AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

federal register

MONDAY, SEPTEMBER 30, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 190

Pages 35101–35314

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federal register

Area Code 202 Phone 523–5240

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Title 3—The President

PROCLAMATION 4316

National School Lunch Week, 1974

By the President of the United States of America

A Proclamation

Winston Churchill once said that the best investment any society can make is putting milk into babies. By the same token, providing nutritious lunches for millions of American school children is a concrete way of investing in our future well-being as a Nation.

Only healthy, well-nourished students can realize their fullest mental and physical potential and transform equality of opportunity from an ideal into a reality. Those who work in school lunch programs around the country—volunteers and employees of the Federal, State and local governments which administer the National School Lunch Program are helping to realize this goal.

Recognizing the importance of their activities, and the good which this program does our Nation, Congress has designated the week beginning the second Sunday of October each year as National School Lunch Week, and has requested the President to issue annually a proclamation calling for observance of that week.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby urge the people of the United States to observe the week of October 13, 1974, as National School Lunch Week and to give special attention to activities which will focus on good nutrition for our young people.

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

Gerald R. Ford

[FR Doc.74-22753 Filed 9-26-74;2:26 p.m.]

PROCLAMATION 4317

Modifying Proclamation No. 3279, Relating to Imports of Petroleum and Petroleum Products, Providing for the Long-Term Control of Imports of Petroleum and Petroleum Products Through a System of License Fees and Providing for Gradual Reduction of Levels of Imports of Crude Oil, Unfinished Oils, and Finished Products

By the President of the United States of America

A Proclamation

I am advised by the Administrator of the Federal Energy Administration that certain technical changes to Proclamation No. 3279,[1] as amended, are required. Among these technical changes are the clarification of certain definitions, a provision to eliminate conflict between the Oil Import Control Program and the Mandatory Petroleum Allocation Program, and the establishment of added capacity as the basis for import allocations to new, expanded, and reactivated refineries and petrochemical plants. In addition, the Administrator informs me that lowering the import fee schedule on natural gas products to the level assigned to crude oil will make United States interests more competitive in obtaining this valuable commodity in the world market.

The Administrator advises me that the changes set forth in this proclamation are consistent with the national security objectives of Proclamation No. 3279, as amended, and recommends that such changes be made.

I agree with the foregoing recommendations and findings of the Administrator.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and laws of the United States, including section 232 of the Trade Expansion Act of 1962, as amended, do hereby proclaim that, effective the date of this proclamation, Proclamation No. 3279, as amended, is hereby amended as follows:

1. Subparagraph (2) of paragraph (d) of Section 2 is amended to read as follows:

"(2) Entries for consumption of imports from Canada by pipeline may be made until midnight, May 15, of the allocation period following the allocation period in which any license authorizing such imports from Canada was issued."

2. Subparagraph (3) of paragraph (b) of section (4) is amended to read as follows:

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[1] 24 FR 1781; 3 CFR, 1959–1963 Comp. p. 11.

"(3) Except for (i) crude oil or unfinished oils imported under license or licenses for which a fee has been charged, (ii) crude oil sold, bought, or exchanged in order to comply with other Federal Energy Administration regulations, or (iii) crude oil or unfinished oils imported pursuant to specific relief granted pursuant to section 5, such regulations shall require that imported crude oil and unfinished oils be processed in the licensee's refinery or petrochemical plant, except that imported crude oil or unfinished oils other than Canadian imports may be exchanged for domestic crude or unfinished oils if such exchanges are otherwise lawful, are effected on a current basis and reported in advance to the Administrator, and if the domestic crude or unfinished oils are processed in the licensee's refinery or petrochemical plant. Canadian imports may only be exchanged for other Canadian imports, in which case the Canadian imports obtained in the exchange must be processed in the licensee's own facility."

3. Subparagraph (1) (i) of paragraph (a) of section 3 is amended to read as follows:

"(a)(1) Effective May 1, 1973, the Administrator shall, by regulation, establish a system of fees for licenses issued under allocations of imports of crude oil, unfinished oils, and finished products, over the above levels of imports established by section 2 of this proclamation. Such regulations shall require, among other appropriate provisions, that (i) with respect to imports, other than imports from Canada of motor gasoline and finished products, such fees shall be:

FEE SCHEDULE

(Cents per barrel)

	May 1 1973	*Nov. 1 1973*	*May 1 1974*	*Nov. 1 1974*	*May 1 1975*	*Nov. 1 1975*
Crude	10.5	13.0	15.5	18.0	21.0	21.0
Natural Gas Products	10.5	13.0	15.5	18.0	21.0	21.0
Motor Gasoline	52.0	54.5	57.0	59.5	63.0	63.0
All other finished products and unfinished oils (except ethane, propane, butanes, and asphalt).	15.0	20.0	30.0	42.0	52.0	63.0

4. A new subparagraph, (4), is added to paragraph (a) of section 3 to read as follows:

"(4) Persons seeking to import natural gas products under a duly issued natural gas products license shall certify the country of origin to the appropriate customs officer at the port of entry. Such natural gas products may be commingled with crude oil or other unfinished oils for purposes of transportation and may be reseparated prior to importation or imported as a mixture; Provided, that the importer certifies the volume of natural gas products contained."

5. Paragraph (b) of section 3 thereof, is amended by inserting a new sentence between the first and second sentences to read as follows: "In the event that such bond is terminated or the face value of the bond is reduced below the outstanding liability of licenses issued pursuant to the bond, the Administrator shall immediately revoke all licenses issued pursuant to the bond."

6. The fifth sentence of subparagraph (1) of paragraph (b) of section 4 is amended to read as follows: "Such allocations shall not exceed 75 percent of estimated refinery capacity or the percentage of petrochemical plant capacity applicable."

7. Subparagraphs (2), (3) and (4) of paragraph (g) of section 15 are amended to read as follows:

"(2) 'Gasoline' means a refined petroleum distillate, including naphtha, jet fuel, or other petroleum oils, (but not benzene which meets the ASTM distillation standards for nitration grade or cumene, ethylbenzene, isoprene, meta-xylene, ortho-xylene or para-xylene having a purity of 95 percent or more by weight) derived by refining or processing crude oil or unfinished oils, in whatever type of plant such refining or processing may occur, and having a boiling range at atmospheric pressure which falls completely or in part between 80° F and 400° F.

"(3) 'Kerosene' means any jet fuel, diesel fuel, fuel oil, or other petroleum oils derived by refining or processing crude oil or unfinished oils, in whatever type of plant such refining or processing may occur, which has a boiling range at atmospheric pressure which falls completely or in part between 400° F and 550° F.

"(4) 'Distillate fuel oil' means any fuel oil, gas oil, topped crude oil, or other petroleum oils (except refined petroleum wax) derived by refining or processing crude oil or unfinished oils, in whatever type of plant such refining or processing may occur, which has a boiling range at atmospheric pressure which falls completely or in part between 550° F and 1200° F."

8. Section 12 is amended to read as follows:

"12. Commitments and obligations contained in long term allocations heretofore made shall be unimpaired by this proclamation or regulations issued thereunder."

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

Gerald R. Ford

[FR Doc.74-22851 Filed 9-27-74;12:06 pm]

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 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[Income Tax Regs.]

[T.D. 7324]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Treatment of Distributions to Shareholders of Domestic International Sales Corporations

By a notice of proposed rule making appearing in the FEDERAL REGISTER for Friday, September 15, 1972 (37 FR 18736), and for Friday, December 29, 1972 (37 FR 28754), amendments to the Income Tax Regulations (26 CFR Part 1) were proposed in order to conform the regulations to sections 995, 996, and 997 of the Internal Revenue Cole of 1954, as added by section 501 of the Revenue Act of 1971, relating to domestic international sales corporations (DISC's) (85 Stat. 535). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, certain changes were made, and the proposed amendments to the regulations, subject to such changes are adopted by this document.

Under section 991, a corporation is not subject to Federal income tax for taxable years for which it qualifies as a DISC. Sections 995, 996, and 997 provide rules for the taxation at the shareholder level of the DISC's earnings and profits upon actual or deemed distributions to the DISC shareholders. All of such deemed distributions are included in the shareholder's gross income as dividends. The effect of such provisions is, essentially, that approximately one-half of the income from qualified exports is deferred from taxation until actually distributed by the DISC.

Section 995(b)(1) describes five categories of deemed distributions in years for which the corporation is quaified as a DISC. They are: (1) gross interest from producer's loans, (2) gain recognized by the DISC on certain sales or exchanges of property which is not a qualified export asset, (3) ordinary income recognized by a DISC on certain sales or exchanges of qualified export assets, (4) one-half of the other taxable income of the DISC for the taxable year, and (5) the amount of foreign investment attributable to producer's loans (as defined in section 995(d)). Such deemed distributions are treated as made on the last day of the DISC's taxable year.

Section 995(b)(2) describes a deemed distribution upon disqualification. Generally, this is a deemed distribution which terminates tax deferral on the DISC's earnings when the corporation is no longer qualified as a DISC and which is prorated over the number of consecutive years for which it was previously qualified (but not more than 10 years).

Under section 995(c), when a shareholder disposes of his DISC stock in a taxable sale or in certain kinds of tax-free exchanges, generally, all or a portion of the gain realized by the shareholder will be taxable as a dividend to the extent that the DISC's deferred earnings are attributable to such stock while the shareholder held it.

Section 996 describes three divisions of the DISC's earnings and profits. "Accumulated DISC income" includes the DISC's earnings and profits which have been deferred from taxation. "Previously taxed income" includes earnings and profits which have been previously taxed by reason of deemed distributions. "Other earnings and profits" include earnings and profits which were derived by the corporation while it was not qualified as a DISC and which, therefore, were taxed at the corporate level. The tax treatment of each distribution to the shareholders will depend upon which division of earnings and profits is treated as the source of a distribution. Section 996 also provides ordering rules for determining which division or divisions are the source of each distribution. In addition, section 996 provides for adjustments to the basis of DISC stock, for definitional provisions, and for rules applicable to shareholders who are nonresident aliens or foreign corporations.

Section 997 generally provides that distributions to corporate shareholders of a DISC are subject to the same subchapter C rules that are applicable to individual shareholders. This means that, in the case of distributions of property, the amount of such distribution and the basis in the hands of the distributee are determined with reference to the fair market value of the property.

A number of changes have been made by this document in the regulations as proposed in the two notices of proposed rule making cited above. The more significant substantive and technical changes are discussed below.

This document adds to proposed § 1.995–1 a new paragraph (d) which provides that, to the extent they are treated as made out of "previously taxed income" or "accumulated DISC income", actual or deemed distributions will not be treated as dividends (or any other item of personal holding company income) for purposes of determining whether a corporate shareholder of a DISC is a personal holding company within the meaning of section 542 of the Code. For other purposes, such distributions are treated as dividends. For all purposes, including the personal holding company provisions, distributions will be treated as dividends to the extent they are treated as made out of "other earnings and profits".

Proposed § 1.995–2(a) (2) and (3) was revised to make clear that, in determining the amount of deemed distributions attributable to certain sales or exchanges of property by the DISC, each item of property shall be considered separately.

Proposed § 1.995–2(b)(2) provides that the deemed distribution for foreign investment attributable to producer's loans is limited by the DISC's current and accumulated earnings and profits (with certain adjustments). That rule was revised to provide that such deemed distribution may not exceed the amount of the DISC's accumulated DISC income (with the same adjustments) if that amount is less than the accumulated earnings and profits (as so adjusted). Examples thereunder were revised to illustrate such additional limitation.

A new subparagraph (3), as added to proposed § 1.995–2(b), in effect establishes that, where the limitation on the amount of deemed distribution applies, the deemed distribution for one-half of taxable income is reduced first. This rule is necessary to clarify the effect of a net operating loss which is carried back to a prior qualified year as described in § 1.996–8(b).

Proposed § 1.995–4(b)(1), relating to deemed dividend treatment of gain on certain dispositions of DISC stock, was revised to make clear that it will apply to a distribution in liquidation of the DISC which is treated as a sale or exchange of the DISC stock under section 331 even though such stock is not, in fact, cancelled or otherwise disposed of.

Proposed § 1.995–5 implements rules under section 995(d) for computing the amount of foreign investment attributable to producer's loans which is deemed distributed under section 995(b)(1)(E). The effect of those provisions is to end deferral on a DISC's earnings and profits which, after being loaned as producer's loans, are directly or indirectly used for investment abroad. Proposed § 1.995–5(a)(1) was restructured by this document to clarify the computation of the limit on the amount of foreign investment attributable to producer's loans for each year.

Proposed § 1.995–5(a)(5) was revised to make clear that the 3-year elective limitation applies to three items which ordinarily have effective dates not expressed in terms of taxable years.

Proposed § 1.995–5(a)(6) was revised to make clear that both decreases and increases are taken into account in the cumulative determination of any amount under § 1.995–5.

One of the limitations on the amount of foreign investment attributable to producer's loans is "net increase in foreign assets" as defined under proposed § 1.995–5(b). In general, such net increase equals the amount of "investment made in foreign assets" minus five "offsets". This document clarifies and illustrates the computation of such amount under subparagraph (2) in the case of tax-free like-kind exchanges or involuntary conversions. Rules relating to the computation of the offsets are also clarified by expressly providing in paragraph (3) that the offset for depreciation shall be computed by taking into account the depreciation allowable for purposes of the earnings and profits offset under subparagraph (5). This document also clarifies subparagraph (5) with respect to the manner of applying the regulations as to controlled foreign corporations in § 1.964–1(c). The offset for the amount of outstanding debt and stock and for uncommitted transitional funds under subparagraphs (4) and (7), respectively, were also revised for clarification. A new subparagraph (8) illustrates the cumulative computation of the "net increase in foreign assets". Other minor clarifying changes were made to the remaining provisions of proposed § 1.995–5.

The provisions of § 1.996–1 through § 1.996–8 implement the rules under section 996 relating to the divisions of earnings and profits and the treatment of actual distributions. This document replaces the examples under proposed § 1.996–1(e) with simplified examples and moves the original examples to § 1.996–3.

Proposed § 1.996–2(a) was revised to make clear how the rules under § 1.316–2(b) should be applied to determine the adjustments to the divisions of earnings and profits in the event of a deficit. In addition, a new sentence was added at the end of paragraph (b) to provide a rule for reducing the amount of a deficit in other earnings and profits in the event of an actual distribution subsequent to a disqualification. A new example (4) was added in paragraph (c) to illustrate this rule.

Proposed § 1.996–3 was substantially revised by this document to clarify the adjustments to the respective divisions of earnings and profits as a result of deemed and actual distributions. Special rules were added which are applicable in the event of distributions in redemption and distributions of depreciated or appreciated property. A major purpose of the clarified rules is to maintain a balance between the sum of divisions of earnings and profits determined under § 1.996–3 and the earnings and profits determined under section 312. New examples are added to illustrate the rules.

Finally, this document adds clarifying language and a new example relating to the carryover of DISC tax attributes under § 1.996–7.

The regulations which are adopted in this document contain references to other regulations relating to DISC's which have not been published. Such references are to those other regulations as finally published. This procedure is being followed because of the need for immediate guidance with respect to the provisions contained in this Treasury decision. Proposed regulations corresponding to such references, which can be used for informational purposes, have been published with notices of proposed rule making in the FEDERAL REGISTER. Thus, § 1.991–1 through § 1.992–4 were proposed in the FEDERAL REGISTER for Saturday, May 20, 1972, and Tuesday, September 12, 1972 (37 FR 10366 and 18475); and § 1.993–1 through § 1.993–7 were proposed in the FEDERAL REGISTER for Wednesday, October 4, 1972 (37 FR 20853) and amended in the FEDERAL REGISTER for Friday, December 22, 1972 (37 FR 28302) and Friday, March 9, 1973 (38 FR 6395).

Adoption of amendments to the regulations. On Friday, September 15, 1972, and Friday, December 29, 1972, notices of proposed rule making were published in the FEDERAL REGISTER (37 FR 18736 and 37 FR 28754) to provide regulations relating to the treatment of distributions to shareholders of domestic international sales corporations (DISC's). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the following regulations are hereby adopted:

PARAGRAPH 1. The following new sections are added immediately after § 1.994.2:

§ 1.995 Statutory provisions; taxation of DISC income to shareholders.

SEC. 995. Taxation of DISC Income to Shareholders.

(a) General rule.—A shareholder of a DISC or former DISC shall be subject to taxation on the earnings and profits of a DISC as provided in this chapter, but subject to the modifications of this subpart.

(b) Deemed distributions.—

(1) Distributions in qualified years.—A shareholder of a DISC shall be treated as having received a distribution taxable as a dividend with respect to his stock in an amount which is equal to his pro rata share of the sum (or, if smaller, the earnings and profits for the taxable year) of—

(A) The gross interest derived during the taxable year from producer's loans,

(B) The gain recognized by the DISC during the taxable year on the sale or exchange of property, other than property which in the hands of the DISC is a qualified export asset, previously transferred to it in a transaction in which gain was not recognized in whole or in part, but only to the extent that the transferor's gain on the previous transfer was not recognized,

(C) The gain (other than the gain described in subparagraph (B)) recognized by the DISC during the taxable year on the sale or exchange of property (other than property which in the hands of the DISC is stock in trade or other property described in section 1221(1)) previously transferred to it in a transaction in which gain was not recognized in whole or in part, but only to the extent that the transferor's gain on the previous transfer was not recognized and would have been treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231 if the property had been sold or exchanged rather than transferred to the DISC.

(D) One-half of the excess of the taxable income of the DISC for the taxable year, before reduction for any distributions during the year, over the sum of the amounts deemed distributed for the taxable year under subparagraphs (A), (B), and (C), and

(E) The amount of foreign investment attributable to producer's loans (as defined in subsection (d)) of a DISC for the taxable year.

Distributions described in this paragraph shall be deemed to be received on the last day of the taxable year of the DISC in which the gross income (taxable income in the case of subparagraph (D)) was derived. In the case of a distribution described in subparagraph (E), earnings and profits for the taxable year shall include accumulated earnings and profits.

(2) Distributions upon disqualification.—

(A) A shareholder of a corporation which revoked its election to be treated as a DISC or failed to satisfy the conditions of section 992(a)(1) for a taxable year shall be deemed to have received (at the time specified in subparagraph (B)) a distribution taxable as a dividend equal to his pro rata share of the DISC income of such corporation accumulated during the immediately preceding consecutive taxable years for which the corporation was a DISC.

(B) Distributions described in subparagraph (A) shall be deemed to be received in equal installments on the last day of each of the 10 taxable years of the corporation following the year of the termination or disqualification described in subparagraph (A) (but in no case over more than the number of immediately preceding consecutive taxable years during which the corporation was a DISC).

(C) Gain on disposition of stock in a DISC.—If a shareholder disposes of stock in a DISC or former DISC, any gain recognized on such disposition shall be included in gross income as a dividend to the extent of the accumulated DISC income of such DISC or former DISC which is attributable to such stock and which was accumulated in taxable years of such corporation during the period or periods the stock disposed of was held by such shareholder. If stock of the DISC or former DISC is disposed of in a transaction in which the separate corporate existence of the DISC or former DISC is terminated other than by a mere change in place of organization, however effected, any gain realized on the disposition of such stock in the transaction shall be recognized notwithstanding any other provision of this title to the extent of the accumulated DISC income of such DISC or former DISC which is attributable to such stock and which was accumulated in taxable years of such corporation during the period or periods the stock disposed of was held by the stockholder which disposed of such stock, and such gain shall be included in gross income as a dividend.

(D) Foreign investment attributable to DISC earnings.—For the purposes of this part—

(1) In general.—The amount of foreign investment attributable to producer's loans of a DISC for a taxable year shall be the smallest of—

(A) The net increase in foreign assets by members of the controlled group (as defined

in section 993(a)(3)) which includes the DISC,

(B) The actual foreign investment by domestic members of such group, or

(C) The amount of outstanding producer's loans by such DISC to members of such controlled group.

(2) Net increase in foreign assets.—The term 'net increase in foreign assets' of a controlled group means the excess of—

(A) The amount incurred by such group to acquire assets (described in section 1231(b)) located outside the United States over,

(B) The sum of—

(i) The depreciation with respect to assets of such group located outside the United States;

(ii) The outstanding amount of stock or debt obligations of such group issued after December 31, 1971, to persons other than the United States persons or any member of such group;

(iii) One-half the earnings and profits of foreign members of such group and foreign branches of domestic members of such group;

(iv) One-half the royalties and fees paid by foreign members of such group to domestic members of such group; and

(v) The uncommitted transitional funds of the group as determined under paragraph (4).

For purposes of this paragraph, assets which are qualified export assets of a DISC (or would be qualified export assets if owned by a DISC) shall not be taken into account. Amounts described in this paragraph (other than in subparagraphs (B) (ii) and (v)) shall be taken into account only to the extent they are attributable to taxable years beginning after December 31, 1971.

(3) Actual foreign investment.—The term actual foreign investment by domestic members of a controlled group means the sum of—

(A) Contributions to capital of foreign members of the group by domestic members of the group after December 31, 1971,

(B) The outstanding amount of stock or debt obligations of foreign members of such group (other than normal trade indebtedness) issued after December 31, 1971, to domestic members of such group,

(C) Amounts transferred by domestic members of the group after December 31, 1971, to foreign branches of such members, and

(D) One-half the earnings and profits of foreign members of such group and foreign branches of domestic members of such group for taxable years beginning after December 31, 1971.

As used in this subsection, the term 'domestic member' means a domestic corporation which is a member of a controlled group (as defined in section 993(a)(3)), and the term 'foreign member' means a foreign corporation which is a member of such a controlled group.

(4) Uncommitted transitional funds.—The uncommitted transitional funds of the group shall be an amount equal to the sum of—

(A) the excess of—

(i) The amount of stock or debt obligations of domestic members of such group outstanding on December 31, 1971, and issued on or after January 1, 1968, to persons other than United States persons or any members of such group, but only to the extent the taxpayer establishes that such amount constitutes a long-term borrowing for purposes of the foreign direct investment program, over

(ii) The net amount of actual foreign investment by domestic members of such group during the period that such stock or debt obligations have been outstanding; and

(B) The amount of liquid assets to the extent not included in subparagraph (A) held by foreign members of such group and foreign branches of domestic members of such group on October 31, 1971, in excess of their reasonable working capital needs on such date.

For purposes of this paragraph, the term 'liquid assets' means money, bank deposits (not including time deposits), and indebtedness of 2 years or less to maturity on the date of acquisition; and the actual foreign investment shall be determined under paragraph (3) without regard to the date in subparagraph (A) of such paragraph and without regard to subparagraph (D) of such paragraph.

(5) Special rule.—Under regulations prescribed by the Secretary or his delegate the determinations under this subsection shall be made on a cumulative basis with proper adjustments for amounts previously taken into account.

[Sec. 995 as added by sec. 501, Rev. Act 1971 (85 Stat. 544)]

§ 1.995–1 Taxation of DISC income to shareholders.

(a) *In general.* (1) Under § 1.991–1(a), a corporation which is a DISC for a taxable year is not subject to any tax imposed by subtitle A of the Code (sections 1 through 1564) for the taxable year, except for the tax imposed by chapter 5 thereof (sections 1491 through 1494) on certain transfers to avoid tax.

(2) Under section 995(a), the shareholders of a DISC, or a former DISC, are subject to taxation on the earnings and profits of the DISC in accordance with the provisions of chapter 1 of the Code generally applicable to shareholders, but subject to the modifications provided in sections 995, 996, and 997.

(3) Under § 1.996–3, three divisions of earnings and profits of a DISC, or former DISC, are defined: "accumulated DISC income", "previously taxed income", and "other earnings and profits". Under § 1.995–2, certain amounts of the DISC's earnings and profits are deemed to be distributed as dividends to shareholders of the DISC at the close of the DISC's taxable year in which such earnings were derived. Such deemed distributions do not cause a reduction in the DISC's earnings and profits, but are taken into account in § 1.996–3(c) as an increase in previously taxed income. To the extent the DISC's earnings and profits are paid out in a subsequent distribution which is, under § 996–1, treated as made out of such "previously taxed income," they will not be taxable to the shareholders a second time.

(4) In general, "accumulated DISC income" is the earnings and profits of the DISC which have not been deemed distributed and which may be deferred from taxation so long as they are not actually distributed with respect to its stock. However, deferral of taxation on "accumulated DISC income" may be terminated, in whole or in part, in the event of: (i) Certain foreign investment attributable to producer's loans (see § 1.995–2(a)(5) and § 1.995–5); (ii) revocation of the election to be treated as a DISC or other disqualification (see § 1.995–3); and (iii) certain dispositions of DISC stock in which gain is realized (see § 1.995–4).

(5) Since a DISC is not taxed on its taxable income, section 246(d) and § 1.246–4 provide that the deduction otherwise allowed under section 243 shall not be allowed with respect to a dividend from a DISC, or former DISC, paid or treated as paid out of accumulated DISC income or previously taxed income or with respect to a deemed distribution in a qualified year under § 1.995–2(a).

(b) *Amounts and character of amounts includible in shareholder's gross income.* Each shareholder of a corporation which is a DISC, or former DISC, shall include in his gross income—

(1) Amounts actually distributed to him that are includible in his gross income in accordance with paragraph (c) of this section.

(2) Amounts which, pursuant to § 1.995–2, he is deemed to receive as a distribution taxable as a dividend on the last day of each of the corporation's taxable years for which it qualifies as a DISC,

(3) Amounts which, pursuant to § 1.995–3, he is deemed to receive as a distribution taxable as a dividend in the event the corporation revokes its election to be treated as a DISC or otherwise is disqualified as a DISC, and

(4) Gain realized on certain dispositions of stock in the corporation which, under § 1.995–4, is includible in his gross income as a dividend.

(c) *Treatment of actual distributions.* (1) Except as provided in subparagraph (3) of this paragraph, amounts actually distributed to a shareholder of a DISC, or former DISC, with respect to his stock are includible in his gross income in accordance with section 301.

(2) Since a deemed distribution does not reduce the earnings and profits of a DISC, it does not affect the determination as to whether a subsequent actual distribution is a "dividend" under section 316(a). Since, however, the amount of a deemed distribution increases "previously taxed income", it does affect the determination as to whether a subsequent actual distribution is excluded (as described in subparagraph (3) of this paragraph) from gross income.

(3) Under § 1.996–1(c), the amount of any actual distribution (including a deficiency distribution made pursuant to § 1.992–3), with respect to stock in a DISC, or former DISC, which is treated under § 1.996–1 as made out of previously taxed income, is excluded by the distributee from gross income, but only to the extent that such amount does not exceed the adjusted basis of the distributee's stock. Under § 1.996–5(b), that portion of any actual distribution which is treated as made out of previously taxed income shall be applied against and reduce the adjusted basis of the stock and, to the extent that it exceeds the adjusted basis of the stock, it shall be treated as gain from the sale or exchange of property.

(4) A deficiency distribution pursuant to § 1.992–3 may be made after the close of the DISC's taxable year with respect

to which it is made. The determinations as to whether such deficiency distribution is a dividend under section 301 and as to which division of earnings and profits is the source thereof depend upon the status of the DISC's earnings and profits account and divisions thereof at the time the distribution is actually made. See § 1.996–1(d) for the priority of such deficiency distribution over other actual distributions made during the same taxable year.

(d) *Personal holding company income.* (1) Any amount includible in a shareholder's gross income as a dividend with respect to the stock of a DISC, or former DISC, pursuant to paragraph (b) of this section shall be treated as a dividend for all purposes of the Code, except that for purposes of determining whether such shareholder is a personal holding company within the meaning of section 542 any amount deemed distributed for qualified years under § 1.995–2 or upon disqualification under § 1.995–3, any amount of gain on certain dispositions of DISC stock to which § 1.995–4 applies, and any amount treated under § 1.996–1 as distributed out of accumulated DISC income or previously taxed income shall not be treated as a dividend or any other kind of income described in section 543(a).

(2) Notwithstanding subparagraph (1) of this paragraph, the shareholder may treat as an item of income described under section 543 (for example, rents) any amount to which the exception in such subparagraph (1) applies, if it establishes to the satisfaction of the district director that such amount is attributable to earnings and profits derived from such item of income.

§ 1.995–2 Deemed distributions in qualified years.

(a) *General rule.* Under section 995(b)(1), each shareholder of a DISC shall be treated as having received a distribution taxable as a dividend with respect to his stock on the last day of each taxable year of the DISC, in an amount which is equal to his pro rata share of the sum (as limited by paragraph (b) of this section), of the following five items:

(1) An amount equal to the gross interest derived by the DISC during such year from producer's loans (as defined in § 1.993–4).

(2) An amount equal to the lower of—

(i) Any gain recognized by the DISC during such year on the sale or exchange of property (other than property which in the hands of the DISC is a qualified export asset) which was previously transferred to it in a transaction in which the transferor realized gain which was not recognized in whole or in part, or

(ii) The amount of the transferor's gain which was not recognized on the previous transfer of the property to the DISC.

For purposes of this subparagraph, each item of property shall be considered separately. See paragraph (d) of this section for special rules with respect to certain tax-free acquisitions of property by the DISC.

(3) An amount equal to the lower of—

(i) Any gain recognized by the DISC during such year on the sale or exchange of property which in the hands of the DISC is a qualified export asset (other than stock in trade or property described in section 1221(1)) and which was previously transferred to the DISC in a transaction in which the transfereor realized gain which was not recognized in whole or in part, or

(ii) The amount of the transferor's gain which was not recognized on the previous transfer of the property to the DISC and which would have been includible in the transferor's gross income as ordinary income if its entire realized gain had been recognized upon the transfer.

For purposes of this subparagraph, each item of property shall be considered separately. See paragraph (d) of this section for special rules with respect to certain tax-free acquisitions of property by the DISC.

(4) An amount equal to one-half of the excess (if any) of the taxable income of the DISC for such year (computed as provided in § 1.991–1(b)(1)) over the sum of the amounts deemed distributed for the taxable year in accordance with subparagraphs (1), (2), and (3) of this paragraph.

(5) The amount of foreign investment attributable to producer's loans of the DISC, as of the close of the "group taxable year" ending with such taxable year of the DISC, determined in accordance with § 1.995–5. The amount of such foreign investment attributable to producer's loans so determined for any taxable year of a former DISC shall be deemed distributed as a dividend to the shareholders of such former DISC on the last day of such taxable year. See § 1.995–3(e) for the effect that such deemed distribution has on scheduled installments of deemed distributions of accumulated DISC income under § 1.995–3(a) upon disqualification.

(b) *Limitation on amount of deemed distributions under section 995(b)(1).* (1) The sum of the amounts described in paragraph (a) (1) through (4) of this section which is deemed distributed pro rata to the DISC's shareholders a dividend for any taxable year of the corporation shall not exceed the DISC's earnings and profits for such year.

(2) The amount of foreign investment attributable to producer's loans of the DISC (as described in paragraph (a)(5) of this section) which is deemed to be distributed pro rata to the DISC's shareholders as dividends for any taxable year of the corporation shall not exceed the lower of the corporation's accumulated DISC income at the beginning of such year or the corporation's accumulated earnings and profits at the beginning of such year (but not less than zero)—

(i) Increased by any DISC income of the corporation for such year as defined in § 1.996–3(b)(2) (i.e., any excess of the DISC's earnings and profits for such year over the sum of the amounts described in paragraph (a) (1) through (4) of this section), or

(ii) Decreased by any deficit in the corporation's earnings and profits for such year.

Thus, for example, if a DISC has a deficit in accumulated earnings and profits at the beginning of a taxable year of $10,000, current earnings and profits of $12,000, no amounts described in paragraph (a) (1) through (4) of this section for the year, and foreign investment attributable to producer's loans for the taxable year of $5,000, the DISC would have a deemed distribution described in paragraph (a)(5) of this section of $5,000 for the taxable year. On the other hand, suppose the DISC had accumulated earnings and profits of $13,000 at the beginning of the taxable year, accumulated DISC income of $10,000 at the beginning of the taxable year, a deficit in earnings and profits for the taxable year of $12,000, no amounts described in paragraph (a) (1) through (4) of this section for the taxable year, and foreign investment attributable to producer's loans for the taxable year of $5,000. Under these facts the DISC would have no deemed distribution described in paragraph (a)(5) of this section because the corporation had no DISC income for the taxable year and the current year's deficit in earnings and profits subtracted from the DISC's accumulated DISC income at the beginning of the year produces a negative amount. For rules relating to the carryover to a subsequent year of the $5,000 of foreign investment attributable to producer's loans, see § 1.995–5(a)(6).

(3) If, by reason of the limitation in subparagraph (1) of this paragraph, less than the sum of the amounts described in paragraph (a) (1) through (4) of this section is deemed distributed, then the portion of such sum which is deemed distributed shall be attributed first to the amount described in subparagraph (1) of such paragraph, to the extent thereof; second to the amount described in subparagraph (2) of such paragraph, to the extent thereof; third to the amount described in subparagraph (3) of such paragraph, to the extent thereof; and finally to the amount described in subparagraph (4) of such paragraph.

(c) *Examples.* Paragraphs (a) and (b) of this section may be illustrated by the following examples:

Example (1). Y is a corporation which uses the calendar year as its taxable year and which elects to be treated as a DISC beginning with 1972. X is its sole shareholder. In 1972, X transfers certain property to Y in exchange for Y's stock in a transaction in which X does not recognize gain or loss by reason of the application of section 351(a). Included in the property transferred to Y is depreciable property described in paragraph (a)(3) of this section on which X realizes, but does not recognize by reason of the application of section 1245(b)(3), a gain of $20,000. If X had sold such property for cash, the $20,000 gain would have been recognized as ordinary income under section 1245. Also included in the transfer to Y is 100 shares of stock in a third corporation (which is not a related foreign export corporation) on which X realizes, but does not recognize, a gain of

$5,000. In 1973, Y sells such property and recognizes a gain of $25,000 on the depreciable property and $8,000 on the 100 shares of stock. Y has accumulated earnings and profits at the beginning of 1973 of $5,000, earnings and profits for 1973 of $72,000, and taxable income for 1973 of $100,000. At the beginning of 1973, Y has $6,000 of accumulated DISC income, no previously taxed income, and a deficit of $1,000 of other earnings and profits. Under these facts and the additional facts assumed in the table below, X is treated as having received a deemed distribution taxable as a dividend of $76,000 on December 31, 1973, determined as follows:

(1) Gross interest derived by Y in 1973 from producer's loans	$7,000
(2) Amount of gain on depreciable property (lower of Y's recognized gain ($25,000) or X's gain not recognized on section 1245 property ($20,000))	20,000
(3) Amount of gain on stock (lower of X's gain not recognized or Y's recognized gain ($8,000) ($5,000))	5,000
(4) One-half excess of taxable income for 1973 over the sum of lines (1), (2), and (3) (½ of ($100,000 minus $32,000))	34,000
(5) Limitation on lines (1) through (4):	
(a) Sum of lines (1) through (4)	66,000
(b) Earnings and profits for 1973	72,000
(c) Lower of lines (a) and (b)	66,000
(6) Amount under paragraph (a) (5) of this section:	
(a) Foreign investment attributable to producer's loans under § 1.995–5	10,000
(b) Sum of the lower of accumulated earnings and profits at beginning of 1973 ($5,000) or accumulated DISC income at beginning of 1973 ($6,000) and excess of earnings and profits for 1973 over line (5)(c) ($72,000 minus $66,000)	11,000
(c) Lower of lines (a) and (b)	10,000
(7) Total deemed distribution (sum of lines (5)(c) and (6)(c))	76,000

Example (2). Assume the facts are the same as in example (1), except that earnings and profits for 1973 amount to only $60,000. Under these facts, X is treated as receiving a deemed distribution taxable as a dividend of $65,000 on December 31, 1973, determined as follows:

(5) Limitation on lines (1) through (4):	
(a) Line (5)(a) of example (1)	$66,000
(b) Earnings and profits for 1973	60,000
(c) Lower of lines (a) and (b)	60,000
(6) Amount under paragraph (a) (5) of this section:	
(a) Line (6)(a) of example (1)	10,000
(b) Sum of the lower of accumulated earnings and profits at beginning of 1973 ($5,000) or accumulated DISC income at beginning of 1973 ($6,000) plus excess of earnings and profits for 1973 over line (5)(c) ($60,000 minus $60,000)	5,000
(c) Lower of lines (a) and (b)	$5,000
(7) Total deemed distribution (sum of lines (5)(c) and (6)(c))	65,000

Example (3). Assume the facts are the same as in example (1), except that Y has a deficit in accumulated earnings and profits at the beginning of 1973 of $4,000. Such deficit is comprised of accumulated DISC income of $1,000, no previously taxed income, and a deficit in other earnings and profits of $5,000. Under these facts, X is treated as receiving a deemed distribution taxable as a dividend in the amount of $72,000 on December 31, 1973, determined as follows:

(5) Limitation on lines (1) through (4):	
(a) Line (5)(a) of example (1)	$66,000
(b) Earnings and profits for 1973	72,000
(c) Lower of lines (a) and (b)	66,000
(6) Amount under paragraph (a) (5) of this section:	
(a) Line (6)(a) of example (1)	10,000
(b) Sum of accumulated earnings and profits at beginning of 1973 (not less than $0), and excess of earnings and profits for 1973 over amount in line (5)(c) ($72,000 minus $66,000)	6,000
(c) Lower of lines (a) and (b)	6,000
(7) Total deemed distribution sum of lines (5)(c) and (6)(c)	72,000

(d) *Special rules for certain tax-free acquisitions of property by the DISC.* (1) For purposes of paragraph (a) (2) (i) and (3) (i) of this section, if—

(i) A DISC acquires property in a first transaction and in a second transaction it disposes of such property in exchange for other property, and

(ii) By reason of the application of section 1031 (relating to like-kind exchanges) or section 1033 (relating to involuntary conversions), the basis in the DISC's hands of the other property acquired in such second transaction is determined in whole or in part with reference to the basis of the property acquired in the first transaction,

then upon a disposition of such other property in a third transaction by the DISC such other property shall be treated as though it had been transferred to the DISC in the first transaction. Thus, if the first transaction is a purchase of the property for cash, then paragraph (a) (2) and (3) of this section will not apply to a sale by the DISC of the other property acquired in the second transaction.

(2) For purposes of paragraph (a) (2) (i) and (3) (i) of this section, if a DISC acquires property in a first transaction and it transfers such property to a transferee DISC in a second transaction in which the transferor DISC's gain is not recognized in whole or in part, then such property shall be treated as though it had been transferred to the transferee DISC in the same manner in which it was acquired in the first transaction by the transferor DISC. For example, if X and Y both qualify as DISC's and X transfers property to Y in a second transaction in which gain or loss is not recognized, paragraph (a) (2) or (3) of this section does not apply to a sale of such property by Y in a third transaction if X had acquired the property in a first transaction by a purchase for cash. If, however, X acquired the property from a transferor other than a DISC in the first transaction in which the transferor's realized gain was not recognized, then paragraph (a) (2) or (3) of this section may apply to the sale by Y if the other conditions of such paragraph (a) (2) or (3) are met.

(3) If a DISC acquires property in a second transaction described in subparagraph (1) or (2) of this paragraph in which it (or, in the case of a second transaction described in subparagraph (2) of this paragraph, the transferor DISC) recognizes a portion (but not all) of the realized gain, then the amount described in paragraph (a) (2) (ii) or (a) (3) (ii) of this section with respect to a disposition by the DISC of such acquired property in a third transaction shall not exceed the transferor's gain which was not recognized on the first transaction minus the amount of gain recognized by the DISC (or transferor DISC) on the second transaction.

(4) The provisions of this paragraph may be illustrated by the following examples:

Example (1). X and Y are corporations each of which qualifies as a DISC and uses the calendar year as its taxable year. In 1972, X acquires section 1245 property in a first transaction in which the transferor's entire realized gain of $17 is not recognized. In 1973, X transfers such property to Y in a second transaction in which X realizes a gain of $20 of which only $4 is recognized. (On December 31, 1973, X's shareholders are treated as having received a deemed distribution of a dividend which includes such $4 under paragraph (a) (3) of this section, provided the limitation in paragraph (b) of this section is met.) In a third transaction in 1974, Y sells such property and recognizes a gain of $25. With respect to Y's shareholders on December 31, 1974, the amount described in paragraph (a) (3) (ii) of this section would be limited to $13, which is the amount of the transferor's gain which was not recognized on the first transaction ($17) minus the amount of gain recognized by X on the second transaction ($4).

Example (2). Z is a DISC using the calendar year as its taxable year. In a first transaction in 1972, in exchange for its stock, Z acquires section 1245 property from A, an individual who is its sole shareholder, in a transaction in which A's realized gain of $30 is not recognized by reason of the application of section 351(a). In a second transaction in 1973, Z exchanges such property for other property in a like-kind exchange to which section 1031(b) applies and recognizes $10 of a realized gain of $35. (On December 31, 1973, A is treated as having received a deemed distribution of a dividend which includes such $10 under paragraph (a) (3) of this section, provided the limitation in paragraph (b) of this section is met.) In a third transaction in 1974, Z sells the property

acquired in the like-kind exchange and recognizes a gain of $25. With respect to A on December 31, 1974, the amount described in paragraph (a)(3)(ii) of this section is limited to $20, which is the amount of A's gain which was not recognized on the first transaction ($30) minus the amount of gain recognized by Z on the second transaction ($10).

(e) *Carryback of net operating loss and capital loss to prior DISC taxable year.* For purposes of sections 991, 995, and 996, the amount of the deduction for the taxable year under section 172 for a net operating loss carryback or carryover or under section 1212 for a capital loss carryback or carryover shall be determined in the same manner as if the DISC were a domestic corporation which had not elected to be treated as a DISC. Thus, the amount of the deduction will be the same whether or not the corporation was a DISC in the year of the loss or in the year to which the loss is carried. For provisions setting forth adjustments to the DISC's, or former DISC's, deemed distributions, adjustments to its divisions of earnings and profits, and other tax consequences arising from such carrybacks, see § 1.996–8.

§ 1.995–3 Distributions upon disqualification.

(a) *General rule.* Under section 995(b)(2), a shareholder of a corporation which is disqualified from being a DISC, either because pursuant to § 1.992–2(e)(2) it revoked its election to be treated as a DISC or because it has failed to satisfy the requirements as set forth in § 1.992–1 to be a DISC for a taxable year, shall be deemed to have received (at the times specified in paragraph (b) of this section) distributions taxable as dividends aggregating an amount equal to his pro rata share of the accumulated DISC income (as defined in § 1.996–3(b)) of such corporation which was accumulated during the immediately preceding consecutive taxable years for which the corporation was a DISC. The pro rata share referred to in the preceding sentence shall be determined as of the close of the last of such consecutive taxable years for which the corporation was a DISC. See § 1.996–7(c) for rules relating to the carryover of, and maintaining a separate account for, such accumulated DISC income in certain reorganizations.

(b) *Time of receipt of deemed distributions.* Distributions described in paragraph (a) of this section shall be deemed to be received in equal installments on the last day of each of the 10 taxable years of the corporation following the year of the disqualification described in paragraph (a) of this section, except that in no case may the number of equal installments exceed the number of the immediately preceding consecutive taxable years for which the corporation was a DISC.

(c) *Transfer of shares.* Deemed distributions are includible under paragraphs (a) and (b) of this section in a shareholder's gross income as a dividend only so long as he continues to held the shares with respect to which the distribution is deemed made. Thus, the transferee of such shareholder will include in his gross income under paragraphs (a) and (b) of this section the remaining installments of the deemed distribution which the transferor would have included in his gross income as a dividend had he not transferred the shares. However, if the transferee acquires the shares in a transaction in which the transferor's gain is treated under § 1.995–4 in whole or in part as a dividend, then under § 1.996–4(a) such transferee does not include subsequent installments in his gross income to the extent that the transferee treats such subsequent installments as made out of previously taxed income.

(d) *Effect of requalification.* Deemed distributions under paragraphs (a) and (b) of this section continue and are includible in gross income as dividends by the shareholders whether or not the corporation subsequently requalifies and is treated as a DISC.

(e) *Effect of actual distributions and deemed distributions under section 995(b)(1)(E).* If, during the period a shareholder of a DISC, or former DISC, is taking into account deemed distributions under paragraphs (a) and (b) of this section, an actual distribution is made to him out of accumulated DISC income or a deemed distribution because of foreign investment attributable to producer's loans is made under § 1.995–2(a)(5) out of accumulated DISC income, such actual or deemed distribution shall first reduce the last installment of the deemed distributions scheduled to be included in the shareholder's gross income as a dividend, and then the preceding scheduled installments in reverse order. If deemed distributions are scheduled to be included in gross income for two or more disqualifications, an actual distribution or a deemed distribution under § 1.995–2(a)(5) which is treated as made out of accumulated DISC income reduces the deemed distributions resulting from the earlier disqualification first.

(f) *Examples.* This section may be illustrated by the following examples:

Example (1). X Corporation, which uses the calendar year as its taxable year, elects to be treated as a DISC beginning with 1972. X qualifies as a DISC for taxable years 1972 through 1975, but, pursuant to § 1.992–2(e)(2), revokes its election as of January 1, 1976, and is disqualified as a DISC. On that date, X has $24,000 of accumulated DISC income. X's shareholders will be deemed to receive $6,000 in distributions taxable as a dividend on the last day of each of X's four succeeding taxable years (1977, 1978, 1979, and 1980).

Example (2). Assume the same facts as in example (1), except that in 1978 X makes an actual distribution of $22,000 to its shareholders of which $10,000 is treated under § 1.996–1 as made out of accumulated DISC income. (The remaining $12,000 of such distribution is treated as made out of previously taxed income.) The actual distribution would first reduce the $6,000 deemed distribution scheduled for 1980 to zero and then reduce the $6,000 deemed distribution scheduled for 1979 to $2,000. Thus, X's shareholders include in 1978 $16,000 is gross income as dividends ($10,000 of actual distributions and the $6,000 deemed distribution scheduled for that year) and $2,000 as a dividend in 1979.

Example (3). Assume the same facts as in example (2), except that X requalifies as a DISC for taxable year 1977 during which it derives $7,000 of DISC income (computed after taking into account a deemed distribution under § 1.995–2(a)(4) of $7,000), but is again disqualified in 1978. In addition X makes an actual distribution in 1977 equal to the deemed distribution of $7,000. Such actual distribution is excluded from gross income under § 1.996–1(c). In 1977, X's shareholders include in gross income as dividends the $6,000 deemed distribution upon disqualification (in addition to the deemed distributions of $7,000 under § 1.995–2 for 1977 when it was treated as a DISC). The actual distribution in 1978 still reduces the installments resulting from the earlier disqualification. Thus, in 1978, X's shareholders include $16,000 in gross income as dividends. In 1979, X's shareholders include $9,000 in gross income as dividends (the final installment of $2,000 from the earlier disqualification plus the single deemed distribution of $7,000 resulting from the later disqualification).

§ 1.995–4 Gain on certain dispositions of stock in a DISC.

(a) *Purpose.* Under section 995(c), if a shareholder disposes of stock in a DISC, or former DISC, in a transaction in which gain is recognized, part or all of such gain is includible in his gross income as a dividend to the extent provided in paragraph (b) of this section. If a shareholder disposes of such stock in a transaction in which gain is not recognized, part or all of such gain otherwise not recognized is, under section 995(c), recognized and includible in his gross income as a dividend to the extent provided in paragraph (c) of this section. The purpose of the provisions of section 995(c) and this section is to insure that accumulated DISC income, the taxation of which is deferred by reason of sections 991 and 995, eventually becomes subject to tax, at ordinary income rates. Therefore, to the extent that an amount of gain on a disposition of DISC stock reflects such deferred accumulated DISC income, such amount is to be treated as a dividend in order to eliminate tax avoidance potential arising from the fact that the basis of such stock will be increased in the hands of the purchaser. In the case of certain transactions in which gain is not recognized, such tax avoidance potential arises not from an increased basis, but rather from the possible absorption by a non-DISC entity of, and therefore disappearance of, special DISC tax attributes (e.g., accumulated DISC income) that insure ultimate taxability at ordinary income rates. Therefore, gain realized in a nontaxable disposition will be treated as a dividend to the extent it reflects accumulated DISC income but only where, as part of the transaction, the DISC tax attributes no longer exist in a corporation qualified as a DISC. For provisions which disallow the deduction under section 243 for dividends under this section, see § 1.246–4.

(b) *Sale or exchange of DISC stock—*(1) *In general.* Under the first sentence of section 995(c), if a shareholder dis-

poses, or is treated as disposing, of stock in a DISC, or former DISC, then any gain recognized on such disposition shall be included in his gross income as a dividend, notwithstanding any other provision of the Code, to the extent of the amount of accumulated DISC income which is attributable to such stock and which was accumulated in taxable years of such corporation during the period or periods such stock was held or treated under paragraph (d) of this section as held by such shareholder. To the extent his recognized gain exceeds such amount of accumulated DISC income, it is taxable as gain from the sale or exchange of the stock.

(2) *Nonapplication of subparagraph (1).* The provisions of subparagraph (1) of this paragraph do not apply (i) to the extent gain is not recognized (such as, for example, in the case of a gift or an exchange of stock to which section 354 applies) and (ii) to the amount of any recognized gain which is taxable as a dividend (such as, for example, under section 301 or 356(a)(2)) or as gain from the sale or exchange of property which is not a capital asset. The amount taxable as a dividend under section 301 or 356(a)(2) is subject to the rules provided in § 1.995–1(c) for the treatment of actual distributions by a DISC.

(c) *Certain exchanges in which gain is not recognized*—(1) *General.* Under the second sentence of section 995(c), if stock in a corporation which is a DISC, or former DISC, is disposed of in a transaction in which its separate corporate existence as a DISC, or former DISC, is terminated then, notwithstanding any other provision of the Code, any gain realized on such transaction shall be recognized and includible in the transferor's gross income as a dividend, but only to the extent that such gain—

(i) Would not have been recognized but for the provisions of this paragraph, and

(ii) Does not exceed the amount of the accumulated DISC income of such corporation attributable to such stock and which was accumulated in taxable years of such corporation during the period or periods the stock disposed of was held or treated under paragraph (d) of this section as held by the transferor.

(2) *Cessation of separate corporate existence as a DISC, or former DISC.* For purposes of subparagraph (1) of this paragraph, separate corporate existence as a DISC, or former DISC, will be treated as having ceased if, as a result of the transaction, there is no separate entity which is a DISC and to which is carried over the accumulated DISC income and other tax attributes of the DISC, or former DISC, the stock of which is disposed of. Thus, for example, if stock in a DISC, or former DISC, is exchanged in a transaction described in section 381(a) (relating to carryovers in certain corporate acquisitions), the gain realized on the transfer of such stock will not be recognized under subparagraph (1) of this paragraph if the assets of such DISC, or former DISC, are acquired by a corporation which immediately after the acquisition qualifies as a DISC. For a further example, if a DISC, or former DISC, is liquidated in a transaction to which section 332 (relating to complete liquidations of subsidiaries) applies the transaction will be subject to subparagraph (1) of this paragraph if the basis to the transferee corporation of the assets acquired on the liquidation is determined under section 334(b)(2) or if immediately after such liquidation the transferee of such assets does not qualify as a DISC. However, the separate corporate existence as a DISC, or former DISC, will not be treated as having ceased in the case of a mere change in place of organization, however effected. See § 1.996–7 for rules for the carryover of the divisions of a DISC's earnings and profits to one or more DISC's.

(d) *Holding period of stock.* For purposes of this section, the period during which a shareholder has held stock includes the period he is considered to have held it by reason of the application of section 1223 and, if his basis is determined in whole or in part under the provisions of section 1014(d) (relating to special rule for DISC stock acquired from decedent), the holding period of the decedent. Such holding period is to exclude the day of acquisition but include the day of disposition. Thus, for example, if A purchases stock in a DISC on December 31, 1972, and makes a gift of such stock to B on June 30, 1973, then on December 31, 1974, B will be treated as having held the stock for 2 full years. If the basis of the stock in C's hands is determined under section 1014(d) upon a transfer from B's estate on December 31, 1976, by reason of B's death on June 30, 1974, then on December 31, 1976, C will be treated as having held the stock for 4 full years.

(e) *Accumulated DISC income allocable to shareholder under section 995(c)*—(1) *In general.* Under this paragraph, rules are prescribed for purposes of paragraphs (b) and (c) of this section as to the manner of determining, with respect to the stock of a DISC, or former DISC, disposed of, the amount of accumulated DISC income which is attributable to such stock and which was accumulated in taxable years of the corporation during the period or periods the stock disposed of was held or treated under paragraph (d) of this section as held by the transferor. Subparagraphs (2), (3), and (4) of this paragraph set forth a method of computation which may be employed to determine such amount. Any other method may be employed so long as the result obtained would be the same as the result obtained under such method.

(2) *Step 1.* Determine the increase (or decrease) in accumulated DISC income for each taxable year of the DISC, or former DISC, by subtracting from the amount of accumulated DISC income (as defined in § 1.996–3(b)) at the close of each taxable year the amount thereof as of the close of the immediately preceding taxable year.

(3) *Step 2.* (i) Determine for each taxable year of the DISC, or former DISC, the increase (or decrease) in accumulated DISC income per share by dividing such increase (or decrease) for the year by the number of shares outstanding or deemed outstanding on each day of such year.

(ii) If the number of shares of stock in the corporation outstanding on each day of a taxable year of the DISC, or former DISC, is not constant, then the number of such shares deemed outstanding on each day of such year shall be the sum of the fractional amounts in respect of each share which was outstanding on any day of the taxable year. The fractional amount in respect of a share shall be determined by dividing the number of days in the taxable year on which such share was outstanding (excluding the day the share became outstanding, but including the day the share ceased to be outstanding), by the total number of days in such taxable year.

(iii) If for any taxable year of a DISC, or former DISC, the share disposed of was not held (or treated under paragraph (d) of this section as held) by the disposing shareholder for the entire year, then the amount of increase (or decrease) in accumulated DISC income attributable to such share for such year is the amount determined as if he held the share until the end of such year multiplied by a fraction the numerator of which is the number of days in the taxable year on which the shareholder held (or under paragraph (d) of this section is treated as having held) such share and the denominator of which is the total number of days in the taxable year.

(4) *Step 3.* Add the amounts computed in step 2 for each taxable year of the DISC, or former DISC, in which the shareholder held such share of stock.

(5) *Examples.* This paragraph may be illustrated by the following examples:

Example (1). X Corporation uses the calendar year as its taxable year and elects to be a DISC for the first time for 1973. On January 1, 1973, X has 20 shares issued and outstanding. A and B each own 10 shares. On July 1, 1976, X issues 10 shares to C. On December 31, 1977, A sells his 10 shares to D and recognizes a gain of $120. Under these facts and other facts assumed in the table below, A includes in his gross income for 1977 a dividend under paragraph (b) of this section of $61.30 and long-term capital gain of $58.70.

Year	(a) Year end accumulated DISC income	(b) Increase (decrease) in accumulated DISC income	(c) Shares outstanding	(d) Increase (decrease) per share (column (b) divided by column (c))
1973	$80	$80	20	$4.00
1974	50	(30)	20	(1.50)
1975	80	30	20	1.50
1976	100	20	[1] 25	.80
1977	140	40	30	1.33

(1) Total increase in accumulated DISC income for each share disposed of (sum of amounts in column (d))	6.13
Multiply by number of shares disposed of	10
(2) Total amount of accumulated DISC income attributable to A's shares disposed of	61.30
(3) A's gain	120.00
(4) Portion of A's gain taxable as a dividend (lower of lines (2) and (3))	61.30
(5) Portion of A's gain taxable as long-term capital gain (line (3) minus line (4))	58.70

[1] Under subparagraph (3) (ii) of this paragraph, the aggregate fractional amounts of the 10 shares issued on July 1, 1976, is 5 shares, i.e., 10 shares, multiplied by (183 days/366 days). Thus, the number of shares deemed outstanding for 1976 is 25 shares, i.e., 20 shares plus 5 shares.

Example (2). Assume the same facts as in example (1), except that A sells his 10 shares to D on July 1, 1977. Under subparagraph (3) (iii) of this paragraph, the amount of increase in accumulated DISC income for 1977 which is attributable to each share disposed of is limited to $.67, i.e., $1.33 multiplied by 182 days/365 days. Therefore, the sum of the yearly increases (and decreases) in accumulated DISC income for each share is reduced by $.66 (i.e., $1.33 minus $.67). The total increase in accumulated DISC income for each share disposed of is $5.47 (i.e., $6.13 minus $.66). Under these facts, A would include in his gross income for 1977 a dividend of $54.70 and long-term capital gain of $65.30 determined as follows:

(1) Total increase in accumulated DISC income for each share disposed of	$5.47
Multiplied by number of shares disposed of	10
(2) Total amount of accumulated DISC income attributable of to all shares disposed of	54.70
(3) A's gain	120.00
(4) Portion of A's gain taxable as a dividend (lower of lines (2) and (3))	54.70
(5) Portion of A's gain taxable as long-term capital gain (line (3) minus line (4))	65.30

§ 1.995–5 Foreign investment attributable ot producer's loans.

(a) *In general*—(1) *Limitation.* Under section 995(d), the amount as of the close of a "group taxable year" (as defined in subparagraph (3) of this paragraph) of foreign investment attributable to producer's loans of a DISC for purposes of section 995(b)(1)(E) shall be the excess (as of the close of such year) of—

(i) The smallest of—

(*a*) The amount of the net increase in foreign assets (as defined in paragraph (b) of this section) by domestic and foreign members of the controlled group which includes the DISC,

(*b*) The amount of the actual foreign investment by the domestic members of such group (as determined under paragraph (c) of this section), or

(*c*) The amount of outstanding producer's loans (as determined under § 1.993–4) by such DISC to members of such controlled group, over

(ii) The amount (determined under § 1.995–2 (a)(5) and (b)(2)) of foreign investment attributable to producer's loans treated under section 995(b)(1)(E) as deemed distributions by the particular DISC taxable as dividends for prior taxable years of that particular DISC.

Thus, for example, if the shareholders of a DISC which uses the calendar year as its taxable year (and which is a member of a controlled group in which all of the members use the calendar year as their taxable year) are treated under section 995(b)(1)(E) as receiving foreign investment attributable to producer's loans of a DISC of $0 in 1972, $10 in 1973, and $30 in 1974, or a total of $40, and if the smallest of the amounts described in subdivision (i) of this subparagraph at the end of 1975 is $90, then the amount of the foreign investment attributable to producer's loans of a DISC at the end of 1975 is $50, i.e., the excess (as of the close of 1975) of the smallest of the amounts described in subdivision (i) of this subparagraph ($90) over the sum of the amounts of foreign investment attributable to producer's loans treated under section 995(b)(1)(E) as deemed distributions by the DISC taxable as dividends for prior taxable years of the DISC ($40). If the separate corporate existence of the DISC as to which the amount described in subdivision (ii) of this subparagraph relates ceases to exist within the meaning of § 1.995–4(c)(2), then such amount shall no longer be taken into account by the group for any purpose. For inclusion of amounts because of certain corporate acquisitions, see paragraph (d) of this section.

(2) *Controlled group; domestic and foreign member.* For purposes of this section—

(i) The term "controlled group" has the meaning assigned to such term by § 1.993–1(k).

(ii) The term "domestic member" means a domestic corporation which is a member of a controlled group, and the term "foreign member" means a foreign corporation which is a member of a controlled group.

(3) *Group taxable year.* (i) The term "group taxable year" refers collectively to the taxable year of the DISC and to the taxable year of each corporation in the controlled group which includes the DISC ending with or within the taxable year of the DISC. Thus, for example, if a corporation has a subsidiary which uses the calendar year as its taxable year and which elects to be treated as a DISC, and if the parent has a taxable year ending on October 31, the "group taxable year" for 1973 would refer to calendar year 1973 for the DISC and to the parent's taxable year ending October 31, 1973.

(ii) In cases in which the DISC makes a return for a short taxable year, that is, for a taxable year consisting of a period of less than 12 months, pursuant to section 443 and the regulations thereunder, or § 1.991–1(b)(3), the following rules shall apply—

(*a*) In the case of a change in the annual accounting period of the DISC resulting in a short taxable year, the "group taxable year" refers collectively to the short taxable year and to the taxable year of each corporation in the controlled group which includes the DISC ending with or within the short taxable year.

(*b*) In the case of a DISC which is in existence during only part of what would otherwise be its taxable year, the "group taxable year" refers collectively to the short period during which the DISC was in existence and to the taxable year of each corporation in the controlled group which includes the DISC ending with or within the 12-month period ending on the last day of the short period.

(iii) With respect to periods prior to the first taxable year for which a member of the group qualified (or is treated) as a DISC, each group taxable year shall be determined under subdivision (i) of this subparagraph as if such member was in existence, it qualified as a DISC, and its taxable year ended on that date corresponding to the date such member's first taxable year ended after it qualified (or is treated) as a DISC whether or not the corporation which qualifies (or is treated) as a DISC used the same taxable year before it so qualified (or is so treated). Thus, for example, if a corporation which is organized on March 3, 1975, uses the calendar year as its taxable year, and is a member of a controlled group which does not include a DISC, first qualifies (or is treated) as a DISC for calendar year 1975, then the term "group taxable year" with respect to years prior to 1975 refers collectively to such prior calendar years and to the taxable year of each corporation in the group ending with or within such prior calendar years.

(iv) For special rules in the case of a group which includes more than one DISC, see paragraph (g) of this section.

(4) *Amounts determined for prior years.* Unless the 3-year limitation is properly elected under subparagraph (5) of this paragraph, the amounts described in paragraphs (b) (relating to net increase in foreign assets) and (c) (relating to actual foreign investments by domestic members) of this section reflect, as of the close of a group taxable year, amounts for all taxable years of members of the group beginning after December 31, 1971 (and amounts arising after December 31, 1971, or such other date prescribed in paragraph (b)(7) of this section), provided that such amounts relate to such group taxable year and preceding group taxable years. Thus, for example, if all members of a controlled group use the calendar year as the taxable year, and 1980 is the first taxable year for which any member of the group qualifies (or is treated) as a DISC, then, unless the 3-year limitation is elected under subparagraph (5) of this paragraph, the amounts described in paragraphs (b) and (c) of this section will be taken into account beginning with the dates specified in the preceding sentence. For rules as to carryovers on certain corporate acquisitions and reorganizations, see paragraph (d) of this section.

(5) *Three-year elective limitation.* (i) A DISC may elect to take into account only amounts described in paragraphs (b) (relating to net increase in foreign assets) and (c) (relating to actual foreign investment by domestic members) of this section for the 3 taxable years of each member immediately preceding its taxable year included in that first group taxable year which includes a member's first taxable year during which it qualifies (or is treated) as a DISC. For purposes of the preceding sentence, determinations shall be made by reference to the taxable year of the issuer or transferor (as the case may be). If an election is made under this subdivision, the offset for uncommitted transitional funds under paragraph (b)(7) of this section is not allowed. If an election is made under this subdivision, the 3-year limitation applies to amounts described in paragraphs (b)(4) and (c)(1) and (2) of this section.

(ii) An election under subdivision (i) of this subparagraph shall not apply with respect to amounts which must be carried over under paragraph (d) of this section in the case of certain corporate acquisitions and reorganizations.

(iii) An election under subdivision (i) of this subparagraph shall be made by the DISC attaching to its first return, filed under section 6011(e)(2), a statement to the effect that the 3-year limitation is being elected under § 1.995–5(a)(5)(i).

(6) *Cumulative basis.* Pursuant to section 995(d)(5), all determinations of amounts specified in this section are to be made on a cumulative basis from the 1st year (or date) provided for in this section. Thus, each such determination shall take into account a net increase or a net decrease during the year, as the case may be. However, if the 3-year limitation is elected under subparagraph (5) of this paragraph, then only amounts with respect to periods specified in such subparagraph (5) are amounts taken into account for years before a member of the group qualifies (or is treated) as a DISC. The computations described in this section may be made in any way chosen by the DISC (including a corporation being tested as to whether it qualifies as a DISC), provided such method results in the amount prescribed by this section.

(7) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. X Corporation, which uses the calendar year as its taxable year, is a member of a controlled group (within the meaning of subparagraph (2) of this paragraph). X elects to be treated as a DISC beginning with 1972. The amount of foreign investment attributable to X's producer's loans treated under section 995(b)(1)(E) as a distribution taxable as a dividend as of the close of each group taxable year with respect to each taxable year of X from 1972 through 1975 are set forth in the table below, computed on the basis of the facts assumed (the amounts on lines (1), (2), (3), and (5) being running balances):

Taxable year of X	1972	1973	1974	1975
(1) Net increase (or decrease) in foreign assets since January 1, 1972, at close of group taxable year	($30)	$10	$100	$150
(2) Actual foreign investment at close of group taxable year	20	60	80	140
(3) Outstanding producer's loans of X (the DISC) as of the close of group taxable year	0	40	90	120
(4) Smallest of lines (1), (2), or (3) (not less than zero)	0	10	80	120
(5) Less section 995(b)(1)(E) deemed distributions for prior taxable years (sum of lines (5) and (6) from prior year)	0	0	10	80
(6) Section 995(b)(1)(E) deemed distribution as of close of taxable year	0	10	70	40

(b) *Net increase in foreign assets*—(1) *In general.* (i) The term "net increase in foreign assets" when used in this section means the excess for the controlled group (as of the close of the group taxable year) of (*a*) the investment in foreign assets to be taken into account under subparagraph (2) of this paragraph over (*b*) the aggregate of the five offsets allowed by subparagraphs (3) through (7) of this paragraph.

(ii) No amount described in this paragraph (other than amounts described in subparagraphs (4) and (7) of this paragraph) with respect to a member of the group (or foreign branch of a member) shall be taken into account unless it is attributable to a taxable year of such member beginning after December 31, 1971. For a 3-year elective limitation with respect to the first taxable year for which a member qualifies (or is treated) as a DISC, see paragraph (a)(5) of this section. For manner of determining amounts on a cumulative basis, see paragraph (a)(6) of this section.

(2) *Investments made in foreign assets.* (i) For purposes of subparagraph (1) of this paragraph, there shall be taken into account as investment in foreign assets the aggregate of the amounts expended (within the meaning of subdivision (ii) of this subparagraph) during the period described in subparagraph (1)(ii) of this paragraph by all members of the controlled group which includes the DISC to acquire assets described in section 1231(b) (determined without regard to any holding period therein provided) which are located outside the United States (as defined in § 1.993–7) reduced by the aggregate of the amounts received by all such members of the controlled group from the sale, exchange, or involuntary conversion of such assets described in section 1231(b) which are located outside the United States. For purposes of this section, amounts expended for assets which are qualified export assets (as defined in § 1.993–2) of a DISC (or which would be qualified export assets if owned by a DISC) shall not be taken into account. Thus, for example, if a DISC acquires a qualified export asset located outside the United States, the asset is not to be taken into account for purposes of determining the net increase in foreign assets.

(ii) As used in subdivision (i) of this subparagraph, the term "amounts expended" (or amounts received) means the amount of any money or the fair market value (on the date of acquisition, sale, exchange, or involuntary conversion) of any property (other than money) used to acquire (or received for) the assets described in such subdivision (i).

(iii) For purposes of this subparagraph, an asset (other than an aircraft or vessel) is considered as located outside the United States if it was used predominantly outside the United States during the group taxable year. The determination as to whether such an asset is used predominantly outside the United States during the group taxable year in which it was acquired or sold, exchanged, or involuntarily converted shall be made by applying the rules of § 1.993–3(d) except that an aircraft described in section 48(a)(2)(B)(i) or a vessel described in section 48(a)(2)(B)(iii) shall be considered located in the United States and all other aircraft or vessels shall be considered located outside the United States. Thus, for example, if a member of a controlled group which includes a DISC acquires a vessel which is documented under the laws of a foreign country, the amount expended to acquire that vessel is an amount described in subdivision (i) of this subparagraph.

(iv) *Examples.* The provisions of this subparagraph may be illustrated by the following examples:

Example (1). X Corporation, which uses the calendar year as its taxable year, is a domestic member of a controlled group

(within the meaning of paragraph (a)(2) of this section). During 1972, in a transaction to which section 1031 applies, X acquires a warehouse located outside the United States and having a fair market value of $100. As consideration, X transfers $20 in cash and a warehouse located within the United States and having a fair market value of $80. Under these facts, $100 will be taken into account as investment in foreign assets.

Example (2). The facts are the same as in example (1), except that the warehouse transferred by X as consideration is located outside the United States. Under these facts, only $20 will be taken into account as investment in foreign assets because the amount expended for such assets (i.e., $100) is reduced by the fair market value of any property located outside the United States received in exchange for such assets (i.e., $80).

(3) *Depreciation with respect to all foreign assets of a controlled group.* (i) An offset allowed by this subparagraph is the depreciation (determined under subdivision (ii) of this subparagraph) or depletion (determined under subdivision (iii) of this subparagraph) attributable to taxable years of the member beginning after December 31, 1971, with respect to all of the group's foreign assets described in subparagraph (2) of this paragraph including such assets acquired prior to the date provided in such subparagraph (2), and without regard to whether the 3-year election in paragraph (a)(5) of this section is made. Thus, for example, depreciation for a taxable year of a member beginning after December 31, 1971, with respect to an asset described in section 1231(b) which is located outside of the United States and which was acquired during a taxable year of the member beginning before January 1, 1972, is an offset allowed by this subparagraph. For a further example, depreciation with respect to a qualified export asset is not such an offset.

(ii) The depreciation taken into account under subdivision (i) of this subparagraph shall be—

(*a*) In the case of an asset owned by a domestic member, only the amount allowed under section 167(b)(1) (relating to the allowance of the straight-line method of depreciation) and § 1.162–11(b) (relating to amortization in lieu of depreciation), but not the amount allowed under section 179 (relating to the additional first-year depreciation allowance).

(*b*) In the case of an asset owned by a foreign member, the depreciation and amortization (referred to in (*a*) of this subdivision) allowable for purposes of computing earnings and profits under subparagraph (5)(i) of this paragraph.

(iii) The depletion taken into account under subdivision (i) of this subparagraph shall be limited to cost depletion computed under sections 611 and 612 and the regulations thereunder. Thus, percentage depletion is not to be taken into account in computing the offset under this subparagraph.

(4) *Amount of outstanding stock or debt.* (i) An offset allowed by this subparagraph is the outstanding amount of stock (including treasury stock) or debt obligations of any member of the group issued, sold, or exchanged after December 31, 1971, by any member (whether or not the same member) to persons who (on the date of such issuance, sale, or exchange) were neither United States persons (within the meaning of section 7701(a)(30)) nor members of the group, provided that, in the case of a debt obligation, such obligation is not repaid within 12 months after such issuance, sale, or exchange. Thus, for example, if stock is issued to a member of the group before January 1, 1972, and after December 31, 1971, it is sold to a person who is neither a United States person nor a member of the group, an offset allowed by this subparagraph includes the outstanding amount of such stock. For purposes of this subparagraph, foreign branches of United States banks are not considered to be United States persons.

(ii) The outstanding amount of stock or debt obligations shall be determined in accordance with the following provisions:

(*a*) The outstanding amount of stock or debt obligations described in subdivision (i) of this subparagraph is equal to the net amount described in (*b*) of this subdivision reduced (but not below zero) by the amount described in (*c*) of this subdivision.

(*b*) The net amount described in this subdivision (*b*) is the excess of (*1*) the aggregate of the amount of money and the fair market value of property (other than money) transferred by persons who are not members of the group and who are not U.S. persons as consideration for such stock and debt obligations over (*2*) fees and commission expenses borne by the issuer or transferror with respect to their issuance, sale, or exchange.

(*c*) The amount described in this subdivision (*c*) is the aggregate amount of money and fair market value of property (other than money) distributed to such persons on distributions in respect of such stock from other than earnings and profits or on distributions in redemption of such stock and the amount of principal paid pursuant to such debt obligations.

(*d*) For purposes of this subdivision (ii), in the case of a redemption, the stock or debt redeemed shall be charged against the earliest of such stock or debt issued, sold, or exchanged in order to determine the amount by which the balance of outstanding stock or debt is to be reduced. For purposes of this subparagraph, the fair market value of property received as consideration shall be determined as of the date the transaction occurs, and a contribution to capital within the meaning of section 118 shall be treated as the issuance of stock.

(iii) The provisions of subdivision (i) of this subparagraph apply regardless of of the treatment under the Code of the transaction in which the stock or debt was issued, sold, or exchanged. Thus, for example, if X Corporation, a member of a controlled group which includes a DISC, acquires from a nonresident alien individual in exchange solely for X's voting stock all of the stock of Y Corporation pursuant to a reorganization as defined in section 368(a)(1)(B), the fair market value of the Y stock on the date of the exchange would be an offset allowed by this subparagraph.

(iv) The provisions of this subparagraph may be illustrated by the following example:

Example. X Corporation is a member of a controlled group (within a meaning of paragraph (a)(2) of this section) every member of which uses the calendar year as its taxable year. On January 1, 1972, X issues in a public offering its stock to persons described in subdivision (i) of this subparagraph who, in the aggregate, pay $1,000 as consideration. X pays $100 in underwriting fees. On the same date, X receives $425 upon issuing a $500 debt obligation to such persons at a discount of $75 and pays $25 in underwriting fees. On December 31, 1972, the offset allowed under this subparagraph is $1,300, i.e., ($1,000 minus $100) plus ($425 minus $25). If, during 1973, X makes a distribution of $150 (not in redemption) from other than earnings and profits with respect to such stock, then the offset is reduced to $1,150.

(5) *Earnings and profits.* (i) An offset allowed by this subparagraph is one-half the aggregate of the earnings and profits accumulated for all taxable years beginning after December 31, 1971, computed (without regard to any distributions from earnings and profits) in accordance with § 1.964–1 (relating to a controlled foreign corporation's earnings and profits), of each foreign member of the group which is controlled directly or indirectly (as determined under the principles of section 958 and the regulations thereunder) by a domestic member of the group and each foreign branch of a domestic member of the group (computed as if the branch were a foreign corporation). The DISC is bound by any action on behalf of a foreign member that was taken pursuant to § 1.964–1(c)(3) or by any failure to take action by or on behalf of a foreign member within the time specified in § 1.964–1(c)(6). With respect to a foreign member for which action was not previously required under § 1.964–1(c)(6) to be taken, the DISC may take action on behalf of such member by attaching a statement to that effect to the return of the DISC under section 6011(e)(2) for the first taxable year during which it qualifies (or is treated) as a DISC and there is outstanding a producer's loan made by such DISC to a member of the controlled group which includes the DISC.

(ii) If the aggregate of the accumulated earnings and profits described in subdivision (i) of this subparagraph is a deficit, the amount allowable as an offset under this subparagraph is zero.

(6) *Royalties and fees.* An offset allowed by this subparagraph is one-half the royalties and fees paid by foreign members of the group to domestic members of the group and by foreign branches of domestic members of the group to domestic members of the group during the taxable years of such members beginning after December 31, 1971.

(7) *Uncommitted transitional funds.* (i) An offset allowed by this subparagraph for the uncommitted transitional funds of the group is the sum described in subdivision (ii) of this subparagraph of

the amount of certain capital raised under the foreign direct investment program and the amounts described in subdivision (iv) of this subparagraph of certain foreign excess working capital held on October 31, 1971.

(ii) The amount described in this subdivision of certain capital raised under the foreign direct investment program is the excess (if any) of—

(*a*) The amount of the offset allowed by subparagraph (4) of this paragraph, determined, however, with respect to the stock and debt obligations of domestic members of the group outstanding on December 31, 1971 (including amounts treated as stock outstanding by reason of a contribution to capital), whether or not outstanding after such date, which were issued, sold, or exchanged on or after January 1, 1968, by any member (whether or not the same member) to persons who (on the date of such issuance, sale, or exchange) were neither United States persons (within the meaning of section 7701(a)(30)) nor members of the group, but only to the extent the taxpayer establishes that such amount constitutes a long-term borrowing (see 15 CFR § 1000.324) for purposes of the foreign direct investment program (see 15 CFR Part 1000), over

(*b*) The amount (determined under paragraph (c) of this section) of actual foreign investment by the domestic members of the group during the portion of the period such stock or debt obligations have been outstanding prior to January 1, 1972, such determination to be made by substituting January 1, 1968, for the December 31, 1971, date specified in such paragraph (c) and by not taking into account the earnings and profits described in paragraph (c)(3) of this section.

For purposes of this subparagraph, foreign branches of United States banks are not considered to be United States persons.

(iii) (*a*) A taxpayer may establish that an amount under subdivision (ii) (*a*) of this subparagraph constitutes a long-term borrowing for purposes of the foreign direct investment program by keeping records sufficient to demonstrate that appropriate reports were filed with the Office of Foreign Direct Investment of the Department of Commerce with respect to the foreign borrowing or by any other method satisfactory to the district director.

(*b*) The amounts described in subdivision (ii)(*a*) of this subparagraph include amounts with respect to which an election under section 4912(c), to subject certain obligations of a United States person to the interest equalization tax, has been made, provided that the obligations to which such amounts relate were issued by an "overseas financing subsidiary" described in 15 CFR Part 1000N and were assumed by a United States person from such overseas financing subsidiary. Thus, for example, if an overseas financing subsidiary issues its notes to a foreign person in 1968, and such notes are assumed by its United States parent in 1973, which parent elects under section 4912(c) to have the notes subject to the interest equalization tax, then the amount of money received by the subsidiary is an amount described in subdivision (ii)(*a*) of this subparagraph.

(iv) The amount described in this subdivision of foreign excess working capital is the amount of liquid assets held by the foreign members of such group and foreign branches of domestic members of such group on October 31, 1971 (whether or not so held after such date) in excess of their reasonable working capital needs (as defined in § 1.993–2(e)) on that date, but only to the extent not included in subdivision (ii) of this subparagraph. For purposes of this subdivision, the term "liquid assets" means money, bank deposits (not including time deposits), and indebtedness of any kind (including time deposits) which on the day acquired had a maturity of 2 years or less.

(8) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. X Corporation, which uses the calendar year as its taxable year is a member of a controlled group (within the meaning of paragraph (a)(2) of this section). X elects to be treated as a DISC beginning with 1972. The amount of net increase in foreign assets of the group at the close of each group taxable year with respect to each taxable year of X from 1972 through 1975 are set forth in the table below, computed on the basis of the facts assumed (the amounts on each line being running balances):

Taxable year of X	1972	1973	1974	1975
(1) Investment in foreign assets	$150	$165	$260	$300
(2) Depreciation with respect to foreign assets of group	20	40	60	80
(3) Amount of stock or debt outstanding issued after Dec. 31, 1971	30	30	30	30
(4) One-half earnings and profits of foreign members	40	70	100	130
(5) Royalties and fees paid by foreign members to domestic members	10	15	20	20
(6) Uncommitted transitional funds	10	10	10	10
(7) Sum of lines (2) through (6)	110	165	220	270
(8) Net increase in foreign assets (line (1) minus line (6))	40	0	40	30

(c) *Actual foreign investment by domestic members.* For purposes of determining the limitation in paragraph (a) of this section, the amount of the actual foreign investment by domestic members of a controlled group is the sum (as of the close of the group taxable year) determined on a cumulative basis (see paragraph (a)(6) of this section) of—

(1) *Outstanding stock or debt (including contributions to capital).* The outstanding amount (determined in accordance with the principles of paragraph (b)(4(ii) of this section, applied with respect to stock or debt obligations described in this subparagraph) of stock (including treasury stock) or debt obligations (other than normal trade indebtedness) of foreign members of the group issued, sold, or exchanged after December 31, 1971, by any person (whether or not a member) which is not a domestic member to domestic members of the group, provided that the outstanding amount of debt obligations of any foreign member shall be the greater of such amount outstanding at the close of the taxable year of such member or the highest such amount outstanding at any time during the immediately preceding 90 days,

(2) *Transfers to foreign branches.* The amount of money or the fair market value of property (other than money) transferred by domestic members of the group after December 31, 1971, to foreign branches of such members in transactions which would, if the branch were a corporation, be in consideration for the sale of stock or debt obligations of (or a contribution of capital to) such foreign branches (as determined under subparagraph (1) of this paragraph), and

(3) *Earnings and profits of foreign members.* One-half of the earnings and profits (computed in accordance with paragraph (b)(5) of this section for purposes of computing net increase in foreign assets) of foreign members of the group which are controlled directly or indirectly (as determined under the principles of section 958 and the regulations thereunder) by a domestic member of the group and foreign branches (treated for this purpose as a corporation) of domestic members of the group accumulated during the taxable years of such foreign members (or branches) beginning after December 31, 1971, or, if later, the taxable year referred to in paragraph (a)(5)(i) of this section if the 3-year election provided for in such paragraph (a)(5)(i) is made.

