection, appointment, promotion, career development, and tenure of qualified personnel, including its policies against discrimination on the basis of sex, race, age, physical or mental disability, creed, color, national origin, or political affiliation.

(b) Where personnel administration is conducted under a State merit system approved under the Standards for a Merit System of Personnel Administration, Part 70 of this title and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970, modifying or superseding such standards, the State plan shall make reference to such fact, and the information required above with respect to "Standards of Personnel Administration" need not be submitted, except that the responsibility for the appointment of personnel shall be described. In such cases, the State plan must further provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity as specified in § 70.4 of this title. The affirmative action plan will provide for specific action steps and timetables to assure such equal opportunity. The plan shall be made available for review upon request.

(c) The State plan shall further provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity and advancement opportunity for qualified physically or mentally disabled persons. Such affirmative action plan shall provide for specific action steps and timetables to assure such equal opportunities and shall conform with all requirements specified in regulations developed pursuant to section 504 of the Act.

(d) The State plan shall further provide for the maintenance of such written personnel policies, records, and other information as are necessary to permit an evaluation of the operations of the system of personnel administration in relation to the standards of the State agency.

(e) The Secretary shall exercise no authority with respect to the selection, method of selection, tenure of office or compensation of any individual employed in accordance with the provisions of the approved State plan.

§ 401.16 Staff development.

The State plan shall provide for a program of staff development for all classes of positions within the State agency.

§ 401.17 Political activity.

The State plan shall prohibit any employee engaged in the day-to-day administration and operation of the program from engaging in any political activity prohibited by the Hatch Act (5 U.S.C. chapter 15 and with regard to the District of Columbia, 5 U.S.C. chapter 73). Any employee shall have the right to express his views as a citizen and to cast his vote.

§ 401.18 State agency studies and evaluations.

(a) The State plan shall provide for the conduct of continuing Statewide studies of the needs of handicapped individuals within the State, including the State's need for rehabilitation facilities, and the methods by which these needs may be most effectively met. Such studies shall:

(1) Determine the relative needs for vocational rehabilitation services of different significant segments of the population of handicapped individuals, with special reference to the need for expansion of service to the most severely handicapped individuals;

(2) Determine the means and methods by which vocational rehabilitation services to the most severely handicapped individuals and other handicapped individuals will be provided, expanded and improved, after full consideration and study of a broad variety of means and methods possible; and

(3) Otherwise ensure the orderly and effective development of vocational rehabilitation services and rehabilitation facilities within the State. In States in which there is a separate agency for the blind, coordinated or joint studies will be conducted.

(b) The State plan shall provide that a comprehensive evaluation of the effectiveness of the State's vocational rehabilitation program is achieving service goals and priorities, as established in the plan, will be conducted annually. Such annual evaluation will measure the adequacy of State agency performance in providing vocational rehabilitation services, especially to the most severely handicapped individuals, in the light of State agency program and financial resources, and will be conducted according to general standards for evaluation developed by the Secretary under Part 402 of this

chapter. The findings derived from the ongoing evaluation shall be reflected in the annual State plan or amendments thereto.

§ 401.19 Policy development consultation.

(a) The State plan shall provide that the State agency, or as appropriate, the State agency and any sole local agency, will take into account, in connection with matters of general policy development and implementation arising in the administration of the State plan, the views of individuals and groups who are:

(1) Recipients of vocational rehabilitation services, or as appropriate, their parents or guardians;

(2) Providers of vocational rehabilitation services; and

(3) Others active in the field of vocational rehabilitation.

(b) The State plan shall further provide that the State agency will establish in writing and maintain a description of the methods to be used to obtain and consider such views on policy development and implementation and will assure that such description will be available to the public.

§ 401.20 Cooperation with other public agencies.

(a) The State plan shall provide that, where appropriate, the State agency will enter into cooperative arrangements with, and utilize the services and facilities of, the State agencies administering the State's public assistance programs, other programs for handicapped individuals such as the State's developmental disabilities programs, veterans' programs, health programs, education programs, workmen's compensation programs, manpower programs, and public employment offices; the Social Security Administration; the Office of Workmen's Compensation Programs of the Department of Labor; the Veterans Administration; and other Federal, State and local public agencies providing services related to the rehabilitation of handicapped individuals.

(b) The State plan shall further provide that there will be maximum coordination and consultation in State vocational rehabilitation programs with programs for and relating to the rehabilitation of disabled veterans.

(c) Where there is a separate State agency for the blind, the State plan shall also provide that the two State agencies will establish reciprocal referral services, utilize each other's services and facilities to the extent practicable and feasible, jointly plan activities to improve services to the handicapped individuals in the State, and otherwise cooperate to provide more effective services.

§ 401.21 Reports.

The State plan shall provide that the State agency will make such reports in such form and containing such information, and at such time, as the Secretary may require, and will comply with such provisions as he may find necessary to assure the correctness and verification of such reports.

§ 401.22 Nondiscrimination in employment under construction contracts.

The State plan shall provide that the State agency will incorporate, or cause to be incorporated, into construction contracts (including construction contracts related to the establishment or construction of rehabilitation facilities) paid for in whole or in part with funds obtained from the Federal Government under the vocational rehabilitation program, such provisions on nondiscrimination in employment as are required by and pursuant to Executive Order No. 11246, and will otherwise comply with requirements prescribed by and pursuant to such order.

§ 401.23 General administrative and fiscal requirements.

(a) The State agency shall adopt policies and methods pertinent to the fiscal administration and control of the vocational rehabilitation program, including sources of funds, incurrence and payment of obligations, disbursements, accounting, and auditing. The State plan shall provide for the maintenance by the State agency of such accounts and supporting documents as will serve to permit an accurate and expeditious determination to be made at any time of the status of the Federal grants, including the disposition of all monies received and the nature and amount of all charges claimed against such grants.

(b) The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants made under this part except for the requirement concerning in-kind contributions under Subpart G of Part 74 of this title.

STATE PLAN CONTENT: PROVISION AND SCOPE OF SERVICE

§ 401.30 Processing referrals and applications.

The State plan shall provide that the State agency will establish in writing and maintain standards and procedures to assure expeditious and equitable handling of referrals and applications for vocational rehabilitation services.

§ 401.31 Order of selection for services.

(a) The State plan shall set forth the order to be followed in selecting handicapped individuals to be provided vocational rehabilitation services when such services cannot be provided to all persons who apply, and shall define priority categories of handicapped individuals for the provision of such services.

(b) In establishing the order of selection for services, the State plan shall provide for selecting the most severely handicapped individuals for the provision of vocational rehabilitation services prior to any other handicapped individuals who have applied for such services.

(c) The State plan shall further provide for special consideration in the selection for vocational rehabilitation services and the provision of such services to those handicapped individuals whose handicapping condition arises from a disability sustained in the line of duty while such individual was performing as a public safety officer and the proximate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities.

(d) The State plan shall further provide that services being provided to handicapped individuals under the terms and conditions of the Vocational Rehabilitation Act shall not be disrupted as a result of the approval of a State plan under this part.

§ 401.32 Services to civil employees of the United States.

The State plan shall provide that vocational rehabilitation services will be made available to civil employees of the U.S. Government who are disabled in line of duty, under the same terms and conditions as are applied to other handicapped individuals.

§ 401.33 Eligibility.

(a) *General provisions.* (1) The State plan shall provide that eligibility requirements will be applied by the State agency without regard to sex, race, age, creed, color, or national origin of the individual applying for service. The State plan shall further provide that no group of individuals will be excluded or found ineligible solely on the basis of type of disability. With respect to age, the State plan shall specify that no upper or lower age limit will be established which will, in and of itself, result in a finding of ineligibility for any handicapped individual who otherwise meets the basic eligibility requirements specified in paragraph (b) of this section.

(2) The State plan shall provide that no residence requirement, durational or other, will be imposed which excludes from services under the plan any individual who is present in the State.

(b) *Basic conditions.* The State plan shall provide that eligibility shall be based only upon:

(1) The presence of a physical or mental disability;

(2) The existence of a substantial handicap to employment;

(3) A reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability.

§ 401.34 Evaluation of rehabilitation potential: Preliminary diagnostic study.

(a) The State plan shall provide that, in order to determine whether any individual is eligible for vocational rehabilitation services, there shall be a preliminary diagnostic study which shall be sufficient to determine:

(1) Whether the individual has a physical or mental disability;

(2) Whether the individual has a substantial handicap to employment; and

(3) Whether vocational rehabilitation services may be expected to benefit the individual in terms of employability, or whether an extended evaluation of rehabilitation potential is necessary to make such a determination.

(b) The State plan shall provide that the preliminary diagnostic study will include such examinations and diagnostic studies as are necessary to make the determinations specified in paragraph (a) of this section, and, in all cases, will include an appraisal of the current general health status of the individual. The State plan shall further provide that in all cases of mental or emotional disorder, an examination will be provided by a physician skilled in the diagnosis and treatment of such disorders, or by a psychologist licensed or certified in accordance with State laws and regulations, in those States where such laws and regulations pertaining to the practice of psychology have been established.

§ 401.35 Evaluation of rehabilitation potential: Thorough diagnostic study.

(a) The State plan shall provide that, as appropriate in each case, there will be a thorough diagnostic study which will determine the nature and scope of services needed by the individual, and which will consist of a comprehensive evaluation of pertinent medical, psychological, vocational, education, and other related factors which bear on the individual's handicap to employment and rehabilitation needs.

(b) The State plan shall provide that the thorough diagnostic study will be sufficient in each case to determine the vocational rehabilitation services which are needed to attain vocational goals of the handicapped individual and that the findings of such study will be recorded in the individualized written rehabilitation program.

(c) The State plan shall provide that in all cases of visual impairment, a comprehensive evaluation of visual loss will be provided by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select, and in the case of blindness, a comprehensive hearing evaluation will also be obtained.

(d) The State plan shall provide that in all cases of hearing impairment, a comprehensive evaluation of hearing loss will be provided by a physician skilled in the diseases of the ear or by a certified audiologist.

(e) The State plan shall provide that in all cases of mental retardation, a psychological evaluation will be obtained which will include a valid test of intelligence and an assessment of social functioning and educational progress and achievement.

(f) The State plan shall provide that the thorough diagnostic study will include, in all cases to the degree needed, an appraisal of the individual's personality, intelligence level, educational achievements, work experience, personal and social adjustment, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed. The State plan shall further provide that the thorough diagnostic study will include, as appropriate for each individual, an appraisal of the individual's patterns of work behavior, his ability to acquire occupational skill and his capacity for successful job performance, including the utilization of work, simulated or real, to assess the individual's capabilities to perform adequately in a work environment.

§ 401.36 Extended evaluation to determine rehabilitation potential.

(a) *Basic conditions.* The State plan shall provide that the furnishing of vocational rehabilitation services under an extended evaluation to determine rehabilitation potential shall be based only upon:

(1) The presence of a physical or mental disability;

(2) The existence of a substantial handicap to employment; and

(3) An inability to make a determination that vocational rehabilitation services might benefit the individual in terms of employability unless there is an extended evaluation to determine rehabilitation potential.

(b) *Duration and scope of services.* Vocational rehabilitation services necessary for the determination of rehabilitation potential, including those provided within a thorough diagnostic study, may be provided to a handicapped individual for a total period not in excess of 18 months.

(c) *Other conditions.* (1) The extended evaluation period shall begin with the date of the certification for extended evaluation to determine rehabilitation potential required in § 401.37(b). Only one period not in excess of 18 months shall be permitted during the period that the case is open. If a case has been closed as a result of a determination that the handicapped individual's needs have changed, such case may be re-opened and a subsequent evaluation of rehabilitation potential may be carried out provided that the conditions in paragraph (a) of this section are met.

(2) Vocational rehabilitation services, authorized after the expiration of the extended evaluation period will be provided only if the certification of eligibility required in § 401.37(a) has been executed by an appropriate State agency staff member.

(d) *Review.* The State plan shall provide for a thorough assessment of the individual's progress as frequently as necessary but at least once in every 90-day period during the period in which services are being provided under an extended evaluation of rehabilitation potential, including periodic reports from the institution, facility, or person providing the services, to determine the results of the provision of such services and to determine whether such individual may be determined to be eligible or ineligible.

(e) *Termination.* The State plan shall provide that at any time prior to the expiration of an 18-month extended evaluation period, the extended evaluation for the determination of rehabilitation potential shall be terminated when:

(1) The individual is found eligible for vocational rehabilitation services since there is a reasonable assurance that he can be expected to benefit in terms of employability from vocational rehabilitation services; or

(2) The individual is found ineligible for any additional vocational rehabilitation services since it has been determined beyond any reasonable doubt that he cannot be expected to benefit in terms of employability from vocational rehabilitation services. In each such case, the procedures described in § 401.38(e) shall be followed.

§ 401.37 Certification: eligibility; extended evaluation to determine rehabilitation potential; ineligibility.

(a) *Certification of eligibility.* The State plan shall provide that, prior to, or simultaneously with acceptance of a handicapped individual for vocational rehabilitation services, there will be a certification that the individual has met the basic eligibilty requirements specified in § 401.33(b). The State plan shall further provide that the certified statement of eligibility will be dated and signed by an appropriate State agency staff member.

(b) *Certification for extended evaluation to determine rehabilitation potential.* The State plan shall provide that, prior to, and as a basis for providing an extended evaluation to determine rehabilitation potential, there will be a certification that the individual has met the requirements specified in § 401.36(a). The State plan shall further provide that the certified statement will be dated and signed by an appropriate State agency staff member.

(c) *Certification of ineligibility.* The State plan shall provide that whenever it has been determined beyond any reasonable doubt that an individual is ineligible for vocational rehabilitation services, there shall be a certification, dated and signed by an appropriate State agency staff member. The State plan shall further provide that such certification of ineligibility will be made only after full participation with the individual or, as appropriate, his parent or guardian, or after affording a clear opportunity for such consultation. In such cases, the State agency shall notify the individual in writing of the action taken and shall inform the individual of the State agency's procedures for administrative review and fair hearings under § 401.45. When appropriate, referral shall be made to other agencies and facilities.

§ 401.38 Individualized written rehabilitation program.

(a) The State plan shall provide that an individualized written rehabilitation program will be initiated and continuously developed for each handicapped individual eligible for vocational rehabilitation services, including each handicapped individual being provided such

services under an extended evaluation to determine rehabilitation potential. The State plan shall further provide that vocational rehabilitation services will be provided to such individuals in accordance with such written rehabilitation program. Such written program shall be developed jointly by the appropriate State agency staff member and the handicapped individual or, as appropriate, his parent or guardian, and shall place primary emphasis on the determination and achievement of a vocational goal.

(b) The individualized written rehabilitation program shall be initiated after certification of eligibility under § 401.37 (a) or certification for extended evaluation to determine rehabilitation potential under § 401.37(b).

(c) To the extent pertinent, the individualized written rehabilitation program shall contain all relevant information about the individual and the services provided. The individualized written program shall include, but shall not necessarily be limited to, data supporting the following:

(1) The determination of eligibility or ineligibility, or the decision that an extended evaluation of rehabilitation potential is necessary to make such determination;

(2) Any determination that the handicapped individual is severely handicapped;

(3) The determination of the specific vocational rehabilitation services to be provided and the terms and conditions for the provision of such services, including, in the event that physical and mental restoration services are provided, the determination that the clinical status of the client's disabling condition is stable or slowly progressive, and in the event that services to family members are provided, the basis for such decision.

(4) The projected date for the initiation of each vocational rehabilitation service, the anticipated duration of each such service, and the time within which the objectives and goals for each individual might be achieved;

(5) A procedure and schedule for evaluation of progress toward rehabilitation objectives and goals based upon objective criteria;

(6) The long-range employment goals for the individual and the intermediate rehabilitation objectives related to the attainment of such goals;

(7) Assurance that the handicapped individual has been informed of his rights and the means by which he may express, and seek remedy for, his dissatisfactions, including the opportunity for an administrative review of agency action and fair hearings under § 401.45;

(8) Assurance that the handicapped individual has been advised of the confidentiality of all information pertaining to his case;

(9) The extent of client participation in the cost of services if the State elects to condition the provision of any services on the financial need of the client;

(10) The eligibility of the individual for similar benefits under any other program;

(11) The reason and justification for closing the case, including the employment status of the client, and if the case is determined to be rehabilitated, the basis on which the employment was determined to be suitable;

(12) Any plans for the provision of post-employment services after the employment objective has been achieved and the basis on which such plans were developed; and

(13) Where appropriate, assurance that the handicapped individual has been provided a detailed explanation of the availability of the resources within a client assistance project established under Part 402 of this chapter.

(d) The State plan shall provide that the individualized written program shall be reviewed as often as necessary but at least on an annual basis at which time each handicapped individual, or, as appropriate, his parent or guardian, will be afforded an opportunity to review such program and, if necessary, jointly redevelop its terms.

(e) The State plan shall provide that when services are to be terminated under a written program on the basis of a determination that the handicapped individual is not capable of achieving a vocational goal and is then no longer eligible, the following conditions and procedures will be met or carried out:

(1) Such decision shall be made only with the full participation of such individual, or, as appropriate, his parent or guardian, or after offering a clear opportunity for such consultation in those cases where such consultation is precluded because the individual has refused such consultation, his whereabouts are unknown, or his medical condition is rapidly progressive or terminal.

(2) The rationale for such decision shall be recorded as an amendment to the written program certifying that the provision of vocational rehabilitation services demonstrated beyond any reasonable doubt that such individual is not then capable of achieving a vocational goal and a certification of ineligibility under § 401.37(c) shall be executed; and

(3) There shall be a periodic review, at least annually, of the ineligibility decision in which the individual will be afforded clear opportunity for full consultation in the reconsideration of such decision, except in situations where a periodic review would be precluded because the individual has refused services or has refused an annual review, his whereabouts are unknown, or his medical condition is rapidly progressive or terminal.

§ 401.39 Scope of agency program: Vocational rehabilitation services for handicapped individuals.

(a) The State plan shall identify all vocational rehabilitation services to be provided to handicapped individuals, the general scope of agency activities to be undertaken, and the categories of expenditures in which the State agency will request Federal financial participation. Such services shall include:

(1) Evaluation of rehabilitation potential, including diagnostic and related services incidental to the determination of eligibility for, and the nature and scope of services to be provided;

(2) Counseling and guidance, including personal adjustment counseling, to maintain a counseling relationship throughout a handicapped individual's program of services; and referral necessary to help handicapped individuals secure needed services from other agencies when such services are not available under the Act;

(3) Physical and mental restoration services;

(4) Vocational and other training services, including vocational, prevocational, personal and vocational adjustment; books, tools and other training materials;

(5) Maintenance, not exceeding the estimated cost of subsistence, during rehabilitation;

(6) Transportation, in connection with the rendering of any vocational rehabilitation service;

(7) Services to members of a handicapped individual's family when such services are necessary to the adjustment or rehabilitation of the handicapped individual;

(8) Interpreter services for the deaf;

(9) Reader services, rehabilitation teaching services, and orientation and mobility services for the blind;

(10) Telecommunications, sensory and other technological aids and devices;

(11) Recruitment and training services to provide new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement and other appropriate public service employment;

(12) Placement in suitable employment;

(13) Post-employment services, necessary to assist handicapped individuals to maintain their employment;

(14) Occupational licenses, tools, equipment, initial stocks (including livestock) and supplies; and

(15) Other goods and services which can reasonably be expected to benefit a handicapped individual in terms of employability.

(b) The State plan shall further provide that the State agency shall establish in writing and maintain current policies with respect to the scope and nature of each of the vocational rehabilitation services specified in paragraph (a) of this section, and the conditions, criteria, and procedures under which each of such services is to be provided. In the case of telecommunications, sensory, and other technological aids and devices, such policies shall ensure that when individualized prescriptive fittings are required, such fittings shall be performed by individuals licensed to perform such fittings in accordance with State licensure laws, where applicable, or by appropriate certified professionals when State laws do not apply. Newly developed aids and devices not requiring individualized fittings must meet engineering and safety standards, recognized by experts in the field, as determined by the Secretary.

§ 401.40 Individuals determined to be rehabilitated.

(a) The State plan shall provide that when an individual is determined to be rehabilitated, such individual must have been, as a minimum:

(1) Determined to be eligible under § 401.37(a);

(2) Provided an evaluation of rehabilitation potential, and counseling and guidance as essential vocational rehabilitation services;

(3) Provided appropriate vocational rehabilitation services in accordance with the individualized written rehabilitation program developed under § 401.38; and

(4) Determined to have achieved a suitable employment objective which has been maintained for a period of time not less than 60 days.

(b) The State plan shall further provide that after individuals have been determined to be rehabilitated, the State agency shall provide post-employment services to those individuals who require such services to the extent necessary to maintain suitable employment.

§ 401.41 Authorization of services.

The State plan shall provide that written authorization will be made, either simultaneously with or prior to the purchase of services, and will be retained. Where a State agency employee is permitted to make oral authorization in an emergency situation, the State plan shall provide for prompt documentation of such oral authorization in the client's case record and such authorization shall be confirmed in writing and forwarded to the provider of the services.

§ 401.42 Standards for facilities and providers of services.

(a) The State plan shall provide that the State agency will establish in writing and maintain standards for the various types of facilities and providers of services utilized by the State agency in providing vocational rehabilitation services to handicapped individuals. The State agency shall make such standards accessible to State agency personnel and to the public.

(b) The Secretary shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in any facility utilized in providing services.

§ 401.43 Rates of payment.

The State plan shall provide for the establishment in writing of policies governing rates of payment for all purchased vocational rehabilitation services, and provide that the State agency will maintain in accessible form information as to current rates of payment. The State plan shall further provide that individual or other vendors providing any services authorized by the State agency shall agree not to make any charge to or accept any payment from the handicapped individual or his family for such services unless the amount of such service charge or payment is previously known to and, where applicable, approved by the State agency.

§ 401.44 Participation by handicapped individuals in the costs of vocational rehabilitation services.

(a) *Financial need.* (1) There is no Federal requirement that the financial need of a handicapped individual be considered in the provision of any vocational rehabilitation service.

(2) If the State elects to consider the financial need of handicapped individuals for purposes of determining the extent of their respective participation in the costs of vocational rehabilitation services, the State agency shall establish in writing and maintain policies with respect to the determination of financial need, and the State plan shall specify the types of vocational rehabilitation services for which the agency has established an economic needs test. The policies so established shall be reasonable and shall be applied uniformly so that equitable treatment is accorded all handicapped individuals in similar circumstances.

(3) The State plan shall provide that no economic needs test will be applied as a condition for furnishing the following vocational rehabilitation services:

(i) Evaluation of rehabilitation potential, including diagnostic and related services;

(ii) Counseling, guidance, and referral services; and

(iii) Placement.

(b) *Consideration of similar benefits.* (1) The State plan shall provide that, in all cases, the State agency will give full consideration to any similar benefits available to a handicapped individual under any other program to meet, in whole or in part, the cost of any vocational rehabilitation services provided to such a handicapped individual, except the following:

(i) Evaluation, of rehabilitation potential, including diagnostic and related services;

(ii) Counseling, guidance and referral;

(iii) Vocational and other training services, including personal and vocational adjustment training, books and other training materials, except for training or training services in institutions of higher education;

(iv) Services to members of a handicapped individual's family;

(v) Placement; and

(vi) Post-employment services, including follow-along;

(2) The State plan shall provide that the State agency will give full consideration to any similar benefit available under any other program to a handicapped individual to meet, in whole or in part, the cost of physical and mental restoration services and maintenance provided to such a handicapped individual except where such consideration would significantly delay the provision of such services to an individual;

(3) The State plan shall provide that when, and to the extent that, an individual is eligible for such similar benefits, such benefits will be utilized insofar as they are adequate, timely and do not interfere with achieving the rehabilitation objective of the individual.

§ 401.45 Administrative review of agency action, and fair hearing.

(a) The State plan shall provide that an applicant for or recipient of vocational rehabilitation services under the State plan who is dissatisfied with any action with regard to the furnishing or denial of such services may file a request for an administrative review and redetermination of that action to be made by a member or members of the supervisory staff of the State agency. The State plan shall further provide that when the individual is dissatisfied with the finding of this administrative review, he shall be granted an opportunity for a hearing before the State administrator or his designee.

(b) Each applicant for or recipient of vocational rehabilitation services shall be informed of the opportunity available to him under paragraph (a) of this section.

§ 401.46 Confidential information.

(a) The State plan shall provide that the State agency will adopt such regulations as are necessary to assure that:

(1) All information as to personal facts given or made available to the State agency, its representatives, or its employees, in the course of the administration of the vocational rehabilitation program, including lists of names and addresses and records of agency evaluation, shall be held to confidential;

(2) The use of such information and records shall be limited to purposes directly connected with the administration of the vocational rehabilitation program;

(3) Except as provided in subparagraph (5) of paragraph (a) of this section, information shall not be disclosed directly or indirectly, other than in the administration of the vocational rehabilitation program, unless the informed consent of the client has been obtained in writing;

(4) Release of information to any individual, agency, or organization shall be conditioned upon satisfactory assurance by such individual, agency, or organization that the information will be used only for the purpose for which it is provided and that it will not be released to any other individual, agency, or organization;

(5) Information may be released to agencies providing social services or income maintenance from which the client has requested certain services or cash payments under circumstances from which his consent may be presumed;

(6) Upon written request of the client, information shall be released to the client or his representative for purposes in connection with any proceeding or action for benefits or damages, including any proceeding or action against any public agency: *Provided,* (i) That only such information as is relevant to the needs of the client shall be released, and (ii) in case of medical information, the knowledge of which may be harmful to the client, such information shall be re-

leased to the representative of the client; and

(7) Information will be released to an organization or individual engaged in research only for purposes directly connected with the administration of the State vocational rehabilitation program and only if the organization or individual furnishes satisfactory assurance that the information will be used only for the purpose for which it is provided; that it will not be released to persons not connected with the study under consideration; and that the final product of the research will not reveal any information that may serve to identify any person about whom information has been obtained through the State agency without written consent of such person and the State agency.