(d) *Carryovers on certain corporate acquisitions and reorganizations*—(1) *Certain corporate acquisitions.* (i) If—

(*a*) A member of a controlled group ("first controlled group") acquires in a transaction to which section 381 applies the assets of a corporation which is a member of a second controlled group or acquires stock in such a corporation pursuant to a reorganization as defined in section 368(a)(1)(B) to which section 361 applies, or

(*b*) A member or combination of members of the first controlled group acquire in a transaction not described in (*a*) of this subdivision a majority interest (as defined in paragraph (e)(2) of this section) in the stock of a corporation which is a member of a second controlled group which includes a DISC so that such DISC after the acquisition is a member of the new controlled group,

then, for purposes of computing foreign investment attributable to producer's loans with respect to the new controlled group as constituted after such acquisition, all amounts described in paragraphs (a) through (c) of this section, including the amount specified in paragraph (a)(1)(ii) of this section (relating to amounts treated under section 995(b)(1)(E) as deemed distributions by the DISC taxable as dividends for prior taxable years of the DISC), with respect to

members of the second controlled group which become members of the new controlled group shall carry over to such new controlled group. For purposes of this subdivision (i), a controlled group may consist of only one member. With respect to certain transactions involving foreign corporations, see section 367.

(ii) If a member or combination of members of a controlled group, immediately after an acquisition of stock to which subdivision (i) of this subparagraph applies, do not control the total combined voting power (determined under § 1.957–1(b)) of the corporation whose stock was acquired, proper apportionment consistent with the principles of paragraph (e)(5) of this section shall be made with respect to amounts to which paragraphs (a) through (c) of this section apply.

(iii) (*a*) If subdivision (i) of this subparagraph applies, then for purposes of determining the application of the 3-year elective limitation provided for in paragraph (a)(5) of this section, the rules in (*b*), (*c*), and (*d*) of this subdivision (iii) apply.

(*b*) If both the "first controlled group" and the "second controlled group" (as those terms are defined in subdivision (i) of this subparagraph) include a DISC, and a DISC in either group has elected the 3-year limitation provided in paragraph (a)(5) of this section, then only those amounts taken into account under such paragraph (a)(5) by the electing DISC or DISC's shall be taken into account.

(*c*) If one of the groups includes a DISC and the other does not, and if the DISC has elected the 3-year limitation provided in paragraph (a)(5) of this section, then, for purposes of computing foreign investment attributable to producer's loans with respect to the new controlled group as constituted after the acquisition, all amounts described in paragraphs (a) through (c) of this section with respect to members of the controlled group which did not include the DISC shall carry over to such new controlled group, but only to the extent provided in such paragraph (a)(5), computed as if the group taxable year in which the acquisition occurred was the first group taxable year which includes a member's first taxable year during which it qualifies (or is treated) as a DISC.

(*d*) If (*c*) of this subdivision (iii) applies, except that the DISC has not elected the 3-year limitation provided in paragraph (a)(5) of this section, then the DISC in the new controlled group as constituted after the acquisition may, with respect to members of the controlled group which did not include the DISC, make the election provided in such paragraph (a)(5), and treat the year in which the acquisition occurred as if it were the first group taxable year which includes a member's first taxable year during which it qualifies (or is treated) as a DISC.

(iv) If a majority interest, or an interest in addition to a majority interest, is acquired in a transaction other than a transaction described in subdivision (i) of this subparagraph, then the rules in paragraph (e) of this section (relating to the acquisition of the foreign assets of a corporation) apply.

(2) *Corporation ceasing to be a member.* As of the date a corporation which is a member of a controlled group ceases to be a member of such group, the amounts of such group described in paragraphs (a) through (c) of this section will be reduced by such amounts which are attributable to the corporation which is no longer a member of the group.

(e) *Acquisition of a majority interest in a corporation*—(1) *In general.* If paragraph (d)(1)(i) of this section (relating to certain corporate acquisitions in which all amounts described in paragraphs (a) through (c) of this section carry over) does not apply, then, for purposes of determining under paragraph (b)(2) of this section the investments made in foreign assets by a controlled group, the acquisition of a majority interest (as defined in subparagraph (2) of this paragraph) or an interest in addition to a majority interest in a corporation by any member or combination of members of the controlled group is considered an acquisition of the assets (to the extent provided in subparagraph (5) of this paragraph) of the acquired corporation by the group, including the assets of any foreign corporation in which the acquired corporation owns a majority interest (to the extent provided in subparagraph (5) of this paragraph). For the rules concerning the date upon which an acquisition of a majority interest is considered to have occurred, see subparagraph (3) of this paragraph.

(2) *Majority interest.* For purposes of this section, a majority interest is more than 50 percent of the total combined voting power of all classes of a corporation's stock entitled to vote, as determined under § 1.957–1(b).

(3) *Acquisition date.* For purposes of this paragraph, an acquisition of a majority interest shall be considered to have occurred on the day on which the combined voting power of the group first reached the percentage required in subparagraph (2) of this paragraph.

(4) *Valuation of assets.* For purposes of this section, the amount of a corporation's assets deemed acquired is the fair market value of the assets on the date a majority interest, or an interest in addition to a previously held majority interest, is acquired.

(5) *Apportionment in the case of the acquisition of less than all of the voting stock.* (i) If the acquisition described in subparagraph (1) of this paragraph of a majority interest is of less than 100 percent of the total combined voting power of all classes of stock of the acquired corporation entitled to vote, then for purposes of subparagraph (1) of this paragraph the amount of the foreign assets of the corporation deemed acquired as of the day the majority interest is considered acquired shall be an amount equal to the fair market value of all of the corporation's foreign assets described in paragraph (b)(2) of this section as of such day multiplied by the percentage of the total combined voting power (determined under § 1.957–1(b)) held by members of the group on the day the majority interest is considered acquired.

(ii) If any member or combination of members of the controlled group hold a majority interest in a corporation, then for purposes of subparagraph (1) of this paragraph the acquisition of additional combined voting power by members of the controlled group shall be considered an acquisition of its foreign assets described in paragraph (b)(2) of this section in an amount equal to the fair market value of all such assets held by the foreign corporation on the date of the acquisition, multiplied by the increase (expressed in percentage points) in total combined voting power (as determined under § 1.957–1(b)) which occurred.

(6) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (*1*). M Corporation uses the calendar year as its taxable year. On November 18, 1973, M acquires from A, an individual United States person, for $1 million cash all 10,000 shares of the voting stock of N, a foreign corporation. N's only asset is a warehouse located in France with a fair market value on the date of acquisition of $1 million. Under subparagraph (1) of this paragraph, the controlled group of which M is a member is considered to have expended $1 million for the acquisition of foreign assets described in paragraph (b)(2) of this section.

Example (*2*). The facts are the same as in example (1), except that on November 18, 1973, M acquires only 80 percent of N's voting stock. M is considered to have expended $800,000 for the acquisition of assets described in paragraph (b)(2) of this section, computed as follows:

(1) Fair market value of N's foreign assets described in paragraph (b)(2) of this section	$1,000,000
(2) Multiply by percentage of total combined voting power of all classes of N stock entitled to vote acquired by M	.8
(3) Amount considered expended	800,000

Example (*3*). The facts are the same as in example (2), except that individual A is not a United States person, and M acquires the 80 percent of N voting stock in exchange for cash of $100,000 and M stock having a fair market value on the date of the acquisition of $700,000. M is considered to have acquired assets described in paragraph (b)(2) of this section in the amount of $800,000 (see computations in example (2)) and to have an offset under paragraph (b)(4) of this section (relating to outstanding stock or debt) of $700,000 (the fair market value of the M stock transferred to A who is not a United States person). However, the controlled group of which M is a member is not considered to have acquired any other amounts described in paragraphs (a) through (c) of this section with respect to N for taxable years prior to the taxable year of N during which the acquisition occurred.

Example (*4*). P Corporation, which uses the calendar year as its taxable year, is a member of a controlled group which includes a DISC. During 1973, P acquires from

B, an individual United States person, for cash, 30 percent of the total combined voting power of all classes of stock entitled to vote of Q, a foreign corporation. All of Q's assets are assets described in paragraph (b)(2) of this section. No additional interest in Q is acquired by members of the group during 1973. The controlled group of which Q is a member is not considered to have made any investments in foreign assets described in such paragraph (b)(2) as of the close of 1973.

Example (5). Assume the same facts as in example (4). Assume further that during 1974, R Corporation, a member of the controlled group which includes P, acquires for cash 40 percent of the total combined voting power of all classes of stock of Q entitled to vote as follows: 20 percent on July 31, and 20 percent on December 31. Thus, on December 31, 1974, members of the controlled group own 70 percent of Q's voting power (30+20+20) and on that date are considered to have acquired a majority interest in Q. The fair market value of Q's assets on December 31, 1974, is $5 million. The group is considered to have expended $3,500,000 for the acquisition of assets described in paragraph (b)(2) of this section computed as follows:

(1) Fair market value of Q's foreign assets described in paragraph (b)(2) of this section as of the date the acquisition is deemed to have occurred under subparagraph (3) of this paragraph (December 31, 1974)	$5,000,000
(2) Multiply by percentage of total combined voting power of all classes of Q stock entitled to vote held by members of the group on such date	.7
	3,500,000

Example (6). The facts are the same as in example (5). Assume further that on July 15, 1975, P acquires the remaining 30 percent of the total combined voting power of all classes of Q stock entitled to vote, and on such date the fair market value of Q's assets is $5,500,000. The group is considered to have expended $5,150,000 for the acquisition of assets described in paragraph (b)(2) of this section as of the close of 1975, computed as follows:

(1) Amount of prior years' investment	$3,500,000
(2) Investment during 1975:	
(a) Fair market value of Q's foreign assets described in paragraph (b)(2) of this section on July 15, 1975	5,500,000
(b) Multiply by additional percentage acquired of total combined voting power of all classes of Q stock entitled to vote	.3
(c) Investment during 1975	1,650,000
(3) Amount considered expended for foreign assets described in paragraph (b)(2) of this section by reason of the acquisition of Q stock	5,150,000

(f) *Records.* A DISC shall keep or be readily able to produce such permanent books of account or records as are sufficient to establish the transactions and amounts described in this section. Where applicable, such books of account or records shall be cumulative and shall show transactions and amounts of the members of the controlled group which includes the DISC which occurred prior to the date the DISC qualified (or is treated) as a DISC.

(g) *Multiple DISC's—(1) Allocation among DISC's.* In the case of a controlled group which includes more than one DISC, the amounts described in paragraphs (b) and (c) of this section shall be allocated among the DISC's in order to determine the limitation in paragraph (a) of this section. Each DISC's allocable portion of these amounts shall be equal to the total of such amounts multiplied by a fraction the numerator of which is the individual DISC's outstanding producer's loans to members of the group, and the denominator of which is the aggregate amounts of outstanding producer's loans to members of the group by all DISC's which are members of the group.

(2) *Different taxable years.* If all of the DISC's which are members of the controlled group do not have the same taxable year, then one such DISC shall on behalf of all such DISC's elect to make all computations under section 995(d) as if all DISC's that are members of the group use the same taxable year as the actual taxable year of any one of the DISC's. The election as to which DISC's taxable year is to be used shall be made by the electing DISC attaching to its first return, filed under section 6011(e)(2), a statement indicating which such taxable year will be used. Once such an election is made it may not be revoked until such time as all of the DISC's which are members of the group use the same taxable year. If this subparagraph applies, books and records must be kept by the group which are adequate to show the necessary computations under section 995(d).

(3) This paragraph may be illustrated by the following example:

Example. Corporation X and corporation Y are members of the same controlled group and each has elected to be treated as a DISC. X uses a taxable year ending March 31, and Y uses a taxable year ending November 30. Notwithstanding the fact that all other members of the group use the calendar year as their taxable year, all computations for purposes of determining the amount of foreign investment attributable to producer's loans under section 995(d) must be made as if both DISC's use a taxable year ending either March 31 (X's taxable year) or November 30 (Y's taxable year).

§ 1.996 Statutory provisions; rules for allocation in the case of distributions and losses.

SEC. 996. Rules for Allocation in the Case of Distributions and Losses.

(a) Rules for actual distributions and certain deemed distributions.—

(1) In general.—Any actual distribution (other than a distribution described in paragraph (2) or to which section 995(c) applies) to a shareholder by a DISC (or former DISC) which is made out of earnings and profits shall be treated as made—

(A) First, out of previously taxed income, to the extent thereof,

(B) Second, out of accumulated DISC income, to the extent thereof, and

(C) Finally, out of other earnings and profits.

(2) Qualifying distributions.—Any actual distribution made pursuant to section 992(c) (relating to distributions to meet qualification requirements), and any deemed distribution pursuant to section 995(b)(1)(E) (relating to foreign investment attributable to producer's loans), shall be treated as made—

(A) First, out of accumulated DISC income, to the extent thereof,

(B) Second, out of the earnings and profits described in paragraph (1)(C), to the extent thereof, and

(C) Finally, out of previously taxed income.

(3) Exclusion from gross income.—Amounts distributed out of previously taxed income shall be excluded by the distributee from gross income except for grains described in subsection (e)(2), and shall reduce the amounts of the previously taxed income.

(b) Ordering rules for losses.—If for any taxable year a DISC, or a former DISC, incurs a deficit in earnings and profits, such deficit shall be chargeable—

(1) first, to earnings and profits described in subsection (a)(1)(C), to the extent thereof,

(2) second, to accumulated DISC income, to the extent thereof, and

(3) finally, to previously taxed income, except that a deficit in earnings and profits shall not be applied against accumulated DISC income which has been determined is to be deemed distributed to the shareholders (pursuant to section 995(b)(2)(A)) as a result of a revocation of election or other disqualification.

(c) Priority of distributions.—Any actual distribution made during a taxable year shall be treated as being made subsequent to any deemed distribution made during such year. Any actual distribution made pursuant to section 992(c) (relating to distributions to meet qualification requirements) shall be treated as being made before any other actual distributions during the taxable year.

(d) Subsequent effect of previous disposition of DISC stock.—

(1) Shareholder previously taxed income adjustment.—If—

"(A) gain with respect to a share of stock of a DISC or former DISC is treated under section 995(c) as a dividend or as gain from the sale or exchange of property which is not a capital asset, and

"(B) Any person subsequently receives an actual distribution made out of accumulated DISC income, or a deemed distribution made pursuant to section 995(b)(2), with respect to such share, such person shall treat such distribution in the same manner as a distribution from previously taxed income to the extent that (i) the gain referred to in subparagraph (A), exceeds (ii) any other amounts with respect to such share which were treated under this paragraph as made from previously taxed income. In applying this paragraph with respect to a share of stock in a DISC or former DISC, gain on the acquisition of such share by the DISC or former DISC or gain on a transaction prior to such acquisition shall not be considered gain referred to in subparagraph (A).

(2) Corporate adjustment upon redemption.—If section 995(c) applies to a redemption of stock in a DISC or former DISC, the accumulated DISC income shall be reduced by an amount equal to the gain described in section 995(c) with respect to such stock which is (or has been) treated as gain from the sale or exchange of property which is not a capital asset, except to the extent distributions with respect to such stock have been treated under paragraph (1).

(e) Adjustment to basis.—

(1) Additions to basis.—Amounts representing deemed distributions as provided in section 995(b) shall increase the basis of the stock with respect to which the distribution is made.

(2) Reductions of basis.—The portion of an actual distribution made out of previously taxed income shall reduce the basis of the stock with respect to which it is made, and to the extent that it exceeds the adjusted basis of such stock, shall be treated as gain from the sale or exchange of property. In the case of stock includible in the gross estate of a decedent for which an election is made under section 2032 (relating to alternate valuation), this paragraph shall not apply to any distribution made after the date of the decedent's death and before the alternate valuation date provided by section 2032.

(f) Definitions of divisions of earnings and profits.—For purposes of this part:

(1) DISC income.—The earnings and profits derived by a corporation during a taxable year in which such corporation is a DISC, before reduction for any distributions during the year, but reduced by amounts deemed distributed under section 995(b)(1), shall constitute the DISC income for such year. The earnings and profits of a DISC for a taxable year include any amounts includible in such DISC's gross income pursuant to section 951(a) for such year. Accumulated DISC income shall be reduced by deemed distributions under section 995(b)(2).

(2) Previously taxed income.—Earnings and profits deemed distributed under section 995(b) for a taxable year shall constitute previously taxed income for such year.

(3) Other earnings and profits.—The earnings and profits for a taxable year which are described in neither paragraph (1) nor (2) shall constitute the other earnings and profits for such year.

(g) Effectively Connected income.—In the case of a shareholder who is a nonresident alien individual or a foreign corporation, trust, or estate, gains referred to in section 995(c) and all distributions out of accumulated DISC income including deemed distributions shall be treated as gains and distributions which are effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States.

[Sec. 996 as added by sec. 501, Rev. Act 1971 (85 Stat. 547)]

§ 1.996–1 Rules for actual distributions and certain deemed distributions.

(a) *General rule.* Under section 996(a)(1), any actual distribution (other than a distribution described in paragraph (b) of this section or to which § 1.995–4 applies) to a shareholder by a DISC, or former DISC, which is made out of earnings and profits shall be treated as made—

(1) First, out of "previously taxed income" (as defined in § 1.996–3(c)) to the extent thereof,

(2) Second, out of "accumulated DISC income" (as defined in § 1.996–3(b)) to the extent thereof, and

(3) Third, out of "other earnings and profits" (as defined in § 1.996–3(d)) to the extent thereof.

(b) *Special rule for qualifying distributions and deemed distributions under section 995(b)(1)(E).* Under section 996(a)(2), any actual distribution to meet qualification requirements made pursuant to § 1.992–3, and any deemed distribution pursuant to § 1.995–2(a)(5) (relating to foreign investment attributable to producer's loans), which is made out of earnings and profits shall be treated as made—

(1) First, out of "accumulated DISC income" (as defined in § 1.996–3(b)) to the extent thereof,

(2) Second, out of "other earnings and profits" (as defined in § 1.996–3(d)) to the extent thereof, and

(3) Third, out of "previously taxed income" (as defined in § 1.996–3(c)) to the extent thereof.

(c) *Exclusion from gross income.* Under section 996(a)(3), amounts distributed out of previously taxed income shall be excluded by the distributee from gross income. However, see § 1.996–5(b) for treatment as gain from the sale or exchange of property of the portion of an actual distribution out of previously taxed income to the extent it exceeds the adjusted basis of the stock with respect to which the distribution is made.

(d) *Priority of distributions.* Under section 996(c), for purposes of determining their treatment under paragraphs (a), (b), and (c) of this section, distributions made during a taxable year shall be treated as being made in the following order—

(1) Deemed distributions under §§ 1.995–2 and 1.995–3.

(2) Actual distributions to meet qualification requirements made pursuant to § 1.992–3 in the order in which they are made, and

(3) Other actual distributions in the order in which they are made.

Thus, the treatment of any distribution shall be determined after the divisions of earnings and profits have been properly adjusted by taking into account distributions of higher priority which are made or deemed made during the same taxable year.

(e) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Y Corporation, which uses the calendar year as its taxable year elects to be treated as a DISC beginning with 1972. During 1973, Y makes a cash distribution of $100 to X Corporation, Y's sole shareholder. For 1973, Y has no earnings and profits. As of the beginning of 1973, Y has $300 of accumulated earnings and profits, which consist of $70 of accumulated DISC income, $40 of previously taxed income, and $190 of other earnings and profits. The entire $100 distribution is a dividend under section 316. However, $40 thereof is treated as made out of previously taxed income and is thus excluded from gross income. Accordingly, only $60 is treated as distributed out of accumulated DISC income and includible in gross income. See § 1.246–4 for the inapplicability of the dividend received deduction with respect to the entire distribution of $100.

Example (2). Assume the same facts as in example (1), except that the cash distribution is designated as a distribution to meet qualification requirements made pursuant to § 1.992–3. Under these facts, X includes the entire distribution in its gross income as a dividend. Of the $100 distributed, $70 is treated as made out of accumulated DISC income and the remaining $30 is treated as made out of other earnings and profits. The dividend received deduction under section 243 is available only with respect to such $30.

§ 1.996–2 Ordering rules for losses.

(a) *In general.* Under section 996(b), if for any taxable year a DISC, or a former DISC, incurs a deficit in earnings and profits, such deficit shall be charged—

(1) First, to other earnings and profits (as defined in § 1.996–3(d)) to the extent thereof,

(2) Second, to accumulated DISC income (as defined in § 1.996–3(b)) to the extent thereof, subject to the special rule in paragraph (b) of this section,

(3) Third, to previously taxed income (as defined in § 1.996–3(c)) to the extent thereof, and

(4) To the extent that the amount of such deficit exceeds the sum of the amounts charged in accordance with subparagraphs (1), (2), and (3) of this paragraph, to other earnings and profits (as defined in § 1.996–3(d)).

Thus, the excess deficit charged to other earnings and profits under subparagraph (4) of this paragraph will create a deficit therein in the amount of such excess. To determine the amount of any division of earnings and profits for the purpose of determining under § 1.996–1 the treatment of any actual and certain deemed distributions, the portion of a deficit in earnings and profits chargeable under this paragraph to such division prior to such distribution shall be determined in a manner consistent with the rules in § 1.316–2(b) for determining the amount of earnings and profits available on the date of any distribution.

(b) *Deficits subsequent to a disqualification.* A deficit in earnings and profits of a DISC, or former DISC, shall not be charged to accumulated DISC income which has been determined is to be deemed distributed to the shareholders pursuant to § 1.995–3 as a result of a revocation of election or other disqualification. Thus, in accordance with paragraph (a) of this section as modified by this paragraph, a deficit incurred by a former DISC following such a revocation or disqualification shall be charged first to other earnings and profits and then to previously taxed income with any balance being charged to other earnings and profits and creating a deficit therein. The preceding sentence shall also apply in the case of a deficit incurred by a DISC which has no accumulated DISC income accumulated during its current taxable year and all immediately preceding consecutive taxable years for which it was a DISC. If as a result of the application of this paragraph the amount of a deficit in other earnings and profits exceeds the amount of a deficit in accumulated earnings and profits, then upon any subsequent actual distribution the deficit in other earnings and profits shall be reduced by the lower of (1) the amount of such actual distribution chargeable to accumulated DISC income or previously taxed income or (2) the amount of such excess.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). X Corporation, which uses the calendar year as its taxable year, becomes a DISC beginning with 1976. In addition to other facts assumed in the table below, X incurs a deficit in earnings and profits for 1979 of $70. Such deficit is charged to the divisions of X's earnings and profits pursuant to paragraph (a) of this section in the manner set forth in such table.

	Accumulated DISC income	Previously taxed income	Other earnings and profits
Balance Jan. 1, 1976			$50
Increase for 1976	$10	$8	
Increase for 1977	10	8	
Increase for 1978	10	8	
Balance Jan. 1, 1979	30	24	50
Deficit for 1979 of $70:			
Charge No. 1			(50)
Charge No. 2	(20)		
Balance Jan. 1, 1980	10	24	0

Example (2). Assume the same facts as in example (1), except that effective for taxable years beginning with 1979, X revokes its election to be treated as a DISC. Under § 1.995–3, X has $30 of accumulated DISC income which is to be deemed distributed $10 per year in 1980, 1981, and 1982. The deficit in earnings and profits for 1979 is charged to the divisions of X's earnings and profits pursuant to paragraph (b) of this section in the manner set forth in the table below:

	Accumulated DISC income	Previously taxed income	Other earnings and profits
Balance Jan. 1, 1979	$30	$24	$50
Deficit for 1979 of $70:			
Charge No. 1			(50)
Charge No. 2		(20)	
Balance Jan. 1, 1980	30	4	0

Example (3). Assume the same facts as in example (2), except that the deficit in earnings and profits for 1979 is $120. Assume further that for 1980, 1981, and 1982, during which years X's shareholders are receiving scheduled installments of the deemed distributions of accumulated DISC income under § 1.995–3, X, a former DISC, has neither earnings and profits nor a deficit in earnings and profits. The $120 deficit for 1979 is charged to the divisions of X's earnings and profits pursuant to paragraph (b) of this section in the manner set forth in the table below:

	Accumulated DISC income	Previously taxed income	Other earnings and profits	Accumulated earnings and profits
Balance Jan. 1, 1979	$30	$24	$50	$104
Deficit for 1979 of $120				(120)
Charge No. 1			(50)	
Charge No. 2		(24)		
Charge No. 3			(46)	
Balance Jan. 1, 1980	30	0	(46)	(16)
Deemed distributions in 1980 under § 1.995–3	(10)	10		
Balance Jan. 1, 1981	20	10	(46)	(16)

Example (4). Assume the same facts as in example (3), except that on December 31, 1980, X makes an actual distribution of $10 out of previously taxed income. On January 1, 1981, X has $20 of accumulated DISC income, no previously taxed income, and a deficit of $36 in other earnings and profits. The deficit of $16 in accumulated earnings and profits remains the same.

§ 1.996–3 Divisions of earnings and profits.

(a) *In general.* For purposes of sections 991 through 997, the earnings and profits of a DISC, or former DISC, shall be treated as composed of the following three divisions:

(1) Accumulated DISC income (as defined in paragraph (b) of this section),

(2) Previously taxed income (as defined in paragraph (c) of this section), and

(3) Other earnings and profits (as defined in paragraph (d) of this section).

(b) *Accumulated DISC income defined.* (1) Accumulated DISC income is that portion of a corporation's earnings and profits which were derived during taxable years for which it qualified as a DISC and which were deferred from taxation. Accumulated DISC income as of the close of each taxable year of the corporation is—

(i) The amount of accumulated DISC income as of the close of the immediately preceding taxable year increased by

(ii) The amount of DISC income for the year (as determined in subparagraph (2) of this paragraph) and reduced (but not below zero) by

(iii) The items enumerated in subparagraph (3) of this paragraph.

(2) Under section 996(f)(1), DISC income is (i) the earnings and profits derived by the corporation during a taxable year for which such corporation is a DISC minus (ii) amounts deemed distributed under § 1.995–2 other than the amount of foreign investment attributable to producer's loans described in § 1.995–2(a)(5). For example, the earnings and profits of a DISC for a taxable year include any amounts includible in such DISC's gross income pursuant to section 951(a) (relating to controlled foreign corporations). Deemed distributions under § 1.995–2(a)(5) are taken into account under subparagraph (3) of this paragraph as a reduction in computing accumulated DISC income.

(3) The accumulated DISC income (as increased by DISC income for the year determined under subparagraph (2) of this paragraph) is reduced by each of the following items in the following order:

(i) Any amount deemed distributed for such year under § 1.995–3 (relating to deemed distributions upon disqualification),

(ii) Any amount of foreign investment attributable to producer's loans deemed distributed for such year under § 1.995–2(a)(5) to the extent it is charged to accumulated DISC income under § 1.996–1(b)(1),

(iii) The amount of any adjustment to accumulated DISC income for such year under § 1.966–4(b)(1), and

(iv) To the extent they are treated, under § 1.996–1 (a) or (b) (relating to ordering rules for distributions), as made out of accumulated DISC income, the amounts of any actual qualifying distributions pursuant to § 1.992–3 in the order in which they are made, and thereafter by the amounts of any other actual distributions in the order in which they are made, except that, prior to each actual distribution, accumulated DISC income shall be reduced by the portion of any deficit in earnings and profits for the taxable year chargeable at that time under § 1.996–2(a)(2) to accumulated DISC income.

(4) Every distribution or other reduction in accumulated DISC income pursuant to subparagraph (3) of this paragraph shall be charged to the most recently accumulated DISC income.

(c) *Previously taxed income.* Under section 996(f)(2), previously taxed income as of the close of each taxable year of the corporation is an amount equal to—

(1) The sum of—

(i) The amount of previously taxed income as of the close of the immediately preceding taxable year,

(ii) Amounts deemed distributed for the current year under § 1.995–2 (relating to deemed distributions in qualified years),

(iii) Amounts deemed distributed for the current year under § 1.995–3 (relating to deemed distributions upon disqualification),

(iv) With respect to a distribution in redemption to which § 1.996–4(b)(1) applies, an amount equal to the excess (if any) of (*a*) the amount of the reduction under § 1.996–4(b)(1) in accumulated DISC income over (*b*) the reduction in the corporation's earnings and profits (see section 312(e)), and

(v) Any amount by which accumulated DISC income is reduced under paragraph (b)(3)(ii) of this section by reason of a deemed distribution as a dividend, under § 1.995–2(a)(5), of an amount of foreign investment attributable to producer's loans,

(2) Decreased (but not below zero), to the extent they are treated, under § 1.996–1 (a) or (b) (relating to ordering rules for distributions), as made out of previously taxed income, by the amounts of any actual qualifying distributions pursuant to § 1.992–3 in the order in which they are made, and thereafter by the amounts of any other actual distributions in the order in which they are made, except that, prior to any actual distribution, previously taxed income shall be reduced by the portion of any deficit in earnings and profits for the taxable year chargeable at that time under § 1.996–2(a)(3) to previously taxed income.

(d) *Other earnings and profits.* Under section 996(f)(3), other earnings and profits consist of earnings and profits other than accumulated DISC income and previously taxed income described respectively in paragraphs (b) and (c) of this section. Other earnings and profits as of the close of each taxable year

of the corporation is (subject to paragraph (e) of this section) an amount equal to the amount of other earnings and profits as of the close of the immediately preceding taxable year decreased (if necessary, below zero) in the following order by—

(1) To the extent they are treated, under § 1.996–1 (a) or (b) (relating to ordering rules for distributions), as made out of other earnings and profits, the amounts of any actual qualifying distributions pursuant to § 1.992–3 in the order in which they are made, and thereafter the amounts of any other actual distributions in the order in which they are made, except that, prior to any actual distribution, other earnings and profits shall be reduced by the portion of any deficit in earnings and profits for the taxable year chargeable at that time under § 1.996–2(a)(1) to other earnings and profits, and

(2) With respect to a distribution in redemption to which § 1.996–4(b)(1) applies, an amount equal to the excess (if any) of (*a*) the reduction in the corporation's earnings and profits (see section 312(e)) over (*b*) the amount of the reduction under § 1.996–4(b)(1) in accumulated DISC income.

(e) *Distributions in kind.* (1) For purposes of determining, under paragraphs (b), (c), and (d) of this section, the amount by which any division of earnings and profits is reduced by reason of a distribution of property (other than money or the DISC's, or former DISC's, own obligations), the amount of such distribution is the fair market value of such property at the time of the distribution.

(2) For any taxable year in which the DISC makes a distribution of such property, the amount of other earnings and profits determined under paragraph (d) of this section (without regard to this subparagraph) shall be—

(i) Increased by the excess (if any) of the amount of such distribution treated as a dividend under section 316(a) over the adjusted basis of such property, and

(ii) Decreased by the excess (if any) of the adjusted basis of such property over the amount of such distribution treated as a dividend under section 316(a).

Each item of property shall be considered separately for purposes of making the adjustment under this subparagraph.

(f) *Examples.* The provisions of §§ 1.996–1, 1.996–2, and this section may be illustrated by the following examples:

Example (1). M Corporation, which uses the calendar year as its taxable year, elects to be treated as a DISC beginning with 1974. During 1975, M derives no earnings and profits and makes no deemed or actual distributions, except that on December 31, 1975, M's shareholders are treated as having received a dividend distribution of $100 under § 1.995–2(a)(5) (relating to foreign investment attributable to producer's loans). M's earnings and profits are adjusted as shown on line (2) of the table below on the basis of facts assumed therein.

	Accumulated earnings and profits	Accumulated DISC income	Previously taxed income	Other earnings and profits
(1) Balance Jan. 1, 1975	$450	$100	$250	$100
(2) Adjustments (see paragraphs (b)(3)(ii) and (c)(1)(v) of this section)	0	(100)	100	0
(3) Balance Jan. 1, 1976	450	0	350	100

Example (2). N Corporation, which uses the calendar year as its taxable year, elects to be treated as a DISC beginning with 1972. During 1973, N derives no earnings and profits for the year and makes no deemed or actual distributions, except that A, a shareholder, realized $200 of gain upon receiving an actual cash distribution of $300 in redemption of N stock having an adjusted basis of $100 in his hands. The redemption is treated as an exchange under section 302(a) but, under section 995(c), A includes the $200 of gain in his gross income as a dividend. Assuming that, under section 312(e), $240 is properly chargeable to capital account of N and that, under § 1.996–4(b), accumulated DISC income is reduced by $200, N's accounts are adjusted on line (2) of the table below on the basis of facts assumed therein.

	Capital	Accumulated earnings and profits	Accumulated DISC income	Previously taxed income	Other earnings and profits
(1) Balance Jan. 1, 1973	$2,000	$400	$300	$100	0
(2) Adjustments (see § 1.996–4(b) and paragraph (c)(1)(iv) of this section)	(240)	(60)	(200)	140	0
(3) Balance Jan. 1, 1974	1,760	340	100	240	0

Example (3). P Corporation, which uses the calendar year as its taxable year, elects to be treated as a DISC beginning with 1973. During 1974, P derives no earnings and profits for the year and makes no deemed or actual distributions, except for a distribution to B, its sole shareholder, of property with a fair market value of $100 and an adjusted basis in P's hands of $40. Under § 1.996–1(a)(1), B treats the entire amount of the distribution as being made out of previously taxed income and, under § 1.996–1(c), excludes it from his gross income. P's earnings and profits, divisions are adjusted on lines (2) and (3) of the table below on the basis of facts assumed therein.

	Accumulated earnings and profits	Accumulated DISC income	Previously taxed income	Other earnings and profits
(1) Balance Jan. 1, 1974	$200	$80	$120	0
(2) Adjustment under paragraphs (c)(2) and (e)(1) this section	(40)	0	(100)	0
(3) Adjustment under paragraph (e)(2)(i) of this section	0	0	0	$60
(4) Balance Jan. 1, 1975	160	80	20	60

Example (4). Q Corporation, which uses the calendar year as its taxable year, elects to be treated as a DISC beginning with 1974. On January 1, 1975, Q has accumulated earnings and profits of $1,200 and, during 1975, Q incurs a deficit in earnings and profits of $365. The amount of such deficit incurred as of any date before the close of 1975 cannot be shown. On July 1, 1975, Q makes a cash distribution of $650, with respect to its stock to C, Q's sole shareholder. C subsequently transfers by gift all of his Q stock to D. On December 31, 1975, Q makes a cash distribution of $650, with respect to its stock, to D. Under these facts and additional facts assumed in the table below, C is treated as having received a dividend of $650 of which $320 is treated as distributed out of previously taxed income and excluded from gross income. D is treated as receiving a dividend of $186. Adjustments to Q's earnings and profits accounts are illustrated in the table below.

	Accumulated earnings and profits	Accumulated DISC income	Previously taxed income	Other earnings and profits
(1) Balance Jan. 1, 1975	$1,200	$800	$320	$80
(2) Portion of 1975 deficit of $365 chargeable as of June 30, 1975, pursuant to § 1.996–2(a)	(181)	(101)	0	(80)
(3) Balance July 1, 1975	1,019	699	320	0
(4) $650 distributed to C on July 1, 1975	(650)	(330)	(320)	0
(5) Portion of 1975 deficit of $365 chargeable as of Dec. 30, 1975, pursuant to § 1.996–2(a)	(183)	(183)	0	0
(6) Balance Dec. 31, 1975	186	186	0	0
(7) $650 distributed to D on Dec. 31, 1975 [1]	(186)	(186)	0	0
(8) Balance Jan. 1, 1976	0	0	0	0

[1] $60 treated as return of capital pursuant to section 301(c)(2).

Examples (5)—(1) Facts. R Corporation, which uses the calendar year as its taxable year elects to be treated as a DISC beginning with 1972. X Corporation is its sole shareholder. At the beginning of 1974, R has a deficit in earnings and profits of $60 all of which is composed of "other earnings and profits". For 1974, R has earnings and profits

of $80 before reduction for any distributions and taxable income of $70. On June 15, 1974, R makes a cash distribution to X of $60, with respect to its stock, to which section 301 applies. On August 15, 1974, R makes a cash distribution to X of $30 designated as a distribution to meet qualification requirements pursuant to § 1.992–3. Under § 1.995–2 (a), X is deemed to receive, on December 31, 1974, a distribution of a dividend of $35, i.e., one-half of R's taxable income of $70. The tax consequences of these facts to X and their effect on R's earnings and profits are set forth in the subsequent subparagraphs of this example.

(2) *Dividend treatment of actual distributions.* Since R had $80 of earnings and profits for 1974 and a deficit in accumulated earnings and profits at the beginning of 1974, only $80 of the actual distributions ($90) are treated as dividends under sections 301 (c)(1) and 316(a)(2). ($10 of the actual distribution, which is not treated as a dividend is treated in the manner specified in section 301(c) (2) and (3).) Thus, under § 1.316–2(b), $26.67 of the actual qualifying distribution made on August 15, 1974 ($30 × $80/$90), and $53.33 of the actual distribution made on June 15, 1974 ($60 × $80/$90), are considered made out of earnings and profits.

(3) *Priority of distributions.* Under § 1.996–1(d), for purposes of adjusting the divisions of R's earnings and profits and determining the treatment of subsequent distributions, the sequence in which each distribution is treated as having been made is—

(i) First, the deemed distribution of $35,

(ii) Second, the actual qualifying distribution of $30 made on August 15, 1974, pursuant to § 1.992–3, and

(iii) Finally, the actual distribution of $60 made on June 15, 1974.

(4) *Treatment and effect of deemed distribution.* Under § 1.995–2(a), on December 31, 1974, X includes the deemed distribution of $35 in its gross income as a dividend. Under paragraph (c)(1)(ii) of this section, R's previously taxed income is increased by $35 as shown on line (3) of the table in subparagraph (7) of this example. Under paragraph (b)(1)(ii) and (2) of this section, accumulated DISC income is increased by $45 of DISC income i.e., R's earnings and profits for 1974, $80, minus the deemed distribution of $35, as shown on line (4) of the table.

(5) *Treatment and effect of actual qualifying distribution of $30.* As indicated in subparagraph (2) of this example, $26.67 of the $30 qualifying distribution on August 15, 1974, is treated as made out of earnings and profits for 1974. Under § 1.996–1(b)(1), the entire $26.67 is treated as distributed out of accumulated DISC income. Thus, on August 15, 1974, X includes $26.67 in its gross income as a dividend. No deduction is allowable under section 243. Under paragraph (b)(3)(iv) of this section, R's accumulated DISC income is reduced by $26.67 as shown on line (6) of the table in subparagraph (7) of this example.

(6) *Treatment and effect of actual distribution of $60.* As indicated in subparagraph (2) of this example, $53.33 of the $60 distribution on June 15, 1974, is treated as made out of earnings and profits for 1974. Under § 1.996–1(a), the $53.33 is treated as distributed out of previously taxed income to the extent thereof, $35, and then out of accumulated DISC income, $18.33. Thus, on June 15, 1974, X includes $18.33 in its gross income as a dividend. Under § 1.996–1(c), the distribution of $35 out of previously taxed income is excluded from gross income. No deduction is allowable under section 243 with respect to the actual distribution of $53.33. Under paragraph (b)(3)(iv) of this section, accumulated DISC income is reduced by $18.33 and, under paragraph (c)(2) of this section, previously taxed income is reduced by $35, as shown on line (7) of the table in subparagraph (7) of this example.

(7) *Summary.* The effects on earnings and profits and the divisions of earnings and profits are summarized in the following table:

	Earnings and profits for year	Accumulated earnings and profits	Accumulated DISC income	Previously taxed income	Other earnings and profits
(1) Balance Jan. 1, 1974		($60.00)			($60.00)
(2) Earnings and profits for year before reduction for distributions	$80.00				
(3) Deemed distribution of $35 to X on Dec. 31, 1974, under § 1.995–2(a)				$35.00	
(4) DISC income for 1974 of $45 as defined in paragraph (b)(2) of this section (line 2 ($80) minus line 3 ($35))			$45.00		
(5) Balance before actual distributions	80.00	(60.00)	45.00	35.00	(60.00)
(6) Qualifying distribution of $30 to X on Aug. 15, 1974, pursuant to § 1.992–3	(26.67)		(26.67)		
(7) Actual distribution to P of $60 on June 15, 1974	(53.33)		(18.33)	(35.00)	
(8) Balance Jan. 1, 1975	0	(60.00)	0		(60.00)

Example (6). Assume the facts are the same as in example (5), except that at the beginning of 1974 R's accumulated earnings and profits amount to $60 consisting of accumulated DISC income of $20, previously taxed income of $10, and other earnings and profits of $30. In addition, on August 1, 1974, X transfers all R's stock to Y Corporation in a reorganization described in section 368(a)(1)(B) in which under section 354 X recognizes no gain or loss. Under these facts, X includes in its gross income for 1974 a dividend of $15 which is attributable to the actual distribution of $60 paid out of earnings and profits on June 15, 1974. X excludes from gross income the balance of the $60 distribution ($45) paid out of earnings and profits because, under § 1.996–1(a), it is treated as paid out of previously taxed income. Y includes in its gross income for 1974 a dividend of $65 of which $35 is attributable to the deemed distribution of a dividend to Y on December 31, 1974, under § 1.995–2(a) and $30 is attributable to the qualifying distribution paid out of earnings and profits to Y on August 15, 1974. The adjustments to R's earnings and profits are summarized in the following table:

	Earnings and profits for year	Accumulated earnings and profits	Accumulated DISC income	Previously taxed income	Other earnings and profits
(1) Balance Jan. 1, 1974		$60	$20	$10	$30
(2) Earnings and profits for year before reduction for distributions	$80				
(3) Deemed distribution of $35 to Y on Dec. 31, 1974, under § 1.995–2(a)				35	
(4) DISC income for 1974 of $45 as defined in paragraph (b)(2) of this section (line 2 ($80) minus line 3 ($35))			45		
(5) Balance before actual distributions	80	60	65	45	30
(6) Qualifying distribution of $30 to Y on Aug. 15, 1974, pursuant to § 1.992–3	(26.67)	(3.33)	(30)		
(7) Actual distribution to X of $60 on June 15, 1974	(53.33)	(6.67)	(15)	(45)	
(8) Balance Jan. 1, 1975		50	20	0	30

§ 1.996–4 Subsequent effect of previous disposition of DISC stock.

(a) *Shareholder adjustment for previously taxed income.* (1) Under section 996(d)(1), except as provided in subparagraph (2) of this paragraph, if—

(i) Gain with respect to a share of stock of a DISC, or former DISC, is treated under § 1.995–4 as a dividend, and

(ii) With respect to such share, any person subsequently receives an actual distribution made out of accumulated DISC income, or a deemed distribution made, pursuant to § 1.995–3, by reason of disqualification, out of accumulated DISC income,

then such person shall treat such distribution in the same manner as a distribution from previously taxed income (and thus excludable from gross income under § 1.996–1(c)) to the extent that the gain referred to in subdivision (i) of this subparagraph exceeds the aggregate amount of any other distributions with respect to such share which were treated under this subparagraph as made from previously taxed income.

(2) In applying subparagraph (1) of this paragraph with respect to a share of stock in a DISC, or former DISC, the gain referred to in subparagraph (1)(i) of this paragraph does not include any gain to a shareholder on a redemption of such share which qualifies as an exchange under section 302(a) or any gain on a disposition of such share prior to such redemption. Distributions described in subparagraph (1)(ii) of this paragraph do not include a

distribution in a redemption which qualifies as an exchange under section 302(a). For adjustments to accumulated DISC income by reason of dividend treatment under § 1.995–4 with respect to gain upon a redemption of DISC stock to which section 302(a) applies and upon a prior disposition of such stock, see paragraph (b) of this section.

(3) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. In 1974, under § 1.995–4, A, a shareholder of a DISC, on the sale of his DISC stock to B, is required to treat $20 of his gain as a dividend. The DISC has no previously taxed income and $40 of accumulated DISC income. Subsequently in the same year, B, the purchaser of the stock, receives an actual dividend distribution of $15 with respect to such stock which, under § 1.996–1(a), is treated as made out of accumulated DISC income. The amounts of the DISC's previously taxed income and accumulated DISC income were not adadjusted by reason of the $20 treated as a dividend on the prior sale. However, even though the DISC had no previously taxed income, the purchaser would treat the $15 as though it had been paid out of previously taxed income and, therefore would not include the $15 in gross income. If in 1975, B receives another actual distribution of $9 with respect to such stock, $5 (i.e., $20 dividend on A's sale less the $15 distribution to B in 1974 which was treated under subparagraph (1) of this paragraph as made from previously taxed income) is treated as made from previously taxed income and excluded from gross income. The result would be the same if, on January 1, 1975, B had transferred such stock to C by gift and the $9 distribution had been made to C.

(b) *Corporate adjustment upon redemption.* (1) Under section 996(d)(2), if by reason of § 1.995–4 gain on a redemption of stock in a DISC, or former DISC, is included in the shareholder's gross income as a dividend, then the accumulated DISC income shall be reduced by an amount equal to the sum of—

(i) The amount of gain on such redemption which, under § 1.995–4, is treated as a dividend, and

(ii) The amount of any gain with respect to such redeemed stock which, under § 1.995–4, was treated as a dividend on a disposition prior to such redemption minus the amount of distributions with respect to such stock which have been treated as made out of previously taxed income by reason of the application of paragraph (a)(1) of this section.

(2) The provisions of this paragraph may be illustrated by the following examples:

Example (1). The entire stock of a DISC, which uses the calendar year as its taxable year, has been owned equally by A, B, C, and D since it was organized. At the close of 1976, when the DISC has $100 of accumulated DISC income, it redeems all of A's shares in a transaction qualifying as an exchange under section 302(a) and A, under § 1.995–4, includes $25 in his gross income as a dividend. The redemption has the effect of reducing accumulated DISC income by $25 to $75.

Example (2). Assume the same facts as in example (1) except that the stock of the DISC has not been held equally by A, B, C, and D since its organization. A purchased his shares from X in 1974 in a transaction in which X, under § 1.995–4, included in his gross income $30 as a dividend. In 1975, A receives a distribution of $10 out of accumulated DISC income which, under paragraph (a)(1) of this section, is treated as made out of previously taxed income. Under these facts, the redemption of A's stock in 1976 has the effect of reducing accumulated DISC income by $45 to $55 determined as follows:

(a) Accumulated DISC income		$100
(b) Minus sum of:		
(1) Dividend on redemption of A's stock	$25	
(2) Excess of dividend on X's sale ($30) over distribution to A treated as made out of previously taxed income ($10)	$20	
Total		45
(c) Accumulated DISC income on 12/31/76		55

§ 1.996–5 Adjustment to basis.

(a) *Addition to basis.* Under section 996(e)(1) amounts representing deemed distributions as provided in section 995(b) shall increase the basis of the stock with respect to which the distribution is made.

(b) *Reductions of basis.* Under section 996(e)(2), the portion of an actual distribution treated as made out of previously taxed income shall reduce the basis of the stock with respect to which it is made and, to the extent that it exceeds the adjusted basis of such stock, shall be treated as gain from the sale or exchange of property. In the case of stock includible in the gross estate of a decedent for which an election is made under section 2032 (relating to alternate valuation), this paragraph shall not apply to any distribution made after the date of the decendent's death and before the alternate valuation date provided by section 2032. See section 1014(d) for a special rule for determining the basis of stock in a DISC, or former DISC, acquired from a decedent.

§ 1.996–6 Effectively connected income.

In the case of a shareholder who is a nonresident alien individual or a foreign corporation, trust, or estate, amounts taxable as dividends by reason of the application of § 1.995–4 (relating to gain on disposition of stock in a DISC), amounts treated under § 1.996–1 as distributed out of accumulated DISC income, and amounts deemed distributed under § 1.995–2(a) (1) through (4) shall be treated as gains and distributions which are effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States, and shall be subject to tax in accordance with the provisions of section 871(b) and the regulations thereunder in the case of nonresident alien individuals, trusts, or estates, or section 882 and the regulations thereunder in the case of foreign corporations. In no case, however shall other income of such shareholder be taxable as effectively connected with the conduct of a trade or business through a permanent establishment in the United States solely because of the application of this section.

§ 1.996–7 Carryover of DISC tax attributes.

(a) *In general.* Carryover of a DISC's divisions of earnings and profits to acquiring corporations in nontaxable transactions shall be subject to rules generally applicable to other corporate tax attributes. For example, a DISC which acquires the assets of another DISC in a transaction to which section 381(a) applies shall succeed to, and take into account, the divisions of the earnings and profits of the transferor DISC in accordance with section 381(c)(2).

(b) *Allocation of divisions of earnings and profits in corporate separations.* (1) If one DISC transfers part of its assets to a controlled DISC in a transaction to which section 368(a)(1)(D) applies and immediately thereafter the stock of the controlled DISC is distributed in a distribution or exchange to which section 355 (or so much of section 356 as relates to section 355) applies, then—

(i) The earnings and profits of the distributing DISC immediately before the transaction shall be allocated between the distributing DISC and the controlled DISC in accordance with the provisions of § 1.312–10.

(ii) Each of the divisions of such earnings and profits, namely previously taxed income, accumulated DISC income, and other earnings and profits, shall be allocated between the distributing DISC and the controlled DISC on the same basis as the earnings and profits are allocated.

(iii) Any assets of the distributing DISC whose status as qualified export assets is limited by its accumulated DISC income (e.g., producer's loans described in § 1.993–4, Export-Import Bank and other obligations described in § 1.993–2(h), and financing obligations described in § 1.993–2(i)) shall be treated as having been allocated, for the purpose of determining the classification of such assets in the hands of the distributing DISC or the controlled DISC, on the same basis as the earnings and profits are allocated regardless of how such assets are actually allocated.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. On January 1, 1974, P Corporation transfers part of its assets to S Corporation, a newly organized subsidiary of P, in a transaction described in section 368(a)(1)(D) and distributes all the S stock in a transaction which qualifies under section 355. Immediately before such transfer, P had earnings and profits of $120,000 of which $100,000 constitutes accumulated DISC income. The unpaid balance of P's producer's loans is $80,000 all of which is retained by P. Pursuant to § 1.312–10, 25 percent of P's accumulated DISC income is allocated to S

(i.e., $25,000). P's producer's loans will be treated as allocated to S in the same proportion. Accordingly, for purposes of determining, under § 1.993-4(a)(3), the amount of producer's loans which S is entitled to make, S is treated as having an unpaid balance of producer's loans of $20,000 (i.e., 25% × $80,000) and P is treated as having an unpaid balance of $60,000 (i.e., 75% × $80,000).

(c) *Accumulated DISC income accounts of separate DISC's maintained after corporate combination.* If two or more DISC's combine to form a new DISC, or if the assets of one DISC are acquired by another DISC, in a transaction described in section 381(a), accumulated DISC income of the acquired DISC or DISC's shall carry over and be taken into account by the acquiring or new DISC, except that a separate account shall be maintained for the accumulated DISC income of any DISC scheduled to be received as a deemed distribution by its shareholders under § 1.995-3 (relating to deemed distributions upon disqualification). If, as a part of such transaction, the stock of the DISC which has accumulated DISC income scheduled to be deemed distributed is exchanged for stock of the acquiring or new DISC to which such accumulated DISC income is carried over and which maintains a separate account, then such accumulated DISC income shall be deemed distributed pro rata to shareholders of the acquiring or new DISC on the basis of stock ownership immediately after the exchange.

§ 1.996-8 Effect of carryback of capital loss or net operating loss to prior DISC taxable year.

(a) Under § 1.995-2(e), the deduction under section 172 for a net operating loss carryback or under section 1212 for a capital loss carryback is determined as if the DISC were a domestic corporation which had not elected to be treated as a DISC. A carryback of a net operating loss or of a capital loss of any corporation which reduces its taxable income for a preceding taxable year for which it qualified as a DISC will have the consequences enumerated in paragraphs (b) through (e) of this section.

(b) For such preceding taxable year, the amount of a deemed distribution of one-half of certain taxable income described in § 1.995-2(a)(4) will ordinarily be reduced in effect (but not below zero) by one-half of the sum of the amount of the deduction under section 172 for such year for net operating loss carrybacks and the amount of the deduction under section 1212 for such year for capital loss carrybacks.

(c) The amount of reduction in the deemed distribution under paragraph (b) of this section will have the effect of increasing the limitation, provided in § 1.995-2(b)(2), on the amount of foreign investment attributable to producer's loans which is deemed distributed under § 1.995-2(a)(5).

(d) If the amount of a deemed distribution for a preceding taxable year is reduced as described in paragraph (b) of this section, then for such preceding taxable year the previously taxed income (as defined in § 1.996-3(c)) shall be decreased by the amount of such reduction and the accumulated DISC income (as defined in § 1.996-3(b)) shall be increased by the amount of such reduction. Such adjustments shall be made as of the time the deemed distribution for such preceding taxable year is treated as having occurred. See § 1.996-1(d) for the priority of such deemed distribution in relation to other distributions made in that preceding taxable year.

(e) The amount and treatment of any actual distribution made in such preceding taxable year or a year subsequent to such preceding year, and the treatment of gain on a disposition (in any such year) of the DISC's stock to which § 1.995-4 applies, shall be properly adjusted to reflect the adjustments to previously taxed income and accumulated DISC income described in paragraph (d) of this section.

§ 1.997 Statutory provisions; special subchapter C rules.

SEC. 997. Special Subchapter C Rules.

For purposes of applying the provisions of subchapter C of chapter 1, any distribution in property to a corporation by a DISC or former DISC which is made out of previously taxed income or accumulated DISC income shall—

(1) Be treated as a distribution in the same amount as if such distribution of property were made to an individual, and

(2) Have a basis, in the hands of the recipient corporation, equal to the amount determined under paragraph (1).

[Sec. 997 as added by sec. 501 Rev. Act 1971 (85 Stat. 544)]

§ 1.997-1 Special rules for subchapter C of the Code.

(a) For purposes of applying the provisions of sections 301 through 395 of the Code, any distribution in property to a corporation by a DISC, or former DISC, which is made out of previously taxed income or accumulated DISC income shall be treated as a distribution in the same amount as if such distribution of property were made to an individual, and have a basis, in the hands of the recipient corporation, equal to such amount treated as having been distributed.

(b) This section may be illustrated by the following example:

Example. X Corporation is the sole shareholder of Y Corporation which is a DISC. Y makes an actual distribution of property to X with respect to X's stock in Y. The property has a basis of $50 and a fair market value of $100. The distribution is treated as made out of accumulated DISC income under section 996(a) and is taxable as a dividend under section 301(c)(1). Even though X is a corporation, the amount of the distribution is $100 notwithstanding the provisions of section 301(b)(1)(B) and the basis the property in X's hands is $100 notwithstanding the provisions of section 301(d)(2).

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: September 17, 1974.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.74-22295 Filed 9-27-74;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Export-Import Bank of the United States

Section 213.3342 is amended to show that one position of Secretary to the General Counsel is excepted under Schedule C.

Effective on September 30, 1974, § 213.3342(m) is added as set out below.

§ 213.3342 Export-Import Bank of the United States.

* * * * *

(m) One Secretary to the General Counsel.

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

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

[FR Doc.74-22551 Filed 9-27-74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to show that one additional position of Confidential Assistant to the Administrator, Food and Nutrition Service, is excepted under Schedule C.

Effective on September 30, 1974, § 213.3313(q)(1) is amended as set out below.

§ 213.3313 Department of Agriculture.

* * * * *

(q) *Food and Nutrition Service.* (1) Four Confidential Assistants to the Administrator.

* * * * *

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

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

[FR Doc.74-22553 Filed 9-27-74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one position of Staff Assistant to the Director, Community Relations Service, is excepted under Schedule C.

Effective on September 30, 1974, § 213.3310(r)(7) is added as set out below.

§ 213.3310 Department of Justice.

* * * * *

(r) *Community Relations Service.* * * *

(7) One Staff Assistant to the Director.

* * * * *

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

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

[FR Doc.74–22552 Filed 9–27–74;8:45 am]

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that one position of Chief, State and Local Government Division, Office of the Assistant Director for Operations, is excepted under Schedule C.

Effective on September 30, 1974, § 213.3373(c)(5) is added as set out below.

§ 213.3373 Office of Economic Opportunity.

* * * * *

(c) *Office of the Assistant Director for Operations.* * * *

* * * * *

(5) One Chief, State and Local Government Division.

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

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

[FR Doc.74–22554 Filed 9–27–74;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Standards for Grades of Fruit Preserves (or Jams)

Notice is hereby given that the U.S. Department of Agriculture is amending § 52.1111 of the United States Standards for Grades of Fruit Preserves (or Jams). The cited section identifies fruit preserves (or jams) as being the product defined in the Definitions and Standards of Identity for Preserves (Jams) (21 CFR 29.3) issued pursuant to the Federal Food, Drug, and Cosmetic Act. The Definitions and Standards of Identity have been amended effective October 29, 1974 (39 FR 31304).

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

It is hereby found that notice of proposed rulemaking and public procedure thereon are impracticable, unnecessary, and contrary to the public interest (5 U.S.C. 553) in that (1) the requirements of Food and Drug Definitions and Standards of Identity are regulatory in nature, (2) the amended Food and Drug Definitions and Standards of Identity for Preserves (Jams) were established pursuant to public notice and rulemaking procedure, and (3) additional time is not required by users of the United States Standards for Grades of Fruit Preserves (or Jams) to comply with this amendment.

The amended § 52.1111 will read:

§ 52.1111 Identity.

"Fruit preserves (or jams)" means preserves or jams as defined in the definitions and standards of identity for preserves, jams (21 CFR 29.3 as amended at 39 FR 31304) issued pursuant to the Federal Food, Drug, and Cosmetic Act.

Effective date. This amendment becomes effective October 29, 1974.

Dated: September 24, 1974.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.74–22614 Filed 9–27–74;8:45 am]

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX

DISCONTINUANCE OF INSURANCE IN COUNTY PREVIOUSLY DESIGNATED FOR COTTON CROP INSURANCE

The county listed below is hereby deleted from the list of counties published in the FEDERAL REGISTER on June 3, 1974 (39 FR 19446), which were designated for cotton crop insurance for the 1975 crop year pursuant to the authority contained in § 401.101 of the above-identified regulations.

SOUTH CAROLINA
Saluda

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516))

[SEAL] HOWARD H. SJOGREN,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.74–22611 Filed 9–27–74;8:45 am]

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

[Handling Reg.—Area No. 2]

PART 948—IRISH POTATOES GROWN IN COLORADO

This regulation, designed to promote orderly marketing of Colorado Area No. 2 potatoes, imposes minimum quality standards and requires inspection of fresh shipments to keep undesirable low quality potatoes from being shipped to consumers.

Notice of rule making with respect to a proposed handling regulation to be made effective under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR Part 948), regulating the handling of Irish potatoes grown in Colorado, Area No. 2, was published in the FEDERAL REGISTER September 3, 1974 (39 FR 31908). This program is issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). Interested persons were afforded an opportunity to file written data, views, or arguments through September 20, 1974. None was filed.

The recommendations of the committee reflect its appraisal of the composition of the 1974 crop of Colorado potatoes and of the marketing prospects for this season. These grade, size, and maturity requirements are necessary to prevent potatoes of lesser maturities, low quality, or undesirable sizes from being distributed in fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments may be made to certain special purpose outlets without regard to the grade, size, maturity and inspection requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Certified seed is so exempted because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed are likewise exempt. Since no purpose would be served by regulating potatoes used for relief or charity purposes, such shipments are exempt. Exemption of potatoes for most processing uses is mandatory under the legislative authority for this part and therefore shipments to processing outlets are unregulated.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, (3) information regarding the provisions of this regulation, which are similar to those which were in effect during the previous marketing season, has been made available to producers and handlers in the production area, and (4) compliance with this regulation will not require any special preparation on the part of persons subject thereto which cannot be completed by such effective date.

§ 948.372 Handling regulation.

From the effective date of this handling regulation, through June 30, 1975, no person shall handle any lot of pota-

toes grown in Area No. 2 unless such potatoes meet the requirements of paragraphs (a), (b), and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d), (e), or (f) of this section. The maturity requirements specified in paragraph (b) shall terminate October 31, 1974, at 11:59 p.m. m.s.t.

(a) *Minimum grade and size requirements.*

(1) *Round varieties.* U.S. No. 2, or better grade, 2 inches minimum diameter.

(2) *Long varieties.* U.S. No. 2, or better grade, 1⅞ inches minimum diameter.

(3) *All varieties.* Size B, if U.S. No. 1, or better, grade.

(b) *Maturity (skinning) requirements.*

(1) *Russet Burbank and Red McClure varieties.* For U.S. No. 2 grade not more than "moderately skinned" and for other grades not more than "slightly skinned."

(2) *All other varieties.* Not more than "moderately skinned."

(c) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed 5 days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(d) *Special purpose shipments.* (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section and the assessment requirements of this part shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Relief or charity; or

(iii) Canning, freezing, and "other processing" as hereinafter defined.

(2) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of seed pursuant to § 948.6 but such shipments shall be subject to assessments.

(e) *Safeguards.* Each handler of potatoes which do not meet the grade, size, and maturity requirements of paragraphs (a) and (b) of this section and which are handled pursuant to paragraph (d) of this section for any of the special purposes set forth therein shall:

(1) Prior to handling, apply for and obtain a Certificate of Privilege from the committee.

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver as to the use of such potatoes, and

(3) Bill each shipment directly to the applicable processor or receiver.

(f) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes without regard to the requirements of paragraphs (a), (b) and (c) of this section, but this exception shall not apply to any shipment which exceeds 1,000 pounds of potatoes.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "slightly skinned," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540–51.1566 of this title, effective September 1, 1971, as amended), including the tolerances set forth therein. The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing." Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1, Import regulations (7 CFR 980.1), Irish potatoes of the red skinned round type, except certified seed potatoes, imported into the United States from the effective date of this handling regulation through June 30, 1975, shall meet the grade, size, and quality requirements specified in paragraph (a) of this section, and from the effective date of this handling regulation through October 31, 1974, shall be not more than "moderately skinned."

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

Dated September 24, 1974, to become effective September 29, 1974.

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

[FR Doc.74-22616 Filed 9-27-74;8:45 am]

Title 9—Animals and Animal Products

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

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Modified Certified Brucellosis Areas

This amendment deletes the following areas from the list of areas designated as modified certified brucellosis areas in 9 CFR 78.13 because it has been determined that these areas no longer come within the definition of § 78.1(i): Le Flore County in Oklahoma; McCook County in South Dakota; and Grayson, Jefferson, Leon, and Navarro Counties in Texas.

Accordingly, § 78.13 of said regulations designating Modified Certified Brucellosis Areas is hereby revised to read as follows:

§ 78.13 Modified certified brucellosis areas.

(a) All States of the United States are hereby designated as modified certified brucellosis areas except Oklahoma, South Dakota, and Texas.

(b) The following States are hereby designated as modified certified brucellosis areas except for the counties named:

(1) Oklahoma except Dewey and Le Flore Counties.

(2) South Dakota except McCook County.

(3) Texas except Grayson, Jefferson, Leon, and Navarro Counties.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477, 38 FR 19141, 9 CFR 78.16).

Effective Date. The foregoing amendment shall become effective on September 30, 1974.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 25th day of September 1974.

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

[FR Doc.74-22670 Filed 9-27-74;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. A]

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Special Rate Applicable to Certain Extensions of Credit

By notice published in the FEDERAL REGISTER of August 23, 1974 (39 FR 30508), the Board proposed to amend § 201.2(e) of its Regulation A (12 CFR 201.2(e)) to permit application of a spe-

cial rate on emergency credit to member banks in exceptional circumstances involving only a particular member bank, as distinguished from emergencies arising from national, regional or local difficulties outside the control of the member bank. After consideration of all comments received, the Board has approved an amendment to Regulation A in substantially the same form as published for comment on August 23, 1974. The amendment is effective September 25, 1974.

As indicated in the notice, the purpose of this amendment to Regulation A is to limit any preferential rate on long term assistance to an individual bank where a wide gap exists between the basic discount rate and money market rates. The special rate will be no higher than the rate established for loans to nonmembers under 12 U.S.C. 347(c). The special rate may be waived by the Federal Reserve Bank in cases of banks in particular difficulty where there is a remedial program under way leading to repayment of the loan over a reasonable period.

Effective September 25, 1974, § 201.2(e) of Regulation A is amended to read as follows:

§ 201.2 General principles.

* * * * *

(e) *Other credit to member banks.* (1) In the event of unusual or emergency circumstances resulting from national, regional, or local difficulties, Federal Reserve credit beyond that contemplated under paragraph (c) of this section is available.

(2) Federal Reserve credit is also available for protracted assistance where there are exceptional circumstances or practices involving only a particular member bank. A special rate apart from rates charged for lending to member banks under other provisions of this Part may be established by Federal Reserve Banks subject to review and determination by the Board of Governors and applied to such credit. The special rate may apply to member banks borrowing for prolonged periods (such as for more than eight weeks) and in significant amounts (such as when the loan has exceeded on average the amount of the borrowing bank's required reserves) because of financial strains arising from particular circumstances or practices affecting the individual bank—including sustained deposit drains, impaired access to money market funds, or sudden deterioration in loan repayment performance. In no case should the special loan rate to member banks exceed the rate established for loans to nonmembers under 12 U.S.C. 347(c).

* * * * *

The effective date was deferred for less than the 30-day period referred to in Title 5, United States Code, section 553 (d), because the Board found that the public interest compelled it to make the action effective no latter than the date adopted. See § 262.2(e) of the Board's Rules of Procedure (12 CFR 262.2(e)).

By order of the Board of Governors, September 25, 1974.

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

[FR Doc.74-22676 Filed 9-27-74;8:45 am]

PART 225—BANK HOLDING COMPANIES

Acquisition of Assets

A new § 225.132 is added to 12 CFR Part 225 as follows:

§ 225.132 Acquisition of assets.

(a) From time to time questions have arisen as to whether and under what circumstances a bank holding company engaged in nonbank activities, directly or indirectly through a subsidiary, pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)(8)), may acquire the assets and employees of another company, without first obtaining Board approval pursuant to section 4(c)(8) and the Board's Regulation Y (12 CFR 225.4(b)).

(b) In determining whether Board approval is required in connection with the acquisition of assets, it is necessary to determine (a) whether the acquisition is made in the ordinary course of business [1] or (b) whether it constitutes the acquisition, in whole or in part, of a going concern.[2]

(c) The following examples illustrate transactions where prior Board approval will generally be required:

(1) The transaction involves the acquisition of all or substantially all of the assets of a company, or a subsidiary, division, department or office thereof.

(2) The transaction involves the acquisition of less than "substantially all" of the assets of a company, or a subsidiary, division, department or office thereof, the operations of which are being terminated or substantially discontinued by the seller, but such asset acquisition is significant in relation to the size of the same line of nonbank activity of the holding company (e.g., consumer finance mortgage banking, data processing). For purposes of this interpretation, an acquisition would generally be presumed to be significant if the book value of the nonbank assets being acquired exceeds 20 per cent of the book value of the nonbank assets of the holding company or nonbank subsidiary comprising the same line of activity.

(3) The transaction involves the acquisition of assets for resale and the sale of such assets is not a normal business activity of the acquiring holding company.

(4) The transaction involves the acquisition of the assets of a company, or a subsidiary, division, department or office thereof, and a major purpose of the transaction is to hire some of the seller's principal employees who are expert, skilled and experienced in the business of the company being acquired.

(d) In some cases it may be difficult, due to the wide variety of circumstances involving possible acquisition of assets, to determine whether such acquisitions require prior Board approval. Bank holding companies are encouraged to contact their local Reserve Bank for guidance where doubt exists as to whether such an acquisition is in the ordinary course of business or an acquisition, in whole or in part, of a going concern.

Board of Governors of the Federal Reserve System, September 13, 1974.

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

[FR Doc.74-22633 Filed 9-27-74;8:45 am]

[1] Section 225.4(c)(3) of the Board's Regulation Y (12 CFR 225.4(c)(3)) generally prohibits a bank holding company or its subsidiary engaged in activities pursuant to authority of section 4(c)(8) of the Act from being a party to any merger "or acquisition of assets other than in the ordinary course of business" without prior Board approval.

[2] In accordance with the provisions of section 4(c)(8) of the Act and § 225.4(b) of Regulation Y, the acquisition of a going concern requires prior Board approval.

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74-SW-39; Amdt. 39-1979]

PART 39—AIRWORTHINESS DIRECTIVES

Rockwell International; Model 690A Series Airplanes

There have been several failures of the pilot's side window panel, during pressurized flight attributed to cracks starting at the openable window resulting in rapid cabin decompression. Since this condition is likely to occur in other airplanes of the same type design with resulting injury to the crew or possible loss of the aircraft due to crew incapacitation, an airworthiness directive is being issued to require a check of the openable window prior to each flight with subsequent replacement of the existing openable side window with a new one piece side window, P/N 360012-501.

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

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

COMMANDER AIRCRAFT DIVISION, ROCKWELL INTERNATIONAL. Applies to Rockwell Model 690A Series Airplanes, S/N 11100 Through 11197

Compliance required as indicated unless already accomplished.

1. Before the first flight of each day after the effective date of this A.D., check the cutout around the openable pilot's and copilot's side windows for cracks.

2. If cracks are found in either side window, replace the openable side window with a non-openable side window, P/N 360012-501, before further flight, except flight with cabin unpressurized may be made in accordance with FAR 21.197 to a base where the replacement can be accomplished.

3. Within 50 hours' time in service after the effective date of this A.D., unless already accomplished, replace all openable side windows, with a non-openable side window, P/N 360012-501, in accordance with Rockwell Service Bulletin 143 dated September 10, 1974, or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Fort Worth, Texas.

This amendment becomes effective October 4, 1974.

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

Issued in Fort Worth, Texas, September 19, 1974.

WILLIAM E. MORGAN,
Acting Director,
Southwest Region.

[FR Doc.74-22579 Filed 9-27-74;8:45 am]

[Airspace Docket No. 74-WA-26]

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

Change of Names for Reporting Points

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to change certain reporting point names to five-letter words and to add geographic coordinates to some of their descriptions.

To simplify the coding system for reporting points, the Federal Aviation Administration (FAA) is assigning five-letter names to those reporting points in Part 71 that are not collocated with navigation facilities. The same five letters serve as the reporting point name, location identifier and computer code. Geographic coordinates are added to amplify the description of some reporting points.

Since the identifying names of reporting points and the descriptions of their locations are minor matters in which the public is not particularly interested, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 2, 1975, as hereinafter set forth.

a. In § 71.211 (39 FR 632, 3670, 10115, 15259, 19775, 20586, 29341, 10116, 38 FR 34728) the following reporting points (title and text) are deleted:

1. Carp INT:, 2. Clam Gulch, INT:, 3. Crab INT:, 4. East Cordova INT:, 5. Fluke INT:, 6. Gar INT:, 7. Granite INT:, 8. Halibut INT:, 9. Harbor Point INT:, 10. Hazy Island INT:, 11. Herring INT:, 12. Marble INT:, 13. Marlin INT:, 14. Mordvinoff INT:, 15. Muzon INT:, 16. Muzon LF INT:, 17. Porpoise INT:, 18. Port Alexander INT:, 19. Shrimp INT:, 20. Skilak INT:, 21. Tux Bay INT:, 22. Wide Bay INT:,

b. In § 71.211 (39 FR 632, 3670, 10115, 10116, 15259, 19775, 20586, 29341, 38 FR 34728) the following reporting points (title and text) are added.

1. CARTS: Lat. 55°41'49" N., Long. 136° 34'31" W. (INT Sandspit, British Columbia, Canada, NDB 314°, Sitka, Alaska, NDB 207° bearings).

2. CLAMS: Lat. 59°53'27" N., Long. 152°16' 23" W. (INT Homer, Alaska, 294°, Kenai, Alaska, 216° radials).

3. CRACK: Lat. 57°20'30" N., Long. 159°21' 31" W. (INT Naknek River, Alaska, NDB 227°, Port Heiden, Alaska, NDB 314° bearings).

4. CORVA: Lat. 60°15'32" N., Long. 145° 09'28" W. (INT Hinchinbrook, Alaska, NDB 106°, Cordova, Alaska, NDB 151° bearings).

5. FLUKE: Lat. 60°05'48" N., Long. 163° 57'49" W. (INT Oscarville, Alaska, NDB 237°, Cape Newenham, Alaska, NDB 327° bearings).

6. GARRS: Lat. 58°18'48" N., Long. 161°19' 41" W. (INT Naknek River, Alaska, NDB 263°, Cape Newenham, Alaska, NDB 131° bearings).

7. SOLID: Lat. 58°41'13" N., Long. 148° 14'03" W. (INT Kachemak, Alaska, NDB 118° bearing and Anchorage CTA/FIR boundary).

8. FRIED: Lat. 54°14'23" N., Long. 133°39' 49" W. (INT Nichols, Alaska, NDB 236°, Sandspit, British Columbia, Canada, NDB 314° bearings).

9. HAPIT: Lat. 58°11'59" N., Long. 137°31' 05" W. (INT Ocean Cape, Alaska, NDB 139°, Cape Spencer, Alaska, NDB 273° bearings).

10. HAZZY: Lat. 56°19'52" N., Long. 134° 18'43" W. (INT Sitka, Alaska, NDB 127°, Petersburg, Alaska, NDB 235° bearings).

11. HERRY: Lat. 57°51'10" N., Long. 160° 21'49" W. (INT Naknek River, Alaska, NDB 248°, Cape Newenham, Alaska, NDB 131° bearings).

12. MARLO: Lat. 57°27'53" N., Long. 150° 31'44" W. (INT Kodiak, Alaska, 107° radial and Anchorage CTA/FIR boundary).

13. DEPTH: Lat. 56°17'14" N., Long. 161° 05'42" W. (INT Fort Randall, Alaska, NDB 041°, Port Moller, Alaska NDB 313° bearings).

14. MORDI: Lat. 54°53'31" N., Long. 164° 58'38" W. (INT Driftwood Bay, Alaska, NDB 050°, Cape Sarichef, Alaska, NDB 355° bearings).

15. MUZON: Lat. 54°29'31" N., Long. 133° 00'15" W. (INT Annette Island, Alaska, 236°, Sandspit, British Columbia, Canada, 331° radials).

16. MOCHA: Lat. 54°30'13" N., Long. 133° 01'40" W. (INT Nichols, Alaska, NDB 236°, Sandspit, British Columbia, Canada, 331° bearings).

17. SNOUT: Lat. 57°53'28" N., Long. 141° 45'13" W. (INT Wessels, Alaska, NDB 122°, Ocean Cape, Alaska, NDB 213° bearings).

18. ZANDA: Lat. 56°09'14" N., Long. 134° 44'57" W. (INT Sitka, Alaska, NDB 148°, Petersburg, Alaska, NDB 235° bearings).

19. SHRIM: Lat. 56°40'57" N., Long. 138° 45'53" W. (INT Wessels, Alaska, NDB 122°, Cape Spencer, Alaska, NDB 218° bearings).

20. SKILA: Lat 60°29'31" N., Long. 150°38' 18" W. (INT Anchorage, Alaska, 198°, Homer, Alaska, 027° radials).

21. TUCKS: Lat. 60°13'43" N., Long. 152° 28'08" W. (INT Kenai, Alaska, 239°, Homer, Alaska, 316° radials).

22. WIDTH: Lat. 57°21'25" N., Long. 155° 58'46" W. (INT Naknek River, Alaska, NDB 164°, Port Heiden, Alaska, NDB 074° bearings).

c. In § 71.213 (39 FR 634, 3670, 10115, 15259, 19775) the following reporting points (title and text) are deleted:

1. Carp INT:, 2. Crab INT:, 3. Fluke INT:, 4. Gar INT:, 5. Herring INT:, 6. King Fish INT:, 7. Marble INT:, 8. Porpoise INT:, 9. Porpoise INT:, 10. Porpoise DME INT:,

d. In § 71.213 (39 FR 634, 3670, 10115, 15259, 19775) the following reporting points (title and text) are added:

1. CARTS: Lat. 55°41'49"N., Long. 136°34' 31"W. (INT Sandspit, British Columbia, Canada, NDB 314° bearing, Biorka Island, Alaska, 207° radial).

2. CRACK: Lat. 57°20'30"N., Long. 159°21' 31"W. (INT King Salmon, Alaska, 226° radial, Port Heiden, Alaska, NDB 314° bearing).

3. FLUKE: Lat. 60°05'48"N., Long. 163°57' 49"W. (INT Oscarville, Alaska, NDB 237°, Cape Newenham, Alaska, NDB 327° bearings).

4. GARRS: Lat. 58°18'48"N., Long. 161°19' 41"W. (INT Naknek, Alaska, NDB 263°, Cape Newenham, Alaska, NDB 131° bearings).

5. HERRY: Lat. 57°51'10"N., Long. 160°21' 49"W. (INT Naknek River, Alaska, NDB 248°, Cape Newenham, Alaska, NDB 131° bearings).

6. KILLA: Lat. 58°44'58"N., Long. 140°35' 39"W. (INT Yakutat, Alaska, 213° radial, Hinchinbrook, Alaska, NDB 118° bearing).

7. MARLO: Lat. 57°27'53"N., Long. 150°31' 44"W. (INT Kodiak, Alaska, 107° radial and Anchorage CTA/FIR boundary).

8. SNOUT: Lat. 57°53'28"N., Long. 141°45' 13"W. (a. INT Wessels, Alaska, NDM 122° bearing, Yakutat, Alaska, 215° radial. b. INT Middleton Island, Alaska, 121°, Yakutat, Alaska, 215° radials. c. INT Middleton Island, Alaska, 121° radial, 171 NM from Middleton Island).

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

Issued in Washington, D.C. on September 24, 1974.

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

[FR Doc.74-22581 Filed 9-27-74;8:45 am]

[Docket No. 14024; Amdt. No. 935]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Recent Changes and Additions

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

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making documents 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 VOV–VOR/DME SIAPs, effective November 7, 1974:

Ahoskie, N.C.—Tri-County Arpt., VOR/DME-A, Amdt. 1.
College Station, Tex.—Easterwood Field, VOR Rwy 10, Amdt. 11.
College Station, Tex.—Easterwood Field, VOR Rwy 28, Amdt. 3.
Columbia, S.C.—Columbia Metropolitan Arpt., VOR–A, Amdt. 11.
Hastings, Neb.—Hastings Municipal Arpt., VOR Rwy 14, Amdt. 10.
Hastings, Neb.—Hastings Municipal Arpt., VOR Rwy 32, Amdt. 9.
Iron Mountain/Kingsford, Mich.—Ford Arpt., VOR Rwy 1, Amdt. 6.
Iron Mountain/Kingsford, Mich.—Ford Arpt., VOR Rwy 19, Amdt. 2.
Iron Mountain/Kingsford, Mich.—Ford Arpt., VOR Rwy 31, Amdt. 9.
Jefferson City, Mo.—Jefferson City Memorial Arpt., VOR Rwy 12, Amdt. 9.
Jefferson City, Mo.—Jefferson City Memorial Arpt., VOR Rwy 30, Amdt. 7.
Joliet, Ill.—Joliet Municipal Arpt., VOR Rwy 13, Amdt. 3.
Menominee, Mich.—Menominee County Arpt., VOR Rwy 18, Amdt. 7.
Morristown, Tenn.—Moore-Murrell Arpt., VOR Rwy 5, Amdt. 2.
Sherman-Denison, Tex.—Grayson County Arpt., VORTAC–A, Amdt. 3.
Urbana, Ill.—Illini Arpt., VOR–A, Amdt. 5.

* * * effective September 16, 1974:

Sacramento, Calif.—Sacramento Metropolitan Arpt., VOR/DME Rwy 34, Amdt. 6.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF–LOC–LDA SIAPS, effective November 7, 1974:

Bloomington, Ill.—Bloomington - Normal Arpt., LOC (BC) Rwy 11, Amdt. 1.
Chicago, Ill.—Chicago O'Hare Int'l. Arpt., LOC (BC) Rwy 14R, Amdt. 2.
College Station, Tex.—Easterwood Field, LOC (BC) Rwy 16, Amdt. 2.
Columbia, S.C.—Columbia Metropolitan Arpt., LOC (BC) Rwy 29, Amdt. 4.
Iron Mountain/Kingsford, Mich.—Fort Arpt., LOC/DME (BC) Rwy 19, Amdt. 2.
Jefferson City, Mo.—Jefferson City Memorial Arpt., SDF Rwy 30, Amdt. 2.

* * * effective October 3, 1974:

Sacramento, Calif.—Sacramento Metropolitan Arpt., LOC (BC) Rwy 34, Amdt. 5, canceled.

* * * effective September 19, 1974:

West Palm Beach, Fla.—Palm Beach Int'l. Arpt., LOC (BC) Rwy 27R, Amdt. 6.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPS, effective November 7, 1974:

Arkadelphia, Ark.—Arkadelphia Municipal Arpt., NDB Rwy 4, Amdt. 2.
Clarinda, Iowa—Clarinda Municipal Arpt., NDB–A, Orig.
College Station, Tex.—Easterwood Field, NDB Rwy 34, Amdt. 2.
Defiance, Ohio—Defiance Memorial Arpt., NDB Rwy 12, Amdt. 4.
Hastings, Neb.—Hastings Municipal Arpt., NDB Rwy 14, Amdt. 7.
Jefferson City, Mo.—Jefferson City Memorial Arpt., NDB Rwy 30, Amdt. 1.
Morristown, Tenn.—Moore-Murrell Arpt., NDB Rwy 5, Amdt. 2.
Ontonagon, Mich.—Ontonagon County Arpt., NDB–A, Amdt. 1.
Sherman-Denison, Tex.—Grayson County Arpt., NDB Rwy 17L, Amdt. 1.

* * * effective October 10, 1974:

Monterey, Calif.—Monterey Peninsula Arpt., NDB Rwy 10, Amdt. 6.
Murfreesboro, Tenn.—Murfreesboro, Municipal Arpt., NDB Rwy 18, Orig.
Ponape Island Caroline Islands—Ponape Int'l. Arpt., NDB–A, Orig.

* * * effective October 3, 1974:

Chicago, Ill.—Chicago O'Hare Int'l. Arpt., NDB Rwy 14R, Amdt. 14.

* * * effective September 12, 1974:

Atlanta, Ga.—Fulton County Arpt., NDB Rwy 8R, Amdt. 5.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective November 7, 1974:

College Station, Tex.—Easterwood Field, ILS Rwy 34, Amdt. 2.
Iron Mountain/Kingsford, Mich.—Ford Arpt., ILS Rwy 1, Amdt. 2.

* * * effective October 10, 1974:

Monterey, Calif.—Monterey Peninsula Arpt., ILS Rwy 10, Amdt. 18.
Oakland, Calif.—Metropolitan Oakland Int'l. Arpt., ILS Rwy 29, Amdt. 17.

* * * effective October 3, 1974:

Chicago, Ill.—Chicago O'Hare Int'l. Arpt., ILS Rwy 14R, Amdt. 20.
Sacramento, Calif.—Sacramento Metropolitan Arpt., ILS Rwy 16, Amdt. 8.

5. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective November 7, 1974:

Joliet, Ill.—Joliet Municipal Arpt., RNAV Rwy 13, Amdt. 4.

Correction

In Docket No. 13987, Amendment No. 931, to Part 97 of the Federal Aviation Regulations, dated September 3, 1974, on page 31881, published in the FEDERAL REGISTER under § 97.27, effective October 10, 1974—Destroy Jackson, Miss.—Hawkins Field, Copter NDB 183, Orig.

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

Issued in Washington, D.C., on September 19, 1974.

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

JAMES M. VINES,
Chief,
Aircraft Programs Division.

[FR Doc.74-22580 Filed 9-27-74;8:45 am]

Title 15—Commerce and Foreign Trade

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

COMMODITIES SUBJECT TO SHORT SUPPLY CONTROLS

Criteria for Export Licensing on Hardship Grounds and Revision of Appeals Procedure

Quota systems based on historic exports during a base period have been adopted for commodities currently subject to short supply controls on exports (ferrous scrap and petroleum products). These systems have been employed in accordance with the overall objectives of export control policy—concern for the needs of the domestic economy as a whole, our export trade relations, and the foreign policy of the United States. However, to permit some flexibility in the application of these rules, contingency reserves have been established for use in each quarter to meet unique hardship situations experienced by individual firms, including "newcomers" without an exporting history during the base period. The reserves also were used, upon consultation with the Department of State and National Security Council, to make additional allocations to certain foreign countries to fill special needs in consonance with United States foreign policy objectives. The criteria for granting so-called "hardship" licenses to individual firms have not heretofore been delineated.

The purpose of this issuance is to announce the grounds on which applications based on assertions of unique hardship are to be considered. This further announces new procedures for appeals with respect to export control matters. The use of Appeals Board in export control cases is hereby discontinued, except for appeals of compliance actions, and the Assistant Secretary of Commerce for Domestic and International Business is designated as the appeals office for all appeals from adverse licensing determinations and most other export control matters.

Also, inasmuch as most rejections of export license applications have, in recent years, been subjected to an initial review that closely approximates the internal Administrative Review procedure within the Office of Export Administration, this procedure is discontinued.

Accordingly, the Export Administration Regulations (15 CFR Parts 372, 377, 388 and 389) are amended as follows:

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

1. Section 372.1 is amended by adding a new paragraph (e) to such section to read as follows:

§ 372.1 General provisions.

* * * * *

(e) *Licensing actions.* When necessary to fulfill the purposes of the control program as set forth in § 370.1 of this chapter, an application may be approved, in whole or in part, rejected, in whole or in part, or returned without action. The applicant will be formally notified of the action in writing by the Office of Export Administration. (For an appeal, see Part 389 of this chapter.)

PART 377—SHORT SUPPLY CONTROLS

2. Section 377.1 is amended by adding a new paragraph (c) to such section to read as follows:

§ 377.1 General provisions.

* * * * *

(c) *Applications for violated licenses to export commodities subject to short supply controls.*—(1) *Submission of applications.* An application for a validated license to export a commodity subject to short supply controls under this Part 377 will be considered if submitted in accordance with the provisions of this Part and Part 372 of this chapter to the Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

(2) *Issuance of validated licenses.* After receipt and consideration of an application submitted as provided in paragraph (c) (1) of this section the Office of Export Administration may issue a validated license under the appropriate provisions of this Part. In making a determination with respect to an application in which unique hardship is asserted, the Office of Export Administration will consider the guidelines and criteria specified in § 377.3.

(3) *Denial of validated license.* If an application for a validated license is denied in whole or in part, the Office of Export Administration shall issue a formal notice of the denial to the applicant. (For an appeal from such a denial, see Part 389 of this chapter.)

§ 377.5 [Deleted]

3. Part 377 is amended by deleting § 377.5 and adding a new § 377.3 to read as follows:

§ 377.3 Unique hardship.

(a) *General.* If an applicant asserts unique hardship as a ground for the issuance of an export license under this Part 377, he must specifically so state in his application and come forward with proof of the precise nature of the unique hardship experienced, that such hardship results from the imposition of short supply controls, and that there is no practicable alternative to the relief requested. In no case will the desire to sell at higher prices and thereby obtain greater profits be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the applicant.

(b) *Standards for unique hardship.* In making a determination with respect to an application in which unique hardship is asserted, the Office of Export Administration will consider, in addition to the general guidelines of paragraph (a) of this section, the following:

(1) Whether denial would cause a unique hardship to the applicant which can be alleviated only by granting an exception to the provisions of this Part 377. While it is impracticable to set forth a definition of "unique hardship" which could envision all circumstances that might arise, consideration will be given to, but not necessarily limited to, such factors as:

(i) Ownership of material for which there is no practicable domestic market, by virtue of the location or nature of the material;

(ii) Potential serious financial loss to the applicant if not granted an exception;

(iii) Inability to obtain, except through import, an item essential for domestic use which is produced abroad from the commodity under control;

(iv) The extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(v) Possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(vi) Other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular commodity; and

(2) What effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

4. Section 377.4(e) is revised to read as follows:

§ 377.4 Ferrous Scrap Export Licensing System 1974.

* * * * *

(e) *Quota set-asides.* In addition to the quota set-aside for the ferrous scrap content of ships sold for scrapping abroad by the U.S. Maritime Administration (described in paragraph (d) (2) of this section), the following quota set-asides are hereby established:

(1) *Foreign policy set-aside.* Pursuant to recommendations of the Department of State and the National Security Council, this quota set-aside will be allocated quarterly to specific foreign countries to fill special needs that are in consonance with United States foreign policy objectives.

(2) *Unique hardship set-aside.* This quota set-aside will be allocated quarterly for use for unique hardship situations (see § 377.3).

As appropriate, the quantities allocated for the above-described quota set-asides will be specified in Supplement No. 1.

5. Section 377.6(f) is revised to read as follows:

§ 377.6 Petroleum and petroleum products.

* * * * *

(f) *Quota set-aside.* A quota set-aside of 5 percent of the total quota for each commodity group subject to quota restrictions is hereby established. This quota set-aside will be allocated quarterly for unique hardship situations (see § 377.3).

PART 388—ADMINISTRATIVE PROCEEDINGS

6. Section 388.13 is amended by revising the section heading and paragraphs (b) and (d) of such section, and adding new paragraphs (e) and (f) to such section to read as follows:

§ 388.13 Appeals from administrative sanctions.

* * * * *

(b) *Filing of appeals.* An appeal must be in writing and shall be filed with, and addressed to, the Appeals Board, U.S. Department of Commerce, Washington, D.C. 20230. An appeal from a final order denying export privileges shall be filed within 10 days after receipt of a copy of the order.

* * * * *

(d) *Effect of appeal.* The taking of an appeal shall not stay the operation of any order.

(e) *Preparation of appeals*—(1) *General requirements.* An appeal shall be clearly marked "Ref: Appeals Board for the U.S. Department of Commerce" and shall be in letter form. The appeals letter and accompanying material shall be filed in duplicate, unless otherwise indicated below. If the submission of two copies of all accompanying documents or exhibits would place an undue burden on the petitioner, waiver of this rule may be requested at the time the request is filed.

(2) *Oral presentation.* In a case where the appellant so requests or the Appeals Board believes it necessary for a proper determination, the appellant may be granted an opportunity to present orally further facts and arguments. A date will be set and notice of the time and place (in Washington, D.C.) will be given the appellant by the Appeals Board at least 10 days before the date set for the oral presentation unless waived by appellant. Such presentation will be heard informally; generally, no oaths will be administered to witnesses; and the Appeals Board will not necessarily abide by the rules of evidence. An appellant need not be represented by counsel unless he so wishes.

(3) *Records.* Records concerning an appeal may be made available for inspection and copying by the appellant or his duly authorized representative, upon written application. Such application shall be addressed to the Appeals Board, U.S. Department of Commerce, Washington, D.C. 20230, and shall set forth a description of the material or information contained in the record to be in-

spected or copied, and the purposes for which it is sought.

(f) *Decisions.* All appeals will be considered and decided within a reasonable time after they are filed. An appeal may be granted or denied, in whole or in part, or dismissed at the request of the appellant. The decision on an appeal signed by the Chairman of the Appeals Board will be final and communicated to the appellant in writing.

PART 389—APPEALS

7. The heading for Part 389 is revised to read as set forth above.

8. Section 389.1 is revised to read as follows:

§ 389.1 General provisions.

(a) *Purpose.* This Part 389 sets forth the procedures applicable to appeals to the Assistant Secretary for Domestic and International Business of the U.S. Department of Commerce.

(b) *Definitions.* For purposes of this Part 389:

(1) "Regulation" means any provision of a regulation or order published in the FEDERAL REGISTER or announcement thereof in an Export Administration Bulletin that is applicable generally to all persons or to a class of persons.

(2) "Administrative action" means any action, including a return without action of a license application, taken by the U.S. Department of Commerce under the Export Administration Act or by a duly authorized employee thereof under a regulation with respect to a particular person.

(3) "Appeal" means a request for relief, as provided for in § 389.2, from the provisions of any regulation or administrative action (excluding denial or probation orders, civil penalties or other sanctions [1]).

(4) "Appellant" means a person filing an appeal.

(c) *Grounds for appeal.* Any person may appeal to the Assistant Secretary for Domestic and International Business any regulation or administrative action (excluding denial or probation orders, civil penalties or other sanctions) taken by the U.S. Department of Commerce under the Export Administration Act or delegated authority relating thereto, where such regulation or administrative action works an exception and unreasonable hardship upon him, or whole or in part, or dismissed at the request of the appellant. The decision by the Assistant Secretary on an appeal shall be final and will be issued to the appellant in writing. In reaching his decision, the Assistant Secretary may consult with representatives of government agencies and business groups as he deems appropriate.

[1] See §§ 388.4, 388.11, 388.13, and 388.15 for the appeals procedure regarding administrative sanctions.

Effective date of action: September 25, 1974.

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

[FR Doc.74-22675 Filed 9-27-74;8:45 am]

PART 377—SHORT SUPPLY CONTROLS

Licensing Exports of Ferrous Scrap in the Fourth Quarter 1974

This issuance announces the ferrous scrap export quotas by country for the fourth calendar quarter of 1974. The overall quota will be 2,100,000 short tons as in previous quarters during 1974. Of this amount, 1,900,000 short tons will be allocated among specific foreign countries in the same quantities as during the third quarter. However, to provide an increased opportunity for participation by all exporters under circumstances more closely approximating free market conditions, about 480,000 short tons of the individual country quotas will be licensed without regard to the applicants' past histories of exports. The remainder of the country quotas will be made available to historic exporters under the past participation method as used previously. As in the third quarter, 100,000 short tons of the overall quota will be set aside for foreign policy allocations, 50,000 short tons will be set aside for unique hardship situations, and 50,000 short tons will be set aside for vessels sold by the United States Maritime Administration for scrapping abroad.

Historical portions of country quotas. The rules for licensing on a historical basis will remain unchanged, except that each application must be clearly marked "HISTORIC QUOTA." Applications for the fourth quarter may not be submitted before September 24, 1974 and must be actually received in the Office of Export Administration by 5:00 p.m. e.d.t. December 13, 1974.

Nonhistorical portions of country quotas. Any exporter who obtains an order dated after September 23, 1974, and before November 16, 1974, for export of ferrous scrap to a country with a nonhistorical quota, may apply for an export license whether or not he has a past history of scrap exports to that country. Applications must be submitted in accordance with § 377.4(c)(2). No exporter may apply for licenses for more than 2,000 short tons for Canada or Mexico, or 10,000 short tons (or the amount of the Nonhistoric Quota, if less) for any other country. Each designated country has, in addition to its nonhistorical quota limitation, a limitation on the tonnage of Type "A" scrap that will be licensed. If applications are received for any country that exceed its total nonhistorical quota or Type "A" limitation, the Department of Commerce will request advice from that country as to the consignee(s) that should receive preference. Such advice will be considered along with other factors, such as the type and location of the scrap involved, in deciding which applications to license. Applications must be clearly marked "NONHISTORICAL." They may not be submitted before September 24, 1974, and must be actually received in the Office of Export Administration by 5:00 p.m. e.d.t. November 15, 1974.

Scrap originating in territories and possessions. The Department is aware that most scrap originating in the Canal Zone, Puerto Rico, and territories, dependencies, and possessions of the United States cannot feasibly be made available to domestic users. When the origin of such scrap can be substantiated, applications to export the scrap may now be considered for licensing without regard to quota limitations.

Validity of licenses. Licenses issued in the fourth quarter will be valid for 90 days from the date of issuance. Requests for extensions of the validity period will not normally be approved. In extenuating and justifiable circumstances, however, the Office of Export Administration will consider requests to extend licenses for not more than 30 days.

Accordingly, the Export Administration regulations (15 CFR Part 377) are amended as follows:

1. Section 377.4 is amended by revising paragraphs (c) and (g) of such section, and by adding new paragraphs (b-1) and (b-2) immediately after paragraph (b) of such section, to read as follows:

§ 377.4 Ferrous scrap export licensing system.

* * * * *

(b-1)(1) *Nonhistorical country quotas.* A portion of any country quota may be made available for licensing without regard for the applicants' past histories of ferrous scrap exports, as indicated under "Nonhistorical" in the "Individual Foreign Country Quotas" portion of Supplement No. 1 to this Part 377.

(2) The "Nonhistorical" listing includes a column designated "Quota," which indicates the total tonnage of ferrous scrap that will be licensed by this method for each listed destination, and a column designated "Type A," which indicates the maximum tonnage of Type "A" that will be licensed for each listed destination. No exporter may apply for licenses for more than 2,000 short tons for Mexico or Canada, or 10,000 short tons (or the amount of the Nonhistorical Quota, if less) for any other country. An exporter may submit applications against the nonhistorical quota for the European Community for shipment to any member country or countries, but the total of any exporter's applications for export to the Community may not exceed 10,000 short tons. The nonhistorical quota for "All Other Countries" may only be used for exports to coun-

tries other than members of the European Community or those specifically listed in Supplement No. 1. If applications are received from an exporter that exceed the quantity limitations set forth in this paragraph or Supplement No. 1, the applicant will be contacted to determine which of his applications should be reduced in quantity or returned without action. In the event that applications are received in quantities in excess of the total quantity allocated to a particular country or its Type "A" maximum, the Department of Commerce will request advice from such country as to the consignee(s) that should receive preference. This advice will be considered along with other factors, such as the type and location of the scrap involved, in deciding which applications to license.

(b-2) *Ex-quota licensing.* Licenses may be issued without regard for quota limitations if the scrap is located in the Canal Zone, Puerto Rico, or other territories, dependencies, or possessions of the United States, and the applicant certifies that the scrap did not originate within the 50 States. Applications for shipment from Puerto Rico must also include evidence satisfactory to the Office of Export Administration that the scrap has been offered to users in Puerto Rico and has not been accepted.

(c) *Issuance of export licenses.* (1) *Historical quota.* An application for a validated license to export ferrous scrap against an accepted order will be considered if submitted in accordance with § 372.4 and received in the Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the date and time specified for "Historical Applications" in Supplement No. 1. Such application must be accompanied by: (i) A photocopy or certified copy of a contract calling for export shipment during the calendar quarter for which such application was filed, and (ii) where import permits are required by the country of ultimate destination, a statement from the ultimate consignee (or other foreign party to the transaction), or other documentation, that indicates to the satisfaction of the Office of Export Administration that the permit has been obtained. In order for an application to be acceptable, the ferrous scrap must be described in sufficient detail so that the "Type" it belongs in may be ascertained and verified. Each application must be clearly marked "HISTORIC QUOTA."

(2) *Nonhistorical quota.* Applications will be considered if submitted in accordance with paragraph (c) (1) of this section, except that:

(i) Applications must be received in the Office of Export Administration no later than the date and time specified for "Nonhistorical Applications" in Supplement No. 1;

(ii) If the order is not from the ultimate consignee, a copy of the contract between the purchaser or other parties involved and the ultimate consignee must also be submitted in support of the application; and

(iii) Each application must be clearly marked "NONHISTORICAL."

* * * * *

(g) *Special rules.* Any license issued pursuant to this section will expire 90 days from the date of issuance. Any cancellation of a contract automatically revokes the license that was issued against it. If a contract has been cancelled and the exporter wishes to use that portion of his quota share for another contract, he should attach the unused license to his new application when submitting it to the Office of Export Administration. Extensions of licenses will be considered only in extenuating and justifiable circumstances, and for not more than 30 days.

* * * * *

2. Supplement No. 1 to Part 377 is revised to read as follows:

COMMODITIES SUBJECT TO SHORT SUPPLY LICENSING CONTROLS

FERROUS SCRAP SUBJECT TO QUOTAS

Schedule B number	Commodity description
Type A [1]:	
282.0010	No. 1 heavy-melting steel scrap except stainless
282.0020	No. 2 heavy-melting steel scrap, except stainless
282.0030	No. 1 bundles steel scrap, except stainless
282.0080	Iron scrap, except borings, shovelings, and turnings
Type B:	
282.0040	No. 2 bundles steel scrap, except stainless
282.0050	Borings, shovelings and turnings, iron and steel, except stainless
282.0065	Shredded steel scrap
282.0078	Other steel scrap, including tin-plated and terne plate
282.0090	Rerolling material of iron or steel

FERROUS SCRAP NOT SUBJECT TO QUOTAS

282.0060	Stainless steel scrap

Shipping tolerance: 5 percent.

Submission dates. Orders must call for shipment during the fourth quarter 1974. Applications will not be accepted before September 24, 1974, and must be received in the Office of Export Administration no later than 5:00 p.m. e.d.t. on the dates indicated below:

Individual country quotas:	
Historical applications	Dec. 13, 1974
Nonhistorical applications	Nov. 15, 1974
Exceptions and stainless steel scrap	At any time.

[1] Cut plate and structurals are included in Type A.

INDIVIDUAL FOREIGN COUNTRY QUOTAS FOR THE 4TH QUARTER 1974 (IN SHORT TONS)

Country	Nonhistorical Quota	Nonhistorical Type "A"	Historical quota
Angola	900	900	
Argentina	8,000	6,000	26,800
Bangladesh	3,830	3,830	
Brazil	5,200	5,200	
Canada	44,000	26,000	156,300
Chile	1,600	0	
China, People's Republic	9,400	9,400	
Colombia	700	700	
Dominican Republic	1,300	100	
European Community	40,000	25,000	157,400
Greece	5,000	500	17,800
Hong Kong	2,600	1,600	
Japan	160,000	80,000	563,300
Korean Republic	32,000	18,000	91,700
Mexico	38,000	24,000	127,000
New Zealand	5,200	500	
Pakistan	4,340	1,700	
Peru	1,000	0	
Philippines	2,000	1,500	
Singapore	1,900	1,100	
Spain	47,000	18,000	135,000
Sweden	7,700	1,500	
Taiwan	26,000	15,000	74,700
Thailand	3,000	2,000	11,800
Turkey	7,000	5,000	20,600
Venezuela	12,000	1,000	38,000
Yugoslavia	7,000	7,000	
All other countries	2,400	1,200	
SET-ASIDES:			
Ships for scrapping	50,000	Open	
Foreign policy	100,000	Open	
Unique hardship	50,000	Open	

Effective date of action. September 24, 1974.

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

[FR Doc.74-22484 Filed 9-27-74;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8872-o]

PART 13—PROHIBITED TRADE PRACTICES

Symbra'ette, Inc., and Carl G. Simonsen

Subpart—Advertising falsely or misleadingly: § 13.55 *Demand, business or other opportunity;* § 13.60 *Earnings and profits;* § 13.143 *Opportunities;* § 13.155 *Prices;* 13.155-20 Cost, expense reimbursing, or advertising; § 13.160 *Promotional sales plans.* Subpart—Combining or conspiring: § 13.388 *To control allocations and solicitation of customers;* § 13.430 *To enhance, maintain or unify prices;* § 13.450 *To limit distribution or dealing to regular, established or acceptable channels or classes.* Subpart—Cutting off access to customers or market: § 13.560 *Interfering with distributive outlets.* Subpart—Failing to maintain records: § 13.1051 *Failing to maintain records;* 13.1051-20 Adequate. Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception.* Subpart—Maintaining resale prices: § 13.1130 *Contracts and agreements;* § 13.1155 *Price schedules and announcements.* Subpart—Misrepresenting oneself and goods—Goods: § 13.-

1610 *Demand for or business opportunities;* § 13.1615 *Earnings and profits;* § 13.1697 *Opportunities in product or service.* —Promotional sales plans: § 13.-1830 *Promotional sales plans.* Subpart—Offering unfair, improper, and deceptive inducements to purchase or deal: § 13.-1935 *Earnings and profits;* § 13.2015 *Opportunities in product or service;* § 13.2040 *Returns and reimbursements.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Ger-Ro-Mar, Inc., trading as Symbra'ette, et al., San Jose, Calif., Docket 8872, July 23, 19741]

In the matter of Ger-Ro-Mar, Inc., a corporation, d/b/a Symbra'ette, and Carl G. Simonsen, individually and as President of Ger-Ro-Mar, Inc.

Consent order requiring a San Jose, Calif., manufacturer of brassieres, girdles, swimwear, wigs and lingerie, among other things to cease using an open-ended, multi-level (pyramid) marketing plan to recruit distributors for its products; misrepresenting the earnings and profits a distributor may expect to make; maintaining resale prices; and restricting distributors as to whom they may sell their merchandise.

The final order, including further order requiring report of compliance therewith, is as follows: [1]

It is ordered That the following Findings of Fact, "Discussion," and Conclusions of Law of the Administrative Law Judge are adopted as Findings of Fact, "Discussion," and Conclusions of Law of the Commission:

"Preliminary Statement" (pp. 1–3); Findings of Fact 1–25 and 27–30; pp. 25–27 sub nom. "Discussion"; p. 35 (last two paragraphs); p. 37 (last paragraph) through p. 44; Conclusions 1–4.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following Order be, and it hereby is, entered:

ORDER

It is ordered, That respondent Ger-Ro-Mar, Inc., a corporation doing business as Symbra'ette, whose corporate name is now Symbra'ette, Inc., and officers thereof, and respondent Carl G. Simonsen, individually and as an officer of said corporation, or corporations, and respondents' agents, representatives, employees, successors, and assigns, directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution of brassieres, girdles, lingerie, wigs, or of any other products, or of distributorships or franchises, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering, operating, or participating in, directly or indirectly, any marketing or sales plan or program wherein a paticipant gives a valuable consideration in return for the opportunity to receive compensation for inducing other persons to become participants in the plan or program: *Provided,* That "compensation" as used in this paragraph only does not mean any payment based on actually consummated sales of goods or services to persons who are not participants in the plan or program, and who do not purchase goods or services in order to participate in the plan or program.

2. Offering, operating, or participating in, directly or indirectly, any marketing or sales plan or program wherein the financial gains to participants are, or are represented to be, based in any manner or to any degree upon their recruiting of other participants who obtain the right under the plan or program to recruit yet other participants, whose function during their first year in the plan or program includes, in any respect whatsoever, the recruitment of participants.

3. Operating any marketing or sales plan or program unless respondents agree to and notify participants that they will prompetly repurchase all or any part of any initial order of merchandise made by any participant, upon written request of the participant mailed within 30 days (or a greater period of time if respondents elect) of the receipt of the initial order by the participant, at the price actually paid by the participant for the merchandise: *Provided, however,* That respondents may insist that prior to making repurchase, the merchandise be returned to respondents' place of business, postage or shipping prepaid, in a resaleable condition, said merchandise to be shipped within 30 days (or a greater period of time if respondents elect) of the date on which written request for repurchase is received.

4. Representing, directly or by implication, or by use of hypothetical examples or representations of past earnings of participants, that participants in any marketing or sales program will earn or receive, or have the reasonable expectancy or earning or receiving, any stated gross or net amounts, unless in fact, a majority of participants in the community or geographic area in which such representations are made, have achieved the stated gross or net amounts represented, and the representations accurately reflect the amount of time required by such participants to achieve such gross or net amounts.

5. Misrepresenting in any manner, directly or by implication, or placing in the hands of others the means or instrumentalities for misrepresenting, the financial gains reasonably achievable by participants in any marketing or sales plan or program, of the commercial feasibility thereof.

6. Failing to maintain adequate records (a) which disclose the facts upon which any claims of the type discussed in paragraphs 4 and 5 of this Order are based; and (b) from which the validity of any claim of the type discussed in paragraphs 4 and 5 of this Order can be determined.

7. Requiring that an individual pay a valuable consideration in return for the right to participate in any marketing or sales program, without first disclosing to such prospective participant in writing the number of other participants in the marketing area in which such prospect plans to operate.

8. Representing that the supply of available participants in respondents' marketing program is inexhaustible or virtually inexhaustible.

9. Entering into, maintaining or enforcing any contract, agreement, combination, understanding, or course of conduct which has as its purpose or effect to require any individual to resell at any particular price a product which he or she has purchased: *Provided,* That in those states having Fair Trade laws products may be marketed pursuant to the provisions of such laws.

10. Publishing or distributing, directly or indirectly, any resale price list, product price list, order form, report form, promotional material or any other document which employs resale prices for commodities sold by respondents without stating clearly and conspicuously in conjunction therewith the following:

The resale prices quoted herein are suggested prices only: *Provided,* That in those states having Fair Trade laws products may be marketed pursuant to the provisions of such laws.

11. Entering into, maintaining, or enforcing any contract, agreement, combination, understanding, or course of conduct which has as its purpose or effect to require any individual to refrain from reselling products which he or she has purchased, to any specified person, class of persons, business, or class of businesses.

It is further ordered That respondents deliver a copy of this Order to all present and future dealers, distributors, or participants in any marketing or sales plan or program they operate, or who are engaged in the sale of respondents' products or services, and secure from each a signed statement acknowledging receipt of this Order.

It is further ordered That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, incorporation, or sale resulting in the emergence of a successor firm, partnership, or corporation, or any other change which may affect compliance obligations arising out of this Order.

It is further ordered That Carl G. Simonsen, the individual respondent named herein, promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

[1] Copies of the Complaint, Initial Decision, Final Order and Opinion filed with the original document.

It is further ordered That each of the respondents herein and their successors and assigns shall, within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with all of the provisions of this Order.

Commissioner Nye did not participate.

Final Order issued by the Commission July 23, 1974.

VIRGINIA M. HARDING,
Acting Secretary.

[FR Doc.74-22561 Filed 9-27-74;8:45 am]

[Docket No. C-2521]

PART 13—PROHIBITED TRADE PRACTICES

Lincoln Upholstery Co., Et Al.

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements;* 13.73-92 Truth in Lending Act; § 13.135 *Nature of product or service;* § 13.155 *Prices;* 13.155-5 Additional charges unmentioned; 13.155-35 Discount savings; 13.155-95 Terms and conditions; 13.155-95(a) Truth in Lending Act; § 13.160 *Promotional sales plans;* § 13.-170 *Qualities or properties of product or service;* 13.170-30 Durability or permanence; § 13.272 *Type or variety.* Subpart—Delaying or withholding corrections, adjustments or action owed: § 13.675 *Delaying or withholding corrections, adjustments or action owed.* Subpart—Failing to maintain records: § 13.-1051 *Failing to maintain records;* 13.1051-20 Adequate. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements;* § 13.1623-95 *Truth in Lending Act;* § 13.1685 *Nature;* § 13.-1710 *Qualities or properties.* —Prices: § 13.1778 *Additional costs unmentioned;* § 13.1823 *Terms and conditions;* 13.1823-20 Truth in Lending Act. —Promotional Sales plans: § 13.1825 *Usual as reduced or to be increased;* § 13.1830 *Promotional sales plans.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements;* 13.1852-75 Truth in Lending Act; § 13.1855 *Identity;* § 13.1857 *Instruments' sale to finance companies;* § 13.1870 *Nature;* § 13.1876 *Notice of third party sale of contract;* § 13.1886 *Quality, grade or type;* § 13.-1892 *Sales contract, right-to-cancel provision;* § 13.1905 *Terms and conditions;* 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Lincoln Upholstery Company, et al., Chicago, Ill., Docket C-2521, July 12, 1974]

In the matter of Lincoln Upholstery Company, a partnership, and Isadore Shapiro and Howard Kaufman, individually, and as co-partners, trading and doing business as Lincoln Upholstery Company, Lincoln Upholstery and Furniture Company, Lincoln Upholstery and Carpet Company, Lincoln Carpet Company, and Commercial Contract Carpet Company

Consent order requiring a Chicago, Ill., seller and installer of carpeting and other goods and services, among other things to cease using any sales plan employing false, misleading or deceptive statements or representatives to obtain leads to potential customers; using bait advertising; disparaging advertised products; using misleading savings claims; failing to provide customers with a three-day cooling-off period within which they may cancel their contracts with full refund rights. Further, respondents are required to include a statement on all notes of indebtedness that any third part is bound by the terms and conditions of the contract; and to cease violating the Truth in Lending Act by failing to disclose to customers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

I. *It is ordered* That respondents Lincoln Upholstery Company, a partnership, and Isadore Shapiro and Howard Kaufman, individually and as co-partners trading and doing business as Lincoln Upholstery Company, Lincoln Upholstery and Furniture Company, Lincoln Upholstery and Carpet Company, Lincoln Carpet Company, and Commercial Contract Carpet Company, or under any other name or names, and respondents' agents, representatives, and employees, successors and assigns, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of carpeting and floor coverings, or any other article of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, in any manner, a sales plan, scheme, or device wherein false, misleading, or deceptive statements or representations are made in order to obtain leads or prospects for the sales of carpeting or other merchandise or services.

2. Making representations, orally or in writing, directly or by implication, purporting to offer merchandise for sale when the purpose of the representation is not to sell the offered merchandise but to obtain leads or prospects for the sale of other merchandise at higher prices.

3. Disparaging, in any manner, or discouraging the purchase of any merchandise or services which are advertised or offered for sale.

4. Representing, orally or in writing, directly or by implication, that any merchandise or services are offered for sale when such offer is not a bona fide offer to sell such merchandise or services.

5. Failing to maintain and produce for inspection and copying for a period of three years adequate records to document for the entire period during which each advertisement was run and for a period of six weeks after the termination of its publication in press or broadcast media:

a. The cost of publishing each advertisement including the preparation and dissemination thereof;

b. The volume of sales of the advertised product or service at the advertised price; and

c. A computation of the net profit from the sales of each advertised product or service at the advertised price.

6. Representing, orally or in writing, directly or by implication, that a stated price for carpeting or floor coverings includes the cost of a separate padding and the installation of such padding and carpeting thereof, unless in every instance where it is so represented the stated price for floor coverings does, in fact, include the cost of such separate padding and installation thereof; or misrepresenting in any manner, the prices, terms, or conditions under which respondents supply separate padding and provide installation in connection with the sale of floor covering products.

7. Representing, directly or indirectly, by color illustration, orally or in writing, that any advertised product is available in more than one pattern, style or color without stating directly and explicitly the exact patterns, styles or colors, in which such advertised product is available, and the time required for delivery.

8. Failing to disclose clearly and conspicuously within each advertisement for an advertised product or service each reservation, if any, as to suitability or durability of such advertised product or service for normal usage by the customers who may buy such product or service.

9. Representing, directly or indirectly, orally, visually or in writing that the advertised price for an advertised product or service represents savings:

a. Where the advertised price for such advertised product or service has been in effect for the three weeks immediately preceding the date on which such price is featured in any advertisement;

b. Where the advertised price has not been previously documented as representing a not insignificant reduction from the prices at which the advertised product or service had been openly and actively offered for sale during seven of the ten weeks immediately preceding the date on which such advertised price is included within any advertisement;

c. Where the advertisement containing the advertised price has been prepared for Lincoln by an advertising agency or advertising representative who has not previously provided the respondents with a signed statement certifying that such agency or representative is familiar with the Federal Trade Commission's Guides on Deceptive Pricing and with the instant order to cease and desist, and intends to prepare all such advertisements in compliance with both the Guides and the instant order to cease and desist.

[1] Copies of the complaint and decision and order filed with original document.

10. Failing to furnish the buyer, except in those instances where the buyer receives a Notice of Right of Rescission prescribed by Regulation Z under the Truth in Lending Act, with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of 10 points, a statement in substantially the following form:

YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

11. Failing to furnish each buyer, except in those instances where the buyer receives a Notice of Right of Rescission prescribed by Regulation Z under the Truth in Lending Act, at the time he signs the sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned "NOTICE OF CANCELLATION", which shall be attached to the contract or receipt and easily detachable, and which shall contain in ten point bold face type the following information and statements in the same language, e.g., Spanish, as that used in the contract:

NOTICE OF CANCELLATION

(enter date of transaction)

(Date)

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO----------, AT

(Name of Seller)

(address of seller's place of business)

NOT LATER THAN MIDNIGHT OF ---------.

(Date)

I HEREBY CANCEL THIS TRANSACTION.

(Date)

(Buyer's signature)

12. Failing, before furnishing copies of the "Notice of Cancellation" to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.

13. Including in any contract or receipt any liquidated damages, forfeitures, confession of judgment or any waiver of any of the rights to which the buyer is entitled under this order including specifically his right to cancel the sale in accordance with the provisions of this order.

14. Failing to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

15. Misrepresenting, directly or indirectly, orally or in writing, the buyer's right to cancel.

16. Failing or refusing to honor any valid notice of cancellation by a buyer and within ten (10) business days after the receipt of such notice, to (i) refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the seller; (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.

17. Negotiating, transferring, selling or assigning any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased.

18. Failing, within 10 business days of receipt of the buyer's notice or cancellation, to notify him whether the seller intends to repossess or to abandon any shipped or delivered goods.

19. Failing to include the following statement clearly and conspicuously on the face of any note, contract or other instrument of indebtedness executed by or on behalf of respondents' customers:

Notice. Any holder takes this instrument subject to the terms and conditions of the contract which gave rise to the debt evidenced hereby, any contractual provision or other agreement to the contrary notwithstanding.

II. *It is further ordered* That respondents Lincoln Upholstery Company, a partnership, and Isadore Shapiro and Howard Kaufman, individually and as co-partners trading and doing business as Lincoln Upholstery Company, Lincoln Upholstery and Furniture Company, Lincoln Upholstery and Carpet Company, Lincoln Carpet Company, and Commercial Contract Carpet Company, under any name or names, respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any consumer credit sale, as "consumer credit" and "credit sale" are defined in Regulation Z (12 CFR 226) of the Truth in Landing Act (Pub. L. 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to provide any customer prior to consummation of the transaction with a copy, which the customer may retain, of all disclosures required to be made by § 226.8 of Regulation Z, in the form and manner prescribed therein, as required by § 226.8(a) of Regulation Z.

2. Failing, in any transaction in which a security interest is or will be retained or acquired in real property which is used or is expected to be used as the principal residence of the customer, to provide each customer with notice of the right to rescind, in the form and manner specified by § 226.9(b) of Regulation Z, prior to consummation of the transaction.

3. Supplying or using:

a. In any credit sale transaction, any additional information, contract clause, or other statement pertaining to such transaction, which represents, directly or indirectly, that a cash-on-delivery transaction is involved.

b. In any transaction in which a security interest is or will be retained or acquired in real property which is used or is expected to be used as the principal residence of the customer, any additional information, contract clause, or other statement pertaining to such transaction, which represents, directly or indirectly, that the customer may be liable for damages in the event of cancellation, or which represents, directly or indirectly, that the customer would not be entitled to a complete refund in the event that such customer elects to exercise his right to rescind pursuant to § 226.9 (a) and (d) of Regulation Z.

4. Supplying, or using, any additional information, contract clause, or other statement pertaining to a transaction generally, unless such additional information, contract clause or other statement is provided in a fashion which complies with § 226.6(c) or Regulation Z.

5. Failing to preserve, and to make available upon request for inspection by any authorized representative of the Federal Trade Commission copies of all disclosures given with respect to each credit transaction, and other evidence of compliance with Regulation Z, for a period of two years from the date of such transaction, as required by § 226.6(i) of Regulation Z.

6. Failing, in any consumer credit transaction or advertisement, to make all disclosures determined in accordance with § 226.4 and § 226.5 of Regulation Z,

in the manner, form and amount required by §§ 226.6, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered That respondents, for a period of one (1) year from the effective date of this order, shall provide each advertising agency utilized by respondents and each newspaper publishing company, television or radio station or other advertising media which is utilized by the respondents to obtain leads for the sale of carpeting or other goods and services, with a copy of the Commission's News Release setting forth the terms of this order.

It is further ordered That respondents deliver a copy of this order to cease and desist to each operating division and to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit, and that respondents secure a signed statement, acknowledging receipt of said order from each such person.

It is further ordered That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Decision and order issued by the Commission July 12, 1974.

CHARLES A. TOBIN,
Secretary.

[FR Doc.74-22560 Filed 9-27-74;8:45 am]

[Docket No. 8842]

PART 13—PROHIBITED TRADE PRACTICES

Rockwell International Corp.

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18.) [Cease and desist order, Rockwell International Corporation, Pittsburgh, Pa., Docket 8842, July 15, 1974.]

In the matter of Rockwell International Corporation, a corporation

Consent order requiring a well-diversified corporation headquartered in Pittsburgh, Pa., among other things to divest itself of its knitting machine manufacturing division, Wildman Jacquard; Further, for a five-year period respondent must, at the acquirer's option, make available at a maximum two percent royalty all patents, know-how and technological assistance relating to the production and operation of electronic knitting machines, and for a ten-year period respondent is forbidden to acquire, without prior Commission approval, any domestic manufacturers or sellers of looms or knitting machines or any foreign manufacturers and sellers of this machinery whose United States sales exceed an average of $500,000 in the preceding five years, or exceeded $700,000 in any of the five years.

The Decision and Order, including further order requiring report of compliance therewith is as follows.[1]

ORDER

I. *It is ordered* That, subject to the prior approval of the Federal Trade Commission, respondent Rockwell International Corporation,[2] a corporation (hereinafter Rockwell), through its officers, directors, agents, representatives, employees, successors and assigns, shall, as soon as possible, and in any event within two (2) years from the date this Order becomes final, divest absolutely and in good faith, all assets, properties, rights and privileges, tangible and intangible, presently owned or controlled by or assigned to what was formerly referred to as the Wildman Jacquard Company or the Wildman Jacquard Division of respondent, excluding, however, any of such equipment, machinery, raw material reserves, inventory and other property as are presently located at respondent's facility in Reading, Pennsylvania and used for the manufacture or sale of large diameter circular machinery, which were not formerly used in production at the Norristown plant which is to be divested (hereinafter Wildman Jacquard), including but not limited to the plant owned by it and located at 1300 Stanbridge Street, Norristown, Pennsylvania 19404, and including all equipment, machinery, raw material reserves, inventory, and other property of whatever description located at such plant and all customer lists, trade names, patents, trademarks and good will (expressly excluding, however, the trademarks Rockwell International, Rockwell, North American Rockwell, Electroknit, Electroknit 48 and other marks or names not exclusively used by Wildman Jacquard) in so far as they relate to Wildman Jacquard and also including all additions and improvements thereto made since January 1, 1973 up to the date of divestiture, to a person, firm or corporation able to operate such plant as a separate, independent and viable going concern in the manufacture and sale of large diameter circular knitting machines.

Rockwell shall also make available, on a non-exclusive basis, for a period of five (5) years from the date of divestiture, to the acquirer, at the acquirer's option, and by license or other contract, solely for the purpose of making, using and selling electronically controlled large diameter circular double knit machines as produced by Rockwell for commercial sale at or prior to the date of divestiture (hereinafter Electronic Machines), for royalty payments of not in excess of 2 percent of the sales price of the acquirer's machines making use thereof, the following:

(a) All patents and patent applications developed on behalf of Rockwell, its subsidiaries and affiliates covering inventions which were conceived or reduced to practice during the period from August 29, 1968 to the date of divestiture for use in and which relate to the structure, manufacture or operation of Electronic Machines;

(b) All other know-how and technology in the form of documents developed by Rockwell, its subsidiaries and affiliates during the aforesaid period for use in and which relate to the structure, manufacture or operation of Electronic Machines;

(c) At the request of the acquirer, other reasonable technological assistance relating to know-how and technology developed by Rockwell, its subsidiaries and affiliates, during the aforesaid period for use in or which relate to the structure, manufacture or operation of Electronic Machines, such technological assistance to be provided through Rockwell personnel upon the payment of normal consulting fees for the personnel involved in addition to the royalty payments set forth above; and

(d) All patent rights and other know-how or technology in the form of documents which were licensed or assigned to, or otherwise acquired by Rockwell, its subsidiaries and affiliates during the aforesaid period for use in and which relate to the structure, manufacture or operation of Electronic Machines.

II. *It is further ordered,* That, if respondent is unable to sell or dispose of Wildman Jacquard for cash, nothing in this Order shall be deemed to prohibit respondent from retaining, accepting and enforcing in good faith any security interest therein, not to exceed five (5) years in duration, for the sole purpose of securing to respondent full payment of the price, with interest, at which Wildman Jacquard is sold or disposed of; *Provided, however,* That if after a good faith divestiture of Wildman Jacquard pursuant to this Order, the Buyer fails to perform his obligations and respondent regains ownership or control of Wildman Jacquard by enforcement of any security interest therein, respondent shall redivest such company within one year in the same manner as provided for herein.

III. *It is further ordered* That, pursuant to the requirement of Paragraph I above, none of the assets, rights or privileges, tangible or intangible, to be divested pursuant to Paragraph I above, shall be divested directly or indirectly to anyone who is, at the time of the divesti-

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[1] Copies of the complaint, decision and order, filed with the original document.

[2] By order dated March 14, 1973, the administrative law judge ordered that the complaint conform with the change in name of the respondent, from North American Rockwell Corporation to Rockwell International Corporation. Copy of the order filed with the original document.

ture, an officer, director, employee, or agent of, or under the control, direction or influence of any of Rockwell's subsidiaries or affiliated corporations or who owns or controls more than one (1) per cent of the outstanding shares of the capital stock of Rockwell.

IV. *It is further ordered* That, pending divestiture, respondent shall not make any changes, other than in the ordinary course of business, or permit any deterioration in any of the plants, machinery, buildings, equipment or other property or assets of whatever description of Wildman Jacquard which may impair said Wildman Jacquard's capacity for the manufacture, distribution or sale of knitting machines.

V. *It is further ordered* That, respondent Rockwell shall cease and desist for the period beginning on the date this Order becomes final and ending ten (10) years after the completion of the divestiture required by Paragraph I of this Order from acquiring, or acquiring and holding, directly or indirectly, without prior approval of the Federal Trade Commission, any part of the assets, or one (1) percent or more of the stock or other share capital, or other actual or potential equity interest or right of participation in the earnings of any domestic concern, corporate or non-corporate, which is engaged in the manufacture or sale in the United States of looms or knitting machines capable of being used to manufacture apparel or fabric for apparel, or of any foreign concern, corporate or noncoporate, engaged in the manufacture or sale of such looms or knitting machines whose sales in the United States of such looms and knitting machines in the five (5) years preceding such acquisition exceeded an average of $500,000 per year, or exceeded $700,000 in any one of such five years.

VI. *It is further ordered* That, respondent Rockwell shall within sixty (60) days after date of service of this Order, and every sixty (60) days thereafter until respondent Rockwell has fully complied with the provisions of this Order, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which respondent Rockwell is endeavoring to comply or has complied with this Order. All compliance reports shall include, among other things that are from time to time required, a summary of contracts or negotiations with anyone for the specified property and assets, and the identity of all such persons and copies of all written communications to and from such persons.

VII. *It is further ordered* That, respondent Rockwell notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other proposed change in the corporation which may affect compliance obligations arising out of this Order.

Decision and Order issued by the Commission July 15, 1974.

CHARLES A. TOBIN,
Secretary.

[FR Doc.74-22559 Filed 9-27-74;8:45 am]

[Docket No. C-2525]

PART 13—PROHIBITED TRADE PRACTICES

George Dugan Chevrolet

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements*; § 13.73-92 Truth in Lending Act. § 13.155 *Prices*; § 13.155-95 *Terms and conditions*; § 13.155-95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements*; § 13.-1623-95 Truth in Lending Act.—Prices; § 13.1823 *Terms and conditions*; 13.-1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*; 13.1852-75 Truth in Lending Act; § 13.1905 *Terms and conditions*; 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; (15 U.S.C. 45, 1601-1605))

[Cease and desist order, George Dugan Chevrolet, Klamath Falls, Oregon, Docket C-2525, July 30, 1974.]

In the Matter of George V. Dugan, an individual trading and doing business as George Dugan Chevrolet

Consent order requiring a Klamath Falls, Oregon, new and used automobile dealer, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the Act.

The Decision and Order, including further order requiring report of compliance therewith is as follows.[1]

It is ordered, That respondent George V. Dugan, an individual trading and doing business as George Dugan Chevrolet, or under any other name or names, and respondent's successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly an extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to disclose the amount of credit extended, and to describe that amount as "amount financed," as required by § 226.8(c)(7) of Regulation Z.

2. Failing to disclose the sum of all charges required by § 226.4 of Regulation Z to be included therein, and to describe that sum as the "finance charge," as required by § 226.8(c)(8)(i) of Regulation Z.

3. Failing to disclose the sum of the cash, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price," as required by § 226.8(c)(8)(ii) of Regulation Z.

4. Failing to compute and disclose the annual percentage rate accurately to the nearest quarter of one percent, as required by §§ 226.5(b) and 226.8(b)(2) of Regulation Z.

5. Failing to disclose the number, amounts and due dates or periods of payments scheduled to repay the indebtedness, and the sum of such payments, and to describe that sum as the "total of payments," as required by § 226.8(b)(3) of Regulation Z.

6. Failing to identify the amount or the method of computing the amount of any default, delinquency or similar charge payable in the event of late payments, as required by § 226.8(b)(4) of Regulation Z.

7. Failing to describe or identify the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, as required by § 226.8(b)(5) of Regulation Z.

8. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, and to state the amount or method of computation of any charge deductible from any rebate of unearned finance charge which may be credited to the obligation or refunded to the customer, as required by § 226.8(b)(7) of Regulation Z.

9. Failing to furnish to the customer, before the transaction is consummated, a duplicate of the instrument or other statement containing the disclosures required by § 226.8 of Regulation Z, as required by § 226.8(a) of Regulation Z.

10. Failing to itemize and include in the finance charge, for purposes of disclosure of the finance charge and computation of the annual percentage rate, any and all charges or premiums for credit life or disability insurance unless respondent has obtained a specific dated and separately signed affirmative written indication of the customer's desire for such insurance coverage as prescribed by § 226.4(a)(5)(ii) of Regulation Z.

11. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, at the time and in the manner, form and amounts required by §§ 226.6, 226.7, 226.8 and 226.10 of Regulation Z.

It is further ordered, That respondent deliver a copy of this order to cease and

[1] Copies of the complaint, decision and order, filed with the original document.

desist to all present and future personnel of respondent engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation or placing of advertising, and that respondent secure from each such person a signed statement acknowledging receipt of said order.

It is further ordered, That respondent prominently display the following notice in two or more locations in that portion of respondent's business premises most frequented by prospective customers, and in each location where customers normally sign consumer credit documents or other binding instruments. Such notices shall be considered prominently displayed only if so positioned as to be easily observed and read by the intended individuals:

NOTICE TO CREDIT CUSTOMERS

If the dealer is financing or arranging the financing of your purchase, you are entitled to consumer credit cost disclosures as required by the Federal Truth In Lending Act. These must be provided to you in writing before you are asked to sign any document or other papers which would bind you to such a purchase. This notice required by order of the Federal Trade Commission.

It is further ordered, That the respondent named herein notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged, as well as a description of his duties and responsibilities.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a written report setting forth in detail the manner and form of its compliance with this order.

Decision and Order issued by the Commission July 30, 1974.

VIRGINIA M. HARDING,
Acting Secretary.

[FR Doc.74-22658 Filed 9-27-74;8:45 am]

[Docket No. C-2524]

PART 13—PROHIBITED TRADE PRACTICES

Wasem's, Inc., Et Al.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* § 13.85 *Government approval, action, connection, or standards;* § 13.85–30 Federal Trade Commission orders or endorsements; § 13.85–33 Food and Drug Administration; § 13.135 *Nature of product or service;* § 13.170 *Qualities or properties of product or service;* § 13.170–12 Auxiliary, improving, or supplementary; § 13.170–52 Medicinal, therapeutic, healthful, etc.; § 13.205 *Scientific or other relevant facts;* § 13.210 *Scientific tests.* Subpart—Claiming or using endorsements or testimonials falsely or misleadingly: § 13.330 *Claiming or using endorsements or testimonials falsely or misleadingly;* 13.330–90 United States Government; 13.330–90(h) Federal Trade Commission. Subpart—Misrepresenting oneself and goods—Goods: § 13.1632 *Government endorsement or recommendation;* § 13.1685 *Nature;* § 13.1685–15 By misleading trade or corporate name; § 13.1710 *Qualities or properties;* § 13.1762 *Tests, purported.* Subpart—Using misleading name—Goods: § 13.2315 *Nature.*

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interprets or applies sec. 5, 38 Stat. 719, as amended (15 U.S.C. 45, 52)) [Cease and desist order, Wasem's, Inc., et al., Clarkston, Wash., Docket C-2524, July 23, 1974.]

In the Matter of Wasem's, Inc., a Corporation, and Clifford W. Wasem, and Weldon B. Wasem, Individually and as Officers of Said Corporation

Consent order requiring a Clarkston, Wash., retail drug and general merchandise store, among other things to cease falsely advertising its vitamin and mineral products through misrepresenting the effect Super B Vitamins have on an individual; that respondents' vitamins have been tested by the U.S. Food and Drug Administration and found to be worthy of recommendation; that the Federal Trade Commission has found respondents' advertising claims to be satisfactory; and that people do not receive enough vitamins through their diet, and need to supplement with Super B Vitamins. Further, respondents are required to devote, for a period of one year, 25 percent of their advertising to corrective statements exposing previous erroneous and misleading advertising claims.

The Decision and Order, including further order requiring report of compliance therewith is as follows.[1]

It is ordered, That respondents Wasem's, Inc., its officers, and Clifford W. Wasem and Weldon B. Wasem, their successors and assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from representing in writing, orally, visually, or in any other manner, directly or by implication, that:

1. a. Vitamin, mineral, or vitamin and mineral products will make people feel better, make people better to live with, improve job performance, or build up blood and nerves.

b. Vitamin, mineral, or vitamin and mineral products should be used for the treatment or relief of symptoms like tiredness, nervousness and rundown conditions without prior medical consultation.

c. Vitamin, mineral, or vitamin and mineral products will aid in the betterment of human physical or mental condition.

Unless at the time any such representation is made, respondents have a reasonable scientific basis for such representation available for public inspection at the point of sale.

2. Particular vitamin, mineral, or vitamin and mineral products are scientifically tested and proven by acceptable standards to be the best or superlative in any respect, unless such is the fact.

3. The United States Food and Drug Administration or any other federal, state, local, or private agency or source whatsoever has tested particular vitamin, mineral, or vitamin and mineral products and found them to be worthy of recommendation on any basis.

4. The Federal Trade Commission or any other Federal, state, local, or private agency or source whatsoever has accepted respondents' claims for particular vitamin, mineral, or vitamin and mineral products as satisfactory and acquiesces in publicizing the results of its investigation.

5. Most people do not receive enough vitamins or minerals through their normal diet and need to supplement their diet with vitamin, mineral, or vitamin and mineral products.

6. A highly concentrated dosage of vitamins or minerals is in some way beneficial or better than the "Recommended Daily Allowances" as estabished by the Food and Nutrition Board of the National Research Council, National Academy of Sciences.

It is further ordered, That respondents shall forthwith cease and desist, for a period of one (1) year from the date this order becomes final, from disseminating or causing to be disseminated any advertisement, promotional material or other unless not less than twenty-five (25) percent of the expenditures (excluding production cost) for each media in each market used be devoted to advertising, in a manner approved by authorized representatives of the Seattle Regional Office of the Federal Trade Commission, that contrary to prior advertising, Wasem's Super B Vitamins do not have the previously claimed health benefits, have not been recommended or approved by any outside source, and are not in any way necessary or helpful in larger than "recommended daily allowance" dosages. Said ads shall also contain the statement that the ad is being run pursuant to order of the Federal Trade Commission.

It is further ordered, That respondents place seven sixty-second retractive advertisements on consecutive days with the same television stations at the same approximate time of day used by respondents for previous Wasem's Super B tisements shall follow the same general format as previous television ads, with Clifford Wasem making the following audio presentation:

This advertisement is run pursuant to an order of the Federal Trade Commission. I have previously been advertising Wasem's Super B Vitamins and have made various claims which are erroneous and misleading. Contrary to what I have told you previously, Super B will not make you feel better nor make you better to live with nor work better on the job. There is no need for most people to supplement their diet with vitamins or minerals. Excess dosages over the recommended daily adult requirements of most vitamins will be flushed through the body and be of no benefit whatsoever. Contrary to

[1] Copies of the complaint, decision and order, filed with the original document.

my previous ads neither the Food and Drug Administration nor the Federal Trade Commission nor anyone else has recommended Super B or approved our prior claims. Super B Vitamins are sold on a money-back guarantee, so if you are not fully satisfied, then return them to me at Wasem's Rexall Drug Store in Clarkston for a refund.

Such advertisement shall be run no later than sixty (60) days after service upon respondents of this order.

It is further ordered, That respondents cease and desist from representing, directly or indirectly, in their advertising, promotional material, package label, or any other similar material that their vitamin, mineral, or vitamin and mineral products have "super potency," and from using the word "super" or any word of similar import or meaning as a part of the trade name of their vitamin, mineral, or vitamin and mineral products

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

Decision and Order issued by the Commission July 23, 1974.

VIRGINIA M. HARDING,
Acting Secretary.

[FR Doc.74-22657 Filed 9-27-74;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

Miconazole Nitrate

The Commissioner of Food and Drugs has evaluated new animal drug applications (95-183V, 95-184V) filed by Pitman-Moore, Inc., Washington Crossing, NJ 08560, proposing safe and effective use of miconazole nitrate cream and lotion in the treatment of topical fungal infections of dogs and cats. The applications are approved.

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

§ 135a.58 Miconazole nitrate cream; miconazole nitrate lotion.

(a) *Specifications.* (1) Miconazole is 1-[2,4-dichloro-β - (2,4 - dichlorobenzyloxy) phenethyl]imidazole.

(2) The cream contains 23 milligrams of miconazole nitrate (equiv. to 20 mg of miconazole base) per gram.

(3) The lotion contains 1.15 percent of miconazole nitrate (equiv. to 1 percent miconazole base).

(b) *Sponsor.* Code No. 066 in § 135.501 (c) of this chapter.

(c) *Conditions of use.* (1) Miconazole nitrate is an antifungal agent for topical treatment of infections in dogs and cats caused by *Microsporum canis, Microsporum gypseum,* and *Trichophyton mentagrophytes.*

(2) Apply once daily by rubbing into infected site and into immediate surrounding vicinity. Continue treatment for 2 to 4 weeks until infection is completely eradicated as determined by appropriate laboratory examination.

(3) Accurate diagnosis of infecting organism is essential. Identify by microscopic examination of a mounting of infected tissue in potassium hydroxide solution or by culture on an appropriate medium.

(4) If no improvement is observed in 2 weeks, reevaluate diagnosis and therapy.

(5) Avoid contact with eyes since irritation may result.

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

Effective date. This order shall be effective September 30, 1974.

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

Dated: September 23, 1974.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.74-22574 Filed 9-27-74;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[DESI 11374; Docket No. FDC-D-702; NDA 11-374]

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Neomycin Vaginal Suppositories; Certification Provision Revoked

The National Academy of Sciences-National Research Council, Drug Efficacy Study Group evaluated the effectiveness of the drug product described below, found the drug to be less than effective, and submitted its report to the Commissioner of Food and Drugs. Copies of that report have previously been made publicly available and are on display at the office of the Food and Drug Administration's Hearing Clerk. After reviewing the Academy's report and the available data and information, the Commissioner concluded that the drug is less than effective and, in a notice published in the FEDERAL REGISTER of October 24, 1970 (35 FR 16606), announced his conclusion that the drug is possibly effective for certain labeled indications and lacking substantial evidence of effectiveness for its other indications:

Neosporin Vaginal Suppositories containing polymyxin B sulfate, neomycin sulfate, and acetarsone; formerly marketed by Burroughs Wellcome Co., 3030 Cornwallis Rd., Research Triangle Park, NC 27709 (NDA 11-374). Section 444.642a of the antibiotic drug regulations provides for certification of this preparation.

No data concerning this product were received in response to the notice.

On the basis of all of the data and information available to him, the Commissioner of Food and Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357) and Part 430, § 314.111(a)(5), and § 3.86 of Title 21 of the Code of Federal Regulations, demonstrating the effectiveness of the combination drug.

Accordingly, the Commissioner concludes that the antibiotic drug regulations should be amended to revoke provisions for certification or release of such antibiotic combination drug products for human use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-1051 as amended, 59 Stat. 463 as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner (21 CFR 2.120), Part 444 is amended by revoking § 444.642a *Neomycin sulfate-polymyxin B sulfate-acetarsone vaginal suppositories.*

Any person who will be adversely affected by this order may file objections to it, request a hearing, and show reasonable grounds for the hearing. It is the responsibilty of every manufacturer or distributor of an antibiotic drug product to review every antibiotic order published in the FEDERAL REGISTER to determine whether it covers any product he manufactures or distributes.

Any person who elects to avail himself of the opportunity for a hearing shall file (1) on or before October 30, 1974, a written notice of appearance and request for hearing, and (2) on or before November 29, 1974, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 430.20. Any other interested person may submit comments on this order. The procedures and requirements governing this order, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of a hearing, are contained in 21 CFR 146.1

as published and discussed in detail in the FEDERAL REGISTER of March 13, 1974 (39 FR 9750), recodified as 21 CFR 430.20 in the FEDERAL REGISTER of May 30, 1974 (39 FR 18922).

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that no genuine and substantial issue of fact precludes the action taken by this order or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this order shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

All submissions pursuant to this order, except for data and information prohibited from public disclosure pursuant to section 301(j) of the act (21 U.S.C. 331(j)) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk during regular business hours, Monday through Friday.

Effective date. This order shall become effective November 11, 1974. If objections are filed, the effective date will be extended as necessary to rule thereon. In so ruling, the Commissioner will specify another effective date.

(Secs. 502, 507, 52 Stat. 1050–1051 as amended, 59 Stat. 463 as amended; 21 U.S.C. 352, 357.)

Dated: September 24, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–22571 Filed 9–27–74;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—NATIONAL HIGHWAY INSTITUTE

PART 260—STATE EDUCATION AND TRAINING PROGRAMS

Application for and Obligation of Federal-Aid Funds for Education and Training

This amendment adds Subpart D to Part 260 of the regulations of the Federal Highway Administration.[1]

This Subpart D converts Policy and Procedures Memorandum 21–22 on Application for and Obligation of Federal-aid Funds for Education and Training to Part 260 of Title 23 of the Code of Federal Regulations.

Subpart D prescribes policy and procedures for the use of Federal-aid funds authorized by 23 U.S.C. 321(b) and (c) for inservice education and training of State and local highway department employees.

It also establishes the categories of training to which Federal funds may be applied and sets forth the criteria followed by the Federal Highway Administration to evaluate State requests for the application of such funds.

Since the matters affected relate to grants, benefits, or contracts within the purview of 5 U.S.C. 553(a)(2), general notice of proposed rulemaking is not required. In consideration of the above and effective on the date of issuance, Chapter I of Title 23, Code of Federal Regulations, is amended by adding Subpart D to part 268.

Issued on September 23, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Subpart D—State Education and Training Programs

Sec.
260.401 Purpose.
260.403 Policy.
260.405 Application Procedures.
260.407 Approval Criteria.
260.409 Funding and Reimbursement.
260.411 Prohibition Against Discrimination.

AUTHORITY: 23 U.S.C. 321(b), 321(c) and 315.

Subpart D—State Education and Training Programs

§ 260.401 Purpose.

The purpose of this subpart is to prescribe policy and implement procedures for the administration of Federal-aid funds for inservice education and training of State and local highway department employees.

§ 260.403 Policy.

It is the policy of the Federal Highway Administration to encourage the States to fully utilize the authority contained in 23 U.S.C. 321(b) and 321(c) to provide continuing education of State and local employees engaged or to be engaged in Federal-aid highway work.

§ 260.405 Application procedures.

(a) The State in making applications for education and training funds is encouraged to establish a program, for the fiscal year, outlining the use of such funds.

(b) Application for Federal-aid funds to be used for educational and training activities must be made to the Division Engineer in one of the following ways:

(1) The State, having established its education and training goals, may submit Forms PR–1, "Federal-Aid Program Data", for each class of funds to be utilized and Forms FHWA–1421, "Request for Use of Federal-Aid Highway Funds for Individual Education of Training" or FHWA–1422, "Request for Use of Federal-Aid Highway Funds for Group Education or Training" at the beginning of the fiscal year; or

(2) The State, having some educational and training goals but not desiring to specify individual programs, may submit Forms PR–1 for each class of funds to be utilized at the beginning of the fiscal year and Forms FHWA–1421 or FHWA–1422 on an individual basis throughout the year as the need for education and training activities arise; or

(3) The State may submit Forms PR–1 for each class of funds to be utilized and Forms FHWA–1421 or FHWA–1422 throughout the year as the need for education and training programs arise.

§ 260.407 Approval criteria.

(a) Subject to the availability of funds, as determined by the Division Engineer, the following criteria shall be observed by the Division Engineer in determining whether to approve each separate course or training proposal:

(1) The existence of a student-instructor relationship in which a planned routine of instruction will be followed training objectives.

(2) The existence of a training environment that will accomplish the training objectives,

(3) The existence of a program or schedule of planned activity to be followed.

(4) Assurance that Federal fund participation in the cost of the training will not exceed 70 percent of the cost of tuition or other direct education expenses, which expenses shall not include travel, subsistence or salaries of the trainees.

(b) The Division Engineer's approval, as indicated on the submitted forms, shall constitute his authorization to proceed with the requested training.

§ 260.409 Funding and reimbursement.

(a) Education and training funds are made available from Federal-aid funds which are designated to meet specified State needs. These classes of funds, and amounts made available from each class for education and training, are reflected by apportionment data distributed by the FHWA.

(b) Established Federal-aid reimbursement procedures will be followed by the division and State offices, including execution of a Federal-aid project agreement, FHWA Form PR–2.

§ 260.411 Prohibition against discrimination.

The Civil Rights Act of 1964 (43 U.S.C. 2000d–2000d–4), the U.S. Department of Transportation implementing regulations (49 CFR Part 21), and the State assurances executed pursuant thereto are applicable to all activities receiving financial assistance through the Federal Highway Administration.

[FR Doc.74–22588 Filed 9–27–74;8:45 am]

SUBCHAPTER E—PLANNING

PART 1—GENERAL

PART 470—HIGHWAY SYSTEMS

Federal-Aid Other Than Urban

Policy and Procedure Memorandum 10–1 has heretofore set forth the policies and procedures pertaining to the several Federal-aid highway systems, other than the urban system. That directive is now

[1] NOTE: Part 260 consisting of Subparts A—C was added at 39 FR 34520, Sept. 26, 1974.

incorporated into the Federal-Aid Highway Program Manual. Portions of the Manual addition are hereby published, by amending Title 23, adding Subpart A of a new Part 470.

General notice of proposed rulemaking is not required, inasmuch as the published material relates to benefits or contracts pursuant to 5 U.S.C. 553(a)(2). The regulations will become effective on the date of issuance set forth below.

Issued on September 20, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

§ 1.6 [Revoked]

1. Section 1.6, Title 23, CFR, is hereby revoked.

2. Part 470, consisting at this time of Subpart A is added to read as follows:

Subpart A—Federal-Aid Highway Systems (Other Than Urban)

Sec.
470.101 Purpose.
470.103 System Classification.
470.105 Integration of Systems.
470.107 General Procedures.
470.109 Procedures for Interstate System.
470.111 Reclassification, Deletions, and Reinstatements.

AUTHORITY: 23 U.S.C. 103(b)(1), 103(c)(1), 103(e)(1), 103(e)(3), 103(f), 315; 49 CFR 1.48(b)(2) and (b)(35).

Subpart A—Federal-Aid Highway Systems (Other Than Urban)

§ 470.101 Purpose.

To set forth policies and procedures relating to designation of the National System of Interstate and Defense Highways, the Federal-aid primary highway system and the Federal-aid secondary highway system in accordance with the provisions of sections 103(b)(1), 103(c)(1), 103(e)(1) and (3), and 103(f) of title 23, United States Code.

§ 470.103 System classification.

(a) The National System of Interstate and Defense Highways shall consist of routes of highest importance to the Nation which connect the principal metropolitan areas, cities, and industrial centers, including important routes into, through, and around urban areas, serve the national defense, and to the greatest extent possible connect at suitable border points with routes of continental importance in Canada and Mexico.

(b) The Federal-aid primary system shall consist of routes of the National System of Interstate and Defense Highways and other important routes with their urban extensions, including important loops, belt highways, and spurs.

(c) The Federal-Aid secondary system shall consist of the principal secondary and feeder routes in rural and urban areas.

§ 470.105 Integration of systems.

All systems shall be properly integrated, with each route connected to another Federal-aid route.

§ 470.107 General procedures.

(a) State highway agencies shall have the responsibility for initiating route selections and proposing changes in routes already designated. In justification of the desired action, each proposal shall contain adequate supporting information and maps of sufficient scale and detail to show the system changes involved. In the event the proposal involves routes through Federal reservations, it shall be discussed with the appropriate Federal agency.

(b) Proposals shall contain a statement by the State highway agencies that there has been cooperation with appropriate local road officials regarding the Federal-aid secondary system and that, in urbanized areas, the proposal is in accordance with the planning process pursuant to section 134, United States Code.

§ 470.109 Procedures for interstate system.

Interstate routes shall be numbered in accordance with the numbering scheme adopted by the American Association of State Highway and Transportation Officials.

§ 470.111 Reclassification, deletions, and reinstatements.

(a) The reclassification of a Federal-aid highway route from one Federal-aid system to another shall not relieve the State of its obligation to the Federal Government to maintain portions thereof constructed as Federal-aid projects or of any other obligation included in project agreements executed for Federal-aid projects on portions of that route.

(b) The approved deletion of a Federal-aid highway route from any Federal-aid system, without reclassification to another Federal-aid system, shall relieve the State of its obligation to the Federal Government to maintain portions thereof constructed as Federal-aid projects. Such deletion shall also relieve the State of any other obligation included in project agreements executed for Federal-aid projects on portions of the deleted route.

(c) Requests for reinstatement of routes previously deleted from any Federal-aid system shall be approved only when the State expressly agrees to resume its obligation for the maintenance of any portion of the route constructed as a Federal-aid project. Resumption of any other obligations included in project agreements executed from Federal-aid projects on the route being considered for reinstatement shall be mutually agreed to by the State and the Federal Highway Administration.

[FR Doc.74-22672 Filed 9-27-74;8:45 am]

PART 490—SPECIAL PROGRAMS

Economic Growth Center Development Highways

A new Part 490 is added to title 23, Code of Federal Regulations in implementation of special programs. Subpart A sets forth the policies and procedures applicable to economic growth center development highways (23 U.S.C. 143, as amended by section 122 of the Federal-Aid Highway Act of 1973 [Pub. L. 93-87]) and consists of those portions of a new addition to the Federal-Aid Highway Program Manual (Volume 4, Chapter 8, section 2) which require public notice.

The matters affected relate to grants, benefits or contracts within the purview of 5 U.S.C. 553(a)(2), therefore general notice of proposed rulemaking is not required.

The regulations will take effect on the date set forth below.

Issued on September 23, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Subpart A—Economic Growth Center Development Highways

Sec.
490.101 Purpose.
490.103 Definitions.
490.105 Applicability.
490.107 Implementation.
490.109 Financing.
490.111 Criteria.
Appendix A—Criteria for Selection and Approval of Economic Growth Center Highways and Development Highway Projects.

AUTHORITY: 23 U.S.C. 143, 315; 49 CFR 1.48(b)(26) and (35).

Subpart A—Economic Growth Center Development Highways

§ 490.101 Purpose.

The purpose of this subpart is to prescribe policies and procedures for administering the Economic Growth Center Development Highway Program by furnishing specific procedures, criteria, and definitions needed to assist State Governors, State highway officials, and Federal Highway Administration headquarters and field staffs in implementing the program.

§ 490.103 Definitions.

(a) The term "Commuting Range" means that distance from a growth center from which residents of rural counties can commute daily, with reasonable convenience, to work or other opportunities in the growth center.

(b) The term "Development Highway Projects" means a project on an economic growth center development highway approved by the Federal Highway Administrator for construction, reconstruction, or other improvement with funds authorized under provisions of 23 U.S.C. 143.

(c) The term "Division Engineer" means the chief Federal Highway Administration (FHWA) official assigned to conduct FHWA business in a particular State, the District of Columbia, or the Commonwealth of Puerto Rico.

(d) The term "Economically Capable" means the economic capability of an area to be designated as an economic growth center. A determination that a proposed growth center is economically capable will rest primarily upon past economic performance of the area and upon its future potential.

(e) The term "Economic Development" means economic development of an area as evidenced by increments in total income, employment opportunities, population, value of production, increased diversification of industry,

higher labor force participation rates, increased duration of employment, higher wage levels, and/or gains in other measures of economic activity, such as land values.

(f) The term "Economic Development District" means a group of adjacent counties or areas, including a growth center, grouped together under a program authorized by Congress and designated by the Economic Development Administration.

(g) The term "Economic Development Plan" means a formal attempt to bring order, priority, and foresight into government and private expenditures.

(h) The term "Economic Growth Center" means a center of less than 100,000 population approved by the Secretary on the basis of recommendations of the Governor of the State.

(i) The term "Economic Growth Center Development Highway" means a highway on any Federal-aid system except the Interstate System which meets the requirements established by 23 U.S.C. 143 and is approved by the Secretary of Transportation for construction, reconstruction, or improvement under the provisions of that section.

(j) The term "Geographically Capable" means the ability of an area surrounding a proposed growth center to provide area residents, and residents of the growth center, the opportunity, with reasonable convenience, to commute to or from the center to employment or to other public and private services available in the area.

(k) The term "Public and Private Services" means such services providing health care, transport, education, legal, employment, recreational, cultural, and other similar services available to the public.

(l) The term "Redevelopment Area" means a county, Indian reservation, or other definable area designated by the Economic Development Administration under a program authorized by Congress to attempt to solve problems caused by high unemployment and low median family income levels.

§ 490.105 Applicability.

(a) The Federal-Aid Highway Act of 1973 continued the Economic Growth Center Development Highway Program, but modified it in three important respects:

(1) 23 U.S.C. 143(a) was amended to eliminate the "demonstration" feature, thereby indicating a congressional intent to make the growth center provision an element of the overall Federal-aid highway program;

(2) The 20 percent add-on or "sweetner" financing provision of the Federal-Aid Highway Act of 1970 was eliminated and authorizations for the 1974, 1975 and 1976 fiscal years were made (in section 104(a) (10)) to provide the same Federal share payable as for any other project on the Federal-aid system on which the development highway is located; and

(3) The program was broadened to include projects on any Federal-aid system except the Interstate System.

(b) This directive applies to all development highway projects under provisions of title 23 U.S.C. 143.

§ 490.107 Implementation.

(a) Highway projects to serve economic growth centers shall be approved by the Division Engineer according to ordinary Federal-aid procedures, provided the Division Engineer is satisfied that the project has a reasonable likelihood of improving the economic and social performance of the growth center.

(b) Economic growth centers approved under 23 U.S.C 143 prior to the issuance of this directive shall be continued as active centers in the new program until they are replaced by new centers in accordance with § 490.107(c). New highway projects selected to continue improvement of previously approved centers are eligible for immediate approval by the Division Engineer provided he is satisfied that the project has a reasonable likelihood of improving the economic and social performance of the growth center.

(c) New economic growth centers may be recommended by the Governors of the several States in addition to existing centers. However, no State shall have more than three currently active growth centers. New centers may be recommended to replace centers for which funds have been fully obligated for all approved projects, or for which no projects have been initiated. Governors shall submit their recommendations to the Regional Federal Highway Administrator through their State highway agencies.

(d) A Governor's recommendation for a new economic growth center shall be accompanied by economic and demographic data supporting his suggestions and explaining why and how additional highway investment might assist in further developing the potential of the area. Criteria listed in Appendix A of this subpart must be considered by the Governors in recommending growth centers.

(e) The planning studies required for this program shall be broader in scope than the engineering and economic surveys generally required in other Federal-aid highway programs. Each shall consist of an economic base study of the designated growth center and the carefully delineated rural area(s) which the center will serve. The study also shall project the amount, kind and location of economic and/or social development that is expected to occur and the time frame of such expectations, as well as why and how new highway investment, described in general terms, will aid this development.

(f) The economic growth center planning studies shall be in addition to any studies normally required for projects on the Federal-aid system on which the Economic Growth Center Development Highway is located.

(g) The States should review planning done by any agency in the area in which a growth center development highway is to be located.

(h) The requirement that "after" studies be completed to determine the impact of demonstration projects shall continue to apply to all projects under this section for which plans, specifications and estimates were approved prior to August 13, 1973.

(i) Regular Federal-aid procedures applicable to the system on which a project is located shall be used, except as modified in this subpart.

§ 490.109 Financing.

(a) Section 104(a)(10) of the Federal-Aid Highway Act of 1973 authorizes appropriations out of the Highway Trust Fund to finance the Economic Growth Center Development Highway Program. In addition, unobligated balances remaining from the demonstration program are available for use in the new program.

(b) The requirement in the Federal-Aid Highway Act of 1970 that "the Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under this section shall be increased by not to exceed an additional 20 per centum of the cost of such project, except that in no case shall the Federal share exceed 95 per centum of the cost of such project" shall continue to apply to all projects under 23 U.S.C. 143 for which plans, specifications and estimates were approved prior to the enactment of the Federal-Aid Highway Act of 1973 (August 13, 1973) until such projects are completed. The Federal share of the cost of any project for construction, reconstruction, or improvement of a development highway under 23 U.S.C. 143 for which plans, specifications and estimates were or are approved subsequent to enactment of the Federal-Aid Highway Act of 1973 shall be the same as the Federal share payable for the Federal-aid system on which such development highway is located.

(c) Federal-aid funding from two or more Federal-aid highway programs may occur but the Federal share for each must be in accordance with 23 U.S.C. 120 as set forth in Volume 6, Chapter 3, section 2, subsection 2 of the Federal-Aid Highway Program Manual.

§ 490.111 Criteria.

In accordance with 23 U.S.C. 143(f), criteria have been developed to aid Governors in recommending economic growth centers to the Federal Highway Administrator. All criteria are detailed in Appendix A of this subpart and will be utilized by Regional Administrators in their determination as to whether growth centers recommended by the Governors meet the criteria of the Act.

These criteria also will be used to guide the selection of individual projects to serve the growth centers.

APPENDIX A

CRITERIA FOR SELECTION AND APPROVAL OF ECONOMIC GROWTH CENTER HIGHWAYS AND DEVELOPMENT HIGHWAY PROJECTS

I. *Requirements for Governors' submittal to the Regional Federal Highway Administrators.* In order to meet the requirements of section 143, the Secretary has established through the Federal Highway Administration and in consultation with the Secretary of Commerce and the regional commissions,[1] the following criteria that must be considered by the Governors in recommending growth centers and in establishing a priority listing:

A. *Legislative criteria for Economic Growth Center selection.* 1. Growth centers shall be geographically and economically capable of contributing significantly to the development of the surrounding areas;

2. Growth centers shall have a population not in excess of 100,000 according to the 1970 Federal Census of Population; and

3. The selection of growth centers within the Appalachian region and in the economic development region, shall take into account the purposes of the Appalachian Regional Development Act of 1965 and the Public Works and Economic Development Act of 1965.

B. *Administrative criteria for Economic Growth Center selection.* Listed below are additional criteria or guidelines to which Governors, in consultation with the State highway departments, and regional development commissions and development or planning agencies, when appropriate, shall direct their attention when recommending economic growth centers for selection. Because of the many objectives of section 143 recommended centers need not be related necessarily to any single administrative criterion. Centers could include communities with either demonstrated or potential viability.

1. In order to accomplish an effective use of the modest funds available for this program, it is suggested that State highway departments may wish to concentrate on additional projects serving centers already approved under the 1970 Act.

a. When development projects serving one or more approved growth centers are complete or nearing completion, and no further development projects to serve those centers are in progress or contemplated, the Governor may wish to recommend additional growth centers and his order of their priority.

b. If the State believes that a selected approved Economic Growth Center is to be omitted from the program, the Governor may wish to recommend a substitution center to the Regional Federal Highway Administrator.