(b) The State plan shall further provide that all information is the property of the State agency;

(c) The State plan shall further provide that the State agency will adopt such procedures and standards as are necessary to:

(1) Give effect to these regulations; and

(2) Assure that all vocational rehabilitation applicants, clients, providers of services, and interested persons will be informed as to the confidentiality of vocational rehabilitation information.

§ 401.47 Scope of agency program: Small business enterprises for the most severely handicapped individuals.

(a) The State plan may provide for management services and supervision provided to small business enterprises (including vending facilities) operated by the most severely handicapped individuals, and may also provide for establishing such small business enterprises. If the State plan so provides, it shall further provide that the State agency shall establish in writing and maintain:

(1) A description of the types of small business enterprises to be established under the program;

(2) A description of the policies governing the acquisition of vending facilities or other equipment and initial stocks (including livestock) and suppplies for such businesses;

(3) A description of the policies governing the management and supervision of the program;

(4) A description of how management and supervision will be accomplished either by the State agency, or by some other organization as the nominee of such agency, subject to its control; and

(5) Assurance that only the most severely handicapped individuals will be selected to participate in this supervised program.

(b) If the State agency elects to set aside funds from the proceeds of the operation of such enterprises, the State plan shall also provide that the State agency shall establish in writing and maintain a description of the methods used in setting aside such funds, and the purpose for which such funds are set aside. Such funds may be used only for small business enterprise program purposes and any benefits for operators must be provided on an equitable basis.

§ 401.48 Scope of agency program: Establishment of rehabilitation facilities.

The State plan may provide for the establishment of public or other nonprofit rehabilitation facilities. If the State plan so provides, it shall:

(a) Provide that the State agency will determine that needs for individual rehabilitation facilities exist prior to their establishment and that such establishment will be consistent with State rehabilitation facilities planning and will not duplicate other resources available to rehabilitation facilities;

(b) Provide that the State agency shall establish in writing and maintain standards and criteria applicable to such rehabilitation facilities with respect to physical plant, equipment, personnel, administration and management, safety and other pertinent conditions and insofar as workshops are concerned, the State agency shall establish in writing and maintain criteria and standards applicable with respect to health conditions, wages, hours, working conditions, workmen's compensation or liability insurance, and other pertinent conditions. Such standards and criteria shall incorporate, insofar as applicable, any standards and criteria established by the Secretary, and shall conform with regulations of the Secretary of Labor relating to occupational safety and health standards for rehabilitation facilities, the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A117.1–1961, as modified by other standards prescribed by the Secretary of Housing and Urban Development (24 CFR Part 40) or Administrator of General Services (41 CFR 101–17.703) and, where applicable, the National Environmental Policy Act of 1969 (Pub. L. 90–190).

(c) Provide that the primary purpose of the establishment of any rehabilitation facility is to establish a rehabilitation facility in which vocational rehabilitation services or transitional or extended employment will be provided to handicapped individuals; and

(d) Provide that, in cases where initial staffing assistance is provided, such assistance will be available only for personnel who are engaged in new or expanded program activities of the rehabilitation facility.

§ 401.49 Scope of agency program: Construction of rehabilitation facilities.

The State plan may provide for the construction of public or other nonprofit rehabilitation facilities. If the State plan so provides, it shall:

(a) Provide that the State agency will determine that needs for individual rehabilitation facilities exist prior to their construction and that such construction will be consistent with State rehabilitation facilities planning and will not duplicate other resources available to rehabilitation facilities;

(b) Provide that the State agency shall establish in writing and maintain standards and criteria applicable to such rehabilitation facilities with respect to physical plant, equipment, personnel, administration and management, safety, and other pertinent conditions and, insofar as workshops are concerned, the State agency shall establish in writing and maintain criteria and standards applicable with respect to health conditions, wages, hours, working conditions, workmen's compensation or liability insurance, and other pertinent conditions. Such standards and criteria shall incorporate, insofar as applicable, any standards and criteria established by the Secretary;

(c) Provide that the primary purpose of the construction of any rehabilitation facility is to construct a rehabilitation facility in which vocational rehabilitation services or transitional or extended employment will be provided to handicapped individuals;

(d) Provide that the total Federal financial participation in the expenditures for the construction of rehabilitation facilities for a fiscal year shall not exceed 10 per centum of the State's allotment for such year under section 110 of the Act;

(e) Provide that for each fiscal year the amount of the State's share of expenditures for vocational rehabilitation services under the plan, other than for the construction of rehabilitation facilities and the establishment of rehabilitation facilities, shall be at least equal to the average of its expenditures for such other vocational rehabilitation services for the preceding three fiscal years; and

(f) Provide that in addition to any other requirement imposed by law, each proposal for the construction of a rehabilitation facility will be subject to the requirements for the construction of a rehabilitation facility under Part 402 of this chapter and the condition that the applicant will furnish and comply with all assurances set forth in the application.

§ 401.50 Scope of agency program: Facilities and services for groups of handicapped individuals.

The State plan may provide for facilities and services which may be expected to contribute substantially to the rehabilitation of a group of individuals, but which are not related directly to the rehabilitation plan of any one handicapped individual. If the State plan so provides, it shall further provide that the State agency shall establish in writing and maintain policies for the provision of such facilities and services.

§ 401.51 Utilization of community facilities.

The State plan shall provide that, in the provision of vocational rehabilitation services, maximum utilization will be made of public or other vocational or

technical training facilities or other appropriate resources in the community.

§ 401.52 Periodic review of extended employment in rehabilitation facilities.

The State plan shall provide for periodic review and revaluation, at least annually, of the status of those handicapped individuals who have been placed by the State agency in extended employment in rehabilitation facilities, including workshops, to determine the feasibility of their employment or their training for future employment in the competitive labor market. The State plan shall further provide that maximum effort will be made to place such individuals in competitive employment or training for such employment whenever determined to be feasible.

Subpart C—Financing of State Vocational Rehabilitation Programs

FEDERAL FINANCIAL PARTICIPATION

§ 401.70 Effect of State rules.

Subject to the provision and limitations of the Act and this part, Federal financial participation will be available in expenditures made under the State plan (including the administration thereof) in accordance with applicable State laws, rules, regulations, and standards governing expenditures by State and local agencies.

§ 401.71 Vocational rehabilitation services to individuals.

(a) Federal financial participation will be available in expenditures made under the State plan for providing an evaluation of rehabilitation potential, including diagnostic and related services necessary for determining an individual's eligibility for vocational rehabilitation services, and the nature and scope of services to be provided.

(b) Federal financial participation will also be available in expenditures made under the State plan for providing the following vocational rehabilitation services to handicapped individuals:

(1) Counseling, guidance and referral;

(2) Physical and mental restoration services;

(3) Vocational and other training services, including personal and vocational adjustment, books and training materials: *Provided*, That no training or training services in institutions of higher education (colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing) shall be paid for with funds under this part unless maximum efforts have been made by the State agency to secure grant assistance in whole or in part from other sources to pay for such training or training services;

(4) Maintenance, not to exceed the estimated cost of subsistence, provided in connection with vocational rehabilitation services at any time from the date of initiation of such services through the provision of post-employment services;

(5) Transportation, including costs of travel and subsistence during travel (or per diem payments in lieu of subsistence);

(6) Services to members of a handicapped individual's family when such services are necessary to the adjustment or rehabilitation of the handicapped individual;

(7) Interpreter services for the deaf;

(8) Reader services, rehabilitation teaching services, and orientation and mobility services for the blind;

(9) Telecommunications, sensory or other technological aids and devices.

(10) Recruitment and training services for new employment opportunities in the fields of rehabilitation, health, welfare, public safety, law enforcement, and other appropriate public service employment;

(11) Placement in suitable employment;

(12) Post-employment services;

(13) Occupational licenses, tools, equipment and initial stocks and supplies. "Equipment" as used herein includes shelters which are only those facilities for a business undertaking customarily furnished by the operator of a like undertaking occupying premises under a short-term lease;

(14) Other goods and services not contraindicated by the Act and this part, necessary to determine the rehabilitation potential of a handicapped individual or to be of benefit to him in terms of his employability. (This may include expenditures for short periods of medical care for acute conditions arising during the course of rehabilitation, which, if not cared for, would constitute a hazard to the evaluation of rehabilitation potential or to the achievement of the vocational objective.)

(c) Federal financial participation will not be available in any expenditure made, either directly or indirectly, for the purchase of any land, or for the purchase or erection of any building for any one handicapped individual. This exclusion with respect to buildings does not apply to shelters as described in paragraph (b) (13) of this section.

(d) Federal financial participation is not available for any drug or drug product, provided as part of physical and mental restoration services, for which the Food and Drug Administration has made an initial determination, published in the FEDERAL REGISTER, that there is a lack of substantial evidence of effectiveness for all indications (i.e., the drug is classified as less than "effective"). This policy applies to all identical, similar or related products whether or not specifically mentioned in the FEDERAL REGISTER notice. Lists of such drug products are available from the Department of Health, Education, and Welfare.

§ 401.72 Small business enterprises for the most severely handicapped.

(a) Federal financial participation will be available in expenditures made under the State plan for the acquisition of equipment, and initial stocks (including livestock) and supplies for small business enterprises for the most severely handicapped individuals, and management services and supervision provided by the State agency to improve the operation of such small business enterprises (including vending facilities). "Equipment" as used herein includes shelters, which are only those fcailities for a business undertaking which are customarily furnished by the operator of a like undertaking occupying premises under a short-term lease. Federal financial participation will not be available in any expenditure for the purchase of any land, nor for the purchase or erection of any building. This exclusion with respect to buildings does not apply to shelters as described in this paragraph;

(b) Federal financial participation is available for expenditures specified under paragraph (a) of this section, which are made from funds set-aside by the State agency from the proceeds of the operation of small business enterprises for the most severely handicapped individuals under its management and supervision.

§ 401.73 Establishment of rehabilitation facilities.

(a) Federal financial participation will be available in expenditures made under the State plan for the establishment of public and other nonprofit rehabilitation facilities for the following types of expenditures, except as limited in paragraph (b) of this section:

(1) Acquisition of existing buildings;

(2) Remodeling and alteration of existing buildings;

(3) Expansion of existing buildings;

(4) Architect's fees;

(5) Site survey and soil investigation;

(6) Initial fixed or movable equipment of existing building;

(7) Initial staffing of rehabilitation facilities; and

(8) Such other direct expenditures as are appropriate to the establishment project.

(b) Federal financial participation will not be available in any expenditure:

(1) For the acquisition of an existing building when the cost of acquisition of such building is in excess of $200,000;

(2) For the purchase or rental of land, or rental of buildings in connection with the establishment of rehabilitation facilities;

(3) For the remodeling or alteration of an existing building when the estimated cost of such remodeling or alteration exceeds the fair market value of such building prior to the remodeling or alteration;

(4) For the expansion of an existing building which has not been completed in all respects;

(5) For the expansion of an existing building to the extent that the total size of the resultant expanded building, determined in square footage of usable space, will be greater than twice the size of the original existing building; or

(6) For the expansion of an existing building if the method of joining the expanded portion of the existing building indicates that, in effect, a separate structure is involved.

(c) The amount of Federal financial participation in the establishment of

a rehabilitation facility, including initial equipment, and inital staffing for a period not to exceed 4 years and 3 months, shall be 80 per centum.

(d) Funds made available to a private nonprofit agency for the establishment of a rehabilitation facility shall be expended by that agency in accordance with procedures and standards equivalent to those of the State agency in making direct expenditures for similar purposes.

§ 401.74 Construction of rehabilitation facilities.

(a) Federal financial participation will be available in expenditures made under the State plan for the construction of public or other nonprofit rehabilitation facilities for the following types of expenditures:

(1) Acquisition of land;

(2) Acquisition of existing buildings;

(3) Remodeling, alteration or renovation of existing buildings;

(4) Construction of new buildings and expansion of existing buildings when the expansion is extensive enough to be tantamount to new construction;

(5) Architect's fees;

(6) Site survey and soil investigation;

(7) Initial fixed or movable equipment of such new, newly acquired, expanded, remodeled, altered or renovated buildings;

(8) Works of art in an amount not to exceed 1 per centum of the total cost of the project; and

(9) Such other direct expenditures as are appropriate to the construction project: *Provided, however,* That Federal financial particiaption will not be available for the costs of offsite improvements.

(b) The amount of Federal financial participation in the construction of a rehabilitation facility shall be equal to the same percentage of the cost of the project as the Federal share which would be applicable in the case of a rehabilitation facility (as defined in section 645(g) of the Public Health Service Act, 42 U.S.C. 291(a)), in the same location.

(c) Funds made available to a private nonprofit agency for the construction of a rehabilitation facility shall be expended by that agency in accordance with procedures and standards equivalent to those of the State agency in making direct expenditures for similar purposes.

§ 401.75 Facilities and services for groups of handicapped individuals.

Federal financial participation will be available in expenditures made under a State plan for the provision of other facilities and services which may be expected to contribute substantially to the rehabilitation of a group of handicapped individuals but which are not related directly to the rehabilitation of any one handicapped individual.

§ 401.76 Administration.

Federal financial participation will be available in expenditures under the State plan for administration. Administration includes, among other things: Program planning, development, evaluation, and control; research; interpretation of the program to the public; personnel administration, including the administration of affirmative action plans; use of advisory committees; and training and staff development, including educational leave, for State agency personnel. All expenditures for administration in which Federal financial participation is claimed must be subject to the administrative or supervisory control of the sole State agency, or, if performed by some other agency of the State, must be subject to such terms of a cooperative arrangement as will serve to assure consistency with the State agency's policies and objectives. Such expenditures must be made pursuant to the cost principles prescribed by Subpart Q of Part 74 of this title.

§ 401.77 Purchase of goods, facilities, or services from other agencies of the State.

Federal financial participation will be available in expenditures under the State plan for payment of the costs incurred by other agencies of the State furnishing goods, facilities, or services to the State agency, pursuant to the cost principles prescribed by Subpart Q of Part 74 of this title.

§ 401.78 Insurance and taxes.

Federal financial participation will be available in expenditures made under the State plan for:

(a) The State agency's share of costs in employee benefit programs;

(b) Workmen's compensation;

(c) Burglary, robbery, and fire insurance, if permitted by the State, and reasonably necessary to protect funds in transit or in the custody of State or local agency personnel;

(d) Motor vehicle liability costs, where the State accepts responsibility for such loss; and

(e) Federal, State, and local taxes, if the State agency is legally obligated to pay such taxes: *And provided,* That all comparable agencies in the State are uniformly treated. All such expenditures shall be made pursuant to the cost principles prescribed by Subpart Q of Part 74 of this title.

§ 401.79 Cost of space.

Federal financial participation will be available in expenditures made under the State plan for costs of space for State agencies that are incurred (a) for paying rent and service and maintenance costs in privately owned buildings; (b) in meeting the costs of service and maintenance in lieu of rent in publicly owned buildings; (c) in meeting rental charges in federally and municipally owned buildings, where the municipality is not administering the vocational rehabilitation program locally; (d) in making necessary repairs and alterations to either private or publicly owned buildings; and (e) for monthly rental charges, based on the cost of initial construction or purchase of State or locally owned buildings: *Provided,* That such expenditures are made pursuant to the cost principles prescribed in Subpart Q of Part 74 of this title.

§ 401.80 State and local funds.

(a) In order to receive the Federal share of expenditures under the State plan, expenditures from State or local funds under such plan equal to the State's share must be made. Such funds may not consist of Federal funds or of non-Federal funds that are applied to match other Federal funds, except as may be specifically authorized by Congress. The State's share shall be the difference between the Federal share (§ 401.86(a)), and 100 per centum.

(b) For the purposes of this section, "State or local funds" means:

(1) Funds made available by appropriation directly to the State or local agency, funds made available by allotment or transfer from a general departmental appropriation, or funds otherwise made available to the State or local agency by any unit of State or local government, including any funds, goods or services made available by such uhit for vocational rehabilitation activities under cooperative programs pursuant to § 401.13;

(2) Contributions by private organizations or individuals, which are deposited in the account of the State or local agency in accordance with State law, for expenditure by, and at the sole discretion of, the State or local agency: *Provided, however,* That such contributions earmarked for meeting the State's share for providing particular services, for serving certain types of disabilities, for providing services for special groups which are identified on the basis of criteria which would be acceptable for the earmarking of public funds, or for carrying on types of administrative activities so identified may be deemed to be State funds, if permissible under State law, except that Federal financial participation will not be available in expenditures that revert to the donor's use or facility;

(3) Funds set aside pursuant to § 401.72(b); or

(4) Contributions by private agencies, organizations or individuals deposited in the account of the State or local agency in accordance with State law, which are earmarked, under a condition imposed by the contributor, for meeting (in whole or in part) the State's share for establishing or constructing a particular rehabilitation facility, if permissible under State law: *Provided, however,* That such funds may be used to earn Federal funds only with respect to expenditures for establishing or constructing the particular rehabilitation facility for which the contributions are earmarked: *Provided, further,* That funds shall be subject to any limitation that the Secretary may impose pertaining to the amount of Federal funds available for paying the Federal share of expenditures for such establishment or construction.

§ 401.81 Shared funding and administration of joint projects or programs.

Where the Secretary has approved a request by the State agency to participate in a joint project or program with another agency or agencies of the State, or with a local agency, in accordance with § 401.11, Federal financial participation will be available in the State agency share of costs for which there is such Federal participation under the Act.

§ 401.82 Waiver of Statewideness.

If the approved State plan provides for activities to be carried out in one or more political subdivisions through local financing (§ 401.12), Federal financial participation will be available in expenditures made under the State plan for vocational rehabilitation services and administration in connection with such activities in accordance with the provisions of this subpart, except that funds made available to the State agency by such political subdivisions of the State (including funds contributed to such a subdivision by a private agency, organization or individual) may be earmarked for use within a specific geographical area or for use at a specific facility or for the benefit of a group of individuals with a particular disability: *Provided*, That nothing in this paragraph shall authorize the further earmarking of funds for a particular individual or for members of a particular organization, and that Federal financial participation will not be available in expenditures that revert to the donor's use or facility where the donor is a private agency, organization or individual.

ALLOTMENT AND PAYMENT

§ 401.85 Allotment of Federal funds for vocational rehabilitation services.

(a) For each fiscal year each State shall be entitled to an allotment of an amount authorized by the Act to be appropriated for that fiscal year for making grants to States for meeting the cost of vocational rehabilitation services under section 100(b)(1) of the Act as the product of the population of the State and the square of its allotment percentage bears to the sum of the corresponding products for all States, subject to the provision in paragraph (b) of this section. For any fiscal year the allotment to any State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) which is less than one-quarter of 1 per centum of the amount appropriated under section 100 (b)(1) or $2 million, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments of each of the remaining such States, but with such adjustments as may be necessary to prevent the allotments of any such remaining States from being thereby reduced to less than that amount.

(1) Population, as applied to any State, means the population of that State as determined by official estimates furnished to the Secretary by the Department of Commerce by October 1 of the year preceding the fiscal year for which Federal grant funds are appropriated.

(2) The allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capital income of such State bears to the per capita income of the United State (i.e., the 50 States, the District of Columbia), except that the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa and the Trust Territory of the Pacific Islands shall be 75 per centum.

(3) The allotment percentage shall be promulgated by the Secretary between July 1 and September 30 of each even numbered year, on the basis of the average of the per capita income of the States and of the United States (i.e., the 50 States and the District of Columbia) for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the 2 fiscal years in the period beginning July 1, next succeeding such promulgation.

(b) If at any time after the start of any fiscal year, or after a review by the Secretary after March 1 of such fiscal year, the Secretary determines, after reasonable opportunity for the submission of comments by the State agency, that any amount of an allotment to a State for any fiscal year will not be utilized by the State carrying out the purposes of the State vocational rehabilitation program, he shall make such amount available for carrying out the purposes of this part to one or more other States to the extent he determines such other State will be able to use such additional amount during such year for carrying out such purposes. When such amounts are made available to such other States, they shall be distributed to those States which can most effectively utilize such additional amount in proportion to the amount which each State's allotment bears to the total of all such States' allotments. Any amount made available to a State for any fiscal year pursuant to such reallotment shall be regarded as an increase of such State's allotment for such year.

(c) Where the State plan designates separate agencies to administer (or supervise the administration of) the part of the plan under which vocational rehabilitation services are provided for the blind, and the rest of the plan, respectively, the division of the State's allotment pursuant to paragraph (a) and (b) of this section between such agencies is a matter for State determination.

(d) The total Federal financial participation in the expenditures for construction for a fiscal year may not exceed 10 per centum of the State's allotment for such year. The amount of the State's share of expenditures for vocational rehabilitation services other than for the establishment of rehabilitation facilities or for construction of rehabilitation facilities shall be at least equal to the average of its expenditures for such other vocational rehabilitation services for the preceding 3 fiscal years.

§ 401.86 Payments for allotments for vocational rehabilitation services.

(a) Except as provided in § 401.85(d), the Secretary shall pay to each State an amount equal to the Federal share of the cost of vocational rehabilitation services under its approved State plan, including the cost of expenditures for the administration of the plan. The Federal share for each State shall be 80 per centum, except for expenditures to meet the cost of construction of rehabilitation facilities.

(b) If the payment to a State for any fiscal year is less than the total payments such State received under section 2 of the Vocational Rehabilitation Act for the fiscal year ending June 30, 1973, such State shall be entitled to an additional payment, equal to the difference between such payments and the amount so received by it. Such additional payment shall be subject to the same terms and conditions applicable to other payments made under this subpart.

(c) (1) The total of payments to a State under this section for any fiscal year may not exceed its allotment under § 401.85 and any additional payment under § 401.86(b) increasing such allotment for such year and such payments shall not be made which would result in a violation of the provision specified in § 401.85(d).

(2) Amounts otherwise payable to a State under this section for any fiscal year shall be reduced by the amount (if any) by which expenditures from non-Federal sources, as specified in § 401.80 (except for expenditures with respect to which the State is entitled to payments under Subpart F of this part) for such fiscal year under such State's approved plan for vocational rehabilitation services are less than such expenditures under such plan for the fiscal year ending June 30, 1972. The expenditures under the State plan for fiscal year 1972, pursuant to the preceding sentence, shall be determined on the basis of such information, including reports from the States, as the Department had on June 30, 1973. If a reduction in payments for any fiscal year is required in the case of a State where separate agencies administer (or supervise the administration of) the part of the plan under which vocational rehabilitation services are provided for the blind, and the rest of the plan, respectively, such reduction shall be made in direct relation to the amount by which expenditures from non-Federal sources under each part of the plan are less than they were under that part of the plan during the fiscal year ending June 30, 1972.

(d) Payments made under this part shall be subject to the condition that the State's performance in conducting a vocational rehabilitation program shall

meet the general standards for evaluation developed by the Secretary under Part 402 of this chapter. In cases where a State's performance fails to meet such general standards, payments may be withheld pursuant to the provisions of § 401.5.

§ 401.87 Method of computing and making payments.

(a) *Estimates.* The Secretary shall, prior to the beginning of each fiscal quarter or other period prescribed by him, estimate the amount to be paid to each State from its allotment for vocational rehabilitation services under section 110 of the Act, and its allotment for innovation and expansion projects under section 120 of the Act. This estimate will be based on such records of the State and information furnished by it, and such other investigation, as the Secretary may find necessary.

(b) *Payments.* The Secretary shall pay, from the allotment available therefor, the amount so estimated for such period. In making any such payment, such additions and subtractions will be made as the State's accounting for any prior period and audit thereof may indicate as necessary in balancing the Federal-State account for any such prior period. Payments shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Secretary may determine.

§ 401.88 Effects of payments.

(a) Neither the approval of the State plan nor any payment to the State pursuant thereto shall be deemed to waive the right or duty of the Secretary to withhold funds by reason of the failure of the State to observe, before or after such administrative action, any requirement of the Act or of this part.

(b) The final amount to be paid for any period is determinable on the basis of expenditures under the State plan for which Federal financial participation is authorized. The State shall assume full responsibility for the application of Federal funds to authorized plan purposes.

§ 401.89 Refunds.

Any amount refunded or repaid to the State shall be credited to the Federal account in proportion to the Federal participation in the expenditures by reason of which such refunds or repayments were made, and such sums shall be considered as granted from the State's allotment.

§ 401.90 Determining to which fiscal year an expenditure is chargeable.

In determining to which Federal fiscal year expenditures are chargeable, States shall be governed by the following:

(a) Expenditures are chargeable to a particular fiscal year in accordance with State laws or regulations. In the absence of applicable provisions of State laws or regulations, the actual date of the expenditure will be controlling.

(b) In the event that a State's fiscal year does not coincide with the Federal fiscal year, appropriate State laws or regulations governing the recording of expenditures will govern.

(c) In those States which appropriate funds for a biennium, the principles provided in State laws, regulations and practices, for determining to which year of the biennium an expenditure is charged will apply.

Subpart D—Payment of Costs of Vocational Rehabilitation Services for Disability Beneficiaries From the Social Security Trust Funds

§ 401.110 General.

(a) Section 222 of the Social Security Act provides for the payment from the trust funds of costs of vocational rehabilitation services furnished to disability beneficiaries. Within the limits authorized under section 222, trust funds will be available for payment by the Secretary to the States to provide for vocational rehabilitation services (and related costs of administration) for disability beneficiaries under State plans approved under the Act.

(b) To receive trust funds for vocational rehabilitation, each State agency is required to submit an amendment to its State plan which sets forth its policy and procedures for providing vocational rehabilitation services to disability beneficiaries in keeping with the purpose as stated below and which meets the requirements and conditions prescribed herein.