2. In recommending additional or substitute economic growth centers, Governors shall give top priority to areas included in existing regional development programs. Consideration shall also be given to local development districts established by State and local action under the Appalachian Regional Commission.

By giving special consideration in the selection process to growth centers designated under programs which have already received or which are stated to receive additional amounts of public and private capital investments, a leverage effect on development potential will be exerted.

3. Communities or centers also may be recommended for selection even though they are not included in ongoing regional development programs if they offer possibilities for growth through natural resource development or other industrial or commercial activities. Prospective growth centers possessing the following attributes will merit special consideration because of demonstrated viability:

a. Centers, which provided during the past decade, or in a more recent period, significant employment and residence opportunity for residents from nearby or surrounding rural counties.

b. Centers or communities which have been growing in a relative sense to the surrounding area or region; i.e., centers which, in a more recent period, evidenced high average wage levels, faster population and/or employment growth relative to surrounding rural counties and/or the region.

c. Communities which evidence potential viability based on private and public plans and data submitted, also may be recommended. It is conceivable that some communities may have shown little or even no growth over the past decade, but have definitely served an important function as a service and employment center for the surrounding rural areas and have inherent but untapped growth potential. Had this role not been played by the recommended center, the surrounding counties, though possibly stagnant during recent decades, might have suffered even further decline in economic performance. If such a role will likely continue into the future, or if prospects are favorable for future growth because of industry location plans and governmental investment, such communities may be recommended as economic growth centers. Data on such further prospects should be forwarded by the respective Governors in conjunction with data on boundaries of operationally defined service or trade areas, measured, perhaps, by newspaper routes, commuting patterns, or labor market boundaries.

Selection of centers of demonstrated viability and others of potential viability is not inconsistent. Section 143 has established a development program with many differing objectives. Therefore, various mixes or types of projects must be developed to determine what the incremental impacts of highway investments on development are under differing circumstances.

d. The amount of industry diversification in the community is an important factor. The diversification of the economic base of an area as measured by the proportion of the work force employed in manufacturing and service industries relative to total employment may be integrally related to the ability to support future growth. This can include also communities which are viable because of health, tourist, and environment activities.

e. The availability of alternative transportation systems including publicly owned airport and waterport facilities in existence or which might be established to service the center.

f. Other indicators of the capability of proposed growth centers include, but are not limited to:

(1) Availability of adjacent land suitable for industrial commercial development;

(2) Adequate water resources for human, industrial, and commercial consumption;

(3) Utilities, schools, and other public services adequate to meet the community's current and future needs.

4. Consideration should be given to new towns or communities in rural settings. Such communities may also be eligible for financial and other assistance for highway projects the Department of Housing and Urban Development under section 710 of the Housing and Urban Development Act of 1970. Additionally, newly developed communities may be used for the testing and development of technological, physical, and institutional innovation applicable to other communities and areas. New towns which are satellite or bedroom communities of metropolitan areas are not the types of communities to which this legislation is addressed.

C. *Other requirements.* 1. Those centers with 50,000 or more population proposed as growth centers under provisions of this legislation shall meet the requirements for urban transportation planning specified in section 134, Title 23, U.S. Code.

2. When recommending centers for approval, Governors should submit summaries of any formal private or public plans related to the economic and social development of a proposed growth center and surrounding areas, if these have been developed. The availability of such a plan is not mandatory, although existence of a formal economic development planning process indicates the extent of the community's and regional interest in development.

When such plans are unavailable, Governors shall submit relevent social and economic data to support their rationale for selection. Such data should illustrate the present condition of the center and target areas, major impediments to development; present intermodal transportation facilities and their linkages to the growth center, markets, the rural hinterland, and the overall transportation network; and the possible impact upon the area and region resulting from more adequate transportation connections. Estimates of the expected impact of the highway program in conjunction with public and private programs are important in determining priorities for growth center selection, and in approval of such centers by the Secretary for highway projects.

II. *Approval of Economic Growth Centers.* The Regional Federal Highway Administrator will approve economic development growth centers. However, highway projects to serve these centers shall be approved by the division engineer, in consultation with the regional planning engineer, as is the case with other Federal Highway Administration highway programs.

[FR Doc.74-22585 Filed 9-27-74;8:45 am]

[1] Regional commissions refer to the Appalachian Regional Commission and the commissions established under Title V of the Public Works and Economic Development Act of 1965.

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 620—ENGINEERING

Highway Improvements in the Vicinity of Airports

Chapter I of Title 23, Code of Federal Regulations is amended by adding a new subpart A—*Highway Improvements in the Vicinity of Airports* to Part 620—*Engineering.*

Policy and Procedure Memorandum 20-13, which contains FHWA requirements for highway improvements in the vicinity of airports, has been incorporated in the Federal-Aid Highway Program Manual. Regulatory portions of this directive are hereby published.

General notice of proposed rulemaking is not required since the material published relates to grants, benefits or contracts pursuant to 5 U.S.C. 553(a)(2). The regulations will become effective on the date of issuance.

Issued on September 23, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Subpart A—Highway Improvements in the Vicinity of Airports

Sec.
620.101 Purpose.
620.102 Applicability.
620.103 Policy.
620.104 Standards.

AUTHORITY: 23 U.S.C. 315 and 318; 49 CFR 1.48; 23 CFR 1.32.

Subpart A—Highway Improvements in the Vicinity of Airports

§ 620.101 Purpose.

The purpose of this section is to implement Title 23 United States Code, section 318 which requires coordination of airport and highway developments to insure (a) that airway-highway clearances are adequate for the safe movement of air and highway traffic, and (b) that the expenditure of public funds for airport and highway improvements is in the public interest.

§ 620.102 Applicability.

The requirements of this section apply to all projects on which Federal-aid highway funds are to be expended and to both civil and military airports.

§ 620.103 Policy.

(a) Federal-aid highway funds shall not participate in the costs of reconstruction or relocation of any highway to which this section applies unless the Federal Highway Administration (FHWA) and State officials, in cooperation with the Federal Aviation Administration (FAA) or appropriate military authority, or in the case of privately owned airports, the owner of that airport, determine that the location or extension of the airport in question and the consequent relocation or reconstruction of the highway is in the public interest.

(b) In addition to complying with 23 U.S.C. 318 and insuring the prudent use of public funds, it is the policy of FHWA to provide a high degree of safety in the location, design, construction and operation of highways and airports.

(c) Federal-aid funds shall not participate in projects where substandard clearances are created or will continue to exist.

§ 620.104 Standards.

A finding of public interest by FHWA will be based on compliance with airway-highway clearances which conform to FAA standards for aeronautical safety.

[FR Doc.74-22587 Filed 9-27-74;8:45 am]

PART 625—DESIGN STANDARDS FOR FEDERAL-AID HIGHWAYS

Specifications, Policies and Guides

A Federal-aid to Highways directive of long-standing (PPM 40-2) has set forth standards, specifications, policies, and guides that are acceptable to the Federal Highway Administration for application in the geometric and structural design and traffic control features of Federal-aid highway projects. The directive has been revised for inclusion in the Federal-Aid Highway Program Manual. Inasmuch as portions of the Manual addition impose an obligation on States which must be complied with to obtain Federal assistance, those portions are hereby published.

This regulation converts Policy and Procedure Memorandum 40-2 on Design Standards for Federal-aid Projects to Part 625 of 23 CFR Chapter 1.

Since the matters affected relate to grants, benefits, or contracts within the purview of 5 U.S.C. 553(a)(2), general notice of proposed rulemaking is not required.

This regulation will be effective on the date of issuance as set forth below.

Sec.
625.1 Purpose.
625.2 Definitions.
625.3 Standards, Specifications, Policies, and Guides.
625.4 Approvals.

APPENDIX A—DOCUMENTS CITED IN PART 625

AUTHORITY: 23 U.S.C. 109 (a) through (e).

§ 625.1 Purpose.

This part designates those standards, specifications, policies, and guides that are acceptable to the Federal Highway Administration (FHWA) for application in the geometric and structural design and traffic control features of Federal-aid highway projects.

§ 625.2 Definitions.

(a) Highway design standards and specifications are those design principles and dimensions derived from basic engineering knowledge, experience, research, and judgment that are officially designated and adopted by highway authorities as the specific controls for design of highways.

(b) Highway design policies are general procedures and controls which are less specific than design standards, often with a range of acceptable values, and which are officially adopted or accepted for application in the design of highways.

(c) Highway design guides include information and general controls that are more flexible and indefinite than policies but which are valuable in attaining good design and in promoting uniformity.

§ 625.3 Standards, specifications, policies and guides.

The following standards and specifications, policies and guides are approved by the FHWA for application on Federal-aid projects.[1]

(a) *Standards and specifications.* (1) Geometric Design Standards for Highways Other than Freeways, AASHO 1969.[2]

(2) Geometric Design Standards for the National System of Interstate and Defense Highways, AASHO 1967.[2]

(3) Geometric Design Guide for Local Roads and Streets, AASHO 1970.[2] The minimum values therein will be applied to determine the acceptability of low volume roads and streets except that approval is not to be given for design speeds less than 30 mph or for retention of bridges having less than approach-traveled way width.

(4) Manual on Uniform Traffic Control Devices for Streets and Highways, FHWA 1971.[3]

(5) Recommended Practices for Railroad-Highway Grade Crossing Warning Systems. Bulletin No. 7. Association of American Railroads, 1974.[4]

(6) Standard Specifications for Highway Bridges, Eleventh Edition, AASHO 1973, as amended.[2]

(7) Standard Specifications for Movable Highway Bridges, AASHO 1970.[2]

(8) Specifications for Design and Construction of Structural Supports for Highway Signs, AASHO 1968.[2]

(9) Specifications for the Design and Construction of Structural Supports for Highway Luminaires, AASHO 1970, as amended.[2]

(10) Standard Specifications for Welding of Structural Steel Highway Bridges, AASHTO 1974.[2]

(b) *Policies.* (1) A Policy on Geometric Design of Rural Highways, AASHO 1965.[2]

(2) A Policy on Design of Urban Highways and Arterial Streets, AASHTO 1973.[2]

(3) A Policy on Locating Police Stations and Maintenance Yards Serving Interstate Highways, AASHO 1959.[2]

(4) A Policy on the Accommodation of Utilities on Freeway Rights-of-Way, AASHO 1969.[2]

(5) A Policy on U-Turn Median Openings on Freeways, AASHO 1960.[2]

(6) A Policy on Access Between Adjacent Railroads and Interstate Highways, AASHO 1960.[2]

(7) A Policy on Design Standards for Stopping Sight Distances, AASHO 1971.[2]

(c) *Guides.* (1) Highway Definitions, AASHO 1968.[2]

(2) Highway Design and Operational Practices Related to Highway Safety, Report of the Special AASHO Traffic Safety Committee, AASHTO 1974.[2]

(3) A Guide for Bicycle Routes, AASHTO 1974.[2]

(4) Guide Specifications for Highway Construction, AASHO 1972.[2]

(5) Highway Drainage Guidelines, Volumes I, II, and III, AASHTO 1973.[2]

(6) Highway Barriers, NCHRP Report 118—Location Selection and Maintenance of Highway Traffic Barriers, Highway Research Board (HRB) 1971.[5]

(7) Interim Guide for Design of Pavement Structures, AASHO 1972.[2] Pavement design may be based upon procedures and practices of individual agencies that by past performance have proved satisfactory for the pertinent conditions; however, the Federal Highway Administration will use this guide to evaluate the adequacy of the design proposed.

(8) A Guide for Highway Landscape and Environmental Design, AASHO 1970.[2]

(9) A Guide on Safety Rest Areas for the National System of Interstate and Defense Highways, AASHO 1968.[2]

(10) An Informational Guide for Roadway Lighting, AASHO 1969.[2]

(11) A Guide for Accommodating Utilities of Highway Rights-of-Way, AASHO 1969.[2]

See footnotes on p. 33146.

(12) A Guide for Erecting Mailboxes on Highways, AASHO 1969.[2]

(13) A Guide for Protective Screening of Overpass Structures, AASHO 1969.[2]

(14) An Informational Guide on Fencing Controlled Access Highways, AASHO 1967.[2]

(15) An Information Guide for Preparing Private Driveway Regulations for Major Highways, AASHO 1960.[2]

(16) Highway Capacity, Special Report 87, Highway Capacity Manual, HRB 1965.[5]

(17) Handbook of Highway Safety Design and Operating Practices, FHWA 1973.[3]

§ 625.4 Approvals.

(a) Approval may be given to project plans, specifications and estimates that are found to be in conformance with the standards and specifications, policies and guides as enumerated in § 625.3.

(b) Exceptions. Approval may be given to designs on a project basis which do not conform to the minimum criteria set forth in the standards and policies listed in § 625.3 (a) and (b) under the following conditions:

(1) Projects for the highway safety improvement program;

(2) Projects involving experimental features; and

(3) Other projects where unusual conditions warrant that exception be made.

The determination to approve a project design that does not conform to the minimum criteria is to be made only after due consideration is given to all project conditions such as maximum service and safety benefits for the dollar invested, compatibility with remaining sections of unimproved roadway, and the probable time before reconstruction of the section due to increased traffic demands. Projects which include provisions to retain angle parking may be approved if an engineering analysis shows that such parking will not create a hazardous condition and restrict the usable roadway section so as to impede traffic flow.

(c) The Guides are not project requirements and no specific approval for deviations from the guides is required.

Issued on: September 23, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.74-22671 Filed 9-27-74;8:45 am]

APPENDIX A—DOCUMENTS CITED IN PART 625

[1] These documents may be reviewed at the Department of Transportation Library, Room 2200, DOT Headquarters Building, 400-7th Street SW., Washington, D.C. 20590.

[2] American Association of State Highway and Transportation Officials, 341 National Press Building, Washington, D.C. 20045.

[3] Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

[4] Association of American Railroads, American Railroads Building, Washington, D.C. 20036.

[5] Transportation Research Board, National Academy of Sciences, 2101 Constitution Avenue NW., Washington, D.C. 20418.

PART 633—REQUIRED CONTRACT PROVISIONS

A Federal-aid to highways directive (PPM 23-3) has heretofore set forth the provisions which must be included in Federal-aid contracts for Appalachian projects in order that such projects would be eligible for Federal-aid pursuant to the Appalachian Regional Development Act of 1965, as amended, and Title 23, United States Code. The directive has been revised for addition to the Federal-Aid Highway Program Manual. Inasmuch as portions of the Manual addition impose an obligation on States which must be complied with to obtain Federal assistance, those portions are hereby published.

The matters affected relate to grants, benefits, or contracts within the purview of 5 U.S.C. 553(a)(2), therefore, general notice of proposed rulemaking is not required.

Issued on September 23, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Part 633 of Title 23 is amended by adding Subpart B as follows:

Subpart B—Federal-Aid Contracts (Appalachian Contracts)

Sec.
633.201 Purpose.
633.202 Definitions.
633.203 Applicability of existing laws, regulations, and directives.
633.204 Fiscal allocation and obligations.
633.205 Prefinancing.
633.206 Project agreements.
633.207 Construction labor and materials.
633.208 Maintenance.
633.209 Notices to prospective Federal-aid construction contractors.
633.210 Termination of contract.
633.211 Implementation of Clean Air Act.
Appendix A—Types of contracts to which the Civil Rights Act of 1964 is applicable.
Appendix B—Required contract provisions, Appalachian Development Highway System and local access road construction contracts.
Appendix C—Additional required contract provisions. Appalachian Development Highway System and local access roads contracts other than construction contracts.
Appendix D—Notices to prospective Federal-aid construction contractors.

AUTHORITY: 40 U.S.C. App. 201, 402; 23 U.S.C. 315; 49 CFR 1.48(b)(35).

Subpart B—Federal-Aid Contracts (Appalachian Contracts)

§ 633.201 Purpose.

The purpose of the regulations in this subpart is to establish policies and outline procedures for administering projects and funds for the Appalachian Development Highway System and Appalachian local access roads.

§ 633.202 Definitions.

(a) The word "Commission" means the Appalachian Regional Commission (ARC) established by the Appalachian Regional Development Act of 1965, as amended (Act).

(b) The term "division engineer" means the chief Federal Highway Administration (FHWA) official assigned to conduct FHWA business in a particular State.

(c) The term "Stage 2 project" means a project for which a State highway department has requested approval by FHWA, and reservation of available Federal-aid funds.

§ 633.203 Applicability of existing laws, regulations, and directives.

The provisions of Title 23, United States Code, that are applicable to the construction and maintenance of Federal-aid primary and secondary highways, and which the Secretary of Transportation determines are not inconsistent with the Act, shall apply, respectively, to the development highway system and the local access roads. In addition, the Regulations for the Administration of Federal-aid for Highways (Title 23, Code of Federal Regulations) and directives implementing applicable provisions of Title 23, United States Code, where not inconsistent with the Act, shall be applicable to such projects.

§ 633.204 Fiscal allocation and obligations.

(a) Federal assistance to any project under the Act shall be as determined by the Commission, but in no event shall such Federal assistance exceed 70 per centum of the cost of such a project.

(b) The division engineer's authorization to proceed with the proposed work under a stage 2 project shall establish obligation of Federal funds with regard to a particular project.

§ 633.205 Prefinancing.

(a) Under the provisions of subsection 201(h) of the Act, projects located on the Appalachian Development Highway System including preliminary engineering, right-of-way, and/or construction may be programed and advanced with interim State financing.

(b) Program approvals, plans, specifications, and estimates (PS&E) approval, authorizations to proceed, concurrence in award of contracts, and all other notifications to the State of advancement of a project shall include the statement, "There is no commitment or obligation on the part of the United States to provide funds for this highway improvement. However, this project is eligible for Federal reimbursement when sufficient funds are available from the amounts allocated by the Appalachian Regional Commission."

§ 633.206 Project agreements.

(a) Project agreements executed for projects under the Appalachian program shall contain the following paragraphs:

(1) "For projects constructed under section 201 of the Appalachian Regional Development Act of 1965, as amended, the State highway department agrees to comply with all applicable provisions of said Act, regulations issued thereunder, and policies and procedures promulgated

by the Appalachian Regional Commission, and the Federal Highway Administration. Inasmuch as a primary objective of the Appalachian Regional Development Act of 1965 is to provide employment, the State highway department further agrees that in addition to the other applicable provisions of Title 49, Code of Federal Regulations, Part 21, § 21.5 (c)(1), and paragraphs (2)(iii) and (2)(v) of Appendix C thereof, shall be applicable to all employment practices in connection with this project, and to the State's employment practices with respect to those employees connected with the Appalachian Highway Program."

(2) "For projects constructed on a section of an Appalachian development route not already on the Federal-aid Primary System, the State highway department agrees to add the section to the Federal-aid Primary System prior to, or upon completion of, construction accomplished with Appalachian funds."

(b) For prefinanced projects, the following additional provision shall be incorporated into the project agreement:

(1) "Project for Construction on the Appalachian Development Highway System in Advance of the Appropriation of Funds. This project, to be constructed pursuant to subsection 201(h) of the Appalachian Regional Development Act Amendments of 1967, will be constructed in accordance with all procedures and requirements and standards applicable to projects on the Appalachian Development Highway System financed with the aid of Appalachian funds. No obligation of Appalachian funds is created by this agreement, its purpose and intent being to provide that, upon application by the State highway department, and approval thereof by the Federal Highway Administration, any Appalachian development highway funds made available to the State by the Appalachian Regional Commission subsequent to the date of this agreement may be used to reimburse the State for the Federal share of the cost of work done on the project."

§ 633.207 Construction labor and materials.

(a) Construction and materials shall be in accordance with the State highway department standard construction specifications approved for use on Federal-aid primary projects and special provisions and supplemental specifications amendatory thereto approved for use on the specific projects.

(b) The provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d–2000d–4) and the implementing regulations in 49 CFR Part 21, including the provisions of § 21.5(c)(1), and paragraphs (2)(iii) and (2)(v) of Appendix C thereof relative to employment practices, shall be applicable to all types of contracts listed in Appendix A.

(c) The "Required Contract Provisions, Appalachian Development Highway System and Local Access Roads Construction Contracts," Form PR–1316 (Appendix B), shall be included in all construction contracts awarded under the Act.

(d) The required contract provisions set forth in Form PR–1317 (Appendix C) shall be included in all types of contracts described in Appendix A, other than construction contracts.

(e) In the design and construction of highways and roads under the Act, the State may give special preference to the use of mineral resource materials native to the Appalachian region. The provisions of § 1.19 of this part shall not apply to projects under the Act to the extent such provisions are inconsistent with sections 201 (d) and (e) of the Act.

§ 633.208 Maintenance.

Maintenance of all highway projects constructed under the Act, whether on the development system or local access roads, shall be the responsibility of the State. The State may arrange for maintenance of such roads or portions thereof, by agreement with a local governmental unit.

§ 633.209 Notices to prospective Federal-aid construction contractors.

The State highway department shall include the notices set forth in Appendix D in all future bidding proposals for Appalachian Development System and Appalachian local access roads construction contracts.

§ 633.210 Termination of contract.

All contracts exceeding $2,500 shall contain suitable provisions for termination by the State, including the manner in which the termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

§ 633.211 Implementation of Clean Air Act.

Pursuant to regulations of the United States Environmental Protection Agency (40 CFR, Part 15) implementing requirements with respect to the Clean Air Act are included in Appendix B.

Effective date: This subpart shall become effective on November 15, 1974.

APPENDIX A

TYPES OF CONTRACTS TO WHICH THE CIVIL RIGHTS ACT OF 1964 IS APPLICABLE

The Civil Rights Act of 1964 and the implementing regulations of the Department of Transportation (49 CFR, Part 21), including the provisions of § 21.5(c)(1), and subparagraphs (2)(iii) and (2)(v) of Appendix C thereof relative to employment practices, are applicable to the following types of contracts awarded by State highway departments, contractors, and first tier subcontractors, including those who supply materials and lease equipment:

1. Construction
2. Planning
3. Research
4. Highway Safety
5. Engineering
6. Property Management
7. Fee contracts and other commitments with persons for services incidental to the acquisition of right-of-way including, but not limited to:
   a. Advertising contracts
   b. Agreements for economic studies
   c. Contracts for surveys and plats
   d. Contracts for abstracts of title certificates and title insurance
   e. Contracts for appraisal services and expert witness fees
   f. Contracts to negotiate for the acquisition of right-of-way
   g. Contracts for disposal of improvements and property management services
   h. Contracts for employment of fee attorneys for right-of-way procurement, or preparation and trial of condemnation cases
   i. Contracts for escrow and closing services

APPENDIX B

REQUIRED CONTRACT PROVISIONS APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM AND LOCAL ACCESS ROADS CONSTRUCTION CONTRACTS

I. Application.
II. Employment preference.
III. Equal opportunity: employment practices.
IV. Equal opportunity: selection of subcontractors, procurement of materials, and leasing of equipment.
V. Nonsegregated facilities.
VI. Payment of predetermined minimum wages.
VII. Statements and payrolls.
VIII. Record of materials, supplies and labor.
IX. Subletting or assigning the contract.
X. Safety; accident prevention.
XI. False statements concerning highway projects.
XII. Implementation of Clean Air Act.

I. Application. 1. These contract provisions shall apply to all work performed on the contract by the contractor with his own organization and with the assistance of workmen under his immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided in sections II, III, and IV hereof, the contractor shall insert in each of his subcontracts all of the stipulations contained in these Required Contract Provisions and also a clause requiring his subcontractors to include these Required Contract Provisions in any lower tier subcontracts which they may enter into, together with a clause requiring the inclusion of these provisions in any further subcontracts that may in turn be made. The Required Contract Provisions shall in no instance be incorporated by reference.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be grounds for termination of the contract.

4. A breach of the following clauses may also be grounds for debarment as provided in 29 CFR 5.6(b):

Section I, paragraph 2.
Section VI, paragraphs 1, 2, 3, 5 and 8a.
Section VII, paragraphs 1, 5a, 5b and 5d.

II. *Employment preference.* 1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the United States Department of Labor wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective

bargaining contract, provided that the number of nonresident persons employed under this subparagraph 1c shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph 4 below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of laborers, mechanics and other employees he anticipates will be required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which he estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, he shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill the positions covered by the certificate, notwithstanding the provisions of subparagraph 1c above.

5. The contractor shall include the provisions of Section II–1 through II–4 in every subcontract for work which is, or reasonably may be, done as on-site work.

III. *Equal opportunity: employment practices.* During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and the employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State highway department setting forth the provisions of this nondiscrimination clause.

b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State highway department advising the said labor union or workers' representative of the contractor's commitments under this section III and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor or pursuant thereto, and will permit access to his books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

g. The contractor will include the provisions of this Section III in every subcontract or purchase order unless exempted by rules, regualtions or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the State Highway Department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Federal Highway Administration, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

IV. *Equal opportunity: selection of subcontractors, procurement of materials, and leasing of equipment.* During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

1. *Compliance with regulations.* The contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. *Nondiscrimination.* The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipments. The contractor shall not participate either directly or indirectly in the discrimination prohibited by § 21.5 of the Regulations, including employment practices.

3. *Solicitations for subcontracts including procurement of materials and equipment.* In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier, shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.

4. *Information and reports.* The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State highway department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the State highway department, or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. *Sanctions for noncompliance.* In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the State highway department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

a. Withholding of payments to the contractor under the contract until the contractor complies, and/or

b. Cancellation, termination or suspension of the contract, in whole or in part.

6. *Incorporation of provisions.* The contractor will include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement, as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier, as a result of such direction, the contractor may request the State to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

V. *Nonsegregated facilities.* (Applicable to Federal-aid construction contracts and related subcontracts exceeding $10,000 which are not exempt from the Equal Opportunity clause.)

By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, or material supplier, as appropriate, certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He agrees that a breach of this certification is a violation of the Equal Oppor-

tunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. He agrees that (except where he has obtained identical certifications from proposed subcontractors and material suppliers for specific time periods), he will obtain identical certifications from proposed subcontractors or material suppliers prior to the award of subcontracts or the consummation of material supply agreements, exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certification in his files.

VI. Payment of predetermined minimum wages.—1. *General.* All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR, Part 3), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination decision of the Secretary of Labor which is attached hereto and made a part thereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics; and the wage determination decision shall be posted by the contractor at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or costs reasonably anticipated under section 1(b)(2) of the Davis-Bacon Act on be half of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of section VI, paragraph 3b, hereof. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

2. *Classifications.* a. The State highway department contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination, and a report of the action taken shall be sent by the State highway department contracting officer to the Secretary of Labor.

b. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question accompanied by the recommendation of the State highway department contracting officer shall be referred to the Secretary for final determination.

3. *Payment of fringe benefits.* a. The State highway department contracting officer shall require, whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate and the contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the interested parties cannot agree upon a cash equivalent of the fringe benefit, the question, accompanied by the recommendation of the contracting officer, shall be referred to the Secretary of Labor for determination.

b. If the contractor does not make payments to a trustee or other third person, he may consider as part of the wage of any laborer or mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the wage determination decision of the Secretary of Labor which is part of this contract: Provided, however, the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

4. *Payment of excess wages.* While the wage rates shown are the minimum rates required by the contract to be paid during its life, this is not a representation that labor can be obtained at these rates. No increase in the contract price shall be allowed or authorized on account of the payment of wage rates in excess of those listed herein.

5. *Apprentices and trainees (programs of Department of Labor).* a. Apprentices, under programs approved by the U.S. Department of Labor, will be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered with a State apprenticeship agency which is recognized by the Bureau of Apprenticeship and Training, United States Department of Labor; or, if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, United States Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not a trainee as defined in subparagraph b. of this paragraph or is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The contractor or subcontractor will be required to furnish to the State highway department contracting officer written evidence of the registration of his program and apprentices as well as of the appropriate ratios and wage rates, for the area of construction prior to using any apprentices on the contract work. The term "apprentice" means (1) a person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or (2) a person in his first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training, or a State Apprenticeship Council (where appropriate) to be eligible for probationary employment as an apprentice.

b. *Trainees.* Trainees will be permitted to work as such when they are bona fide trainees employed pursuant to a program approved by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training.

6. *Apprentices and trainees (programs of Department of Transportation).* Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting equal opportunity in connection with Federal-aid highway construction programs are not subject to the requirements of Section VI, paragraph 5 above. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs.

7. *Withholding for unpaid wages.* The State highway department contracting officer may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to pay laborers(mechanics, (including apprentices and trainees) watchmen, or guards employed by the contractor or any subcontractor on the work the full amount of wages required by the contract. In the event of failure to pay any laborer, mechanic, (including apprentices and trainees) watchman or guard employed or working on the site of the work, all or part of the wages required by the contract, the State highway department contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

8. *Overtime requirements.* a. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen or guards (including apprentices and trainees described in paragraphs 5 and 6 above) shall require or permit any laborer, mechanic, watchman or guard in any workweek in which he is employed on such work, to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek unless such laborer, mechanic, watchman or guard receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, as the case may be.

b. In the event of any violation of paragraph 8a, the contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman or guard employed in violation of paragraph 8a, in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by paragraph 8a.

c. The State highway department contracting officer may withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for liquidated damages as provided in paragraph 8b.

VII. Statements and payrolls.—1. *Compliance with Copeland regulations (29 CFR, Part 3):* The contractor shall comply with the Copeland Regulations (29 CFR, Part 3) of the Secretary of Labor which are herein incorporated by reference.

2. *Weekly statement.* Each contractor or subcontractor shall furnish each week a statement to the State highway department resident engineer with respect to the wages paid each of its employees, including apprentices and trainees described in section VI, paragraphs 5 and 6, and watchmen and guards on work covered by the Copeland regulations during the preceding weekly payroll period. The statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages. Contractors and subcontrac-

tors must use the certification set forth on U.S. Department of Labor Form WH–348, or the same certification appearing on the reverse of Optional U.S. Department of Labor Form WH–347, or on any form with identical wording.

3. *Final Labor summary.* The contractor and each subcontractor shall furnish, upon the completion of the contract, a summary of all employment, indicating for the completed project the total hours worked and the total amount earned. This data shall be submitted to the State highway department resident engineer on Form PR–47 together with the data required in section VIII, hereof, relative to materials and supplies.

4. *Final certificate.* Upon completion of the contract, the contractor shall submit to the State highway department contracting officer, for transmission to the Federal Highway Administration with the voucher for final payment for any work performed under the contract, a certificate concerning wages and classifications for laborers, mechanics, watchmen and guards employed on the project, in the following form:

The undersigned, contractor on

(Project No.)

hereby certifies that all laborers, mechanics, apprentices, trainees, watchmen and guards employed by him or by any subcontractor performing work under the contract on the project have been paid wages at rates not less than those required by the contract provisions, and that the work performed by each such laborer, mechanic, apprentice or trainee conformed to the classifications set forth in the contract or training program provisions applicable to the wage rate paid.

Signature and title_____

* * *

5. *Payrolls and payroll records.* a. Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three years thereafter for all laborers, mechanics, apprentices, trainees, watchmen and guards working at the site of the work.

b. The payroll records shall contain the name, social security number and address of each such employee, his correct classification, rates of pay (including rates of contributions or costs anticipated of the types described in section 1(b)(2) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor, pursuant to section VI, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated of the actual cost incurred in providing such benefits.

c. The payrolls shall contain the following information:

1. The employee's full name, address and social security number and a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in section II, paragraph 1a. (The employee's full name and social security number need only appear on the first payroll on which his name appears. The employee's address need only be shown on the first submitted payroll on which the employee's name appears, unless a change of address necessitates a submittal to reflect the new address.)

2. The employee's classification.

3. Entries indicating the employee's basic hourly wage rate and, where applicable, the overtime hourly wage rate. The payroll should indicate separately the amounts of employee and employer contributions to fringe benefit funds and/or programs. Any fringe benefits paid to the employee in cash must be indicated. There is no prescribed or mandatory form for showing the above information on payrolls.

4. The employee's daily and weekly hours worked in each classification, including actual overtime hours worked (not adjusted).

5. The itemized deductions made and

6. The net wages paid.

d. The contractor will submit weekly a copy of all payrolls to the State highway department resident engineer. The copy shall be accompanied by a statement signed by the employer or his agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the Secretary of Labor and the classifications set forth for each laborer or mechanic conform with the work he performed. Submission of a weekly statement which is required under this contract by section VII, paragraph 2, and the Copeland regulations of the Secretary of Labor (29 CFR, Part 3) and the filing with the initial payroll or any subsequent payroll of a copy of any findings by the Secretary of Labor pursuant to section VI, paragraph 3b, shall satisfy this requirement. The prime contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The contractor will make the records required under the labor standards clauses of the contract available for inspection by authorized representatives of the State highway department, the Federal Highway Administration and the Department of Labor, and will permit such representatives to interview employees during working hours on the job.

e. The wages of labor shall be paid in legal tender of the United States, except that this condition will be considered satisfied if payment is made by negotiable check, on a solvent bank, which may be cashed readily by the employee in the local community for the full amount, without discount or collection charges of any kind. Where checks are used for payment, the contractor shall make all necessary arrangements for them to be cashed and shall give information regarding such arrangements.

f. No fee of any kind shall be asked or accepted by the contractor or any of his agents from any person as a condition of employment on the project.

g. No laborers shall be charged for any tools used in performing their respective duties except for reasonably avoidable loss or damage thereto.

h. Every employee on the work covered by this contract shall be permitted to lodge, board and trade where and with whom he elects and neither the contractor nor his agents, nor his employees shall, directly or indirectly, require as a condition of employment that an employee shall lodge, board or trade at a particular place or with a particular person.

i. No charge shall be made for any transportation furnished by the contractor, or his agents, to any person employed on the work.

j. No individual shall be employed as a laborer or mechanic on this contract except on a wage basis, but this shall not be construed to prohibit the rental of teams, trucks, or other equipment from individuals.

VIII. Record of materials, supplies, and labor. 1. The contractor shall maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form PR–47 and in the units shown. Upon completion of the contract, this record, together with the final labor summary required in section VII, paragraph 3, hereof, shall be transmitted to the State highway department resident engineer for the project on Form PR–47 in accordance with instructions attached thereto, which will be furnished for this purpose upon request. The quantities for the listed items shall be reported separately for roadway and for structures over 20 feet long as measured along the centerline of the roadway.

The contractor shall become familiar with the list of specific materials and supplies contained in Form PR–47 prior to the commencement of work under this contract. Any additional materials information required will be solicited through revisions of Form PR–47 with attendant explanations.

3. Where subcontracts are involved the contractor shall submit either a single report covering work both by himself and all his subcontractors, or he may submit separate reports for himself and for each of his subcontractors.

IX. Subletting or assigning the contract. 1. The contractor shall perform with his own organization contract work amounting to not less than 50 percent of the original total contract price, except that any items designated by the State as "Specialty Items" may be performed by subcontract and the amount of any such "Specialty Items" so performed may be deducted from the original total contract price before computing the amount of work required to be performed by the contractor with his own organization.

a. "His own organization" shall be construed to include only workmen employed and paid directly by the prime contractor and equipment owned or rented by him, with or without operators.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, craftsmanship or equipment not ordinarily available in contracting organizations qualified to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. In addition to the 50 percent requirements set forth in paragraph 1 above, the contractor shall furnish (a) a competent superintendent or foreman who is employed by him, who has full authority to direct performance of the work in accordance with the contract requirements, and who is in charge of all construction operations (regardless of who performs the work), and (b) such other of his own organizational capability and responsibility (supervision, management, and engineering services) as the State highway department contracting officer determines is necessary to assure the performance of the contract.

3. The contract amount upon which the 50 percent requirement set forth in paragraph 1 is computed includes the cost of materials and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

4. Any items that have been selected as "Specialty Items" for the contract are listed as such in the Special Provisions, bid schedule, or elsewhere in the contract documents.

5. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the State highway department contracting officer, or his authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Request for permission to sublet, assign or otherwise dispose of any portion of the contract shall be in

writing and accompanied by (a) a showing that the organization which will perform the work is particularly experienced and equipped for such work, and (b) an assurance by the contractor that the labor standards provisions set forth in this contract shall apply to labor performed on all work encompassed by the request.

X. Safety: accident prevention. In the performance of this contract, the contractor shall comply with all applicable Federal, State and local laws governing safety, health and sanitation. The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions, on his own responsibility, or as the State highway department contracting officer may determine, reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

It is a condition of this contract, and shall be made a condition of each subcontract entered into pursuant to this contract, that the contractor and any subcontractor shall not require any laborer or mechanic employed in performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards (Title 29, Code of Federal Regulations, Part 1926, formerly Part 1518, as revised from time to time), promulgated by the United States Secretary of Labor, in accordance with section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96).

XI. False statements concerning highway projects. In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project in one or more places where it is readily available to all personnel concerned with the project:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

Title 18, United States Code, Section 1020, reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the qauntity or quality of the work performed or to be performed or the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval to the Secretary of Transportation; or

"Whoever knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

"Whoever knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-Aid Road Act approved July 1, 1916 (39 Stat. 355), as amended and supplemented;

"Shall be fined not more than $10,000 or imprisoned not more than five years, or both."

XII. Implementation of Clean Air Act. 1. The contractor stipulates that any facility to be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub. L. 91–604), Executive Order 11738, and regulations in implementation thereof (40 CFR, Part 15), is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities Pursuant to 40 CFR, 15.20.

2. The contractor agrees to comply with all the requirements of section 114 of the Clean Air Act, as amended, relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 and all regulations and guidelines listed thereunder.

3. The contractor shall promptly notify the State highway department of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. The contractor agrees to include or cause to be included the requirements of subparagraphs 1 through 4 of this paragraph XII in every nonexempt subcontract, and further agrees to take such action as the Government may direct as a means of enforcing such requirements.

APPENDIX C

ADDITIONAL REQUIRED CONTRACT PROVISIONS, APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM AND LOCAL ACCESS ROADS CONTRACTS OTHER THAN CONSTRUCTION CONTRACTS

Equal Opportunity: Employment Practices and Selection of Subcontractors, Suppliers of Materials, and Lessors of Equipment

During the performance of this contract, the contractor agrees as follows:

1. *Compliance with regulations:* The contractor will comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the regulations), which are herein incorporated by reference and made a part of this contract.

2. *Employment practices:* a. The contractor will not discriminate against any employee or applicant for employment because of race, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, or national origin. Such action shall include, but not be limited to the following: recruitment or recruitment advertising, hiring, firing, upgrading, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation or benefits, selection for training or apprenticeship, use of facilities and treatment of employees. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this employment practices clause.

b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, or national origin.

c. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers representative of the contractor's commitments under this employment practices provision, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

3. *Selection of subcontractors, procurement of materials and leasing of equipment:* a. The contractor, with regard to the work performed by him after award and prior to completion of the contract work, will not discriminate on the ground of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by § 21.5 of the Regulations.

b. In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by the contractor of the contractor's obligations under this contract and the regulations relative to nondiscrimination on the ground of race, color, or national origin.

4. *Information and reports:* The contractor will provide all information and reports required by the regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State highway department or the Federal Highway Administration to be pertinent to ascertain compliance with such regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. *Incorporation of provisions:* The contractor will include these additional required contract provisions in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations or orders, or instructions issued pursuant thereto. The contractor will take such action with respect to any subcontract procurement, or lease as the State highway department or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor, supplier, or lessor as a result of such directed action, the contractor may request the State to enter into such litigation to protect the interest of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

6. *Sanctions for noncompliance:* In the event of the contractor's noncompliance with sections 1 through 5 above, the State highway department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to.

a. Withholding of payments to the contractor under the contract until the contractor complies, and/or

b. Cancellation, termination or suspension of the contract in whole or in part.

APPENDIX D

FEDERAL-AID PROPOSAL NOTICES

Notices to Prospective Federal-Aid Construction Contractors

I. *Certification of nonsegregated facilities.* (a) A Certification of Nonsegregated Facilities, as required by the May 9, 1967, Order of the Secretary of Labor (32 FR 7439), May 19, 1967) on Elimination of Segregated Facilities (is included in the proposal and must be submitted prior to the award of a Federal-aid highway construction contract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause).

(b) Bidders are cautioned as follows: By signing this bid, the bidder will be deemed to have signed and agreed to the provisions of the "Certification of Nonsegregated Facilities" in this proposal. This certification provides that the bidder does not maintain or provide for his employees facilities which are segregated on a basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the bidder will not maintain such segregated facilities.

(c) Bidders receiving Federal-aid highway construction contract awards exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause, will be required to provide for the forwarding of the following notice to prospective subcontractors for construction contracts and material suppliers where the subcontracts or material supply agreements exceed $10,000 and are not exempt from the provisions of the Equal Opportunity clause.

NOTICE TO PROSPECTIVE SUBCONTRACTORS AND MATERIAL SUPPLIERS OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES

(a) A Certification of Nonsegregated Facilities is required by the May 9, 1967, Order of the Secretary of Labor (32 FR 7431, May 19, 1967) on Elimination of Segregated Facilities, which is included in the proposal, or attached hereto, must be submitted by each subcontractor and material supplier prior to the award of the subcontract or consummation of a material supply agreement if such subcontract or agreement exceeds $10,000 and is not exempt from the provisions of the Equal Opportunity clause.

(b) Subcontractors and material suppliers are cautioned as follows: By signing the subcontract or entering into a material supply agreement, the subcontractor or material supplier will be deemed to have signed and agreed to the provisions of the "Certification of Nonsegregated Facilities" in the subcontract or material supply agreement. This certification provides that the subcontractor or material supplier does not maintain or provide for his employees facilities which are segregated on the basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the subcontractor or material supplier will not maintain such segregated facilities.

(c) Subcontractors or material suppliers receiving subcontract awards or material supply agreements exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of this notice to prospective subcontractors for construction contracts and material suppliers where the subcontracts or material supply agreements exceed $10,000 and are not exempt from the provisions of the Equal Opportunity clause.

II. Implementation of Clean Air Act. (a) By signing this bid, the bidder will be deemed to have stipulated as follows:

(1) That any facility to be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as by Pub. L. 91-604), Executive order 11738, and regulations in implementation thereof (40 CFR, Part 15), is not listed on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

(2) That the State highway department shall be promptly notified prior to contract award of the receipt by the bidder of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

[FR Doc.74-22590 Filed 9-27-74;8:45 am]

PART 1—GENERAL

PART 635—CONSTRUCTION AND MAINTENANCE

Contract Procedures; Force Account Construction

Federal-aid to highways directives of longstanding (PPM 21-6.1, PPM 21-6.2, and PPM 21-6.3) set forth policies and procedures relating to Federal-aid highway construction by competitive bid and force account methods. The directives have been revised for inclusion in the Federal-Aid Highway Program Manual. Inasmuch as portions of the Manual addition impose obligations on States which must be complied with to obtain Federal assistance, these portions are hereby published.

This regulation converts Policy and Procedures Memorandums 21-6.1 and 21-6.3 to Part 635, Subpart A of Chapter 1 of Title 23 of the Code of Federal Regulations. This regulation also converts Policy and Procedures Memorandum 21-6.2 to Part 635, Subpart B of Chapter 1 of Title 23 of the Code of Federal Regulations.

In addition to converting the subject PPM's, this regulation incorporates the related provisions of regulations previously issued in Part 1 of Title 23 of the Code of Federal Regulations. Accordingly, §§ 1.13, 1.15, 1.16, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, and 1.24 of Chapter 1 Title 23, Code of Federal Regulations are hereby revoked.

Since the matters affected relate to grants, benefits or contracts within the purview of 5 U.S.C. 553(a)(2), general notice of proposed rulemaking is not required.

This regulation will be effective on the date of issuance.

Issued on September 23, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

§ 1.13 [Revoked]

§ 1.15–1.22 [Revoked]

§ 1.24 [Revoked]

1. Sections 1.13, 1.15, 1.16, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, and 1.24, Title 23, CFR, are hereby revoked.

2. Subparts A and B are added to Part 635 to read as set forth below:

Subpart A—Contract Procedures

Sec.

635.101 Purpose.
635.102 Definitions.
635.103 Applicability.
635.104 Method of Construction.
635.105 Supervising Agency.
635.106 Small Business Participation.
635.107 Advertising for Bids.
635.108 Licensing and Qualification of Contractors.
635.109 Bid Opening and Bid Tabulations.
635.110 Tied Bids.
635.111 Award of Contract and Concurrence in Award.
635.112 Agreement Estimate.
635.113 Subcontracting.
635.114 Participation in Progress Payments.
635.115 Use of Material Made Available by a Public Agency.
635.116 Restrictions Upon Materials.
635.117 Material or Product Selection.
635.118 Bonus Payments.
635.119 Use of Publicly Owned Equipment.
635.120 Claims and Claim Awards.
635.121 Changes and Extra Work.
635.122 Contract Time and Contract Time Extensions.
635.123 Submission of Contract and Force Account Documents.
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AUTHORITY: 23 U.S.C. 315 and 49 CFR 1.48 (b).

Subpart A—Contract Procedures

§ 635.101 Purpose.

The purpose of this subpart is to prescribe policies, requirements, and procedures relating to Federal-aid highway projects, from the time of authorization to proceed to the construction stage, to the time of final acceptance by the Federal Highway Administration (FHWA).

§ 635.102 Definitions.

As used in this subpart:

(a) "Administrator" means Federal Highway Administrator.

(b) "Division Engineer" means the chief FHWA official assigned to conduct business in a particular State. A State is as defined in 23 U.S.C. 101.

(c) "State highway agency" means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term "State" should be considered equivalent to "State highway agency" if the context so implies.

(d) "Certification Acceptance" means the alternative procedure which may be used for administering certain highway projects involving Federal funds pursuant to 23 U.S.C. 117.

(e) "Minority Contractor" means a minority business enterprise that is owned or controlled by one or more so-

cially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include but are not limited to Negroes, Puerto Ricans, Spanish speaking Americans, American Indians, Eskimos, Orientals, and Aleuts.

§ 635.103 Applicability.

The policies, requirements, and procedures, prescribed in this subpart, subject to certain modifications as provided in § 635.5(e), apply to all Federal-aid highway projects except those constructed under a Certification Acceptance Plan to which only §§ 635.7(e), 635.8(c) and 635.13(h) shall apply.

§ 635.104 Method of construction.

(a) Except as provided in paragraph (b) of this section, or when the division engineer finds that because of unusual circumstances some other method is in the public interest, actual construction work shall be performed by contract awarded to the lowest responsible bidder. The State highway agency shall assure opportunity for free, open and competitive bidding, including adequate publicity of the advertisements or calls for bids. The advertising or calling for bids and the award of contracts shall comply with the procedures and requirements set forth in § 635.7.

(b) When the division engineer finds that it is in the public interest, construction work may be performed by some other method than by contract awarded by competitive bidding pursuant to requirements and procedures prescribed by him. Before such finding is made, the State highway agency shall determine that the organization to undertake the work is so staffed and equipped as to perform such work satisfactorily and economically. Approval by the division engineer for construction by a method other than competitive bidding shall be requested by the State in accordance with Subpart B.

§ 635.105 Supervising agency.

(a) The State highway agency has responsibility for the construction of all Federal-aid projects, and is not relieved of such responsibility by authorizing performance of the work by or under the supervsion of a county, city, or other local public agency. The State highway agency will be responsible for insuring that such projects receive the same degree of supervision and inspection as a project constructed under a contract let and directly supervised by that agency and that the project is completed in conformity with approved plans and specifications.

(b) When a project is not located on a highway system over which the State highway agency has legal jurisdiction, or when other special conditions warrant, the State highway agency may arrange for a local public agency having jurisdiction over such streets or highways to perform the work with its own forces, or to let a contract therefor, provided the division engineer approves such proposed arrangements in advance and provided all the following conditions are met:

(1) There is an agreement between the State highway agency and the local public agency setting forth the conditions under which the project will be constructed. The agreement shall provide that construction work performed by or under the supervision of a local public agency will be subject to inspection at all times by the State highway agency and the FHWA.

(2) The State highway agency certifies that the work can be more advantageously performed by the local public agency.

(3) The local public agency is paying part of the cost of the work or has other special interest therein.

(4) The local public agency is adequately staffed and suitably equipped to undertake and satisfactorily complete the work.

(5) In the case of force account work, there is full compliance with Subpart B of this Part.

(c) When the work is to be performed under a contract awarded by a local public agency, all Federal requirements including those prescribed in this subpart shall be met.

(d) Although the State highway agency may employ a consultant to provide construction engineering services, such as inspection or survey work on a project, the State highway agency shall provide a full-time State-employed engineer to be in responsible charge and direct control of the project at all times. In those instances where a city or county can justify the use of consultants for these services, the city or county shall have a similar duty. The State highway agency and any such city or county shall not be relieved of its responsibilities under Federal law and the regulations in the event it utilizes the services of an engineering organization.

(e) When construction operations are performed on Federal-aid highway projects by any Federal agency by Federal contract and under such agency's procedures and operations on behalf of a State highway agency or other public agency, such construction operations shall be performed under the direct supervision of the State highway agency except that such supervision may be exercised through the contracting Federal agency where it is so provided by agreement between the State highway agency and the Federal agency. The right of inspection of the work under these contracts shall be extended to all agencies involved in the project.

§ 635.106 Small business participation.

The State highway agency shall schedule contract lettings in a balanced program providing contracts of such size and character as to assure an opportunity for all sizes of contracting organizations to compete. In accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 11625, the State highway agency shall affirmatively encourage minority business participation in the highway construction program.

§ 635.107 Advertising for bids.

(a) No work shall be undertaken on any Federal-aid project, nor shall any project be advertised for bids, prior to authorization thereof by the division engineer.

(b) An invitation for bids shall not be issued by the State highway agency until the provisions of the applicable FHWA regulations and directives covering the administration of the Highway Relocation Assistance Program have been met, and there exists an understanding that satisfactory traffic control devices will be installed prior to acceptance of the project. The advertising shall be done in accordance with the laws, specifications, regulations, and policies of the State in which the project is located and the applicable Federal requirements set forth in this subpart and those implementing Title VI of the Civil Rights Act of 1964, under conditions that will assure free and adequate competition.

(c) The advertisement must be available to bidders a minimum of 3 weeks prior to opening of bids except that shorter periods may be approved by the division engineer in special cases when justified.

(d) The State highway agency shall obtain the approval of the division engineer prior to issuing any addendums to the approved plans and specifications during the advertising period. The State highway agency shall provide such assurance as may be required by the division engineer that all bidders have received any such addendums.

(e) Bidding procedures on a nondiscriminatory basis shall be afforded to all qualified bidders regardless of State boundaries and without regard to race, color, sex, or national origin. If any provisions of State laws, specifications, regulations, or policies may operate in any manner contrary to Federal requirements, including Title VI of the Civil Rights Act of 1964, to prevent submission of a bid, or prohibit consideration of a bid submitted by any responsible contractor appropriately qualified in accordance with § 635.8, such provisions shall not be applicable to Federal-aid projects. Where such nonapplicable provisions exist, notices of advertising, specifications, special provisions or other governing documents shall include a positive statement to advise prospective bidders of those provisions that are not applicable.

(f) No procedure or requirement shall be imposed by any State in connection with any project which operates to restrict competitive bidding by discriminating against the purchase of a surety bond or insurance policy from any surety or insurer outside the State and authorized to do business in the State.

(g) No public agency shall be permitted to bid in competition, or to enter into subcontracts, with private contractors.

(h) In the event that §§ 635.305(c)(1) and (2), have not been complied with prior to advertisement, the advertised specifications shall include:

(1) A statement that the contractor will not be allowed to proceed with the physical construction of any part of the project until all residentially improved properties have been vacated and specific dates for termination of operation of businesses have been established for proper coordination with the physical construction schedule. The statement shall indicate that physical construction is not to be interpreted to include clearance of rights-of-way of residential improvements which have been permanently vacated;

(2) A statement concerning any acquired or unacquired parcels of right-of-way for which the lack of right of occupancy and use can be expected to interfere with construction operations;

(3) An estimate of the length of time such interferences can be expected to continue; and

(4) A statement that extensions of time will be granted, if necessary, for delays caused by interferences beyond such estimate period.

(i) (1) The State highway agency shall include a statement substantially as follows in the advertised specifications:

Title 23, United States Code, section 112 (c), requires, as a condition precedent to approval by the Federal Highway Administrator of the contract for this work, that there be filed a sworn statement executed by, or on behalf of the person, firm, association, or corporation to whom such contract is to be awarded, certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract. This sworn statement shall be in the form of an affidavit executed and sworn to by the successful bidder before a person who is authorized by the laws of this State to administer oaths. The original of such sworn statement shall be filed with the State highway agency prior to the award of the contract.

(2) As a prerequisite to the division engineer's formal concurrence in the award of the construction contract, the State highway agency must submit a copy of the required statement to the division engineer, or advise the division engineer, in writing that the required statement has been received and is on file with the State highway agency.

§ 635.108 Licensing and qualification of contractors.

(a) No procedure or requirement for prequalification, qualification or licensing of contractors shall be approved which, in the judgment of the Administrator, may operate to restrict competition, to prevent submission of a bid by, or to prohibit the consideration of a bid submitted by, any responsible contractor, whether resident or nonresident of the State wherein the work is to be performed. No contractor shall be required by law, regulation or practice to obtain a license before he may submit a bid or before his bid may be considered for award of a contract. This, however, is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding. Prequalification of contractors may be required as a condition for submission of a bid or award of contract only if the period between the date of issuing a call for bids and the date of opening of bids affords sufficient time to enable a bidder to obtain the required prequalification rating. Requirements for the prequalification, qualification or licensing of contractors, that operate to govern the amount of work that may be bid upon by, or may be awarded to, a contractor, shall be approved only if based upon a full and appropriate evaluation of the contractor's capability to perform the work.

(b) The procedures and requirements a State highway agency proposes to use for qualifying and licensing contractors, who may bid for, be awarded, or perform Federal-aid highway contracts, shall be submitted to the division engineer for advance approval. Only those procedures and requirements so approved shall be effective with respect to Federal-aid highway projects. Any changes in approved procedures and requirements shall likewise be subject to approval by the division engineer.

(c) For purposes of evaluating compliance with the requirements of Title VI of the Civil Rights Act of 1964 in these areas, the State highway agency shall establish procedures and maintain records that will identify contractors and subcontractors with regard to minority or nonminority classification within 90 days after the effective date of this subsection.

§ 635.109 Bid opening and bid tabulations.

All bids received in accordance with the terms of the advertisement shall be publicly opened and announced either item by item or by total amount. If any bid received is not read aloud, the name of the bidder and the reason for not reading the bid aloud shall be publicly announced at the letting. The State highway agency shall prepare and forward tabulations of bids to the division engineer. These tabulations shall be certified by a responsible State highway agency official and shall show (a) item details for at least the low three acceptable bids and (b) the total amounts of all other acceptable bids.

§ 635.110 Tied bids.

(a) Two or more Federal-aid projects may be tied together for bidding purposes where it appears that by so doing more favorable bids may be received. To avoid discrimination against contractors desiring to bid upon a lesser amount of work than that included in the tied combinations, provisions should be made to permit bidding separately on the individual projects whenever they are of such character as to be suitable for bidding independently.

(b) Federal-aid projects and State-financed projects may be combined in one contract where the conditions and size of the projects are so similar that the unit costs on the Federal-aid projects will not be increased by such combination of projects. In such cases, like quantities should be combined in the proposal to avoid the possibility of unbalancing of bids in favor of either of the projects in the combination.

(c) The State highway agency may tie or allow to be tied, proposals for a Federal-aid project and a State-financed project where conditions are other than as outlined in § 635.10(b). The bid schedule shall set forth the quantities separately for the Federal-aid work and the State-financed work. All proposals submitted for the tied projects must contain separate bid prices for each project individually. Federal participation in the cost of the work will be on the basis of the unit prices presented in the proposal by the individual contractor who would be the lowest responsible bidder if only the Federal-aid project were considered.

§ 635.111 Award of contract and concurrence in award.

(a) The State highway agency shall formally request concurrence by the division engineer in the award of all Federal-aid contracts. Concurrence in award by the division engineer is a necessary prerequisite to Federal participation in the construction costs. His concurrence shall be considered as authority to proceed with construction, unless specifically stated otherwise.

(b) Contracts shall be awarded within the time established by the State highway agency to the lowest responsible bidder subject to the concurrence of the division engineer.

(c) If the State highway agency determines that the lowest bidder is not qualified, it shall so notify the division engineer and obtain his concurrence before making an award to the next lowest responsible bidder if such bid is otherwise acceptable.

(d) If the State highway agency proposes to reject or decline to read or consider an otherwise low bid on the ground that it is irregular because of noncompliance with a bidding requirement, it shall submit justification for not waiving such requirements unless the noncompliance involves one of the following items:

(1) Failure to sign the bid.

(2) Failure to furnish required amount of guarantee.

(3) Failure to include a unit price for each item in the bid schedule.

(4) Failure to include a total amount for the bid.

(5) Bid is not typed or in ink.

(6) Bid contains conditions or qualifications not provided for in the specifications.

(7) Bidder is not prequalified although approved prequalification procedures are in effect.

If such justification is not considered by the division engineer to be sufficient, concurrence will not be given to an award to another bidder on the contract at the same letting.

(e) Any proposal by the State highway agency to reject all bids received for a Federal-aid project shall be submitted to the division engineer for concurrence, accompanied by adequate justification.

§ 635.112 Agreement estimate.

(a) Following the award of contract, an agreement estimate based on the contract unit prices and estimated quantities shall be prepared by the State highway agency and submitted to the division engineer as soon as practicable for use in the preparation of the project agreement. The agreement estimates shall include the actual or best estimated costs of any other items to be included in the project agreement.

(b) An agreement estimate shall be submitted by the State highway agency for each force account project when the plans and specifications are submitted to the division engineer for approval. It shall normally be based on the estimated quantities and the unit prices agreed upon in advance between the State highway agency and the division engineer, whether the work is to be done by the State highway agency or by a county or other political subdivision. Such agreed unit prices shall constitute a firm commitment as the basis for Federal participation in the cost of the project. The unit prices shall be based upon the estimated actual cost of performing the work but shall in no case exceed unit prices currently being obtained by competitive bidding on comparable highway construction work in the same general locality. In special cases involving unusual circumstances, the estimate may be based upon the estimated costs for labor, materials, equipment rentals, supplies and supervision to complete the work rather than upon agreed unit prices. This subsection shall not be applicable to agreement estimates for railroad and utility force account work.

§ 635.113 Subcontracting.

(a) The following terms as used in this section are defined as follows:

(1) "His own organization" shall be construed to include only workmen employed and paid directly by the prime contractor and equipment owned or rented by him, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.

(2) "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, craftsmanship, or equipment not ordinarly available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract. However, the fabrication and erection of certain types of steel structures are of such a nature and intricacy that they should be considered "Specialty Items," even though the cost of this work may constitute the major portion of the contract amount.

(b) Contracts for projects shall require that the contractor perform with his own organization contract work amounting to not less than 50 percent of the total contract price. For purposes of this paragraph an assignment of contract work is considered synonymous with a subcontract to perform such work.

(c) To assure that any subcontracted work is performed in accordance with the contract requirements, the contractor shall be required to furnish:

(1) A competent superintendent or foreman who is employed by him, who has full authority to direct performance of the work in accordance with the contract requirements, and who is in charge of all construction operations (regardless of who performs the work), and

(2) Such other of his organizational capability and responsibility (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

(d) Upon the request of a State highway agency the requirements of this paragraph may be modified by the Administrator for a project prior to or after the award of a contract, to such extent as he may determine to be in the public interest.

(e) The cost of "Specialty Items" may be deducted from the total contract price before computing the amount of work required to be performed by the contractor with his own organization. Specialty items may be designated in the advertised specifications and may be performed by subcontract.

(f) To determine whether the contractor is in compliance with the requirement that he perform with his own organization contract work amounting to not less than 50 percent of the total original contract price, the following criteria shall apply:

(1) The contract amount upon which the 50 percent requirement is computed shall include the cost of materials and manufactured products which are to be purchased or produced under the contract provisions.

(2) The percentage of subcontracted work shall be based on the contract, rather than subcontract unit prices. If only a part of a contract item is to be sublet, its proportional value shall be determined administratively on the same basis. This procedure should be followed even when the part not sublet consists only of procuring the materials. However, when a firm both sells materials to a prime contractor and performs the work of incorporating the materials into the project, these two phases must be considered in combination and as constituting a single subcontract.

(g) The State highway agency shall not permit any of the contract work to be performed under a subcontract unless such arrangement has been authorized by the State highway agency in writing. Prior to authorizing a subcontract, the State highway agency shall assure that the subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. A copy of each such written authorization shall be furnished promptly to the division engineer.

(h) The State highway agency shall establish procedures (including procedures for identifying and furnishing the contractor with the names and addresses of potential minority subcontractors, including suppliers of materials and equipment), acceptable to the division engineer, to assure:

(1) That in all solicitations, either by competitive bidding, or negotiation, for subcontracts, including procurements of materials and leases of equipment, each potential subcontractor, supplier or lessor is notified by the contractor of the contractor's obligations relative to nondiscrimination on the grounds of race, color, sex, or national origin;

(2) That in the selection and retention of subcontractors, including procurements of materials and leases of equipment, the contractor does not discriminate on the grounds of race, color, sex, or national origin; and

(3) That subcontract agreements, including procurements of materials and leases of equipment, unless exempt by the regulations of the Secretary of Transportation (49 CFR Part 21) or directives issued pursuant to the regulations, shall contain the contract provisions implementing Title VI of the Civil Rights Act of 1964 (23 CFR Part 633).

§ 635.114 Participation in progress payments.

Federal funds will participate in the estimated costs to the State highway agency of construction accomplished as the work progresses, based on claims submitted by State highway agency. When the contract provisions provide for stockpiling, the amount of the claim upon which participation is based may include the appropriate value of approved specification materials delivered by the contractor at the project site or other designated location in the vicinity of such construction, or stockpiled by the contractor at a location not in the vicinity of such construction, if the division engineer determines that (a) because of required fabrication at an offsite location the materials cannot be stockpiled in the vicinity of the project, (b) the materials have been purchased by the contractor, and (c) the materials conform with the requirements of the plans and specifications. The quantity of a stockpiled material eligible for Federal participation in any case shall not exceed the total estimated quantity required to complete the project. This value may not exceed the appropriate portion of the value of the contract item or items in which such material is to be incorporated.

§ 635.115 Use of material made available by a public agency.

(a) Contracts for highway projects shall require the contractor to furnish all materials to be incorporated in the work and shall permit the contractor to select the sources from which the materials are to be obtained. Exception to this requirement may be made when there is a definitive finding by the State highway agency and concurred in by the division engineer, that it is in the public interest to require the contractor to use material furnished by the State highway agency or from sources designated by the State highway agency. In cases such as this, the FHWA does not

normally expect mutual sharing of costs unless the State highway agency receives a related credit from another agency or political subdivision of the State. Where such a credit does accrue to the State highway agency, it shall be applied to the Federal-aid project involved. The designation of a mandatory material source may be permitted based on environmental considerations, provided the environment would be substantially enhanced without excessive cost. Otherwise, if a State highway agency proposal to designate a material source for mandatory use would result in higher project costs, Federal-aid funds shall not participate in the increase even if the designation would conserve other public funds.

(b) The provisions of paragraph (a) of this section will not preclude the designation in the plans and specifications of sources of local natural materials, such as borrow aggregates, that have been investigated by the State highway agency and found to contain materials meeting specification requirements. The use of materials from such designated sources shall not be mandatory unless there is a finding of public interest as stated in paragraph (a) of this section.

(c) Federal funds may participate in the cost of specification materials made available by a public agency when they have been actually incorporated in accepted items of work, or in the cost of such materials meeting the criteria and stockpiled at the locations specified in § 635.14.

(d) To be eligible for Federal participation in its cost, any material, other than local natural materials, to be purchased by the State highway agency and furnished to the contractor for mandatory use in the project, must have been acquired on the basis of competitive bidding, except when there is a finding of public interest justifying the use of another method of acquisition. The location and unit price at which such material will be available to the contractor must be stated in the special provisions for the benefit of all prospective bidders. The unit cost eligible for Federal participation will be limited to the unit cost of such material to the State highway agency.

(e) (1) When the State highway agency or another public agency owns or has control over the source of a local natural material, the unit price at which such material will be made available to the contractor must be stated in the plans or special provisions. Federal participation will be limited to (i) the cost of the material to the State highway agency; or (ii) the fair and reasonable value of the material, whichever is less.

(2) Special cases may arise that will justify Federal participation on a basis other than that set forth in § 635.15(e) (1) above. Such cases should be fully documented and receive advance approval by the division engineer.

(f) Costs incurred by the State highway agency or other public agency for acquiring a designated source or the right to take materials from it will not be eligible for Federal participation if the source is not used by the contractor.

(g) The contract provisions for one or a combination of Federal-aid projects shall not specify a mandatory site for the disposal of surplus excavated materials unless there is a finding by the State highway agency with the concurrence of the division engineer that such placement is the most economical except that the designation of a mandatory site may be permitted based on environmental considerations, provided the environment would be substantially enhanced without excessive cost.

§ 635.116 Restrictions upon materials.

No requirement shall be imposed and no procedure shall be enforced by any State highway agency in connection with a project which may operate (a) to require the use of, or provide a price differential in favor of, articles or materials produced within the State, or otherwise to prohibit, restrict or discriminate against the use of articles or materials shipped from or prepared, made or produced in any State, territory or possession of the United States; or (b) to prohibit, restrict or otherwise discriminate against the use of articles or materials of foreign origin to any greater extent than is permissible under policies of the Department of Transportation as evidenced by requirements and procedures prescribed by the Administrator to carry out such policies.

§ 635.117 Material or product selection.

(a) Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process, specifically set forth in the plans and specifications for a project, unless

(1) Such patented or proprietary item is purchased or obtained through competitive bidding with equally suitable unpatented items; or

(2) The State highway agency certifies either that such patented or proprietary item is essential for synchronization with existing highway facilities, or that no equally suitable alternate exists; or

(3) Such patented or proprietary item is used for research or for a distinctive type of construction on relatively short sections of road for experimental purposes.

(b) When there is available for purchase more than one nonpatented, nonproprietary material, semifinished or finished article or product that will fulfill the requirements for an item or work on a project and these available materials or products are judged to be of satisfactory quality and equally acceptable on the basis of engineering analysis and the anticipated prices for the related item(s) of work are estimated to be approximately the same, the plans, specifications and estimates for the project shall either contain or include by reference the specifications for each such material or product that is considered acceptable for incorporation in the work. If the State highway agency wishes to substitute some other acceptable material or product for the material or product designated by the successful bidder or bid as the lowest alternate, and such substitution results in an increase in costs, there will not be Federal-aid participation in any increase in costs.

(c) A State highway agency may require a specific material or product when there are other acceptable materials and products, when such specific choice is approved by the division engineer as being in the public interest. When the division engineer's approval is not obtained, the item will be nonparticipating unless bidding procedures are used that establish the unit price of each acceptable alternative. In this case Federal-aid participation will be based on the lowest price so established.

(d) Appendix A of this subpart sets forth the FHWA requirements regarding the specification of alternative types of culvert pipes, and the number and types of such alternatives which must be set forth in the specifications for various types of drainage installations.

§ 635.118 Bonus payments.

The policy of the FHWA is not to participate, directly or indirectly, in any part of a bonus to the contractor for completing a project in advance of the time specified.

§ 635.119 Use of publicly owned equipment.

(a) Publicly owned equipment should not normally compete with privately owned equipment on a project to be let to contract. There may be exceptional cases, however, in which the use of equipment of the State or local unit of government for highway construction purposes may be warranted or justified. A proposal by any State highway agency for the use of publicly owned equipment on such a project must be supported by a showing that it would clearly be in the public interest to do so under the conditions peculiar to the individual project or locality.

(b) As used herein the term "publicly owned equipment" means equipment previously purchased or otherwise acquired by the public agency involved primarily for use in its own operations. The term "rental" includes depreciation and expense of upkeep in addition to other charges.

(c) Where publicly owned equipment is to be made available in connection with construction work to be let to contract, Federal funds may participate in the cost of such work provided the proposed use of such equipment is clearly set forth in the plans, specifications and estimates submitted to the division engineer for approval. In such cases the advertised specifications shall also specify the items of publicly owned equipment available for use by the successful bidder, the rates to be charged therefor, and the points of availability or delivery of the equipment, together with the express condition that the successful bidder has the option either of renting part or all of such equipment from the State or local unit of government or otherwise

providing the equipment necessary for the performance of the contract work.

(d) In the rental of publicly owned equipment to contractors, the public agency should not profit at the expense of Federal funds. Accordingly, (1) rental rates shall be reasonably representative of the cost of providing such equipment, or (2) there shall be credited to the project a lump sum amount determined as the approximate profit, if profit is derived by the agency furnishing the equipment, thereby reducing the total participating cost of the project.

(e) Unforseeable causes may make it necessary to provide publicly owned equipment to the contractor at rental rates agreed to between the contractor and the State or local unit of government. Any such arrangement shall not form the basis for any increase in the cost of the project on which Federal funds are to participate.

(f) When publicly owned equipment is used on projects constructed on a force account basis, Federal funds may participate whether such work is performed at agreed unit prices, or on an actual cost basis. In the case of force account work to be performed by the State highway agency or local unit of government at agreed unit prices, the equipment need not be itemized nor rental rates shown in the estimate. However, if such work is to be performed on an actual cost basis, the State highway agency shall submit to the division engineer for approval the schedule of rates proposed to be charged, exclusive of profit, for the publicly owned equipment made available for use.

§ 635.120 Claims and claim awards.

The eligibility for, and extent of, Federal-aid participation in claim awards made by the State to Federal-aid contractors on the basis of arbitration board awards or State court judgments shall be determined on a case by case basis. Generally, the criteria for establishing Federal-aid participation in claims and resultant settlements is the extent to which such settlements are grounded in contract provisions and specifications and actual costs incurred. Where legal issues arise in the course of resolving a claim, any data submitted for consideration shall include a brief from the legal counsel for the State setting forth the basis for determining the extent of the State's liability for the claims under local law.

§ 635.121 Changes and extra work.

(a) Subsequent to authorization by the division engineer to proceed with a project or any undertaking thereunder, no change shall be made which will increase the cost of the project to the Federal Government or alter the termini, character or scope of the work without prior authorization by the division engineer.

(b) All major changes in the plans and contract provisions and all major extra work must be approved in writing by the division engineer in advance of their effective dates except that when emergency or unusual conditions justify, the division engineer may, give tentative advance approval orally to such changes or extra work and ratify such approval in writing as soon thereafter as practicable. For minor changes and minor extra work written approval is necessary but such approval may be given retroactively at the discretion of the division engineer. Such minor changes and minor extra work items would include, but not necessarily be limited to, modifications in construction items within the scope of the plans and contract provisions when such modifications are required during the progress of construction.

(c) Proposed changes and extra work involved in nonparticipating operations that may affect the design or participating construction features of a project, shall be subject to review and concurrence by the division engineer.

§ 635.122 Contract time and contract time extensions.

Contract time extensions granted by a State highway agency which affect project costs or liquidated damages, shall be subject to the concurrence of the division engineer and will be considered in determining the amount of Federal participation. To be approved by the division engineer, extensions of contract time must be fully justified and adequately documented.

§ 635.123 Submission of contract and force account documents.

A conformed copy of the contract between the State highway agency and the construction contractor and of each force account agreement shall be furnished to the division engineer as soon as practicable after it is executed.

§ 635.124 Labor and employment.

(a) (1) No convict labor shall be employed in the construction of a project or used for maintenance or any other purpose at the site or within the limits of any Federal-aid project from the time of program approval to final acceptance of the work by the State highway agency and removal of all free labor therefrom except as provided in § 635.24(a)(2) below. Program approval is interpreted to refer to approval of the program for any phase of the project; such as preliminary engineering, right-of-way acquisition, or physical construction.

(2) Convict labor may be employed at the site of a project after approval of the program including the project and prior to the time of award of the construction contract or the start of work on force account construction in routine physical maintenance operations, as described and defined in the Manual of Highway Accounting Procedures adopted in 1958 by the American Association of State Highway Officials. In the event stage construction operations are involved, convict labor may be used in routine physical maintenance operations during the interim between final acceptance by the State highway agency of the current stage construction and the award of contract, or start of force account work, for the next succeeding stage.

(b) No procedure or requirement shall be imposed by any State which will operate to discriminate against the employment of labor from any other State, possession or territory of the United States, in the construction of a Federal-aid project. The selection of labor to be employed by the contractor on any Federal-aid project shall be of his own choosing.

(c) Employment shall be provided without regard to race, color, religion, sex, or national origin.

(d) The advertisement or call for bids on any contract for the initial construction of a project on the Federal-aid system either shall include the minimum wage rates determined therefor by the Secretary of Labor or shall provide that such rates are set out in the advertised specifications, proposal or other contract document, and shall further specify that such rates are a part of the contract covering the project.

(e) When construction work on Federal-aid highways is being performed by any Federal agency under its procedures and by Federal contract, the labor standards relating to direct Federal contracts shall be applicable.

§ 635.125 Health and safety.

Contracts for projects shall include provisions designed (a) to insure full compliance with all applicable Federal, State and local laws governing safety, health and sanitation, and (b) to require that the contractor shall provide all safeguards, safety devices and protective equipment and shall take any other actions reasonably necessary to protect the life and health of persons working at the site of the project and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

§ 635.126 Termination and default of contract.

(a) When a Federal-aid contract is terminated by the State highway agency, the extent of Federal-aid participation in the contract costs, including final settlement, will depend upon the merits of the individual case. In no event will Federal funds participate in any allowance for anticipated profit on work not performed.

(b) Normal Federal-aid plans, specifications, and estimates, advertising, and award procedures are to be followed when a State highway agency awards the contract for completion of a defaulted Federal-aid contract. Under this procedure, the construction amount eligible for Federal participation on the project should not exceed either:

(1) The amount representing the payments made under the defaulted contract plus payments made under the new contract, or

(2) The amount representing what the cost would have been if the construction had been completed as contemplated by the plans and specifications under the original contract, whichever amount is the lesser.

(c) If the surety awards a contract for completion of a defaulted Federal-aid contract or completes it by some other acceptable means, the FHWA would then consider the terms of the original con-

tract to be in effect and that the work will be completed in accordance with the approved plans and specifications included therein. No further FHWA approval or concurrence action will therefore be needed in connection with any defaulted Federal-aid contract awarded by a surety. Under this procedure, the construction amount eligible for Federal participation on the project should not exceed the amount representing what the cost would have been if the construction had been completed as contemplated by the plans and specifications under the original contract.

§ 635.127 False statements.

The following notice shall be posted on each Federal-aid highway project in one or more places where it is readily available to and viewable by all personnel concerned with the project:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

United States Code, Title 18, section 1020, reads as follows:

Whoever, being an officer, agent, or employee of the United States, or any State or Territory, or whoever, whether a person, association, firm or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval to the Secretary or Transportation; or

Whoever, knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to the material fact in any statement, certificate, or report submitted pursuant to the provisions of the Federal-Aid Road Act approved July 1, 1916 (39 Stat. 355), as amended and supplemented;

Shall be fined not more than $10,000 or imprisoned not more than 5 years or both.

§ 635.128 Determination and documentation of pay quantities.

(a) The State highway agency shall have procedures in effect which will provide adequate assurance that the quantities of completed work are determined accurately and on a uniform basis throughout the State. All such determinations and all related source documents upon which payment is based shall be made a matter of record.

(b) Records of initial source documents pertaining to the determination of pay quantities, are among those records and documents which must be retained pursuant to 23 CFR Part 17.

APPENDIX A.—*Summary of acceptable criteria for specifying types of culvert pipes*

Type of drainage installation	Alternatives required			AASHTO designations to be included alternatives	Application	Remarks
	Yes	No	No.			
Cross drains under high type pavement.[2]	.....	×	.....	.....	Statewide.....	Any AASHTO approved material.[1]
Other cross drain installations.	×	.....	3 minimum...	M-170 and M-190	do.....	Do.[1]
Side drain installations	×	.....	3 minimum...	M-36	do.....	Do.[1]
Special installation conditions.	.....	×	.....	.....	Individual installation.	Specified to meet special conditions.
Special drainage systems (storm sewers, inverted siphons, etc.).	.....	×	.....	.....	do.....	Specified to meet site requirements.

[1] Types not included in currently approved AASHTO specifications may be specified if recommended by the State with adequate justification and approved by FHWA.

[2] High type pavement is generally described as FHWA construction type codes I, J, K, L, and plant mix and penetration macadam segments, respectively shown in the right-hand columns of type codes G and H having a combined thickness of surface and base of 7 inches or more (or equivalent) or that are constructed on rigid bases.

Subpart B—Force Account Construction

§ 635.201 Purpose.

The purpose of this subpart is to prescribe procedures in accordance with 23 U.S.C. 112(b) for a State highway agency to request approval that highway construction work be performed by some other method than by contract awarded by competitive bidding.

§ 635.202 Application.

This subpart applies to all Federal-aid and other highway construction projects financed in whole or in part with Federal funds and to be constructed by a State highway agency or a subdivision thereof in pursuance of agreements between any State highway agency and the Federal Highway Administration (FHWA), except projects located on the Federal-aid Secondary System and constructed under a Certification Acceptance Plan in those States where the Secretary has discharged his responsibility pursuant to 23 U.S.C. 117.

§ 635.203 Definitions.

The following definitions shall apply for the purpose of this subpart:

(a) A "State highway agency" is that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction. The term "State" should be considered equivalent to "State highway agency" if the context so implies.

(b) The term "some other method" of construction as used in 23 U.S.C. 112(b) shall mean the "force account" method of construction as defined herein. In the unlikely event that circumstances are considered to justify a negotiated contract or another unusual method of construction, the policies and procedures prescribed herein for force account work will apply.

(c) The term "force account" shall mean the direct performance of highway construction work by a State highway agency, a county, a railroad, or a public utility company by use of labor, equipment, materials, and supplies furnished by them and used under their direct control.

(d) The term "county" shall mean any county, township, municipality or other political subdivision that may be empowered to cooperate with the State highway agency in highway matters.

§ 635.204 Determination of public interest.

(a) Congress has expressly provided in the cited legislation that the contract method based on competitive bidding shall be used by a State highway agency or county for performance of highway work financed with the aid of Federal funds unless there is an affirmative finding that under the circumstances relating to a given project it is in the public interest to perform the work by some other method.

(b) It may be found in the public interest for a State highway agency or county to undertake a federally financed highway construction project by force account when a situation exists in which the rights or responsibilities of the community at large are so affected as to require some special course of action, including situations where there is a lack of bids or the bids received are unreasonable. The cost, by force account, in all cases must be reasonable.

§ 635.205 Finding of public interest.

(a) Pursuant to authority in 23 U.S.C. 112(b), it is hereby determined that:

(1) By reason of the inherent nature of the operations involved it is in the public interest to perform by force account the adjustment of railroad or utility facilities and similar type facilities owned or operated by a public agency, a railroad, or a utility company, provided the costs are reasonable and that the organization is qualified to perform the work in a satisfactory manner. The installation of new facilities shall be undertaken by competitive bidding except as provided in § 635.44 (b) and (c).

The term "adjustment of railroad facilities" includes the installation of grade crossing warning devices, crossing surfaces, and minor track and signal work. The term "adjustment of utilities" includes minor installations of new facilities to provide power, minor lighting, telephone, water and similar utility services to a rest area, weigh-station, movable bridge, or other highway appurtenance, provided such installation cannot feasibly be done as incidental to a major installation project such as an extensive highway lighting system.

(2) Because of the urgent necessity for timely completion of temporary operations (i.e., emergency repairs, the need for which is concurred in by the division engineer, undertaken during or immediately following the occurrence of a natural disaster or catastrophic failure, to reduce the extent of damage, to protect remaining facilities or to restore travel), it is in the public interest to perform such temporary operations either by force account or by the contract method. Therefore, the work may be performed by the method most suited for the work and a formal affirmative finding is not required in either case.