§ 401.111 Purpose.

With the purpose of making it possible for more disability beneficiaries to receive vocational rehabilitation services, money is made available from the trust funds to finance the vocational rehabilitation of selected beneficiaries. This money will be used in such a way that the saving from the amount of benefits that would otherwise have to be paid and the increased contributions to the trust funds paid by virtue of the earnings of beneficiaries who return to work will exceed, or at least equal, the money paid from the trust funds for rehabilitation costs.

§ 401.112 Applicability of other regulations.

The provisions governing vocational rehabilitation services to disability beneficiaries, the costs of which are paid from trust funds, must conform to all requirements elsewhere in this part governing the State vocational rehabilitation programs which are not inconsistent with the requirements prescribed in this subpart.

§ 401.113 Definitions.

(a) "Disability beneficiary" means a disabled individual who is entitled to benefits under section 223 of the Social Security Act (including disabled individuals serving a waiting period prior to such entitlement), a disabled individual age 18 or over who is entitled to child's insurance benefits under section 202(d) of the Social Security Act, or a disabled widow, widower, or surviving divorced wife under section 202 (e) and (f) of the Social Security Act.

(b) "Productive activity" means full-time employment, part-time employment, or self-employment wherein the nature of the work activity performed, the earnings received, or both, or the capacity to engage in such employment or self-employment, can reasonably be expected to result in the termination of entitlement to disability insurance benefits or in the nonpayment of benefits where entitlement is based on statutory blindness.

(c) "Trust Funds" means funds derived from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for purposes of vocational rehabilitation pursuant to section 222(d) of the Social Security Act.

§ 401.114 State plan requirements.

For a State to receive trust funds the State plan must contain the following provisions regarding vocational rehabilitation services to disability beneficiaries.

(a) *Conformance to selection criteria.* The State plan shall provide that, to the extent funds provided from the trust funds are adequate for that purpose, vocational rehabilitation services will be furnished to disability beneficiaries in the State who the State determines on the basis of medical, vocational, social, personal, or other factors are eligible for services and who meet the following requirements:

(1) The disabling impairment is not so rapidly progressive as to outrun the effect of vocational rehabilitation services to the extent that restoration of the beneficiary to productive activity is precluded;

(2) The disabling effect of the impairment, without the services planned, is expected to remain at a level of severity which would result in the continuing payment of disability benefits;

(3) There is a reasonable expectation that the provision of services will enable the individual to engage in productive work activity; and

(4) The reasonably predictable period of productive work activity is of sufficient duration that the benefits to be saved and the contributions which would be paid to the trust funds on future earnings would offset the cost of the services planned.

(b) *Order of selection.* To the extent that funds provided for this purpose are adequate, the State plan shall provide that the order of selection for services shall be in accordance with the beneficiary's readiness and potential for rehabilitation to productive activity and without regard to any other order of selection set forth in the State plan.

(c) *Citizenship, residence, and economic need.* The State plan shall provide that any disability beneficiary who meets the other requirements for selection for vocational rehabilitation services shall be provided with authorized services without regard to

(1) citizenship, or

(2) place of residence, or

(3) need for financial assistance.

(d) *Promptness of services.* The State plan shall provide that services will be furnished with reasonable promptness to disability beneficiaries selected under paragraphs (a), (b), and (c) of this section.

(e) *Services available.* The State plan shall provide that vocational rehabilitation services available to disability beneficiaries selected for such services shall include the full range of services authorized in the Act, to the extent that such services are consistent with this subpart, subject to the conditions and limitations with respect to the use of trust funds prescribed in § 401.115.

(f) *Staff, supervision and training.* The State plan shall provide for staff, supervision, and training of personnel to carry out the functions of this subpart in an effective manner.

§ 401.115 Conditions and limitations.

Costs of vocational rehabilitation services (and administration) paid from trust funds shall be subject to the following conditions and limitations:

(a) Trust funds will not be used to pay costs of establishment or construction of a rehabilitation facility.

(b) Trust funds will not be used to pay the costs of maintenance while an individual is receiving vocational rehabilitation services unless it is necessary for the individual to be away from home to receive such services. The costs of such maintenance shall not exceed the amount of increased expenses that are necessitated by the rehabilitation program.

(c) Where trust funds are used to pay the cost of equipment, initial stock and supplies, including that for a vending stand or other small business enterprise, for the rehabilitation of a beneficiary, the State agency shall establish appropriate controls to assure that such equipment and stock no longer required by that beneficiary are utilized by another beneficiary. When it is unlikely that such equipment and stock will be needed by another beneficiary within a reasonable period of time, it may be disposed of according to usual State agency procedures with appropriate credit to the trust funds.

§ 401.116 Payments of trust funds.

(a) *Payment and distribution of funds.* (1) Payment from available trust funds may be made in advance or by way of reimbursement for agency costs of providing services (including administration) under an approved amended State plan.

(2) In distributing funds to the States, the Secretary will consider agency estimates, the number of disability beneficiaries in the State, and such other factors as the Secretary may determine.

(3) The Secretary will make necessary adjustments or redistribution on account of overpayments, underpayments, and unused funds.

(b) *Payments for services and administration.* (1) Payment from trust funds may be made for the cost of determining the eligibility for and the character of vocational rehabilitation services needed by a disability beneficiary, or a claimant for disability benefits, if it appears there is a strong likelihood that such claimant will be found entitled to such disability benefits (even though later it is not so found), to the extent that such costs were incurred with respect to such claimant prior to the receipt by the State agency of notice of a determination of nonentitlement.

(2) Other authorized services provided prior to determination of entitlement to persons meeting the selection criteria may be paid for from trust funds if and when the State agency receives notice that the individual has been determined to be entitled to disability benefits.

(3) In no case, however, may services be paid for from the trust funds which are provided before

(i) The effective date of the approved amended State plan,

(ii) The beginning of the period of disability, or

(iii) The filing of application for disability benefits, whichever is latest, or in the case of a disabled child the date of entitlement to child's benefits because of disability.

(c) *Reversal of determination of nonentitlement for disability benefits.* Payment from the trust funds for services which have been rendered to a claimant otherwise eligible therefor who has been found not entitled to disability benefits may, if much finding is later reversed on reconsideration, appeal, or judicial review, be made retroactively for the fiscal year in which notice of the reversal is received by the State agency, provided at that time services consistent with the purpose of this subpart are being currently rendered to the claimant.

(d) *Termination of disability benefits.* Payment for services after receipt by the State agency of notice that entitlement to disability benefits has terminated shall not be made from trust funds, except when the services have been started and the individual case plan reflects that commitments of monies were made for those services prior to receipt of notice of such termination, i.e., written contracts, purchase orders, or equivalent authorizations have been issued, or lump sum payment may have been required to have been made in advance such as in the case of tuition or training expenses. In no case may payment be made for costs of services extending more than four months after the month in which entitlement to disability benefits terminates or in which notice that entitlement to disability benefits has terminated is received by the State agency, which ever is later.

§ 401.117 Budgets.

Periodically, as may be required, the State shall prepare and submit a budget estimate of trust funds needed to pay the costs of vocational rehabilitation services for disability beneficiaries and for the administration of such services.

§ 401.118 Reports.

The State shall submit reports of expenditures and case services activities in behalf of beneficiaries, in such form and in such detail and frequency as determined necessary by the Secretary. All records, procedures, and operational activities of the State agency, the costs of which are paid from trust funds, shall be subject to evaluative study, inspection, review, and audit.

Subpart F—Grants for Innovation and Expansion of Vocational Rehabilitation Services

§ 401.150 Purpose.

Under section 121(a) of the Act, grants may be made for the purpose of paying a portion of the cost of planning, preparing for, and initiating special programs under the State plan in order to expand vocation rehabilitation services, including:

(a) Programs to initiate or expand such services to the most severely handicapped, or

(b) Special programs to initiate or expand services to classes of handicapped individuals who have unusual and difficult problems in connection with their rehabilitation, particularly handicapped individuals who are poor and the responsibility for whose treatment, education, and rehabilitation is shared by the State agency with other agencies.

§ 401.151 Special project requirements.

(a) All project activities to be performed under this subpart must either be included within the scope of the approved State plan, or such State plan must be amended to include them.

(b) Grants may be made to a State agency, or at the option of the State agency, to a public or nonprofit organization or agency.

(c) The approval of the appropriate State agency shall be secured prior to the granting of any funds to any organization or agency other than the State agency for the provision of direct services to handicapped individuals or for establishing or maintaining facilities which will render direct services to such individuals.

(d) Written program descriptions of of activities to be conducted under grants under this subpart, including a budget for the support of such activities, shall be submitted in the form and detail and in accordance with procedures, required by the Secretary.

(e) Federal financial participation in the cost of any project under this subpart shall not exceed a period of 36 months.

§ 401.152 Allotment of Federal funds.

(a) From the sums available for any fiscal year for grants to States to assist them in meeting the costs of approved projects, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the popula-

tion of the State bears to the population of all the States. Population, as applied to any State, means the population of that State as determined by official estimates furnished by the Department of Commerce to the Secretary by October 1 of the year preceding the fiscal year for which Federal grant funds are appropriated. For any fiscal year an allotment which is less than $50,000 to any State shall be increased to that amount, and for the fiscal year ending June 30, 1974, no State shall receive less than the amount necessary to cover up to 90 per centum of the cost of continuing projects assisted under section 4(a)(2)(A) of the Vocational Rehabilitation Act, except that no such project may receive financial assistance under both The Vocational Rehabilitation Act and this Act for a total of time in excess of three years. The total of the increases shall be derived by proportionately reducing the allotments to each of the remaining States but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than $50,000.

(b) If at any time after the start of any fiscal year, or after a review by the Secretary after March 1 of such fiscal year, the Secretary determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purpose of this subpart, he shall make such amount available to one or more other States which he determines will be able to use additional amounts during such fiscal year for carrying out the purposes of this subpart. Any amount made available to any State or any fiscal year pursuant to this paragraph of this section shall be regarded as an increase in such State's allotment for such year.

(c) Where the State plan designates separate agencies to administer (or supervise the administration of) the part of the plan under which vocational rehabilitation services are provided for the blind, and the rest of the plan, respectively, the division of the State's allotment between such agencies is a matter for State determination.

(d) Within each State's allotment, the Secretary may require that up to 50 per centum of available funds must be expended in connection with projects which he has first approved. If the Secretary so requires, he will notify the States of his priorities for the use of funds under this subpart for the fiscal year ending June 30, 1974, within 30 days following the effective date of this subpart and at least 90 days prior to the beginning of each fiscal year thereafter.

§ 401.153 Payments from allotments.

From the sums allotted pursuant to § 401.152, the Secretary shall pay to each State, with respect to any project approved under this subpart, an amount up to 90 per centum of the costs of such project, consistent with annual instructions or program guidelines.

§ 401.154 Methods of computing and making payments.

The methods of computing and paying amounts pursuant to § 401.155 shall be in accordance with provisions of § 401.87. The provisions of § 401.88 through § 401.90 are also applicable to this subpart.

§ 401.155 Federal financial participation.

(a) Federal financial participation shall be available for:

(1) Personnel (including fringe benefits);

(2) The provision of vocational rehabilitation services;

(3) Equipment;

(4) Supplies;

(5) Consultant expenses;

(6) Staff or consultant travel; and

(7) Such other allowable costs under the State plan as are set forth in the budget.

(b) No payment shall be made from an allotment under section 121(a) of the Act with respect to any cost of a project for which payment has been made under any other section of the Act.

§ 401.156 Matching requirements.

(a) The non-Federal share may be in cash or in-kind and may include funds spent for project purposes by a cooperating public or private nonprofit agency: *Provided*, That such cash or in-kind contributions are not included as a cost in any other Federally financed program.

(b) For purposes of this subpart, Federal financial participation will be provided pursuant to the matching and cost-sharing requirements prescribed by Subpart G of Part 74 of this title.

§ 401.157 Other administrative requirements.

The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart.

§ 401.158 Reports.

The grantee will make such reports in such form and containing such information as the Secretary may require, and will comply with such provisions as he may find necessary to assure the correctness and verification of such reports. Such reports shall include an annual report of program accomplishments which shall reflect the extent to which programs of vocational rehabilitation services have been initiated or expanded for the most severely handicapped individuals or for other individuals who have unusual and difficult problems in connection with their rehabilitation. Where applicable, such report shall include an evaluation of the inkind component as it affects the provision of vocational rehabilitation services within the project.

PART 402—PROJECT GRANTS AND OTHER ASSISTANCE IN VOCATIONAL REHABILITATION

Subpart A—General Provisions

Subpart B—Projects for the Provision of Vocational Rehabilitation Services

Subpart C—Assistance for Rehabilitation Facilities

Subpart D—Rehabilitation Research

Subpart E—Rehabilitation Training

Subpart F—National Center for Deaf-Blind Youths and Adults

Subpart G—Program and Project Evaluation

Subpart H—Technical Assistance

AUTHORITY: Sec. 400(b), 87 Stat. 386 (29 U.S.C. 780(b)).

Subpart A—General Provisions

§ 402.1 Terms.

For purposes of this part—

(a) The terms "Act," "blind," "construction of a rehabilitation facility," "Department," "employability," "establishment of a rehabilitation facility," "handicapped individual," "local agency," "maintenance," "nonprofit," "physical or mental disability," "rehabilitation facility," "Secretary," "severely handicapped individual," "State," "State agency," "State plan," "vocational rehabilitation services," "works of art," "workshop," shall, except where the context indicates otherwise, have the same meaning as set forth in § 401.1 of this chapter.

(b) "Applicant" means an eligible party seeking Federal financial assistance and may include an offeror for a contract as well as an applicant for a grant.

(c) "Demonstration" means—

(1) A pilot study or experimental attempt to provide more and better vocational rehabilitation services than are available, for the purpose of testing or establishing standards or methods of service that are practicable and effective for general application in the vocational rehabilitation program; or

(2) Provision of a special type of rehabilitation service in order to test its value in rehabilitation and to provide information on costs, methods of administration, methods of providing services, or rehabilitation techniques; or

(3) Provision of vocational rehabilitation services to handicapped individuals in a specific disability category not adequately served; or

(4) Application in new settings of the results derived from previous research or practice for the purpose of determining the effectiveness of new rehabilitation procedures.

(d) "Project period" means the total period of time for which a project is approved for support with Federal funds.

§ 402.2 Evaluation of project activities.

Activities provided Federal support under this part shall be evaluated according to the general standards for evaluation developed by the Secretary under Subpart G (Program and Project Evaluation) of this part. In evaluating the effectiveness of such activities, consideration shall be given to both individual project performance and the total effect of a group of projects of a similar type on the achievement of program purposes. The extent to which such general standards for evaluation have been met shall be considered in deciding whether to continue, renew or supplement any Federal financial assistance under this part.

§ 402.3 General administrative requirements.

(a) The following provisions of Part 74 of this title, implementing OMB Circular A–102, "Uniform administrative requirements for grants-in-aid to State and local governments," and establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as defined in Subpart A of Part 74 of this title. Except for grantees from other countries under § 402.67 (International rehabilitation research, demonstration and training), such provisions of Part 74 of this title shall apply also to grants to all other grantee organizations under this part:

45 CFR PART 74

Subpart:	*Subject*
A	General.
B	Cash Depositories.
C	Bonding and Insurance.
D	Retention and Custodial Requirements for Record.
F	Grant-Related Income.
H	Standards for Grantee Financial Management Systems.
I	Financial Reporting Requirements.
J	Monitoring and Reporting of Program Performance.
K	Grant Payment Requirements.
L	Budget Revision Procedures.
M	Grant Closeout, Suspension and Termination.
N	Forms for Applying for Grants.
O	Property.
P	Procurement Standards.
Q	Cost Principles.

(b) Any contract under this part shall be entered into in accordance with and shall conform to all applicable laws, regulations, and Department policy. Applicable cost principles are those principles specified in the Federal Procurement Regulations in 41 CFR Part 1–15.

§ 402.4 Application content and procedures.

All applications for Federal support under this part shall be submitted in the form and detail, and in accordance with procedures, required by the Secretary.

§ 402.5 State agency review and approval.

(a) The appropriate State agency shall be afforded reasonable opportunity to review and comment on all applications and other requests for Federal support submitted under this part.

(b) The approval of the appropriate State agency shall be secured by the applicant, if other than the State agency, for any application submitted under Subpart B (Projects for the Provision of Vocational Rehabilitation Services), or Subpart C (Assistance for Rehabilitation Facilities) of this part, except where the scope of the proposed project activities extends beyond a single State.

(c) The approval of the appropriate State agency shall also be secured by the applicant, if other than the State agency, for any project under this part which involves the provision of direct services to handicapped individuals.

§ 402.6 Scientific and technical peer review.

(a) A Rehabilitation Research and Training Policy Advisory Group made up of persons with recognized scientific, technical, and program expertise will be established for the purpose of constituting a peer review of the research and training priorities, planning, and implementation carrier out under Subpart D or Subpart E of this part. Such Advisory Group will be conducted in coordination with peer review groups established within such Federal agencies as the National Institutes of Health when such groups have expertise in matters pertaining to research or training related to the treatment and rehabilitation of handicapped individuals. The Advisory Group shall meet a minimum of three times annually for the purposes of:

(1) Making recommendations on rehabilitation research objectives and priorities;

(2) Reviewing and making recommendations on proposed rehabilitation research strategies to implement the objectives and priorities;

(3) Reviewing and making recommendations on the implementation of the rehabilitation research strategies.

(b) Each project proposal will be reviewed for its consistency with rehabilitation research priorities in the approved Rehabilitation Research and Demonstrations plan and for its technical merit. This review will be by peers selected from within and without the Government for their recognized scientific, technical and program expertise.

§ 401.7 Awards.

All awards under this part shall be in writing and shall constitute for such amounts the encumbrance of Federal funds available for such purposes of the date of the award. The award shall also specify the project period for which support is contemplated.

§ 401.8 Federal financial participation.

(a) Federal financial participation shall be available under this part for only those activities approved in the grant award in accordance with the applicable provisions of the Act and only in the total amount approved in the award.

(b) Except where otherwise indicated, Federal financial participation under this part may be available for costs of

(1) Personnel (including fringe benefits);

(2) Purchase or rental of equipment;

(3) Supplies;

(4) Travel;

(5) Consultant expenses;

(6) Provision of vocational rehabilitation services to handicapped individuals and other individuals served by the project;

(7) Administration and other indirect costs of the project (except for projects under § 402.51 (Grants for construction of rehabilitation facilities) and § 402.52 (Initial staffing grants));

(8) Minor alterations when essential to the successful conduct of the project; and

(9) Such other costs, as approved by the Secretary.

Unless specifically indicated, Federal financial participation will not be available for costs of acquiring, expanding, remodeling or altering any building. Costs applicable to grants under this part shall be determined pursuant to the requirements of Subpart Q of Part 74 of this title.

(c) No Federal financial participation may be furnished under this part in the cost of activities for which payment is made under another part of this chapter, or other authority.

(d) In the case of any project under this part for which Federal funds are granted to pay part of the cost, the matching grantee funds may not consist of other Federal funds or of non-Federal funds that are applied to match other Federal funds, except as may be specifically authorized by Congress.

(e) Matching or cost sharing represents, in general, that portion of project costs not borne by the Federal government and may include cash contributions, and only those in-kind contributions which consist of charges for real property and non-expendable personal property. Cash contributions include the grantee's cash outlay, including the outlay of money contributed to the grantee by third parties.

§ 402.9 Payments.

Payments of the Federal share of an approved project or other activity under this part may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance for estimated costs of operation, or as reimbursement, and in such installments and subject to such requirements as the Secretary may establish. Such payments shall be made pursuant to the requirements of Subpart K of Part 74 of this title.

§ 402.10 Consultant fees.

Fees for consultant services under this part are allowable to the extent that such payments are in accordance with the policies and standard practices of the agency, organization, or institution to which a grant or contract has been awarded. Fees for consultant services may not be paid to any regular full-time Federal Government employee. They may not be paid to any other individual for activities which are ordinarily a part of his duties in another position for which there is Federal financial participation under the Act, or which conflict with his duties in such other position.

§ 402.11 Grant-related income.

The provisions of Subpart F of Part 74 of this title apply to grantees under this part.

§ 402.12 Project revision.

(a) A grantee shall request that the project be revised whenever the approved program or financial plan of operation of the project is proposed to be materially changed. Program revisions originating with the grantee shall be submitted in writing and will be given appropriate review prior to consideration for approval by the Secretary.

(b) Program revisions may be initiated by the Secretary, if on the basis of reports, it appears that Federal funds are not being used effectively, or if changes are made in Federal appropriations, laws, regulations, or policies governing these grants.

(c) Budget revisions shall be made pursuant to the requirements of Subpart L of Part 74 of this title.

§ 402.13 Grant closeout, suspension, and termination.

Grants shall be closed out, suspended, or terminated in accordance with Subpart M of Part 74 of this title.

§ 402.14 Grant appeals.

When a post-award decision has been made which the grantee determines to be adverse, he may appeal such decision to the Departmental Grant Appeals Board pursuant to procedures prescribed in Part 16 of this title: *Provided*, That such decision is of a type defined in § 16.5 of such part as subject to the jurisdiction of such Board.

§ 402.15 Reports.

Reports shall be made to the Secretary in such form and containing such information as may reasonably be necessary to enable the Secretary to perform his functions under this part.

§ 402.16 Retention of records.

Financial records, supporting documents, statistical records, and all other pertinent records shall be maintained in accordance with the requirements of Subpart D of Part 74 of this title.

(b) Studies, evaluation, and program data developed within activities supported under this part shall be maintained for a period of three years after the termination of Federal support unless otherwise specified by the Secretary.

§ 402.17 Audit.

All fiscal transactions relating to Federal support under this part are subject to audit by the Federal government to determine whether expenditures have been made in accordance with the Act, the regulations, and other requirements.

§ 402.18 Conflict of interest.

Assurance must be given that individuals participating in the project will not use their position for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

§ 402.19 Patents.

In accordance with Department Regulations (45 CFR Subtitle A, Parts 6 and 8), all inventions made in the course of or under any grant or contract under this part shall be promptly and fully reported to the Assistant Secretary for Health, Department of Health, Education, and Welfare. The project director and other project staff shall neither have nor make any commitments or obligations which conflict with the requirements of this policy. Determination as to ownership and disposition of rights to such inventions shall be made pursuant to § 74.139 of Part 74 of this title.

§ 402.20 Publications and copyright policy.

(a) The results of any activity supported under this part may be published without prior review by the Department: *Provided*, That such publications carry a footnote acknowledging the Federal support received and stating that interpretations of data do not necessarily represent interpretations of the Department: *And provided, further*, That copies of such publications are furnished to the Department.

(b) Where a project activity leads to the publication of a book or other copyrightable material, the author is free to copyright the work, but the Department reserves royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrightable or copyrighted material resulting from the grant-supported activity. In such cases, the book or other material shall contain a notice of such license.

§ 402.21 Confidential information.

(a) All information obtained as to personal facts about individuals served by any project under this part, including lists of names, addresses, photographs, and records of evaluation, shall be held to be confidential.

(b) The use of such information and records shall be limited to purposes directly connected with the project and may not be disclosed, directly or indirectly, other than in the administration thereof, unless the consent of the agency providing the information and the individual to whom the information applies, or his representative, have been obtained in writing. The final product of the project will not reveal any information that may serve to identify any person about whom information has been obtained without his written consent, or the written consent of his representative.

§ 402.22 Collection of data from State agencies.

Applicants for Federal support under this part for activities which will require the collection of data from either handicapped individuals being served by two or more State agencies or employees of two or more such agencies, shall submit requests for anticipated data to the appropriate representatives of such agencies, as determined by the Secretary, prior to the submittal of applications and shall further provide assurance that similar requests shall be submitted to such representatives if the need for the collection of such data becomes evident during the course of the project. This provision shall also apply to individuals

employed in projects supported under this part and individuals enrolled in courses of study within such projects.

§ 402.23 Services to handicapped individuals.

Vocational rehabilitation services provided to handicapped individuals in rehabilitation facilities or other settings assisted under this part shall be provided according to standards consistent with the provision of services under the State plan under Part 401 of this chapter.

§ 402.24 Protection of human subjects.

Safeguarding the rights and welfare of human subjects at risk in activities supported under grants and contracts from the Department is the principal responsiblity of the organization which receives or is accountable to the Department for the funds awarded for the support of such activity. In order to provide for the adequate discharge of this organizational responsibility, no activity involving any human subjects at risk supported by a grant or contract from the Department shall be undertaken unless the organization has reviewed and approved such activity and has submitted to the Secretary a certification of such review and approval, which shall be reviewed annually.

§ 402.25 Nondiscrimination for reason of handicapping condition.

No otherwise qualified handicapped individual shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program, project, or activity supported under this part. No qualified individual shall be denied employment in any program, project, or activity supported under this part solely because of a physical or mental disability.

§ 402.26 Affirmative action plan.

Applications for Federal support under this part shall specify that the grantee will develop and implement an affirmative action plan for equal employment opportunity and advancement opportunity for qualified physically or mentally disabled persons. Such affirmative action plan shall provide for specific action steps and timetables to assure such equal opportunities and shall conform with all requirements specified in regulations developed pursuant to section 504 of the Act.

§ 402.27 Wage and hour standards for workshops.

Applications for Federal support under this part from workshops shall, in the case of private, nonprofit workshops, specify that applicable Federal and State wage and hour standards will be observed or, in the case of workshops operated by a State, county, or municipal government, give assurance that such workshops will comply with wage and hour standards, which will be at least equal to those imposed by Federal minimum wage laws.

§ 402.28 Standards for rehabilitation facilities and workshops.

Applications for Federal support under this part from rehabilitation facilities or workshops shall take into consideration any standards and criteria established by the Secretary.

§ 402.29 Nondiscrimination in employment in projects in which construction is to be performed.

Applicants for grants under this part which provide for construction, including minor alterations, shall specify that construction contracts paid for in whole or in part with funds obtained from the Federal government under this part shall include such provisions on nondiscrimination in employment as are required by and pursuant to Executive Order No. 11246 and will otherwise comply with requirements prescribed by and pursuant to such order. Such construction contracts will also provide for the development and implementation of an affirmative action plan for equal employment opportunity and advancement opportunity for qualified physically or mentally disabled persons. Such affirmative action plan shall provide for specific action steps and timetables to assure such equal opportunities and shall conform with all requirements specified in regulations developed pursuant to section 504 of the Act.

§ 402.30 Right to recover Federal funds; good cause for other use of a facility constructed with Federal funds.

(a) If, within 20 years after completion of any construction project for which funds have been paid under this part, the facility shall cease to be a public or other nonprofit facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the U.S. district court for the district in which such facility is situated) of the facility, as the amount which the Federal participation bore to the cost of construction of such facility.

(b) In determining whether there is good cause for releasing the applicant or other owner of the facility from its obligation, the Secretary shall take into consideration the extent to which:

(1) The facility will be developed by the applicant or other owner to use for another public or nonprofit purpose which will promote the purpose of the Act; or

(2) There are reasonable assurances that for the remainder of the 20-year period other public or nonprofit facilities not previously utilized for the purpose for which the facility was constructed will be so utilized and are substantially equivalent in nature and extent for such purposes.

Subpart B—Projects for the Provision of Vocational Rehabilitation Services

§ 402.40 Special projects and demonstrations; improved services to the severely handicapped.

(a) *Terms.* For purposes of this section—

(1) "Deaf individual whose maximum vocational potential has not been reached" means a deaf individual who has passed the age of compulsory school attendance for the State in which he resides, and whose academic and employment history indicates severely limited ability to communicate by any means; inadequate daily living and social skills; persistent lack of success in fulfilling vocational potential; and inadequate rehabilitation performance as reflected in an inability to complete a rehabilitation program in traditional rehabilitation settings.

(2) "Developmental disability" means a disability which:

(i) Is attributable to (A) mental retardation, cerebral palsy, or epilepsy; or (B) is attributable to other neurological conditions found by the Secretary to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals;

(ii) Originated before the individual attained age 18 and has continued or can be expected to continue indefinitely; and

(iii) Constitutes a substantial handicap to the individual.

(3) "Older blind individual" means a person who is blind as defined in § 401.1 (b) of this chapter, has attained at least the age of 55, and, by reason of the combination of disability and age, is not likely to be accepted for service by a State agency under Part 401 of this chapter.

(b) *Purpose.* Under section 304(b)(1) of the Act, grants may be made for the purpose of paying all or part of the cost of special projects and demonstrations, and research and evaluation in connection with such special projects and demonstrations, for establishing programs and facilities for providing vocational rehabilitation services which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals, especially the most severely handicapped individuals, including individuals with spinal cord injuries, older blind individuals, deaf individuals whose maximum potential has not been reached, and individuals with developmental disabilities.

(c) *Eligible applicants.* Applications may be made by States and public and other nonprofit agencies and organizations.

(d) *Matching requirements.* The Federal share shall not exceed 90 per centum of the total cost of the project.

(e) *Federal financial participation.* Federal financial participation will be available for costs specified in § 402.8.

(f) *Project period.* A project may be approved for a project period not to exceed 3 years.

(g) *Evaluative component.* All projects and demonstrations supported under this section shall contain an evaluative component which shall measure program effectiveness.

(h) *Special considerations in projects and demonstrations providing services to individuals with spinal cord injuries.* Approved projects providing vocational rehabilitation services to individuals with spinal cord injuries, whether administered separately or within a larger program supported in part under § 402.64, shall include provisions to

(1) Establish, on an appropriate regional basis, a multi-disciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient follow-up and services, and coordinated, to the greatest extent possible, with similar programs of the Veterans Administration, the National Institutes of Health, and other public and private agencies and institutions;

(2) Demonstrate and evaluate the benefits of a regional service system to individuals with spinal cord injuries served in such a system and the degree of cost effectiveness so derived;

(3) Demonstrate and evaluate existing, new and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

(4) Demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

(i) *Special considerations in projects and demonstrations providing services to older blind individuals.* Approved projects providing vocational rehabilitation services to older blind individuals shall contain activities which will help improve public understanding of the vocational rehabilitation problems of such older blind individuals and shall also include provisions to:

(1) Demonstrate innovative methods of providing intensive rehabilitation services needed to rehabilitate such individuals; or

(2) Provide mobility training services or comprehensive counseling services not otherwise available in the locality in which individuals served by the project reside; or

(3) Conduct coordinated activities with other public or nonprofit agencies serving the blind or administering programs for older individuals under the Older Americans Act in the same area when such activities will expand or improve services for such older blind individuals.

(j) *Special considerations in projects and demonstrations providing services to deaf individuals whose maximum vocational potential has not been reached.* Approved projects providing vocational rehabilitation services to deaf individuals whose maximum vocational potential has not been reached shall be planned jointly by the State agency and the appropriate educational agency, where applicable. Such approved projects shall contain activities which will help improve public understanding of such deaf individuals and shall also include provisions to:

(1) Demonstrate innovative methods of providing the specialized services needed to rehabilitate and make maximum use of the vocational potential of such individuals; or

(2) Conduct coordinated activities with other public and nonprofit agencies administering programs for deaf persons in the same area when such activities will expand or improve services for such deaf individuals.

(k) *Special considerations in projects and demonstrations providing services to individuals with developmental disabilities.* Approved projects providing vocational rehabilitation services to handicapped individuals with developmental disabilities shall be planned jointly with the State agency and the agency administering the State's program for persons with developmental disabilities in the locality in which the project is to be conducted, and shall also include provisions to:

(1) Initiate or expand vocational rehabilitation service programs for individuals with developmental disabilities with special rehabilitation problems resulting from the severity of their disabilities or combination of disabilities; or

(2) Demonstrate innovative techniques or methods of providing intensive vocational rehabilitation services in a manner not generally available to such individuals.

§ 402.41 Special projects and demonstrations; new approaches to service delivery.

(a) *Purpose.* Under section 304(b)(2) of the Act, grants may be made for the purpose of paying all or part of the cost of special projects and demonstrations, and research and evaluation in connection with such special projects and demonstrations, for applying new types or patterns of services or devices, including opportunities for new careers for handicapped individuals or other individuals in programs serving handicapped individuals.

(b) *Eligible applicants.* Applications may be made by States and public and other nonprofit agencies and organizations.

(c) *Matching requirements.* The Federal share shall not exceed 90 per centum of the total cost of the project. In projects and demonstrations providing new career opportunities, grantees will be expected to assume an increasing percentage of the new careerist expenses in order to assure that employment commitments will be met.

(d) *Federal financial participation.* Federal financial participation may be available for costs specified in § 402.8 and may also be available for:

(1) New careerist salary and training expenses; and

(2) Necessary supportive services to enable new careerists to secure employment.

(e) *Project period.* A project may be approved for a project period not to exceed 3 years.

(f) *Evaluative component.* All projects and demonstrations supported under this section shall contain an evaluative component which shall measure program effectiveness.

(g) *Selection of handicapped individuals to participate in a project.* Handicapped individuals to be provided new career opportunities and supportive services under this section will be only those individuals who have been determined by the State agency to be handicapped individuals under § 401.1(k) of this chapter.

(h) *Special considerations in projects and demonstrations providing new career opportunities.* Applicants will provide assurance that the occupations for which training is being provided offer possibilities for continuing full-time employment and realizable opportunity for promotion and advancement through structured channels of promotion.

§ 402.42 Grants for services for handicapped migratory agricultural workers or seasonal farmworkers.

(a) *Terms.* For purposes of this section—

(1) "Family members" or "members of the family" means any relative by blood or marriage of a handicapped migratory agricultural worker or seasonal farmworker and other individuals living in the same household with whom the handicapped migratory agricultural worker or the seasonal farmworker has a close interpersonal relationship, and who are with the worker, or have accompanied the worker on his migratory tour to the point in time at which the State agency comes into contact with him.

(2) "Migratory agricultural worker" means a person who occasionally or habitually leaves his place of residence on a seasonal or other temporary basis to engage in ordinary agricultural operations or in services incident to the preparation of farm commodities for the market in another locality in which he resides during the period of such employment (29 CFR Part 11).

(3) "Seasonal farmworker" means a person who on a seasonal or other temporary basis engages in ordinary agricultural operations or in services incident to the preparation of farm commodities for the market within daily commuting distance from his place of normal residence.

(4) "Transportation" means the necessary travel and related costs in connection with transporting handicapped individuals who are migratory agricultural workers or seasonal farmworkers and members of their families who are with them for the purpose of achieving the rehabilitation objectives of the handicapped migratory agricultural worker or seasonal farmworker. Transportation includes costs of travel and subsistence during travel (or per diem

allowances in lieu of subsistence), and includes relocation and moving expenses necessary for the achievement of a vocational rehabilitation objective.

(b) *Purpose.* Pursuant to the requirements of section 304(a) of the Act, grants may be made under section 304 (c) for the purpose of paying part of the cost of projects or demonstrations for the provision of vocational rehabilitation services to handicapped individuals who are migratory agricultural workers or seasonal farmworkers and to members of their families (whether or not handicapped) who are with them, where such services are necessary to the vocational rehabilitation of the handicapped migratory agricultural worker or seasonal farmworker.

(c) *Eligible applicants.* Applications may be made by State vocational rehabilitation agencies or local agencies.

(d) *Joint projects.* A State agency may, if it so desires, enter into an agreement with the vocational rehabilitation agencies of one or more other States to develop a cooperative program for the provision of vocational rehabilitation services under this section.

(e) *Matching requirements.* The Federal share shall not exceed 90 per centum of the total cost of the project.

(f) *Federal financial participation.* Federal financial participation may be available for costs specified in § 402.8 and may also be available for: (1) Staff training which is determined to have significant implication for improving the capacity of the State agency to serve handicapped migratory agricultural workers or seasonal farmworkers and members of their families, including the development of staff with appropriate foreign language skills where such agricultural workers or seasonal farmworkers possess limited English-speaking ability, when such training is included within a program of services to handicapped migratory agricultural workers or seasonal farmworkers and members of their families; and

(2) Maintenance payments which will be provided at rates consistent with rates paid to handicapped individuals under Part 401 of this chapter.

(g) *Project period.* A project may be approved for a project period not to exceed 3 years.

(h) *Special grant considerations.* Each grant is subject to the conditions that:

(1) The applicant will furnish assurances that there will be appropriate cooperation with other public and nonprofit agencies and organizations having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families, with special reference to programs dealing with migratory agricultural workers authorized under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act and the Farm Labor Contractor Registration Act of 1963;

(2) Special consideration in the design of project activities shall be given to the establishment of an effective job development and placement component and, insofar as possible, such component shall be coordinated with other agencies and organizations serving handicapped migratory agricultural workers or seasonal farmworkers;

(3) A project advisory committee shall be established by the State agency or local agency with a membership including, to the extent appropriate, handicapped migratory agricultural workers or seasonal farmworkers.

§ 402.43 Projects with industry.

(a) *Purpose.* Under section 304(d) of the Act, contracts or jointly financed cooperative arrangements may be made with employers and organizations for the establishment of projects which are designed to prepare handicapped individuals, especially severely handicapped individuals, for gainful and suitable employment in the competitive labor market including training and employment in a realistic work setting and such other services as are necessary for such individuals to continue to engage in such employment.

(b) *Eligible employers and organizations.* Employers and organizations with whom the Secretary may execute a contract or cooperative arrangement include any industrial, business, or commercial enterprise; labor organizations; or employer, industrial, or community trade association; or other agency or organization with the capacity to arrange, coordinate, or conduct training and other employment programs for the handicapped in a realistic work setting. Such training and employment programs shall include a planned and systematic sequence of training and instruction in occupational and employment skills, and provide reasonable assurance of gainful employment at the successful termination of such training and instruction.

(c) *Matching requirements.* Applicants for Federal support shall be expected to share the costs of projects. In such cases, the amount of the costs to be borne by the parties to the contract or arrangement will be a matter of negotiation.

(d) *Federal financial participation.* Federal financial participation within contracts or arrangements may be available for:

(1) The costs of job training and related vocational rehabilitation services;

(2) Instruction and supervision of trainees;

(3) Training materials and supplies, including consumable materials;

(4) Instructional aids;

(5) Excessive waste and scrap;

(6) Bonding fees, liability and insurance premiums;

(7) The purchase or modification of equipment adapted to the special capacity of handicapped individuals;

(8) Such minor alteration and renovation as are necessary to ensure access to and utilization of buildings by the handicapped; and

(9) Other expenses approved by the Secretary.

(e) *Prior assurance for contracts and arrangements.* Prior to entering into a contract or a cooperative arrangement with an applicant, it will first be determined that there is:

(1) Concurrence with the project by the bargaining agent where there is a collective bargaining agreement applicable to the employer and the occupation;

(2) Reasonable assurance that the wage rate to be set for trainees will not tend to create unfair competitive labor cost advantages nor have the effect of impairing or depressing wage or working standards established for experienced workers for work of a like or comparable character;

(3) No abnormal labor condition such as a strike, a lockout, or other similar conditions, existing with respect to the applicant; and

(4) Reasonable assurance that the State agency will, to the maximum extent practicable, maintain a continuing relationship with the handicapped individuals to be served in the project in order to provide, or ensure the availability of, necessary vocational rehabilitation services and related supportive services.

(f) *General provisions of contracts and arrangements.* Any contract or arrangement entered into shall, in addition to standard provisions:

(1) Provide for adherence to the terms or conditions of employment prescribed by an applicable Federal, State, or local law;

(2) Provide that determination by competent authority of failure to adhere to the terms or conditions required by subparagraph (1) of this paragraph shall constitute cause for termination of the contract or arrangement;

(3) Provide that the recruitment, examination, appointment, training, promotion, retention, or any other personnel action with respect to any handicapped individual receiving training or employment, shall be without regard to race, sex, color, creed, age, or national origin, and that violation shall constitute grounds for termination of the contract or arrangement and that the United States shall have a right to seek judicial enforcement of this provision;

(4) Provide that trainees shall be compensated for hours spent in production of any goods or services;

(5) Provide that individuals to receive training or employment services under the contract or arrangement will include only those individuals who have been determined by the appropriate State agency to be handicapped individuals who are suitable for such services;

(6) Provide reasonable assurance that handicapped individuals successfully completing the training program will be employed by the employer or within a similar enterprise;

(7) Specify the duration of the project;

(8) Contain an agreement to make such reports and to keep such records and accounts as the Secretary may require and to make such records and accounts available for audit purposes; and

(9) Contain an agreement to provide such other information as the Secretary may require.

(g) *Rates under contracts or arrangements.* (1) The contract or arrangement shall include the rate of compensation to be paid to trainees engaged in the production of any goods or services. In no case shall the wage rate paid a trainee be less than the following, whichever is higher:

(i) The minimum entrance rate for inexperienced workers in the same occupation or if the occupation is new to the establishment, the prevailing entrance rate for the occupation among other establishments in the community or area; or

(ii) The minimum rate required under the Fair Labor Standards Act or the Walsh-Healy Public Contracts Act, to the extent that such acts are applicable to the trainee.

(2) The contract or arrangement shall further provide for an increasing rate of payment to trainees if the training program is of such duration that periodic increases are reasonable and if the proficiency of such trainees merits such increases.

(h) *On-the-job training.* The contract or arrangement shall:

(1) Provide for methods of instruction, progression of trainees, and size of the training group (including any appropriate combination of individualized or group training), which shall be comparable in duration to other training programs for the particular occupation, and adequate in content to qualify trainees for employment;

(2) Provide adequate and safe facilities and equipment; and

(3) Require that suitable records of attendance, performance and progress of trainees be maintained and that such records be made available to the Secretary when so requested.

§ 402.44 Projects for vocational training services.

(a) *Terms.* For purposes of this section—

(1) "Training in occupational skills" means a planned and systematic sequence of instruction under competent supervision which is designed to impart predetermined skills and knowledge with respect to a specific occupational objective or a job family, and to assist the individual to adjust to a work environment through the development of appropriate patterns of behavior.

(2) "Work evaluation" means the appraisal of the individual's capacity

(i) To adjust to a work environment;

(ii) To acquire occupational skills; and

(iii) To attain appropriate vocational goals.

(3) "Work testing" means the utilization of work, simulated or real, to assess the individual's productive, physical, and psychological capacity to adapt to a work environment.

(4) "Job tryouts" means work experience, within a rehabilitation facility or in conjunction with outside industry or other community resources to assist the individual to acquire knowledge and develop skills; and to assess his readiness for job replacement or fitness to engage in a specific occupation.

(5) "Vocational training services" includes

(i) Training with a view toward career advancement;

(ii) Training in occupational skills;

(iii) Related services including work evaluation, work testing, provision of occupational tools and equipment required by the individual to engage in such training, and job tryouts, and

(iv) Payment of weekly training allowances to individuals receiving such training and related services.

(b) *Purpose.* Under section 302(b) of the Act, grants may be made to pay part of the cost of projects for providing vocational training services, leading to maximum employability, to handicapped individuals, especially the most severely handicapped, in public or other nonprofit rehabilitation facilities.

(c) *Eligible applicants.* Applications may be made by States and public and nonprofit organizations and agencies. The rehabilitation facility to be involved in the provision of vocational training services, shall:

(1) Be a public or nonprofit rehabilitation facility;

(2) Have been in operation at least 1 year;

(3) Provide training courses in occupational skills (with the major portion of each course being provided within the rehabilitation facility) and related services including work evaluation, work testing, and job tryouts and the major portion of each of these items with the exception of job tryouts, will be provided within the rehabilitation facility;

(4) Meet occupational health and safety standards prescribed by regulations of the Secretary of Labor;

(5) Substantially meet and standards for rehabilitation facilities established by the Secretary; and

(6) Prepare trainees for gainful employment.

(d) *Matching requirements.* The Federal share shall not exceed 90 per centum of the total cost of the project.

(e) *Federal financial participation.* Federal financial participation will be available for costs specified in § 402.8 and will also be available for the costs of weekly training allowances.

(f) *Project period.* A project may be approved for a project period not to exceed 3 years.

(g) *Assurances from applicant.* In addition to any other requirement imposed under the Act, each grant is subject to the condition that the applicant will furnish assurances that:

(1) Weekly training allowances will not reduce, but will supplement, any wages or other remuneration due to a trainee, and the amount of the payment for the weekly training allowance will be identified and disbursed separately from any payment representing wages or other remuneration due a trainee;

(2) No trainee will remain in training when it is determined that he is no longer making progress (as indicated by regular training progress reports) toward the completion of his training program or the development of a capability for maximum employability, or in any event for more than 2 years;

(3) In the event any portion of the vocational training services is performed outside the designated rehabilitation facility, the applicant will retain responsibility for the quality of such services; and

(4) The full range of vocational training services will be made available to each trainee to the extent of his need for such services.

(h) *Selection of individuals to participate in a project.* The individuals to receive vocational training services under a project will include only individuals who have been certified as eligible pursuant to § 401.1(f) of this chapter and have been determined, by the appropriate State agency to be suitable for and in need of such vocational training services. The most severely handicapped individuals shall be selected for participation in a project prior to other handicapped individuals.

(i) *Weekly training allowances.* (1) A weekly training allowance shall be available to each trainee, except that such allowance shall not be paid for any period in excess of 2 years and for any week shall not exceed $30 plus $10 for each dependent, or $70, whichever is less. Dependents shall be included when their relationship to the trainee is that of spouse, parent, child under the age of 21 (including an adopted child or stepchild), or handicapped child whose dependency is related to the handicap, and who are living in the same home with the trainee.

(2) The amount of the weekly training allowance shall be determined in accordance with paragraphs (j) and (k) of this section. The adjusted weekly training allowance available to a trainee shall not be less than $10 per week. To the extent that the weekly training allowance is paid for dependents, the amount shall be $10 per week for each dependent.

(3) The State agency shall make final determination, after consultation with the project facility and in accordance with the training services plan, with respect to the amount of the weekly training allowance and any adjustment to be made in the amount of the allowance.

(j) *Factors considered in determining the amount of weekly training allowances.* In determining the amount of such allowance the following factors shall be considered.

(1) The extent of the need for the allowance including any expenses reasonably attributable to receipt of training services;

(2) The extent to which the allowance will help ensure entry into and satisfactory completion of training; and

(3) The extent to which the allowance will motivate the trainee to achieve a better standard of living.

(k) *Factors considered in adjustment of weekly training allowances.* (1) Ad-

justment in the weekly training allowances may be made at any time during the individual's training period and the amount of the allowances shall be reviewed periodically. The project facility may propose the adjustment, but the final determination shall be made by the State agency.

(2) In considering whether adjustment is appropriate the following factors will be considered:

(i) Whether the trainee is earning a wage;

(ii) The relationship of the amount of wages, if any, to the amount of the allowance;

(iii) Any other material change in the economic condition of the individual or his family; and

(iv) The effect of any adjustment on the incentive of the trainee.

§ 402.45 Client assistance projects.

(a) *Terms.* For purposes of this section—

(1) "Client or client applicant" means an individual who

(i) Is seeking vocational rehabilitation services from the State agency; or

(ii) Is receiving vocational rehabilitation services from the State agency; or

(iii) Has been receiving vocational rehabilitation services from the State agency but the provision of such services has been terminated without his concurrence and he is seeking assistance in connection with the termination of such services.

(2) "Counselor" means a client assistance worker who is functioning in the capacity of an ombudsman.

(3) "Project area" means the geographical or administrative area served by project counselors and designed in a manner to facilitate client or client applicant accessibility to the project.

(b) *Purpose.* Pursuant to the requirements of section 112(a) of the Act, grants may be made under section 112 for the purpose of establishing in no less than 7 nor more than 20 geographically dispersed regions client assistance pilot projects to provide counselors to inform and advise all clients and client applicants in the project area of all available benefits under the Act, and upon request of such clients or client applicants, to assist them in their relationships with the projects, programs, and facilities providing services to them under the Act.

(c) *Project awards.* Projects may be awarded only to State agencies which shall directly administer such projects.

(d) *Matching requirements.* No minimum share will be required of grantees.

(e) *Allowable costs.* Federal assistance may be available for costs specified in § 402.8 (except for the provision of vocational rehabilitation services) and may also be available for the costs of client or client applicant travel as necessary to achieve project objectives.

(f) *Project period.* A project may be approved for a period not to exceed 3 years.

(g) *Counselor responsibilities.* Counselors employed within projects under this section will be responsible for:

(1) Interpreting the vocational rehabilitation services program to clients or client applicants;

(2) Advising clients or client applicants of benefits available to them under such program;

(3) Otherwise assisting such individuals in their relationships with projects, programs, and facilities providing vocational rehabilitation services under the Act; and

(4) Advising State agencies of identified problem areas in the delivery of vocational rehabilitation services to handicapped individuals and suggesting methods and means of improving State agency performance.

(h) *Special project considerations.* Each grant shall be subject to the condition that the applicant will furnish and comply with assurances that:

(1) No project employee shall be a person who is presently serving as staff, consultant, or receiving benefits of any kind directly or indirectly from any rehabilitation project, program or facility assisted under the Act in the project area, except for individuals receiving traineeships under Subpart E of this part.

(2) The project director shall be afforded reasonable access to policymaking and administrative personnel in State and local rehabilitation agencies, projects and facilities;

(3) All clients or client applicants within the project area shall have the opportunity to receive adequate client assistance services under the project and shall not be pressured against or otherwise discouraged from availing themselves of the client assistance services available under the project;

(4) The State agency shall make maximum effort to enter into cooperative arrangements with institutions of higher education to secure the services of graduate students who are undergoing clinical training in rehabilitation related fields, except that no compensation with funds appropriated under the Act will be provided to such students in connection with their participation in a project under this section;

(5) The project shall contain an evaluative component to measure its effectiveness.

(i) *Reports.* An annual project report shall be submitted by the project staff through the State agency to the Secretary on the operation of the project during the previous year, including a summary of the work done, and a uniform statistical tabulation of all cases handled within the project.

Subpart C—Assistance for Rehabilitation Facilities

§ 402.50 Project development grants.

(a) *Purpose.* Under section 301(d) of the Act, grants may be made for the purpose of assisting in meeting the costs of planning the development and construction of a specific rehabilitation facility and the services to be provided by such a rehabilitation facility.

(b) *Eligible applicants.* Applications may be made by public or other nonprofit agencies, institutions, or organizations which are either operating or are studying the feasibility of operating a rehabilitation facility.

(c) *Matching requirements.* The Federal share shall not exceed 90 per centum of the total cost of the project.

(d) *Federal financial participation.* Federal financial participation may be available for costs specified in § 402.8 and may also be available for

(1) Expenses associated with the use of volunteers; and

(2) Such architectural planning as is incidental to program planning, but not including working drawings.

(e) *Project period.* A project may be awarded for a specified period of not more than 12 months and may be extended for a period beyond 12 months only under unusual circumstances.

§ 402.51 Grants for construction of rehabilitation facilities.

(a) *Purpose.* Under section 301(b) of the Act, grants may be made to assist in meeting the costs of construction of public or other nonprofit rehabilitation facilities. Construction of a rehabilitation facility may, where necessary to the effective operation of the facility, include the construction of residential accommodations for use in connection with the rehabilitation of handicapped individuals.

(b) *Eligible applicants.* Applications may be made by State vocational rehabilitation agencies or other public or nonprofit organizations or agencies which operate or propose to operate a public or other nonprofit rehabilitation facility.