(b) When a State highway agency desires that highway construction work financed with the aid of Federal funds, other than the kinds of work designated under § 635.44(a) or projects located on the Federal-aid secondary system and constructed under an approved Certification Acceptance Plan, be undertaken by force account, it shall submit a written request to the division engineer identifying and describing the project and the kinds of work to be performed, the estimated costs therefor, the estimated Federal funds to be provided, and setting forth the reason or reasons that force account for such project is considered to be in the public interest.

(c) The division engineer shall notify the State highway agency in writing of his determination that under the circumstances relating to the project, force account is or is not found to be in the public interest.

[FR Doc.74-22586 Filed 9-27-74;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-369]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 **Status of participating communities.**

* * * * * * *

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*		*
Connecticut	Fairfield	Redding, town of	Sept. 23, 1974. Emergency	Aug. 23, 1974		
Iowa	Sioux	Hawarden, city of	do	May 24, 1974		
Missouri	Barry and Lawrence.	Monett, city of	do	do		
Nebraska	Nuckolls	Nelson, city of	do	June 28, 1974		
Ohio	Ashtabula	Conneaut, city of	do	May 3, 1974		
Oklahoma	Jefferson	Waurika, city of	do	June 28, 1974		
Texas	Maverick	Eagle Pass, city of	do	May 24, 1974		
Virginia	Westmoreland	Unincorporated areas	do			

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: September 16, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-22300 Filed 9-27-74;8:45 am]

[Docket No. FI-370]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the fourth column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
Arkansas	Desha	Dumas, city of	Sept. 20, 1974. Emergency	May 10, 1974		
Minnesota	Pine	Hinckley, city of	do	Mar. 29, 1974		
Nebraska	Seward	Seward, city of	do	June 14, 1974		
North Carolina	Surry	Elkin, town of	do	June 28, 1974		
Pennsylvania	Lancaster	Mt. Joy, township of	do			
Do	Dauphin	West Hanover, township of	do			
South Carolina	Richland	Unincorporated areas	do			

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: September 17, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74-22301 Filed 9-27-74;8:45 am]

[Docket No. FI-371]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding. Since this publication is merely for the purpose of informing the public of the location of areas of special flood hazard and has no binding effect of the sale of flood insurance or the commencement of construction, notice and public procedure are impracticable, unnecessary, and contrary to the public interest. Inasmuch as this publication is not a substantive rule, the identification of special hazard areas shall be effective on the date shown. Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
*	*	*	*	*	*	*
Alabama	Covington	River Falls, town of.	H 010054 01 through H 010054 07	Alabama Development Office, Office of State Planning, State Office Bldg., 501 Dexter Ave., Montgomery, Ala. 36104. Alabama Insurance Department, Rm. 453, Administrative Bldg., Montgomery, Ala. 36104.	Mayor, City Hall, River Falls, Ala. 36476.	Sept. 20, 1974.
Do	Crenshaw	Dozier, town of	H 010056 01 through H 010056 02	do	Mayor, Dozier, Ala. 36028	Do.
Do	do	Glenwood, town of.	H 010057 01 through H 010057 02	do	Mayor, Glenwood, Ala. 36034	Do.
Do	Houston	Avon, town of	H 010100 01 through H 010100 02	do	Mayor, City Hall, Town of Avon, Ashford, Ala. 36312.	Do.
Do	Jefferson	Cardiff, town of	H 010119 01	do	Mayor, City Hall, Cardiff, Ala. 35041	Do.
Do	Lamar	Beaverton, town of.	H 010134 01 through H 010134 02	do	City Hall, Beaverton, Ala. 35544	Do.
Do	Jefferson	Mulga, town of	H 010229 01	do	Mayor, City Hall, Mulga, Ala. 35118	Do.
Georgia	Emmanuel	Swainsboro, city of.	H 130299 01 through H 130299 05	Department of Natural Resources, Office of Planning and Research, 270 Washington St. SW., Rm. 707, Atlanta, Ga. 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	City Clerk, Swainsboro, Ga. 30401	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Illinois	Brown	Mt. Sterling	H 170009 01	Governor's Task Force on Flood Control, P.O. Box 475, Lisle, Ill. 60532. Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. 63702.	Mayor, City Hall, Mt. Sterling, Ill. 62353.	Do.
Do	do	Timewell, village of.	H 170010 01	do	Mayor, Timewell, Ill. 62353	Do.
Do	Moultrie	Sullivan, city of	H 170524 01	do	Mayor, City Hall, Sullivan, Ill. 61937	Do.
Indiana	Bartholomew	Unincorporated areas.	H 180006 01 through H 180006 09	Division of Water, Department of Natural Resources, 008 State Office Bldg., Indianapolis, Ind. 46204. Indiana Insurance Department, 509 State Office Bldg., Indianapolis, Ind. 46204.	County Planning Commission, Bartholomew County, County Courthouse, Columbus, Ind. 47201.	Do.
Do	Boone	Advance, town of	H 180012 01	do	Chairman, Advance Town Board, Town Hall, Advance, Ind. 46102.	Do.
Do	Henry	Lewisville, town of.	H 180091 01	do	Henry County Planning Commission, Town of Lewisville, Henry County Courthouse, New Castle, Ind. 47362.	Do.
Do	Madison	Edgewood, town of.	H 180153 01	do	Town Board, Town of Edgewood, Town Hall, Edgewood, Ind. 46011.	Do.
Do	Morgan	Morgantown, town of.	H 180178 01	do	Chairman, County Commissioners, Town of Morgantown, County Courthouse, Martinsville, Ind. 46151.	Do.
Do	Putnam	Russellville, town of.	H 180218 01	do	Chairman, Town of Russellville, Town Board, Russellville, Ind. 46175.	Do.
Do	Vermillion	Fairview Park, town of.	H 180261 01	do	President, Town of Fairview Park, Fairview Town Board, Rural Route 1, Clinton, Ind. 47842.	Do.
Do	Wells	Poneto, town of	H 180291 01	do	County Area Plan Commission, Town of Poneto, Wells County Courthouse, Bluffton, Ind. 46714.	Do.
Maine	Knox	Rockport, town of.	H 230077 01 through H 230077 08	Maine Soil and Water Conservation Commission, State House, Augusta, Maine 04330. Maine Insurance Department, Capitol Shopping Center, Augusta, Maine 04330.	Town Manager, Municipal Office Bldg., Town of Rockport, Rockport, Maine 04856.	Do.
Do	do	Union, town of	H 230080 01 through H 230080 05	do	First Selectman, Town of Union, Union, Maine 04862.	Do.
Do	York	Saco, city of	H 230155 01 through H 230155 06	do	Municipal Bldg., City of Saco, Saco, Maine 04072.	Do.
Maryland	Allegany	Lonaconing, town of.	H 240005 01	Department of Water Resources, State Office Bldg., Annapolis, Md. 21401. Maryland Insurance Department, 301 West Preston St., Baltimore, Md. 21201.	Mayor, Town Hall, Lonaconing, Md. 21539.	Do.
Do	Cecil	Charleston, town of.	H 240021 01	do	Charlestown Town Hall, Town of Charlestown, Charlestown, Md. 21914.	Do.
Do	Caroline	Denton, town of	H 240104 01	do	Mayor, Town Hall, Denton, Md. 21629.	Do.
Massachusetts	Berkshire	Dalton, town of	H 250021 01 through H 250021 08	Division of Water Resources, Water Resources Commission, State Office Bldg., 100 Cambridge St., Boston, Mass. 02202. Massachusetts Division of Insurance, 100 Cambridge St., Boston, Mass. 02202.	Chairman, Board of Selectmen, Town Hall, Dalton, Mass. 01226.	Do.
Do	do	Otis, town of	H 250035 01 through H 250035 12	do	Chairman, Board of Selectmen, Otis, Mass. 01253.	Do.
Do	Hampshire	Hatfield, town of	H 250164 01 through H 250164 09	do	Chairman, Planning Board, Town Hall, Hatfield, Mass. 01038.	Do.
Do	Middlesex	Billerica, town of	H 250183 01	do	Town Clerk, Town Hall, Concord Rd., Billerica, Mass. 01821.	Do.
Do	do	Boxborough, town of.	H 250184 01 through H 250184 12	do	Chairman, Board of Selectmen, Town Hall, Boxborough, Mass. 01719.	Do.
Do	do	Townsend, town of.	H 250219 01 through H 250219 13	do	Chairman, Board of Assessors, Town Hall, Townsend, Mass. 01469.	Do.
Do	Norfolk	Franklin, town of.	H 250240 01 through H 250240 08	do	Chairman, Board of Selectmen, Town Hall, Franklin, Mass. 02038.	Do.
Do	Worcester	New Braintree, town of.	H 250320 01 through H 250320 04	do	Chairman, Board of Selectmen, Town Hall, New Braintree, Mass. 01531.	Do.
Michigan	Arenac	Standish, city of	H 260016 01	Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich. 48926. Michigan Insurance Bureau, 111 North Homer St., Lansing, Mich. 48913.	Mayor, City Hall, Standish, Mich. 48658.	Do.
Do	Benzie	Blaine, township of.	H 260027 01 through H 260027 06	do	Floyd Lentz, Supervisor, Township of Blaine, Frankfort, Mich. 49635.	Do.
Do	Leelanau	Elmwood, township of.	H 260113 01	do	Township Clerk, Elmwood, Mich	Do.
Do	St. Clair	St. Clair, township of.	H 260205 01 through H 260205 11	do	St. Clair Township Hall, Bartlee Rd., Township of St. Clair, St. Clair, Mich. 48079.	Do.
Minnesota	Brown	Comfrey, city of	H 270035 01	Division of Water, Soils, and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210 State Office Bldg., St. Paul, Minn. 55101.	Mayor, Comfrey, Mich. 56019	Do.
Do	Chisago	Harris, city of	H 270071 01	do	Mayor, Harris, Minn. 55032	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do	Freeborn	Hollandale, city of.	H 270138 01	do	Major, Hollandale, Minn. 56045	Do.
Do	Pennington	St. Hilaire, city of.	H 270343 01	do	Major, St. Hilaire, Minn. 56725	Do.
Do	Polk	Climax, city of	H 270363 01	do	Major, City Hall, Climax, Minn 56523.	Do.
Do	Renville	Danube, city of	H 270395 01	do	Major, Danube, Minn. 56230	Do.
Mississippi	Bolivar	Beulah, town of	H 280014 01	Mississippi Research and Development Center, P.O. Drawer 2470, Jackson, Miss. 39205. Mississippi Insurance Department, 910 Wolfolk Bldg., P.O. Box 79, Jackson, Miss. 39205.	Major, Beulah, Miss. 38726	Do.
New Hampshire.	Grafton	Lebanon, city of	H 330061 01 through H 330061 12	Office of State Planning, Division of Community Planning, State House Annex, Concord, N.H. 03301. New Hampshire Insurance Department, 78 North Main St., Concord, N.H. 03301.	City Hall, 51 North Park St., Lebanon, N.H. 03766.	Do.
Do	Hillsborough	Goffstown, town of.	H 330087 01 through H 330087 15	do	Selectmen, Town of Goffstown, Goffstown, N.H. 03045.	Do.
Do	Rockingham	Exeter, town of	H 330130 01 through H 330130 10	do	Selectmen, Town Office Bldg., Exeter, N.H. 03833.	Do.
New Jersey	Gloucester	Monroe, township of.	H 340208 01 through H 340208 13	Bureau of Water Control, Department of Environmental Protection, P.O. Box 1390, Trenton, N.J. 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Monroe Township Hall, 266 South Main St., Williamstown, N.J. 08094.	Do.
Do	Salem	Salem, city of	H 340423 01 through H 340423 02	do	Mayor, 1 New Market St., Salem, N.J. 08079.	Do.
New York	Albany	Colonie, town of	H 360007 01 through H 360007 09	New York State Department of Environmental Conservation, Division of Resources, Management Services, Bureau of Water Management, Albany, N.Y. 12201. New York State Insurance Department, 123 William St., New York, N.Y. 10038.	Mr. William Brizzell, Town Planning and Development, Town of Colonie, Memorial Hall, Newtonville, N.Y. 12128.	Do.
Do	Chenango	Norwich, town of	H 360162 01 through H 360162 07	do	Supervisor, R.D. No. 1, Norwich, N.Y. 13815.	Do.
Do	Franklin	Malone, town of	H 360271 01 through H 360271 10	do	Town Supervisor, 12 Elm, Malone, N.Y. 12953.	Do.
Do	Oswego	West Monroe, town of.	H 360664 01 through H 360664 06	do	Town Supervisor, Town Hall, West Monroe, N.Y. 13167.	Do.
Do	St. Lawrence	Lawrence, town of.	H 360702 01 through H 360702 06	do	Town Supervisor, Town Clerk's Office, Lawrence, N.Y. 11559.	Do.
Do	Saratoga	Saratoga Springs	H 360728 01 through H 360728 13	do	Mayor, City Hall, Broadway, Saratoga Springs, N.Y. 12866.	Do.
Do	Seneca	Fayette, town of	H 360752 01 through H 360752 08	do	Town Supervisor, West Williams St., Town of Fayette, Waterloo, N.Y. 13165.	Do.
Do	Tompkins	Lansing, town of	H 360852 01 through H 360852 08	do	Town Supervisor, 59 Emmons Rd., R.D. No. 1, Lansing, N.Y. 14882.	Do.
Do	Warren	Hague, town of	H 360873 01 through H 360873 11	do	Adirondack Park Agency, P.O. Box 99, Town of Hague, Brook, N.Y. 12977.	Do.
Do	do	Queensbury, town of.	H 360879 01 through H 360879 09	do	Supervisor, Town Office Bldg., Bay at Haviland Rd., R.F.D. No. 1, Town of Queensbury, Glens Falls, N.Y. 12801.	Do.
Do	do	Warrensburg, town of.	H 360882 01 through H 360882 09	do	Supervisor, Town Hall, Warrensburg, N.Y. 12885.	Do.
Do	Chenango	Pitcher, town of	H 361092 01 through H 361092 10	do	Mayor, Town Hall, Town of Pitcher, Pitcher, N.Y. 13136.	Do.
Do	Fulton	Broadalbin, town of.	H 361128 01 through H 361128 10	do	Mayor, Town Hall, Broadalbin, N.Y. 12025.	Do.
Do	Genesee	Bethany, town of	H 361138 01 through H 361138 12	do	Mayor, Town Hall, Bethany, N.Y.	Do.
Do	Schoharie	Carlisle, town of	H 361193 01 through H 361193 11	do	Mayor, Town Hall, Carlisle, N.Y. 12031.	Do.
Do	Ulster	Marbletown, town of.	H 361219 01 through H 361219 15	do	Mayor, Town Hall, Marbletown, N.Y.	Do.
North Carolina	Bertie	Windsor, town of	H 370019 01	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, P.O. Box 27687, Raleigh, N.C. 27611. North Carolina Insurance Department, P.O. Box 26387, Raleigh, N.C. 27611.	Office of Town Clerk, Windsor Municipal Bldg., 128 South King St., Windsor, N.C. 27983.	Do.
Do	Catawba	Maiden, town of	H 370056 01	do	Mayor, Maiden, N.C.	Do.
Do	Union	Monroe, city of	H 370236 01 through H 370236 04	do	City Manager, City of Monroe, Monroe, N.C. 28110.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Pennsylvania	Clinton	Noyes, township of.	H 420331 01 through H 420331 07	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	Township Hall, Township of Noyes, Drurys Run, Renavo, Pa. 17764.	Do.
Do	Cumberland	East Pennsboro, township of.	H 420359 01 through H 420359 05	do	East Pennsboro Township Bldg., 243 Columbia Rd., Township of East Pennsboro, Enola, Pa. 17025.	Do.
Do	Bradford	Albany, township of.	H 421047 01 through H 421047 10	do	Chairman, Board of Supervisors, Township of Albany, Albany, Pa.	Do.
Do	Berks	Bethel, township of.	H 421052 01 through H 421052 12	do	Chairman, Board of Supervisors, Township of Bethel, Bethel, Pa.	Do.
Do	Allegheny	East Deer, township of.	H 421061 01	do	Chairman, Board of Supervisors, Township of East Deer, East Deer, Pa.	Do.
Do	Berks	Greenwich, township of.	H 421067 01 through H 421067 09	do	Chairman, Board of Greenwich, Township of Greenwich, Greenwich, Pa.	Do.
Do	Bradford	Leroy, township of.	H 421076 01 through H 421076 04	do	Leroy Township Supervisor, Township of Leroy, Leroy, Pa.	Do.
Do	Allegheny	McCandless, township of.	H 421081 01 through H 421081 06	do	Chairman, Board of Supervisors, Township of McCandless, McCandless, Pa.	Do.
Do	do	North Fayette, township of.	H 421085 01 through H 421085 08	do	Chairman, Board of Supervisors, Township of North Fayette, North Fayette, Pa.	Do.
Do	do	O'Hara, township of.	H 421088 01 through H 421088 05	do	Chairman, Board of Supervisors, Township of O'Hara, O'Hara, Pa.	Do.
Do	do	Ohio, township of.	H 421089 01 through H 421089 14	do	Chairman, Board of Supervisors, Township of Ohio, Ohio, Pa.	Do.
Do	Berks	Perry, township of.	H 421093 01 through H 421093 03	do	Township Clerk, Township of Perry, Perry, Pa.	Do.
Do	Allegheny	Robinson, township of.	H 421097 01 through H 421097 03	do	Chairman, Board of Supervisors, Township of Robinson, Robinson, Pa.	Do.
Do	Bradford	Smithfield, township of.	H 421104 01 through H 421104 05	do	Chairman, Board of Supervisors, Township of Smithfield, Smithfield, Pa.	Do.
Do	Berks	Upper Bern, township of.	H 421118 01 through H 421118 03	do	Chairman, Board of Supervisors, Township of Upper Bern, Upper Bern, Pa.	Do.
Do	Bradford	Wyalusing, township of.	H 421126 01 through H 421126 04	do	Wyalusing Borough Council, Wyalusing, Pa. 18853.	Do.
Do	Cameron	Lumber, township of.	H 421129 01 through H 421129 07	do	Township Bldg., Township of Lumber, Star Route, Emporium, Pa. 15834.	Do.
Do	do	Gibson, township of.	H 421130 01 through H 421130 07	do	Township of Gibson, Township Secretary, R.D. No. 1, Driftwood, Pa. 15832.	Do.
Do	Montgomery	West Pottsgrove, township of.	H 421133 01 through H 421133 05	do	Office of the Township Secretary, Township of West Pottsgrove, 101 Lemon St., Stowe, Pa. 19464.	Do.
Do	Chester	West Pikeland, township of.	H 421151 01 through H 421151 03	do	Mrs. Marguerite S. Grady, Secretary, 25 Fox Lane, Township of West Pikeland, Chester Springs, Pa. 19425.	Do.
Do	Northumberland	Shamokin, township of.	H 421159 01 through H 421159 10	do	Mrs. Henrietta Williams, Township of Shamokin, Box 58, R.D. No. 1, Paxinos, Pa. 17860.	Do.
Do	Tioga	Middlebury, township of.	H 421179 01 through H 421179 29	do	Chairman, Board of Supervisors, Township of Middlebury, Middlebury, Pa.	Do.
Do	do	Osceola, township of.	H 421182 01 through H 421182 11	do	Chairman, Osceola Township Supervisors, Osceola, Pa. 16942.	Do.
Do	Clearfield	Decatur, township of.	H 421189 01 through H 421189 07	do	Chairman, Board of Supervisors, Township of Decatur, Decatur, Pa.	Do.
Do	Washington	Canton, township of.	H 421201 01 through H 421201 05	do	Chairman, Board of Supervisors, Township of Canton, Canton, Pa.	Do.
Do	Lancaster	Ephrata, township of.	H 421208 01 through H 421208 08	do	Ephrata Township Office, 114 East Main St., Township of Ephrata, Ephrata, Pa. 17522.	Do.
Do	Susquehanna	Great Bend, township of.	H 421212 01 through H 421212 03	do	Chairman, Board of Supervisors, 18 Main St., Township of Great Bend, Hallstead, Pa. 18822.	Do.
Do	Armstrong	South Bend, township of.	H 421214 01 through H 421214 06	do	Township Supervisor Secretary, Star Route, Township of South Bend, Spring Church, Pa. 15686.	Do.
Do	Jefferson	Winslow, township of.	H 421215 01 through H 421215 04	do	Township Secretary, Township of Winslow, R.D. No. 1, Reynoldsville, Pa. 15851.	Do.
Do	Butler	Cranberry, township of.	H 421217 01 through H 421217 03	do	Cranberry Township Building Officer, 181 Byron Circle, Township of Cranberry, Zelienople, Pa. 16063.	Do.
Do	Bradford	Ulster, township of.	H 421218 01 through H 421218 03	do	Ulster Township Supervisor, Township of Ulster, Ulster, Pa. 18850.	Do.
Do	Butler	Parker, township of.	H 421219 01 through H 421219 03	do	Chairman, Township Supervisor, Township of Parker, Butler Pa. 16001.	Do.
Do	Allegheny	Marshall, township of.	H 421292 01 through H 421292 05	do	Chairman, Board of Supervisors, Township of Marshall, Marshall, Pa.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do	do	West Deer, township of.	H 421299 01 through H 421299 11	do	Township Manager, R.D. No. 1, Box 131, Township of West Deer, Cheswick, Pa. 15024.	Do.
Do	Erie	North East, township of.	H 421368 01 through H 421368 06	do	Chairman, Board of Supervisors, Township of North East, North East, Pa. 16428.	Do.
Do	Bradford	Rome, township of.	H 421404 01 through H 421404 02	do	Chairman, Board of Supervisors, Township of Rome, Rome, Pa. 18837.	Do.
Do	do	Standing Stone, township of.	H 421406 01 through H 421406 02	do	Chairman, Board of Supervisors, Township of Standing Stone, Standing Stone, Pa.	Do.
Do	Butler	Buffalo, township of.	H 421416 01 through H 421416 02	do	Buffalo Township, Building Officer, 211 Primrose Dr., Township of Buffalo, Sarver, Pa. 16055.	Do.
Do	Lancaster	Colerain, township of.	H 421765 01 through H 421765 10	do	Chairman, Board of Supervisors, R.D. No. 1, Township of Colerain, Kirkwood, Pa. 17536.	Do.
Do	do	East Drumore, township of.	H 421769 01 through H 421769 07	do	Chairman, Board of Supervisors, R.D. No. 2, Township of East Drumore, Quarryville, Pa. 17566.	Do.
Do	do	East Earl, township of.	H 421770 01 through H 421770 09	do	Chairman, Board of Supervisors, R.D. No. 2, East Earl, Pa. 17519.	Do.
Do	do	Little Britain, township of.	H 421775 01 through H 421775 10	do	Chairman, Board of Supervisors, R.D. No. 2, Township of Little Britain, Nottingham, Pa. 19362.	Do.
Do	do	Salisbury, township of.	H 421783 01 through H 421783 13	do	Chairman, Board of Supervisors, R.D. No. 2, Township of Salisbury, Honeybrook, Pa. 19344.	Do.
Do	do	Warwick, township of.	H 421786 01 through H 421786 07	do	Chairman, Board of Supervisors, 401 West Woods Dr., Township of Warwick, Lititz, Pa. 17543.	Do.
Do	Mercer	Hickory, township of.	H 421862 01 through H 421862 05	do	Township Manager, Municipal Bldg., Box 1046, Township of Hickory, Sharon, Pa. 16146.	Do.
Do	do	Sandy Creek, township of.	H 421873 01 through H 421873 06	do	Chairman, Board of Supervisors, Township of Sandy Creek, Sandy Creek, Pa.	Do.
Do	Northumberland	Coal, township of.	H 421936 01 through H 421936 08	do	Danial Venn, Vice President, Coal Township Commissioner, 921 West Wood St., Shamokin, Pa. 17872.	Do.
Do	do	Jordan, township of.	H 421939 01 through H 421939 05	do	Jordan Township Supervisor, R.D., Township of Jordan, Herndon, Pa. 17830.	Do.
Do	do	Lower Mahanoy, township of.	H 421941 01 through H 421941 10	do	Chairman, Board of Supervisors, Township of Lower Mahanoy, Lower Mahanoy, Pa.	Do.
Do	do	Upper Mahanoy, township of.	H 421944 01 through H 421944 08	do	Chairman, Board of Supervisors, Township of Upper Mahanoy, Upper Mahanoy, Pa.	Do.
Do	do	West Cameron, township of.	H 421946 01 through H 421946 03	do	Chairman, Board of Supervisors, Township of West Cameron, West Cameron, Pa.	Do.
Do	do	Zerbe, township of.	H 421947 01 through H 421947 03	do	Township Clerk, Township of Zerbe, Zerbe, Pa.	Do.
Do	Susquehanna	Harford, township of.	H 422081 01 through H 422081 03	do	Chairman, Board of Supervisors, Township of Harford, Harford, Pa. 18823.	Do.
Do	do	Rush, township of.	H 422090 01 through H 422090 05	do	Chairman, Board of Supervisors, Township of Rush, R.D. No. 4, Montrose, Pa. 18801.	Do.
Do	Tioga	Westfield, borough of.	H 422093 01 through H 422093 02	do	President, Westfield Borough Council, Borough of Westfield, Westfield, Pa. 16950.	Do.
Do	Westmoreland	Cook, township of.	H 422186 01 through H 422186 06	do	Chairman, Township of Cook, Board of Supervisors, Stahlstown, Pa. 15687.	Do.
Do	do	St. Clair, township of.	H 422191 01 through H 422191 03	do	Chairman, Board of Supervisors, R.D. No. 1, Township of St. Clair, New Florence, Pa. 15944.	Do.
South Carolina	Orangeburg	Rowesville, town of.	H 450165 01	South Carolina Water Resources Commission, P.O. Drawer 164, 700 Knox Abbot Dr., Cayce, S.C. 29033. South Carolina Insurance Department, 2711 Middleburg St., Columbia, S.C. 29204.	James L. Boone, Mayor, P.O. Box 146, Rowesville, S.C. 29133.	Do.
Vermont	Washington	Marshfield, village of.	H 500113 01	Management and Engineering Division, Water Resources Department, State Office Bldg., Montpelier, Vt. 05602. Vermont Insurance Department, State Office Bldg., Montpelier, Vt. 05602.	Chairman, Board of Selectmen, Marshfield, Vt. 05658.	Do.
Do	Essex	Brighton, town of.	H 500205 01 through H 500205 06	do	Mayor, Town of Brighton, Brighton, Vt.	Do.
Do	do	Concord, town of.	H 500207 01 through H 500207 05	do	Mayor, Concord, Vt. 05824	Do.
Do	Orleans	Lowell, town of.	H 500254 01 through H 500254 07	do	Mayor, Lowell, Vt. 05847	Do.
Wisconsin	Iowa	Dodgeville, city of.	H 550177 01	Department of Natural Resources, P.O. Box 450, Madison, Wis. 53701. Wisconsin Insurance Department, 212 North Bassett St., Madison, Wis. 53703.	Mayor, City Hall, Dodgeville, Wis. 53533.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	do.	Hollandale, Village of.	H 550178 01	do.	Village President, Village Hall, Hollandale, Wis. 53544.	Do.
Do.	do.	Ridgeway, village of.	H 550181 01	do.	Village President, Village Hall, Ridgeway, Wis. 53582.	Do.
Do.	Marathon	Unity, city of	H 550257 01	do.	Village President, Unity, Wis. 54488.	Do.
Do.	Rusk	Tony, village of	H 550377 01	do.	President, Village of Tony, Village Board, Hawkins, Wis. 54530.	Do.
Do.	Taylor	Lublin, village of	H 550434 01	do.	President, Village Board, Lublin, Wis. 54447.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: September 17, 1974.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.74–22302 Filed 9–27–74;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Effective Date; North Central Region Parole Board

The rules for the Northeast Region of the United States Board of Parole, published at 39 FR 20028 et seq. (June 5, 1974), and made effective to the Western and South Central Regions on July 1, 1974, 39 FR 23261 (June 27, 1974), and to the Southeast Region on September 3, 1974, 39 FR 31882 (September 3, 1974) will become effective in the Board's North Central Region on September 30, 1974.

The North Central Region is comprised of the following states:

Minnesota, Wisconsin, Michigan, Iowa, Missouri, Kansas, Nebraska, Illinois, Indiana, and Ohio.

These rules are adopted under the authority of 28 CFR, Part O, Subpart V, and 18 U.S.C. 4201–4210 and 5001–5037.

Dated: September 25, 1974.

MAURICE H. SIGLER,
Chairman, U.S. Board of Parole.

[FR Doc.74–22677 Filed 9–27–74;8:45 am]

Title 32—National Defense

CHAPTER XIV—RENEGOTIATION BOARD

SUBCHAPTER B—THE RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1453—MANDATORY EXEMPTIONS FROM RENEGOTIATION

Common Carriers by Water

Section 1453.3(d)(2), Fiscal years ending on or after December 31, 1953 is amended by deleting in paragraph (i) thereof, the words "January 1, 1973", and inserting in lieu thereof the words "January 1, 1974".

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. Sec. 1219)

Dated September 25, 1974.

W. S. WHITEHEAD,
Chairman.

[FR Doc.74–22644 Filed 9–27–74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 133]

PART 1–5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

PART 1–7—CONTRACT CLAUSES

Use of Excess Aluminum

This amendment of the Federal Procurement Regulations cancels Subpart 1–5.10, Use of Excess Aluminum. A Government Use Program applicable to the General Services Administration was initiated by FPR Temporary Regulation No. 3, February 21, 1966 (31 FR 3271, March 1, 1966), for the purpose of disposing of national stockpile aluminum pig and ingot. On June 15, 1966, FPR Amendment No. 21 was issued which added Subpart 1–5.10. The new subpart codified the provisions of FPR Temporary Regulation No. 3 and made the provisions applicable to all civilian executive agencies. The objectives of the disposal program have been met, and excess aluminum is no longer available for Government use. It is therefore appropriate to cancel the policy and procedures relating to the use of excess aluminum as set forth in Subpart 1–5.10 and to delete references to the subpart in other affected sections.

The table of contents for Part 1–5 is amended to delete the entries for Subpart 1–5.10 and to provide that Subpart 1–5.10 is reserved, as follows:

Subpart 1–5.10 [Reserved]

Subpart 1–5.10—[Reserved]

Subpart 1–5.10 is revised to delete the caption and the text of the subpart and to provide that the subpart is reserved.

The table of contents for Part 1–7 is amended to delete the entries for §§ 1–7.103–15 and 1–7.203–16 and to provide that the section are reserved, as follows:

Sec.
1–7.103–15 [Reserved]
1–7.203–16 [Reserved]

Subpart 1–7.1—Fixed-Price Supply Contracts

§ 1–7.103–15 [Reserved]

Section 1–7.103–15 is revised to delete the caption and text and to provide that the section is reserved.

Subpart 1–7.2—Cost-Reimbursement Type Supply Contracts

§ 1–7.203–16 [Reserved]

Section 1–7.203–16 is revised to delete the caption and text and to provide that the section is reserved.

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

Effective date. This amendment is effective October 28, 1974, but may be observed earlier.

Dated: September 23, 1974.

DWIGHT A. INK,
Acting Administrator of General Services.

[FR Doc.74–22643 Filed 9–27–74;8:45 am]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E–151]

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 101–26.4—Purchase of Items From Federal Supply Schedule Contracts

Federal Supply Schedules

This regulation furnishes guidance to Federal agencies concerning limitations for procurement from Federal Supply Schedules.

1. Section 101–26.401(a) is revised to read as follows:

§ 101–26.401 Applicability.

* * * * *

(a) The general principles and methods prescribed in this Subpart 101–26.4 apply to all such procurements. Consequently, prior to initiating procurement directly from commercial sources, agencies shall determine whether the required commodities and services or similar commodities and services serving the required functional purpose are available from a Federal Supply Schedule.

* * * * *

2. Section 101–26.401–2 is revised to read as follows:

§ 101–26.401–2 Primary source of supply concept.

Each Federal Supply Schedule contains a statement identifying specific agencies in designated geographic areas required to use the established contracts as "primary sources of supply." Agencies so identified shall, except as provided in § 101–26.401–4, use the Schedule on a mandatory basis and the established contracts shall be primary sources of supply for the items involved.

3. Section 101–26.401–3 is revised to read as follows:

§ 101–26.401–3 Similar items.

(a) In lieu of procuring similar items from any other source, agencies required to use a Federal Supply Schedule shall procure available items from a competitive contract (single award) listed in that Schedule as a primary source, and will procure from a multiple-award Schedule only as a secondary source. Agencies shall not request Federal Supply Schedule contractors to furnish items under the contract having characteristics exceeding those specifically covered by the contract. The above is not applicable to procurement effected under the exceptions to mandatory use criteria as set forth in § 101–26.401–4.

(b) When an agency determines that items available from Federal Supply Schedule contracts will not serve the required functional end-use purpose of the item to be procured, and that a similar item is available from another source which will meet its minimum requirements, a request to waive the requirement to use the Federal Supply Schedule contract shall be submitted to GSA for consideration in accordance with § 101–26.100–2.

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

Effective date. This regulation is effective September 30, 1974.

Dated: September 16, 1974.

DWIGHT A. INK,
Acting Administrator of General Services.

[FR Doc.74–22648 Filed 9–27–74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 74–995]

PART 0—COMMISSION ORGANIZATION

PART 76—CABLE TELEVISION SERVICE

Authority Delegations

In the matter of amendment of Part 0 and Part 76, Subpart B, of the Commission's rules and regulations concerning delegation of authority to the Chief, Cable Television Bureau and procedures in the Cable Television Service Relating to requests for special temporary authority.

1. In the Cable Television Report and Order, 36 FCC 2d 143 (1972), the Commission established special relief provisions (§ 76.7) to permit flexibility in dealing with cable matters presenting unusual circumstances. In recent months we have received a number of requests by cable systems seeking temporary authority to carry on operations not previously authorized. Up to the present time, these requests have been handled as petitions for special relief. However, this experience has shown that more guidance to the public is required on the appropriate scope of such requests for temporary authority, and that valid requests often warrant more expeditious treatment than is available through regular processing procedures. Consequently, we think it desirable to establish special rules, akin to those already applicable to the broadcast and cable television relay services, to govern the scope and processing of requests for special temporary authority in the cable television service.

2. We are, therefore, adding a new rule (§ 76.29) which delineates the procedures to be followed by cable television systems seeking special temporary authority to operate. This rule also specifies the maximum duration of time for which the Commission may grant such authority. In addition, we are amending § 0.289 of the rules in order to delegate authority to the Chief of the Cable Television Bureau to act on requests for special temporary authority when such requests are either unopposed or present extraordinary circumstances requiring immediate action by the Commission.

3. We anticipate that special temporary authority will be granted only to operating cable systems, and not to new systems seeking to commence operations prior to the grant of a certificate of compliance. Any temporary operations which may be authorized pursuant to these provisions shall cease on or prior to the date specified by the order granting such authority, unless, prior to the expiration of that order, further authorization for such operations is granted. We will not permit our normal certification procedures to be circumvented by the filing of requests for special temporary authority. Petitions for special relief requesting expedited action may still be filed in conjunction with any application for full operating authority.

4. The amendments to our Rules, contained in the attached Appendix, relate to Commission organization, procedure, or practice. Therefore, the prior notice and effective date requirements of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, do not apply. And, since the amendments are essential elements of our over-all regulatory program for cable television systems, delay in their implementation would be contrary to the public interest.

Authority for the rule amendments adopted herein is contained in sections 2, 4 (i) and (j), 5(d), 301, 303, 307 and 309 of the Communications Act of 1934, as amended.

Accordingly, *It is ordered*, That effective October 2, 1974, Parts 0 and 76 of the Commission's rules and regulations are amended as set forth below.

(Secs. 2, 4, 5, 301, 303, 307, 309; 48 Stat., as amended 1064, 1066, 1068, 1081, 1082, 1083, 1085; 47 U.S.C. 152, 154, 155, 301, 303, 307, 309)

Adopted: September 19, 1974.

Released: September 25, 1974.

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

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

1. In § 0.289, a new paragraph (c) (13) is added, and paragraph (d) is revised, as follows:

§ 0.289 Authority delegated.

* * * * *

(c) * * *

(13) To act on requests for special temporary authority in the Cable Television Service when such requests are either unopposed or present extraordinary circumstances requiring immediate Commission action.

* * * * *

(d) The Chief of the Cable Television Bureau, in coordination with the Broadcast Bureau, is delegated authority to act on requests for temporary authority for special operations in the Cable Television Relay Service.

2. A new § 76.29 is added, as follows:

§ 76.29 Special temporary authority.

(a) In circumstances requiring the temporary use of cable television facilities for operations not authorized pursuant to a valid certificate of compliance, a cable television system may request special temporary authority to operate. The Commission may grant special temporary authority, upon a finding that the public interest would be served

thereby, for a period not to exceed ninety (90) days, and may extend such authority, upon a like finding, for one additional period, not to exceed ninety (90) days.

(b) Requests for special temporary authority may be submitted informally, by letter, and shall contain the following:

(1) Name and address of the applicant cable system.

(2) Community in which the system is located.

(3) Type of operation to be conducted.

(4) Date of commencement of proposed operations.

(5) Duration of time for which temporary authority is required.

(6) All pertinent facts and considerations relied on to demonstrate the need for special temporary authority and to support a determination that a grant of such authority would serve the public interest.

(7) A certificate of service on parties required to be served pursuant to § 76.13(a) (6) and on any other party who may be directly affected by a grant of the authority requested.

(c) A request for special temporary authority shall be filed at least ten (10) days prior to the date of commencement of the proposed operations, or shall be accompanied by a statement of reasons for the delay in submitting such request.

(d) A grant of special temporary authority may be rescinded by the Commission at any time upon a finding of facts which warrant such action.

[FR Doc.74-22622 Filed 9-27-74;8:45 am]

[FCC 74-974]

PART 73—RADIO BROADCAST SERVICES

Memorandum Opinion and Order Regarding Policy Statement

In the matter of waivers of the prime time access rule, § 73.658(k) of the Commission's rules, for the 1974–75 broadcast year.

1. The Commission, on July 18, 1974 issued a Public Notice (FCC 74–785), inviting interested parties to comment on the policy to be followed with respect to certain kinds of waivers of the prime-time access rule, § 73.658(k) of the Commission rules, for the 1974–75 broadcast year. Consideration of this matter was prompted by the decision of the U.S. Court of Appeals (C.A. 2) on June 18, 1974, staying until September 1975 the effectiveness of changes in the rule we had adopted effective this September.[1] Some of these changes were designed in part to eliminate the need for consideration of various kinds of waiver; since these may not now be put into effect, it is appropriate to consider what policy to follow, for this coming year, with respect to them.

2. The July 18 Public Notice invited comment on two types of waivers of the rule, and listed the requests which were then pending in each category. The two types are: (1) continuation of the "one-time" waiver to permit carriage of network news and public affairs programs, not part of a regular series, without counting toward the permissible three hours of network or off-network programs each evening; and (2) waiver of the "off-network" restriction, § 73.658(k) (3), to permit carriage of certain "off-network" programs, similarly without counting toward the permissible three hours. The pending requests listed were by CBS Inc. for continuation of the "one-time" network news and public affairs waiver; by three stations for continuation of the "off-network" waiver previously granted them with respect to the National Geographic program (KATU, Portland, Oreg., KOMO–TV, Seattle, Wash., and WCPO–TV, Cincinnati, Ohio); and by the producers or distributors of three other off-network or partly off-network groups of programs: the Wild Kingdom and Animal World series (both of which are partly off-network and have previously received waiver) and a 26-episode Mr. Magoo animated series, and two individual Mr. Magoo programs, all formerly on NBC. We also note three other "off-network" waiver requests received by the end of July: from Four Star International (July 19) with respect to four children's "special" programs formerly on CBS (Pinocchio, The Emperor's New Clothes, Aladdin and Jack and the Beanstalk) from Time-Life Films for the 13-week America series formerly on NBC; and another station request concerning National Geographic (WTVN–TV, Columbus, Ohio, which has not previously received a waiver).[2]

3. Comments in response to the Public Notice were filed July 24, 1974 by the National Association of Independent Television Producers and Distributors (NAITPD), which also commented upon the matter of waivers in a letter to the Chairman dated July 3, and Westinghouse Broadcasting Company, Inc., American Broadcasting Companies, Inc. (ABC) CBS Inc. (CBS), National Broadcasting Company, Inc. (NBC), Bill Burrud Productions, Inc. (Burrud, producer of Animal World) and Fisher's Blend Station, Inc. (KATU and KOMO–TV). Reply comments were filed July 30 or 31, by NAITPD, National Citizens Committee for Broadcasting (NCCB), CBS, NBC, Burrud, Mutual of Omaha Insurance Co. (Mutual, distributor of Wild Kingdom), and UPA Productions of America (UPA) distributor of the Mr. Magoo programs mentioned. Generally, NAITPD, Westinghouse and NCCB oppose all waiver requests of the two types involved here. The networks support the "one time" news-public affairs waiver for the networks; ABC generally express some opposition to off-network waivers, beyond truly exceptional cases of need. Burrud, Mutual, UPA and Fisher's Blend argue in support of their respective requests. We also consider herein, of course, the material in the requests mentioned.

4. The following discussion deals with the two types of waiver and specific requests mentioned. Briefly, near the end hereof, we deal with other kinds of waivers mentioned in the comments.

Arguments of the Parties

5. *Significance of the Court's June 18 decision.* NAITPD urges that the above-mentioned decision of the U.S. Court of Appeals (C.A. 2), NAITPD v. FCC, requires denial of the kinds of waivers involved here, as well as others which we have already considered in recent weeks and denied partly on this basis (WBRE–TV, Inc., supra; Avco Broadcasting Corporation et al., FCC 74–800). The argument is that a substantial part of the changes which we adopted last January, but whose effectiveness the Court has stayed, were designed to achieve the same kind of results as the past waiver policies though by another approach; and therefore, since we may not put the rule changes themselves into effect at this time, we may not grant waivers having the same result either—"* * * the Court has enjoined alteration of the Access Rule, an alteration no less real when achieved by waiver than through effectuation of the Evening Programming Requirements Rule." The parties favoring waivers disagree; their position is essentially that the Court was simply ordering maintenance of the status quo, which includes—or at least does not exclude—grant of waivers at least in the same areas where they have been granted previously. NBC claims that NAITPD is essentially urging that the Commission cannot either go back to its public-interest conclusions under the old rule or forward to its public-interest conclusions under the new rule, and that this argument should be rejected.

6. In our view, NAITPD's arguments are without merit. As noted above, the Court has directed us to retain the prime time access rule, as adopted in 1970, in effect for another year. In the recent decisions mentioned above, we

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[1] National Association of Independent Television Producers and Distributors et al. v. FCC (C.A. 2, June 18, 1974), reversing in part our Report and Order in Docket 19622 adopted January 23, 1974 (FCC 74–80, 44 FCC 2d 1081). For more of the background of this matter, see the "Further Notice Inviting Comments" in Docket 19622 (FCC 74–756), inviting comments on various matters mentioned in the Court's Opinion.

[2] In listing the requests, it was stated in the Public Notice that as to the "one-time" network news and public affairs waiver, and the National Geographic waiver, consideration would not be limited to those networks or stations who had made the requests; but otherwise consideration would be confined to those programs specifically listed plus others mentioned in initial comments in response to the Public Notice. It was stated that: "The Commission is definitely of the view that no "off-network" waivers should be considered (where a substantial amount of programming is involved) which are not before us by late July."

Another waiver requested listed was that by the licensee of Station WBRE–TV, Wilkes-Barre, Pa. This, which was based largely on asserted circumstances unique to the Wilkes-Barre/Scranton, Pa. market, has since been denied in another action (WBRE–TV, Inc., FCC 74–857, released August 5, 1974).

have recognized the inappropriateness of taking actions, by way of waiver in new areas, which might have the appearance of circumventing that mandate and thus, protanto, putting the new changes into effect this fall (in those cases, permitting "stripped" off-network programming from 7 to 7:30 p.m. e.s.t.). But, in our judgment, the requirement imposed by the Court in this respect goes no further. The Court's opinion did not mention waivers at all, and we cannot conclude that there was intented any judicial disapproval of the policies which have been followed so far under the 1970 rule. As an administrative agency we must retain some flexibility in the administration of our rules. If we conclude that the public interest would be served by waiver, within the general confines of previous actions and policies—which, for reasons discussed below, for the most part we do—we consider ourselves free to act accordingly.

7. *Arguments supporting waiver.* As to waiver policy generally, it is urged by some of the networks and other parties seeking waiver, as mentioned above, that the previous waiver policies should be continued, because the conclusions which justified them before are still valid, and, by adding flexibility to an otherwise rather rigid rule whose literal application leads to impractical results in some cases, these kinds of waivers serve the public interest and the interest of the viewing public which the Court held to be of high importance. It is also asserted that these policies are familiar to the industry and the Commission, and no new ones to achieve the same public-interest results could be devised at this late date for 1974–75. CBS claims that there has been reliance on these policies (as such or as embodied in the rule changes), for example in its scheduling of pro football telecasts, and hardship would result if they are not continued.

8. In urging continuation of the "one-time" network news and public affairs waiver which has applied since the rule went into effect in 1971,[3] the networks urge that the justification advanced earlier applies now as well, and that the Commission has recognized the merit of this concept not only by the earlier grants of waiver but by putting the principle into the rule changes which were adopted but have been stayed. It is claimed that the waiver clearly serves the public interest by facilitating the presentation of material increasing public knowledge and information about matters of public interest and concern, and provides needed flexibility for the untrammeled exercise by the networks of this important journalistic function. The networks assert that they use "their own time"—network prime time, or late evening time—to a large extent for such presentations; but there is still a "real and considerable need" for the viewer, since network evening schedules are not easily rearranged, particularly where longer programs are involved and on the short notice often involved with material of this kind. It is said that the absence of waiver—excluding such material from the access period or requiring a later "give-back" of access time the same evening on short notice—would "inhibit artificially" the presentation of such material and would curail it, and would "reduce the flexibility needed for the full and vigorous exercise of First Amendment-favored exploration of news and ideas." It is also claimed that there has been no network abuse of this waiver; CBS assertedly has used it only three times since January 1972 and not at all in 1974, and in practice none of the networks has approached the 25 occasions a year mentioned as a possible maximum when the waiver was first sought. It is asserted that with the few instances of use of the waiver, and those occurring pretty much at random, there is no significant impact on the demand for first-run syndicated material which the rule is designed to promote. Moreover, it is asserted, there is little or no material of this sort available from non-network sources, so there is no inhibition on the sale or development of a particular type of programming; rather, withdrawal of the waiver would simply reduce the supply of such material to stations.[4]

9. With respect to the Public Notice's suggestion that there might be a numerical limit on such activities, e.g., once a month or three times a quarter, the networks oppose this as limiting flexibility unduly and unnecessary in the absence of any abuse. CBS claims that this would be a basic change in the character of the waiver, from a recognition that journalistic judgments should be made without artificial government-imposed restraints, to one of governmental intrusion into an area which the Commission should eschew.

10. With respect to the requested "off-network" waivers, most of the petitioners urge the particular merit and other circumstances of their programs, either set forth in the petition or by reference to an earlier showing, claimed still to apply. The points asserted include popularity (ratings), educational or social value as shown by letters from educators and environmental groups, awards and testimonials, etc.[5] and the desirability of the program for early evening children's or "family" viewing (and of presenting the program at this hour of large audience). The Wild Kingdom and Animal World proponents urge, again, the "independent" character of their programs when on the network, and they also assert that the cost and complexity of "outdoor" program production efforts precludes more than a relatively small number of new episodes each year. It is claimed that waiver is thus still necessary, even though fewer off-network episodes will be needed in future years. These producers also urge the need for waiver to avoid disruption of their activities as a result of the Court's decision, which eliminated their potential, under the changed rule, for selling the programs for use in the first half-hour of prime time or as "documentary" programs in one 7:30 half hour each week. In a letter replying to NAITPD's comments, UPA asserts that the object of the rule is to further meritorious programming, clearly including the Mr. Magoo material.

11. *Arguments against network news-public affairs and "off-network" waivers.* The three parties opposing waivers—NAITPD, Westinghouse, and NCCB—advance a variety of arguments against them, both generally and as to the two particular areas involved here.[6] These are in summary as follows:

(a) With the Commission's January decision looking toward an end of waivers, and the Court's subsequent stay, this is not a matter of maintaining the status quo, and there is not and should not be a "vested interest" in obtaining a waiver simply because one was granted before. NAITPD, in fact, claims that as to the "off-network" waiver policy we are bound by the conclusion in that decision that this process has been "undesirable" (see 44 FCC 2d 1081, 1134–35). It is asserted that therefore we should take this opportunity to make a "fresh start", abandoning past precedents and policies which have led to such undesirable results and which, particularly in the "off-network" area, have been criticized by most parties commenting.

(b) The waiver policies, as they have evolved in practice under the rule, constitute a de facto modification of it without appropriate rule-making proceedings rather than the "limited safety valve" which waivers are designed to afford. This is urged particularly as to the "one-time" network news and public affairs waiver, which originally was adopted on the basis of special temporary circumstances (the transitional character of the first year under the rule, and need for pre-election coverage in a Presidential election year) but which has since be-

[3] See 32 FCC 2d 55(1971); 37 FCC 2d 570 (1972); 40 FCC 2d 355(1973); and 42 FCC 2d 615(1973).

[4] CBS also mentions another point: absence of waiver would raise a series of difficult questions as to the scope of the "on the spot coverage" or coverage of "fast breaking events" exemptions contained in the rule, with respect to coverage planned in advance, use of previously filmed material, etc.

[5] UPA attaches 7 documents in support of its request for the Adventures of Mr. Magoo series—a USIA document describing it as of educational character, a letter from a New York City educator seeking it for school use, a McGraw-Hill release describing the series as important in bringing history and literary classics to life for students, letters of praise from a church group and NAFBRAT, a letter to area English teachers from WAVY–TV, Norfolk about the series, which it ran at 7 p.m. in 1971, and a letter of praise and inquiry from a Connecticut librarian. It should be noted that some of these documents concern classroom or other film, rather than broadcast, use. Some 16 similar documents were submitted concerning the two individual Mr. Magoo programs.

[6] ABC and CBS also commented briefly as to off-network waivers, although not directly involved. ABC suggests that the time may be at hand when the off-network waiver situation should be cleaned up, noting the slow progress of Wild Kingdom toward all new material. CBS, on the other hand, although noting that it has previously opposed such waivers because they involve the Commission in "program quality" judgments, states that it does not oppose their continuation during the present period of uncertainty as to what the rule will be in the future.

come apparently a permanent modification by the various extensions. It is also claimed that the Commission's practice improperly shifts the burden of proof from one seeking waiver to opponents (for example as to a showing of specific inhibition).

(c) The types of waivers involved here are unnecessary, since the rule does not preclude the presentation of any material at any time. As to the "one-time" network waiver, it is claimed that the networks can, and should be required to, use their own prime time to fulfill their journalistic obligations, rather than use "the other fellow's time" while keeping their own schedules intact. As to the off-network programs, these may be presented at any time, including early-evening or later prime time if the station is willing to preempt network programs. NAITPD argues that if the Commission is so concerned about early-evening exposure for a program such as America, it should either make the network carry it at such an hour, or inquire of licensees as to why they did not carry it without a waiver (preempting a later network program).

(d) Any waiver, even for a small amount of time such as the 13-week America series, creates great uncertainty and instability, by depriving independent producers of the knowledge of how many markets they will have to aim at, depending on what waivers the Commission may or may not grant. Westinghouse claims that this has been the biggest single obstacle to the development of the rule's potential. Given the double advantage which off-network material has—previous exposure and thus a "track record", and possible sale in syndication cheaply because all or most of the costs have been recovered in the network run—it is claimed that this possible competition is ruinous, particularly precluding the development of any new material of the same type as that for which waiver has been granted, for example material such as America, and restoring to certain programs the very competitive advantage of which the rule was designed to deprive them. This is said also to be true of the "one-time" network waiver—inhibiting the development of such material from independent sources in the vital area of public information.

(e) It is said that the off-network waiver process violates the First Amendment, both through a Governmental judgment based on the "merit" or "quality" of a program, and through the inhibiting effect on the development of other programs under a rule specifically designed to increase diversity and promote the public's First Amendment rights. PAITPD claims that the policy is thus "unreasonable, unconstitutional and self-defeating".

(f) NCCB urges that these waivers adversely affect the presentation of locally oriented and minority-group programming, substituting a national decision that certain programs should be shown instead and interfering with licensees' freedom to program their stations to meet local needs (and with citizen group efforts to get them to). NCCB also refers to two syndicated programs of significance to minority groups (La Raza and Black Omnibus) and claims that the latter, which has gone out of production because of lack of advertiser support, will not be replaced "without a strictly enforced and stable prime time access rule." In sum, waivers serve only to impede the basic purpose of the rule—"to insure a diversity of programming sources, which enable a station to respond to the needs and interests of its community."

(g) These parties also attack the arguments of the Wild Kingdom and Animal World proponents as to their particular circumstances. It is claimed that there is no showing that a further "subsidy" is needed to permit them to continue their activities, that the progress of Wild Kingdom toward non-reliance on former network material is extremely slow in three years of waiver, and that the fact of their former "independent" nature is of no consequence; the same has been true for some years of nearly all network programming (under the "syndication" and "financial interest" rules adopted in 1970) and off-network programming has the same inhibiting effect on new independent material regardless of the nature of its past or present ownership.

Discussion and Conclusions

12. After careful consideration of the matters raised herein, we conclude that waivers of these two types should be granted to an extent which will preserve the status quo—continuation of the waiver for "one time" network news and public affairs programs, and for the Wild Kingdom, Animal World and National Geographic program series—and in one other case: the six children's special programs mentioned in paragraph 2, above. The latter waiver is granted because of the high importance of permitting children's "specials" to be presented at a reasonably early evening hour, as well as because of the very small amount of access time involved (a total of 12 hours per year per market even if all programs were shown twice). The request for the 26-episode Famous Adventures of Mr. Magoo series is denied. We do not pass at this time on the America request, since that was filed only July 30 and thus was not the subject of comments, and since decision now is not necessary because the program will not be available to commercial television until March 1975.

13. The present moment is one of uncertainty as to what the future form of the rule will be, which will be decided in the next several weeks by further decision in Docket 19622. Thus, this is not the time or the place to make sweeping changes in the practice which has grown up under the rule, in an effort to make it work better as a permanent matter. Moreover, the Court's decision came fairly late in the game with respect to industry planning for the 1974–75 broadcast year. It appears that there has been reliance by stations, networks, and producers on the availability of access time for such material under the changed rules (during the first half-hour of prime time, or as "documentary" or "public affairs" material during one "cleared" half-hour per week). These changes have of course been stayed, but we do not conceive it to be in the public interest to disrupt these plans by acting to reduce the availability of access time for these activities, to a point below either what has been available so far under the earlier rule or what would have been available under the changed rule, in the absence of stronger countervailing considerations than those which appear here.

14. It must also be borne in mind that our decisions here are short-run in nature. The waivers and indicated grants adopted here are only for 1974–75, and, even if a new rule should be put into effect only at a later date and the same policies should be continued in the interim (matters which we do not here decide), the present decisions will apply only for a relatively short period. This means that some aspects of the matter which may be important in a long-term or permanent decision are of less consequence here—for example, the inhibiting effect of waiver on the development of new, independent programming of the same general sort. The supply of new non-network programming for 1974–75 is doubtless by now pretty well set; for the longer term, whatever effects there are will flow not from our action here but from whatever decision is reached later this fall in Docket 19622.

15. As to continuation of the "one-time" network news and public affairs waiver, we conclude that this would be in the public interest because of the high importance of facilitating the presentation of this type of "informed electorate" material, the present relative absence of material of this sort from other sources, the concomitant lack of significant impact (in the short run) of the development of similar material, and the fact that (with uses of the waiver being few in number and pretty much on a random basis) this would not be expected to have substantial impact on the development of new access-period programming generally.[7] It does not appear that there has been any abuse of this waiver, and the networks do, to a large extent, use "their own time" for this purpose. We conclude that, for the period involved here, they should retain the flexibility

[7] NCCB mentions the possibility that a network program presented under this waiver may displace a timely local program of the same type. This appears too speculative to be of decisional importance here, bearing in mind the rather small amount of access time devoted to either network news and public affairs under the waiver or local programming, and the possibility that in the unlikely event that this does occur, either the local program could be re-scheduled or the network program could be taped and delayed.

which the waiver gives them in exercising their journalistic function. While the same conditions which led to the original waiver do not necessarily obtain, we reach the same conclusion on the basis of present conditions.

16. We have decided not to adopt a numerical limit on network use of this waiver, indicated in the Public Notice as a possibility, since it might impair desirable flexibility and past performance does not indicate a need for it. However, we expect the networks not to abuse this waiver, especially by using access time extensively rather than their own time to carry out their journalistic function. If the entire burden should not have to fall exclusively in network prime time, neither should it have to fall entirely or largely in access time.

17. The considerations mentioned in pars. 13–14 above likewise indicate that waiver should be granted for the three "outdoor" program series mentioned. In our judgment, the cause of diversity of programming—increasing the amount and variety of fare available to the public—would be served by waiver and disserved by denial, for the short-run period involved here, and thus with little or no impact on the development of new programming for the longer term. There has not been, here or in earlier filings, any evidence as to the inhibiting effect on the development of new programming, and we cannot assume that there would be any with respect to a short-run waiver for programs which have previously been available on the same basis. The total time involved of 2 hours a week is less than 10% of the 21 hours a week per market of "cleared" time, even assuming all three programs involved are shown in access time in all 50 markets, which has never been the case so far.[8]

18. We conclude that waiver should also be granted for the six children's "special" programs mentioned, even though, admittedly, this does go beyond the status quo. We reach this conclusion on the basis of the short-run nature of our action here (already discussed), and consequently the absence of any impact on the long-term development of new non-network material, and two other factors: (1) the lack of impact in terms of time, since these six programs would amount to only 12 hours a year per market even if all were shown twice; and (2) the overriding importance of making children's programs of this type available at an early evening hour. We noted in our decision changing the rule that one of the chief complaints against it has been that it prevents the presentation of network children's specials at an early hour, permitting children to watch them and still observe a reasonable bedtime (see 44 FCC 2d 1081, 1134). We find it of high importance to facilitate the presentation of such material at any early evening hour, from off-network if not network sources, and accordingly waiver appears appropriate for this short-run period, in the absence of any demonstrated impact on the development of new programming.

19. However, we conclude that waiver for the other program series involved—the Famous Adventures of Mr. Magoo—is not warranted, even though it is material of the same general sort. Despite the merit of this program asserted by petitioner with supporting material, and the short-run nature of our actions here, we do not believe it appropriate, at this point when the future form of the rule is uncertain, to grant waiver for a new 26-episode series, wholly off-network, for which waiver has not been granted before and which also is a program of a type not hitherto involved in the waiver process. The possible creation of new inhibitions on the development of non-network programming—as opposed to continuation of whatever existing inhibitions may exist where waivers have been granted in the past—is not to be taken lightly, even in the short run. Where a 26-program, wholly off-network series is involved, we decline to do so. Grant of a waiver of this sort, involving material which likely would occupy a time slot on a station for a full year, would tend to undercut the Court's mandate even though it would not necessarily contravene it.

20. *Other programs.* As indicated in the July 18 Public Notice, we intend to be restrictive as to waivers of the "off-network" provisions of the prime time access rule, with respect to programs other than those mentioned and not denied herein.

21. *Other observations.* It is appropriate to discuss certain arguments against waiver mentioned earlier and not directly dealt with above. First, it is urged that we are bound by the conclusion in our January Report and Order that the off-network waiver process is "undesirable." This characterization referred to the process itself, not the results; our decision was to adopt rule changes designed, inter alia, to reach the same general result by a better process. Since the changes have been stayed, it is appropriate to use the old approach if the public interest so indicates, as we conclude it does. Second, as to the character of the waiver process as a de facto change in the rules (and as improperly shifting the burden of proof) we find these objections without merit, insofar as the short-run decision here is concerned. Waiver of the rules is a power which the Commission properly may, and when the public interest requires, must exercise. WAIT Radio v. FCC, 418 F. 2d 1153 (C.A.D.C. 1969). We have examined the facts and arguments presented, by both sides, and are persuaded that waiver to the extent granted herein will further the public interest. Finally, we note the arguments concerning the First Amendment. In our view, our actions herein do not raise questions on this score, since we neither forbid nor require the presentation of any program. Our decisions herein are not based on the "merit" or "quality" of any program—assuming arguendo that such a course would present First Amendment problems—and the short-run nature of this decision renders inapposite NAITPD's argument that waiver violates First Amendment concepts by inhibiting or precluding the development of new material.

Network News and Sports Runover Waivers

22. These two areas of waiver policy were not set forth for comment in the Public Notice, but there was some comment. We will continue for 1974–75 the "network news at 7 following an hour of local news" waiver, and the policy granting waiver for presentation of network news or public affairs programs on weekends at 7 (e.s.t.) where both preceded and followed by a half-hour of local news or local public affairs. No party expressed objection to this waiver, which was contemplated by "footnote 36" of the Report and Order adopting the rule in 1970.[9] With respect to "runovers" of network afternoon sports telecasts, we will continue the past policy in this respect. NAITPD raises here, as it has before, the problem which is presented to suppliers of first-run syndicated programming in "making good" the commercials lost in their programs as a result of such runovers (particularly on weekends, which is when nearly all of them occur). We recognized in our January decision that this is not a satisfactory situation under the present rule, and took steps to deal with it simply by reducing the possibility of runovers (there is not a great likelihood in any event). See 44 FCC 2d 1081, 1143. NAITPD has not given us (now or earlier) any specifics with respect to the claimed problem, and therefore we are not adopting any different policy for the short run involved here, in what might be a rather complex area. This remains a problem for consideration with respect to the decision on a rule for the future, in Docket 19622, and we will give consideration at that time (if appropriate

[8] With respect to the argument mentioned in par. 11(c) above, that waivers are not necessary for the programs to be shown in prime time, we do not find this persuasive, bearing in mind that: (1) the whole premise of the rule is that the networks have a tremendous advantage in clearing programs in competition with non-network sources; and (2) one significant element of "diversity" is the range of programs available to the public at a given time, here "cleared" access time. It is noted that National Geographic programs will not be shown on U.S. network television this year, following the Court's decision.

[9] NAITPD raises the question of whether the preceding "local hour" may be used partly for syndicated public affairs material (as it urged in its initial comments in Docket 19622). No one has ever raised this question specifically; we will consider waiver on this basis if it comes up.

in light of the form of the rule adopted) to various solutions proposed by NAITPD ("rolling back" network schedules for the evening, requiring the networks to provide "make good" time for the commercials lost, etc.).

POLICY STATEMENT AND ORDER

GENERAL POLICY

23. In the foregoing, for the 1974–75 broadcast year, the following provisions concerning waiver of the prime time access rule will apply:

(a) Waivers are granted in paragraph 24 below, for the two half-hour program series, for the presentation of network news in the first half-hour of prime time (7 p.m. e.s.t., etc.) if preceded by a full hour of local news, for "one time" network news and public affairs programs, and for six individual children's programs.

(b) Waivers when requested will be granted, generally by Broadcast Bureau action under delegated authority, for stations subject to the rule who wish to carry the National Geographic program, for stations wishing to carry network news in the first half-hour of prime time on weekends, where it is both preceded and followed by a half-hour or longer local news or local public affairs program, and for stations or networks seeking "sports runover" waivers to the extent such waivers have been granted in the past. This action is not a grant of waiver in these cases.[10]

(c) Except as mentioned, and as may be indicated on further consideration of a pending request for waiver for the America series, no further off-network waivers, involving substantial amounts of programming, will be granted for the 1974–75 broadcast year.

24. In view of the foregoing, *it is ordered*, That:

(a) Waiver of the "off-network" provisions of the prime-time-access rule, § 73.658(k)(3), is granted, so that stations subject to the rule may present during the period until Monday, September 15, 1975, in addition to three hours of prime-time network or off-network material:

(i) The Wild Kingdom and Animal World program series, provided that, of the package purchased and shown on the station, no more than 49 percent in the case of Wild Kingdom, or 43 percent in the case of Animal World, may be off-network.

(ii) The Uncle Sam Magoo and Mr. Magoo's Christmas Carol individual programs formerly on NBC, and the Pinocchio, The Emperor's New Clothes, Jack and the Beanstalk and Aladdin children's special programs formerly on CBS.

(b) Until September 15, 1975, stations subject to § 73.658(k) may present "one-time" network news and public affairs programs (those not part of a regular series) without their counting toward the permissible three hours of prime time network programming.

(c) Stations subject to § 73.658(k) may present network news in the first half-hour of prime time (7 p.m. e.s.t., etc.) without its counting toward the permissible three hours of network programming each evening, provided that the network news is immediately preceded by an hour of local news or local public affairs programming.

(d) The letter request for waiver of § 73.658(k)(3), filed on July 15, 1974 by UPA Productions of America, is denied insofar as it requests waiver for the Famous Adventures of Mr. Magoo program series.

Adopted: September 11, 1974.

Released: September 13, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[11]
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.74-22626 Filed 9-27-74;8:45 am]

[FCC 74-1006 Docket No. 19551, RM-1821, etc.]

PART 73—RADIO BROADCAST SERVICES

Second Report and Order

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Atlanta, Blackshear, Cochran, Dublin, Eastman, Hawkinsville, Hazlehurst, Macon, Monroe, and Ocilla, Georgia; Birmingham, Gadsden, Haleyville, Jasper, Northport, Sheffield, and Tuscaloosa, Alabama; and Columbus, Macon, New Albany, Oxford, and Starkville, Mississippi), Docket No. 19551, RM-1821, RM-1864, RM-1923, RM-2004, RM-2029, RM-2037, RM-2038, RM-2067, RM-2077; 38 FR 26.

1. The Commission here considers certain aspects of this proceeding to amend the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) as concerns communities in the southeastern portion of Georgia. The basic proposal is bottomed on the petition of Broadcast Good Music! Committee (BGMC) to assign Channel 300 at Atlanta, Georgia, as a seventh FM channel assignment (RM-1864) which requires the change of existing channel assignments at eight cities (Hawkinsville, Macon, and Ocilla, Georgia; Birmingham and Gadsden, Alabama; and Macon, New Albany, and Oxford, Mississippi), six of which are occupied by operating stations (all except Ocilla, Georgia, and Macon, Mississippi).[1] The other 14 proposed changes are counterproposals, which more or less fall into four subsidiary groupings.

2. We here deal with proposed assignments in southeast Georgia which group is severable from the other proposals in this proceeding. Included in this group are Ocilla, Dublin, Cochran, Eastman, Hazlehurst, and Blackshear. Change of the channel assignment at Ocilla from Channel 237A to 221A was proposed as part of the Atlanta proposal. The Notice also covered the proposal of Dublin Broadcasting Company (Dublin Broadcasting), licensee of AM Station WMLT at Dublin, Georgia (RM-1821), to assign Channel 240A as a second assignment to that community, with respect to which the Notice raised questions. Dublin, population 15,143, is the seat of Laurens County, population 32,738.[2] In addition to Station WMLT, Stations WXLI and WXLI-FM operate at Dublin. The Notice stated that the Dublin Broadcasting showing indicated a lack of preclusionary effect on adjacent channels but that Channel 240A could be used elsewhere in the area if it were not assigned to Dublin (see Policy to Govern Requests for Additional FM Assignments, 8 F.C.C. 2d 79 (1967)). Specific reference was made to four county seats where the channel could be so assigned. These are: Soperton, pop. 2,596, in Treutlen County (pop. 5,647); McRae, pop. 3,151, in Telfair County (pop. 11,381); Hazlehurst, pop. 4,065, in Jeff Davis County (pop. 9,425); and Eastman, pop. 5,416, in Dodge County (pop. 15,658). It was noted that the first had no local broadcast facility and the other three had only daytime AM stations (while Channel 244A is assigned to Eastman, it operates as Station WVMG-FM at Cochran, pop. 5,161, the seat of Bleckley County (pop. 10,291)).[3]

3. In response to our Notice, Farnell O'Quinn (O'Quinn) filed a counterproposal that Channel 240A be assigned to Eastman and Channel 244A be reassigned from Eastman to Cochran in order "to give proper recognition to the facts"; and Jeff Davis Broadcasters, Inc. (Jeff Davis), licensee of daytime AM Station WVOH there, counterproposed that either Channel 240A or 221A be assigned to Hazlehurst (RM-2067). Dublin Broadcasting then filed counterproposals for Eastman and Hazlehurst which are agreeable to O'Quinn and Jeff Davis. The Dublin counterproposal includes a proposed change of assignment at Blackshear which is discussed below (paragraph 6). Dublin Broadcasting's plan calls for the assignment of Channel 240A at Dublin, 221A at Eastman, Channel 228A at Hazlehurst, and 285A (in lieu of 228A) at Blackshear. These various counterproposals created conflict with that part of the Atlanta proposal that had to do with the proposed assignment at Ocilla, Georgia. However, there is a channel available for Ocilla (249A) which makes possible present resolution of the

[10] Waiver is not granted herein in these cases because, in the case of National Geographic, it is desirable to have information as to how many stations propose to carry the program in access time, and on what basis; and in the other cases, staff examination of the facts appears to be desirable.

[11] Commissioners Lee and Reid concurring.

[1] This is herein referred to as the "principal" or Atlanta proposal.

[2] All population data are from the 1970 U.S. Census.

[3] Concerning adequacy of broadcast service to a community, see Broadcast Station Assignment Standards, 39 F.C.C. 2d 645, 670, 672, and 674 (1973).

conflict and permits our presently making FM channel assignments to these communities in southeast Georgia prior to giving consideration to the Atlanta proposal.[4]

4. We briefly discuss the comments filed by Dublin Broadcasting, Jeff Davis, and Farnell O'Quinn. The purpose of Dublin Broadcasting's petition is to permit it to apply for an FM channel if assigned to Dublin in order to serve 12,000 more persons nighttime who are located between the interference-free contour of an FM station and AM Station WMLT's nighttime interference-free contour. In this respect, however, assignment of an FM station to Dublin, Georgia, does not give any priority to Dublin Broadcasting, and its application will be considered on a par with applications of other interested parties. In support of the proposal for a second FM channel, Dublin Broadcasting has adduced information and data to show that Dublin is the regional trade center of eight counties, that it is the location of both state and federal government agencies serving a large area and it is the medical center for a twelve-county area, that there has been substantial increase in population of the city and county, and that industry and manufacturing has been expanding at a substantial rate since 1960. Dublin Broadcasting has also indicated that it intends to serve East Dublin, population 1,986, also in Laurens County across the Oconee River from Dublin. It is asserted that Dublin is the most important of the area's cities including Eastman, Hazlehurst, McRae, Soperton, and Ocilla.

5. Jeff Davis in support of the proposed assignment of an FM channel at Hazlehurst relies on the need for further media. We are told that there is only a weekly newspaper and its AM station is a low-power 500 watt daytime AM station. It is also urged that Hazlehurst is an industrial and agricultural center. Other information is adduced concerning the amount of manufacturing and business, the type of hospital and school facilities, the number of churches and civic groups and municipal service and transportation. O'Quinn's comments primarily are directed at showing that Eastman and Dodge County has greater need for a first full-time broadcast facility than Dublin has for a fourth station. As already noted, Eastman only has a daytime AM station (Station WUFF), while Dublin has two full-time AM stations and an FM station. As mentioned above, Dublin Broadcasting's counterproposal is agreeable to O'Quinn and Jeff Davis. In advancing the counterproposal, Dublin Broadcasting stated that the Commission should not consider assignments to Soperton and McRae in the absence of a demand in those communities.

6. As stated, it is possible to resolve the conflict among the southeast Georgia proposals without adversely affecting the principal proposal and in acordance with the usual practice of making assignments of channels to communities with a population of 10,000 or less where there is an expressed demand. In this respect, there were objections to a substitute at Ocilla, Georgia, on the basis that the present assignment there has remained fallow. However, there are pending applications for the Ocilla channel—one for a station at Fitzgerald (BPH–8716) and the other at Ocilla itself (BPH–8766). In these circumstances, since a channel is available for assignment to Ocilla which is compatible with making assignments to the other southeast Georgia communities, we may proceed. In proposing the assignment of Channel 228A at Hazlehurst, it is necessary to delete the assignment of that channel from Blackshear, population 2,624, seat of Pierce County, population 9,281. While it is possible to assign Channel 285A to that community, we do not propose to do so at this time. Blackshear, like Soperton and McRae, is not the size community to which FM channel assignments are made in the absence of demand (someone evidencing a willingness to apply for and operate a station), especially when demand for use of FM channels in Georgia is extremely high.[5] Moreover, there are two other sizeable communities in the area to which Channel 285A might be assigned.

7. As concerns the assignment of Channel 221A to Eastman, consideration has been given to the preclusionary effect on the assignment of educational FM channels in the area. The staff has ascertained that here are five educational institutions with a student enrollment of 1,000 or greater within a 105 mile radius of Eastman of which four colleges are located in the areas receiving service from a Channel 6 TV station. It is noted that, with the exception of Channel 219 at Douglas and due to existing educational stations, the assignment to these educational institutions would be limited to a Class A operation and would not be affected by an assignment of Channel 221A to Eastman. The only preclusionary effect would be at Douglas for a Class C operation on Channel 219; however, a Class A operation is possible at Douglas.

8. We find that the public interest, convenience, and necessity is served by assigning another FM channel to Dublin in the light of expressed interest and that community's importance; by assigning Channel 244A to Cochran, where it is in use; by substituting Channel 249A for 237A at Ocilla; by making first assignments at Eastman and Hazlehurst in the light of expressed demand and need for a full-time local aural broadcast service at each community. In the latter respect, because of lack of demand, we do not here consider channel assignments for Soperton, McRae, and Blackshear.

9. In view of the foregoing and pursuant to authority found in sections 4(i), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, *it is ordered*, That effective November 1, 1974, the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations), is amended with respect to the following cities in Georgia to read as follows:

City:	*Channel No.*
Cochran	244A
Dublin	224A, 240A
Eastman	221A
Hazlehurst	228A
Ocilla	249A

Adopted: September 19, 1974.

Released: September 24, 1974.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.74-22625 Filed 9-27-74;8:45 am]

[4] Substitution of Channel 249A for Channel 237A at Ocilla would allow for flexibility in the solution of the question of whether Channel 300 should be assigned to Atlanta.

[5] As of June 30, 1974, Georgia had 88 FM channel assignments—41 Class C's and 47 Class A's. Of the Class C's, 39 are in operation and the other two are applied for; as to the 47 Class A's, 38 are in operation, six are applied for, and only three are still in assigned status.

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-57; Amdt. Nos. 172-28, 173-86]

PART 172—LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL MATERIALS SUBJECT TO PARTS 170–179 OF THIS SUBCHAPTER

PART 173—SHIPPERS

Fluoboric Acid

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 fluoboric acid be packaged according to the requirements set forth in § 173.264(a).

Three petitions for reconsideration of this amendments have been received: Harstan Chemical Corporation, Allied Chemical Corporation, and the Harshaw Chemical Company. 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 experience when using certain packagings specifically in use.

One petitioner furnished detailed amplifying information on the hazards of certain concentrations of fluoboric acid, setting forth valid reasoning why these materials are significantly different than

hydrofluoric acid which is covered by § 173.264. This section of regulation is more stringent in its packing requirements and all petitioners argued that these restrictions were inordinate for the less hazardous material, fluoboric acid.

One petitioner based his petition on the fact 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 petitioner's 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 packaging of fluoboric acid are overly restrictive.

In consideration of the foregoing, 49 CFR Parts 172 and 173 are revised as follows:

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 section)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
(change)				
Fluoboric acid	Cor	173.244, 173.283	Corrosive	1 gal.

* * * * * * *

(A) In Part 173 Table of Contents, § 173.264 is revised and § 173.283 is added to read as follows:

Sec.

* * * * *

173.264 Hydrofluoric acid; White acid.
173.283 Flouboric acid.

* * * * *

(B) In § 173.264, the Heading and the introductory text of paragraph (a) are revised to read as follows:

§ 173.264 Hydrofluoric acid; white acid.

(a) Hydrofluoric acid and white acid (ammonium bifluoride and hydrochloric acid mixture), each must be packed in specification packaging as follows:

* * * * *

(C) § 173.283 is added to read as follows:

§ 173.283 Fluoboric acid.

(a) Flouboric acid exceeding 50 percent concentration must be packed as prescribed in § 173.264(a) for hydrofluoric acid.

(b) Fluoboric acid of 50 percent concentration or less must be packed as follows:

(1) In specification packaging as prescribed in paragraph (a) of this section.

(2) In specification packaging as prescribed in § 173.245(a) (12), (16), (18), (19), (21), (24), and (26).

These amendments are effective September 30, 1974.

(Transportation of Explosives Act (18 U.S.C. 831–835); sec. 6; Department of Transportation Act (49 U.S.C. 1655); Title VI and sec. 902(h); Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, 1472(h), 1655(c)).)

Issued in Washington, D.C. on September 24, 1974.

ROBERT A. KAYE,
Board Member for the Federal Highway Administrator.

C. R. MELUGIN, Jr.
Alternate Board Member for the Federal Highway Administration.

[FR Doc.74–22558 Filed 9–27–74;8:45 am]

[Docket No. HM–22; Amdts. Nos. 173–85, 178–34]

PART 173—SHIPPERS

PART 178—SHIPPING CONTAINER SPECIFICATIONS

Cargo Tanks; Matter Incorporated By Reference

The purpose of this amendment to the Hazardous Materials Regulations is to update the reference to The Chlorine Institute's standards for valves on chlorine tank motor vehicles.

On April 2, 1974, the Board published a notice of proposed rule making, Docket No. HM–22; Notice No. 74–4 (39 FR 12034) proposing to make the above described change.

One commenter made reference to the possibility of erroneously interpreting the changes proposed in this docket to mean a required updating of existing chlorine cargo tanks. Although such is not the case in this docket, the Board is aware that changes of this type may be confusing. Future rule making will be proposed which will include certain revisions to Parts 173 and 178 which the Board believes will clarify this area of confusion.

The Board emphasizes that the changes adopted by this rule making apply only to cargo tanks for chlorine service manufactured after the effective date of this docket.

Another commenter suggested certain changes to §§ 173.33 and 173.315 to permit voluntary updating of existing cargo tanks by the installation of the newer safety relief and excess flow valves which are the subject of this rule making. The Board believes this suggestion has merit and has made the necessary changes.

In consideration of the foregoing, 49 CFR Parts 173 and 178 are amended as follows:

1. In § 173.33, paragraph (i) (4) is revised and paragraph (i) (5) is added as follows:

§ 173.33 Cargo tank use authorization.

* * * * *

(i) * * *

(4) Angle valves and excess-flow valves on chlorine tank motor vehicles manufactured before December 31, 1974, must conform to the standards of The Chlorine Institute, Inc. as follows:

(i) Angle valves must conform with Dwg. 104–4 dated May 5, 1958;

(ii) Excess-flow valves conforming with Dwg. 101–4, dated May 16, 1969, must be installed under each liquid angle valve, and the excess-flow valves conforming with Dwg. 106–3 dated May 16, 1969, must be installed under each gas angle valve.

Valves authorized in paragraph (i) (5) of this section may also be used.

(5) Angle valves and excess-flow valves on chlorine tank motor vehicles manufactured on or after December 31, 1974, must conform to the standards of The Chlorine Institute, Inc. as follows:

(i) Angle valves must conform with The Chlorine Institute Dwg. 104–5 dated September 1, 1972;

(ii) An excess-flow valve conforming with Dwg. 101–6 dated September 1, 1973, must be installed under each liquid angle valve and an excess-flow valve conforming to Dwg. 106–5 dated September 1, 1973, must be installed under each gas angle valve.

2. In § 173.315, paragraph (i) (13) is revised and paragraph (i) (14) is added as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

* * * * *

(i) * * *

(13) Safety relief valves on chlorine tank motor vehicles manufactured before December 31, 1974, must be in conformance with the standard of The Chlorine Institute, Inc., Type 1 1/2JQ225, Dwg. H51970, dated October 7, 1968. Safety relief valves authorized in sub-

paragraph (14) of this section may also be used.