(c) *Matching requirements.* The amount of a grant with respect to any construction project shall be equal to the same percentage of the cost of the project as the Federal share which would be applicable in the case of a rehabilitation facility (as defined in section 645(g) of the Public Health Service Act, 42 U.S.C. 291(a)), in the same location.

(d) *Federal financial participation.*

(1) Federal financial participation may be available for

(i) Acquisition of land;

(ii) Acquisition of existing buildings;

(iii) Remodeling, alteration, renovation, or expansion of existing buildings;

(iv) Construction of new buildings;

(v) Architect's fees;

(vi) Site survey and soil investigation;

(vii) Fixed or movable equipment;

(viii) Works of art in an amount not to exceed 1 per centum of the total cost of the project; and

(ix) Other costs specifically approved in the application.

(2) Federal financial participation will not be available for the costs of offsite improvements or for the construction of any rehabilitation facility which is or will be used for religious worship or any sectarian activity.

(e) *Project period.* Grants shall be awarded for a project period necessary for the completion of the approved construction project except, however, that any project in which the construction has not begun during the 18-month pe-

riod immediately subsequent to the approval of the application may be terminated at the end of such period by the Secretary.

(f) *Assurances from applicants.* (1) In addition to any other requirement imposed under the Act, each grant in which construction is to be performed shall be subject to the condition that the applicant will furnish and comply with the following assurances and all other assurances set forth in the application for such grant:

(i) That, for a period of not less than 20 years after completion of construction of the project, it will be used as a public or other nonprofit rehabilitation facility;

(ii) That the applicant will provide a set of plans and specifications for the proposed project in which due consideration shall be given to excellence of architecture and design; and

(iii) That the applicant will furnish an annual report and such other progress reports and other information as the Secretary may require.

(2) The Secretary may, at any time, approve exceptions to these conditions and assurances where he finds that such exceptions are not inconsistent with the Act and the purposes of the program.

(g) *Construction standards and other standards.* (1) Approved projects shall be constructed according to minimum standards of construction and equipment for rehabilitation facilities specified by the Secretary. Applicable State and local codes and regulations must be observed. The Secretary's standards must be followed where they exceed any State and local codes and regulations.

(2) Approved projects shall meet the requirements of the Occupational Safety and Health Act (Pub. L. 91–576); the National Environmental Policy Act of 1969 and Executive Order No. 11514 (34 FR 4247) relative to environmental impact; the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," No. A 117.1–1961, as modified by other standards prescribed by the Secretary of Housing and Urban Development (24 CFR Part 40) or the Administrator of General Services (41 CFR 101–17.703); section 106 of Public Law 89–665 relative to the preservation of historic sites; Executive Order No. 11296 (31 FR 10663) relative to the avoidance of flood hazards; Executive Order No. 11288 (31 FR 9261) relative to the prevention, control, and abatement of water pollution; and in the case of State and local agencies, the regulations on relocation assistance and real property acquisition contained in part 15 of this title.

§ 402.52 Initial staffing grants.

(a) *Purpose.* Under section 301(c) of the Act, grants may be made to assist in paying part of the costs of compensation of the initial professional and technical staff of any public or nonprofit rehabilitation facility constructed after September 26, 1973.

(b) *Eligible applicants.* (1) New applications may be made by public or other nonprofit rehabilitation facilities constructed after September 26, 1973. Continuation applications may be made by those public or other nonprofit rehabilitation facilities constructed prior to September 26, 1973, which were recipients of initial staffing grants on September 26, 1973.

(2) Initial staffing grants may be made only with respect to the operation of a rehabilitation facility following construction. Where the rehabilitation facility is in operation prior to construction, an initial staffing grant shall be made only for additional staff which will enable the facility to provide new services or extend existing services to a substantially increased number of clients. Where the construction consists of expansion, remodeling, alteration, or renovation of an existing rehabilitation facility, such expansion, remodeling, alteration, or renovation shall be extensive enough to result in the addition of new services or the extension of existing services to a substantially increased number of handicapped individuals.

(c) *Matching requirements.* The amount of the Federal share under an initial staffing grant shall be related directly to the date of the commencement of the operation of the rehabilitation facility. The date of commencement of a rehabilitation facility shall be that date on which the first client is admitted for services after the completion of the related construction project or such earlier date after completion of such project as is specified in the approved application for the initial staffing grant. A grant shall not exceed 75 per centum of eligible costs for the period ending with the close of the 15th month following the month in which such operation commenced, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

(d) *Federal financial participation.* Federal financial participation may be available for personnel costs (including fringe benefits) of initial staff as set forth in the approved application.

(e) *Project period.* A project may be approved for a project period not to exceed 4 years and 3 months.

§ 402.53 Rehabilitation facility improvement grants.

(a) *Purpose.* Under section 302(c) of the Act, grants may be made for paying part of the cost of projects for rehabilitation facilities, or an organization or combination of such rehabilitation facilities, to analyze, improve, and increase their professional services to handicapped individuals, their management effectiveness or any other part of their capacity to provide employment and services for handicapped individuals.

(b) *Eligible applicants.* Applications may be made by any public or nonprofit rehabilitation facility, organization or combination of such rehabilitation facilities, which has been in operation for at least 12 months.

(c) *Matching requirements.* The Federal share of the approved project costs shall not exceed 80 per centum of the total project cost.

(d) *Federal financial participation.* Federal financial participation may be available for costs specified in § 402.8 and may also be available for the costs of staff development activities, including educational leave. Personnel employed under the project shall be limited to additional staff.

(e) *Project period.* A project may be approved for a project period not to exceed 3 years.

Subpart D—Rehabilitation Research

§ 402.60 General considerations in the administration of rehabilitation research.

(a) *Purpose.* The primary purpose of all activities supported under this subpart is the development of new knowledge concerning the rehabilitation of handicapped individuals; the evaluation of existing knowledge in new settings; and the utilization of such knowledge in the delivery of vocational rehabilitation services.

(b) *Research utilization.* Each project approved under this subpart shall contain a plan designed to enhance the prompt utilization of findings of successful research and demonstration projects.

(c) *Coordination with related program activities.* All activities supported under this part shall be administered in close coordination with similar program activities of the Veterans Administration, National Science Foundation, National Academy of Sciences, National Institutes of Health and other public and private agencies and institutions.

(d) *Project period.* A project under this subpart may be approved for a project period not to exceed 5 years.

§ 402.61 Rehabilitation research and demonstration.

(a) *Purpose.* Under section 202(a) of the Act, grants and contracts may be made to pay part of the cost of projects for the purpose of planning and conducting research, demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational rehabilitation services to handicapped individuals, especially the most severely handicapped individuals.

(b) *Scope of activities.* Projects supported under this section may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing disability, ways of ameliorating handicapping conditions, and restorative techniques; studies and analyses of industrial, vocational, social, psychological, economic and other factors affecting the rehabilitation of handicapped individuals; studies of special problems of homebound and institutionalized individuals; studies and analyses of architectural and engineering design adapted to meet the special needs of handicapped

individuals; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped individuals especially those with the most severe handicaps.

(c) *Eligible applicants.* Applications for grants or contracts may be made by State agencies and by public or nonprofit agencies, and organizations, including universities and other educational institutions.

(d) *Matching requirements.* Federal funds will be granted on the basis of project applications, and may pay only part of the cost of the supported activity. The applicant must identify its contribution to the support of the project and is expected to finance as large a part of the total cost as possible.

§ 402.62 Rehabilitation research and training centers.

(a) *Purpose.* Under section 202(b)(1) of the Act, grants may be made to pay part or all of the cost of the establishment and support of rehabilitation research and training centers to be operated in collaboration with institutions of higher education for the purpose of providing coordinated and advanced programs of research in rehabilitation, and training of rehabilitation research personnel, including, but not limited to, graduate training.

(b) *Scope of activities.* Rehabilitation research and training centers must be located in institutions having a well-recognized continuing coordinated program of scientific research designed to solve complex problems regarding the management of disabling conditions and preparation of handicapped individuals for employment, training of research personnel in fields contributing to the rehabilitation of the physically or mentally disabled, and related activities designed for the dissemination and utilization of new scientific knowledge leading to an improvement in the quality of vocational rehabilitation services for handicapped individuals. Each center program must reflect a specific core area of research, and individual research projects within the center must be planned so as to contribute in a sequential way to a coherent centralized body of knowledge. Training of research personnel within each center must be conducted in conjunction with the research activities, including to the greatest degree possible, both client care and the generation of scientific knowledge. Research related activities may include implementation and application of research findings; dissemination of new knowledge, methods and techniques in rehabilitation; research related technical assistance to State and other agencies and rehabilitation facilities; and improvement of skills of rehabilitation practitioners.

(c) *Eligible applicants.* States and public or nonprofit agencies and organizations, including institutions of higher education or rehabilitation facilities having well-recognized programs of research and associated with institutions of higher education may apply for center grants provided that the center program has a separate organizational identity.

(d) *Matching requirements.* Grants may be made for paying all or part of the costs of activities conducted under this section. Where part of the costs is to be borne by the grantee, the amount of grantee participation will be determined at the time of the grant award.

(e) *Federal financial participation.* Federal financial participation may be available for costs specified in § 402.8 and may, also be available for

(1) Stipends for students (including dependency allowances);

(2) Tuition and fees; and

(3) Student travel.

(f) *Special considerations in the support of training.* Traineeships awarded under this section shall be subject to the provisions of § 402.76.

§ 402.63 Rehabilitation engineering research centers.

(a) *Purpose.* Pursuant to the requirements of section 201(a)(1) of the Act, grants may be made under section 202(b)(2) to pay part or all of the cost of the establishment and support of rehabilitation engineering research centers to:

(1) Develop innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with public or private agencies and organizations designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and

(2) Cooperate with State agencies in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving problems in the rehabilitation of handicapped individuals.

(b) *Scope of activities.* Each rehabilitation engineering research center must be developed around a core research area which will be explored in depth to solve the problems in the rehabilitation of handicapped individuals through the combined efforts of medical, engineering, and related sciences. Each center program must be located in a clinical rehabilitation setting which provides an environment for cooperative research and the transfer of research findings to rehabilitation practice at a reasonable cost. Center programs may emphasize the medical-technological management of disabling conditions, the adjustment to limitations of functions of the individual and the environment, service delivery systems, or other core areas, utilizing the application of new or innovative technology, and as approved by the Secretary. Center programs must cooperate with State agencies in developing systems of information exchange and coordination to ensure the prompt utilization of research findings.

(c) *Eligible applicants.* Universities with recognized, well-developed clinical rehabilitation programs and cooperating medical and engineering schools, and State rehabilitation agencies or public or nonprofit rehabilitation facilities, organizations, or institutions associated with such universities may apply for grants provided that the center program has a separate organizational identity.

(d) *Matching requirements.* Grants may be made for paying all or part of the costs of activities conducted under this section. Where part of the costs is to be borne by the grantee, the amount of grantee participation will be determined at the time of the grant award.

§ 402.64 Spinal cord injury research program.

(a) *Purpose.* Under section 202(b)(3) of the Act, grants may be made to pay part or all of the cost of projects for specialized spinal cord injury research, to be coordinated with the special projects and demonstrations for the spinal cord injured under § 402.40. Such research will be designed to:

(1) Ensure dissemination of research findings among all projects supported under this section and under § 402.40(h);

(2) Provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

(3) Establish and maintain close working relationships with the Veterans Administration, National Institutes of Health, other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning and promote the interchange of data and reports among spinal cord injury investigators.

(b) *Scope of activities.* Activities under this section must be specifically directed to the achievement of new knowledge for improving rehabilitation services for the spinal cord injured, and techniques and methods connected therewith. Research and demonstration activities must focus upon the medical, psychological, vocational, or social aspects of spinal cord injury rehabilitation. Areas of research emphasis may include, but are not limited to, the development of new rehabilitation techniques and methods, the prevention and treatment of complications; and adjustment of the spinal cord injured to catastrophic disability; innovative vocational, educational and community placement services; methods of follow-up care; and the benefits of various alternative service models. Data collection and analysis components must be included within each project since research results dissemination and utilization will be an essential part of project activities.

(c) *Eligible applicants.* Applications for grants may be made by State agencies, and by other public or nonprofit agencies and organizations, including institutions of higher education, hospitals, clinics and rehabilitation facilities.

(d) *Matching requirements.* Grants may be made for paying all or part of the costs of activities conducted under this

section. Where part of the costs is to be borne by the grantee, the amount of grantee participation will be determined at the time of the grant award.

§ 402.65 End-stage renal disease research.

(a) Under section 202(b)(4) of the Act, grants may be made to pay part or all of the cost of a program of end-stage renal disease research, to include projects and demonstrations for providing special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the rehabilitation of persons suffering from such disease. Such research will be designed to:

(1) Ensure dissemination of research findings;

(2) Provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

(3) Establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among investigators in the field of end-stage renal disease.

(b) *Scope of activities.* Activities under this section must be designed as part of a continuum of projects each of which will focus on specific problem aspects of end-stage renal disease. Primary emphasis will be directed to the psychosocial and vocational aspects of end-stage renal disease and the development of experimental techniques and methods for achieving employment. Emphasis will also be directed towards:

(1) Collecting and disseminating information on end-stage renal disease derived under this program and related programs;

(2) Initiating information-sharing activities and interchange of experts in cooperation with public or other nonprofit agencies and organizations; and

(3) Producing and distributing materials necessary to enable the utilization of research findings.

(c) *Eligible applicants.* Applications for grants may be made by State agencies and by other public or nonprofit agencies and organizations, including institutions of higher education.

(d) *Matching requirements.* Grants may be made for paying all or part of the costs of activities supported under this section. Where part of the costs is to be borne by the grantee, the amount of grantee participation will be determined at the time of the grant award.

(e) *Federal financial participation.* Federal financial participation will be available for costs specified in § 402.8, and will also be available for:

(1) Medical and technical expenses pursuant to treatment for end-stage renal disease;

(2) Purchase or rental of renal dialysis and other machines and supplies necessary for the treatment of end-stage renal disease, when such machines and supplies are not available under other Federal, State, or other program resources;

(3) Costs attendant to the training of a patient with end-stage renal disease or members of his family in the use of renal dialysis and related equipment and in other aspects of end-stage renal disease care, including the use of home aides;

(4) Costs attendant to necessary modification of a patient's living quarters;

(5) Hospital and related medical expenses for a donor of a kidney;

(6) Laboratory fees; and

(7) Tissue matching.

(f) *Special grant considerations.* If an individual selected to participate in a program under this section is eligible for and is receiving services for the treatment of end-stage renal disease under any other Federal, State, or other programs, the costs of such services shall not be attributed to a grant under this section.

§ 402.66 International program for rehabilitation research, demonstration, and training.

(a) *Purpose.* Under section 202(b)(5) of the Act, the Secretary may make grants to pay all or part of the cost of a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of handicapped individuals in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of handicapped individuals, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of handicapped individuals with other nations as a means of increasing the levels of skill of rehabilitation personnel.

(b) *Scope of activities: Research and demonstration.* International research and demonstration grants for planning or conducting research in other countries must support, strengthen and, whenever possible, be fully integrated with domestic rehabilitation research activities of high priority to the United States and participating countries. Insofar as possible, research and demonstration projects shall relate to, or be closely affiliated with, a collaborating research center or institution in the United States which is conducting comparable research and demonstration activities. Research projects of high potential which had been initiated under Pub. L. 480 with counterpart funds which are no longer available may be continued under this section in order to take full advantage of rehabilitation research capabilities developed with institutions of higher education, rehabilitation centers and individual researchers in other countries.

(c) *Scope of activities: Training.* Grants may be made with governments and public or nonprofit organizations and agencies cooperating with the United States for short-term training of rehabilitation personnel from the participating countries when such training will be of substantial benefit to handicapped individuals in the United States. Training will be designed to provide each trainee with research as well as practitioner skills. Grants may similarly be entered into with other governments for the training of U.S. citizens in cooperating countries, where such training will lead to the development of new knowledge and methods in the rehabilitation of handicapped individuals in the United States.

(d) *Scope of activities: Information exchange.* Grants may be made with other governments, public or nonprofit domestic and international organizations and agencies to plan, cooperate and assist with the collection, translation, publication and dissemination of international program and research information of significant interest to rehabilitation practitioners and researches in the United States International information sharing and utilization conferences, seminars and workshops may be in cooperation with public and nonprofit agencies, and governments to promote the exchange of rehabilitation information in areas of priority rehabilitation concern to U.S. practitioners and researchers.

(e) *Scope of activities: Interchange of experts.* Grants may be made for the interchange of U.S. and foreign scientists, experts, practitioners and administrators engaged in significant rehabilitation research or service programs with special implication for improving rehabilitation knowledge and practice in the United States. Short-term fellowships, including travel and per diem not to exceed a 3 month duration, may be awarded to qualified individuals from the United States and participating countries (if counterpart funds are not available) for lecture tours, demonstrations and practical applications of new and improved techniques, methods and concepts for rehabilitating handicapped individuals.

(f) *Scope of activities: Technical assistance.* In cooperation with the Agency for International Development, the United Nations and other international organizations and agencies, grants may be made to cooperate with and assist countries which request technical assistance in the field of rehabilitation of the handicapped with special emphasis on increasing the levels of skill of rehabilitation personnel. Grants may also be made with other governments or research organizations within countries when such organizations possess specialized or unusual expertise not found in the United States to provide technical assistance to U.S. public and private nonprofit rehabilitation agencies and organizations.

(g) *Eligible applicants.* Applications for grants for international projects of research and demonstrations, international exchange of information and technical assistance may be made by international and domestic public and nonprofit agencies and organizations, including institutions of higher education. Applications for fellowships may be made

to the Secretary by qualified experts. A foreign expert and scientist must have approval of the appropriate government ministry of their government before applying for a fellowship. Individuals applying for traineeships and fellowships must be citizens of their respective countries.

(h) *Federal financial participation.* Federal financial participation will be available for costs specified in § 402.8 except that in the case of grantees from other countries, Federal financial participation will not be available in indirect costs and Federal financial participation will be available for costs of equipment only with the prior approval of the Secretary and provided that (1) the equipment has been manufactured by a company owned and located within the United States; (2) the equipment has been proven to be essential for the conduct of the project; (3) the equipment is not available in the country where the project is being conducted; and (4) the research organization does not have sufficient funds to purchase the equipment.

Subpart E—Rehabilitation Training

§ 402.70 Purpose.

(a) *Long-term training.* Under section 203(a) of the Act, grants or contracts may be made for the support of training, traineeships, and related activities designed to assist in increasing the numbers of personnel trained in providing vocational rehabilitation services to handicapped individuals and in performing other functions necessary to the development of such services.

(b) *Short-term training.* Under section 400(a)(2) of the Act, short-term training and instruction may be provided in technical matters relating to vocational rehabilitation services, including the establishment and maintenance of traineeships, with such stipends and allowances (including travel and subsistence expenses), as are necessary.

(c) *Research fellowships.* Under section 400(a)(2) of the Act, research fellowships may be established and maintained in technical matters relating to vocational rehabilitation services, with such stipends and allowances (including travel and subsistence expenses), as are necessary.

§ 402.71 Eligible applicants.

(a) *Long-term training; short-term training.* Applications may be made by State agencies and public or nonprofit agencies and organizations, including institutions of higher education.

(b) *Research fellowships.* Applications for research fellowships may be made by any person who has a demonstrated ability and special aptitude for advanced research training or productive research scholarship in any of the professional fields which contribute to the vocational rehabilitation of handicapped persons.

§ 402.72 Matching requirements.

(a) *Long-term training.* Under section 203(a) of the Act, grants and contracts may pay only part of the project cost. The applicant is expected to furnish as large a part of the total project cost as possible and, in the case of projects extending beyond one year, the applicant's share of the teaching costs is expected to increase progressively in each succeeding year. Insofar as possible, total personnel costs should be fully absorbed by the grantee at the termination of the project period.

(b) *Short-term training.* Although no minimum share will be required of applicants under section 400(a)(2) of the Act, they may be expected to share in the costs of the project. In such cases, the amount of grantee participation will be a matter of negotiation.

§ 402.73 Federal financial participation.

Federal financial participation will be available for the costs specified in § 402.8 and will also be available for (a) Student stipends (including dependency allowances); (b) tuition and fees; and (c) Student travel.

Indirect costs will not exceed 8 per centum of the amount allowed for direct costs, exclusive of permanent equipment, except in the case of State vocational rehabilitation agencies or other agencies of a State.

§ 402.74 Project period.

(a) *Long-term training.* A project may be approved for a project period not to exceed 5 years.

(b) *Short-term training.* A project may be approved for a project period not to exceed 12 months.

§ 402.75 Fields of support.

Grants or contracts will be made to provide a balanced program of assistance to meet the medical, vocational and other personnel training needs of both public and private rehabilitation programs and institutions. Such balanced program will include, as appropriate, projects in rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, workshop and facility administration, prosthetics and orthotics, specialized personnel in providing services to blind and deaf individuals, recreation for ill and handicapped individuals, and other fields contributing to the rehabilitation of handicapped individuals, including homebound and institutionalized individuals. Such program will also include projects to train individuals to work more effectively with handicapped individuals with limited English-speaking ability with particular attention on the development of language skills and the understanding of the cultural needs of such individuals.

§ 402.76 Traineeships and research fellowships.

(a) Traineeships and research fellowships provide financial support to students for technical, pre-baccalaureate, baccalaureate, graduate, post-graduate and special non-academic training.

(b) No training or instruction (including a combination of traineeship and research fellowship awards) shall be provided to an individual for any one course of study extending for a period in excess of four years.

(c) Each trainee and fellow must meet the following general requirements:

(1) He must be a United States citizen or a foreign national lawfull admitted to the United States for permanent residence;

(2) He must take the training only at the educational institution or agency designated in the traineeship or fellowship award;

(3) He must not be an employee of the Federal Government; and

(4) He must not concurrently receive educational allowances from any other Federal, State, or local public or voluntary agency, except for Federally assisted student loans, or educational allowances or benefits payable under chapters 34, 35, and 36 of Title 38, U.S.C. as limited by section 213 of the Veterans Education and Trainee Amendments Act of 1972, or educational allowances or benefits for veterans payable under any State or local program.

(d) An applicant for a traineeship must apply to the institution or agency which has been awarded a grant for traineeships under this subpart. Selection of all trainees is made by the institution or agency.

(e) Applicants for research fellowships must file applications in accord with procedures prescribed by the Secretary.

Subpart F—National Center for Deaf-Blind Youths and Adults

§ 402.80 Terms.

For the purpose of this subpart

(a) "Center" means the National Center for Deaf-Blind Youths and Adults, including its field offices;

(b) "Deaf-blind individuals" means persons who are blind as defined in § 401.1(b) of this chapter and have a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification and the combination of the two disabilities causes extreme difficulty for the person to attain independence in activities of daily living, psychosocial adjustment, or in the pursuit of a vocational objective; and

(c) "Grantee" means the public or nonprofit agency or organization selected as the party to the agreement to receive funds for the construction and operation of the National Center for Deaf-Blind Youths and Adults.

§ 402.81 Purpose.

Under section 305 of the Act, the Secretary may enter into an agreement with any public or nonprofit agency or organization for payment of all or part of the costs of the establishment and operation, including construction and equipment, of a center for the vocational rehabilitation of handicapped individuals who are both deaf and blind, which shall be known as the National Center for Deaf-Blind Youths and Adults.

§ 402.82 **Proposals.**

The scope of the commitment in the agreement shall encompass, but not be limited to, the following areas of activity:

(a) The construction of a facility for the vocational rehabilitation of handicapped individuals who are both deaf and blind, which will be especially adapted to the needs of deaf-blind individuals;

(b) The demonstration of methods which provide the specialized intensive services and other services, needed to rehabilitate handicapped individuals who are both deaf and blind;

(c) The training of professional and allied personnel needed to staff facilities specifically designed to provide such services and training of such personnel who have been or will be working with deaf-blind individuals.

(d) The conduct of research with respect to the problems of deaf-blind individuals and their rehabilitation;

(e) The conduct of related activities which will expand or improve the services for deaf-blind individuals, and

(f) The improvement of public understanding concerning the needs of deaf-blind individuals.

§ 402.83 **Agreement.**

The agreement shall:

(a) Provide that Federal funds paid to the grantee for the Center will be used only for the purpose for which paid and in accordance with the applicable provisions of the Act, these regulations, and the terms and conditions of the agreement.

(b) Provide that the grantee will make annual fiscal, progress and other special reports at such time and in such form as required by the Secretary.

§ 402.84 **Selection of grantee.**

The selection of the grantee will be made by the Secretary with preference given to the application that:

(a) Gives promise of maximum effectiveness in the organization and operation of the Center, and

(b) Gives promise of offering the most substantial skill, experience and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

Subpart G—Program and Project Evaluation

§ 402.90 **Program and project evaluation.**

(a) *Purpose.* Under section 401(a)(1) of the Act, the Secretary shall measure and evaluate the impact of all programs authorized under the Act, in order to determine their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services.

(b) *Awards.* Contracts may be awarded to any agency or organization with the demonstrated capacity to conduct evaluation studies under this subpart. Contracts for the study of program activities conducted under the Act may only be awarded to agencies or organizations which are not immediately involved in the administration of the program or project to be evaluated.

(c) *Standards for evaluation.* The Secretary shall, prior to July 1, 1974, develop and publish general standards for:

(1) The evaluation of programs authorized under the Act; and

(2) The evaluation of project effectiveness in achieving the objectives of the Act.

(d) *General considerations in program and project evaluation activities.* (1) Evaluation studies shall be conducted only by persons not immediately involved in the administration of the program or project being evaluated.

(2) Where appropriate, comparisons with appropriate control groups, composed of persons who have not participated in such programs, will be included in evaluation studies.