(14) Safety relief valves on chlorine tank motor vehicles manufactured on or after December 31, 1974, must conform to The Chlorine Institute's Type 1 1/2JQ. 225, Dwg. H51970, dated October 7, 1968, or Type 1 1/2JQ225, Dmg. H50155, Revision A, dated April 28, 1969.

3. Sections 178.337–1(c)(2), 178.337–2(b), 178.337–8(b), 178.337–10(c) are revised as follows:

§ 178.337–1 General requirements.

* * * * *

(c) * * *

(2) Each chlorine tank must be equipped with a nozzle in the top of the tank. The nozzle must be fitted with a manway cover conforming to The Chlorine Institute's Dwg. 103–4 dated September 1, 1971. There shall be no other opening in the tank.

* * * * *

§ 178.337–2 Material.

* * * * *

(b) For chlorine tanks. All plates for tank, manway nozzle, and anchorage must be made of carbon steel meeting the requirements of ASTM Specifications A–612–72a, Grade B or A516–72, Grade 65 or 70 and also meeting the Charpy V-Notch test requirements of ASTM Specification A20–72a. Impact test specimens must meet impact requirements, in both longitudinal and transverse directions of rolling of this specification at a temperature of minus 40°F.

* * * * *

§ 178.337–8 Outlets.

* * * * *

(b) Chlorine tank valves. See § 173.33 (g)(9), (i)(4), and (5) of this subchapter. Regarding chlorine tank outlets, see also § 178.337–1(c)(2).

* * * * *

§ 178.337–10 Protection of fittings.

* * * * *

(c) On each chlorine tank there shall be a protective housing and manway cover conforming to The Chlorine Institute Dwg. 137–2, dated September 1, 1971, to permit the use of standard emergency kits for controlling leaks in fittings on the dome cover plate.

* * * * *

This amendment is effective December 31, 1974. However, compliance with the regulations as amended herein is authorized immediately.

(Transportation of Explosives Act (18 U.S.C. 831–835); section 6 of the Department of Transportation Act (49 U.S.C. 1655))

Issued in Washington, D.C., on September 24, 1974.

ROBERT A. KAYE,
Board Member for the Federal Highway Administration.

[FR Doc.74–22557 Filed 9–27–74;8:45 am]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[Notice No. 74–22]

APPENDIX A—INTERPRETATIONS

QUESTIONS AND ANSWERS ON DRIVER QUALIFICATIONS

Amendment of Interpretation 71–4

The Director of the Bureau of Motor Carrier Safety is amending Interpretation 71–4 of Appendix A to the Federal Motor Carrier Safety Regulations. Interpretation 71–4 contains, in question-and-answer form, a number of interpretations of the rules in Part 391 of the Federal Motor Carrier Safety Regulations which have been issued by the bureau on the subject of the qualifications of drivers who drive commercial motor vehicles in interstate or foreign commerce.

Since the date when Interpretation 71–4 was issued, there have been a number of amendments of Part 391. In addition, the Bureau has discovered an error in question and answer No. 15. The purpose of these amendments is to amend the Interpretation by correcting that error and by bringing its contents up to date so that they correctly reflect the purport of today's rules.

In consideration of the foregoing, Interpretation 71–4 in Appendix A to Subchapter B of 49 CFR Chapter III is amended as set forth below.

Since these amendments make changes in interpretive rules, notice and public procedure thereon are unnecessary, and they are effective on the date of issuance set forth below.

(Sec. 204, Interstate Commerce Act, as amended, 49 U.S.C. 304; sec. 6, Department of Transportation Act, 49 U.S.C. 1655; delegations of authority at 49 CFR 1.48 and 49 CFR 389.4)

Issued September 24, 1974.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

APPENDIX A—INTERPRETATIONS

* * * * *

QUESTIONS AND ANSWERS ON DRIVER QUALIFICATIONS

[Interpretation 71–4]

* * * * *

A. Question and answer No. 3 are revised to read as follows:

3. (§ 391.15(c)(2)(i)). Q. A driver has his license to operate a commercial motor vehicle suspended for driving a commercial motor vehicle while under the influence of alcohol. Two months later, he is convicted of the driving-under-the-influence charge. When does his disqualification begin and end?

A. His disqualification for suspension of his license begins on the date his license is suspended and ends when his license is restored. His disqualification for conviction of driving while under the influence of alcohol begins on the date of conviction. If the driver was not convicted of a disqualifying offense within a three-year period preceding the date of conviction, the disqualification ends one year after that date. The fact that the driver was already disqualified on the date of conviction does not shorten the period of disqualification by reason of the conviction. In general, there is no reason why two or more grounds for disqualification may not be concurrently applicable to a particular person at one time.

B. Question and answer no. 4 are deleted.

C. Question and answer no. 5 are revised to read as follows:

5. (§ 391.15(c)). Q. If a driver is convicted of an offense specified in § 391.15(c), or has forfeited bond on account of one of those offenses but is allowed to keep his driver's license, is he disqualified?

A. Yes. As noted in item 3, loss of a driver's license and conviction of a disqualifying offense are entirely separate grounds for disqualification. A driver who is convicted of one of the enumerated offenses is disqualified even though he retains his commercial driver's license or permit. Likewise, a driver who loses his commercial driving privileges is disqualified even though he is not convicted.

D. Question and answer no. 6 are revised to read as follows:

6. (§ 391.15(c)). Q. Is a driver disqualified if he is convicted of one of the specified offenses and the conviction arose out of the operation of his personal automobile on a personal trip?

A. No. The rule providing for disqualification for conviction of certain offenses applies only to offenses committed while the driver is driving a motor vehicle in the employ of a motor carrier or in furtherance of a commercial enterprise.

E. Question and answer no. 7 are revised to read as follows:

7. (§ 391.15(b)). Q. A driver who holds a license to drive issued by one State has a second State revoke or suspend his privilege to operate a commercial motor vehicle in the second State. Is the driver disqualified?

A. Yes. A driver whose privilege to drive a commercial motor vehicle is suspended or revoked in any State is disqualified until that privilege is restored. It is immaterial that he holds a valid license from another State.

F. In question No. 8, the reference to § 391.15(b)(2) is amended to read "(§ 391.15(b))."

G. Question and answer No. 15 are revised to read as follows:

15. (§ 391.31). Q. Do the Regulations prohibit a carrier who issues a certificate of driver's road test from placing language in the certificate to the effect that the certificate is valid only when the driver is operating that carrier's equipment.

A. No. The form of certificate set out in § 391.31(b) is not mandatory; the certificate must be in substantially that form. A carrier may, therefore, place additional language in the form he uses.

[FR Doc.74–22584 Filed 9–27–74;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[SO No. 1138; Amdt. No. 3]

PART 1033—CAR SERVICE

Colorado and Southern Railway Co. and Colorado & Wyoming Railway Co.

In the matter of the Colorado and Southern Railway Company authorized

to operate over tracks of the Colorado & Wyoming Railway Company; the Colorado & Wyoming Railway Company authorized to operate over jointly owned tracks of the Atchison, Topeka and Santa Fe Railway Company and the Colorado and Southern Railway Company.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of September 1974.

Upon further consideration of Revised Service Order No. 1138 (38 FR 14943, 33482, and 39 FR 12352), and good cause appearing therefor:

It is ordered, That:

Section 1033.1138 *S.O. 1138*, The Colorado and Southern Railway Company authorized to operate over tracks of the Colorado & Wyoming Railway Company. The Colorado & Wyoming Railway Company authorized to operate over jointly owned tracks of the Atchison, Topeka and Santa Fe Railway Company and the Colorado and Southern Railway Company), Revised Service Order No. 1138 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., September 30, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, and 17(2)). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10–17), 15(4), and 17(2)))

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-22664 Filed 9-27-74;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 74-257]

PART 153—ANTIDUMPING

Northern Bleached Hardwood Kraft Pulp From Canada; Antidumping; Determination To Revoke Dumping Finding

A finding of dumping with respect to prime grade and off-grade northern bleached hardwood kraft pulp from Canada was published as Treasury Decision 73-28 in the FEDERAL REGISTER of January 23, 1973 (38 FR 2210). On April 5, 1974, a petition was received by the Treasury Department requesting revocation of the finding.

In a notice published in the FEDERAL REGISTER of June 28, 1974 (39 FR 24032), the Treasury Department affirmed its determination that prime grade and off-grade northern bleached hardwood kraft pulp from Canada is being, and is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 192 (19 U.S.C. 160(a)). Because the grounds upon which the petition for revocation was based related primarily to considerations involving the injury determination of the Tariff Commission, the petition was referred to the Tariff Commission for such review of its injury determination as the Commission deemed appropriate.

In a notice to be published in the FEDERAL REGISTER of September 27, 1974 (39 FR 34718), the Tariff Commission will announce that on the basis of its investigation into the matter, the Commission had determined that if the finding of dumping were revoked an industry in the United States would not be or would not likely be injured by reason of the importation of prime grade and off-grade northern bleached hardwood kraft pulp from Canada sold, or likely to be sold, at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

Accordingly, I hereby revoke the finding of dumping published as Treasury Decision 73-28, supra, effective with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of notice of the Commission's decision in the FEDERAL REGISTER.

Accordingly, § 153.43 of the Customs Regulations is amended by deleting from the column headed "Merchandise" the words "Northern Bleached Hardwood Kraft Pulp—prime grade and off-grade," from the column headed "Country" the word "Canada," and from the column headed "T.D." reference to Treasury Decision "73-28."

[SEAL] PETER O. SUCHMAN,
Acting Assistant Secretary of the Treasury.

SEPTEMBER 26, 1974.

[FR Doc.74-22791 Filed 9-27-74;9:42 am]

[T.D. 74-254]

PART 159—LIQUIDATION OF DUTIES

X-Radial Steel Belted Tires From Canada

In the FEDERAL REGISTER of January 8, 1973 (38 FR 1018), the Commissioner of Customs gave notice that the United States Customs Service had determined that exports of X-radial steel belted tires, manufactured by Michelin Tire Manufacturing Company of Canada, Ltd., are subject to bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303).

At that time, notice was given that X-radial steel belted tires, manufactured by Michelin Tire Manufacturing Company of Canada, Ltd., imported directly or indirectly from Canada, if entered for consumption or withdrawn from warehouse for consumption after the expiration of 30 days after publication of that notice in the Customs Bulletin, would be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed. In accordance with section 303, the net amount of such bounty or grant was estimated to be 6.6 percent of the f.o.b. value of each tire.

From information received since the issuance of the above notice, it has been finally ascertained, determined or estimated that the net amount of the bounty or grant paid or bestowed upon the subject merchandise is 6.7702 percent of the f.o.b. value of each tire, and countervailing duties in that amount will be collected upon the liquidation of all entries of the subject merchandise for consumption or withdrawals thereof from warehouse for consumption during the period February 8 through December 31, 1973.

In the FEDERAL REGISTER of Sept. 16, 1974 (39 FR 33207), the Commissioner of Customs gave notice that a deposit of estimated countervailing duties, in the amount of 3.7 percent of the f.o.b. value of each tire, shall be required at the time of entry of the subject merchandise for consumption or upon its withdrawal from warehouse for consumption on or after January 1, 1974. Declarations of the net amount of the bounties or grants finally ascertained, determined or estimated with respect to such merchandise will be published in subsequent issues of the Customs Bulletin.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting in respect of the commodity "X-radial steel belted tires manufactured by Michelin Tire Manufacturing Company of Canada, Ltd.," the number of this Treasury Decision in the column headed "Treasury Decision," and the words "Final Rate Declared" in the column headed "Action."

(R.S. 251, as amended, secs. 303, 624; 46 Stat. 687, 759 (19 U.S.C. 66, 1303, 1624))

[SEAL] G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: September 25, 1974.

PETER O. SUCHMAN,
Acting Assistant Secretary of the Treasury.

[FR Doc.74-22665 Filed 9-27-74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Hunting on Dismal Swamp National Wildlife Refuge

In the FEDERAL REGISTER, Volume 39, No. 170, page 31644, dated August 30,

1974, it was proposed that Dismal Swamp National Wildlife Refuge, Virginia, be aded to the list of areas open to the hunting of big game.

The public was provided with a 30-day comment period. The comments were given careful consideration and it has been determined that for the best interests of the resource, Dismal Swamp National Wildlife Refuge should be added to the list of areas open to the hunting of big game.

Accordingly, § 32.32, List of open areas; big game, is amended as follows:

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

VIRGINIA

DISMAL SWAMP NATIONAL WILDLIFE REFUGE

The white-tailed deer season in Chesapeake County, Virginia, opens on October 1, 1974. If the above amendment were not to become effective until 30 days following its publication, the white-tailed deer season for the Dismal Swamp National Wildlife Refuge would not open in conjunction with the State season. The confusion which would be caused to the public by establishing a big game season of a different duration than the season otherwise in effect throughout the remainder of the State is deemed to be of sufficient magnitude and consequence to warrant a finding of "good cause" within the terms of 5 U.S.C. section 553 (d)(3). Accordingly, the effective date of this amendment shall be October 1, 1974.

SEPTEMBER 27, 1974.

LYNN A. GREENWALT,
Special Assistant to the Director Fish and Wildlife Service.

[FR Doc.74-22824 Filed 9-27-74;11:04 am]

proposed rules

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 201]

PLANT VARIETY PROTECTION ACT

Proposed Regulations and Rules of Practice Confidential Status of Applications

Notice is hereby given in accordance with the administrative procedure provisions of 5 U.S.C. 553, that the Agricultural Marketing Service proposes to amend the regulations and rules of practice (7 CFR Part 180) for the administration of the Plant Variety Protection Act.

Statement of considerations. Section 56 of the Plant Variety Protection Act (7 U.S.C. 2403), provides that applications for plant variety protection and their contents shall be kept in confidence by the Plant Variety Protection Office, by the Board, and by the offices in the Department of Agriculture to which access may be given under regulations. No information concerning the same may be given without the authority of the owner, unless necessary under special circumstances as may be determined by the Secretary, except that the Secretary may publish the variety names designated in applications, stating the kind to which each applies.

Section 180.18(a) of the regulations and rules of practice (7 CFR 180.18(a)) provides that pending applications shall be handled in confidence. Except as provided below, no information may be given by the Office respecting the filing of an application, the pendency of any particular application, or the subject matter of any particular application, nor will access be given to, or copies furnished of, any pending application or papers relating thereto, without written authority of the applicant, or his assignee or attorney or agent. Exceptions to the above may be made by the Commissioner, in accordance with 5 U.S.C. 552 and 1.4 of said title and upon a finding that such action is necessary to the proper conduct of the affairs of the Office, or to carry out the provisions of any Act of Congress, or as provided in section 57 of the Act and § 180.19.

Section 180.19 of the regulations and rules of practice (7 CFR 180.19) provides that information relating to pending applications shall be published in the Official Journal periodically as determined by the Commissioner to be necessary in the public interest. With respect to each application, the Official Journal must show the (a) application number and date of filing, (b) the name of the variety or temporary designation, (c) the name of the kind of seed. Additional information, such as (d) the name and address of the applicant, (e) a brief description of the novel features of the variety, and (f) whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed, together with a limitation in the number of generations, may be published only upon request or approval received from the applicant at the time the application is filed or at any time before the notice of allowance of a certificate is issued.

Some applicants fail to request or approve publication in the Official Journal of the specification that a variety is to be sold by variety name only as a class of certified seed, together with the number of generations the seed is to be certified. The lack of information in the Official Journal on this specification may mean (1) that no specification has been made, or (2) a specification has been made but publication of this fact has not been approved by the applicant. The resulting failure to show the information in the Official Journal is causing problems and confusion for farmers and seed certifying agencies who must comply with the rules for selling and certifying seed. Accordingly, it is proposed that the specification that a variety is to be sold by variety name only as a class of certified seed, together with the number of generations that it can be certified be considered one of the "special circumstances" referred to in section 56 of the Act and that §§ 180.18(a) and 180.19 be amended to read as follows:

§ 180.18 Applications handled in confidence.

(a) Pending applications shall be handled in confidence. Except as provided below, no information may be given by the Office respecting the filing on an application, the pendency of any particular application, or the subject matter of any particular application, nor will access be given to, or copies furnished of, any pending application or papers relating thereto, without written authority of the applicant, or his assignee or attorney or agent. Exceptions to the above may be made by the Commissioner in accordance with 5 U.S.C. 552 and 1.4 of this title and upon a finding that such action is necessary to the proper conduct of the affairs of the Office, or to carry out the provisions of any Act of Congress or as provided in sections 56 or 57 of the Act and § 180.19.

§ 180.19 Publication of pending applications.

Information relating to pending applications shall be published in the Official Journal periodically as determined by the Commissioner to be necessary in the public interest. With respect to each application, the Official Journal shall show the (a) application number and date of filing, (b) the name of the variety or temporary designation, (c) the name of the kind of seed, and (d) whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed, together with a limitation in the number of generations that it can be certified. Additional information, such as the name and address of the applicant or a brief description of the novel features of the variety, may be published only upon request or approval received from the applicant at the time the application is filed or at any time before the notice of allowance of a certificate is issued.

Any person who wishes to submit written data, views, or arguments concerning this proposal may do so by filing them with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250 by October 29, 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 1.276).

Done at Washington, D.C. on: September 24, 1974.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.74-22617 Filed 9-27-74;8:45 am]

Food and Nutrition Service

[7 CFR Part 271]

[Amdt. No. 35]

FOOD STAMP PROGRAM

Notice of Proposed Rulemaking

Pursuant to the authority contained in the Food Stamp Act of 1964 (78 Stat. 703, as amended; 7 U.S.C. 2011-2026) notice is hereby given that the Food and Nutrition Service, Department of Agriculture intends to amend Part 271 of its regulations governing the operation of the Food Stamp Program, 7 CFR 271. The amendment is for the purpose of: (1) Providing restoration of certain lost benefits to food stamp recipients; (2) offsetting nonfraud recipient claims against refunds due to households for overcollections of cash and/or for any retroactive benefits to which that household is entitled; (3) strengthening the accounting and control over the sale of food coupons; and (4) making State agencies which have failed to cooperate with USDA liable to FNS for the bonus

value of coupons issued pursuant to court decisions which are inconsistent with federally prescribed program provisions.

On October 27, 1972, the United States District Court for the District of Columbia ordered the Food and Nutrition Service (FNS) of the Department of Agriculture (USDA) to provide retroactive food stamp benefits to all households that had their food stamps wrongfully denied, delayed or terminated due to an administrative error on the part of the certifying State agency. On appeal by the United States, the United States Court of Appeals upheld the District Court order. On December 10, 1973, the United States Supreme Court refused to hear another appeal by the United States on this ruling, thereby leaving in effect the District Court order as affirmed by the appellate court.

In compliance with this order, on December 13, 1973, FNS notified its Regional Offices and the welfare commissioners of all participating State agencies of the Supreme Court's action and its effect. On January 3, 1974, USDA issued interim procedures, by telegram, in order to immediately implement the Court order. To assure that recipient households were aware of their entitlement to retroactive food stamp benefits and that this information was available to all interested and affected persons, the text of the telegram was printed in the April 10, 1974, FEDERAL REGISTER.

The Department is hereby publishing, in the form of proposed rulemaking, permanent procedures for restoring a household's lost benefits. The regulations are proposed in alternative form in which three methods for the actual restoration procedure are being considered. All of these methods, however, involve crediting against the household's purchase requirement the lost benefit entitlement. After a thorough examination of comments from all interested parties, permanent procedures will be established.

Alternative A uses the ATP card method. The purchase requirement that the household usually has to pay for its coupon allotment would be reduced to zero or by whatever amount will, in the shortest time possible, equal the amount of benefits lost.

Alternative B would involve issuing the recipient household a monthly food assistance voucher, each one in the amount of the household's purchase requirement. The household would present the voucher in lieu of cash for purchase of the coupon allotment.

Under Alternative C, if the purchase requirement for an issuance period has been reduced to zero, the affected household would receive its coupons directly through the facilities of the U.S. mail. If the lost benefit entitlement is not sufficient to reduce the purchase requirement to zero, the household would receive benefits under either Alternative A or B.

The Department of Agriculture also intends to prescribe the design of the ATP card. Within the past year numerous instances of variable purchase abuse by issuance agents have been discovered. In such instances, a cashier receiving an ATP card marked for less than the full option would change the ATP to a higher option, pay the difference in purchase requirement and pocket the additional coupons. While the nature of the variable purchase option lends itself to manipulation, abuse can be minimized through proper ATP card design. Some States, including all those where variable purchase abuses have been reported, have chosen to provide only one signature space on the ATP card and only an "X" space to mark the option chosen. The preferable ATP design, which the Department proposes to require, includes a signature line for each variable purchase option. An ATP in this format would require erasure and replacement of the signature for manipulation, while the ATP cards using the format which would be eliminated require only the erasure and replacement of an "X" which makes manipulation much easier.

In addition, a provision is being proposed to hold State agencies liable for bonus coupons issued as a result of certain court suits. This would apply if the administering State agency has failed to cooperate with USDA and the Court has ordered the State to implement a procedure contrary to the Food Stamp Act, FNS regulations or instructions.

Interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to P. Royal Shipp, Acting Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received not later than October 30, 1974. All comments, suggestions, or objections received by this date will be considered before the final regulations are issued.

Comments, suggestions, or objections will be open to public inspection pursuant to 7 CFR 1.27(b) at the Office of the Director during regular business hours (8:30 a.m. to 5:00 p.m.) at 500 12th Street, SW., Washington, D.C., Room 650. The amendment is as follows:

1. In § 271.1, paragraph (p) is revised, paragraphs (q), (r), and (s) are relettered (r), (s), and (t), respectively, and a new paragraph (q) is added. The new and revised paragraphs of § 271.1 read as follows:

§ 271.1 General Terms and Conditions for State Agencies.

* * * * *

(p) *Refunds to households.* The State agency shall make a cash refund to any household for any amount that it has been overcharged for its coupon allotment because of an administrative error on the part of the State agency, not to exceed that amount overcharged during the 12-month period preceding the date the administrative error was discovercd: *Provided,* That, if the household owes an unpaid balance on a fraud or nonfraud claim under § 271.7 (e) and (f) of this subchapter, the amount of the overcollection of cash shall be offset against the balance due on the claim before a refund is made to the household. The State agency shall make such refunds from funds collected in payment of the purchase requirement or from its own funds or those of the project area, or, if no such funds are available for this purpose, the State agency shall request FNS to make such refunds directly to the houeholds. If the State agency or project area funds are used to make refunds, FNS will credit or reimburse the State agency or project area therefor.

(q) *Restoration of lost benefits.*—(1) *Entitlement.* (i) A household shall be entitled to restoration of program benefits lost as a result of administrative error on the part of the State agency. The amount of such restoration shall be the amount by which the food stamp bonus for which the household was eligible exceeds the food stamp bonus (if any) which the household received during the period that its full program benefits were erroneously denied, delayed or terminated. Lost benefits will be restored for not more than the 12 months preceding the month in which the erroneous State agency action was discovered.

(ii) Upon discovery of any State agency error described in paragraph (q) (1) (i) above which results in the household's not receiving its proper coupon allotment, it shall be the responsibility of the State agency to immediately notify the household of its entitlement and take action to restore the lost benefits.

(iii) If the household is currently not eligible for participation in the Food Stamp Program or is participating at the zero purchase level, the amount of benefits erroneously withheld will be recorded by the State agency and made available when the household becomes eligible or a purchase requirement is assigned.

(iv) The restoration of lost benefits may be authorized by the food stamp certification worker, with approval by the supervisor, in situations in which the household and State agency agree that benefits were lost due solely to State agency error and upon the amount of benefits to be restored. If the household and State agency do not so agree, the household may obtain restoration of benefits only up a favorable decision after a fair hearing which it has requested.

(v) If the restoration of lost benefits is to be made as a result of a fair hearing, the authorization therefor will be a part of the administrative action resulting from the hearing decision.

(vi) If the household's benefits were erroneously denied or terminated, the amount of lost benefits will be calculated from the date which the erroneous action took effect: *Provided,* That lost benefit restoration will be made for not more than the 12 months preceding the month in which the erroneous action was discovered.

(vii) If the household's certification was improperly delayed in violation of § 271.4(a) (3), the amount of lost benefits will be calculated from the required date of certification: *Provided,* That lost

benefit restoration will be made for not more than the 12 months preceding the month in which the erroneous action was discovered.

(viii) A household that moves from the project area or the State where the administrative error occurred will not lose its entitlement to restoration of lost food stamp benefits: *Provided*, That the household presents to its new project area a household transfer document prepared by its former project area containing necessary lost benefits information, or the new project area is able to verify the lost benefits information through other procedures.

(ix) If a household owes an unpaid balance on a claim under § 271.7(e) and § 271.7(f), the lost benefit credits shall be applied against the amount due on the claim before the balance of the credits, if any, is restored to the household.

(x) In situations where a household may be entitled to a refund for overpayment as prescribed in § 271.1(p) and/or a credit for lost benefits, the full amount of the refund will be made available to the household and any credit shall then be made available through the restoration of lost benefits procedure.

(2) *Method of restoration.* Upon determination that a household is entitled to the restoration of lost benefits, the amount of such entitlement will be restored in accordance with one of the following procedures:

(i) *Alternative A.* (*a*) The State agency will reduce the household's purchase requirement so that the restoration will, in the shortest time possible, equal the amount of benefits lost. When an ATP card is issued to the household, the reduction shall be reflected on that card.

(*b*) The reduction in purchase requirement reflected on an ATP card shall be considered retroactive benefits made available to the household whether or not the ATP is negotiated.

(ii) *Alternative B.* (*a*) The State agency shall issue to the household a voucher, reimbursable by FNS, in the amount of and to be used only in application against, the household's purchase requirement. Vouchers shall be issued each succeeding month until, in the shortest time possible, the full amount of lost benefits has been restored.

(*b*) Households should be issued only one voucher per month whenever possible. However, in those States having only semi-monthly or quarter-monthly issuance, a like number of vouchers should be issued.

(*c*) The amount of the voucher shall be considered retroactive benefits made available to the household whether or not the voucher is negotiated.

(iii) *Alternative C.* (*a*) A household whose purchase requirement has been reduced to zero due to restoration of lost benefits may receive its coupon allotment directly through the facilities of the U.S. mail during the affected issuance periods.

(*b*) Restoration under either Alternative A or B shall be made for any issuance period in which restoration of lost benefits does not reduce the household's purchase requirement to zero.

(3) *Accounting procedures.* (i) The State agency shall maintain such records as FNS may require to assure the accurate restoration of lost benefits under this paragraph.

(ii) A lost benefits voucher shall be considered an instrument issued against the State agency that restores lost benefits, and is reimbursable by FNS.

(iii) The acceptance, handling, and reconciliation of lost benefit vouchers shall be in accordance with applicable FNS instructions.

(iv) The State agency shall, on a monthly basis, submit the required documentation to FNS for all lost benefit vouchers that have been properly issued and negotiated.

(v) The State agency may issue lost benefit vouchers through the facilities of the U.S. mail. Unless FNS notifies the State agency to the contrary, FNS will accept the risk of loss for vouchers claimed lost in the mail and subsequently negotiated, if the State agency issues such vouchers in accordance with applicable FNS instructions.

(vi) Households receiving restoration of lost benefits under this paragraph may not utilize the procedures set forth in § 271.6(d) (2) and (3).

* * * * *

2. In § 271.6, paragraph (d)(3) is amended. As amended paragraph (d)(3) reads as follows:

§ 271.6 Methods of distributing, issuing, and accounting for coupons and receipts.

* * * * *

(d) * * *

(3) The State agency shall within the limits of the frequency of issuance available to the household under paragraph (d)(4) of this section, permit any eligible household, except those participating under paragraph (d)(2) of this section, to elect at the time or issuance to recieve a coupon allotment having a face value of all, three-quarters, one-half, or one-quarter of the monthly coupon allotment authorized in accordance with § 271.5 and to have such household pay an amount that shall be in the same ratio to the total purchase requirement as the coupon allotment chosen is to the total monthly coupon allotment. The State agency shall require that, as soon as possible but not later than March 1, 1975, the ATP card used to implement this provision provide a signature space for each variable purchase option available to the household.

* * * * *

3. In § 271.7, paragraphs (b), (c), (d) and (e) are relettered as paragraphs (c), (d), (e) and (f), respectively and a new paragraph (b) is added to read as follows:

§ 271.7 Financial liabilities of the State agency.

* * * * *

(b) In the event that any State agency is sued by any person(s) in a State or Federal Court in any matter which involves its administration of the Food Stamp Program, the State agency shall immediately notify FNS that suit has been brought and shall furnish FNS with copies of the original pleadings and all subsequently filed pleadings. In any such case which involves an attack on or interpretation of the Food Stamp Act, these regulations, or FNS instructions the State agency shall, upon request of FNS, take such action as is necessary properly to join the United States and/or appropriate officials of the Federal Government, such as the Secretary of Agriculture or the Administrator of the Food and Nutrition Service, as parties to the suit. In the event that a State agency fails to comply with the provisions of this paragraph and is ordered by a court to take actions under the program which are determined by FNS to be inconsistent with the Food Stamp Act, these regulations, or FNS instructions, the State agency shall, upon demand by FNS, pay to FNS an amount equal to the value of all bonus coupons issued pursuant to the court order.

* * * * *

(78 Stat. 703, as amended; 7 U.S.C. 2011–2026)

(Catalog of Federal Domestic Assistance Programs No. 10.551, National Archives Reference Services)

J. PHIL CAMPBELL,
Under Secretary.

SEPTEMBER 25, 1974.

[FR Doc.74–22668 Filed 9–27–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Ch. I]

CONFIDENTIALITY OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS

Advance Notice of Joint Proposed Rulemaking; Change in Schedule of Hearings

CROSS REFERENCE: For a document relating to schedule changes for hearings on rulemaking proposed jointly by the Department of Health, Education, and Welfare and the Special Action Office for Drug Abuse Prevention, 21 CFR Part 1401 and 42 CFR Ch. I (29 FR 30426; August 22, 1974) see FR Doc. 74–22605 *infra*.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 74–34; Notice 1]

LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Proposed Motor Vehicle Safety Standard

This notice proposes an amendment of paragraph S4.1.2 of 49 CFR § 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, reflective devices, and associated equipment*, that would define in objective terms an acceptable level of surface gloss and/or haze for plastic materials used

for lamp lenses following an outdoor exposure test.

Paragraph S4.1.2 of Standard No. 108 incorporates by reference SAE Recommended Practice J576b, *Plastic materials for use in optical parts, such as lenses and reflectors, of motor vehicle lighting devices.* This Practice requires in pertinent part (Paragraph 4.2.2) that, following an outdoor exposure test of two years duration, exposed samples, when compared with unexposed control samples, shall not show haze or loss of surface luster. This requirement has been interpreted as forbidding any haze or loss of surface luster, and has prohibited the use of plastics of uncoated polycarbonate resin, as these plastics show a surface change after outdoor weathering. General Electric Company has petitioned for rulemaking to amend Standard No. 108 to define in objective terms an acceptable level of surface gloss so that uncoated polycarbonate plastic may be used for exterior automotive applications. Although a protective coating is available for the plastic, GE states that vehicle manufacturers are reluctant to use it because of the cost involved, "from 3–40 cents per lens depending upon the size."

In support of its petition GE has submitted a large body of technical information showing the effect of surface gloss reduction on the photometric performance and signaling effectiveness of various types of lighting devices used on motor vehicles. These tests show that at the end of a 3-year period the photometric output through uncoated polycarbonate lenses decreases, on an average, less than 10 percent. In GE's view, deglossing to haze levels of 50 percent does not appear to significantly affect the overall photometric performance and signaling effectiveness of a lamp. The effect of haze is to scatter light from the point of maximum intensity to the wider angle test points, resulting in a diminution of light output at the former, and an increase at the latter. In accordance with GE's test data and suggestion, however, the NHTSA is proposing that haze level should not exceed 30 percent. The NHTSA finds that the proposed amendments would enhance traffic safety. Polycarbonate lenses appear to offer some benefits lacking in conventional plastics in terms of heat resistance and higher impact strength.

The amendment would also update the referenced SAE Recommended Practice J576b, to J576c, effective January 1, 1976. This substitution has been previously proposed (Docket No. 69–19; Notice 3, 37 FR 22806) and favorably commented upon. The only difference is that J576c requires a 3-year exposure test while J576b requires only a 2-year one.

In consideration of the foregoing it is proposed that 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, be amended as follows:

1. Paragraph S4.1.2 would be revised to read:

S4.1.2 Plastic materials used for optical parts such as lenses and reflectors shall conform to SAE Recommended Practice J576c, May 1970, except that:

(a) Plastic materials manufactured before January 1, 1976, may conform to SAE J576b, August 1966;

(b) Plastic lenses used as inner lenses or those covered by another material and not exposed directly to sunlight shall meet the requirements of paragraphs 3.4 and 4.2 of SAE J576b, or J576c, as applicable, when covered by the outer lens or other material; and

(c) For lamp lenses, haze and loss of surface luster after the outdoor exposure test shall not be greater than 30 percent haze as measured by ASTM–1003–61, "Haze and Luminous Transmittance of Transparent Plastics."

2. Paragraph S5.2 would be revised by substituting "J576c" for "J576b."

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Proposed effective date: 30 days after publication of final rule in the FEDERAL REGISTER except as noted therein.

Comment closing date: November 29, 1974.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.51 and 501.8)

Issued on September 25, 1974.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.74–22655 Filed 9–27–74;8:45 am]

ATOMIC ENERGY COMMISSION

[10 CFR Parts 50, 115]

NUCLEAR POWER PLANTS

Codes and Standards and Technical Information

The Atomic Energy Commission has under consideration amendments to its regulations, 10 CFR Part 50, "Licensing of Production and Utilization Facilities," and 10 CFR Part 115, "Procedures for Review of Certain Nuclear Reactors Exempted from Licensing Requirements," which would delete references to obsolete documents, incorporate by reference new addenda to specified published industry codes, modify applicability dates for specified codes and standards, and modify inservice inspection requirements for operating utilization facilities, and make minor changes to Appendices A, G and H of Part 50.

The proposed amendments to §§ 50.55a and 115.43a set forth below would change the references to published codes and addenda whose requirements must be met, to include Addenda through the Winter 1973 Addenda.

The proposed amendments to §§ 50.55a and 115.43a also would relate the limiting date of the applicable codes or addenda to the docket date of the application for a construction permit, rather than to the date of issuance of the construction permit. This proposed change should permit a more accurate assessment by the applicant of the codes and addenda that will be in effect and thereby facilitate his procurement of long lead time components, which must be ordered well in advance of the date of issuance of a construction permit. The proposed change would apply to all facilities receiving construction permits on or after July 1, 1974, but is particularly aimed at new facilities for which the overall planning, construction and licensing cycle is expected to be about six years and for which long lead time components must be ordered in advance of the docket date.

The proposed amendments to §§ 50.55a and 115.43a would modify inservice inspection requirements applicable to components and systems throughout the service life of a facility. Inspection and testing requirements that become effective in new editions and addenda of section XI of the ASME Code and are incorporated by reference in these sections of the Commission's regulations would become applicable to all operating plants to the degree practical. The Commission will review such code changes with respect to impact on the existing operating facilities prior to incorporating by reference any new editions and addenda of section XI.

The proposed amendments to Appendix G would conform the referenced edition and addenda of the ASME Code in that Appendix to those specified by §§ 50.55a(b), including the periodic amendments.

The proposed amendments to Appendix G also would clarify the upper-shelf energy requirements for beltline materials.

Other amendments would delete references to obsolete documents and correct typographical errors.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Parts 50 and 115 is contemplated. All interested persons who wish to submit written comments or suggestions in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Docketing and Service Section by Octo-

ber 30, 1974. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

§ 50.34 [Amended]

1. In § 50.34 of 10 CFR Part 50, the second sentence of paragraph (b)(6)(iii) and the associated footnote 3 are deleted.

2. In § 50.55a of 10 CFR Part 50, the prefatory language and paragraph (b) are amended; in paragraphs (c)(2), (d)(2), (e)(2), and (f)(2) the first sentence is amended by adding the words "but before July 1, 1974," following the words "after January 1, 1971,"; new paragraphs (c)(3), (d)(3), (e)(3), and (f)(3) are added; and paragraphs (g) and (h) are revised to read as follows:

§ 50.55a Codes and standards.

Each construction permit and operating license for a utilization facility shall be subject to the following conditions in addition to those specified in § 50.55.

* * * * *

(b) As used in this section, references [1] to editions of Criteria, Codes and Standards include only those editions through 1971; references [1] to Addenda include only those Addenda through the Winter 1973 Addenda.

* * * * *

(c) Pressure vessels: * * *

(3) For construction permits issued on or after July 1, 1974, pressure vessels which are part of the reactor coolant pressure boundary shall meet the requirements for Class 1 components set forth in section III of the ASME Boiler and Pressure Vessel Code and Addenda [3] in effect [4] on the date of order [5] of the pressure vessel or 18 months prior to the formal docket date of the application for construction permit, whichever is later: *Provided*, That the applicable provisions for pressure vessels shall be no earlier than those of the Summer 1972 Addenda of the 1971 edition. The pressure vessels may meet the requirements set forth in subsequent editions of this Code and Addenda which become effective.

(d) Piping: * * *

(3) For construction permits issued on or after July 1, 1974, piping which is part of the reactor coolant pressure boundary shall meet the requirements for Class 1 components set forth in Section III of the ASME Boiler and Pressure Vessel Code and Addenda [3] in effect [4] on the date of order [5] of the piping or 6 months prior to the formal docket date of the application for construction permit, whichever is later: *Provided*, That the applicable ASME Code provisions for piping shall be no earlier than those of the Winter 1972 Addenda of the 1971 edition. The piping may meet the requirements set forth in subsequent editions of this Code and Addenda which become effective.

(e) Pumps: * * *

(3) For construction permits issued on or after July 1, 1974, pumps which are part of the reactor coolant pressure boundary shall meet the requirements for Class 1 components set forth in section III of the ASME Boiler and Pressure Vessel Code and Addenda [3] in effect [4] on the date of order [5] of the pump or 12 months prior to the formal docket date of the application for construction permit, whichever is later: *Provided*, That the applicable ASME Code provisions for pumps shall be no earlier than those of the Winter 1972 Addenda of the 1971 edition. The pumps may meet the requirements set forth in subsequent editions of this Code and Addenda which become effective.

(f) Valves: * * *

(3) For construction permits issued on or after July 1, 1974, valves which are part of the reactor coolant pressure boundary shall meet the requirements for Class 1 components set forth in section III of the ASME Boiler and Pressure Vessel Code and Addenda [3] in effect [4] on the date of order [5] of the valve or 12 months prior to the formal docket date of the application for construction permit, whichever is later: *Provided*, That the applicable ASME Code provisions for valves shall be no earlier than those of the Winter 1972 Addenda of the 1971 edition. The valves may meet the requirements set forth in subsequent editions of this Code and Addenda which become effective.

(g) Inservice inspection requirements: For construction permits issued on or after January 1, 1971, systems and components (including component supports) of nuclear power plants shall meet the requirements set forth in editions of Section XI of the ASME Boiler and Pressure Vessel Code and Addenda [3, 6] in effect on the formal docket date of the application for construction permit or the 1970 edition, whichever is later. In addition, throughout the service life of the facility, the systems and components shall meet the requirements, except for design and access provisions, set forth in editions of this Code and Addenda that become effective after the formal docket date of the application for a construction permit to the extent practical within the limitations of design, geometry, and materials of construction of the systems and components: *Provided, however*, That (1) inservice inspection requirements may be limited to requirements in effect 40 months prior to the date of scheduled inspection and (2) testing requirements may be limited to requirements in effect 12 months prior to the date of scheduled testing. The inservice inspection program for the facility shall be modified by the licensee, as necessary, prior to the start of each one-third of the inspection interval (described in section XI of the ASME Boiler and Pressure Vessel Code) for those inspections to be conducted during that one-third of the inspection interval. Each modification of the inservice inspection program and all licensee determinations that certain requirements are impractical shall be subject to approval by the Commission at least 6 months prior to the start of the one-third of the inspection interval. In the case of requirements determined to be impractical for 2 periods (120 months) of the inspection interval, the licensee shall demonstrate to the satisfaction of the Commission at least 12 months prior to the start of the subsequent one-third of the inspection interval that minor modifications of the facility to permit compliance with such requirements are not practical or new developments in examination and testing techniques to permit compliance with such requirements have not become available.

(h) Protection systems: For construction permits issued after January 1, 1971, protection systems shall meet the requirements set forth in editions or revisions of the Institute of Electrical and Electronics Engineers Standard: "Criteria for Protection Systems for Nuclear Power Generating Stations," (IEEE–279) in effect [7] on the formal docket date of the application for a construction permit. Protection systems may meet the requirements set forth in subsequent editions or revisions of IEEE–279 which become effective.

APPENDIX A

3. In Appendix A of 10 CFR Part 50, Criterion 23 is amended by deleting the word "fall" and substituting therefor the word "fail".

APPENDIX G

4. In Appendix G, paragraph II.A is amended by deleting the phrase "1971 Edition, and addenda through the Winter 1972 Addenda [1]." and substituting therefor the phrase "edition and addenda [1] as specified by § 50.55a, Codes and Standards."

5. In Appendix G, paragraph IV.B. is revised to read as follows: "Reactor vessel beltline materials shall have minimum upper-shelf energy, as determined from Charpy V-notch tests on unirradiated specimens in accordance with paragraph NB–2322.2(a) of the ASME Code of 75 ft lbs unless it is demonstrated to the Commission by appropriate data and analyses that lower values of upper shelf fracture energy still provide adequate margin for deterioration from irradiation."

APPENDIX H

6. In Appendix H, paragraph II.A. is amended by deleting the term "(E 1MeV)" and substituting therefor the term "(E>1MeV)".

7. In Appendix H, paragraph II.C.3.a. is amended by deleting the term "IV.B." and substituting therefor "III.B".

8. In § 115.43a of 10 CFR Part 115, the prefatory language and paragraph (b) are amended; in paragraphs (c)(2), (d)(2), (e)(2), and (f)(2) the first sentence is amended by adding the words "but before July 1, 1974," following the words "after January 1, 1971,"; new paragraphs (c)(3), (d)(3), (e)(3), and (f)(3) are added; and paragraphs (g) and h) are revised to read as follows:

§ 115.43a Codes and standards.

Each construction authorization and operating authorization shall be subject to the following conditions in addition to those specified in § 115.43a:

* * * * *

[1] These incorporation by reference provisions were approved by the Director of the FEDERAL REGISTER on March 17, 1972, and May 4, 1973.

(b) As used in this section, references [1] to editions of Criteria, Codes and Standards include only those editions through 1971; references [1] to Addenda include only those Addenda through the Winter 1973 Addenda.

(c) Pressure vessels: * * *

(3) For construction authorizations issued on or after July 1, 1974, pressure vessels which are part of the reactor coolant pressure boundary shall meet the requirements for Class 1 components set forth in Section III of the ASME Boiler and Pressure Vessel Code and Addenda [2] in effect [4] on the date of order [5] of the pressure vessel or 18 months prior to the formal docket date of the application for construction authorization, whichever is later: *Provided,* That the applicable ASME Code provisions for vessels shall be no earlier than those of the Summer 1972 Addenda of the 1971 edition. The pressure vessels may meet the requirements set forth in subsequent editions of this Code and Addenda which become effective.

(d) Piping: * * *

(3) For construction authorizations issued on or after July 1, 1974, piping which is part of the reactor coolant pressure boundary shall meet the requirements for Class 1 components set forth in Section III of the ASME Boiler and Pressure Vessel Code and Addenda [3] in effect [4] on the date of order [5] of the piping or 6 months prior to the formal docket date of the application for construction authorization, whichever is later: *Provided,* That the applicable ASME Code provisions for piping shall be no earlier than the Winter 1972 Addenda of the 1971 edition. The piping may meet the requirements set forth in subsequent editions of this Code and Addenda which become effective.

(e) Pumps: * * *

(3) For construction authorizations issued on or after July 1, 1974, pumps which are part of the reactor coolant pressure boundary shall meet the requirements for Class 1 components set forth in Section III of the ASME Boiler and Pressure Vessel Code and Addenda [3] in effect [4] on the date of order [5] of the pump or 12 months prior to the formal docket date of the application for construction authorization, whichever is later: *Provided,* That the applicable ASME Code provisions for pumps shall be no earlier than the Winter 1972 Addenda of the 1971 edition. The pumps may meet the requirements set forth in subsequent editions of this Code and Addenda which become effective.

(f) Valves: * * *

(3) For construction authorizations issued on or after July 1, 1974, valves which are part of the reactor coolant pressure boundary shall meet the requirements for Class 1 components set forth in Section III of the ASME Boiler and Pressure Vessel Code and Addenda [3] in effect [4] on the date of order [5] of the valve or 12 months prior to the formal docket date of the application for construction authorization whichever is later: *Provided,* That the applicable ASME Code provisions for valves shall be no earlier than those of the Winter 1972 Addenda of the 1971 edition. The valves may meet the requirements set forth in subsequent editions of this Code and Addenda which become effective.

(g) Inservice inspection requirements: For construction authorizations issued on or after January 1, 1971, systems and components (including component supports) of nuclear power plants shall meet the requirements set forth in editions of Section XI of the ASME Boiler and Pressure Vessel Code and Addenda [3] [6] in effect on the formal docket date of the application for a construction authorization or the 1970 edition, whichever is later. In addition, throughout the service life of the facility, the systems and components shall meet the requirements, except for design and access provisions, set forth in editions of this Code and Addenda that become effective after the formal docket date of the application for a construction authorization to the extent practical within the limitations of design, geometry, and materials of construction of the systems and components: *Provided, however,* That (1) inservice inspection requirements may be limited to requirements in effect 40 months prior to the date of scheduled inspection and (2) testing requirements may be limited to requirements in effect 12 months prior to the date of scheduled testing. The inservice inspection program for the facility shall be modified by the holder of the authorization, as necessary, prior to the start of each one-third of the inspection interval (described in Section XI of the ASME Boiler and Pressure Vessel Code) for those inspections to be conducted during that one-third of the inspection interval. Each modification of the inservice inspection program and all licensee determinations that certain requirements are impractical shall be subject to approval by the Commission at least 6 months prior to the start of the one-third of the inspection interval. In the case of requirements determined to be impractical for 3 periods (120 months) of the inspection interval the holder of the authorization shall demonstrate to the satisfaction of the Commission at least 12 months prior to the start of the subsequent one-third of the inspection interval that minor modifications of the facility to permit compliance with such requirements are not impractical or new developments in examination and testing techniques to permit compliance with such requirements have not become available.

(h) Protection systems: For construction authorizations issued after January 1, 1971, protection systems shall meet the requirements set forth in editions or revisions of the Institute of Electrical and Electronics Engineers Standard: "Criteria for Protection Systems for Nuclear Power Generating Stations," (IEEE-279) in effect [7] on the formal docket date of the application for construction authorization. Protection systems may meet the requirements set forth in subsequent editions or revisions of IEEE-279 which have become effective.

(Secs. 103, 104, 1611, 183; Pub. L. 83-703; 68 Stat. 936, 937, 948, 954 (42 U.S.C. 2133, 2134, 2201(i), 2233))

Dated at Germantown, Maryland, this 24th day of September 1974.

For the Atomic Energy Commission.

GORDON GRANT,
Acting Secretary of the Commission.

[FR Doc.74-22688 Filed 9-27-74;8:45 am]

[1] These incorporation by reference provisions were approved by the Director of the Federal Register on March 17, 1972 and May 4, 1973.

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 20194; FCC 74-984]

IMPORTATION OF CERTAIN ELECTRONIC EQUIPMENT

Notice of Proposed Rulemaking

In the matter of amendment of Part 2 with respect to importation of certain electronic equipment.

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. Pursuant to the authority granted by section 302 of the Communications Act,[1] the Commission promulgated its marketing rules [2] in 1970. These regulations are designed to control the marketing of radio frequency devices having an interference potential. To achieve this control, the Commission required that all such devices could not be imported into the U.S.A. or shipped or sold in this country unless the device complied with the technical regulations promulgated by the Commission. In addition, if our rules imposed a requirement for type approval, type acceptance or certification,[3] the subject device could not be imported into this country, or shipped or sold here, unless the required type approval, type acceptance or certification had previously been granted by the Commission.

3. Experience has shown that many devices subject to our rules are still being imported into the U.S.A. without the required FCC equipment authorization. This is particularly true of receivers. Under our regulations, all receivers which tune in the range of 30-890 MHz [4] must be certificated to show compliance with the technical specifications in Subpart C of Part 15 of our rules.[5]

4. The Commission in a joint effort with the U.S. Customs Service have de-

[1] Section 302 was added to the Communications Act by Public Law 90-379, July 5, 1968, 82 Stat. 290.

[2] Subpart I of Part 2 of the FCC Rules, 47 CFR 2.801 et seq.

[3] Type approval, type acceptance and certification are collectively known as equipment authorizations and will be so referred to in the remainder of this document.

[4] The band 30-890 MHz includes FM broadcast receivers, TV broadcast receivers, police, fire and other public safety receivers, marine receivers and aviation receivers.

[5] 47 CFR 15.61-15.82 inclusive.

vised the proposed procedures to further implement the cooperative operation of enforcing the importation requirements. Under existing procedures, the customs officer must first determine whether a particular device must in fact have an equipment authorization, and secondly must ascertain whether such an authorization has in fact been issued. This can only be determined by communicating with the responsible FCC officials. The proposed rules will establish a more efficient system for enforcing the marketing regulations.

5. In order to facilitate the determination during customs inspection that the subject equipment complies with FCC rules, the Commission proposes to add a new Subpart K to Part 2 containing regulations setting out the conditions under which equipment subject to FCC regulation may be legally imported into the U.S.A. These regulations would provide that a copy of the required equipment authorization issued by the FCC, or a certified statement of compliance,[6] be attached to the customs entry documents for each shipment of each kind of device offered for import into the U.S.A.

6. The proposed rules indicate the procedure for the disposition of equipment found not to be in compliance with FCC rules that will be followed by the Customs Service. Equipment imported for the purpose of test and evaluation may be released in limited numbers under a Temporary Importation Bond; however, such equipment cannot be sold and must be either exported or destroyed within one year after entry in accordance with U.S. Customs Service regulations.

7. Authority for the adoption of the rules herein proposed is contained in sections 4(i), 302 and 303(r) of the Communications Act of 1934, as amended.

8. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 1, 1974, and reply comments on or before November 12, 1974. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision on the rules which are proposed herein, the Commission also may take into account other relevant information before it, in addition to specific comments invited by this Notice.

9. 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 to the Commission. Responses will be available, for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters in Washington, D.C.

[6] Where an equipment authorization is not required for an RF device, but the Commission has technical standards for the device, a certified statement of compliance with the technical standards would be required.

Adopted: September 19, 1974.

Released: September 24, 1974.

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

It is proposed to amend Part 2 of Title 47, Code of Federal Regulations by adding a new Subpart K, as follows:

Subpart K—Importation of Radio Frequency Devices Capable of Causing Harmful Interference

Sec.
2.1201 Purpose.
2.1202 Reserved.
2.1203 Entry and release when equipment authorization is required.
2.1205 Entry and release when equipment authorization is not required.
2.1206 Reserved.
2.1207 Exemptions.
2.1209 Non-complying equipment.

AUTHORITY: Secs. 4(i), 302, 303(r), Communications Act of 1934, as amended.

Subpart K—Importation of Radio Frequency Devices Capable of Causing Harmful Interference

§ 2.1201 Purpose.

(a) In order to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and in order to promote efficient use of the radio spectrum, the Commission has developed technical standards for radio frequency equipment. The technical standards applicable to individual types of equipment are found in that part of the rules governing the service wherein the equipment is to be operated. In addition to the technical standards, the rules governing the service may require that such equipment receive an equipment authorization from the Commission as a prerequisite for marketing and importing this equipment into the U.S.A., pursuant to authority in section 302 of the Communications Act of 1934, as amended, (47 U.S.C. 302).

(b) The rules in this subpart set out the conditions under which devices capable of causing harmful interference to radio communications, as defined in § 2.801 of this chapter, may be imported into the U.S.A.

§ 2.1202 [Reserved]

§ 2.1203 Entry and release when equipment authorization is required.

All shipments of equipment requiring an equipment authorization as a prerequisite for importation into the Customs territory of the United States shall be refused entry unless:

(a) A copy of the Federal Communications Commission's equipment authorization is filed with the entry in the following form:

(1) For type approval—Letter of Type Approval

(2) For type acceptance—Grant of Type Acceptance (FCC Form 723–A)

(3) For certification—Grant of Certification (FCC Form 722–A) and

(b) A label meeting the requirements of § 2.925 is permanently affixed to the imported product.

NOTE.—The label must include the exact identifiers as shown on the equipment authorization and all additional statements required by the rule part under which the equipment is intended to operate.

§ 2.1205 Entry and release when equipment authorization is not required.

(a) Shipments of equipment for which the Commission has established technical specifications, but for which an equipment authorization is not required, shall be refused entry into the Customs territory of the U.S. unless the entry papers for such shipment is accompanied by a statement certifying:

(1) That the equipment does not require an FCC equipment authorization and

(2) That the equipment has been tested and does in fact comply with the applicable FCC technical specifications.

(b) Shipments of subassemblies which are designed to be included in a device ultimately subject to FCC regulations shall be refused entry into the Customs territory of the U.S. unless the entry papers for such subassemblies are accompanied by a statement certifying that the device will undergo additional manufacturing before the completed device will be offered for sale to the general public.

§ 2.1206 [Reserved]

§ 2.1207 Exemptions.

(a) Radio frequency devices imported for the purpose of test and evaluation may be released in limited numbers under a Temporary Importation Bond in accordance with U.S. Customs Service regulations.

(b) Importation of television broadcast receivers designed to operate under standards in use in foreign countries, and which are for this reason incapable of receiving U.S. standard television broadcast signals are exempted from § 2.1203 of this part provided the Customs entry documents so state.

§ 2.1209 Non-complying equipment.

Importation of equipment not meeting the requirements of § 2.1203 or § 2.1205 will be refused entry into the Customs territory of the United States.

NOTE.—The U.S. Customs Service has indicated that it will follow the procedure delineated below for such noncomplying equipment.

(a) If any equipment or device is denied entry under the provisions of §§ 2.1203 or 2.1205, the District Director will refuse to release the merchandise for entry into the United States, will detain such equipment at the importer's risk and expense and shall issue a notice of such refusal to the importer or consignee.

(b) Or alternatively, a bond for such importations may be furnished in accordance with U.S. Customs Service reg-

ulations to allow time to furnish the required equipment authorization, certified statement of compliance, accomplish required labeling, whichever is required to bring the product into conformity, and if not brought into conformity, for the return of the merchandise to Customs custody. Such shipments will be detained by the importer or consignee and must not be used or otherwise disposed of until an equipment authorization, or statement of compliance, has been accepted by the District Director of Customs.

(c) Within 90 days after such entry, or such additional period as the District Director of Customs may allow for good cause shown, the importer or consignee will provide the District Director with an equipment authorization or statement of compliance.

(d) If the equipment authorization, or statement of compliance, is not presented to the District Director at the port of entry within the specified time the importer or consignee at his risk and expense will immediately deliver or cause to be delivered to the District Director, at the port of entry, those devices which were released in accordance with paragraph (b) of this section.

(e) In the event this equipment is not redelivered, the importer will be subject to criminal prosecution pursuant to section 302 of the Communications Act of 1934, as amended, in addition to any penalties assessed in accordance with U.S. Custom Service regulations.

(f) Equipment which is refused entry under this section or which is redelivered in accordance with the above described procedure and which is not exported under customs supervision within 90 days from date of notice of refusal of admission or date of redelivery will be disposed of under customs laws and regulations; provided, that such disposition will not result in an introduction into the U.S.A. which is in violation of the regulations in this Chapter.

[FR Doc.74-22624 Filed 9-27-74;8:45 am]

[47 CFR Part 73]

[Docket No. 20065, RM-2224]

TELEVISION BROADCAST STATIONS

Table of Assignments, Nebraska; Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (Alliance, Hay Springs, and Scottsbluff, Nebraska).

1. On May 1, 1974, the Commission adopted a notice of proposed rule making in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on May 31, 1974, 39 FR 19230. The dates for filing comments and reply comments are presently September 20 and October 5, 1974, respectively.

2. On September 17, 1974, Duhamel Broadcasting Company, by counsel, requested that the time for filing comments and reply comments be extended to and including October 4 and October 21, 1974, respectively. Counsel states that he has been called away to Alaska on an emergency matter and will be unable to complete his preparation of comments to meet the existing deadline. Counsel for Wyneco Communications, Inc., another party in this proceeding, has no objection for a grant of this request.

3. We are of the view that the public interest would be served by granting the additional time. Accordingly, *It is ordered*, That the dates for filing comments and reply comments are extended to and including October 4 and October 21, 1974, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Adopted: September 19, 1974.

Released: September 24, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] HAROLD L. KASSENS,
Acting Chief, Broadcast Bureau.

[FR Doc.74-22629 Filed 9-27-74;8:45 am]

[47 CFR Part 74]

[Docket No. 20195, RM-2041; FCC 74-1004]

WIRELESS MICROPHONES

Inquiry and Proposed Rulemaking

1. The Commission has before it a petition for rulemaking filed by Vega Electronics (Vega) (RM-2041), requesting amendment of Subpart D of Part 74 of the Commission's rules and regulations to permit the operation of low power broadcast auxiliary stations and in particular wireless microphones, in the band 174–216 MHz (television channels 7–13). Comments in support of the petition were filed by National Broadcasting Company, Inc. (NBC), Columbia Broadcasting System, Inc. (CBS), and the Educational Broadcasting Corporation (EBC). Supplemental comments from Vega included a letter from the Public Broadcasting Service (PBS) expressing an interest and offering suggestions which are discussed later.

2. At present, provisions are made in three parts of the Commission's rules and regulations for the operation of wireless microphones.

(a) Section 15.212 permits the conditional low power operation of unlicensed wireless microphones in the 88–108 MHz FM broadcast band.

(b) Section 74.437 provides for the licensed use of wireless microphones operating in the 26.10–26.48 MHz, 450–451 MHz and 947–952 MHz bands with eligibility limited to broadcast licensees.

(c) Section 91.555 provides for the operation of licensed transmitters in the Business Radio Service on frequencies allocated to that service, with an input power not exceeding 200 milliwatts.[1]

3. Vega states that provisions of the present rules for wireless microphones do not adequately meet the needs of the service.

(a) The use of wireless microphones under § 15.212 presents problems in areas where there are a substantial number of operating FM broadcast stations thereby limiting the number of interference-free frequencies.[2] Further, limitations on permissible field strength is insufficient for general professional use especially in enclosed areas where deep fading occurs and receiver sensitivity is limited by noise.

(b) The frequencies allowable for wireless microphones under § 74.437 also presents problems:[3] (i) The 26.10–26.48 MHz band (Group I and J) is subject to impulse noise, unpredictable "skip" interference and licensed mobile operations; (ii) The 450–451 MHz band (Group N) is used by auxiliary remote pickup stations, which present a particularly acute problem at coverage of special events, where most or all of the usable channels may be in use by a multitude of broadcast licensees; and (iii) Equipment has been produced for use in the 947–952 MHz region, but its cost exceeds its general effectiveness.

(c) Section 91.55 leaves the wireless microphone open at all times to interference from signals from mobile units, the location of which can never be predicted. Moreover, a single wireless microphone signal, in order to have sufficient audio bandwidth, will span several Business Radio voice communication channels, thereby compounding the uncertainty involved with mobile unit signals.

4. Vega's petition calls to our attention § 74.437(c) of the rules which lists some of the uses for low power auxiliary stations and adds additional applications for wireless microphones in AM, FM and TV broadcasting in the areas of drama, news coverage, special events coverage, sporting events, and studio audience participation. The freedom of movement allowed by a wireless microphone enhances the ability of the performer to move about without physical and aesthetic restrictions caused by microphone wires. Vega sets forth what they believe to be the primary requirements for wireless microphones, as follows:

(a) *Freedom from interference.* Especially in broadcasting, the intrusion of an undesired and unexpected signal causes serious problems, both in terms of a program interruption not comprehensible to the audience and the possibility of the broadcast to the public of material which should not be so disseminated.

(b) *Reasonable size.* Size is an important factor, especially where the micro-

[1] Section 91.555 exempts such low power transmitters from most of the technical requirements of the Business Radio Service and thus allows them the bandwidth necessary for wide band audio response required for wireless microphones.

[2] Conversely, the chance of interference to FM broadcasting is increased if too many wireless microphones are operated in such an area.

[3] The bulk of outstanding low power authorizations are for the 26.10–26.48 MHz band, about 20% are for the 450–451 MHz band and one-fourth of one percent are for 947–952 MHz.

phone must be concealed on the person of a dramatic performer.

(c) *Audio quality.* A wireless microphone for broadcast use must match the audio performance of a wired microphone.

(d) *Adequate number of channels.* This problem arises most frequently in the case of dramatic performances, where a large number of performers must each have a microphone to move about the stage, and the case of special events coverage, such as political conventions, where many broadcasters work at the same location and need multiple facilities for their commentators.

5. In view of the heavy demand for spectrum space, the problem of finding adequate space for wireless microphones to operate free of interference is a difficult one. Vega suggests that the only way to insure interference-free operation is to select frequencies on which only fixed location operations are now permitted. Vega also states that a minimum of ten channels are needed to provide for high density use [4] and that 5 MHz of spectrum space is required to meet this need.[5] This amount of spectrum space is impossible to find in the VHF spectrum, which is optimum for small size wireless microphones, except in the band allocated to television broadcasting. Thus Vega suggests the use of high band VHF television channels (174–216 MHz).

6. In support of its proposal, Vega states that there is no community where a television station is located where there is not at least one high band VHF television channel on which there is both no local off-the-air service and no distant service receivable off-the-air with an outside home antenna.[6] Since each VHF television channel occupies 6 MHz, a single channel is sufficient to provide at least 10 wireless microphone channels. Thus Vega believes that in any given location, it will always be possible to operate at least ten wireless microphones in the 174–216 MHz band without any possibility of interference to television reception.

7. Although the NBC comments were late filed we do believe that the nature of this proceeding is such that the acceptance of them will contribute to our evaluation of the problems the Vega petition seeks to correct. NBC states that the proposed use of television channels 7 through 13 is actually not a reallocation of spectrum space among competing users but rather a reassignment of frequencies within the broadcast service and clearly within the public interest. NBC expresses support for the Vega petition and the proposed rules. CBS also supports the petition and calls attention to the limitations, as did NBC, of the spectrum space set aside in Subpart D of Part 74 of our rules for use by wireless microphones. Both NBC and CBS point to the urgent need for additional wireless microphone channels and suggests that the petition, RM–1735,[7] filed by the National Association of Broadcasters (NAB) looking in part toward the authorization of wireless microphones on all remote pickup bands may be only a partial solution to the problem. The Educational Broadcasting Corporation submited informal comments supporting the need for additional channels. Vega's supplemental comments attached a letter from the Public Broadcasting Service (PBS) wherein PBS (1) cited the need for more spectrum space for wireless microphones, (2) agrees with Vega that the usage proposed should be restricted to broadcasters, (3) expresses doubt that 50 milliwatts maximum is sufficient power in areas such as Washington, D.C., where stations are assigned on all VHF channels in relatively nearby communities, (4) states that the proposed rule as to the interference to reception of television broadcast stations should be made more explicit by specifying no interference to off-air reception, cable television systems that use channels not available over the air, closed circuit television systems and home UHF to VHF converters that use unassigned channels. PBS also expressed its willingness to participate in experimentation.

8. It seems evident that the wireless microphone is a positive and desirable element which when used in the production of broadcast programs removes artificial restraints and permits a natural flexibility of movement. It seems further evident that the lack of desirable spectrum space for the use of such low power devices has retarded and limited their full development. Further it has been several years since the Commission looked into the need of this particular auxiliary broadcast service. Hence, we believe it worthwhile to explore the Vega proposal. Although we will set forth the amended rules as proposed by Vega, the inclusion of those proposed rules must not be viewed as Commission approval of the concept of sharing unused VHF television channels by the broadcast service or any other service broadcast or non-broadcast.

9. With regard to the use of television channels 7 through 13 for wireless microphones we are concerned about many matters among which is the possibility of interference to the off-air television reception by the public, a form of interference which may not be easily identified and which could be annoying to the public until identified and suspended. Cable television systems do not occupy frequency space in the sense a television station does, the possibility exists that signals from stations of the type here in question could infiltrate into cable system plant or into subscriber's receiving equipment. To the extent the channels in question are being used by the cable systems, interference to subscribers' reception may result. Both the degree of potential for such interference and the possible means of avoiding it, should be addressed in comments in this proceeding. Interference is also possible to closed circuit television and UHF to VHF systems where channel conversion is used. Also there is a possibility of interference to (and from) home television recording and reproducing systems which may use unassigned channels for play back on home receivers. Vega suggests that since eligibility under the proposed rules would be limited to broadcast licensees, the chances of operation on frequencies which would cause interference with local television reception are almost nil, because broadcasters are experts in the technical field and understand the problems involved and because broadcasters have a strong incentive not to cause interference to their own service. Vega proposes rules which will require a statement of which frequencies are proposed in a particular application and what are the nearest television stations operating on those and adjacent channels, so that the Commission may determine whether a significant possibility of interference exists.

10. In view of the foregoing, the Commission invites all interested parties to submit comments on or related to the following questions with respect to the use of wireless microphones on television channels 7 through 13:

(a) What technical standards should apply to wireless microphones operating in the 174–216 MHz band? 50 milliwatts maximum output power at the transmitter terminals has been proposed. Is this appropriate or could a higher maximum power be tolerated? Should a maximum antenna gain be specified? How should the elevation or height of the antenna be specified? If frequency modulation is utilized is a maximum deviation of ±15 kHz sufficient to obtain a 50 to 60 dB signal-to-noise ratio? Should crystal control be required? Should the audio frequency response range be specified?

(b) Should transmitters be required to be type approved or type accepted to insure compliance with technical standards?

(c) What is the potential for excess signal radiation from microphone cords, and should the microphone and cord used be part of the technical evaluation of the wireless microphone system?

(d) A television channel is six megahertz wide, should a band of five megahertz, as proposed by Vega be specified with upper and lower limits within the band? If so what should these limits be? Should the chrominance subcarrier be given protection?

[4] Examples of high density use are dramatic productions with a large number of performers and special events coverage where several broadcast stations have personnel on the scene.

[5] Vega states that an audio frequency response to 15,000 Hz is required, with a 60 dB signal-to-noise ratio. Vega proposes 200 kHz channel spacing to meet these requirements; but because a number of wireless microphones would often have to operate in close proximity, 5 MHz would be needed to provide 10 usable channels free of interference from third-order and fifth-order intermodulation products.

[6] Section 73.610(c).

[7] The NAB petition proposes that wireless microphones should be permitted on all remote pickup, STL and aural inter-city relay bands on a secondary basis. Vega supports NAB but feels the relief afforded would be slight.

(e) A channel spacing of 200 kHz has been proposed for wireless microphones, cautioning that third and fifth order intermodulation products prevent the use of all channels on a contiguous basis. This gives rise to two questions, should specific channel center frequencies be specified and if so what should they be?

(f) Vega's proposed amendment to § 74.437 of the rules is set forth below. Should this amendment be enlarged to cover the subjects discussed above?

(g) Should the limitation on areas of operation for wireless microphones in the 174–216 MHz band be more strict than that for other auxiliary broadcast stations? For example, should the permitted area of operation be delimited in each license, and should the provision allowing for temporary operation in other areas without prior Commission authorization made in § 74.431(g) be made inapplicable to wireless microphones? This latter restriction in particular would appear necessary to guard against interference to television reception.

(h) The proposals contained herein relate solely to the use of wireless microphones by broadcast licensees. Since broadcast licensees are not the only producers of television programs, how can the benefits of the Vega proposal be made available to non-licensee program producers, including Cable Televison Operators,[8] who have the same production problems as a licensee?

11. We wish to make it clear that the fact that we invite comments upon the above enumerated matters and the rules set forth in the Appendix, does not mean that we approve the concept of sharing unused VHF channels for other services, broadcast or non-broadcast, nor are we limiting our inquiry to these specific matters. We encourage interested parties to submit any material which they think will aid the Commission in resolving these questions.

12. Authority for this inquiry is contained in sections 4(i) and (j) and 303 (r) of the Communications Act of 1934, as amended.

13. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before December 2, 1974, and reply comments on or before January 2, 1975. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

14. In accordance with § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission. Responses will be available for public inspection during the regular business hours in the Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

Adopted: September 19, 1974.

Released: September 25, 1974.

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

It is proposed that the Commission's rules and regulations be amended as follows:

In § 74.437, the first sentence in paragraph (e) is amended and a new paragraph (k) added, to read as follows:

§ 74.437 Special rules relating to low power broadcast auxiliary stations.

* * * * *

(e) The operation of low power broadcast auxiliary stations will be authorized only in the bands 26.10–26.48 MHz, 450–451 MHz, and 947–952 MHz, except as provided in paragraph (k) of this section. * * *

* * * * *

(k) In addition to the frequencies specified in paragraph (e) of this section, low power broadcast auxiliary stations may be authorized on frequencies in the band 174–216 MHz, subject to the following special conditions:

(1) Operation must be in accordance with the pertinent portions of paragraphs (a) through (i) of this section, except that operation outside the area in which the associated broadcast station is licensed, as provided for in paragraph (f) of this section, shall not be permitted without prior authority of the Commission, and except further that paragraph (j) of this section shall not apply.

(2) The power of the unmodulated carrier at the transmitter output terminals may not exceed 50 mW.

(3) Transmitters shall employ frequency modulation, with a maximum deviation of ± 15 kHz, and shall be crystal controlled with a frequency tolerance of 0.005%.

(4) No interference may be caused to the reception of television broadcast stations operating in this band. Each application shall specify the frequency on which operation is proposed. To the extent practicable, each broadcast licensee shall confine all operations in this band to a frequency within a single VHF television channel. Applications shall state the call letters and location of the nearest television broadcast station operating on that channel and each adjacent channel and shall include a showing with respect to the potential for interference to television broadcast reception.

[FR Doc.74-22623 Filed 9-27-74;8:45 am]

[8] Cable Television systems in some instances have been required to do nonautomated program origination. See § 76.201 of Rules.

SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

[21 CFR Part 1401]

CONFIDENTIALITY OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS

Advance Notice of Joint Proposed Rulemaking; Change in Schedule of Hearings

In the August 22, 1974 issue of the FEDERAL REGISTER (29 FR 30426) the Department of Health, Education and Welfare and the Special Action Office for Drug Abuse Prevention announced hearings on promulgation of a joint regulation relating to the confidentiality of alcohol and drug abuse patient records. A hearing for one day was scheduled in San Francisco on Friday, October 25, 1974 at 10 a.m.

It has been determined that the San Francisco hearing should extend for a period of two days. Accordingly, notice is hereby given that an additional day for this hearing has been set for Thursday, October 24, 1974. The revised schedule for the San Francisco hearing is as follows:

Thursday, October 24, 1974
10 a.m.
Court of Claims
Room 2041
Federal Building and Court House
450 Golden Gate Avenue
San Francisco, California
Friday, October 25, 1974
10 a.m.
United States Tax Court
Room 2021
Federal Building and Court House
450 Golden Gate Avenue
San Francisco, California

Dated: September 24, 1974.

GRASTY CREWS, II,
General Counsel, Special Action Office for Drug Abuse Prevention.

[FR Doc.74-22605 Filed 9-27-74;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

SOURCE PLASMA (HUMAN)

Notice to Manufacturers Regarding Licensure for Interstate Shipment

A final order was published in the FEDERAL REGISTER of July 20, 1973 (38 FR 19362) applying, for the first time, the licensure requirements of section 351 of the Public Health Service Act to human plasma collected by plasmapheresis, designated as Source Plasma (Human). In that order, the Commissioner of Food and Drugs also established additional standards for this newly licensed biological product. Manufacturers intending to ship Source Plasma (Human) in interstate commerce were required to submit appropriate license applications on or before November 19, 1973, the date on which the regulatory standards became effective.

In recognition of the time necessary to adequately review these license applications, the Commissioner provided that Source Plasma (Human) could continue to be shipped in interstate commerce prior to final action approving or denying the applications, if an establishment had submitted an application by November 19, 1973, and was in fact operating in conformity with all the Source Plasma (Human) additional standards. During this interim period, Source Plasma (Human) has continued to be shipped under authority of the "short supply" provisions of § 601.22 (21 CFR 601.22) which had been the basis for the shipment of this plasma prior to its licensure. This provision allows a manufacturer to utilize unlicensed facilities in the performance of initial and partial manufacturing of biological products subject to licensure. In the case of what is now Source Plasma (Human), the collection of the plasma from donors was considered the "initial and partial manufacturing" of licensed fractionated blood derivative products such as albumin and globulin for which plasma is the necessary raw material.

Since late 1973, the Bureau of Biologics, Food and Drug Administration, has been thoroughly reviewing and evaluating the approximately 250 license applications submitted for Source Plasma (Human). In addition to an administrative and technical review of each license application, an onsite inspection of each applicant establishment has been conducted during regular operations to assess its compliance with the regulatory standards. As a result of this action the Food and Drug Administration will shortly issue the first licenses for Source Plasma (Human), and the Commissioner has determined that it is in the public interest to provide for an orderly transition from shipping this product under the "short supply" provisions to allowing only licensed Source Plasma (Human) to move in interstate commerce.

Many establishments which have submitted license applications for Source Plasma (Human) are currently undertaking the final procedures leading to licensure. The Commissioner concludes that these establishments should be provided with sufficient time to complete these procedures.

Therefore, the Commissioner hereby announces his intention that effective January 1, 1975 no source plasma may be shipped in interstate commerce unless the manufacturer holds an approved license for Source Plasma (Human) issued pursuant to section 351 of the Public Health Service Act. By that time, interested establishments will have had more than 1 year to comply with all requirements and obtain a license. This action does not apply to human plasma which the Commissioner proposed, in the FEDERAL REGISTER of July 17, 1974 (39 FR 26161), be included within the definition of Source Plasma (Human) and for which Source Plasma (Human) licenses will become necessary. It applies only to the marketing status of Source Plasma (Human) as currently defined, namely: The fluid portion of human blood which has been stabilized against clotting, collected by plasmapheresis, and is intended as source material for further manufacture into blood derivatives intended for injection.

Dated: September 23, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-22573 Filed 9-27-74;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-166]

STUDY GROUP 5 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Notice of Meeting

The Department of State announces that Study Group 5 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on October 18, 1974 at 9:00 a.m. in Room 1107 of the Radio Building, Department of Commerce Laboratories, Boulder, Colorado.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The agenda for the meeting on October 18 is :

a. Review of U.S. Study Group 5 documents submitted to the CCIR XIIIth Plenary Assembly;
b. Results of the XIIIth Plenary Assembly;
c. Updating of members' interests in Study Group 5;
d. Organization of work for the next interim period in preparation for the 1979 World General Administrative Radio Conference.

Members of the general public who desire to attend the meeting on October 18 will be admitted up to the limit of the capacity of the meeting room.

Dated: September 23, 1974.

GORDON L. HUFFCUTT,
Chairman, U.S. National Committee.

[FR Doc.74-22646 Filed 9-27-74;8:45 am]

[Public Notice CM-165]

STUDY GROUP 6 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Notice of Meeting

The Department of State announces that Study Group 6 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on October 18, 1974, at 9:00 a.m. in Room 1103/1105 of the Radio Building, Department of Commerce Laboratories, Boulder, Colorado.

Study Group 6 deals with matters relating to the propagation of radio waves through the ionosphere. The agenda for the meeting on October 18 is:

a. Review of U.S. submissions to the CCIR XIIIth Plenary Assembly;
b. Results of XIIIth Plenary Assembly;
c. Discussion of U.S. Study Group 6 priorities for the next preparatory period;
d. Organization of work for the next preparatory period.

Members of the general public who desire to attend the meeting on October 18 will be admitted up to the limit of the capacity of the meeting room.

Dated: September 20, 1974.

GORDON L. HUFFCUTT,
Chairman,
U.S. National Committee.

[FR Doc.74-22645 Filed 9-27-74;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

VESSELS AND VEHICLES

Legislation Relative to the Arrival, Entry, Clearance, and Related Movement

SEPTEMBER 24, 1974.

Notice is hereby given that the Department of the Treasury has transmitted to the Congress draft legislation, "To authorize the Secretary of the Treasury to prescribe regulations to govern the arrival, entry, clearance, and related movements of vessels and vehicles, and for other purposes."

The proposed bill would amend or repeal certain of the navigation laws dating from the earliest times and certain administrative provisions of the Tariff Act of 1930, as amended, which are archaic and obsolete, with a view to providing a greater degree of flexibility in the regulation of these matters than is afforded by existing law. The aim is to achieve a proper balance between the application of necessary regulatory procedures and the facilitation of the commerce of the United States.

A copy of the bill and section-by-section analysis may be obtained on request to the Commissioner of Customs, Washington, D.C. 20229.

In connection with the proposed legislation, the Customs Service presently is preparing a draft of implementing regulations which would replace regulations now found in Parts 4 and 123, Customs regulations (19 CFR 4, 123). The following subjects are under discussion:

1. The crew and/or passenger list as part of the entry and clearance procedure.
2. Declarations by the master or someone authorized by him in lieu of the oaths now required on the manifests and related documents.
3. The design and content of forms.
4. The present requirement for deposit of a complete inward foreign manifest at the port of first arrival, and the use of the traveling manifest.
5. The time requirements for reporting arrival.
6. The simplification of port-to-port procedures.
7. The procedures relating to LASH-type barges.
8. Civil penalties to be assigned for specific violations.
9. Certificate of clearance.
10. The "preliminary and formal entry" procedures.
11. Coastwise manifests.

There are numerous other areas of interest, particularly as they may relate to vehicles, which also should be the subject of review and discussion. Consequently, comments and advice on these topics or on other matters which should be considered in preparing regulations to supersede those now in effect are invited and should be submitted in writing to the Commissioner of Customs, Washington, D.C. 20229.

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

[SEAL] G. R. DICKERSON,
Acting Commissioner of Customs.

[FR Doc.74-22666 Filed 9-27-74;8:45 am]

Internal Revenue Service

[Order No. 42 (Rev. 5)]

ASSISTANT REGIONAL COMMISSIONERS (APPELLATE), ET AL.

Delegation of Authority

In the matter of authority to execute consents fixing the period of limitations on assessment or collection under provisions of the 1939 and 1954 Internal Revenue Codes.

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 120, dated July 31, 1950; Order No. 150-2, dated May 15, 1972; 26 CFR 301.6501 (c)-1; 26 CFR 301.6502-1; 26 CFR 301.6901-1(d); and 26 CFR 301.7701-9; I hereby delegate authority to sign all consents fixing the period of limitations on assessment or collection to the following officials:

a. Assistant Regional Commissioners (Appellate)
b. Service Center Directors
c. District Directors
d. Director of International Operations

2. This authority may be redelegated but not below the following level for each activity:

a. Service Centers—Chief, Accounting Branch; Chief, Correspondence Audit Branch
b. Collection—Revenue Officer
c. Audit—Conferees and Reviewers, Grade GS-11, Group Managers, Case Managers and Returns Program Managers
d. Intelligence—Chief, Intelligence Division
e. Appellate—Appellate Conferee
f. Office of International Operations—Conferees and Reviewers, Grade GS-11; Group Managers, Case Managers and Returns Program Managers; Representatives at foreign posts; and Revenue Agents, Tax Auditors and Special Agents on foreign assignments; and Revenue Officers.

3. This Order supersedes Delegation Order No. 42 (Rev. 4), issued April 22, 1974.

Issued: September 24, 1974.

Effective: September 24, 1974.

Signed:

[SEAL] DONALD C. ALEXANDER,
Commissioner.

[FR Doc.74-22667 Filed 9-27-74;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 74-11]

J.W.S. DELAVAU CO., INC.

Notice of Hearing

Notice is hereby given that on June 7, 1974, the Drug Enforcement Administration, Department of Justice, issued to J. W. S. Delavau Co., Inc., Philadelphia, Pennsylvania, an order to show cause as to why the Drug Enforcement Administration should not deny the application for registration under the Controlled Substances Act of 1970, of the Respondent executed on October 31, 1973, pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 823).

Thirty days having elapsed since said order was received by the Respondent and written request for a hearing having been filed with the Drug Enforcement Administration, Notice is hereby given that a hearing in this matter will be held commencing at 10:00 a.m. on October 16, 1974, in Room 1210, 1405 Eye Street, NW., Washington, D.C.

Dated: September 25, 1974.

ANDREW C. TARTAGLINO,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.74-22618 Filed 9-27-74;8:45 am]

[Docket No. 74-18]

EDWIN SIMS MIZE, JR., M.D.

Notice of Hearing

Notice is hereby given that on July 22, 1974, the Drug Enforcement Administration, Department of Justice, issued to Edwin Sims Mize, Jr., M.D., Charlotte, North Carolina, an Order to Show Cause as to why the Drug Enforcement Administration registration No. AM4271398, issued to him pursuant to section 303 of the Controlled Substances Act (21 U.S.C. 823) should not be revoked.

Thirty days having elapsed since said order was received by Dr. Mize, and written request for a hearing having been filed with the Drug Enforcement Administration, Notice is hereby given that a hearing in this matter will be held commencing at 10 a.m. on October 21, 1974, in Room 1210, 1405 Eye Street, NW., Washington, D.C.

Dated: September 25, 1974.

ANDREW C. TARTAGLINO,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.74-22619 Filed 9-27-74;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Notice of Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

The Attorney General shall register an applicant to manufacture controlled substances in schedules I or II if he determines that such registration is consistent with the public interest and with the United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an ade-

quate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(h)) provides that the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedules I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Pursuant to 1301.43 of Title 21 of the Code of Federal Regulations, notice is hereby given that on August 9, 1974, Fher Corporation Ltd., Carretera 132, Km 25.3, P.O. Box 4108, Ponce, Puerto Rico 00731, made application to the Drug Enforcement Administration to be registered as bulk manufacturer of Phenmetrazine, a basic class controlled substance listed in schedule II.

Any person registered to manufacture Phenmetrazine in bulk may, on or before October 30, 1974, file written comments on or objections to the issuance of the proposed registration and may, at the same time, file written request for a hearing on the application (stating with particularity the objections or issues, if any, concerning which the person desires to be heard and a brief summary of his position on those objections or issues).

Comments and objections may be addressed to the Hearing Clerk, Office of the Administrative Law Judge, Drug Enforcement Administration, Room 1130, 1405 Eye Street NW., Washington, D.C. 20537.

Dated: September 17, 1974.

JOHN R. BARTELS, Jr.,
Administrator,
Drug Enforcement Administration.

[FR Doc.74-22620 Filed 9-27-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

STANDING ROCK SIOUX TRIBE; AND STANDING ROCK INDIAN RESERVATION OF NORTH DAKOTA AND SOUTH DAKOTA

Ordinance Legalizing the Introduction, Sale, or Possession of Intoxicants

SEPTEMBER 20, 1974.

In accordance with authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 FR 13938) and in accordance with the Act of August 15, 1953, Public Law 277, 83rd Congress, 1st Session (67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Standing Rock Sioux reservation, North Dakota and South Dakota was adopted May 9, 1974 by the Standing Rock Sioux Tribal Council who have jurisdiction over the area of Indian Country included in the ordinance, reading as follows:

Whereas, the Act of August 15, 1953, c. 502, sec. 2, 67 Stat. 586, 18 U.S.C. 1161, directs that the Federal Indian Liquor laws shall not apply to "any act or transaction within any area of Indian Country provided such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the tribe having jurisdiction over such area of Indian country, certified by the Secretary of the Interior, and published in the FEDERAL REGISTER,"; and

Whereas, on December 22, 1953, there was published in the FEDERAL REGISTER (Vol. 18, p. 8626) a resolution of the Standing Rock Sioux Indian Tribe (hereinafter the "Tribe"), of the Standing Rock Indian Reservation in North Dakota and South Dakota (hereinafter the "Reservation"), providing that the introduction, sale or possession of intoxicating beverages shall be lawful within the Indian country under the jurisdiction of the Tribe, provided, that such introduction, sale or possession is in conformity with the laws of the respective States of North Dakota and South Dakota;

Now therefore be it enacted and ordained: That the introduction, possession, transportation, and sale of intoxicating beverages shall be lawful within the Indian country under the jurisdiction of the Tribe, *Provided:*

SECTION 1. *Conformity with State laws and this ordinance.* That such introduction, possession, transportation, and sale in North Dakota, are in conformity with the laws of the State of North Dakota, and with the provisions of this Ordinance, and that such introduction, possession, transportation, and sale in South Dakota are in conformity with the laws of the State of South Dakota, and with the provisions of this Ordinance.

SEC. 2. *Corporate and tribal entity.* The Standing Rock Sioux Tribal Council (hereinafter the "Council"), may charter, or form a corporation, or a subordinate tribal entity, or a tribal enterprise, to operate off-sale or packaged sale of intoxicating beverages, under such license or licenses as may be required by law.

SEC. 3. *Tribal license required.* No person shall engage in the sale of intoxicating beverages within the Indian country under the jurisdiction of the Tribe, unless duly licensed by the Tribe and, in the case of non-Indians, by the Tribe and the State in which the licensee sells intoxicating beverages, except that this Ordinance shall not apply to any licensee under the laws of North Dakota or South Dakota on the effective date of this Ordinance, until the expiration of the annual term of any such license, provided that the Tribe, in the discretion of the Council, may require Indians to obtain licenses from the appropriate State.

SEC. 4. *Application for tribal liquor license; requirements.* No tribal license shall issue under this Ordinance except upon a sworn application filed with the Council containing a full and complete showing of the following:

a. If the applicant is a non-Indian, satisfactory proof that the applicant is or will be duly licensed by the State in which he proposes to operate.

b. If the applicant is an Indian, and the Council determines that a State license should be obtained, satisfactory proof that the applicant is or will be duly licensed by the appropriate State, or that such license has been withheld or denied for reasons in excess of the powers vested in the State licensing authorities, or for arbitrary or capricious reasons.

c. Satisfactory proof that the applicant is of good character and reputation among the people of the Reservation, with particular reference to the Indian people, and that he is financially responsible.

d. The description of the premises in which the intoxicating beverages are to be sold, proof that the applicant is the owner of such premises, or lessee of such premises, for at least the term of the license, and a complete detailed, itemized inventory of all intoxicating beverages on and in the premises where the intoxicating beverages are to be sold.

e. Agreement by the applicant to accept and abide by all conditions of the tribal license.

f. Payment of a reasonable fee, not to exceed the corresponding license fee required under State law.

g. Satisfactory proof that neither the applicant nor the applicant's spouse, is an officer or member of the Council, an employee of the Tribe, or any of its subordinate entities, and has never been convicted of a felony.

h. Satisfactory proof that notice of the application has been posted in a prominent, noticeable place on the premises where intoxicating beverages are to be sold for at least 30 days prior to consideration by the Council and has been published at least twice in the Standing Rock Star or other tribal paper, or if a tribal paper is not in publication, in such other local newspaper serving the community that may be affected by the license, as the Tribal Chairman or Secretary may authorize.

SEC. 5. *Conditions of the tribal license.* Any tribal license issued under this Ordinance shall be subject to such reasonable conditions as the Council shall fix, including, but not limited to the following:

a. The license shall be for a term of one year, and shall expire as of even date with any license issued under the laws of the State in which the licensee sells intoxicating beverages.

b. The licensee shall at all times maintain an orderly, clean and neat establishment, both inside and outside the licensed premises.

c. The licensed premises shall be subject to patrol by the Reservation police force, for the purpose of enforcing tribal law, and by state and county law officers for the purpose of enforcing state law against non-Indians, and the licensee shall cooperate with such police and law officers.

d. The licensed premises shall be open to inspection by any member of the Council, or the duly authorized representative of the Council, at all times during the regular business hours.

e. Subject to the provisions of subsection "f" of this section, no intoxicating beverages shall be sold, served, disposed of, delivered, or given to any person, or consumed on the licensed premises except in conformity with the hours and days prescribed by the laws of the State where the licensed premises are situated, and in accordance with the hours fixed by the Council, provided that the licensed premises shall not operate or open earlier or operate or close later than is permitted by the law of the State where the licensed premises are located.

f. The premises covered by the tribal liquor license shall be closed on tribal election days, or when a referendum is held of the people of the Tribe, and including special days of observance as designated by the Council.

g. All acts and transactions under authority of the tribal liquor license shall be in conformity with the laws of the State in which the licensee sells intoxicating beverages, and shall be in accordance with this Ordinance and any tribal license issued pursuant to this Ordinance.

h. No person under the age permitted under the law of the appropriate State shall be admitted into the licensed establishment.

i. There shall be no discrimination in the operations under the tribal license by reason of race, color or creed.

Provided, That the Council shall not grant to the licensee, by way of a condition of the license, or otherwise, any privilege or benefit relating to the hours and days of operation of the licensed premises, greater than those permitted by the laws of the State in which the licensed premises are located.

SEC. 6. *Assignment or transfer.* No tribal license issued under this Ordinance shall be assigned or transferred without the written approval of the Council expressed by formal resolution.

SEC. 7. *Cancellation and suspension.* Any license issued hereunder may be suspended or cancelled by the Council for the breach of any of the provisions of this Ordinance, or of the tribal license, upon hearing before the Council after 10 days' notice to the licensee. The decision of the Council shall be final.

SEC. 8. *Prior tribal laws repealed.* The resolution heretofore adopted and published in the FEDERAL REGISTER (Vol. 18, p. 8626) on December 22, 1953, is hereby repealed.

SEC. 9. *Effective date.* This Ordinance shall be effective September 30, 1974.

Be it resolved, by the Standing Rock Sioux Tribal Council this 9th day of May, 1974, that the foregoing Ordinance No. 63 be and the same is hereby adopted.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.74-22673 Filed 9-27-74;8:45 am]

Bureau of Land Management

[NM 22912, 23183, 23184, 23185, 23186]

NEW MEXICO

Notice of Application

SEPTEMBER, 20, 1974.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 2⅜ inch and four 4½ inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 8 W.,
Sec. 27, NE¼SE¼;
Sec. 36, NW¼SW¼ and NE¼SW¼.
T. 29 N., R. 10 W.,
Sec. 12, S½NW¼.
T. 30 N., R. 10 W.,
Sec. 27, Lots 1, 2, and 7.

These pipelines will convey natural gas across .568 mile of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, Albuquerque, NM 87107.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc.74-22649 Filed 9-27-74;8:45 am]

Geological Survey

DRILLING, COMPLETION AND SPACING OF GEOTHERMAL WELLS

Notice of Proposed Geothermal Resource Operational Order No. 2

SEPTEMBER 25, 1974.

Notice is hereby given that pursuant to 30 CFR 270.14, 270.15, 270.40 and 270.48, the Chief, Conservation Division, Geological Survey proposes to approve GRO Order No. 2 for geothermal operations conducted in the Central and Western Regions as set forth below.

The purpose of proposed GRO Order No. 2 is to provide requirements to geothermal operators for drilling, completion and spacing of geothermal wells.

Interested persons may submit written comments, suggestions, and objections concerning the proposed order to the Chief, Conservation Division, U.S. Geological Survey, Mail Stop 650, 12201 Sunrise Valley Drive, Reston, Virginia 22092, with a copy to the Geothermal Supervisor, 345 Middlefield Road, Menlo Park, California 94025, on or before November 15, 1974.

W. A. RADLINSKI,
Acting Director.

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION

NOTICE TO LESSEES AND OPERATORS OF FEDERAL GEOTHERMAL LEASES

Geothermal Resources Operational Order No. 2

Effective _____

Drilling, Completion and Spacing of Geothermal Wells

This Order is established pursuant to the authority prescribed in 30 CFR 270.11 and in accordance with 30 CFR 270.14, 30 CFR 270.15, and 30 270.40. All wells shall be drilled in such a manner as to minimize damage to the environment and to protect life, health, property, usable ground waters and geothermal resources. All exploratory wells drilled for geothermal resources shall be drilled in accordance with the provisions of this Order. Initial development wells drilled for geothermal resources shall be drilled in accordance with the provisions of this Order, and these provisions shall continue in effect until field drilling rules are issued. After field drilling rules have been established by the Supervisor, development wells in the individual fields shall be drilled in accordance with such rules.

Where sufficient geologic and engineering information is obtained through exploratory drilling, lessees may make application to the Supervisor for the establishment of field drilling rules. When required by the Supervisor, lessees shall make application for the establishment of field drilling rules for existing fields containing development wells on the effective date of this Order. The Supervisor may issue field drilling rules at any time he deems appropriate upon failure of the lessee to timely file for such field drilling rules.

All wells drilled under the provisions of this Order shall have been included in an exploratory or development Plan of Operation for the lease as required under 30 CFR 270.34. Each Application for Permit to Drill (Form 9-331C) shall include all information required under 30 CFR 270.71, and shall include a notation of any propesd variances from the requirements of this Order. All variances from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 270.48. References in this Order to approvals, determinations, and requirements for submitting of information or applications for approval are to those granted, made or required by the Supervisor or his delegated representative. The lessee shall comply with the following requirements:

1. *Well casing.* All wells shall be cased and cemented in accordance with the requirements of 30 CFR 270.15, and the application for permit to drill shall include the casing design safety factors for collapse, tension and burst. The permanent wellhead completion equipment shall be attached to the production casing or to the intermediate casing if the production casing does not reach to the surface. All casing strings reaching the surface shall be of sufficient length and cemented in a manner such that adequate anchorage and support will be provided for the casing and any blowout prevention equipment required thereon. For the purpose of this Order, the several casing strings in order of normal installation are (1) conductor, (2) surface, (3) intermediate and (4) production strings. The following casing setting depth requirements are general in nature and subject to variations to permit the casing to be set and cemented in a competent formation. Determination of adequate casing setting depths shall be based upon all geologic and engineering factors including apparent geothermal gradients, depths and pressures of the various formations to be penetrated and all other pertinent information about the area. All depths in this Order refer to true vertical depth (TVD) below ground level, unless otherwise specified.

A. *Conductor casing.* This casing shall be set at a minimum depth of 27 metres (90 feet) and a maximum depth of 60 metres (200 feet) below drilling into shallow formations known to contain geothermal resources or non-condensible gases or, if unknown, upon encountering such formations.

B. *Surface casing.* This casing shall be set at a depth equivalent to or in excess of ten percent of the proposed total depth of the well provided, however, that such setting depth shall be not less than 60 metres (200 feet) nor more than 400 metres (1,300 feet), unless otherwise authorized by the Supervisor.

C. *Intermediate casing.* This casing shall be set at any time when drilling below the surface casing when required by well conditions such as anomalous pressure zones, uncased fresh water aquifers, cave-ins, washouts, uncontrollable lost circulation zones, rapidly increasing thermal gradients or other drilling hazards. If a liner is used as an intermediate string, the lap shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and the next larger casing string has been achieved. The liner overlap shall be a minimum of 30 metres (100 feet). The test shall be recorded on the driller's log and may be witnessed by the Supervisor. In the event of lap failure during the test, the lap must be repaired or recemented and successfully retested as required by the Supervisor.

D. *Production casing.* This casing may be set at the top of or through the potential producing zone and shall be set before completing the well for production. Production casing shall be run to the surface or lapped into an intermediate casing string. The casing overlap, if utilized, shall be at least 30 metres (100 feet) and shall be tested, witnessed and recorded as in the case of intermediate casing hereinabove. In the event of casing failure during the test, the casing must be repaired or recemented as required by the Supervisor. Production casing shall be of consistent nominal outside diameter from the surface or from the top of the lap to the casing shoe. The surface casing shall not be used as production casing.

E. *Cementing of casing.* The conductor and surface casing strings shall be cemented with a quantity of cement sufficient to fill the annular space back to the surface. The intermediate casing string shall likewise be cemented back to the surface, if possible, or to the top of the lap if a liner is used as an intermediate string. Production casing shall be cemented with a high temperature resistant admix, unless waived by the Supervisor and shall be cemented in a manner necessary to exclude, isolate or segregate overlying formation fluids from the geothermal resources zone and to prevent the movement of fluids into possible fresh water zones. Production casing shall be cemented back to the surface or, if lapped, to the top of the lap. A temperature or cement bond log shall be run after setting and cementing the production casing and after all primary cementing operations.

F. *Pressure testing.* Prior to drilling out the casing shoe after cementing, all casing strings except for conductor casings, shall be pressure tested to a minimum pressure of 69 bars (1000 psi). Such test shall not exceed the rated working pressure of the casing. In the event of casing failure during the test, the casing must be repaired or recemented until a satisfactory test is obtained. A pressure decline of 20 percent or less in 15 minutes shall be considered satisfactory. Casing test results shall be recorded on the driller's log and reported to the Supervisor within 30 days after the completion of such test. The Supervisor shall be given advance notice of all casing tests in sufficient time to enable the Supervisor to be present to witness such tests. The casing test report shall give a detailed description of the test including but not limited to mud and cement volumes, lapse of time between running and cementing casing and testing, the method of testing and the test results.

G. *Directional surveys.* Surveys shall be taken on all wells during the normal course of drilling. Surveys shall be obtained at intervals not to exceed 152 metres (500 feet). Directional surveys giving both inclination and azimuth shall be obtained at intervals not to exceed 30 metres (100 feet) between stations and prior to setting any casing string as well as at total depth. Composite directional surveys shall be filed from the bottom of the conductor casing to total depth. The Supervisor may require a directional survey to be made of the finished hole of all wells. In calculating all surveys, a correction from true north to Lambert Grid north shall be made after making the magnetic to true north correction, where possible.

2. *Blowout prevention equipment and procedures.* All necessary precautions shall be taken to keep all wells under control at all times; utilize trained and competent personnel; and utilize properly maintained equipment and materials. Blowout preventers and related well control equipment shall be installed, tested daily, and maintained ready for use until drilling operations are completed. Certain components, such as packing elements and ram rubbers, shall be of high temperature resistant material. All fill-up lines, kill lines, blowdown lines, manifolds and fittings shall be steel and shall have a minimum temperature derated working pressure rating equivalent to that of the highest pressure rated blowout prevention equipment proposed for the particular well in question. Blowout prevention equipment shall have hydraulic actuating systems and accumulators of sufficient capacity unless waived by the Supervisor. Dual control stations shall be installed with ahydraulic high pressure backup system. One control panel shall be located at the driller's station and one control panel shall be located at least 15 metres (50 feet) away from the wellhead or rotary table. Air or other gaseous fluid drilling methods shall have blowout prevention assemblies which shall include but are not limited to a rotating head, a double ram blowout preventer or equivalent, a so-called banjo-box and a blind ram blowout preventer, respectively. A proposed blowout prevention program and a blowout contingency plan shall be submitted with the Application for Permit to Drill (Form 9–331C).

A. *Conductor casing.* Before drilling below this string, at least one remotely controlled hydraulically operated expansion-type preventor or equivalent, approved by the Supervisor, including a drilling spool with side outlets, shall be installed. When deemed necessary by the Supervisor, a kill line and blowdown line with appropriate fittings shall be connected to the drilling spool.

B. *Surface, intermediate and production casing.* Before drilling below any of these strings, the blowout prevention equipment shall include a minimum of:

(1) One expansion-type preventer and accumulator, a remotely controlled hydraulically operated double ram blowout preventer or equivalent having a temperature derated working pressure which exceeds the maximum anticipated surface pressure at the anticipated reservoir fluid temperature;

(2) A drilling spool with side outlets;

(3) A fillup line;

(4) A kill line equipped with at least one valve; and

(5) A blowdown line equipped with at least two valves and securely anchored at all bends and at the end.

C. *Testing and maintenance.* Blowout preventers and auxiliary equipment shall be tested to a minimum of 69 bars (1000 psi) or to the working pressure of the casing or assembly, whichever is the lesser, after installation, prior to drilling out plugs and/or casing shoes and on a daily basis during drilling operations. Riser flange bolts shall be inspected at least daily and retightened as necessary during drilling operations. The auxiliary control systems shall be inspected and operated daily to check the mechanical condition and effectiveness and to ensure personnel acquaintance with the method of operation. Blowout prevention and auxiliary control equipment shall be dismantled, cleaned, inspected and repaired if necessary prior to installation to assure proper functioning. Blowout prevention controls shall be plainly labeled, and all crew members shall be instructed on the function and operation of such equipment. A blowout prevention drill shall be conducted weekly for each drilling crew. All blowout prevention tests and crew drills shall be recorded on the driller's log.

D. *Related well control equipment.* A full opening drill string safety valve in the open position shall be maintained on the rig floor at all times while drilling operations are being conducted. A kelly cock installed between the kelly and the swivel shall be required if deemed necessary by the Supervisor as well as a drill string check valve when drilling with air or other gaseous fluids.

3. *Drilling fluid.* The properties, use and testing of drilling fluid and the conduct of related drilling procedures shall be such as are necessary to prevent the blowout of any well. Sufficient drilling fluid materials to ensure well control shall be maintained, readily accessible for use at all times.

A. *Drilling fluid control.* Before pulling drill pipe, the drilling fluid shall be properly conditioned or displaced. The annular mud level shall not be deeper than 30 metres (100 feet) from the rotary table when coming out of the hole with drill pipe, and the hole shall be kept reasonably full at all other times. Mud cooling techniques shall be utilized when necessary to maintain mud characteristics for proper well control and hole conditioning.

B. *Drilling fluid testing.* Mud testing and treatment consistent with good operating practice shall be performed daily or more frequently as conditions warrant. Mud testing equipment shall be maintained on the drilling rig at all times.

The following drilling fluid system monitoring or recording devices shall be installed and operated continuously during drilling operations occurring below the shoe of the conductor casing.

(1) High-low level mud pit indicator including a visual or audio-warning device.

(2) Degassers, desilters and desanders shall be installed when deemed necessary by the Supervisor.

(3) A mechanical, electrical or manual surface drilling fluid temperature monitoring device. The temperature of the drilling fluid going into and coming out of the hole shall be monitored, read and recorded on the driller's or mud log for a minimum of every 9 meters (30 feet) of hole drilled below the conductor casing.

(4) A hydrogen sulfide indicator and alarm shall be installed in areas suspected or known to contain hydrogen sulfide gas which may reach levels considered to be dangerous to the health and safety of personnel in the area.

C. *Monitoring.* From the time drilling operations are initiated and until the well is completed or abandoned, a member of the drilling crew or the toolpusher shall monitor the rig floor at all times for surveillance purposes, unless the well is secured with blowout preventers or cement plugs.

4. *Well logging.* All wells shall be logged with an induction electric log or equivalent from total depth to the shoe of the conductor casing. The Supervisor may grant an exception to this requirement when well conditions make it impractical or impossible to meet the above requirements.

A. *Electric logs.* The lessee shall furnish to the Supervisor two legible exact copies of induction, radiation, temperature, bond, and any other logs run, within 30 days after completion of drilling operations on each well. Two copies of chemical analyses of geothermal fluids or other similar services performed shall be submitted to the Supervisor within 30 days after such services are completed.

B. *Lithologic logs.* The lessees shall furnish to the Supervisor two legible exact copies of core analysis reports and lithologic (mud) logs within 30 days after the completion of such reports or logs.

5. *Wellhead equipment and testing.*

A. *Completions.* All wellhead connections shall be fluid pressure tested to 1.5 times the API working pressure rating. Cold water is recommended as the testing fluid. Welding of wellhead connections shall be performed by a certified welder using materials in conformance with ASTM specification. Wellhead and other surface production equipment shall be maintained in good condition with particular attention exercised for the prevention or mitigation of corrosion and erosion.

B. *Wellhead equipment.* All completed wells shall be equipped with a minimum of one casinghead with side outlets, one master valve and one production valve. All casingheads, christmas trees, fittings and connections shall have a temperature derated working pressure equal to or greater than the surface shut-in pressure of the well at reservoir temperature. Packing, sealing mediums and lubricants shall consist of materials of substances that function effectively at, and are resistant to, high temperatures. Wellhead equipment, valves, flanges and fittings shall meet minimum API Standard 6A specifications. Casinghead connections shall be made such that fluid can be pumped between casing strings.

C. *Testing.* Any well showing sustained casinghead pressure or leaking of geothermal fluids between casing strings shall be tested to determine the origin of the failure, when such failure point is not otherwise determinable, and corrective measures shall be taken to correct such failure.

6. *Well spacing.* No portion of any well shall be located within 61 metres (200 feet) of the outer boundaries of the leased lands, except where necessary to protect those lands against wells on lands the title to which is not held by the lessor and then only on consent in writing from the Supervisor. No surface location of a well shall be located within 15 metres (50 feet) of the boundary of any legal subdivision unless otherwise authorized by the Supervisor.

REID T. STONE,
Area Geothermal Supervisor.

Approved:

RUSSELL G. WAYLAND,
Chief, Conservation Division.

[FR Doc.74-22566 Filed 9-27-74;8:45 am]

EXPLORATORY OPERATIONS

Notice of Proposed Geothermal Resource Operational Order No. 1

SEPTEMBER 25, 1974.

Notice is hereby given that pursuant to 30 CFR 270.11, and in accordance with CFR 270.78, the Chief, Conservation Division, Geological Survey proposes to approve GRO Order No. 1 for geothermal operations conducted in the Central and Western Regions as set forth below.

The purpose of proposed GRO Order No. 1 is to provide requirements to geothermal operators for all exploratory operations other than drilling of exploratory and development wells.

Interested persons may submit written comments, suggestions, and objections concerning the proposed Order to the Chief, Conservation Division, U.S. Geological Survey, Mail Stop 650, 12201 Sunrise Valley Drive, Reston, Virginia 22092, with a copy to the Geothermal Supervisor, 345 Middlefield Road, Menlo Park, California 94025, on or before November 15, 1974.

W. A. RADLINSKI,
Acting Director.

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION

NOTICE TO LESSEES AND OPERATORS OF FEDERAL GEOTHERMAL LEASES

Geothermal Resources Operational Order No. 1

Effective _____

Exploratory Operations

This Order is established pursuant to the authority prescribed in 30 CFR 270.11 and in accordance with 30 CFR 270.78. All exploratory operations other than drilling of exploratory and development wells will be conducted in accordance with the provisions of this Order. All variances from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 270.48. Each Notice of Intent to Conduct Geothermal Resource Exploration Operations shall include a notation of any proposed variances from the requirements of this Order. References in this Order to approvals, determinations, or requirements are to those given or made by the Supervisor or his delegated representative. The lessee shall comply with the requirements of this Order.

The following exploratory operations and reasonable expenditures therefore will qualify as diligent exploration if approval prior to the initiation of such operations is received by the lessee from the Supervisor.

1. *Casual use.* Casual Use shall include any entrance on the leased lands for geological reconnaissance or surveying purposes. Sampling of springs and water wells on the lease for geochemical analysis shall be construed as Casual Use. Such non-disturbing surveys and reconnaissance operations will require a Notice of Intent to Conduct Geothermal Resource Exploration Operations (Form 3200-9). Casual Use operations proposed or completed shall be included in any subsequent Plan of Operations.

2. *Geophysical exploration.* Geophysical exploration shall include, but is not limited to, surface electric resistivity surveys, seismic ground noise surveys and all other passive micro-earthquake monitoring surveys, magneto-telluric surveys, all other geophysical surveys, including airborne techniques.

Geophysical surveys will require a Notice of Intent to Conduct Geothermal Resource Exploration Operations (Form 3200-9). All such anticipated surveys should be included in the Plan of Operation and must be approved by the Supervisor before the work is begun.

The lessee shall furnish the Supervisor two copies of the records of such surveys within 30 days after the completion of such operations.

3. *Drilling of shallow holes.* The drilling of shallow holes for the measurement of temperature gradients or heat flow will be considered as an exploration operation and will require approval of a Notice of Intent to Conduct Geothermal Resource Exploration Operations (Form 3200-9) by the Supervisor. The following stipulations shall apply to the drilling of such shallow holes:

A. Holes for measuring temperature gradients shall be limited to a depth of 152 metres (500 feet), unless otherwise authorized by the Supervisor.

B. Flow line temperatures shall be taken at frequent time intervals during drilling operations on shallow holes drilled with mud. If flow line mud temperature should reach 52° C (125° F) without special cooling, drilling ahead shall cease immediately and the hole will be either:

(1) Completed as an observation hole by running steel tubing as deep as possible, filling the annulus with drilling mud from total depth to 3 metres (10 feet) below the surface and with cement from 3 metres (10 feet) to the surface, or

(2) Abandoned by filling the hole with drilling mud from total depth to 3 metres (10 feet) below the surface and cement to the surface thereafter.

During drilling operations, exceptions will be allowed only with specific permission from the Supervisor.

C. If flowinig steam or hot water at 65° C (150° F) is encountered, further drilling shall stop immediately and the hole will be either:

(1) Completed as an observation hole using steel tubing cemented from total depth to surface, or

(2) Abandoned by plugging with cement from total depth to surface.

Exceptions will be allowed only with specific permission from the Supervisor.

D. If cold flowing artesian water is encountered, hole will be completed as in (C) hereinabove, except that plastic tubing may be used.

If the conditions outlined in either (B) or (C) hereinabove or herein are encountered, the Supervisor shall be notified immediately.

E. The lessee shall submit the following information with the Notice of Intent to Conduct Geothermal Resource Exploration Operations (Form 3200-9):

(1) The approximate location [to the nearest 30 metres (100 feet) from some identifiable marker or object within a section] and hole number or designation of each proposed hole and order of drilling;

(2) The type and size of drilling rig;

(3) The proposed drilling program including drilling method (auger, air or mud), approximate depths and casing (conductor) program;

(4) The type of drilling sump and proposed method of sump abandonment;

(5) The approximate time holes will be used for observation; and

(6) The proposed method of abandonment. Additionally, the lessee shall notify the Supervisor of any changes in locations and

locations of any additional holes to be drilled.

F. Locations proposed in natural thermal areas [within a 457 metre (1500 foot) radius of hot springs, fumaroles, or other surface geothermal indicia] or in areas of known artesian water flow, will require a drilling program for each hole, approved by the Supervisor. Such holes may require special drilling and completion techniques (such as cemented surface casing and simple expansion type blowout preventers) to safely control formations containing geothermal or other resources which may be penetrated.

G. A supply of mud-weighting material shall be kept on hand while drilling to control excess pressure (if using rotary equipment).

H. Holes shall be completed for observation purposes in a manner which will allow satisfactory subsequent abandonment. As a minimum, the annular space shall be filled with mud (cuttings and/or dirt if drilled with air or auger) to 3 metres (10 feet) and with cement 3 metres (10 feet) to surface, and the tubing shall be capped when not in use.

I. Holes shall be abandoned in a manner that will prevent subsurface inter-zonal migration of fluids and surface leakage. As a minimum, the top 3 metres (10 feet) of tubing should be filled with cement. Tubing shall be cut off at ground level or as directed by the Supervisor.

4. *Reporting completion of exploration operations.* The Notice of Completion of Geothermal Resource Exploration Operations (Form 3200–10) shall be submitted in triplicate, and shall contain, among other items, the following information for each hole drilled:

A. Final hole designation and location.

B. A drillers log noting water table (if determined), and salt, coal bends or other mineral deposits, if present.

C. Methods of completion, cementing, and casing and/or tubing used.

D. Details of abandonment.

E. Any information on drilling difficulties or unusual circumstances encountered which would be helpful in assuring future safety of operations or protection of the environment in the area concerned.

F. Temperature survey data from each hole.

5. *General.* Drilling fluids or cuttings shall not be discharged onto the surface where such discharge might contaminate lakes and perennial or intermittent streams. Excavated pits or sumps used in drilling shall be backfilled as soon as drilling is completed and restored to conform with the original topography. If necessary to allow evaporation before backfilling, the sumps shall be completely fenced for the protection of domestic animals or wildlife.

6. *Notice of entry.* Applicant shall contact the appropriate U.S. Geological Survey Geothermal District Office prior to entry on the land to conduct exploration operations.

REID T. STONE,
Area Geothermal Supervisor.

Approved:

RUSSELL G. WAYLAND,
Chief, Conservation Division.

[FR Doc.74–22567 Filed 9–27–74;8:45 am]

PLUGGING AND ABANDONMENT OF WELLS

Notice of Proposed Geothermal Resource Operational Order No. 3

SEPTEMBER 25, 1974.

Notice is hereby given that pursuant to 30 CFR 270.11 and in accordance with 30 CFR 270.14 and 270.45, the Chief, Conservation Division, Geological Survey, proposes to approve GRO Order No. 3 for geothermal operations conducted in the Central and Western Regions as set forth below.

The purpose of proposed GRO Order No. 3 is to provide requirements to geothermal operators for all well abandonment operations.

Interested persons may submit written comments, suggestions, and objections concerning the proposed Order to the Chief, Conservation Division, U.S. Geological Survey, Mail Stop 650, 12201 Sunrise Valley Drive, Reston, Virginia 22092, with a copy to the Geothermal Supervisor, 345 Middlefield Road, Menlo Park, California 94025, on or before November 15, 1974.

W. A. RODLINSKI,
Acting Director.

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY, CONSERVATION DIVISION

NOTICE TO LESSEES AND OPERATORS OF FEDERAL GEOTHERMAL LEASES

Geothermal Resources Operational Order No. 3

Effective _____

Plugging and Abandonment of Wells

This Order is established pursuant to the authority prescribed in 30 CFR 270.11 and in accordance with 30 CFR 270.45 and 30 CFR 270.14. The lessee shall comply with the following minimum plugging and abandonment procedures for all geothermal resources wells. Oral approvals shall be in accordance with 30 CFR 270.11. All variances from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 270.48. Each Sundry Notice (Form 9–331) shall include a notation of any proposed variances from the requirements of this Order. References in this Order to approvals, determinations or requirements are to those given or made by the Supervisor or his delegated representative.

The lessee shall promptly plug and abandon any well on the leased land that is not in use or potentially useful. No well shall be abandoned until its lack of capacity for further profitable production of geothermal resources has been demonstrated to the satisfaction of the Supervisor. No well shall be plugged and abandoned until the manner and method of plugging have been approved or prescribed by the Supervisor.

Cement used to plug any geothermal resources well, except that cement or concrete used for surface plugging, shall be placed in the hole by pumping through drill pipe or tubing and such cement shall consist of a high temperature resistant admix, unless waived by the Supervisor in accordance with the particular circumstances existing in that well or area.

Prior to commencing abandonment operations, the Supervisor shall be notified of all such proposed operations.

Each Sundry Notice (Form 9–331) shall include all information required under 30 CFR 270.45. Any bond or rider thereto, covering the lease or an individual well thereon, shall remain in full force and effect until the lease or individual well, as the case may be, is properly abandoned (including surface restoration) and written approval by the Supervisor has been obtained.

1. *Permanent abandonment*—A. *Uncased hole.* In uncased portions of wells, cement plugs shall be placed to cover the fresh water and geothermal resources zones. Such plugs shall extend a minimum of 30 metres (100 feet) below, if possible, and 30 metres (100 feet) above all such aforementioned zones. Cement plugs shall be placed in a manner necessary to isolate formations and to protect the fluids in such formations from interzonal migration or contamination.

B. *Open hole.* Where there is open hole (uncased and open into the casing string above), a cement plug shall be placed in the deepest casing string by either (1) or (2) below. In the event lost circulation conditions exist or are anticipated, or the well has been drilled with air or other gaseous substance, the plug shall be placed in accordance with (3) below.

(1) A cement plug shall be placed across the shoe extending a minimum of 30 metres (100 feet) above and 30 metres (100 feet) below; or

(2) A cement retainer with effective back pressure control set approximately 30 metres (100 feet) above the casing shoe with at least 61 metres (200 feet) of cement below the retainer and 30 metres (100 feet) of cement above.

(3) A permanent bridge plug set at the casing shoe and capped with a minimum of 61 metres (200 feet) of cement.

C. *Perforations, junk, fish and collapsed pipe.* A cement plug shall be placed across all production perforations, extending 30 metres (100 feet) below (where possible) and 30 metres (100 feet) above the perforated interval. When using a cement retainer to squeeze cement the perforated interval, it shall be set a minimum of 30 metres (100 feet) above the perforations. Where the hole contains fish, junk or collapsed casing thereby preventing cleanout operations, a cement retainer shall be set at least 30 metres (100 feet) above such point and the interval below the retainer shall be squeezed cemented.

D. *Casing stubs, laps and liners.* No casing shall be cut and recovered without first obtaining the written approval of the Supervisor. A cement plug shall be placed across all casing stubs, laps and liner tops. Such plug shall extend a minimum of 15 metres (50 feet) below and 15 metres (50 feet) above any such stub, lap or liner top.

E. *Casing shoes.* All casing shoes not protected by an inner casing string shall be straddled with a 30-metre (100-foot) cement plug.

F. *Plugging of annular space.* All open annuli extending to the surface shall be filled with cement to the surface.

G. *Surface plug.* A minimum of 15 metres (50 feet), measures from ground level, of neat cement or concrete shall be placed in the innermost casing string which reaches ground level.

H. *Testing of plugs.* The hardness and location of cement plugs placed across perforated intervals and at the top of uncased or open hole shall be verified by setting down with tubing or drill pipe a minimum of 15,000 pounds weight on the plug.

I. *Mud.* Each of the respective intervals of the hole not filled with cement shall be filled with good quality heavy mud.

J. *Surface restoration.* All casing strings shall be cut off at least 2 metres (6 feet) below ground level and capped by welding a steel plate on the casing stub. Cellars, pads, structures and other facilities shall be removed. The surface area shall be restored as specified by the Supervisor in consultation with the appropriate surface management agency.

2. *Temporary abandonment.* An uncompleted drilling well that is to be temporarily abandoned shall be mudded and cemented as required hereinabove for permanent abandonment except for the provisions of sub-

paragraphs F, G, and J of paragraph 1, or as otherwise approved by the Supervisor.

3. *Suspended wells.* The drilling equipment shall not be removed on any geothermal resources well where drilling operations have been suspended, either temporarily or indefinitely, before adequate measures have been taken to close the well and protect the subsurface resources including fresh water aquifers.

REID T. STONE,
Area Geothermal Supervisor.

Approved:

RUSSELL G. WAYLAND,
Chief, Conservation Division.

[FR Doc.74-22565 Filed 9-27-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

CATTLE INDUSTRY ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of section 10 (a) (2) of the Federal Advisory Committee Act (86 Stat. 770), notice is hereby given of a meeting of the Cattle Industry Advisory Committee established July 3, 1974, by Secretary's Memorandum No. 1843. The Committee will meet at the Plaza Inn, 45th & Main, Kansas City, Missouri, on October 17-18, 1974; the meeting will begin at 9:30 a.m. October 17 and is scheduled to end at Noon on October 18.

The purpose of the meeting is to provide advice and counsel for the Secretary of Agriculture on several matters currently of interest and concern to the entire industry and which may affect Department programs and actions. Topics to be discussed are: economic situation and outlook; cattle inventory, production, and related data; market news reports on supplies, prices, and market conditions; marketing margins and price levels; international trade in livestock and meat; importation of breeding cattle; feed grain production and exports; proposed changes in beef grades; and residues in meat.

The meeting is open to the public but space and facilities are limited. To the extent that time permits, the Chairman may invite public participation following Committee consideration of each subject. Also, anyone may submit written statements to the Committee on the subjects discussed, either before or after the meeting. Because of the limited space and facilities, persons who wish to attend the meeting, other than Committee members, should contact Mr. John C. Pierce, Livestock Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; telephone (202) 447-5705.

Dated: September 24, 1974.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.74-22612 Filed 9-27-74;8:45 am]

RAISIN ADVISORY BOARD

Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), notice is given of a meeting of the Raisin Advisory Board at 7:30 p.m., p.d.t., October 4, 1974, in the North Ballroom of the Hilton Hotel, Fresno, California.

The purpose of the meeting is to: Review marketing policy matters for the 1974-75 crop year; consider California's 1974 raisin production; consider the need for volume regulation during the 1974-75 crop year; discuss offering of reserve raisins to handlers for sale in export; make the annual review of payment rates to handlers for services on reserve tonnage raisins; and consider exemption from volume regulation of raisins acquired by California State University, Fresno, California. The meeting will be open to the public.

The Raisin Advisory Board is established under the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

The names of board members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Clyde E. Nef, Manager, Raisin Administrative Committee, 732 North Van Ness, Fresno, California 93720; telephone—209-268-5666.

JOHN C. BLUM,
Associate Administrator.

Dated: September 23, 1974.

[FR Doc.74-22613 Filed 9-27-74;8:45 am]

Rural Electrification Administration

DAIRYLAND POWER COOPERATIVE

Proposed Loan Guarantee

Under the authority of Public Law 93-32 (87 Stat. 65) notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $120,200,000 to Dairyland Power Cooperative (Dairyland) of LaCrosse, Wisconsin. This loan would finance a 70 percent share of a 350 MW steam generating plant to be constructed near Alma, Wisconsin, and the related 161 kV transmission facilities. Northern States Power Company of Minnesota will provide the remaining 30 percent share of funds.

Legally organized lending agencies capable of making, holding and servicing the loans proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds, from Mr. John P. Madgett, Manager, Dairyland Power Cooperative, 2615 East Avenue, South, LaCrosse, Wisconsin 54601.

In order to be considered, proposals must be submitted (within 60 days from the date of this notice) to Mr. Madgett. The right is reserved to give such consideration and make such evaluations or other disposition of all proposals received as Dairyland and REA may deem appropriate. It is presently anticipated that the Federal Financing Bank will provide the $120,200,000.

The Rural Electrification Administration has published a revision of proposed REA Bulletin 20-22 entitled, "Guarantee of Loans for Bulk Power Supply Facilities," which sets forth agency proposed policies and requirements concerning loan guarantees. The text of this proposed revised Bulletin was published for comment in the FEDERAL REGISTER dated January 3, 1974, page 814.

Copies of the proposed revised REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: September 23, 1974.

C. R. BALLARD,
Acting Administrator.

[FR Doc.74-22669 Filed 9-27-74;8:45 am]

Soil Conservation Service

WOLF CREEK WATERSHED PROJECT, OREGON

Notice of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, and Part 1500.13 of Council on Environmental Quality Guidelines (38 FR 20556) August 1, 1973; and Part 650.8 (b) (2,3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; The Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Wolf Creek reservoir and appurtenances, Wolf Creek Watershed Project, Union County, Oregon.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. James W. Mitchell, State Conservationist, Soil Conservation Service, USDA, 1218 SW., Washington Street, Portland, Oregon 97205, has determined that the preparation and review of an environmental impact statement is not needed for the

Wolf Creek reservoir and appurtenances of this project.

The project concerns a plan for watershed protection, flood prevention, irrigation and recreation. The planned works of improvement include conservation land treatment, two multiple purpose reservoirs, pipeline and canal irrigation distribution systems, recreation facilities, and channel clearing and snagging.

Wolf Creek reservoir has been under construction since 1972 and will be completed in 1974. Appurtenant features to the Wolf Creek structure include enlargement of an existing canal, construction of a new distribution ditch, installation of buried irrigation pipeline, clearing and snagging of Wolf Creek below the dam, construction of diversion and water measurement structures, and installation of recreation facilities at Wolf Creek reservoir.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA
1218 SW. Washington St., Portland, Oregon 97205

No administrative action on implementation of the proposal will be taken until October 15, 1974.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: September 20, 1974.

W. B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74-22647 Filed 9-27-74;8:45 am]

DONAHOE CREEK WATERSHED, TEXAS

Notice of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; § 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and § 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Floodwater Retarding Structure Nos. 1, 2, 3, 5, 6, and 10, Donahoe Creek Watershed Project, Bell, Williamson, and Milam Counties, Texas.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Edward E. Thomas, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The action concerns a plan for watershed protection and flood prevention. The planned works of improvement include the installation of six additional floodwater retarding structures.

The environmental assessment file is available for inspection during regular work hours at the following location:

Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501

No administrative action on implementation of the proposal will be taken until October 15, 1974.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: September 18, 1974.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74-22631 Filed 9-27-74;8:45 am]

DEPARTMENT OF COMMERCE

National Bureau of Standards

CENTER FOR BUILDING TECHNOLOGY ADVISORY COMMITTEE

Notice of Public Meeting

Pursuant to the Federal Advisory Committee Act No. 5 U.S.C. App. I, (Supp. II., 1972) notice is hereby given that a public meeting of the Department of Commerce Center for Building Technology Advisory Committee will be held on October 31, 1974, at the National Bureau of Standards, Lecture Room A, Gaithersburg, Maryland. The meeting will convene at 9:30 a.m. and adjourn at 3:30 p.m. The meeting is open to the public.

The purposes of this meeting are to hear the Task Group Recommendations on Environmental Standards, Performance Criteria, Building Regulatory Systems, and Energy, as well as to discuss fire prevention and control in buildings.

Further information concerning this meeting may be obtained by contacting James L. Haecker, Executive Secretary, Center for Building Technology Advisory Committee, Building 226, Room B260, Washington, D.C. 20234. Interested persons may file written statements with the Committee before or after the meeting.

Dated: September 24, 1974.

RICHARD W. ROBERTS,
Director.

[FR Doc.74-22547 Filed 9-27-74;8:45 am]

FEDERAL INFORMATION PROCESSING STANDARDS COORDINATING AND ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. II, 1972), notice is hereby given that the Federal Information Processing Standards Coordinating and Advisory Committee (FIPSCAC) will hold a meeting from 9:00 a.m. to 12:00 noon on Wednesday, October 30, 1974, in Room B-27, Building 225, of the National Bureau of Standards in Gaithersburg, Maryland.

The purpose of the meeting is to review the actions of the Federal Information Processing Standards (FIPS) Task Groups and to consider other matters relating to Federal information processing standards.

The public will be permitted to attend, to file written statements, and, to the extent that time permits, to present oral statements. Persons planning to attend should notify Joseph O. Harrison, Jr., Insititute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (Phone 301-921-3551).

Dated: September 24, 1974.

RICHARD W. ROBERTS,
Director.

[FR Doc.74-22548 Filed 9-27-74;8:45 am]

Office of the Secretary

[Department Administrative Order 208-2; Amdt. 2]

OFFICE OF ADMINISTRATIVE SERVICES AND PROCUREMENT

Delegation of Authority

This order, effective June 1, 1974, further amends the material appearing at 39 FR 6750 of February 22, 1974.

Department Administrative Order 208-2, dated January 2, 1974, is hereby further amended as follows:

SEC. 2. Definitions.

Add paragraph .06

.06 *"Evaluation Board"* means an architect-engineer evaluation board of 3 to 5 members, selected and approved by proper authority, pursuant to the requirements of Federal Procurement Regulations and the provisions of this order, for the purpose of selecting the most qualified architect-engineer firm for contract award.

SEC. 3. Procurement authority of Office of Administrative Services and Procurement.

Add paragraph .03

.03 The Director, Office of Administrative Services and Procurement is hereby designated approving authority for selection of architect-engineer firms for award consideration in accordance with FPR 1-4.1004-4. He shall select an evaluation board chairman as required.

SEC. 4. Procurement authority of operating units.

Add sub-paragraph .02e

e. Provide that the head of a field office, to whom procurement authority is delegated, shall be the approving authority for that field office in the selection of architect-engineer firms for award consideration, in accordance with FPR 1-4.1004-4. He shall select an evaluation board chairman as required.

Effective date: June 1, 1974.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

[FR Doc.74-22630 Filed 9-27-74;8:45 am]

Social and Economic Statistics Administration

CENSUS ADVISORY COMMITTEE ON AGRICULTURE STATISTICS

Notice of Public Meetings

The Census Advisory Committee on Agriculture Statistics will convene on October 24, 1974 at 9:30 a.m. and on October 25, 1974 at 9:25 a.m. The Committee will meet in Room 2113, FB 3, Bureau of the Census, Suitland, Maryland.

This Committee was established in 1962 to advise the Director, Bureau of the Census, concerning the kind of information that should be obtained from respondents; to prepare recommendations regarding the contents of reports and to present the views and needs for data of major agricultural organizations and their members.

The Committee is composed of 19 members appointed by the presidents of the non-profit organizations having representatives on the Committee, and two members from the U.S. Department of Agriculture.

The agenda for the October 24 meeting is: (1) Review of Current Census Bureau activities, (2) Status of the 1974 Census of Agriculture, (3) Report on the Preliminary Survey of Selected Operations, (4) Address Register, (5) Follow-up schedule, (6) Coverage evaluation, (7) Tabulation plans, (8) Agricultural services, and (9) Outlying areas.

The agenda for the October 25 meeting is: (1) Election of officers for 1975, (2) Public relations program, (3) Farm definition, (4) Publication program, and (5) Making the data output available to data users.

A limited number of seats—approximately 15—will be available to the public. A brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Guidance and Control Officer at least three days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact the Committee Guidance and Control Officer, Mr. J. Thomas Breen, Chief, Agriculture Division, Bureau of the Census, Room 2067, FB-3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone 301-763-5230.

Dated: September 24, 1974.

VINCENT P. BARABBA,
Director, Bureau of the Census, Social and Economic Statistics Administration.

[FR Doc.74-22550 Filed 9-27-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CONTROLLED SUBSTANCES ADVISORY COMMITTEE

Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, of the Controlled Substances Advisory Committee for an additional period of 2 years beyond September 27, 1974.

Authority for this committee will expire September 27, 1976, unless the Secretary formally determines that continuance is in the public interest.

Dated: September 24, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-22575 Filed 9-27-74;8:45 am]

PANEL ON REVIEW OF SEDATIVE, TRANQUILIZER, AND SLEEP AID DRUGS

Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, of the Panel on Review of Sedative, Tranquilizer, and Sleep Aid Drugs for an additional period of 2 years beyond September 19, 1974.

Authority for this committee will expire September 19, 1976, unless the Secretary formally determines that continuance is in the public interest.

Dated: September 24, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74-22576 Filed 9-27-74;8:45 am]

[DESI 11374; Docket No. FDC-D-702; NDA 90-484]

VAGINAL SUPPOSITORIES CONTAINING TYROTHRICIN AND PHENYLMERCURIC ACETATE

Drugs for Human Use; Drug Efficacy Study Implementation Follow-Up Notice

The National Academy of Sciences-National Research Council, Drug Efficacy Study Group evaluated the effectiveness of the drug product described below, found the drug to be less than effective, and submitted its report to the Commissioner of Food and Drugs. Copies of that report have previously been made publicly available and are on display at the office of the Food and Drug Administration's Hearing Clerk. After reviewing the Academy's report and the available data and information, the Commissioner concluded that the drug is less than effective and, in a notice published in the FEDERAL REGISTER of October 24, 1970 (35 FR 16606), announced his conclusion that the drug is possibly effective for certain labeled indications and lacking substantial evidence of effectiveness for its other indications:

Neo-Vagisol Vaginal Suppositories containing tyrothricin, phenylmercuric acetate, succinic acid, papain, sodium lauryl sulfate, and lactose; Dorsey Laboratories, Division of Sandoz-Wander, Inc., N.E. U.S. 6 and Interstate 80, Lincoln, NE 68501 (NDA 90-484).

No data concerning this drug product were received in response to the notice.

The following drugs, which also contain tyrothricin and phenylmercuric acetate and which, in the absence of a regulation providing for certification, have been released, were not reviewed by the Academy:

Trinalis Supprettes containing tyrothricin, aminacrine hydrochloride, phenylmercuric acetate, urea, polysorbate 80, and lactose (NDA 50-064); and Trinalis-HC Supprettes containing hydrocortisone acetate, tyrothricin, phenylmercuric acetate, aminacrine hydrochloride, urea, polysorbate 80, and lactose (NDA 50-071); Webcon Pharmaceuticals Division of Alcon Laboratories, 3580 Air Park St., Memphis, TN 38113.

Pursuant to the announcement of October 24, 1970, Alcon conducted studies on reformulations of these combination products in which urea and aminacrine hydrochloride were omitted. The two revised formulations were compared in a double-blind study to each other and to a placebo composed of the base ingredients only, for treatment of several kinds of vaginitis. Of 229 patients enrolled in the study, 203 completed the course of therapy; 71 were treated with Trinalis (reformulated), 69 with Trinalis-HC (reformulated) and 63 were given placebo. Each of these three groups was divided among five disease categories; e.g., there were 16 subject in the trichomonas vaginalis group treated with Trinalis, 18 treated with Trinalis-HC, and 18 in the placebo group. Similar small groups were treated for candida albicans and for hemophilus vaginalis. These are small numbers of subjects from which to derive meaningful conclusions, and the study did not show a statistically significant (i.e., P greater than 0.05) advantage of the combination over placebo or of Trinalis-HC over Trinalis by the firm's own calculations.

This study thus does not provide evidence that either Trinalis or Trinalis-HC is effective in the treatment of vaginitis. The issue of whether they meet the requirements for combination drugs, as set forth in 21 CFR 3.86 is thus not reached. If the combinations were shown to be effective it would still be necessary for Trinalis to show that both tyrothricin and phenylmercuric acetate contribute to the effect, and for Trinalis-HC to show that the hydrocortisone contributes to the effect.

Even if the cure rates had been significantly greater than placebo, the ability of these combinations to cure less than half the population treated for a condition like candidiasis, in which cure rates of 70-90 percent can be expected, must be considered, along with the potential toxicity of mercury-containing compounds and the fact that mercury is readily absorbed from the vagina, in making a benefit-risk assessment. The substantial amount of mercury present

in both preparations raises a potential safety issue, inasmuch as alternative therapy is available which is at least as effective.

On the basis of all of the data and information available to him, the Commissioner of Food and Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357) and 21 CFR Part 430, 21 CFR 314.111(a)(5), and 21 CFR 3.86 demonstrating the effectiveness of any of these combination drugs. Therefore, the Commissioner concludes that these drug products, for which no certification regulation exists, are no longer eligible for release.

Any person who will be adversely affected by this action may, on or before October 30, 1974, petition for the issuance of a regulation providing for certification of the drugs for such indications. The petition must be supported by a full factual and well-documented medical analysis which shows reasonable grounds for the issuance of such regulation.

A petition for issuance of said regulation should be filed (preferably in quintuplicate) with the Hearing Clerk (HFC–20), Food and Drug Administraton Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–1051, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 24, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–22572 Filed 9–27–74;8:45 am]

Office of Education

HEALTH AND NUTRITION PROGRAM

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 808 of title VIII, of the Elementary and Secondary Education Act (20 U.S.C. 887a), applications are being accepted from local educational agencies and under exceptional circumstances from nonprofit educational organizations for grants for demonstration projects to improve school health and nutrition services for children from low-income families.

Applications must be received by the U.S. Office of Education Application Control Center on or before November 25, 1974.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW, Washington, D.C. 20202, Attention: 13.523. An application sent by mail will be considered to be received on time by the Application Control Center if:

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

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

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Office for Health and Nutrition Programs, Room 2043, Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202.

D. *Applicable regulations and criteria.* The general fiscal and administrative provisions published in the FEDERAL REGISTER on November 6, 1973 at 38 FR 30654 (45 CFR 100a) are applicable to these grants. Criteria which will be used in determining the selection and funding of grant awards for this program were published in the FEDERAL REGISTER on March 19, 1974 at 39 FR 10257, as part of the notice of proposed rulemaking. It is expected that the criteria will take effect subsequent to their republication as part of the final regulations. Due to time constraints, preapplications will not be invited for grants funded in FY 1975.

(20 U.S.C. 887a)

(Catalog of Federal Domestic Assistance 13.523; School Health and Nutrition Services for Children from Low-Income Families)

Dated: September 23, 1974.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.74–22549 Filed 9–27–74;8:45 am]

SPECIAL PROJECT GRANTS

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 505 of Title V–A of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 865), applications are being accepted for special project grants to State educational agencies and public regional interstate commissions or agencies.

Applications must be received by the U.S. Office of Education Application Control Center on or before November 8, 1974.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW, Washington, D.C. 20202, Attention: 13.485. An application sent by mail will be considered to be received on time by the Application Control Center if:

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

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

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW, Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Division of State Assistance, Bureau of School Systems, Office of Education, Room 3010, 7th and D Streets, SW, Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a published in the FEDERAL REGISTER on November 6, 1973 at 38 FR 30654 and regulations governing Federal Financial Assistance for Strengthening State Departments of Education (45 CFR Part 119). Funding criteria for section 505 grants appear in the Office of Education General Provisions Regulations at 45 CFR 100a.26 and in the language of section 505.

(20 U.S.C. 865)

(Catalog of Federal Domestic Assistance Number 13.485; Strengthening State Departments of Education—Grants for Special Projects)

Dated: September 23, 1974.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.74–22546 Filed 9–27–74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-233; FDAA-448-DR]

LOUISIANA

Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on September 23, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Louisiana resulting from Hurricane Carmen beginning about September 6, 1974, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Louisiana.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Joe D. Winkle, HUD Region VI, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Louisiana to have been adversely affected by this declared major disaster:

The Parishes of:

Iberia	St. Landry
Jefferson (Wards 6 & 11	St. Martin
Lafayette	St. Mary
Lafourche	Terrebonne
Plaquemines	Vermilion

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Dated: September 23, 1974.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.74-22607 Filed 9-27-74;8:45 am]

Office of Assistant Secretary for Equal Opportunity

[Docket No. N-74-250]

FAIR HOUSING PROBLEMS OF SPANISH-SPEAKING AMERICANS

Notice of Public Meeting

Pursuant to § 106.3 of the Department of Housing and Urban Development regulations establishing procedures for the scheduling of fair housing public meetings (24 CFR 106.3; 37 FR 24420 (11-17-72)), notice is hereby given of a public fact-finding meeting to be conducted by the Assistant Secretary for Equal Opportunity. The subject of the meeting will be Fair Housing Problems of the Spanish-Speaking Americans within the parameters of Title VIII of the 1968 Civil Rights Act, which proscribes discrimination in the sale, rental, financing, provision of brokerage services, and advertising, pertaining to the sale or rental of housing, because of race, color, religion, national origin, or sex.

The meeting will be divided into three one-day sessions; the first session will be held in Tampa, Florida, on Friday, November 1, 1974, beginning at 9:00 a.m. in the Riverside Ball Room A, Riverside Hilton Inn, 200 Ashley Drive at West Kennedy Blvd., Tampa, Florida 23602.

The second session will be held in New York City, on Monday, November 18, 1974, beginning at 9:00 a.m. in Room 305, 26 Federal Plaza, New York, New York; and the third session held in Dallas, Texas, on Wednesday, December 11, 1974, beginning at 9:00 a.m., in the Federal Building, 114 Commerce Street, Room 1701, Dallas, Texas 75201.

Attendance is open to the interested public, but limited to the space available. To the extent that time permits the Presiding Officer will allow public presentation of oral statements at the meeting. Any member of the public may file a written statement with the Office of Equal Opportunity, U.S. Department of Housing and Urban Development, before, during, or after the meeting.

For further information concerning this meeting contact Dr. Gloria E. A. Toote, Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Attention: Mr. Kenneth F. Holbert, 451 7th Street SW., Washington, D.C. 20410.

Dated at Washington, D.C., September 23, 1974.

GLORIA E. A. TOOTE,
Assistant Secretary for Equal Opportunity.

[FR Doc.74-22606 Filed 9-27-74;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON REGULATORY GUIDES

Change of Meeting Agenda

SEPTEMBER 25, 1974.

The public portion of the Advisory Committee on Reactor Safeguards' Subcommittee Meeting on Regulatory Guides, scheduled to discuss Regulatory Guide 1.79, "Preoperational Testing of Emergency Core Cooling Systems for Pressurized Water Reactors," between the hours of 8:30 a.m. and 10:45 a.m. on October 9, 1974, has been cancelled. The notice of this meeting was published at 39 FR 34090, September 23, 1974. The closed portion of the meeting, scheduled to start at approximately 10:45 a.m. to discuss the remainder of the regulatory guides on the agenda, will take place at the same location and will start at 9:00 a.m.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-22690 Filed 9-27-74;8:45 am]

[Docket Nos. 50-440 and 50-441]

CLEVELAND ELECTRIC ILLUMINATING COMPANY, ET AL. (PERRY NUCLEAR POWER PLANT, UNITS 1 AND 2)

Assignment of Members of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for these proceedings:

Richard S. Salzman, Chairman
William C. Parler, Member
Dr. W. Reed Johnson, Member

Dated: September 23, 1974.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.74-22608 Filed 9-27-74;8:45 am]

ROCKWELL INTERNATIONAL CORP.

[Docket No. 50-147]

Notice of Intent To Issue Order Authorizing Dismantling of Facility

By application dated July 16, 1974, Rockwell International Corporation requested authorization to dismantle the Fast Critical Experimental Laboratory (FCEL) reactor in accordance with its dismantling plan. Operation of the facility has been discontinued and all fuel has been removed and shipped from the site.

The Commission has reviewed the application in accordance with the provisions of the Commission's regulations and has found that the dismantling and disposal of component parts will be accomplished in accordance with the regulations in 10 CFR Ch. I, and the application, and will not be inimical to the common defense and security or to the health and safety of the public.

Accordingly, an appropriate order will be issued after October 17, 1974 authorizing Rockwell International to dismantle the FCEL facility covered by Facility License No. CX-17, as amended.

Dated at Bethesda, Maryland, this 25th day of September, 1974.

For the Atomic Energy Commission.

KARL R. GOLLER,
Assistant Director for Operating Reactors, Directorate of Licensing.

[FR Doc. 74-22689 Filed 9-27-74;8:45 am]

[Construction Permit Nos. 81 and 82]

CONSUMERS POWER CO. (MIDLAND PLANT, UNITS 1 AND 2)

Assignment of Members of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for these proceedings:

Richard S. Salzman, Chairman
Michael C. Farrar, Member
Dr. Lawrence R. Quarles, Member

Dated: September 24, 1974.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.74-22652 Filed 9-27-74;8:45 am]

[Docket Nos. 50-424, 50-425, 50-426, 50-427]

GEORGIA POWER CO.

Order Cancelling Units 3 and 4 of the Vogtle Facility

SEPTEMBER 24, 1974.

The applicant recently notified us that it has cancelled Units 3 and 4 of the Vogtle facility and, in addition, has suspended further construction of Units 1 and 2 pending its determination as to whether those units should be deferred or cancelled. In view of this development, our September 11, 1974 order, which calendared this proceeding for oral argument on October 4, 1974, is vacated.

We will expect the applicant to advise us promptly when it has decided whether it wishes to proceed with Units 1 and 2. Upon receipt of that advice, we will reschedule the oral argument or take such other action as may appear warranted in the then presented circumstances. In the interim, our sua sponte review of the June 27, 1974 initial decision of the Licensing Board will be held in abeyance.

It is so ordered.

For the Atomic Safety and Licensing Appeal Board.[1]

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.74-22651 Filed 9-27-74;8:45 am]

[Docket Nos. 50-434 and 50-435]

VIRGINIA ELECTRIC AND POWER CO. (SURRY POWER STATION, UNITS 3 AND 4)

Assignment of Members of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Saftey and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for these proceedings:

Michael C. Farrar, Chairman
Dr. John H. Buck, Member
Richard S. Salzman, Member

Dated: September 23, 1974.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.74-22653 Filed 9-27-74;8:45 am]

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[1] Alan S. Rosenthal, Chairman; Dr. John H. Buck, member; Dr. W. Reed Johnson, member.

HANFORD WASTE MANAGEMENT OPERATIONS

Issuance of Draft Environmental Impact Statement and Scheduling of Public Hearing and Announcement of Hearing Procedures

Notice is hereby given that the General Manager of the Atomic Energy Commission (AEC) issued on September 27, 1974 a draft environmental impact statement, "Waste Management Operations, Hanford Reservation, Richland, Washington" WASH 1538, pursuant to 10 CFR Part 11—AEC regulations implementing the National Environmental Policy Act of 1969 (NEPA). Copies of the draft statement will be available for public inspection at the following locations:

AEC Public Document Room, 1717 H Street, NW., Washington, D.C.

Albuquerque Operations Office, Kirtland Airforce Base East, Albuquerque, New Mexico.

Chicago Operations Office, 9500 South Cass Avenue, Argonne, Illinois.

Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.

Oak Ridge Operations Office, Federal Building, Oak Ridge, Tennessee.

Richland Operations Office, Federal Building, Richland, Washington.

San Francisco Operations Office, 1333 Broadway, Oakland, California.

Savannah River Operations Office, Savannah River Plant, Aiken, South Carolina.

Comments and views concerning the draft statement and the Hanford waste management program are requested from interested individuals, organizations and governmental agencies. Comments and views received by the AEC by close of business on November 26, 1974, will receive careful consideration in the preparation of the final environmental impact statement. Single copies of the draft statement will be furnished for review and comment upon request addressed to the Office of the Assistant General Manager for Biomedical and Environmental Research and Safety Programs, U.S. Atomic Energy Commission, Washington, D.C. 20545. Comments should be sent to the same address. As comments are received copies will be made available for public inspection at the AEC Public Document Room, 1717 H Street, NW., Washington, D.C., the Richland Operations Office, Federal Building, Richland, Washington and the other locations indicated in the first paragraph of this notice.

Notice is also given that the AEC will conduct a public hearing in connection with the draft statement and the Hanford Waste Management program starting at 10:00 a.m. on December 10, 1974, in the auditorium of the Federal Building in Richland, Washington.

The purpose of the hearing is to afford further opportunity for public comment regarding the draft statement and for the furnishing of any additional information which will assist the Commission in determining the future of the waste management program at Hanford.

The public hearing will be legislative rather than adjudicatory in nature. Formal discovery, subpoena of witnesses, cross-examination of witnesses and similar formal procedures appropriate to a trial-type hearing will not be provided. The hearing will be conducted by a Presiding Board composed of three members who will be designated in a further notice in the FEDERAL REGISTER. Procedures to be followed in the hearing are as follows:

Persons, organizations or governmental agencies are encouraged to become full participants in the proceeding by filing with the Secretary of the Commission not later than the close of business on December 2, 1974, a notice of intention to participate. The notice shall set forth: (1) The name and address of the participant; (2) the nature of the participant's interest in the proceeding, or his organizational affiliation; (3) the text of any statements to be presented at the hearing, or a reasonably detailed summary thereof; (4) the names and address of all witnesses to be produced at the hearing by the participant and a summary of the substance of the proposed testimony; and (5) the amount of time desired to complete the presentation. The Presiding Board will endeavor to schedule the full amount of time requested by full participants (those who file a timely notice) subject to the imposition of such reasonable time limits as maybe consistent with orderly procedures and as will assure other full participants a meaningful opportunity to present their views.

Persons, organizations, or governmental agencies wishing to participate but who do not file a timely notice as specified herein, may notify the Secretary of the Commission before the hearing or the Presiding Board during the hearing of their desire to make a presentation. Such parties shall be admitted as "limited participants" and shall be heard at such times as the Presiding Board shall permit for a period of not more than fifteen (15) minutes each, unless the Presiding Board, in its discretion, allows additional time.

Copies of notices of intention to participate will be made available for inspection by the public in the AEC Public Document Room, 1717 H Street, NW., Washington, D.C., in the Richland Operations Office, Federal Building, Richland, Washington and in the other locations indicated in the first paragraph of this notice, as soon after receipt by the AEC as practicable.

The Presiding Board may permit participants (a) in the course of their presentations, to request other participants, witnesses or AEC spokesmen to respond to specific questions, or (b) to submit written questions to the Presiding Board, which will, in its discretion, make provision for the answering of such questions as it deems appropriate.

Participants may, but need not, be represented by counsel. Participants and their counsel will reference and produce, on request of the Presiding Board, the documents on which they rely.

The AEC will make available appropriate witnesses to explain the background and purpose of the Hanford Waste Management Program and the contents of the draft environmental statement and to respond to appropriate questions.

Two members of the Presiding Board will constitute a quorum, if one of the members is the Chairman.

The Presiding Board may require participants or witnesses to present their testimony under oath. Consistent with the full and true disclosure of the facts, duplicative, redundant, irrelevant, or otherwise unproductive testimony will not be permitted and the Presiding Board will impose suitable restrictions to that end. The Presiding Board is authorized to take appropriate action to control the course of the hearing, including authority to maintain order; rule on offers of, and receive, evidence; dispose of procedural requests or similar matters; allocate among participants the time available for presentations; provide for consolidation of presentations as appropriate; examine witnesses; and hold conferences before or during the hearing for the purpose of delineating contested issues or for other purposes within the authority of the Presiding Board.

A transcript of the hearing will be made and a copy of the transcript, together with copies of all documents presented at the hearing, will constitute the record of the hearing. The record will be placed in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., at the Richland Operations Office, Federal Building, Richland, Washington and at the other locations indicated in the first paragraph of this notice, where it will be available for inspection by members of the public.

After the conclusion of the hearing, the Presiding Board, without rendering any decision or making any recommendations, will forward the record of the hearing to the Commission together with its identification of issues raised at the hearing. These documents will be considered by the AEC staff in the preparation of the final impact statement and by the Commission in its determinations concerning the future of the Hanford Waste Management Program.

Dated at Washington, D.C., this 25th day of September 1974.

GORDON M. GRANT,
Acting Secretary of the Commission.

[FR Doc.74-22691 Filed 9-27-74;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON PERRY NUCLEAR POWER PLANT, UNITS 1 AND 2

Cancellation of Meeting

SEPTEMBER 26, 1974.

The October 1, 1974 meeting of the Advisory Committee on Reactor Safeguards' Subcommittee on Perry Nuclear Power Plant, Units 1 and 2, has been cancelled. The original notice was published on September 11, 1974, 39 FR 32774.

JOHN C. RYAN,
Advisory Committee Management Officer.

[FR Doc.74-22798 Filed 9-27-74;10:27 am]

CIVIL AERONAUTICS BOARD

[Docket 23080-2; Order 74-9-83]

PRIORITY AND NONPRIORITY DOMESTIC SERVICE MAIL RATES; PHASE 2

Order Reclassifying Stations

SEPTEMBER 24, 1974.

Issued under delegated authority.

Order 74-6-84, dated June 14, 1974, and effective May 25, 1974, classified the stations for the purposes of the multielement service mail rate formulas applicable to the transportation of sack mail and for standard and daylight container mail. Upon review of the revenue tons enplaned by stations for the year ended March 31, 1974, the Board finds that certain stations require reclassification.

The multielement service mail rate formulas,[1] which were designed to provide a uniform rate of pay for like mail service, are comprised of a linehaul rate and a terminal charge which varies by class of station.[2] These are applicable to both sack and container mail.

The orders fixing the multielement service mail rates provide for the reclassification of stations, without disturbing the overall rate structure, when the revenue tons enplaned at the stations in question bring such stations within a different class.

Pursuant to authority duly delgated by the Board in the Board's Regulations, 14 CFR 385.16(c); it is found that:

1. The present classification of stations should be amended, based on the volume of on-line revenue tons enplaned during the year ended March 31, 1974,[3] to bring certain stations within the new classifications shown in the Appendix[4] hereto.

2. Such reclassifications should be made effective October 12, 1974, which date will be the first day of the next 28-day U.S. Postal Service Accounting Period.

3. In view of the foregoing, the lists of stations included in Appendix No. 2 attached to Order 74-5-82, as amended in Order 74-6-84, for the station classes should be amended to reflect the new classifications designated herein.

Accordingly, pursuant to the delegated authority referred to above,

It is ordered, That:

1. Effective October 12, 1974, the stations included in each of the station classes should be as specified in the Appendix attached hereto, provided that any station not listed in the Appendix shall be classified as a Class Z station;

2. Effective October 12, 1974, the Appendix No. 2 attached to Order 74-5-82, as amended in Order 74-6-84, shall be superseded by the Appendix attached hereto; and

3. This order be served upon all parties in Docket 23080-2.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within seven days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order shall be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc. 74-22659 Filed 9-27-74; 8:45 am]

[1] Orders 74-1-89, January 16, 1974, and 74-7-91, July 19, 1974, fixed temporary service mail rates for sack mail and for standard and daylight container mail, effective on and after March 28, 1973.

[2] As set forth in Order 74-5-82, May 16, 1974, and incorporated by reference in Order 74-6-84, the standards for station classification are as follows:

Class of stations:	*Total revenue tons enplaned per year*
X	27,000 and over.
Y	5,400 to 26,999.
Z	5,399 or less.

[3] Traffic data for 12 months ended March 31, 1974, cover the most recent 12-month period for which an official compilation is available.

[4] Appendix filed as part of original document.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN SOCIALIST REPUBLIC OF ROMANIA

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 26, 1974.

On January 4, 1974, there was published in the FEDERAL REGISTER (39 FR 1101) a letter dated December 27, 1973 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products, produced or manufactured in the Socialist Republic of Romania, and exported to the United States during the twelve-month period beginning January 1, 1974. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to paragraph 4 of the Bilateral Cotton Textile Agreement of December 30, 1970 between the Governments of the United States and the Socialist Republic of Romania, which provides that within the aggregate limit, limits on certain categories may be exceeded by not more than five (5) percent.

Accordingly, at the request of the Government of the Socialist Republic of Romania and pursuant to the provision of the bilateral agreement referred to above, there is published below a letter of September 26, 1974 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commis-

sioner of Customs, amending the level of restraint applicable to cotton textile products in Category 47 for the twelve-month period which began on January 1, 1974.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

SEPTEMBER 26, 1974.

DEAR MR. COMMISSIONER: On December 27, 1973, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning January 1, 1974 of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in the Socialist Republic of Romania, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Pursuant to paragraph 4 of the Bilateral Cotton Textile Agreement of December 31, 1970 between the Governments of the United States and the Socialist Republic of Romania, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to amend, effective as soon as possible and for the twelve-month period beginning January 1, 1974, the level of restraint established for Category 47 in the aforesaid directive of December 27, 1973 to 49,308 dozen.[2]

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of cotton textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74-22692 Filed 9-27-74;8:45 am]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of December 31, 1970 between the Governments of the United States and the Socialist Republic of Romania which provide, in part, that within the aggregate, limits on certain categories may be exceeded by not more than five percent; for limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements.

[2] This level has not been adjusted to reflect any entries made on or after January 1, 1974.

ENVIRONMENTAL PROTECTION AGENCY

[OPP—32000/117; (FRL 268-3)]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street SW., Washington, D.C. 20460.

On or before November 29, 1974, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after November 29, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 3862-UI. A.B.C. Compounding Co., Inc., PO Box 932, Atlanta GA 30301. RID MOSQUITO LARVAECIDE. Active Ingredients: Coal Tar Neutral Oils 59%; Soap 17%; Phenol 14%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 18972-E. Beaver Sales & Services, 2320 W. Meighan Blvd., Gadsden AL 35904. BEAVER PINE ODOR 6 DISINFECTANTS. Active Ingredients: Isopropanol 4.75%; Pine oil 3.95%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 1.97%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 18972-L. Beaver Sales & Services, 2320 W. Meighan Blvd., Gadsden AL 35904. BEAVER LEMON ODOR 15 DISINFECTANTS. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.0%; Isopropanol 2.0%; Essential Oils 0.5%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 475-RIO. Boyle-Midway Inc., South Ave. & Hale St., Crunford NJ 07016. WASH TO WASH LIQUID COLD WATER WASH ODOR GUARDS CLOTHES! Active Ingredients: 5-chloro-2-(2,4-dichlorophenoxy)phenol 0.68%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9232-RE. Federal International Chemicals, 1191 S. Wheeling Rd., Wheeling IL 60090. CONQUEST CITRUS FRAGRANCE. Active Ingredients: Methyldodecylbenzyl Trimethyl Ammonium Chlorides 3.2%; Potassium Carbonate 1.5%; n-alkyl (50% C12, 30% C14, 17% C16, 3% C18) Dimethyl Ethylbenzyl Ammonium Chlorides 1%; n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 1%; Didecyl Dimethyl Ammonium Chloride 1%; Tetrasodium Ethylenediaminetetraacetate 1%; Methyldodecylxylylene Bis (Trimethyl Ammonium Chloride) 0.8%; Essential Oil 0.2%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 12690-G. Hunt and Co., Inc., 1121 Willowbrook Dr., Greensboro NC 27043. MAINLINE DISINFECTANT, CLEANER AND DEODORANT WITH PLEASANT LEMON SCENT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.00%; Isopropanol 1.00%; Trisodium phosphate 0.50%; Sodium metasilicate 0.50%; Essential oils 0.25%; Ethylenediamine tetraacetic acid, tetrasodium salt 0.20%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 4822-128. S. C. Johnson & Son, Inc., 1525 Howe St., Racine WI 53403. JOHNSON'S KNOCK-OUT LIQUID BACTERICIDE #1. Active Ingredients: Tris (hydroxymethyl) nitromethane 50%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34250-R. LRC Research & Development Co., 1703 Concord Pike, Wilmington DE 19803. DEFEND-DENT. Active Ingredients: Lithium Hypochlorite 10.9%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11800-I. Midwest Agricultural Warehouse Co., 200 S. Main, Fremont NB 68025. CLEAN CROP HEPTACHLOR SEED PROTECTANT AND LUBRICANT. Active Ingredients: Heptachlorotetrahydro-4,7-methanoidene (Heptachlor) 25.00%; Related compounds 9.27%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 6020-RE. Mom Chemical Co., 7775 NW 66th St., Miami FL 33166.

X-CELL ALGICIDE. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 3624-59. Nova Products, Inc., PO Box 5086, Kansas City KS 66119. NOVA METHOXYCHLOR 25-WE. Active Ingredients: Methoxychlor, Technical 25%; Heavy Aromatic Naphtha 61%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. S. B. Penick & Co., 100 Church St., New York NY 10007. SBP-1382 CONCENTRAT 40. Active Ingredients: (5-Benzyl-3-furyl) methyl2,2 - dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 40.00%; Related compounds 5.45%; Aromatic petroleum hydrocarbons 52.95%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 335-ERE. Pennwalt Corp., Pennswim Dept., Three Parkway, Philadelphia PA 19102. PENNSWIM POOL-CLOR CONCENTRATED CHLORINE NO. 2. Active Ingredients: Sodium Dichloro-s-Triazinetrione Dihydrate (Sodium Dichloroisocyanurate Dihydride) 100%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 8047-GT. Polychem, Inc., 3005 37th St., Metairie LA 70121. POLYCHEM ACID CLEANER SANITIZER. Active Ingredients: Alkyl (C12 40%, C14 50%, C16 10%) dimethyl benzyl ammonium chloride 10%; Phosphoric acid 30%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10290-RT. Professional Chemical Co., 4517 Yale St., Houston TX 77018. PROFESSIONAL DIAZINON INSECT SPRAY LAWN AND GARDEN INSECT CONTROL. Active Ingredients: O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 25%; Aromatic Petroleum Derivative Solvent 55%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11978-L. Spies Chemical, 632 N. Ridgewood Ave., Daytona Beach FL 32014. SPIES HOSPITAL DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 10.00%; Isopropanol 5.00%; Essential Oils 1.25%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 25023-G. Warner-Lambert Co., 170 Tabor Rd., Morris Plains NJ 07950. LISTERSOFT BACTERIA CONTROL FABRIC SOFTENER CONCENTRATE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 6837-UA. Wilmar, Inc., PO Box 3111, Charlotte NC 28203. STERIMINT MINT ODOR DISINFECTANT-DEODORANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 10.00%; Isopropanol 10.00%; Methyl salicylate 2.50%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 6837-UG. Wilmar, Inc., PO Box 3111, Charlotte NC 28203. STERILEMON LEMON ODOR DISINFECTANT-DEODORANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 20.00%; Isopropanol 10.00%; Essential oils 2.50%. Method of Support: Application proceeds under 2(b) of interim policy.

Dated: September 19, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-22312 Filed 9-27-74;8:45 am]

[FRL 271-3]

ENVIRONMENTAL ASSESSMENT REQUIREMENTS

New Source Discharge Permit Applicants

Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-190, 42 U.S.C. 4321 et seq.) (hereafter "NEPA"), implemented by Executive Order 11514 (35 FR 4247) and the Council on Environmental Quality Guidelines of August 1, 1973, (33 FR 20550), requires that Federal agencies prepare detailed environmental statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The objective of NEPA is to build into the agency decision-making process an appropriate and careful consideration of all environmental aspects of proposed actions.