(3) Evaluation studies shall reflect continuing technical competence and program relevance, and shall be designed to assure timely progress.

(4) In carrying out evaluation studies of programs and projects supported under the Act, the Secretary shall, whenever possible, arrange to obtain the specific views of persons participating in such programs and projects, and handicapped individuals served by such programs and projects.

(e) *Special considerations in the evaluation of rehabilitation research and demonstrations.* (1) The Secretary shall, on an annual basis, and after taking into consideration the views of the State agencies, design evaluation studies concerned with the conduct of rehabilitation research and demonstration activities under Subpart D of this part which shall be used to:

(i) Reassess priorities to which such activities should be directed; and

(ii) Review present research, demonstration, and related activities to determine in terms of the purposes specified in Subpart D of this part, whether and on what basis such activities should be continued, revised, or terminated.

(2) Within 12 months after enactment of the Act, and on each April 1 thereafter, the Secretary shall prepare and furnish to the appropriate committees of Congress a complete report of such determination and review cited in this section, along with such recommendations as may be appropriate.

§ 402.91 **Intramural research.**

Under section 400(c) of the Act, the Secretary shall (directly or by grants or contracts) conduct studies, investigations, and evaluation of programs authorized by the Act, and make reports, with respect to abilities, aptitudes, and capacities of handicapped individuals, the development of their potentials, their utilization in gainful and suitable employment, and with respect to architectural, transportation and other environmental and attitudinal barriers to their rehabilitation, including the problems of homebound, institutionalized, and older blind individuals.

Subpart H—Technical Assistance

§ 402.100 **Furnishing of technical assistance.**

Technical assistance authorized in section 304(e) of the Act will be furnished, directly, or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof to provide technical assistance and consultation:

(a) To public and nonprofit rehabilitation facilities in matters of professional or business practice within the facility and

(b) To public and nonprofit agencies, institutions, organizations, or facilities for the purpose of planning or effecting the removal of architectural and transportation barriers.

§ 402.101 **Per diem payments.**

Experts or consultants, while providing technical assistance consultations pursuant to § 402.100, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the prorated pay rate for a person employed at a GS–18, under section 5332 of Title 5, United States Code, including travel time, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5, United States Code, for persons in the government service employed intermittently.

§ 402.102 **Recommendations and reports.**

A rehabilitation facility or public or nonprofit agency, institution, organization or facility which receives technical assistance consultations will be furnished with the recommendations of the consultant. A copy of the recommendations will also be furnished to the appropriate State agency. The rehabilitation facility or public or non-profit agency, institution, organization or facility receiving the technical assistance will be expected to provide a prompt report to the Department concerning the consultation and a report 6 months afterwards as to what has been done about the recommendations.

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PART III

ENVIRONMENTAL PROTECTION AGENCY

■

DAIRY PRODUCTS PROCESSING INDUSTRY POINT SOURCE CATEGORY

Effluent Limitation Guidelines and Pretreatment Standards Application

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

PART 405—EFFLUENT LIMITATIONS GUIDELINES FOR STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES FOR THE DAIRY PRODUCTS PROCESSING INDUSTRY POINT SOURCE CATEGORY

On December 20, 1973, notice was published in the FEDERAL REGISTER (38 FR 35250), that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the receiving stations, the fluid products, the cultured products, the butter, the cottage cheese and cultured cream cheese, the natural and processed cheese, the fluid mix for ice cream and other frozen desserts, the ice cream, frozen desserts, novelties and other dairy desserts, the condensed milk, the dry milk, the condensed whey and the dry whey subcategories of the dairy products processing industry category of point sources.

The purpose of this notice is to establish final effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the dairy products processing industry category of point sources, by amending 40 CFR Chapter I, Subchapter N, to add a new Part 405. This final rulemaking is promulgated pursuant to sections 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended, (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92–500. Regulations regarding cooling water intake structures for all categories of point sources under section 316(b) of the Act will be promulgated in 40 CFR Part 402.

In addition, the EPA is simultaneously proposing a separate provision which appears in the proposed rules section of the FEDERAL REGISTER, stating the application of the limitations and standards set forth below to users of publicly owned treatment works which are subject to pretreatment standards under section 307(b) of the Act. The basis of that proposed regulation is set forth in the associated notice of proposed rulemaking.

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the dairy products processing industry category. In addition, the regulations as proposed were supported by two other documents: (1) The document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Dairy Products Processing Point Source Category" (January 1974) and (2) the document entitled "Economic Analysis of Proposed Effluent Guidelines, for the Dairy Processing Industry" (November 1973). Both of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of proposed rulemaking.

Interested persons were invited to participate in the rulemaking by submitting written comments within 30 days from the date of publication. Prior public participation in the form of solicited comments and responses from the States, Federal agencies, and other interested parties were described in the preamble to the proposed regulation. The EPA has considered carefully all of the comments received and a discussion of these comments with the Agency's response thereto follows.

(a) *Summary of comments.* The following responded to the request for written comments contained in the preamble to the proposed regulation: the U.S. Department of Health, Education and Welfare; U.S. Department of the Interior; U.S. Department of Commerce; U.S. Department of Agriculture; State of New York Department of Environmental Conservation; State of Wisconsin Department of Natural Resources; Dairylea Cooperative Inc.; Kraftco Corporation; Land O'Lakes, Inc.; Foremost Foods Company; Mid-America Dairymen, Inc.; North Carolina Dairy Products Association, Inc.; National Milk Producers Federation; and the Dairy Industry Committee.

Each of the comments received was carefully reviewed and analyzed. The following is a summary of the significant comments and the Agency's response to those comments.

(1) The comment was made that proposed guidelines are only partially responsive to the goals and objectives of the Act in that they will serve to control the gross organic pollutant load but they will not contribute to the elimination of more insidious pollutants such as pesticides and drugs that have been proven toxic to both terrestrial and aquatic biota. Specifically, reference is made to the Development Document noting the use of santizers in the dairy products industry and the relatively low chloride levels in the wastes. Documentation in support of the comment refers to toxicity of power plant chemicals, ecological effects of pesticides on non-target species, and the effects of salinity and salinity changes on life in coastal waters.

During the course of the supportive study for the guidelines, extensive data were compiled on the use of cleaners and sanitizers in dairy products processing. Re-examination of these data support the position that the concentrations of such materials in the raw waste loads are very low, and these levels will be reduced moderately through entrainment in the sludge removed during biological treatment. Further, highly successful operation of biological treatment by plants typifying sanitation practices within the industry indicates that the subject materials are below significant levels even without dilution afforded by receiving waters. The added complexity of establishing limits and monitoring for cleaners and sanitizers does not appear justifiable.

(2) Several commenters questioned the adequacy of the data base for both the economic impact evaluation and the technical development of the guidelines. No additional or alternative sources of data were indicated, however.

The data base represents the best available from Federal, State and local agencies historically closely associated with the industry and from the industry itself, supplemented by data generated by on-site studies by EPA's contractors. The Agency considers the data bases adequate for the determination of appropriate effluent limitations and the evaluation of their economic impact.

(3) The comment was made that the economic impact of the guidelines, as reflected by the projected plant closures, is unacceptably high, and severe as it is expected to be, is undoubtedly understated.

In reality, the economic impact of the guidelines should be less severe than that projected in the supplementary economic analysis, since all factors were incorporated in the most conservative (i.e., unfavorable) light. A number of ameliorating factors were recognized, such as limited or local custom markets, but no weight was given to the reduction of plant closures attributable to the existence of such markets. The indicated ability of plants to meet the costs of pollution control was reduced to the minimum by inclusion of depreciation based on current replacement costs. This is especially notable for those classes of plants for which most closures are projected, i.e., small old plants which under typical practices should be completely depreciated at present. Moreover, many of the projected closures (approximately 79 percent) do not represent closures truly attributable to the guidelines, but rather acceleration of 1977–83 baseline closures (plant closures expected as the result of other market forces). The effluent guidelines, however, have been modified to reduce the economic impact on those segments of the industry that were projected to experience large numbers of closures.

(4) Several commenters suggested that the guidelines require further subcategorization based on size (because of unequal economic impact associated with size) and final product (e.g., swiss cheese vs. cheddar cheese).

The impact of the guidelines in regard to various sizes of plants is one of economics of size, as related to both profitability and treatment costs per unit of production, and is not related to technical feasibility. The guidelines have been amended to significantly reduce their economic impact (projected plant closures are reduced from 573 to 102, for example) by providing for a lesser degree of pollutant elimination for small plants that is readily attainable at greatly reduced treatment costs. Further reduction of the economic impact would require discharge of raw waste by some segments of the industry, a result inconsistent with Pub. L. 92–500. Examination of all avail-

able information, which includes data from plants producing more than a dozen varieties of natural and processed cheeses (the subcategory cited as an example), does not justify further subcategorization based on very specific final products.

(5) The comment was made that the proposed regulation does not adequately identify the level of best practicable control technology currently available. Section 304 Pub. L. 92–500 requires that EPA "identify * * * the degree of effluent reduction attainable through the application of best practicable control technology current available * * *". It is thus implied that for each industry subcategory, one level of treatment must be identified as best practicable control technology currently available. Additionally, in-plant changes were employed with the best practicable control technology, and the intent of Congress is for 1977 guidelines to be based upon end-of-pipe technology, not in-plant changes.

First, the in-plant considerations are not of the type and magnitude that would constitute "process and procedure innovations", but are based on good housekeeping and management (e.g., automatic shut-off valves, drain screens, liquid level controls and drip shields) as practiced by the better operations within the industry. Therefore, best practicable control technology currently available for this industry shall mean existing good water and waste water management within the plant followed by efficient biological treatment of the process waste waters. The guidelines limitations indicate the degree of effluent reduction currently attained by the combination of good water and waste water management within the plant and efficient end-of-pipe biological treatment. That they are indicative of the best practicable control technology currently available is supported by the fact that they represent the current effluent control attained by approximately the best quartile of the operations on which information is available. Alternative technologies to achieve the effluent limitations are presented in the Development Document together with associated investment and operating costs.

(6) The reasonableness of the 1983 limitations, particularly from the standpoint of costs, was questioned.

The 1983 limitations are currently attained by a more limited number of plants within the industry. Approaches vary from highly sophisticated in-plant control followed by typical efficient biological treatment to typically good in-plant control combined with typical efficient biological treatment and a polishing pond, sand filter, or other relatively low cost polishing operation. Several plants with exemplary practices throughout the chain (in-plant and end-of-pipe) are now attaining effluent discharges of better quality than those required by the guidelines limitations.

(7) Several comments were made questioning the need for any pretreatment of dairy wastes, much less the stringent pretreatment requirements proposed for new sources.

Neither the pretreatment standards promulgated for new sources nor the proposed pretreatment standards for existing sources are stringent. Under both standards, the wastes from most dairy products processing are considered compatible with public treatment systems and may be discharged without pretreatment, subject to the general provisions of 40 CFR Part 128 and State or local regulations.

(8) The comment was made that the guidelines do not indicate they are preliminary and subject to modification. The commenter expressed apprehension that State and regional personnel unfamiliar with the guidelines could impose more restrictive local requirements.

Though they have not been formally incorporated in guidelines documents, the provisions for review and revision contained in Pub. L. 92–500 are, of course, applicable to the guidelines. While provisions have been included in the guidelines for less restrictive permit limitations when fully justified, the guidelines constitute national minimum requirements and there is no intent within either Pub. L 92–500 or the guidelines to abridge the right of State or local authorities to impose more restrictive requirements.

(9) Several comments were made that the proposed guidelines required a higher degree of treatment for the dairy industry than the requirements for secondary treatment applicable to municipalities in regard to BOD5 and suspended solids. These commenters suggested that the requirements for the two should be identical.

The guidelines as promulgated require discharge of an effluent of essentially the same quality as that attained by municipalities applying secondary treatment. This does require greater efficiency in terms of present waste reduction on the part of industry, but such reductions have been shown to be practicable.

(10) The comment was made that the receiving stations subcategory should include whey to accommodate the portion of raw waste load attributable to the receipt of whey in processing plants.

Allowances for raw waste contributions from receiving departments in dairy products plants have been included in the calculation of effluent limitations established for the various subcategories.

(11) The comment was made that there are many processes, such as lactose fractionation, lactose refining and lactose fermentation which have not been mentioned in the guidelines and for which no waste discharge allowance has been made.

The processes mentioned are not typical dairy products processes and are more appropriately considered in limitations for industry categories such as pharmaceuticals and miscellaneous foods.

(12) The comment was made that barometric condensers should be taken into account in the guidelines for those subcategories in which they are normally employed, and that treatment of such condensers should be clarified in the final Development Document. The economic impact of the position taken should be considered.

The regulation of discharges from barometric condensers is more fully covered in the support documents. The guidelines have been amended to permit once-through use of barometric condenser water without treatment for those segments in which installations of cooling towers might impose undue economic hardship.

(b) *Revision of the proposed regulation prior to promulgation.* (1) To lessen the economic impact of the regulation, separate sets of limitations, reflecting a slightly reduced level of pollutant removal that is attainable at considerably lower cost, have been established for small plants in each subcategory.

(2) Provision has been made for once-through use of barometric condenser water under conditions of controlled trainment for small plants in the condensed milk and condensed whey subcategories to reduce the economic impact on plants in these segments.

(3) The limitations applicable to larger plants in all subcategories have been modified to reflect a more uniform discharge quality among the subcategories. In general, this has resulted in less than a ten percent change from the values contained in the proposed regulations.

(4) Subsequent review has affirmed the somewhat abnormal settling characteristics associated with suspended solids in biological treatment systems handling dairy products wastes. Consequently, the limitations for total suspended solids now reflect a level of discharge slightly higher than those for biochemical oxygen demand.

(5) The language of the proposed pretreatment requirements for new sources has been modified to indicate clearly the general compatibility of dairy products wastes with publicly-owned treatment systems, subject to the general provisions of 40 CFR 128 and State and local regulations.

(6) Section 304(b)(3)(B) of the Act provides for "guidelines" to implement the uniform national standards of section 301(b)(1)(A). Thus, Congress recognized that some flexibility was necessary in order to take into account the complexity of the industrial world with respect to the practicability of pollution control technology. In conformity with the Congressional intent and in recognition of the possible failure of these regulations to account for all factors bearing on the practicability of control, a provision allowing flexibility in the strict application of the limitations representing best practicable control technology currently available has been added to each subpart to account for special circumstances that may not have been adequately accounted for when these regulations were developed.

(7) The proposed division of receiving stations into those receiving milk in cans and those receiving milk in bulk has been deleted. Under the division by size range contained in the final regulation the division based on mode of receipt of milk is no longer valid. Those receiving stations

receiving any appreciable portion of their milk in cans will fall within the lower size range segment of the subcategory, and the less stringent limitations applicable to this segment will readily accommodate the variation attributable to receipt of milk in cans.

(c) *Economic impact.* The investment costs for 1977, based on recommended technology for the various segments of the industry, range between 5 and 25 percent of current fixed investment depending on the type of product and size of plant. Annual costs for the 1977 standards vary from 0.2 to 1.5 percent of sales. For 1983 it is assumed that the standards will be met through improved treatment involving low-cost polishing operations (e.g., sand filtration) or through improved in-plant control and utilization of 1977 treatment facilities. Incremental capital investments and annual costs for additions to treatment facilities required to meet the 1983 limitations will be less than half those for 1977. Depending on their specific nature, the costs of inplant control would be very variable, but much of the investment would be returned by value of materials recovered through improved control.

These costs do not appear seriously to threaten the long-term production or viability of the industry. The 1977 standards should result in price increases of from zero to 1.1 percent at the wholesale level. It is estimated that approximately 102 plant closures could result in 1977 due to the guidelines. These plants, representing only 0.2 percent of current industry production and about 850 employees (or 0.3 percent of total employment in the industry), are of questionable viability in light of the historical trend for closure of the small, old, relatively inefficient marginal plants within the dairy products processing industry. The plant closures tentatively attributed to impact of the guidelines represent in the main an acceleration of 1977–83 baseline closures which would occur even without imposition of guidelines. It is also estimated that the number of communities affected will approximate the number of plant closures. The impact of the 1983 guidelines is much less, approximately zero to 0.5 percent price increase at the wholesale level and no additional plant closures. Neither the 1977 nor the 1983 standards are expected to have any noticeable effects on the industry's growth or the Nation's balance of trade.

(d) *Cost-benefit analysis.* The detrimental effects of the constituents of waste waters now discharged by point sources within the dairy products processing industry point source category are discussed in Section VI of the report entitled "Development Document for Effluent Limitations Guidelines Dairy Products Processing Industry Point Source Category". It is not feasible to quantify in economic terms, particularly on a national basis, the costs resulting from the discharge of these pollutants to our Nation's waterways. Nevertheless, as indicated in Section VI, the pollutants discharged have substantial and damaging impacts on the quality of water and therefore on its capacity to support healthy populations of wildlife, fish and other aquatic wildlife and on its suitability for industrial, recreational and drinking water supply uses.

The total cost of implementing the effluent limitations guidelines includes the direct capital and operating costs of the pollution control technology employed to achieve compliance and the indirect economic and environmental costs identified in Section VIII and in the supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines DAIRY PROCESSING INDUSTRY" (November 1973). Implementing the effluent limitations guidelines will substantially reduce the environmental harm which would otherwise be attributable to the continued discharge of polluted waste waters from existing and newly constructed plants in the dairy products processing industry. The Agency believes that the benefits of thus reducing the pollutants discharged justify the associated costs which, though substantial in absolute terms, represent a relatively small percentage of the total capital investment in the industry.

(e) Publication of information on processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants.

In conformance with the requirements of section 304(c) of the Act, a manual entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Dairy Products Processing Industry Point Source Category," is being published and will be available for purchase from the Government Printing Office, Washington, D.C. 20402 for a nominal fee.

(f) *Final rulemaking.* In consideration of the foregoing, 40 CFR Ch. I, Subchapter N is hereby amended by adding a new Part 405, Dairy Products Processing Industry Point Source Category, to read as set forth below. An order of the Federal District Court for the District of Columbia entered in "NRDC v. Train" (Civ. No. 1609–73) on November 27, 1973, required that the Administrator sign final effluent limitations guidelines for this industry category by March 22, 1974. That order was subsequently modified on March 14, 1974, and the date for signing extended until April 22, 1974. Thereafter, on March 15, 1974, the District Court ordered that the effective date for effluent limitations guidelines established by its November 27 order remain applicable and not be affected by the extension in the publication date. The effective date for effluent limitations guidelines for this industry established by the Court's November 27 order is May 19, 1974. Accordingly, good cause is found for the final regulation promulgated as set forth below to be effective on May 28, 1974.

Dated: May 15, 1974.

JOHN QUARLES,
Acting Administrator.

AUTHORITY: Secs. 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816, et seq.; Pub. L. 92-500.

Subpart A—Receiving Stations Subcategory

§ 405.10 Applicability; description of the receiving stations subcategory.

The provisions of this subpart are applicable to discharges resulting from the operation of receiving stations engaged in the assembly and reshipment of bulk milk for the use of manufacturing or processing plants.

§ 405.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guide-

lines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent that the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For receiving stations receiving more than 150,000 lb/day of milk equivalent (15,600 lb/day or more of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	(Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.475	0.190
TSS	.713	.285
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.048	0.019
TSS	.071	.029
pH	Within the range 6.0 to 9.0.	

(b) For receiving stations receiving 150,000 lb/day or less of milk equivalent (under 15,600 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.625	0.313
TSS	.938	.469
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.063	0.031
TSS	.094	.047
pH	Within the range 6.0 to 9.0.	

§ 405.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For receiving stations receiving more than 150,000 lb/day of milk equivalent (15,600 lb/day or more of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.100	0.050
TSS	.126	.063
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.010	0.005
TSS	.013	.006
pH	Within the range 6.0 to 9.0.	

(b) For receiving stations receiving 150,000 lb/day or less of milk equivalent (under 15,600 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.150	0.075
TSS	.188	.094
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.015	0.008
TSS	.019	.009
pH	Within the range 6.0 to 9.0.	

§ 405.14 [Reserved]

§ 405.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.100	0.050
TSS	.126	.063
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.010	0.005
TSS	.013	.006
pH	Within the range 6.0 to 9.0.	

§ 405.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the receiving stations subcategory which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart B—Fluid Products Subcategory

§ 405.20 Applicability; description of the fluid products subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of market milk (ranging from 3.5 percent fat to fat-free), flavored milk (chocolate and others) and cream (of various fat concentrations, plain and whipped).

§ 405.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those speci-

fied in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) For fluid products plants receiving more than 250,000 lb/day of milk equivalent (more than 25,900 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	3.375	1.350
TSS	5.506	2.025
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.338	0.135
TSS	.551	.203
pH	Within the range 6.0 to 9.0.	

(b) For fluid products plants receiving 250,000 lb/day or less of milk equivalent (less than 25,900 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	4.50	2.250
TSS	6.750	3.375
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.450	0.225
TSS	.675	.338
pH	Within the range 6.0 to 9.0.	

§ 405.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) For fluid products plants receiving more than 250,000 lb/day of milk equivalent (more than 25,900 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.740	0.370
TSS	.925	.463
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.074	0.037
TSS	.093	.046
pH	Within the range 6.0 to 9.0.	

(b) For fluid products plants receiving 250,000 lb/day or less of milk equivalent (less than 25,900 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.10	0.550
TSS	1.375	.688
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.110	0.055
TSS	.138	.069
pH	Within the range 6.0 to 9.0.	

§ 405.24 [Reserved]

§ 405.25 Standards of performance for new sources.

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.740	0.370
TSS	.925	.463
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.074	0.037
TSS	.093	.046
pH	Within the range 6.0 to 9.0.	

§ 405.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the fluid products subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart C—Cultured Products Subcategory

§ 405.30 Applicability; description of the cultured products subcategory.

The provisions of this subpart are applicable discharges resulting from the manufacture of cultured products, including cultured skim milk (cultured buttermilk), yoghurt, sour cream and dips of various types.

§ 405.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing process products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fun-

damentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For cultured products plants receiving more than 60,000 lb/day of milk equivalent (more than 6,200 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	3.375	1.350
TSS	5.063	2.025
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.338	0.135
TSS	.506	.203
pH	Within the range 6.0 to 9.0.	

(b) For cultured products plants receiving 60,000 lb/day or less of milk equivalent (less than 6,200 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	4.50	2.250
TSS	6.750	3.375
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.450	0.225
TSS	.675	.338
pH	Within the range 6.0 to 9.0.	

§ 405.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For cultured products plants receiving more than 60,000 lb/day of milk equivalent (more than 6,200 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.740	0.370
TSS	.926	.463
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.074	0.037
TSS	.093	.046
pH	Within the range 6.0 to 9.0.	

(b) For cultured products plants receiving 60,000 lb/day or less of milk equivalent (less than 6,200 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.10	0.550
TSS	1.375	.688
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.110	0.055
TSS	.138	.069
pH	Within the range 6.0 to 9.0.	

§ 405.34 [Reserved]

§ 405.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.740	0.370
TSS	.926	.463
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.074	0.037
TSS	.093	.046
pH	Within the range 6.0 to 9.0.	

§ 405.36 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the cultured products subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth, in part 128 of this chapter except for § 128.133 of this chapter. Subject to the proisions of part 128 of this chapter process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart D—Butter Subcategory

§ 405.40 Applicability; description of the butter subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of butter, either by churning or continuous process.

§ 405.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the

discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For plants processing more than 175,000 lb/day of milk equivalent (more than 18,180 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.375	0.550
TSS	2.063	.825
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.138	0.055
TSS	.206	.083
pH	Within the range 6.0 to 9.0.	

(b) For plants processing 175,000 lb/day or less of milk equivalent (less than 18,180 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.825	0.913
TSS	2.738	1.369
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.183	0.091
TSS	.274	.137
pH	Within the range 6.0 to 9.0.	

§ 405.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For plants processing more than 175,000 lb/day of milk equivalent (more than 18,180 lb/day of BOD5 input.)

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.160	0.080
TSS	.20	.10
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.016	0.008
TSS	.020	.010
pH	Within the range 6.0 to 9.0.	

(b) For plants processing 175,000 lb/day or less of milk equivalent (less than 18,180 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.250	0.125
TSS	.313	.156
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.025	0.013
TSS	.031	.016
pH	Within the range 6.0 to 9.0.	

§ 405.44 [Reserved]

§ 405.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.160	0.080
TSS	.20	.10
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.016	0.008
TSS	.020	.010
pH	Within the range 6.0 to 9.0.	

§ 405.46 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the butter subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters) shall be the standard set forth in Part 128 of this chapter except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart E—Cottage Cheese and Cultured Cream Cheese Subcategory

§ 405.50 Applicability; description of the cottage cheese and cultured cream cheese subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of cottage cheese and cultured cream cheese.

§ 405.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such

fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For plants processing more than 25,000 lb/day of milk equivalent (more than 2,600 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	6.70	2.680
TSS	10.050	4.020
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.670	0.268
TSS	1.005	.402
pH	Within the range 6.0 to 9.0.	

(b) For plants processing 25,000 lb/day or less of milk equivalent (less than 2,600 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	8.926	4.463
TSS	13.388	6.694
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.893	0.446
TSS	1.339	.669
pH	Within the range 6.0 to 9.0.	

§ 405.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For plants processing more than 25,000 lb/day of milk equivalent (more than 2,600 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.480	0.740
TSS	1.850	.925
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.148	0.074
TSS	.185	.093
pH	Within the range 6.0 to 9.0.	

(b) For plants processing 25,000 lb/day or less of milk equivalent (less than 2,600 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	2.226	1.113
TSS	2.782	1.391
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.223	0.111
TSS	.278	.139
pH	Within the range 6.0 to 9.0.	

§ 405.54 [Reserved]

§ 405.55 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.480	0.740
TSS	1.850	.925
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.148	0.074
TSS	.185	.093
pH	Within the range 6.0 to 9.0.	

§ 405.56 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the cottage cheese and cultured cream cheese subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart F—Natural and Processed Cheese Subcategory

§ 405.60 Applicability; description of the natural and processed cheese subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of natural cheese (hard curd) and processed cheese.

§ 405.61 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter, shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.62 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors

are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For plants processing more than 100,000 lb/day of milk equivalent (more than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.715	0.290
TSS	1.088	.435
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.073	0.029
TSS	.109	.044
pH	Within the range 6.0 to 9.0.	

(b) For plants processing 100,000 lb/day or less of milk equivalent (less than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.976	0.488
TSS	1.462	.731
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.098	0.049
TSS	.146	.073
pH	Within the range 6.0 to 9.0.	

§ 405.63 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For plants processing more than 100,000 lb/day of milk equivalent (more than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.160	0.080
TSS	.20	.10
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.016	0.008
TSS	.020	.010
pH	Within the range 6.0 to 9.0.	

(b) For plants processing 100,000 lb/day or less of milk equivalent (less than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.250	0.125
TSS	.312	.156
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.025	0.013
TSS	.031	.016
pH	Within the range 6.0 to 9.0.	

§ 405.64 [Reserved]

§ 405.65 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.160	0.080
TSS	.20	.10
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.016	0.008
TSS	.020	.010
pH	Within the range 6.0 to 9.0.	

§ 405.66 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the natural and processed cheese subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter except for § 128.133 of this chapter subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart G—Fluid Mix for Ice Cream and Other Frozen Desserts Subcategory

§ 405.70 Applicability; description of the fluid mix for ice cream and other frozen desserts subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of fluid mixes for ice cream and other frozen desserts for later freezing in other plants; it does not include freezing of the products as one of the affected operations.

§ 405.71 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.72 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit

either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For plants with a dairy products input of more than 85,000 lb/day of milk equivalent (more than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	2.20	0.880
TSS	2.640	1.320
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.220	0.088
TSS	.264	.132
pH	Within the range 6.0 to 9.0.	

(b) For plants with a dairy products input of 85,000 lb/day or less of milk equivalent (less than 8.830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	2.926	1.463
TSS	4.388	2.194
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.293	0.146
TSS	.439	.219
pH	Within the range 6.0 to 9.0.	

§ 405.73 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For plants with a dairy products input of more than 85,000 lb/day of milk equivalent (more than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.480	0.240
TSS	.60	.30
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.048	0.024
TSS	.060	.030
pH	Within the range 6.0 to 9.0.	

(b) For plants with a dairy products input of 85,000 lb/day or less of milk equivalent (less than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.726	0.363
TSS	.908	.454
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input	
BOD5	0.073	0.036
TSS	.091	.045
pH	Within the range 6.0 to 9.0.	

§ 405.74 [Reserved]

§ 405.75 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.480	0.240
TSS	.60	.30
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.048	0.024
TSS	.060	.030
pH	Within the range 6.0 to 9.0.	

§ 405.76 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the fluid mix for ice cream and other frozen desserts subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart H—Ice Cream, Frozen Desserts, Novelties and Other Dairy Desserts Subcategory

§ 405.80 Applicability; description of the ice cream, frozen desserts, novelties and other dairy desserts subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of ice cream, ice milk, sherbert, water ices, stick confections, frozen novelties products, frozen desserts, melorine, pudding and other dairy product base desserts. If fluid mixes prepared at another plant are employed, the appropriate values from Subpart G should be deducted from the limitations.

§ 405.81 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter, shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.82 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will

make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For plants with a dairy products input of more than 85,000 lb/day of milk equivalent (more than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	4.60	1.840
TSS	6.90	2.760
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.460	0.184
TSS	.690	.276
pH	Within the range 6.0 to 9.0.	

(b) For plants with a dairy products input of 85,000 lb/day or less of milk equivalent (less than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	6.126	3.063
TSS	9.188	4.594
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.613	0.306
TSS	.919	.459
pH	Within the range 6.0 to 9.0.	

§ 405.83 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For plants with a dairy products input of more than 85,000 lb/day of milk equivalent (more than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.940	0.470
TSS	1.175	.588
pH	Within the ra ge 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.094	0.047
TSS	.118	.059
pH	Within the range 6.0 to 9.0.	

(b) For plants with a dairy products input of 85,000 lb/day or less of milk equivalent (less than 8,830 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.40	0.70
TSS	1.750	.875
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.140	0.070
TSS	.175	.088
pH	Within the range 6.0 to 9.0.	

§ 405.84 [Reserved]

§ 405.85 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.940	0.470
TSS	1.175	.588
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.094	0.047
TSS	.118	.059
pH	Within the range 6.0 to 9.0.	

§ 405.86 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the manufacture of ice cream, frozen desserts, novelties and other dairy desserts subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart I—Condensed Milk Subcategory

§ 405.90 Applicability; description of the condensed milk subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of condensed whole milk, condensed skim milk, sweetened condensed milk and condensed buttermilk.

§ 405.91 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.92 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the De-

velopment Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For plants condensing more than 100,000 lb/day of milk equivalent (more than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	3.450	1.380
TSS	5.175	2.070
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.345	0.138
TSS	.518	.207
pH	Within the range 6.0 to 9.0.	

(b) For plants condensing 100,000 lb/day or less of milk equivalent (less than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	4.60	2.30
TSS	6.90	3.450
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.460	0.184
TSS	.690	.276
pH	Within the range 6.0 to 9.0.	

(c) For plants in the size range covered by paragraph (b) once-through barometric condenser water may be discharged untreated if the composite net entrainment is below 15 mg/l of BOD5 for any one day and below 10 mg/l of BOD5 as the average for thirty consecutive days.

§ 405.93 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For plants condensing more than 100,000 lb/day of milk equivalent (more than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.760	0.380
TSS	.950	.475
pH	Within the range 6.0 to 9.0	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.076	0.038
TSS	.095	.048
pH	Within the range 6.0 to 9.0.	

(b) For plants condensing 100,000 lb/day or less of milk equivalent (less than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.150	0.575
TSS	1.438	.719
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.115	0.058
TSS	.144	.072
pH	Within the range 6.0 to 9.0.	

§ 405.94 [Reserved]

§ 405.95 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(a) For plants condensing more than 100,000 lb/day of milk equivalent (more than 10,390 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.760	0.380
TSS	.950	.475
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.076	0.038
TSS	.095	.048
pH	Within the range 6.0 to 9.0.	

§ 405.96 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the condensed milk subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart J—Dry Milk Subcategory

§ 405.100 Applicability; description of the dry milk subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of dry whole milk, dry skim milk and dry buttermilk.

§ 405.101 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analysis or generally accepted published values.

§ 405.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not

fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For milk drying plants with an input equivalent to more than 145,000 lb/day of milk equivalent (more than 15,070 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.625	0.650
TSS	2.438	.975
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.163	0.065
TSS	.244	.098
pH	Within the range 6.0 to 9.0.	

(b) For milk drying plants with an input equivalent to 145,000 lb/day or less of milk equivalent (less than 15,070 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	2.176	1.088
TSS	3.276	1.638
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.218	0.109
TSS	.328	.164
pH	Within the range 6.0 to 9.0.	

§ 405.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For milk drying plants with an input equivalent to more than 145,000 lb/day of milk equivalent (more than 15,070 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.360	0.180
TSS	.450	.225
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.036	0.018
TSS	.045	.023
pH	Within the range 6.0 to 9.0.	

(b) For milk drying plants with an input equivalent to 145,000 lb/day or less of milk equivalent (less than 15,070 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.550	0.275
TSS	.688	.344
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.055	0.028
TSS	.069	.034
pH	Within the range 6.0 to 9.0.	

§ 405.104 [Reserved]

§ 405.105 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input	
BOD5	0.036	0.180
TSS	.450	.225
pH	Within the range 6.0 to 9.0	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.036	0.018
TSS	.045	.023
pH	Within the range 6.0 to 9.0.	

§ 405.106 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the dry milk subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart K—Condensed Whey Subcategory

§ 405.110 Applicability; description of the condensed whey subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of condensed sweet whey and condensed acid whey.

§ 405.111 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.112 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If

such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For whey condensing plants with over 300,000 lb/day of fluid raw whey input (over 20,700 lb/day of solids or 14,160 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	1.00	0.400
TSS	1.50	.600
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.100	0.040
TSS	.150	.060
pH	Within the range 6.0 to 9.0.	

(b) For whey condensing plants with 300,000 lb/day or less of raw fluid whey input (less than 20,700 lb/day of solids or 14,160 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	1.30	0.650
TSS	1.950	.975
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.130	0.065
TSS	.195	.098
pH	Within the range 6.0 to 9.0.	

(c) For plants in the size range covered in paragraph (b) once-through barometric condenser water may be discharged untreated if the composite net entrainment is below 15 mg/1 of BOD5 for any one day and below 10 mg/1 of BOD5 as the average for thirty consecutive days.

§ 405.113 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For whey condensing plants with more than 300,000 lb/day of raw fluid whey input (more than 20,700 lb/day of solids or 14,160 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	0.220	0.110
TSS	.276	.138
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.022	0.011
TSS	.028	.014
pH	Within the range 6.0 to 9.0.	

(b) For whey condensing plants with 300,00 lb/day or less of raw fluid whey input (less than 20,700 lb/day of solids or 14,160 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	0.326	0.163
TSS	.408	.204
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.033	0.016
TSS	.041	.020
pH	Within the range 6.0 to 9.0.	

§ 405.114 [Reserved]

§ 405.115 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD$_5$ input)	
BOD$_5$	0.220	0.110
TSS	.276	.138
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD$_5$ input)	
BOD$_5$	0.022	0.011
TSS	.028	.014
pH	Within the range 6.0 to 9.0.	

§ 405.116 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the condensed whey subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions of this subpart may be discharged to publicly owned treatment works.

Subpart L—Dry Whey Subcategory

§ 405.120 Applicability; description of the dry whey subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of sweet or acid dry whey.

§ 405.121 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "BOD5 input" shall mean the biochemical oxygen demand of the materials entered into process. It can be calculated by multiplying the fats, proteins and carbohydrates by factors of 0.890, 1.031 and 0.691 respectively. Organic acids (e.g., lactic acids) should be included as carbohydrates. Composition of input materials may be based on either direct analyses or generally accepted published values.

§ 405.122 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw

materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations. The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) For whey drying plants with an input equivalent to more than 57,000 lb/day of 40 percent solids whey (22,800 lb/day of solids or 15,620 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.00	0.400
TSS	1.50	.600
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.100	0.040
TSS	.150	.060
pH	Within the range 6.0 to 9.0.	

(b) For whey drying plants with an input equivalent to 57,000 lb/day or less of 40 percent solids whey (under 22,800 lb/day solids or 15,620 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	1.30	0.650
TSS	1.95	.975
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.130	0.065
TSS	.195	.098
pH	Within the range 6.0 to 9.0.	

§ 405.123 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) For whey drying plants with an input equivalent to more than 57,000 lb/day of 40 percent solids whey (22,800 lb/day of solids or 15,620 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.220	0.110
TSS	.275	.138
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.022	0.011
TSS	.028	.014
pH	Within the range 6.0 to 9.0.	

(b) For whey drying plants with an input equivalent to 57,000 lb/day or less of 40 percent solids whey (under 22,800 lb/day solids or 15,620 lb/day of BOD5 input).

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.326	0.163
TSS	.408	.204
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.033	0.016
TSS	.041	.020
pH	Within the range 6.0 to 9.0.	

§ 405.124 [Reserved]

§ 405.125 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations: Maximum for any 1 day	Effluent limitations: Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of BOD5 input)	
BOD5	0.220	0.110
TSS	.275	.138
pH	Within the range 6.0 to 9.0.	
	English units (pounds per 100 lb of BOD5 input)	
BOD5	0.022	0.011
TSS	.028	.014
pH	Within the range 6.0 to 9.0.	

§ 405.126 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the dry whey subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128, of this chapter, except for § 128.133 of this chapter. Subject to the provisions of Part 128 of this chapter, process waste water pollutants from a new source subject to the provisions.

[FR Doc.74-11753 Filed 5-24-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 405]

DAIRY PRODUCTS PROCESSING INDUSTRY POINT SOURCE CATEGORY

Proposed Application of Effluent Limitations Guidelines for Existing Sources of Pretreatment Standards for Incompatible Pollutants

Notice is hereby given pursuant to sections 301, 304 and 307(b) of the Federal Water Pollution Control Act, as amended (the Act) 33 U.S.C. 1251, 1311, 1314 and 1317(b); 86 Stat. 816 et seq.; Pub. L. 92–500, that the proposed regulation set forth below concerns the application of effluent limitations guidelines for existing sources to pretreatment standards for incompatible pollutants. The proposal will amend 40 CFR Part 405—Dairy Products Processing Industry Point Source Category, establishing for each subcategory therein the extent of application of effluent limitations guidelines to existing sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards set forth at 40 CFR 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982).

The proposed regulation is also intended to supplement a final regulation being simultaneously promulgated by the Environmental Protection Agency (EPA or Agency) which provides effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the receiving stations, the fluid products, the cultured products, the butter, the cottage cheese and cultured cream cheese, the natural and processed cheese, the fluid mix for ice cream and other frozen desserts, the ice cream, frozen desserts, novelties and other dairy desserts, the condensed milk, the dry milk, the condensed whey and the dry whey subcategories of the dairy products processing industry point source category. The latter regulation applies to the portion of a discharge which is directed to the navigable waters. The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the guidelines and standards (40 CFR Part 405) promulgated simultaneously apply. However, the proposed regulation applies to the introduction of incompatible pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "Compatible" and "Incompatible." Compatible pollutants are generally not subject to pretreatment standards. (See 40 CFR 128.110 (State or local law) and 40 CFR 128.131 (Prohibited wastes) for requirements which may be applicable to compatible pollutants). Incompatible pollutants are subject to pretreatment standards as provided in 40 CFR 128.133, which provides as follows:

> In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to section 307 (c) of the Act shall be, for sources within the corresponding industrial or commercial category, that established by a promulgated effluent limitations guidelines defining best practicable control technology currently available pursuant to sections 301(b) and 304(b) of the Act: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutants: *And provided further*, That when the effluent limitations guidelines for each industry is promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatment.

The regulation proposed below is intended to implement that portion of § 128.133, above, requiring that a separate provision be made stating the application to pretreatment standards of effluent limitations guidelines based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR Part 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitation guidelines is adequate to support a determination of the applicability of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

Sections 405.15, 405.25, 405.35, 405.45, 405.55, 405.65, 405.75, 405.85, 405.95, 405.105, 405.115, and 405.125, of the proposed regulation for point sources within the dairy products processing industry category (December 20, 1973; 38 FR 34954), contained the proposed pretreatment standard for new sources. The regulation promulgated simultaneously herewith contains §§ 405.16, 405.26, 405.36, 405.46, 405.56, 405.66, 405.76, 405.86, 405.96, 405.106, 405.116, and 405.126, which state the applicability of standards of performance for purposes of pretreatment standards for new sources.

A preliminary Development Document was made available to the public at approximately the time of publication of the notice of proposed rulemaking and the final Development Document entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Dairy Products Processing Industry Point Source Category" is now being published. The economic analysis report entitled "Economic Analysis of Proposed Effluent Guidelines for the Dairy Processing Industry" (November 1973) was made available at the time of proposal. Copies of the preliminary Development Document and economic analysis report will continue to be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. Copies will also be available for inspection at EPA regional offices and at State water pollution control agency offices. Copies of the Development Document may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis report will be available for purchase through the National Technical Information Service, Springfield, Virginia 22151.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public (38 FR 15653). The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which either prescribe national standards of environmental quality or require national emission, effluent or performance standards or limitations.

The Agency determined to implement these procedures in order to insure that the public was provided with background information to assist it in commenting on the merits of a proposed action. In brief, the procedures call for the Agency to make public the information available to it delineating the major environmental effects of a proposed action, to discuss the pertinent nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the option selected.

The procedures contemplate publication of this information in the FEDERAL REGISTER, where this is practicable. They provide, however, that where such publication is impracticable because of the length of this material, the material may be made available in an alternate format.

The Development Document referred to above contains information available to the Agency concerning the major environmental effects of the regulation proposed below. The information includes: (1) The identification of pollutants present in waste waters resulting from the processing of dairy products, the characteristics of these pollutants, and the degree of pollutant reduction obtainable through implementation of the proposed standard; and (2) the anticipated effects on other aspects of the environment of the treatment technologies available to meet the standard proposed.

The Development Document and the economic analysis report referred to above also contain information available to the Agency regarding the estimated

cost and energy consumption implications of those treatment technologies and the potential effects of those costs on the price and production of dairy products. The two reports exceed, in the aggregate, 200 pages in length and contain a substantial number of charts, diagrams and tables. It is clearly impracticable to publish the material contained in these documents in the FEDERAL REGISTER. To the extent possible, significant aspects of the material have been presented in summary form in the preamble to the proposed regulation containing effluent limitations guidelines, new source performance standards and pretreatment standards for new sources within the dairy products processing industry category (38 FR 34954; December 20, 1973). Additional discussion is contained in the analysis of public comments on the proposed regulation and the Agency's response to those comments. This discussion appears in the preamble to the promulgated regulation (40 CFR Part 405) which currently is being published part of the Part III of this issue.

The options available to the Agency in establishing the level of pollutant reduction obtainable through the best practicable control technology currently available, and the reasons for the particular level of reduction selected are discussed in the documents described above. In applying the effluent limitations guidelines to pretreatment standards for the introduction of incompatible pollutants into municipal systems by existing sources in the dairy products processing industry category, the Agency has, essentially, three options. The first is to declare that the guidelines do not apply. The second is to apply the guidelines unchanged. The third is to modify the guidelines to reflect: (1) Differences between direct dischargers and plants utilizing municipal systems which affect the practicability of the latter employing the technology available to achieve the effluent limitations guidelines; or (2) characteristics of the relevant pollutants which require higher levels of reduction (or permit less stringent levels) in order to insure that the pollutants do not interfere with the treatment works or pass through them untreated.

As fully described in the Development Document, the process waste waters in all of the subcategories contain similar types and amounts of constituents. These constituents are organics, solids, and inorganics including nutrients, and they are all treatable by biological treatment methods. In the opinion of EPA, suitable design and capacity can be provided for a publicly owned treatment works to account for these discharges. Accordingly, the first option should be applicable and the guidelines should not apply to operations in the subcategories of the dairy products processing industry which discharge to publicly owned treatment works. However, it should be noted that difficulty may be experienced in maintaining normal treatment efficiencies without special operational procedures when the BOD5 contribution attributable to whey exceeds 10 percent of the total treatment plant load. This is especially true when there is not sufficient equalization present to prevent shock loading. Thus, it may be that there are situations where whey may not be a compatible pollutant depending on the relative quality and quantity of influent to the municipal system and the design and operating characteristics of the publicly owned treatment works. Public comment is solicited on this matter.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center. Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing pretreatment standards for existing sources, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304 and 307(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, it is hereby proposed that 40 CFR 405 be amended to add §§ 405.14, 405.24, 405.34, 405.44, 405.54, 405.64, 405.74, 405.84, 405.94, 405.104, 405.114, and 405.124. All comments received on or before June 27, 1974 will be considered.

Dated: May 15, 1974.

JOHN QUARLES,
Acting Administrator.

Part 405 is proposed to be amended as follows:

Subpart A is amended by adding § 405.14 as follows:

§ 405.14 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.12 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart B is amended by adding § 405.24 as follows:

§ 405.24 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.22 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart C is amended by adding § 405.34 as follows:

§ 405.34 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.32 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart D is amended by adding § 405.44 as follows:

§ 405.44 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.42 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart E is amended by adding § 405.54 as follows:

§ 405.54 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.52 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart F is amended by adding § 405.64 as follows:

§ 405.64 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.62 above shall not apply and, subject to the provisions of Part 128 of this Chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart G is amended by adding § 405.74 as follows:

§ 405.74 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.72 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart H is amended by adding § 405.84 as follows:

§ 405.84 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.82 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart I is amended by adding § 405.94 as follows:

§ 405.94 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.92 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart J is amended by adding § 405.-104 as follows:

§ 405.104 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.102 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart K is amended by adding § 405.114 as follows:

§ 405.114 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.112 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

Subpart L is amended by adding § 405.124 as follows:

§ 405.124 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 405.122 above shall not apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may be introduced into a publicly owned treatment works.

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PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

PROPOSED MANUFACTURING PRACTICE FOR BLOOD AND BLOOD COMPONENTS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 606]

BIOLOGICAL PRODUCTS

Current Good Manufacturing Practice for Blood and Blood Components

Human blood is a priceless natural resource. Blood transfusion and other blood product therapy is the most developed and widely utilized form of human tissue transplant. It is estimated that over nine million units of whole blood for transfusion were collected in this country last year. In addition, approximately two million liters of plasma are processed annually in the manufacture of blood products.

Although blood is often a life-saving drug, hepatitis, a serious post-transfusion disease transmitted to a recipient by the blood of the donor, has been and continues to be a source of dangerous infection to human beings who receive blood and blood component therapy. Approximately 3,000 deaths and more than 20,000 overt cases of illness have been estimated to have been caused by the transfusion of hepatitis-carrying blood in this country annually. Moreover, many more unapparent (subclinical) cases of hepatitis infection, thought to outnumber overt cases by a factor of at least five to one, are caused by blood transfusion. These undetected cases constitute a particularly dangerous public health hazard since infected persons may unknowingly transmit the disease to others. The great dangers existing in blood therapy make abundantly clear the critical need for the highest standards in collecting, processing, storing and distributing of blood to provide the most complete assurance of consistently high quality. Therefore, the Commissioner of Food and Drugs is hereby publishing this notice of proposed rulemaking for current good manufacturing practices (GMP) for blood and blood components.

The promulgation of standards for these biological drugs is part of an existing effort to increase the quality of blood related health care in this country. Pursuant to the findings of a special Task Force in Blood Banking, the Secretary of Health, Education, and Welfare has established a comprehensive National Blood Policy. One of the fundamental methods prescribed by the Secretary to implement the policy is to "employ the full regulatory authorities now vested in the Federal Government * * * for the purpose of assuring uniform adherence to the highest attainable standards of practice in blood banking, including plasmapheresis and plasma fractionation." On January 31, 1973, the Commissioner of Food and Drugs published in the FEDERAL REGISTER (38 FR 2965) a regulation requiring the registration of all blood banks and other firms collecting, manufacturing, preparing, or processing human blood or blood products pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act. At that time, the Commissioner announced that information derived from blood bank registration would be used in implementing necessary standards, for improvement of the nation's blood system and that uniform national regulation may be required.

A. Blood and blood components in interstate commerce. Blood and blood components are biological products subject to regulation pursuant to the Public Health Service Act (42 U.S.C. 262) and are drugs as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

Blood and blood components are used in the diagnosis, prevention, treatment and cure of disease in man and thus come directly within the definition of a drug as set forth in section 201(g)(1)(B) of the Federal Food, Drug, and Cosmetic Act. Blood is also a drug as defined by section 201(g)(1)(A) of the act since blood is recognized in the current edition of the official United States Pharmacopeia. Every Federal court which has considered the classification of blood has held that blood is a drug within the meaning of the Federal Food, Drug, and Cosmetic Act. United States v. Calise, 217 F. Supp. 705 (S.D. N.Y., 1962); United States v. An article of drug * * * Bacto-Unidisk, 392 F.2d 21 (C.A. 6, 1968), reversed on other grounds 394 U.S. 784 (1969); Blank v. United States, 400 F.2d 302 (C.A. 5, 1968) where the Court held that blood was a misbranded drug but was not a biologic within the meaning of the Public Health Service Act as then written. Congress subsequently amended the biologics law.

Since blood and blood components are drugs, they must meet all statutory requirements of the Federal Food, Drug, and Cosmetic Act and are subject to the full extent of regulation pursuant to all provisions of the act. The jurisdiction of the act is not limited to situations where the drug itself has been or is to be introduced into interstate commerce. Consistent with section 201(g)(1)(D) of the act, if one of a drug's essential components has moved in interstate commerce then the entire drug is subject to the requirements of the act and the FDA may regulate the final drug product. United States v. 40 Cases * * * Pinocchio Brand * * * Pure Olive Oil, 289 F. 2d 343 (C.A. 2, 1961), cert. den. 368 U.S. 831; United States v. 39 Cases * * * Michigan Brand Korleen Tablets, 192 F. Supp. 51 (E.D. Mich., 1961), aff'd sub nom. United States v. Detroit Vital Foods, 330 F. 2d 78 (C.A. 6, 1964), cert. den. 379 U.S. 832; Palmer v. United States, 340 F. 2d 48 (C.A. 5, 1964), cert. den. 382 U.S. 903. If a drug or any one of its essential components has moved in interstate commerce, it is adulterated within the meaning of section 501(a)(2)(B) of the act unless it has been manufactured in conformity with current good manufacturing practice to assure that it is safe and has the quality and purity it purports in its labeling to possess. This provision of the law, as well as the general regulations promulgated thereunder (21 CFR Part 133), are fully applicable to blood and blood components. See 21 CFR 133.300(b). In addition to the general good manufacturing practice regulations for all drugs, the Commissioner may promulgate specific regulations for classes of drugs, such as blood, to emphasize the specific application of the general GMP principles to such drugs.

All blood and blood components which are offered for sale in interstate commerce are also subject to section 351 of the Public Health Service Act (42 U.S.C. 262). All manufacturers must have a license which has been issued upon a showing that the manufacturing establishment and its products meet all applicable standards, prescribed in the biologics regulations, designed to insure the continued safety, purity, and potency of the blood.

Pursuant to section 351(d) of the Public Health Service Act, regulations have been promulgated to assure proper manufacturing procedures, testing, and labeling for many biological products including licensed blood products such as Whole Blood (Human), Red Blood Cells (Human) and Source Plasma (Human).

It is clear that these provisions of the Public Health Service Act specifically authorize the promulgation of good manufacturing practice regulations for all licensed blood, that is, blood to be offered for sale in interstate commerce.

B. Blood and blood components in intrastate commerce. It is imperative that blood and its components be collected, processed, and stored to minimize the dangers of the spread of hepatitis in blood based therapy. This is a major impetus to promulgate current good manufacturing practice regulations for blood banking. Adherence to basic collection and manufacturing procedures builds quality control into the production system itself and thus significantly promotes this purpose.

Pursuant to section 361 of the Public Health Service Act (42 U.S.C. 264) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs is authorized to promulgate regulations for any measures which, in his judgment, may be necessary to prevent the introduction, transmission, or spread of blood related communicable disease from one state to another. This authority is designed to eliminate the introduction of communicable disease, such as hepatitis, from one state to another. Of necessity, therefore, this authority must be exercised upon the disease causing substance within the state where it is collected, manufactured, or otherwise found. Thus, the Commissioner may promulgate current good manufacturing practice regulations for intrastate blood banking, pursuant to the act, as hepatitis is a communicable disease. Without proper controls, it is likely to spread on an interstate basis. Human blood is a significant source of hepatitis and other communicable diseases, and, if not collected, processed and distributed under appropriate standards, may contaminate the product. Approximately ten states have inspection or licensing provisions with respect to the collection and processing of blood and blood components. The Commissioner

finds these programs are inadequate to keep blood containing hepatitis virus from the channels of interstate commerce.

The Commissioner concludes that this provision of the Public Health Service Act provides sufficient authority for the promulgation of regulations which are necessary and proper to assure that human blood in interstate commerce is handled so as to be safe for use in man. This authority, together with the requirements under the Federal Food, Drug, and Cosmetic Act, that all channels of commerce be kept free of blood and blood components which are adulterated after the shipment of one or more of their essential components in interstate commerce, mandates that where the public health is concerned, all appropriate regulatory action be pursued.

To utilize the full public protection measures provided in section 361 of the Public Health Service Act, the Commissioner is considering a proposal for specific regulatory procedures to implement his authority to destroy any infected or contaminated articles, wherever found (42 CFR 72.3). These measures will bring this provision of the Public Health Service Act, which the Commissioner is authorized to enforce in the area of blood, into greater conformity with the seizure and condemnation provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334).

In addition to the authority of section 361 of the Public Health Service Act, the Commissioner notes that the 1962 Drug Amendments, in which both the requirement of current good manufacturing practices and registration of intrastate drug facilities were added to the Federal Food, Drug, and Cosmetic Act, constitute a Congressional finding and declaration that the products of all drug manufacturing establishments "are likely to enter the channels of interstate commerce and directly affect such commerce" (section 301, Pub. L. 87–781). Recognition by Congress of this pragmatic principle of public health further establishes the propriety of uniform standards for blood banking, whether or not a particular establishment directly introduces its blood or blood component into interstate commerce.

The proposed regulations include requirements for complete and truthful labeling for all blood and blood components. Clearly, blood and blood components which move in interstate commerce are subject to all the misbranding provisions of the Federal Food, Drug, and Cosmetic Act, particularly section 502(a), which provides that a drug is misbranded if its labelling is false or misleading in any particular. In addition, section 351(b) of the Public Health Service Act prohibits the false labeling or marking of any package or container of any biological product such as blood. The false labeling provisions of both acts were designed to accomplish substantially the same result and the Commissioner concludes that they should be so interpreted and applied. Significantly, section 351(b) contains no interstate commerce requirement. It applies to all blood whether or not it has moved or is offered for sale in interstate commerce. United States v. Calise, 217 F. Supp. 705 (S.D. N.Y., 1962), and United States v. Steinschreiber, 218 F. Supp. 426 (S.D. N.Y., 1962), 219 F. Supp. 373 (S.D. N.Y, 1963), aff'd 326 F. 2d 759 (C.A. 2, 1964), cert. den. 376 U.S. 962. These statutory provisions authorize standards for labeling for all blood and blood components.

The Commissioner is developing and enforcing a comprehensive regulatory program over a particular class of drugs, namely, blood and blood components. These proposed current good manufacturing practice regulations for both inter- and intrastate blood banking will assure thorough, uniform and efficient enforcement of the law. Such regulations are within the broad Congressional mandate to pursue the high remedial public health purpose of both the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act. The Supreme Court has recently reaffirmed that it is "implicit in the regulatory scheme" for the Food and Drug Administration to pursue a comprehensive, industry-wide regulatory program for a particular class of drugs "for the achievement of the agency's ultimate purposes." Weinberger v. Bentex Pharmaceuticals, Inc., 412 U.S. 655 (1973). The regulatory scheme that the Commissioner is pledged to enforce includes not only the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act but any consistent amalgamation of both statutes.

These proposed current good manufacturing practices will apply to all blood banks, transfusion facilities, plasmapheresis centers, compatibility testing establishments and any facility which processes blood or blood components regardless of whether they are intended for interstate or intrastate commerce. The regulations are designed to assure the production of blood and blood components of uniform high quality throughout the nation. Adherence to the prescribed standards by the numerous plasmapheresis centers throughout the country will not only insure the availability of good quality plasma for further manufacturing, but will also protect plasma donors from exploitation.

Pertinent background data and information, as follows, on which the Commissioner relies in proposing this regulation are on public display in the office of the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, MD 20852.

1. Perkins, H. A., Schmid, R., and Vyas, G. N. "Hepatitis and Blood Transfusion," Proceedings of a Symposium at the University of California, San Francisco, March 25–26, 1972: Grune and Stratton, Inc., New York, NY.

2. "National Heart and Lung Institute (NHLI) Blood Resource Studies": Department of Health, Education, and Welfare Publication No. (NIH) 73–416, June 30, 1972.

3. "National Blood Policy," Informational Material distributed at Federal Focus on Health Seminar, 1973 (Unpublished).

4. Transcript of the Proceedings: Secretary's (DHEW) Conference on Implementation of the National Blood Policy, September 24, 1973. (Unpublished).

5. Transcript of the Proceedings: Secretary's (DHEW) Conference on Implementation of the National Blood Policy, October 29, 1973 (Unpublished).

6. "Registration of Blood Banks and Other Firms Collecting, Manufacturing, Preparing, or Processing," published in the FEDERAL REGISTER, Vol. 38, No. 20 (38 FR 2965), January 31, 1973.

7. "Standards for Blood Banks and Transfusion Services," American Association of Blood Banks, Washington, DC, 6th Ed. 1971–72, 20th Century Press, Chicago, IL.

8. "Post-transfusion Hepatitis (Cases, Deaths, and Costs)," Conference on the National Blood Policy (DHEW), 1973 (Unpublished).

9. "Summary of State Blood Bank Legislation and Programs," submission of data to the Food and Drug Administration, August 1972 (Unpublished).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 501, 502, 510, 701, 52 Stat. 1040 as amended, 52 Stat. 1049–1050 as amended by 76 Stat. 780, 76 Stat. 794 as amended, 52 Stat. 1055–1056 as amended, and sec. 301 of Pub. L. 87–781; (21 U.S.C. 321, 351, 352, 360 and note, and 371)), the Public Health Service Act (secs. 351 and 361, 58 Stat. 702 and 703 as amended; (42 U.S.C. 262 and 264)), and the Administrative Procedure Act (secs. 4 and 10, 60 Stat. 238 and 243, as amended; 5 U.S.C. 553, 702, 703, 704) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Chapter I of Title 21, Code of Federal Regulations be amended in Subchapter F by adding thereto a new Part 606 as follows:

PART 606—CURRENT GOOD MANUFACTURING PRACTICES FOR BLOOD AND BLOOD COMPONENTS

Subpart A—General Provisions

Sec.
606.3 Definitions.

Subpart B—Manufacturing Practices and Procedures

606.10 Facilities.
606.11 Equipment.
606.12 Materials.
606.15 Standard operating procedures.
606.16 Plasmapheresis.
606.17 Compatibility testing.
606.18 Laboratory controls.
606.19 Personnel.

Subpart C—Labeling

606.30 Labeling.

Subpart D—Records and Reports

606.40 Records.
606.41 Distribution procedures and records.
606.45 Adverse reaction file.

AUTHORITY: Secs. 201, 501, 502, 510, 701, 52 Stat. 1040 as amended, 52 Stat. 1049–1050 as amended by 76 Stat. 780, 76 Stat. 794 as amended, 52 Stat. 1055–1056 as amended; 21 U.S.C. 321, 351, 352, 360, 371. Sec. 301, 76 Stat. 793 (21 U.S.C. 360 note). Secs. 351, 361, 58 Stat 702–703 as amended; 42 U.S.C. 262, 264.

Subpart A—General Provisions

§ 606.3 Definitions.

As used in this part:

(a) "Blood" means whole human blood collected from a single donor and procesesd either for transfusion or further manufacturing.

(b) "Unit" means the volume of blood or one of its components in a suitable volume of anticoagulant obtained from a single collection of blood from one donor.

(c) "Component" means that part of a single-donor unit of blood separated by physical or mechanical means.

(d) "Plasma for further manufacturing" means that liquid portion of blood separated and used as material to prepare another product.

(e) "Plasmapheresis" means the procedure in which blood is removed from the donor, the plasma separated from the formed elements, and at least the red cells returned to the donor. This process may be immediately repeated, once.

(f) "Facilities" includes any area used for the collection, processing, storage, distribution or compatibility testing of blood and blood components.

(g) "Processing" means any step, including collecting and compatibility testing, in the preparation of a unit of blood or blood components for transfusion or further manufacturing.

(h) "Compatibility testing" (sometimes referred to as "cross-matching") means the in vitro processing performed on a unit of blood or blood components to establish the serological matching of a donor's blood or blood components with that of a potential recipient.

Subpart B—Manufacturing Practices and Procedures

§ 606.10 Facilities.

The facilities shall be maintained in a clean and orderly manner, and shall be of suitable size, construction, and location to facilitate adequate cleaning, maintenance, and proper operations. The facilities shall:

(a) Provide adequate space for the following when applicable:

(1) Accurate, complete and personalized screening of individuals to determine their suitability to serve as blood donors.

(2) Withdrawal of blood from donors with minimal risk of contamination, or exposure to unrelated activities and equipment.

(3) Quarantine storage of blood or blood components pending completion of tests and of crossmatched bloods.

(4) Storage of finished products ready for distribution.

(5) Storage of products not suitable for use or distribution, or unsuitable reagents prior to discarding to preclude the possibility of their use.

(6) Processing of blood and blood components in work areas arranged in an orderly manner so as to avoid contamination of the product.

(7) The proper performance of all steps in plasmapheresis.

(8) Packaging, labeling and other finishing operations.

(b) Provide adequate lighting and ventilation, and screening of open windows and doors.

(c) Provide adequate handwashing facilities in work areas, and convenient toilet facilities for donors and personnel. Drains shall be of adequate size and, where connected directly to a sewer, shall be equipped with traps to prevent backsiphonage.

(d) Provide for safe and sanitary disposal of trash and items used during the processing of blood and blood components.

§ 606.11 Equipment.

Equipment used for the processing, storage, and distribution, of blood and blood components, shall be maintained in a clean and orderly manner, and shall be located so as to facilitate cleaning and maintenance. The equipment shall be calibrated or tested on a regularly scheduled basis to determine that it is performing within the range of accuracy for which it was designed, and within the official requirements. Equipment which is employed for the sterilization of materials used in processing procedures shall be designed, maintained and utilized so as to insure the destruction of contaminating microorganisms. The effectiveness of the sterilization procedure shall be no less than that achieved by an attained temperature of 121.5° C. maintained for 20 minutes by saturated steam or by an attained temperature of 170° C. maintained for two hours with dry heat.

§ 606.12 Materials.

All materials used in the processing, storage and distribution of blood and blood components shall be stored and handled in a safe, sanitary, and orderly manner.

(a) All surfaces that come in contact with blood and blood components intended for transfusion shall be sterile, pyrogen-free, and shall not interact with the products in such a manner as to have an adverse effect upon the safety, purity, potency, or effectiveness of the product. All final containers and closures for blood and blood components not intended for transfusion shall be clean and free of surface solids and other contaminants and shall be made of material which will not interact with the contents in such a manner as to have an adverse effect upon the safety, purity, potency, or effectiveness of the product.

(b) Each blood collecting container, and its satellite container, if any, shall be examined visually for damage or evidence of contamination prior to its use. Such examination shall include inspection for breakage of seals when indicated, and discoloration. Where any defect is observed, the container shall not be used.

(c) Representative samples of solutions or reagents liable to contamination or to changes in concentration shall be tested on a regularly scheduled basis by a method designed to determine their freedom from bacteria and/or their strength in order to assure conformance with applicable specifications.

(d) Appropriate records for the primary materials used in processing shall be maintained and shall include:

(1) The identity of the material, name of the supplier (manufacturer), the lot number, the expiration date, and the date of receipt.

(2) The relation of lot numbers of materials used to specific lots or units of the final product.

(3) Examinations and tests performed on the materials, including rejected materials and their disposition.

(e) Processing materials prepared at the facilities shall be tested for strength or potency where appropriate on a regularly scheduled basis. For any materials which require sterilization, records identifying the date, temperature, time and mode of sterilization shall be maintained and such records shall relate the materials to particular units of final product.

(f) Materials used in processing shall be stored in such a manner that the oldest is used first.

(g) Materials used in processing shall be used in a manner consistent with instructions provided by the manufacturer.

(h) Items that are required to be sterile and come in contact with blood should be disposable wherever possible.

§ 606.15 Standard operating procedures.

(a) In all instances, except clinical investigations, standard operating procedures must comply with the Food and Drug Administration's published additional standards in Part 640 of this chapter for the product(s) being processed.

(b) Written standard operating procedures shall be maintained for all steps to be followed in the processing, storage and distribution of blood and blood components. Such procedures shall be available to the personnel for use in the areas where the procedures are performed unless this is impractical. The written operating procedures shall include, but are not limited to, descriptions of the following when applicable:

(1) Criteria used to determine donor suitability including acceptable medical history criteria.

(2) Methods of performing donor qualifying tests and measurements, including minimum and maximum values for a test or procedure when a factor in determining acceptability.

(3) Solutions and method used to prepare the site of phlebotomy to give maximum assurance of a sterile container of blood.

(4) Method of accurately relating product(s) to donor.

(5) Blood collection procedure including in-process precautions taken to accurately measure quantity of blood removed from donor.

(6) Methods of component preparation, including any time restrictions for specific steps in processing.

(7) All tests performed on blood and blood components, including testing for

hepatitis B antigen using licensed reagents.

(8) Compatibility testing, when applicable, including precautions to be taken to accurately identify recipient blood samples and cross-matched donor units.

(9) Storage temperatures and methods of controlling storage temperatures for all blood products and reagents.

(10) Length of expiration dates assigned for all final products.

(11) Criteria for determining that returned blood is suitable for reissue.

(12) Distribution records including the procedures used for relating a unit of blood or blood component from the donor to its final disposition.

(13) Quality control procedures for processing materials or reagents.

(14) Schedules and procedures for equipment maintenance and calibration.

(15) Labeling procedures, including safeguards to avoid labeling mixups.

(16) Procedure of plasmapheresis, if to be performed, including precautions to be taken to insure reinfusion of the donor's own cells.

(c) All records, maintained pursuant to these regulations, shall be reviewed prior to the release or distribution of a lot or unit of final product. A thorough investigation of any unexplained discrepancy or the failure of a lot or unit to meet any of its specifications shall be undertaken. A written record of the investigation shall be made and shall include the conclusions and followup.

(d) In addition to the requirements of this subpart and in conformity with this section, any facility may utilize existing standard operating procedures such as the manuals of the following organizations, as long as such specific procedures are consistent with and at least as stringent as the requirements contained in this part.

(1) American Association of Blood Banks.

(2) American National Red Cross.

(3) Other organizations or individual blood banks, subject to approval by the Director, Bureau of Biologics.

§ 606.16 Plasmapheresis.

(a) Plasmapheresis may be used as the method of collecting blood for the preparation of components for injection or plasma for further manufacturing. Processing of products obtained by plasmapheresis and not subject to the additional standards for Source Plasma (Human) shall include at a minimum the following:

(1) A written informed donor consent.

(2) An initial medical examination of the donor no more than one week prior to first donation.

(3) A donor eligibility requirement of a total serum protein of no less than 6.0 grams per 100 milliliters of serum, and a weight of at least 110 pounds.

(4) A serum protein electrophoresis or quantitative immunodiffusion test for immunoglobulins performed on a sample of donor's blood taken at the time of the first donation and every 4 months thereafter.

(5) Medical supervision of all aspects of the procedure, including a personal review of accumulated laboratory data, immunization schedules, and collection records at 4-month intervals to determine continuing suitability of the donor.

(b) *Blood containers.* Blood containers and donor sets shall be pyrogen-free, sterile and identified by lot number. The amount of anticoagulant required for the quantity of blood to be collected shall be in the blood container when it is sterilized.

(c) *The anticoagulant solution.* The anticoagulant solution shall be sterile and pyrogen-free. One of the following formulae shall be used in the indicated volumes:

(1) *Anticoagulant acid citrate dextrose solution (ACD).*

Tri-sodium citrate ($Na_3C_6H_5O_7.2H_2O$)	22.0 grams.
Citric acid ($C_6H_8O_7.H_2O$)	8.0 grams.
Dextrose ($C_6H_{12}O_6.H_2O$)	24.5 grams.
Water for injection (U.S.P.) to make.	1,000 milliliters.
Volume per 100 milliliters blood.	15 milliliters.

(2) *Anticoagulant citrate phosphate dextrose solution (CPD).*

Tri-sodium citrate ($Na_3C_6H_5O_7.2H_2O$).	26.3 grams
Citric acid ($C_6H_8O_7.H_2O$)	3.27 grams
Dextrose ($C_6H_{12}O_6.H_2O$)	25.5 grams
Monobasic sodium phosphate ($NaH_2PO_4.H_2O$)	2.22 grams
Water for injection (U.S.P.) to make.	1,000 milliliters
Volume per 100 milliliters blood.	14 milliliters

(3) *Anticoagulant sodium citrate solution.*

Tri-sodium citrate ($Na_3C_6H_5O_7.2H_2O$).	40.0 grams
Water for injection (U.S.P.) to make.	1,000 milliliters
Volume per 100 milliliters blood.	10 milliliters

(d) The following limits of whole blood withdrawal, not including anticoagulant, shall be enforced:

(1) Donors weighing less than 175 pounds: 500 milliliters may be removed at one time, but no more than 1,000 milliliters in any 48-hour period, and no more than 2,000 milliliters within a 7-day period.

(2) Donors weighing 175 pounds or greater: 600 milliliters may be removed at one time, but no more than 1,200 milliliters in any 48-hour period, and no more than 2,400 milliliters within a 7-day period.

(e) The plasma shall be separated from the red blood cells immediately after collection, and the maximum feasible volume of red blood cells shall be returned to the donor before another unit is collected.

(f) The following exceptions to whole blood donor requirements shall be permitted, provided that the final product is plasma for further manufacturing into reagents or chemically separated products.

(1) Blood may be collected from a donor who has received an immunizing antigen derived from human blood within the preceding 6 months provided that the antigen is a product licensed for such purpose or one specifically approved by the Director, Bureau of Biologics, Food and Drug Administration.

(2) The serological test for syphilis shall be performed initially and at 4-month intervals. A donor with a reactive serologic test for syphilis shall not be plasmapheresed again until his serum is non-reactive to a serologic test for syphilis, except for those donors being plasmapheresed for plasma to be used for further manufacturing into a control serum for the serologic test for syphilis.

(3) A history of malaria or suppressive therapy shall not disqualify a donor.

§ 606.17 Compatibility testing.

Compatibility testing, if performed, shall be done in an area set aside for such purpose and not used for unrelated activities. The compatibility testing standard operating procedures shall include the following:

(a) A method of collecting and identifying recipient's blood samples to insure positive identification.

(b) The use of fresh serum samples less than 48 hours old for all compatibility testing.

(c) The testing of the donor's cells with the recipient's serum (major crossmatch) by a method that will demonstrate both agglutinating and coating antibodies, which shall include the antiglobulin method.

(d) A provision that if the unit of donor's blood has not been screened by the antiglobulin method and other tests to demonstrate both agglutinating and coating antibodies, the compatibility test shall include testing the recipient's cells with the donor's serum (minor crossmatch).

(e) A modified, safe procedure to expedite transfusions in life-threatening emergencies. Records of all such incidents shall be maintained, including complete documentation justifying the emergency action, which shall be signed by the physician requesting the modified procedure.

§ 606.18 Laboratory controls.

Laboratory control procedures shall include the establishment of scientifically sound and appropriate specifications, standards and test procedures to assure that blood and blood components are safe, pure, potent and effective. Laboratory control procedures shall include:

(a) Adequate provisions for monitoring the reliability, accuracy, precision, and performance of laboratory test procedures and laboratory instruments.

(b) Adequate identification and handling of all test samples so that they are accurately related to the specific unit of product being tested, or to its donor, or to the specific recipient, where applicable.

§ 606.19 Personnel.

The entire operation of a facility at which processing, storage, or distribution of blood and blood components is performed shall be under the direction of a designated, qualified person.

(a) The personnel responsible for processing, storage and distribution of blood and blood components, shall be adequate in number and background of education, training, and experience, including professional training as necessary, or combination thereof, to assure competent performance of their assigned functions, and to insure that the final product has the safety, purity, potency, identity, and efficacy that it purports to possess. All personnel shall have capabilities commensurate with their assigned functions, a thorough understanding of the procedures or control operations they perform, the necessary training or experience, and adequate information concerning the application of pertinent provisions of this part to their respective functions.

(b) Persons whose presence can adversely affect the safety and purity of the products, shall be excluded from areas where the processing of blood or blood components is in progress.

Subpart C—Labeling

§ 606.30 Labeling.

Labeling operations shall be physically or spatially separated from other operations in such a manner that will prevent mixups.

(a) The labeling operation shall include the following labeling controls:

(1) The holding of labels upon receipt pending review and proofing against an approved final copy, to assure they are accurate and conform to the approved copy.

(2) The storage of different product labels in such a manner so as to prevent mixups, and to assure that stocks of obsolete labels are destroyed.

(3) All necessary checks in labeling procedures to prevent errors in translating test results to container labels.

(b) All labeling shall be clear and legible and include the following information as well as other specialized additional information as may be required in Part 640 of this chapter for specific products:

(1) The proper name of the product placed in a prominent position.

(2) The name and address of the manufacturer, and if licensed the license number.

(3) The donor or lot number relating the unit to the donor.

(4) The expiration date, including the day and year and, if it is a factor, the hour, or in the case of plasma for further manufacture, the date of collection.

(5) All necessary instructions or precautions for use.

(6) Recommended storage temperature.

(7) Reference to an instruction circular containing dosage information instructions for use, route of administration, contraindications, and other directions, if product is not intended for further manufacturing.

(8) Quantity of product in container.

(9) Quantity of source material, and kind and quantity of anticoagulant.

(10) Additives and cryophylactic agents added to the product, which may still be present.

(11) Results of all tests performed when necessary for safe and effective use.

(12) The statement: "Caution: For Manufacturing Use Only", where applicable.

(13) The kind of immunizing antigen used or the antibody present for products for further manufacturing, when applicable.

Subpart D—Records and Reports

§ 606.40 Records.

(a) Records shall be maintained concurrently with the performance of each significant step in the processing, storage, and distribution, of each unit of blood and blood components, so that all steps can be clearly traced. All records shall be legible, indelible, shall identify the person performing the work, shall include dates of the various entries, shall show test results as well as the interpretation of the results, the expiration date assigned to specific products, and shall be as detailed as necessary to provide a complete history of the work performed.

(b) A donor number must be assigned to each accepted donor that relates the unit of blood collected to that donor, his medical record, any component or blood product from that donor's unit of blood, and to all records describing the history and ultimate disposition of these products.

(c) Records shall be retained for such interval beyond the expiration date as is necessary for the blood or blood component, to facilitate the reporting of any unfavorable clinical reactions. The retention period shall be no less than five years after the records of processing have been completed, or 6 months after the latest expiration date for the individual product, whichever is a later date. When a collection date is used in lieu of an expiration date, i.e., Source Plasma (Human), records of processing shall be retained for 6 months after the latest expiration date for the final product which was manufactured from the source plasma.

(d) A record of individuals determined not suitable as donors shall be available so that subsequent donations will neither be accepted nor distributed during the period of ineligibility.

§ 606.41 Distribution procedures and records.

Distribution procedures shall include a system by which the distribution of each unit can be readily determined to facilitate its recall if necessary. Distribution records shall contain the name and address of the consignee, the date and quantity delivered, the lot number of the unit(s), the date of expiration, or the date of collection, whichever is applicable, or for crossmatched blood and blood components, the name of the recipient.

§ 606.45 Adverse reaction file.

Records shall be maintained of any reports of complaints of adverse reactions regarding each unit of blood or blood component. A thorough investigation of each reported adverse reaction shall be made. A written report of the investigation, including conclusions and follow up, shall be maintained as part of the record for that lot or unit of final product. When a severe adverse reaction is confirmed, the Director, Bureau of Biologics, shall be notified immediately.

The Commissioner proposes that the effective date of these regulations shall be 30 days after the date of publication of the final order in the FEDERAL REGISTER.

Interested persons may, on or before August 26, 1974, file with the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) 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 regular business hours, Monday through Friday.

Dated: May 21, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

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