Section 511(c)(1) of the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500, 33 U.S.C. 1251 et seq.) (hereafter "the Act") provides that NEPA applies to the issuance of a permit under section 402 of the Act for the discharge of any pollutant by a new source.

The Environmental Protection Agency is hereby informing all applicants and potential applicants for a U.S. EPA permit to discharge as a new source, that they should request a preapplication conference with the Regional Administrator of the EPA Region wherein they propose to discharge. The purpose of the preapplication conference is to discuss the types of information that applicants must submit in their environmental assessments. The applicant's environmental assessment will provide the necessary information for EPA to decide whether an environmental impact statement must be prepared by the Agency. For the purposes of providing an adequate environmental review of the proposed issuance of a new source permit, the Agency requests that potential applicants request a preapplication conference a minimum of 24 months prior to the initiation of the discharge. Applicants for a permit to discharge as a new source to be issued by a State need not consult with a Regional Administrator of the U.S. Environmental Protection Agency.

Regulations are presently being developed which are to be published in the FEDERAL REGISTER, that will establish Agency procedures for the new source discharge permit NEPA program. A list of addresses for the 10 EPA Regional Administrators and the states in which they have Agency responsibility follows.

Dated: September 20, 1974.

JOHN QUARLES,
Acting Administrator.

EPA REGIONAL ADMINISTRATORS

Region	Regional Administrator	States of Jurisdiction
I	Mr. John A. S. McGlennon, JFK Federal Building, Boston, Mass. 02203.	Connecticut, Maine, Rhode Island, Massachusetts, New Hampshire, Vermont.
II	Mr. Gerald Hansler, 26 Federal Plaza, New York, N.Y. 10007.	New Jersey, New York, Puerto Rico, Virgin Islands.
III	Mr. Daniel Snyder, Curtis Building, 6th Floor, 6th and Walnut St., Philadelphia, Pa. 19106.	Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.
IV	Mr. Jack Ravan, 1421 Peachtree St. NE., Atlanta, Ga. 30309.	Alabama, Georgia, Florida, Kentucky, North Carolina, South Carolina, Tennessee, Mississippi.
V	Mr. Francis Mayo, 1 North Wacker Dr., Chicago, Ill. 60606.	Illinois, Indiana, Ohio, Michigan, Minnesota, Wisconsin.
VI	Mr. Arthur Busch, 1600 Patterson St., Dallas, Tex. 75201.	Arkansas, Louisiana, Texas, New Mexico, Oklahoma.
VII	Mr. Jerome J. Svore, 1735 Baltimore Ave., Kansas City, Mo. 64108.	Iowa, Kansas, Nebraska, Missouri.
VIII	Mr. John A. Green, 1860 Lincoln St., Denver, Colo. 80203.	Colorado, Montana, Utah, North Dakota, South Dakota, Wyoming.
IX	Mr. Paul DeFalco, Jr., 100 California St., San Francisco, Calif. 94111.	Arizona, California, Nevada, Hawaii, American Samoa, Guam, trust territories of Pacific Islands, Wake Island.
X	Dr. Clifford V. Smith, 1200 6th Ave., Seattle, Wash. 98101.	Alaska, Idaho, Oregon, Washington.

[FR Doc.74-22543 Filed 9-27-74;8:45 am]

[FRL 270-7]

NATIONAL AIR POLLUTION MANPOWER DEVELOPMENT ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that the National Air Pollution Manpower Development Advisory Committee Meeting will be held October 26-27, 1974 in Spokane, Washington. The meeting will begin at 9:00 a.m., October 26 in Conference Room 302 of the Ridgepath Hotel in Spokane.

The Committee will be primarily concerned with review of the training grant and fellowship programs and the current status of manpower development and training programs in air pollution control.

The meeting will be open to the public. Any member of the public wishing to attend or participate should contact Mr. Ronnie E. Townsend, Executive Secretary, National Air Pollution Manpower Development Advisory Committee, Research Triangle Park, North Carolina (919) 549-8411, extension 2492.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

SEPTEMBER 24, 1974.

[FR Doc.74-22544 Filed 9-27-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 720]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

SEPTEMBER 23, 1974.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20407–C2–P–74, Contact of Texas (KRS639). C.P. to change antenna system operating on 152.24 MHz located at Commanche Peak, El Paso, Texas.

20193–CD–P/ML–75, Calumet Radio Dispatch (KSC649). C.P. to change antenna system and replace transmitter operating on 152.09 MHz located at 115 West 11th St., Michigan City, Indiana.

20378–CD–TC–(2)–75, Com-Nav, Inc. dba Radio Telephone of Maine. Consent to Transfer of Control from Reginald C. Williams & Mary E. Williams, Transferors, to Arthur R. Tilley dba Radio Telephone of Maine, Transferee. Stations: KQZ780 and KRS712, East Holden, Maine.

20379–CD–P–(8)–75, South Central Bell Telephone Company (KKG415). C.P. to change antenna system operating on 152.51 & 152.63 MHz and for additional facilities to operate on 152.64 MHz at Loc. #1: 2.5 miles NW. of Haughton, Louisiana; and for additional facilities to operate on 454.375, 454.500, & 454.650 MHz to be located at a new site described as Loc. #2: 602 Crockett Street, Shreveport, Louisiana.

20380–CD–TC–75, Athens Radio Corporation. Consent to Transfer of Control from Estate of Floyd N. Cummings & Nancy M. Cummings, Transferors, to James J. Kennedy and Dale E. Rice, Transferees. Station: KSV994, Athens, New York.

20381–CD–P–(3)–75, Two-Way Radio of Carolina, Inc. (KUA277). C.P. to change antenna system and relocate facilities operating on 152.12 MHz, base, and relocate facilities operating on 459.30 MHz, repeater at Loc. #1: Youngs Mountain, 10 miles NE., Salisbury, North Carolina; and Change antenna system operating on 454.30 MHz, control, at Loc. #2: 112 S. Tryon Street, Charlotte, North Carolina.

20382–CD–P–75, Ranch Radio, Inc. (KLB324). C.P. for additional facilities to operate on 152.21 MHz located 1 mile North of El Campo, Texas.

20383–CD–P–75, Massachusetts-Connecticut Mobile Telephone Company (KQZ747). C.P. to add antenna Loc. #10 to operate on 158.70 MHz to be located at Horse Mountain, Northampton, Massachusetts.

20384–CD–P–75, Hendricks Telephone Corporation (new). C.P. for a new 1-way station to operate on 158.10 MHz to be located ¼ mile W. of Hwy. 236, 4 miles NW. of Danville, Indiana.

20385–CD–P–(3)–75, General Communications Service, Inc. (KKG565). C.P. to change frequency from 152.15 MHz to 152.21 MHz at Loc. #5: South Mountain, 2 miles SSE. of Courthouse, Big Spring, Texas; change antenna system and replace transmitter operating on 152.15 MHz and for additional facilities to operate on 152.09 MHz at Loc. #1: U.S. Highway 80, approximately 2 miles SW. of Midland, Texas.

20386–CD–P–(4)–75, Marie Hanson dba Sanderson Communications Company (new). C.P. for a new 2-way station to operate on 152.18 MHz, base, and 72.16 MHz, repeater at Loc. #1: Big Canyon Ranch, 12 miles North of Sanderson, Texas; 152.12 MHz, base at Loc. #2: U.S. #90, 11 miles West of Longfellow, Texas; and control facilities operating on 75.62 MHz at Loc. #3: 705 3rd Street, Sanderson, Texas.

20387–CD–P–75, Airsignal of Colorado, Inc. (KAA276). C.P. to change antenna system, replace transmitter and relocate facilities operating on 152.18 MHz at Loc. #2: 1616 Glenarm Place Security Life Building, Denver, Colorado.

20388–CD–P–75, Minnesota Communications Corporation (KUC949). C.P. for additional facilities to operate on 35.58 MHz located at 332 Minnesota Street, St. Paul, Minnesota.

20389–CD–P–75, Airsignal International, Inc. (KIF653). C.P. for additional facilities to operate on 35.22 MHz at a new site Loc. #4: Germantown and Macon Roads, Memphis, Tennessee.

20390–CD–P–(3)–75, Vegas Instant Page (new). C.P. for a new 2-way station to operate on 454.025, 454.050, and 454.125 MHz to be located at 3111 Belair Drive, Las Vegas, Nevada.

20391–CD–P–75, Answer Iowa, Inc. (KAF252). C.P. to change antenna system and relocate facilities operating on 152.15 MHz to be located at 1.86 miles NE. of City Limits of Muscatine, Iowa.

MAJOR AMENDMENTS

2984–C2–P–69, Westchester Mobilfone System, Inc. (new), White Plains, New York. Amend to change location from Lat. 41°04'16" N., Long. 73°47'23" W. to Lat. 41°02'07" N., Long. 73°45'53" W., operating on 152.24 MHz. All other particulars to remain as reported on PN #416 dated December 2, 1968.

7423–C2–P–73, Merle Demerly dba Batavia Radio-Page. Amend to change the base frequency to 454.175 MHz. All other particulars to remain as reported on PN #644 dated April 16, 1973.

CORRECTIONS

2636–C2–P–72, Miami Valley Radiotelephone (KLF577). Delete Major Amendment entry of September 9, 1974. Change previously listed under corrections, on PN #710 dated July 22, 1974.

7450–C2–P–73, King Communications, Inc. Application should have been listed as an additional channel to KSV935. All other particulars to remain the same as reported on PN #644 dated April 16, 1974.

20362–CD–P–(2)–75, Tel-Car, Inc. (KLF594). Correct to add control facilities to operate on 454.300 MHz at Loc. #3: ½ mile East of Meridian, Idaho. All other particulars remain as reported on PN #719 dated 9/16/74.

INFORMATIVE

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding Ex Parte presentations by reason of economic competition or potential electrical interference.

20213–C2–P–(2)–74, Mobile Telephone Company of New Jersey (new), Barnegat, New Jersey.
20505–C2–P–(3)–74, Radio Dispatch Company (new), Lakewood, New Jersey.
Frequencies: 454.250 and 454.275 MHz.

* * * * *

20214–C2–P–(2)–74, Mobile Telephone Co. of New Jersey (new), Egg Harbor City, New Jersey.
20506–C2–P–(6)–74, Radio Broadcasting Company (new), Atlantic City, New Jersey.
Frequency: 454.200 MHz.

* * * * *

20506–C2–P–(6)–74, Radio Broadcasting Company (new), Atlantic City, New Jersey.
20807–C2–P–(4)–74, Radiofone Corporation of New Jersey (KEJ886), Beachwood, New Jersey.
Frequencies: 454.125, 454.325, 454.350 MHz.
20808–C2–P–(6)–74, Radiofone Corporation of New Jersey (KEC744), Atlantic City, New Jersey.
Frequencies: 454.125, 454.225, 454.325, 454.350 MHz.

* * * * *

Westchester Mobilfone System, Inc. (KEA 274), File Nos. 20323–C2–P–(2)–74, 20262–C2–P–(2)–74, and 25834–C2–R–74 (Renewal).
Messages By Radio, Inc. (KEA200), 21425–C2–P–74.
Frequencies: 152.06 and 152.15 MHz.

POINT-TO-POINT MICROWAVE RADIO SERVICE

682–CF–P–75, South Central Bell Telephone Company (KYC48), 0.5 Mile South of Frankfort, Kentucky. Lat. 38°11'04" N., Long. 84°51'03" W. C.P. to change alarm center location and add 4090V MHz toward a new point of communication at Mt. Eden, Ky., on azimuth 240°53'.
683–CF–P–75, Same (WJM47), 0.7 Mile East of Mt. Eden, Kentucky. Lat. 38°03'25" N.,

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

Long. 85°08'22' W. C.P. to add 3810V and 4050V MHz toward Mackville, Ky., on azimuth 169°20'; 3730V MHz toward a new point of communication at East Frankfort, Ky., on azimuth 60°42'.

684–CF–P–75, Same (WJM48), 0.7 Mile North of Mackville, Kentucky. Lat. 37°44'48'' N., Long. 85°03'57'' W. C.P. to add 3850H and 4090H MHz toward Danville, Ky., on azimuth 113°47'; 3770V and 3850V MHz toward Mt. Eden, Ky., on azimuth 349°23'.

685–CF–P–75, Same (KJK51), 216 South Fourth Street, Danville, Kentucky. Lat. 37°38'38'' N., Long. 84°46'25'' W. C.P. to add 3730H and 3810H MHz toward Mackville, Ky., on azimuth 293°58'.

686–CF–P–75, Southern Bell Telephone and Telegraph Company (KIO59), 405 13th Street, Columbus, Georgia. Lat. 32°28'15'' N., Long. 84°59'15'' W. C.P. to add 4150H MHz toward Phenix City, Ala., on azimuth 327°00'.

639–CF–MP–75, Eastern Microwave, Inc. (KEM59), Sentinel Heights, New York. Lat. 42°56'40'' N., Long. 76°07'08'' W. Mod. of C.P. (9989–C1–P–73) — (a) to relocate North Syracuse, New York, receive site to Lat. 43°09'08'' N., Long. 76°08'05'' W., and (b) to change azimuth toward North Syracuse to 356°48'.

640–CF–MP–75, Eastern Microwave, Inc. (KEM59), Sentinel Heights, New York. Lat. 42°56'40'' N., Long. 76°07'08'' W. Mod. of C.P. (3747–C1–P–67)—(a) to relocate North Syracuse, New York, receive site to Lat. 43°09'08'' N., Long. 76°08'05'' W., and (b) to change azimuth toward North Syracuse to 356°48'.

680–CF–P–75, United Wehco, Inc. (KEV59), 1.9 Miles NW. of Camden, Arkansas. Lat. 33°36'06'' N., Long. 92°51'31'' W. C.P. to add (reinstate) freqs. 6226.9V and 6286.2V MHz toward El Dorado, Ark., on azimuth 153°56'.

689–CF–TC–(3)–75, Laredo Microwave, Inc. Consent to Transfer of Control from UA-Columbia Cablevision, Inc., Tranferor, to Micro-Cable Communications Corp., Transferee, for Stations: KLH77, Miguel, Texas; KLH78, Cotulla, Texas, and KLH79, Hilltop, Texas.

4507–C1–P–74, Midwestern Relay Company WLJ51), 3.0 Miles SSE. of DePere, Wisconsin. Lat. 44°24'30'' N., Long. 87°59'57'' W. Application amended to extent of withdrawing previous amendment to increase output power. See Public Notice dated September 16, 1974.

Applications filed pursuant to section 214 of the Communications Act of 1934, as amended:

TELEPHONE WIRE FACILITIES

W–P–C–174, East Texas Transmission. Informal. (Section 63.03). To supplement channels currently authorized, three one-way 15 KHz audio channels will be installed between College Mound, Texas, and Tyler, Texas; and 4 one-way 15 KHz audio channels will be installed between Tyler, Texas, and Goodman Mountain, Texas.

W–P–C–175, New Jersey Bell Telephone Company and The Bell Telephone Company of Pennsylvania. Informal. (Section 63.03). To construct and operate 135 4KHz telecommunications channels between Trenton, New Jersey, and Tullytown, Pennsylvania.

W–P–C–176, New Jersey Bell Telephone Company and New York Telephone Company. Informal. (Section 63.03). To construct and operate 240 equivalent 4KHz telecommunications channels between various locations in New Jersey and New York.

[FR Doc.74–22627 Filed 9–27–74;8:45 am]

REGIONAL MEETING IN CHICAGO FOR FIVE-STATE AREA

SEPTEMBER 23, 1974.

The Federal Communications Commission will hold a Regional Meeting in Chicago on October 30 for members of the public and on October 31 for broadcasters from the five-state area of Illinois, Ohio, Indiana, Michigan, and Wisconsin.

Chairman Richard E. Wiley has stated that after the success of the first experimental meeting of this type in Atlanta in May, it is his desire to expand the series, and continue regional meetings at key locations throughout the country.

As the Chairman pledged in March, he plans to take government to the people where they live, work, look and listen, and believes that these open and informal conferences will lead to better understanding, better regulation and better and more responsive broadcasting.

The Chicago meeting will be held in two sessions. On Wednesday, October 30, starting at 6:30 p.m., the Commission will hold an open forum in which members of the public from the five-state area can exchange views with Chairman Wiley, Commissioners Charlotte T. Reid and Benjamin L. Hooks, and key members of the FCC staff. All facets of broadcasting and related subjects will be open for discussion. The open forum will be in the Williford Room of the Conrad Hilton Hotel on South Michigan Avenue in Chicago.

The following afternoon, Thursday, October 31, the meeting for licensees from the five states will meet at the Hyatt Regency O'Hare Hotel at 1 p.m. Afternoon and early evening sessions will present three workshops involving full discussion of the Commission's technical and operational rules and policies with staff experts.

Personal meetings will be possible during the afternoon with Chairman Wiley, Commissioners Reid and Hooks, and Broadcast Bureau Chief Wallace Johnson. From 8 to 10 p.m., and informal general meeting and question-and-answer session will be held.

The Wednesday meeting with the public also will be open to licensees, and the public will be welcome to the licensees' meeting on Thursday—both on a "seats-available" basis.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.74–22628 Filed 9–27–74;8:45 am]

FEDERAL MARITIME COMMISSION

NACIREMA OPERATING CO., INC., ET AL.

Notice of 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 October 10, 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.

Nacirema Operating Company, Inc. and Japan Line Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; Yamashita-Shinnihon Steamship Co., Ltd.

Agreement No. T–2693–1, between Nacirema Operating Company, Inc., and Japan Line Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha and Yamashita-Shinnihon Steamship Co., Ltd. (the Lines) amends the parties' basic container terminal service agreement. The purpose of the amendment is to provide for an extension of the agreement for one year from October 23, 1974, and to grant the Lines the right to extend the agreement for another year under the same terms and conditions.

By Order of the Federal Maritime Commission.

Dated: September 24, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–22654 Filed 9–27–74;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RP74–82, RP74–81]

COLUMBIA GAS TRANSMISSION CORP. AND COLUMBIA GULF TRANSMISSION CO.

Order Granting Late Intervention

SEPTEMBER 24, 1974.

On July 23, 1974, Pennsylvania Gas and Water Company (Penn Gas) filed a petition to intervene in the above-captioned dockets. Columbia Gulf Transmission Company (Columbia Gulf) and Columbia Gas Transmission Corporation

(Columbia Gas) tendered their filings in these dockets on April 15, 1974. The filings were noticed by the Commission on April 24, 1974. In support of its petition to intervene Penn Gas states that it purchases a portion of its natural gas supply from Columbia Gas which, in turn, purchases gas from Columbia Gulf. Penn Gas further states that it only recently realized it had not intervened in these proceedings.

The Commission finds:

Participation by Penn Gas in these proceedings may be in the public interest and good cause exists for permitting such intervention.

The Commission orders:

(A) The above named petitioner is hereby permitted to intervene in this proceeding as hereinbefore discussed, subject to the rules and regulations of the Commission; *Provided, however*, that the participation of such intervenor shall be limited to matters affecting rights and interests specifically set forth in the petition to intervene; *Provided, further*, that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-22592 Filed 9-27-74;8:45 am]

[Docket No. RP75-1]

FLORIDA GAS TRANSMISSION CO.

Order Permitting Interventions

SEPTEMBER 23, 1974.

Timely petitions to intervene in the above-entitled proceeding have been filed by Sun Oil Company, Peoples Gas System, Inc., Florida Public Utilities Company, Gainesville Gas Company, and Gardinier, Inc. These interventions will be granted.

Untimely petitions to intervene were filed by Florida Power and Light Company, Florida Power Corporation, and Southern Gas Company. While these petitions were not timely filed, nevertheless participation of the petitioners in this proceeding may be in the public interest, and such petitions will therefore also be granted.

The Commission orders:

(A) The above-named petitioners are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however*, that the participation of such interveners shall be limited to matters affecting asserted rights and interests specifically set forth in said petitions for leave to intervene; and *Provided, further*, that the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-22591 Filed 9-27-74;8:45 am]

[Docket No. E-8911]

GULF POWER CO.

Order Permitting Interventions

SEPTEMBER 23, 1974.

Timely petitions to intervene in the above-entitled proceeding have been filed by Gulf Coast Electric Cooperative, Inc.; Choctawhatchee Electric Cooperative, Inc.; West Florida Electric Cooperative, Association, Inc.; Escambia River Electric Cooperative, Inc.; and Florida Public Utilities Company. Good cause exists to grant the petitions to intervene.

The Commission orders:

(A) The above-named petitioners are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such interveners shall be limited to matters affecting asserted rights and interests specifically set forth in said petitions for leave to intervene; and *Provided, further*, That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-22598 Filed 9-27-74;8:45 am]

[Docket Nos. RI74-167, CI74-362]

J-W OPERATING CO.

Findings and Order After Hearing Granting Petition for Special Relief, Issuing Certificate of Public Convenience and Necessity, and Accepting Rate Schedule for Filing

SEPTEMBER 19, 1974.

On January 10, 1974, J-W Operating Company (J-W) filed in Docket No. RI74-167 a Notice of Independent Producer Rate Change Filing proposing a rate increase from the applicable Texas Gulf Coast Area Rate of 25 cents per Mcf to 45 cents per Mcf pursuant to a contract amendment dated December 14, 1973, with the purchaser, Texas Eastern Transmission Corporation (Texas Eastern). By letter dated February 22, 1974, J-W requested that the Commission consider its notice as a petition for special relief pursuant to § 2.76 of the Commission's general policy statement.

Simultaneously with the filing of its rate increase notice, J-W submitted on January 10, 1974, in Docket No. CI74-382 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity which would authorize J-W to partially succeed to the interests of Mobil Oil Corporation (Mobil) in a sale to Texas Eastern in Provident City Field, Lavaca County, Texas. By assignment dated December 11, 1973, to be effective on November 15, 1973, Mobil assigned to United Oil & Gas Company and Mr. J. C. West, with J-W as operator, all rights between the surface and a depth of 9,221 feet below the Eloise Suttle Lease. Such lease is subject to a gas sales agreement between Mobil and Texas Eastern dated November 26, 1971, which is on file with the Commission as Mobil's FPC Gas Rate Schedule No. 492.

Notice of the J-W filing was issued on March 6, 1974, and appeared in the FEDERAL REGISTER on March 13, 1974, at 39 FR 9707. Pursuant to Commission order issued April 29, 1974, the Public Service Commission of the State of New York (NYPSC) was granted leave to intervene in these proceedings.

On June 11, 1974, a hearing was conducted in these proceedings pursuant to Commission order issued April 29, 1974. The evidence adduced by J-W at the hearing shows that at the time J-W acquired the Eloise Suttle lease there was no production from the single well located on the property. Exhibit 1 indicates that J-W has expended approximately $75,000 in reworking the well and has developed approximately 21,000 Mcf of new recoverable gas reserves through its work over program. Following the submission of this evidence, NYPSC and the Commission Staff indicated that they do not oppose J-W's request for special relief.

Section 2.76 was adopted by the Commission "* * * in order to promote the optimum recovery of gas reserves * * *" We find that J-W's request for special relief is consistent with the purposes of § 2.76 and sets forth adequate economic justification for approval.

The Commission finds:

(1) Applicant, J-W Operating Company, is engaged, or will be engaged, in the sale for resale of natural gas in interstate commerce subject to the jurisdiction of the Commission and is, therefore, a "natural gas company" within the meaning of the Natural Gas Act.

(2) The sale of natural gas hereinbefore described, as more fully described in the application in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sale by Applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, is subject to the requirements of Subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the

service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sale of natural gas by Applicant is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the contract submitted by Applicant should be accepted for filing as its FPC gas rate schedule.

(6) Good cause exists for waiving § 154.109(f) of the Commission's regulations and the Applicant's petition for special relief should be granted.

The Commission orders:

(A) A certificate of public convenience and necessity is issued in Docket No. CI74–382 to be effective as of the date of the assignment on November 15, 1973, upon the terms and conditions of this order authorizing the sale by Applicant of natural gas in interstate commerce for resale for ultimate public consumption, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the application in this proceeding.

(B) The certificate issued herein is not transferable and shall be effective only so long as Applicant continues the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the rules, regulations, and orders of the Commission.

(C) The grant of the certificate issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Applicant. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings relating to the operation of any price or related provisions in the gas purchase contract herein involved. The grant of the certificate herein for service to the particular customer involved shall not imply approval of all of the terms of the contract, particularly as to the cessation of service upon termination of said contract, as provided by section 7(b) of the Natural Gas Act. The grant of the certificate herein shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sale of natural gas subject to said certificate.

(D) For the reasons stated above the petition for special relief of J-W Operating Company is hereby granted at a total effective rate of 45 cents per Mcf. J-W Operating Company's related FPC Gas Rate Schedule No. 2 described below is accepted for filing effective the date of initial delivery.

Description and date of instrument	FPC GRS No.	Supplement No.
Contract Nov. 25, 1971	2	
Assignment Dec. 11, 1973	2	1
Amendment Dec. 14, 1973	2	2
Notice of change	2	3

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–22596 Filed 9–27–74;8:45 am]

[Docket No. E–8615]

LOUISIANA POWER AND LIGHT CO.

Filing of Settlement Agreement

SEPTEMBER 23, 1974.

Take notice that on September 16, 1974, Louisiana Power and Light Company (LP&L) tendered for filing a settlement agreement between LP&L and Cajun Electric Power Cooperative, Inc. (Cajun) and a motion for Commission approval of this agreement.

In its motion LP&L states that the Settlement Agreement represents a negotiated dollar settlement with respect to LP&L's wholesale rates for service to Cajun. The Settlement Agreement provides for a total annual revenue increase of $3,999,000 based on a projected year 1974. The agreement also provides that certain provisions in LP&L's contracts which were made the subject of a section 206 investigation by order issued April 12, 1974, would be omitted or deleted from any agreements between LP&L and Cajun, and that LP&L agrees to request the FPC not to permit any increased rates filed after September 14, 1974, to become collectable before March 14, 1977.

The Commission Staff was informed of the terms and conditions of the Settlement Agreement but did not join in the agreement. Copies of this agreement are on file with the Commission and are available for public inspection. Any person desiring to comment upon matters contained in this agreement should file such comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 16, 1974.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–22595 Filed 9–27–74;8:45 am]

[Docket No. E–8615]

LOUISIANA POWER AND LIGHT CO.

Extension of Procedural Dates

SEPTEMBER 23, 1974.

On September 3, 1974, Louisiana Power and Light Company filed a motion to defer the procedural dates fixed by order issued April 12, 1974, as modified by notice issued July 23, 1974, in the above designated matter. The delay was requested to allow the Commission time to consider the settlement agreement submitted by the parties on September 16, 1974.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of intervenor's evidence	Oct. 21, 1974
Service of rebuttal evidence by Louisiana Power and Light Co.	Nov. 4, 1974
Hearing	Nov. 19, 1974 (10:00 a.m., e.d.t.)

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74–22600 Filed 9–27–74;8:45 am]

[Docket No. E–7625]

MISSISSIPPI POWER CO.

Order Accepting for Filing and Approving Revised Tariff Sheets

SEPTEMBER 23, 1974.

On October 29, 1973, as supplemented on March 22, 1974, Mississippi Power Company filed in the above-entitled proceeding certain revised sheets to its FPC Electric Tariff, Original Volume No. 1.[1] The revised tariff sheets were filed by Mississippi in compliance with the Commission's Opinion and Order No. 665 issued in this docket September 27, 1973.

Insofar as tariff terms, conditions, and rates are concerned, the revised tariff sheets, as filed, appear fully in compliance with Opinion No. 665, and are not contested by the customer-intervenors. East Mississippi Electric Power Association, however, does object to the fact that the tariff is proposed to be made applicable to service provided by Mississippi to East Mississippi at the latter's Meridian and Quitman, Mississippi delivery points. East Mississippi contends that the underlying contracts governing service at Meridian and Quitman, which contracts are on file as Mississippi's FPC rate schedule Nos. 27 and 28, remain in force, and that the higher tariff rate approved in Opinion 665 cannot be applied to them until the expiration of two years' written notice occurs on December 21, 1974. Mississippi contends that the two contracts have been properly cancelled upon six months' written notice, and that therefore the tariff rate should apply.

The above-referenced contract termination issue was raised by East Mississippi in its brief on exceptions to the initial decision of the Presiding Law Judge issued in this proceeding on October 6, 1972. The Commission, however, in Opinion 665, refused to pass on the issue as being premature. (50 FPC 893). The matter is now properly before us for decision.

The pertinent facts concerning the dispute between the parties are as follows.

On June 21, 1973, Mississippi filed to convert the service provided at East Mississippi's Quitman delivery point from

[1] First Revised Sheet Nos. 3, 4, 9, 11, 12, 13, and 14; Second Revised Sheet No. 10; First Revised Sheet 10A–Appendix A.

rate schedule 28 to the tariff rate, based on Mississippi's claim of cancellation of rate schedule 28 on June 27, 1973. On October 16, 1973, Mississippi filed to convert the service provided at the Meridian delivery point from rate schedule 27 to the tariff, based on its claim of cancellation of rate schedule 27 on October 12, 1973. Public notice of the above filings was issued on November 23, 1973, providing for the filing of protests on or before December 28, 1973. On December 28, 1973, East Mississippi filed a protest to Mississippi's attempt to apply its tariff to the sales in question. Mississippi answered the protest on January 22, 1974.

East Mississippi argues that the subject contracts on file as rate schedules 27 and 28 can be terminated only upon two years' written notice. Mississippi contends that only six months' written notice is required. It is not disputed that Mississippi did provide East Mississippi with written notice of its intention to terminate the subject contracts. Such notice was contained in letters from Mississippi to East Mississippi dated December 21, 1972, proposing to terminate rate schedule 27 as of October 12, 1973, and rate schedule 28 as of June 27, 1973. If Mississippi is correct that six months' written notice is sufficient, then pursuant to the notice given, rate schedules 27 and 28 must be considered terminated. If East Mississippi is correct that two years' notice is required, then rate schedules 27 and 28 must be permitted to remain in force until December 21, 1974, two years following notice of termination. The sole question before us, therefore, is whether Mississippi was required to give six months' or two years' notice. Based on a review of rate schedules 27 and 28, amendments thereto, the pleadings, and other documents of record, including relevant correspondence between the parties concerning the contracts in question, we find that the notice requirement is six months and not two years. Mississippi's termination of the said contracts is therefore valid and its proposed revised tariff sheets, as filed on October 29, 1973 and March 22, 1974, should be accepted for filing and approved.

The original contract contained in rate schedule No. 27 is dated December 10, 1951, and was filed with the Commission on June 20, 1956. The original contract contained in rate schedule 28 is dated March 3, 1948, and was also filed on June 20, 1956. Although sections 18 of the two contracts, as originally executed, captioned "Term of Agreement", have slightly different language, they both provide that following the initial five year term such contracts may be terminated by giving at least six months' written notice. Both rate schedules 27 and 28 represent Mississippi's then-applicable rate schedule designated "MRA-8". Commencing in 1955, Mississippi negotiated with its wholesale customers a new rate schedule designated "MRA-9". The MRA-9 rate schedule provided for two years' written notice of termination rather than the 6 months' notice required under MRA-8. While Mississippi's other wholesale customers accepted and executed new contracts incorporating rate schedule MRA-9, East Mississippi consistently refused to do so.[2] As a result, Mississippi agreed to provide service to East Mississippi at the new MRA-9 rate, but specifically provided that in all other respects the terms and provisions of rate schedules 27 and 28 would remain applicable.[3] It is clearly documented beyond any reasonable doubt that both Mississippi and East Mississippi intended, understood, and agreed that rate schedules 27 and 28 would remain in full force effect with the single exception that the MRA-9 rate would be substituted in place of the former MRA-8 rate. We so find. It follows that the six months' termination provision contained in rate schedules 27 and 28 is controlling.

Accordingly, rate schedules 27 and 28 are found and declared to be terminated as of October 12, 1973, and June 27, 1973, respectively, and the approved tariff shall be applicable to these sales from and after the dates of termination as proposed by Mississippi.

The Commission orders:

(A) The revised tariff sheets filed herein by Mississippi Power Company on October 29, 1973, as supplemented on March 22, 1974, are hereby accepted for filing, approved, and made effective.

(B) The protest filed on December 28, 1973, by East Mississippi; the response thereto including exhibits filed by Mississippi on January 22, 1974; and the filing made by East Mississippi on July 11, 1973, together with attachments, are all hereby incorporated and made a part of the record in this proceeding.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-22599 Filed 9-27-74;8:45 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY TASK FORCE ON CONSERVATION AND FUEL SUPPLY

Order Designating Additional Member

SEPTEMBER 24, 1974.

The Federal Power Commission, by order issued September 9, 1974, established the National Power Survey Technical Advisory Committee on Conservation of Energy Task Force on Conservation and Fuel Supply.

2. *Membership.* An additional member of the Technical Advisory Committee on Conservation of Energy Task Force on Conservation and Fuel Supply, as selected by the Chairman of the Commission, with the approval of the Commission is as follows:

Mr. Robert Van Ness, Manager of Environmental Affairs, Louisville Gas and Electric Company.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-22594 Filed 9-27-74;8:45 am]

[Docket No. CP70-162]

TRANSWESTERN PIPELINE CO.

Order Granting Interventions, Establishing Procedural Dates and Fixing Date for Formal Hearing

SEPTEMBER 23, 1974.

On June 20, 1974, Transwestern Pipeline Company (Transwestern) filed in Docket No. CP70-162 a petition to amend a certificate issued by the Commission pursuant to section 7(c) of the Natural Gas Act on May 19, 1970. Under the original authorization, Transwestern was authorized to construct and operate approximately 10 miles of 20-inch lateral line to provide up to 350,000 Mcf per day of alternate emergency fuel to the Mohave electric power generating plant in Clark County, Nevada.

Transwestern requests amendment of the original certificate to authorize the delivery, by use of said 20-inch pipeline, of up to 10,400 Mcf of gas per day to Southern California Edison Company (Edison) at the existing delivery point on the Arizona-Nevada border. Such volumes would normally be delivered by Transwestern to Pacific Lighting Service Company (Pacific). In support of its petition to amend, Transwestern alleges that the overall gas supply to Pacific's customers in Southern California will be unaffected, because if Pacific releases gas for delivery by Transwestern to Edison, Edison will direct Atlantic Richfield to simultaneously deliver an equal volume of gas to Pacific.

Transwestern states that from time to time the volumes of available alternate emergency gas at the Mohave power plant are insufficient for ignition of coal and for other incidental plant uses. Under terms of a February 21, 1974, agreement among Transwestern, Edison (the operator of the Mohave Power Plant), and Pacific, Edison may request that Pacific relinquish up to 10,400 Mcf of gas per day which would otherwise be delivered to Pacific by Transwestern, and Transwestern shall deliver any volumes so relinquished by Pacific to Edison for coal fuel at the Mohave plant.

After due notice by publication in the FEDERAL REGISTER on July 16, 1974 (39 FR 26067) petitions to intervent in support of the application were filed by Southern California Edison Company,[1] and by joint petition of Southern California Gas Company and Pacific Lighting Service Company.[1]

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[2] Attachment designated as Exhibits 2 and 5 to Mississippi's Response to Protest filed January 22, 1974.

[3] Attachment designated as Exhibits 3 and 6 to Mississippi's Response to Protest filed January 22, 1974.

[1] This petition was filed out of time.

Additionally, petitions to intervene were filed by the City of San Diego,[1] and by San Diego Gas and Electric Company requesting the Commission to hold a hearing on Transwestern's application to determine if the possible diversion of up to 3.8 Bcf of gas to Edison for use in its Mohave Plant is in the best interests of the firm customers of Southern California Gas Company (SoCal) an affiliate of the Pacific Lighting Group of Companies. These petitions also allege that the heating value level of the gas that Edison proposes to substitute may be lower than the gas delivered by Transwestern to Pacific for resale to SoCal and, therefore, that this proposal may not be in the best interest of the Southern California consumers. Finally, these petitions state that Transwestern's proposal may affect the environment, increase the cost of electric generation in the Los Angeles Basin Area and influence gas supplies available for firm customers in California.

In addition to the above-mentioned petitions to intervene, notice of intervention was filed by the People of the State of California and the Public Utilities Commission of the State of California.

Having reviewed the subject application and the intervening petitions, we believe that there are legal and factual issues that require an evidentiary record to be developed to determine whether Applicants proposal is or will be required by the present or future public convenience and necessity. Therefore, we are setting this application for formal public hearing.

The Commission finds:

(1) It is necessary and appropriate that the proceeding in Docket No. CP70–162 be set for formal hearing.

(2) Participation by the late petitioners will not delay the instant proceeding and therefore good cause exists for accepting their late petitions to intervene.

(3) Participation by the hereinbefore said petitioners may be in the public interest.

The Commission orders:

(A) Pursuant to the provisions of the Natural Gas Act particularly, Sections 7 and 15 thereof, a formal hearing shall be convened in Docket No. CP70–162 in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on November 5, 1974, at 10:00 a.m. (EDT). The Presiding Administrative Law Judge for the purpose—See Delegation of Authority 18 CFR 3.5d)—shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

(B) The direct case of Transwestern Pipeline Company and any supporting intervenors shall be filed and served on all parties of record, including the Commission Staff on or before October 11, 1974. Following the conclusion of cross-examination thereon, the Presiding Law Judge shall set such dates as are reasonable for the submission of answering and rebuttal cases, if any.

(C) The aforesaid petitioners are permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* that participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the said petitions to intervene; and *Provided, further,* that the admission of such interveners shall not be construed as recognition by the Commission that they or any one of them might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74–22597 Filed 9–27–74;8:45 am]

TRUNKLINE GAS CO.

[Docket Nos. RP72–23, RP73–35]

Order on Rehearing Amending Prior Order

SEPTEMBER 24, 1974.

On August 30, 1974 Trunkline Gas Company (Trunkline) filed an application for rehearing of the Commission's order issued in these proceedings on July 31, 1974. The July 31, 1974, order suspended for one day Trunkline's proposed rate increase filing of June 14, 1974 and permitted it to become effective, subject to refund, on August 2, 1974. Trunkline's June 14, 1974 filing proposed a revised tariff sheet[1] reflecting additional advance payments to producers, increases in the current cost of purchased gas, and recovery of deferred purchased gas costs.

The suspension of Trunkline's rate increase was based on the fact that the proposed rates included therein have not been shown to be just and reasonable. That portion of the proposed rate increase which is based on advance payments to producers was not shown to be reasonable and appropriate in that it may be in excess of costs for exploration, development and production incurred by the producers involved within a reasonable time from the date such amounts are to be included in Trunkline's rate base. The portion of the proposed rate increase reflecting increases in purchased gas and the recovery of deferred purchased gas costs includes amount purchased pursuant to our Order No. 491[2] regarding emergency purchases. Because that order is presently the subject of court action[3] it was deemed appropriate to include those amounts in our suspension order subject to refund.

In its application for rehearing Trunkline points out that with respect to the proposed increase attributable to purchased gas adjustment (PGA) costs, only .58¢ per Mcf of the 3.04¢ per Mcf relates to emergency purchases, and the remaining 2.46¢ per Mcf does not relate to emergency purchases. Trunkline contends that the refund obligation directed by the Commission in its July 31, 1974 order should be limited to that portion of the filing relating to advance payments and emergency gas purchases and that the Commission should permit the portion of the PGA filing not associated with such purchases to become effective without refund obligation.

Trunkline's position is well taken and is consistent with recent Commission orders suspending, with refund obligations, the portion of rate increase filings associated with emergency purchases and permitting to go into effect, without refund obligation, the portion of a PGA rate adjustment reflecting purchased gas costs other than those related to small producers or emergency purchases.[4] Trunkline's request for relief will therefore be granted.

The Commission orders:

(A) Within 15 days from the date of this order, Trunkline shall file substitute revised tariff sheets incorporating that portion of its PGA rate adjustment reflecting increased purchased gas costs other than those related to small producers or emergency purchases, to be effective August 1, 1974 without refund obligation.

(B) In all other respects, the order of July 31, 1974, shall remain in full force and effect.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74–22593 Filed 9–27–74; 8:45 am]

[1] Substitute Ninth Revised Sheet No. 3A to Original Volume No. 1.

[2] Issued September 14, 1973.

[3] Consumer Federation of America v. FPC, CADC, Docket No. 73–2009, petition filed September 21, 1973.

[4] Tennessee Gas Pipeline Company, Docket Nos. RP73–114, et al., issued August 9, 1974; Texas Eastern Transmission Corporation, Docket No. RP72–98, issued August 23, 1974.

FEDERAL RESERVE SYSTEM

FIRST BANCGROUP-ALABAMA, INC.

Order Approving Acquisition of Bank

First Bancgroup-Alabama, Inc., Mobile, Alabama, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to Farmers and Merchants Bank, Foley, Alabama ("Bank"). The bank into which Bank is to be merged has no significance except as a means of acquiring the voting shares of Bank. Accordingly, the proposed acquisition of the shares of the successor is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application affording opportunity for interested persons to submit comments and views has been given in accordance with section 3(b) of the Act. The Federal Reserve Bank of Atlanta has considered the application and comments received in light of the factors

set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fifth largest banking organization in Alabama, controls two banks with aggregate deposits of $339.6 million or 4.4 percent of deposits in all commercial banks of the State. (All banking data are as of December 31, 1973, and reflect acquisitions and formations approved through August 1, 1974.) Acquisition of Bank would increase Applicant's share of Alabama commercial bank deposits by less than one percent and would not change Applicant's rank in size. No undue concentration of banking resources in Alabama would result.

The relevant market is the southern one-fourth of Baldwin County, Alabama, which adjoins the Mobile banking market. Three banks have total deposits of $32.7 million in this market. Bank holds deposits of $17.9 million, or 54.74 percent of commercial bank deposits in this market, while the second largest bank holds deposits of $13 million or 39.76 percent of commercial bank deposits in this market. Applicant would be unlikely to enter this market de novo as per capita total deposits, population per bank, and personal income per bank office are significantly lower in this market than in the State. Applicant's closest subsidiary bank is located in Mobile, 38 miles from Bank. There is no significant present competition between Bank and Applicant's closest subsidiary bank; future competition is possible between Bank and Applicant's closest subsidiary as Bank is capable of branching into a portion of the subsidiary's banking market. On balance, however, the acquisition would have no significant anti-competitive effects.

The financial condition and managerial resources of Applicant, its subsidiaries, and Bank are considered generally satisfactory. Applicant has committed itself to adding equity capital to Bank. Banking factors are consistent with approval.

There is no evidence that the banking needs of the community are not being served; however, Applicant plans to open two new branches and to increase Bank's low loan-to-deposit ratio through expansion of consumer loans, mortgage loans and loans to commercial and agricultural interests. Therefore, considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application. It is this Federal Reserve Bank's judgment that consummation of the proposed acquisition is in the public interest and that the acquisition should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, unless the period described in (b) is extended for good cause by the Board, or by this Federal Reserve Bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Atlanta acting under delegated authority for the Board of Governors of the Federal Reserve System, effective September 17, 1974.

[SEAL] MONROE KIMBREL,
President.

[FR Doc.74-22637 Filed 9-27-74;8:45 am]

FIRST FINANCIAL CORP.

Order Approving Acquisition of Bank

First Financial Corporation, Tampa, Florida, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 51 percent or more of the voting shares of First Bank of Marco Island, Marco Island, Florida ("Bank").

Notice of the application affording opportunity for interested persons to submit comments and views has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and this Federal Reserve Bank has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the seventh largest banking organization in Florida, controls 17 banks, existing and approved, which have deposits of $1,051 million or 4.6 percent of deposits in all commercial banks of the State. (All banking data are as of December 31, 1973, and reflect acquisitions and formations approved by the Board through August 1, 1974.) Acquisition of Bank having deposits of $10.8 million would increase Applicant's share of Florida commercial bank deposits by less than one percent and would not change Applicant's rank in size among other banking organizations in the State as measured by aggregate commercial bank deposits. No undue concentration of banking resources in Florida would result.

Applicant, in acquiring Bank, is seeking to make its initial entry into the Naples banking market which consists of all of Collier County, Florida, except the town of Immokalee. Bank is the sixth largest of eight banks in the market with deposits representing 4.5 percent of total commercial bank deposits in the market. Applicant, in acquiring Bank, will not be gaining a dominant position.

Applicant's closet subsidiary bank is at Fort Myers, Florida, 55 miles north of Bank and in another market. No significant competition exists between Applicant's subsidiaries and Bank, and it is not likely that significant future competition would develop between them because of the distances involved and Florida's restrictions on branching. The acquisition would have no adverse competitive effects.

The financial and managerial resources and prospects of Applicant, its subsidiaries, and Bank are satisfactory; future prospects appear favorable. The proposed affiliation with Applicant will allow Bank to make trust and investment advisory services available to the residents of Marco Island and will provide additional commercial lending expertise to Bank. Therefore, consideration relating to convenience and needs of the community to be served lend weight toward approval. It is this Federal Reserve Bank's judgment that consummation of the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order, or (b) not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Federal Reserve Bank of Atlanta acting under delegated authority for the Board of Governors of the Federal Reserve System effective September 19, 1974.

[SEAL] MONROE KIMBREL,
President.

[FR Doc.74-22636 Filed 9-27-74;8:45 am]

FIRST SECURITY CORP.

Acquisition of Bank

First Security Corporation, Salt Lake City, Utah, 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 99.5 percent or more of the voting shares of First Security State Bank of Kaysville, Kaysville, Utah. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 21, 1974.

Board of Governors of the Federal Reserve System, September 23, 1974.

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

[FR Doc.74-22638 Filed 9-27-74;8:45 am]

FEDERAL RESERVE SYSTEM

MELLON NATIONAL CORP.

Proposed Retention of Indirect Ownership of Shares of Allomon Corporation and its Subsidiaries

Mellon National Corporation, Pittsburgh, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain indirect ownership of Allomon Corporation, McKees Rocks, Pennsylvania (all voting shares of which are held by

trustees for the benefit of Applicant) and Allomon Corporation's subsidiaries: National Realty Enterprises, Inc., McKees Rocks, Pennsylvania (50 percent of the voting shares of which are owned by Allomon Corporation) and its wholly-owned subsidiary Haymeadow National Corporation, McKees Rocks, Pennsylvania; Mellon National Mortgage Co. of Ohio, Cleveland, Ohio (100 percent of the voting shares of which are owned by Allomon Corporation), and its wholly-owned subsidiaries Allied Mortgages, Inc., and its subsidiary, 3826 Euclid Avenue Corporation; Lake States Investment, Inc., and its subsidiary Lake States Insurance Agency, Inc.; Zook Management & Realty Company; and Allomon Corporation's 51 percent owned subsidiary Clark Development Company, all of which subsidiaries are located in Cleveland, Ohio.

Notice of the application was published at times and places, as follows:

May 14, 1974, Pittsburg Legal Journal, a newspaper published by The Allegheny County Bar Association and circulated in Allegheny County, Pennsylvania. Three separate notices were published describing the various activities to be engaged in by Applicant.

May 27, 1974, Dayton Daily News, a newspaper circulated in Montgomery County, Ohio.

June 3, 1974, The Cincinnati Enquirer, a newspaper circulated in Hamilton County, Ohio.

May 24, 1974, The Plain Dealer, a newspaper circulated in Cuyahoga County, Ohio.

May 24, 1974, The Columbus Dispatch, a newspaper circulated in Franklin County, Ohio.

Applicant states that the proposed subsidiaries would continue to engage in the following activities:

1. Through indirect ownership of Allomon Corporation (a) to make or acquire for its own account or for the account of others, loans and other extensions of credit, such as would be made, for example, by a commercial finance company; (b) to make equity or debt investments in other companies to the extent permitted under the Bank Holding Company Act.

2. Through indirect ownership of National Realty Enterprises, Inc. and its subsidiary, Haymeadow National Corporation (a) to make or acquire for its own account, or for the account of others, loans and other extensions of credit such as would be made by a mortgage banking company; (b) to make equity and debt investments in corporations or projects designed primarily to promote community welfare, for example, investments associated with limited dividend housing programs under Section 221(d)(3), 221(d)(4), 235 and 236 of the National Housing Act.

3. Through indirect ownership of Mellon National Mortgage Co. of Ohio (a) to engage in those activities normally conducted by a mortgage banking company; (b) through its subsidiaries Allied Mortgages, Inc., Lake States Investment, Inc., Lake States Insurance Agency, Inc., and Zook Management & Realty Company to continue to engage in the making or acquiring for its own account or the account of others, loans or other extensions of credit such as would be made by a mortgage banking company, which mortgage banking activities include servicing mortgage loans for institutional investors and offering mortgage redemption insurance; and (c) through two subsidiaries of Mellon National Mortgage Co. of Ohio, 3826 Euclid Avenue Corporation and Clark Development Company, to retain an equity interest in real estate consisting primarily of the office building previously occupied by Mellon National Mortgage Company of Ohio until such time as said real estate may be disposed of on reasonable terms.

Such activities, with the exception of certain real estate activities and properties held which Applicant proposes to dispose of, have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 18, 1974.

Board of Governors of the Federal Reserve System, September 20, 1974.

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

[FR Doc.74-22634 Filed 9-27-74;8:45 am]

TEXAS COMMERCE BANCSHARES, INC.

Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, 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 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Pan American Bank, Brownsville, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than October 18, 1974.

Board of Governors of the Federal Reserve System, September 20, 1974.

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

[FR Doc.74-22635 Filed 9-27-74;8:45 am]

BOATMEN'S BANCSHARES, INC.

Order Approving Acquisition of Banks

Boatmen's Bancshares, Inc., St. Louis, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied in two separate applications for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of (1) Baltimore Bank and Trust Co. ("Baltimore Bank"), and (2) North Hills Bank ("North Hills Bank"), both located in Kansas City, Missouri.

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the sixth largest banking organization in Missouri, controls 11 subsidiary banks with aggregate deposits of almost $597 million, representing approximately 4 percent of the total deposits in commercial banks in the State.[1] Applicants' acquisition of both Baltimore Bank and North Hills Bank would increase Applicant's share of State deposits by 0.6 percent and would not result in a significant increase in the concentration of banking resources in Missouri. Applicant's rank among the State's banking organizations would remain unchanged.

Baltimore Bank (deposits of $64.5 million) and North Hills Bank (deposits of $23.2 million) are each located in the Kansas City banking market[2] and control approximately 1.5 and 0.5 percent, respectively, of the total deposits in commercial banks in the market. Applicant's subsidiary bank closest to this market is located approximately 175 miles away in Springfield, and there is no meaningful existing competition between any of Applicant's banking subsidiaries and the subject banks; nor does it appear likely that such competition would develop in

[1] All banking data are as of December 31, 1973, and reflect bank holding company formations and acquisitions approved through July 31, 1974.

[2] The Kansas City banking market is approximated by Jackson, Clay, and Platte Counties, and the northern half of Cass County in Missouri, and Johnson and Wyandotte Counties in Kansas.

the future in view of the distances involved and Missouri's restrictive branching law. Acquisition of these two banks would represent Applicant's initial entry into the Kansas City banking market, and upon acquisition of the two banks Applicant would be the eleventh largest banking organization in the market. Applicant's acquisition of both banks would not significantly increase concentration nor decrease competition in the market since both banks are already under common control and their combined deposits represent only 2 percent of the total deposits in commercial banks in the market. Accordingly, the Board concludes that competitive considerations are consistent with approval of the acquisition.

The financial and managerial resources and future prospects of Applicant, Baltimore Bank, and North Hills Bank are regarded as satisfactory, particularly in view of Applicant's commitment to increase the capital of the subject banks following consummation of the acquisition. Applicant proposes to improve Baltimore Bank's existing wholesale services and to introduce an internal operations center to enable Baltimore Bank to provide data processing related services to its customers. Also, Applicant proposes to introduce personal trust services at North Hills Bank and to provide North Hills Bank with access to Baltimore Bank's internal operations center so that North Hills Bank can expand the data processing related services offered to its customers. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the acquisition. It is the Board's judgment that the proposed acquisitions would be in the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[3] effective September 23, 1974.

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

[FR Doc.74-22640 Filed 9-27-74;8:45 am]

FIRST UNITED BANCORPORATION, INC.

Acquisition of Bank

First United Bancorporation, Fort Worth, Texas, 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 more than 51 percent of the voting shares of Gateway National Bank of Fort Worth, Fort Worth, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

First United Bancorporation is also engaged in the following nonbank activity: Tarrant Investment Company which primarily engages in liquidating charged-off notes and purchasing loans from affiliated banks and subsidiary banks which loans are no longer acceptable for carrying in their portfolios. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 21, 1974.

Board of Governors of the Federal Reserve System, September 23, 1974.

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

[FR Doc.74-22689 Filed 9-27-74;8:45 am]

FIRST INTERNATIONAL BANCSHARES, INC.

Acquisition of Bank

First International Bancshares, Inc., Dallas, Texas, 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 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to San Jacinto State Fank, Pasadena, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 21, 1974.

Board of Governors of the Federal Reserve System, September 23, 1974.

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

[FR Doc.74-22642 Filed 9-27-74;8:45 am]

SECOND BANCORPORATION

Formation of Bank Holding Company

Second Bancorporation, Eldora, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of all of the voting shares (less directors' qualifying shares) of Second National Bank, Eldora, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit 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 October 15, 1974.

Board of Governors of the Federal Reserve System, September 23, 1974.

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

[FR Doc. 74-22641 Filed 9-27-74;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on September 24, 1974. See 44 U.S.C. 3512(c) & (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Office, 202-376-5425.

CONSUMER PRODUCT SAFETY COMMISSION

Request for clearance of a change to the Consumer Deputy Report which is used in conjunction with the Consumer Deputy Program. The program uses volunteer consumer groups to survey stores selling toys for the purpose of identifying toys on the shelves which appear on the CPSC Banned Product List; the form is completed by the volunteer Consumer Deputy with toy retailers supplying their name, address, and responses to the identification of banned items on their shelves; frequency is annual; potential respondents are a sample of toy retailers (about 1,500); respondent burden is 15 minutes for each respondent per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74-22621 Filed 9-27-74;8:45 am]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

Notice of Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting

[3] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Holland, and Wallich. Absent and not voting: Governor Bucher.

of the National Advisory Council on the Education of Disadvantaged Children will be held on October 10, 1974 from 8:30 a.m.–5 p.m. and October 11, 1974 from 8:30 a.m.–4:30 p.m. The meeting will be held in Dallas, Texas.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 US.C. 2411) to advise the President and Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The purpose of the meeting is to have a site visit to both Dallas and Fort Worth, Texas by the Committee on Successful Projects.

Because of limited space, all persons wishing to attend should call for reservations by October 4, 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 Thirteenth Street, NW., Suite 1012, Washington, D.C.

Signed at Washington, D.C. on September 23, 1974.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.74–22674 Filed 9–27–74;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRTION

[Notice (74–59)]

AD HOC SYNTHESIS REVIEW PANEL FOR THE EVALUATION OF LUNAR DATA ANALYSIS AND SYNTHESIS PROPOSALS

Notice of Date and Place of Meeting

The NASA Ad Hoc Synthesis Review Panel for the Evaluation of Lunar Data Analysis and Synthesis Proposals will meet at the Goddard Space Flight Center in Greenbelt, Maryland on October 22, 23 and 24. The meetings will be held in Rooms 205, 207 and 219 in Building 26, from 8:30 a.m. to 5 p.m. on October 22 and 23 and in Room 205 from 8:30 a.m. to 2 p.m. on October 24.

The Panel will discuss, evaluate and categorize proposals for participation in the Lunar Data Analysis and Synthesis Program. Throughout the Panel sessions, the professional qualifications of the proposers and their potential scientific contributions to the Lunar Data Analysis and Synthesis Program as well as the merits of their proposed research will be candidly discussed and appraised. Discussions of these matters in a public session would invade the privacy of the proposers and the other individuals involved. The meeting will be closed to members of the public.

Since the Panel sessions will be concerned throughout with matters listed in 5 U.S.C. 552(b)(6), it is hereby determined that the session should be closed to the public.

For further information please contact Mr. Leon J. Kosofsky at (202) 755–1602.

BOYD C. MYERS II,
Assistant Associate Administrator for Organization and Management, National Aeronautics and Space Administration.

SEPTEMBER 20, 1974.

[FR Doc.74–22562 Filed 9–27–74;8:45 am]

[Notice (74–60)]

NASA Research and Technology Advisory Council

COMMITTEE ON ENERGY TECHNOLOGY AND SPACE PROPULSION

Notice of Meeting

The NASA Research and Technology Advisory Council Committee on Energy Technology and Space Propulsion will meet October 23 and 24, 1974, at NASA Headquarters, 600 Independence Avenue, SW., Washington, D.C. The meeting will be held in Room 625. Members of the public will be admitted on a first-come, first-served basis, up to the seating capacity of the room which is about 40 persons. All visitors must register at the reception desk in Room 625.

The NASA Research and Technology Advisory Council Committee on Energy Technology and Space Propulsion serves in an advisory capacity only. The Chairman is Dr. Beno Sternlicht, and there are 11 members. The following list sets forth the approved agenda and schedule for the October 23–24, 1974, meeting of the Committee on Energy Technology and Space Propulsion. For further information, please contact (1) Mr. R. D. Ginter, Area Code 202, 755–8475, or (2) Mr. W. H. Woodward, Area Code 202, 755–2376.

OCTOBER 23, 1974

Time	*Topic*
8:30 a.m.	Remarks by Chairman (Purpose: To introduce members, give a brief background of events leading to establishment of the Committee, and discuss the agenda.)
9:15 a.m.	NASA Energy Organization (Purpose: To inform the Committee members of NASA's organization and programmatic structure, NASA's methods of operation, the need for and role of the Committee, and Committee/NASA relationship and responsibilities.)
10:15 a.m.	Committee Objectives and Method of Operation (Purpose: To present a series of work objectives and a general methodology for meeting the objectives for consideration and later discussion by the members.)
11:00 a.m.	Summary of NASA's Advanced Technology Program for Space Energy and Propulsion Systems (Purpose: To summarize the ongoing NASA/Office of Aeronautics and Space Technology program as an aid to the members in discussing Committee objectives and work plans.)
1:00 p.m.	Summary of NASA/Office of Energy Programs Activities in Support of the National Energy Research and Development Program. (Purpose: To summarize the ongoing NASA/Office of Energy Programs work as an aid to the members in discussing Committee objectives and work plans.)
2:00 p.m.	Discussion and Approval of Committee Objectives. (Purpose: To review, alter as necessary, and approve the tentative objectives formulated earlier in the day.)

OCTOBER 24, 1974

8:30 a.m.	Development of Committee Work Plan. (Purpose: To propose a work plan for meeting the objectives adopted earlier, and to establish work assignments and schedules.)
10:30 a.m.	Plans for Next Meeting. (Purpose: To set a date and place for the next Committee meeting and to discuss possible agenda items.)
12:00 Noon	Adjournment.

BOYD C. MYERS, II,
Assistant Associate Administrator for Organization and Management, National Aeronautics and Space Administration.

SEPTEMBER 20, 1974.

[FR Doc.74–22563 Filed 9–27–74;8:45 am]

[Notice 74–61]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL PANEL ON RESEARCH

Notice of Meeting

The NASA Research and Technology Advisory Council Panel on Research will meet on October 21 and 22, 1974, at the NASA Lewis Research Center, Cleveland, Ohio 44135. The meeting will be held in Room 225 of the Administration Building. Members of the public will be admitted on a first-come, first-served basis, limited by the seating capacity of the room which is about 25 persons. All visitors must report to the Lewis Research Center receptionist in the Administration Building.

The Panel on Research of the NASA Research and Technology Advisory Council serves in an advisory capacity only. Its Chairman is Professor A. S. Hertzberg, and there are 12 members. The following list sets forth the approved agenda and schedule for the meeting of the Panel on Research on

October 21 and 22, 1974. For additional information, please contact Mr. F. C. Schwenk, Area Code 202, 755-2488.

OCTOBER 21, 1974

Time	Topic
8:30 a.m.	Report of Executive Secretary (Purpose: To report on actions taken by NASA in response to prior Panel recommendations.)
9:00 a.m.	Overview Presentations on Energy Research and Development Goals, Research Needs, and Current Programs of the Lewis Research Center Related to Energy and Energy Conversion (Purpose: To provide background for the Panel as it considers the needs for basic research related to energy and energy conversion in NASA.)
11:00 a.m.	Basic Research in Physics and Chemistry (Purpose: To update the Panel on Lewis Research Center activities in high-temperature plasmas and magnetic refrigeration for energy applications.)
1:00 p.m.	Energy Systems Research (Purpose: To consider research in solar photovoltaic energy conversion, electrochemical systems, and reduction-oxidation cells for energy storage.)
2:00 p.m.	Turbomachinery Research (Purpose: To review ongoing research in gas turbines and related technologies.)
3:30 p.m.	Materials Research (Purpose: To review energy-related research in corrosion mechanisms and fatigue life prediction.)
4:00 p.m.	General Discussion (Purpose: To discuss presentations and to evaluate needs for additional basic research related to energy.)

OCTOBER 22, 1974

8:30 a.m.	Committee Review and Discussion (Purpose: To prepare findings and recommendations for NASA.)
11:00 a.m.	Chairman's Report and Plans for Panel (Purpose: To report to the Panel on the last meeting of the Research and Technology Advisory Council, to prepare the Panel's report, and to define the schedule and topics for the Panel's activities in the current year.)
12:00 Noon	Adjournment.

BOYD C. MYERS, II,
Assistant Associate Administrator for Organization and Management National Aeronautics and Space Administration.

SEPTEMBER 20, 1974.

[FR Doc.74-22564 Filed 9-27-74;8:45 am]

[Notice 62]

SPACE SCIENCE AND APPLICATIONS STEERING COMMITTEE

Establishment of Advisory Subcommittee

Pursuant to Section 9(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), and after consultation with the Office of Management and Budget, the Administrator of NASA has determined that the establishment of an Ad Hoc Advisory Subcommittee to Review Proposals for Participation in the Definition of a One-Meter Class Ultraviolet/Optical Facility Telescope for Spacelab Astronomy Missions is in the public interest in connection with the performance of duties imposed upon NASA by law. The Space Science and Applications Steering Committee, under which the subcommittee will operate, is a NASA internal committee, composed wholly of government employees.

The function of this subcommittee will be to obtain the advice of the scientific community on proposals in the specialized area identified by the name of the subcommittee.

BOYD C. MYERS II,
Assistant Associate Administrator for Organization and Management, National Aeronautics and Space Administration.

SEPTEMBER 25, 1974.

[FR Doc.74-22656 Filed 9-27-74;8:45 am]

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

FINAL ENVIRONMENTAL IMPACT STATEMENT

Notice of Availability

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Pennsylvania Avenue Development Corporation has prepared a final environmental impact statement for the Pennsylvania Avenue Plan-1974, proposing a comprehensive development for the lower portion of Pennsylvania Avenue, Northwest, in Washington, D.C.

The plan has been prepared under the authority of Pub. L. 92-578, October 27, 1972 (86 Stat. 1266), the Pennsylvania Avenue Development Corporation Act of 1972. The main objectives of the plan, for a 21-block area along the north side of the Avenue between Third Street and the White House, are to reinforce development of the Avenue and its adjacent area in a manner suitable to its ceremonial, physical and historic character, and to eliminate the existing urban blight. The plan, to be carried out over a period of approximately ten years, would introduce residential uses and expand commercial and recreational uses in the area. Both private and public development would be involved in implementation of the plan.

The final environmental impact statement was filed with the Council on Environmental Quality on September 24, 1974.

Copies are available for inspection during regular working hours at the Pennsylvania Avenue Development Corporation, Suite 1148, Pennsylvania Building, 425, 13th Street, Northwest, Washington, D.C. 20004.

PETER T. MESZOLY,
General Counsel.

[FR Doc.74-22583 Filed 9-27-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 25, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration: Analysis of Drug Abuse in Industry, Employee Questionnaire—Phase II, Form ADAMNIDA 0911, Single time, Reese (395-5630) Individuals.

Social Security Administration: Confirmation of School Attendance, Form SSA 2876, Semiannual, Caywood (395-3443), Schools outside U.S.

Survey of Teleservice Callers, Form SSA 9756, SSA 9756A, Single time, Caywood (395-3443), Individuals.

U.S. CIVIL SERVICE COMMISSION

Supplemental Qualifications Statement for Announcement, WA 4-04 Computer Operator/Computer Technician, Form WA 378, Single time, Caywood (395-3443), Fed. job applicants.

VETERANS ADMINISTRATION

Evaluation of Treatment of Drug and Alcohol Dependent Patients, Form ------, Single time, HRD (395-3532), Reese (395-5630), Patients & former patients of VA drug & alcohol abuse treatment units.

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

Application for Supplemental Registration for Distributor, Form EPA 8570-5, Occa-

sional, Sheftel (395-3878), Pesticide marketing firms.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health: Breast Cancer Detection Demonstration Project, Form NIH 2136, Annual, Collins (395-3756), Women screenees aged 35-75.

DEPARTMENT OF JUSTICE

Departmental: Law Enforcement Education Program Institutional Application, Form LEEP 1, Annual, Lowry (395-3772), Post secondary institution.

NATIONAL SCIENCE FOUNDATION

Survey of Graduate Student Support and Postdoctorals, Fall 1974, Form NSF 811 and 812, Annual, Planchon (395-3898), Graduate science department chairmen.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control: National Community Lead Poisoning Data System, Form CDC 0703, Weekly, Caywood (395-3443), Children.

Health Resources Administration: State and Areawide Comprehensive Health Planning Agency Program Reporting Forms, Form ----, Annual, Caywood (395-3443), State and areawide health planning agencies.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service:

Petition for Approval of School for Attendance by Nonimmigrant Students, Form I-17, Occasional, Evinger (x) (395-3648).

Petition to Classify Nonimmigrant as Temporary Worker Or Trainee, Form I-129B, Occasional, Evinger (x) (395-3648).

Waiver of Rights, Exemptions, and Immunities, Immigration and Nationality Act, Form I-508A, Occasional, Evinger (x) (395-3648).

Questionnaire Submitted by Petitioner at Final Naturalization Hearing, Form N-445, Occasional, Evinger (x) (395-3648).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-22765 Filed 9-27-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-11019]

RATES SENT TO REGISTERED NATIONAL SECURITIES EXCHANGES

Announcement of Written Requests

The Securities and Exchange Commission today announced that it had sent the following letter to all registered national securities exchanges:

Dear [President of each registered national securities exchange]: As you are aware, the Commission, on September 11, 1973,[1] announced its policy conclusion that the fixing of commission rates by national securities exchanges should terminate after April 30, 1975. This conclusion followed ten years of special studies, Commission public investigatory hearings and policy statements, Congressional hearings and reports, studies by consultants for the New York Stock Exchange and publications by scholars concerning this practice.[2]

In the Matter of Intra-Member Commission Rate Schedules of Registered National Securities Exchanges, Securities and Exchange Commission File No. 4-171; In the Matter of the Structure, Operations and Regulation of the Securities Markets, Securities and Exchange Commission File No. 4-147; In The Matter of Commission Rate Structure of Registered National Securities Exchanges, Securities and Exchange Commission File No. 4-144.

See Securities and Exchange Commission, Policy Statement on the Structure of a Central Market System (1973); and Securities and Exchange Commission, Statement on the Future Structure of the Securities Markets (1972).

See, *e.g.*, Subcomm. on Securities of the Senate Comm. on Banking, Housing and Urban Affairs, 93d Cong., 1st Sess. Report of the Securities Industry Study, S. Doc. No. 93-13 (1973); Subcomm. on Securities of the Senate Comm. on Banking, Housing and Urban Affairs, 92d Cong., 2d Sess., Report of the Securities Industry Study for the Period Ending February 4, 1972 (1972); Hearings on Securities Industry Study Before the Subcomm. on Securities of the Senate Comm. on Banking, Housing and Urban Affairs, 92d Cong., 1st Sess. (1972); Subcom. on Commerce and Finance of the House Comm. on Interstate and Foreign Commerce, 92d Cong., 1st and 2d Sess., Report of the Securities Industry Study (1971-1972).

National Economic Research Associates, Inc., Stock Brokerage Commissions: The Development and Application of Standards of Reasonableness for Public Rates, A Report to the Cost and Revenue Committee of the New York Stock Exchange (July 1970); National Economic Research Associates, Inc., Reasonable Public Rates for Brokerage Commissions, A Report to the Cost and Revenue Committee of the New York Stock Exchange (Feb. 1970).

See, *e.g.*, Friend and Blume, The Consequences of Competitive Commissions on the New York Stock Exchange (1972).

The Commission, however, has consistently taken the position that the long history of fixed rates argued against a precipitate elimination of the fixed rate system and that it was appropriate, therefore, for the protection of investors and in the public interest, that exchange members be given an opportunity to develop business strategies for, and to adjust their operations to, an unfixed rate environment.

That opportunity has been provided. Commission schedules of exchanges have provided for volume discounts since December, 1968.[3] Commissions on portions of orders exceeding $500,000 have been competitively determined since April, 1971,[4] and those exceeding $300,000 have been competitively determined since April, 1972,[5] and those with respect to nonmember commissions on orders of $2,000 or less, since April, 1974.[6]

Subsequent to the Commission's announcement of its policy conclusions on September 11, 1973, and in response to a request from the New York Stock Exchange, Inc., the Commission held a public investigatory hearing concerning fixed intra-member rates on exchanges.[7] The Commission is not persuaded, on the basis of the data and views obtained as a result of that hearing and otherwise, that its policy conclusions of September 11, 1973, should not also be applicable to intra-member rates. The Commission has also determined not to exercise its authority to require any further experimentation with unfixed intra-member rates prior to May 1, 1975. It will, however, welcome any initiative by any exchange to provide additional experimentation on floor brokerage rates prior to April 30, 1975.[8]

As a result of these studies and hearings, it presently appears to the Commission that it is necessary and appropriate (1) for the protection of investors, (2) to insure fair dealing in securities traded in upon national securities exchanges, and (3) to insure the fair administration of such exchanges, that the rules and practices of such exchanges that require, or have the effect of requiring, exchange members to charge any person fixed minimum rates of commission, should be eliminated. Accordingly, the Commission hereby formally requests, pursuant to the authority vested in it under the Securities Exchange Act of 1934, and particularly sections 2, 6, 10, 11, 19 and 23 thereunder,[9] that you effect necessary changes in the Constitution, rules and practices of your exchange which presently require, or have the effect of requiring, any member of your exchange to charge any person any fixed commission rate, with such changes to be effective on or before May 1, 1975.

Because we believe the interests of public investors require the prompt implementation of the above-described Constitutional, rule and practice changes, we request that your Board of Directors approve the requested changes no later than November 1, 1974, with such changes to become effective, after appropriate exchange procedures, not later than May 1, 1975. If the boards of directors of all of the national securities exchanges registered with the Commission do not take such action on or before November 1, 1974, the Commission will commence appropriate proceedings promptly to determine whether it should exercise its authority to alter or amend the Constitutions, rules and practices of such exchanges in the manner described above. In that event, as you previously have been advised,[10] the Commission will afford you and other interested persons an opportunity to submit both written and oral data and views in order to facilitate the Com-

[1] See Securities Exchange Act Release No. 10383. The Commission's policy conclusions were discussed in more detail in a separate letter to the New York Stock Exchange, reprinted as Securities Exchange Act Release No. 10560 (Dec. 14, 1973).

[2] See, *e.g.*, Securities and Exchange Commission, Institutional Investor Study Report, H.R. Doc. No. 92-64, 92d Cong., 1st Sess. (1971); Securities and Exchange Commission, Report of Special Study of Securities Markets, H.R. Doc. No. 95, 88th Cong., 1st Sess. (1963); Securities and Exchange Commission, Report on the Public Policy Implications of Investment Company Growth, H.R. Rep. No. 2337, 89th Cong., 2d Sess. (1966); and Wharton School of Finance and Commerce, A Study of Mutual Funds, H.R. Rep. No. 2274, 87th Cong., 2d Sess. (1962).

[3] See Securities Exchange Act Release Nos. 8324 (May 28, 1968), and 8399 (Sept. 4, 1968).

[4] See Securities and Exchange Act Release Nos. 9105 (Mar. 11, 1971) and 9132 (Apr. 1, 1971).

[5] See Securities and Exchange Commission, Statement on the Future Structure of the Securities Markets, *supra* n. 2, at p. 16.

[6] See Securities Exchange Act Release No. 10560 (Dec. 14, 1973).

[7] See In the Matter of Intra-Member Commission Rate Schedule of Registered National Securities Exchanges, supra n. 2.

[8] The Commission will act promptly on any submission by the New York Stock Exchange of the proposal, discussed in the course of our Intra-Member Rate Hearings, n. 2, supra, to eliminate fixed minimum commission rates for clearance (Sections 2(b) and 4, Article XV, of the NYSE Constitution).

[9] 15 U.S.C. 78b, 78f, 78j, 78k, 78s, and 78w.

[10] *See* Securities Exchange Act Release No. 10986 (Aug. 27, 1974).

mission's consideration of whether to exercise its authority in this matter and whether to exercise it in the manner specified above. The procedures for that purpose would be specified prior to the commencement of any such proceeding.

For the Commission.

Sincerely,

RAY GARRETT, JR.,
Chairman.

The letters were sent to the American Stock Exchange, Inc., Boston Stock Exchange, Chicago Board Options Exchange, Inc., Chicago Board of Trade, Cincinnati Stock Exchange, Detroit Stock Exchange, Midwest Stock Exchange, Inc., National Stock Exchange, New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., PBW Stock Exchange, Inc., Intermountain Stock Exchange and Spokane Stock Exchange.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 19, 1974.

[FR Doc.74-22555 Filed 9-27-74;8:45 am]

[812-3690]

INVESTORS SYNDICATE OF AMERICA, INC.

Filing of Application for Order Approving Amendment To Depository Agreement of Face-Amount Certificate Company

SEPTEMBER 24, 1974.

Notice is hereby given that Investors Syndicate of America, Inc., IDS Tower, Minneapolis, Minnesota 55402 ("Applicant"), a face-amount certificate company registered under the Investment Company Act of 1940 ("Act"), has filed an application for an order pursuant to section 28(c) of the Act approving an amendment to a depository agreement to cover a new series of face-amount certificates, to be designated Series SP 74. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Section 28(c) provides, to the extent relevant, that the Commission shall by order, in the public interest or for the protection of investors, require a registered face-amount certificate company to deposit and maintain, with a bank having specified qualifications, all or any part of its investments required as certificate reserves under the provisions of section 28(b) of the Act.

On November 16, 1940, the Commission issued an order approving the depository agreement between Applicant and The Marquette National Bank, which requires Applicant to deposit and maintain qualified assets at least equal to the certificate reserve requirements of section 28 of the Act (Investment Company Act Release No. 18) for certain outstanding certificates. Subsequently, from time to time, the Commission has issued orders granting applications for amendments to the initial agreement to include coverage of new series of securities proposed to be issued (Investment Company Act Release Nos. 792, 1895, 3105, 3552, 3751, 4390 and 6810). The amendment to the depository agreement, for which approval is now requested, concerns the deposit of assets to be maintained for the benefit of holders of the new series. Applicant agrees that it remains subject to all the terms and conditions contained in the foregoing orders of the Commission relating to the depository agreement and amendments thereto.

Notice is further given that any interested person may, not later than October 18, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-22556 Filed 9-27-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateways

SEPTEMBER 24, 1974.

The following applications 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(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of verified statements in opposition with the Interstate Commerce Commission on or before September 30, 1974. (This procedure is outlined in the Commission's report and order in Gateway Elimination, 119 M.C.C. 530.) A Copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding, including a detailed statement of protestant's interest in the proposal.

No. MC 531 (Sub-No. 297G), filed June 3, 1974. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Transformer oil*, in bulk, in tank vehicles, from Bayton, Tex., to Wakesha, Wis. The purpose of this filing is to eliminate the gateways of Lake Charles, La., and points within 13 miles thereof, and Bishop, Tex.

No. MC 2473 (Sub-No. 16G), filed June 4, 1974. Applicant: BILLINGS TRANSFER CORP., INC., Green Needles Road, Lexington, N.C. 27292. Applicant's representative: Charles Ephraim, 1250 Connecticut Ave. NW., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from Baltimore, Md., New York, N.Y., and points in New York within 20 miles of New York, N.Y., those in that part of Pennsylvania on and south of U.S. Highway 22 from Easton to Harrisburg and east of the Susquehanna River from Harrisburg to the Pennsylvania-Maryland State Boundary line, and those in New Jersey, to Hopewell, Richmond, and Norfolk, Va., points in Forsyth, Guilford, Davidson, and Stokes Counties, N.C., and points in North Carolina, South Carolina, Tennessee, and Virginia which are within 100 miles of the named North Carolina counties. The purpose of this filing is to eliminate the gateway of a point within 20 miles of Lexington, N.C., including points within and outside Forsyth, Guilford, Davidson, and Stokes Counties, N.C.

(2) *New furniture, plywood, and cotton products*, from Hopewell, Richmond, and Norfolk, Va., points in Forsyth, Guilford, Davidson, and Stokes Counties, N.C., and those in North Carolina, South Carolina, Tennessee, and Virginia which are within 100 miles of the named North Carolina counties, to Washington, D.C., Baltimore, Md., Wilmington, Del., points in South Carolina and New Jersey, those in that part of Pennsylvania south of U.S. Highway 22 from Easton to Harrisburg, and east of the Susquehanna River from Harrisburg to the Pennsylvania-

Maryland State Boundary line, New York, N.Y., and points in New York within 20 miles of New York, N.Y. The purpose of this filing is to eliminate the gateway of a point within 40 miles of Lexington, N.C., including points within and outside Forsyth, Guilford, Davidson and Stokes Counties, N.C. (3) *new furniture, plywood, and cotton products*, from Baltimore, Md., New York, N.Y., and points in New York within 20 miles of New York, N.Y., those in that part of Pennsylvania on and south of U.S. Highway 22 from Easton to Harrisburg and east of the Susquehanna River from Harrisburg to the Pennsylvania-Maryland State Boundary line, and those in New Jersey, to points in South Carolina. The purpose of this filing is to eliminate the gateway of a point within 20 miles of Lexington, N.C.

No. MC 7166 (Sub-No. 16G), filed June 4, 1974. Applicant: WILSON TRANSPORTATION SERVICE, INC., P.O. Box 258, Ottawa, Ohio 45875. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Ohio, on the one hand, and, on the other, points in Indiana, Illinois, Kentucky, Ohio, Pennsylvania, Michigan, and West Virginia which are within 200 miles of Ottawa, Ohio. The purpose of this filing is to eliminate the gateways of points within 15 miles of Ottawa, Ohio, and points within 8 miles of Vaughnsville, Ohio.

No. MC 8973 (Sub-No. 34G), filed June 3, 1974. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials and plastic articles*, from points in Essex, Hudson, Union, Somerset, Bergen, Middlesex, Morris, and Passaic Counties, N.J., and that portion of the New York, N.Y., Commercial Zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of Section 203(b)(8) of the Interstate Commerce Act (the exempt zone), to points in New Jersey, New York, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Pennsylvania, Ohio, Delaware, Maryland, Virginia, Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Tennessee, West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Edgewater, Carteret, and Woodbridge, N.J.

No. MC 107012 (Sub-No. 203G), filed June 4, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway & Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, uncrated, (1) from points in Alabama, to points in Louisiana, Maine, Mississippi, New Hampshire, New York, Pennsylvania, Tennessee, Texas, Vermont, and West Virginia. The purpose of this filing is to eliminate the gateways of Arkansas and Berne, Ind. (2) from points in Arizona, to points in Alabama, Florida, Iowa, Minnesota, Mississippi, and Arkansas. The purpose of this filing is to eliminate the gateways of Burlington, Iowa, Arkansas, and Greene County, Ark. (3) from points in California, to points in North Dakota. The purpose of this filing is to eliminate the gateway of Laramie, Wyo. (4) from points in Connecticut, to points in Alabama, Florida, Georgia, and Tennessee. The purpose of this filing is to eliminate the gateway at Kentucky. (5) from points in Delaware, to points in Florida, Georgia, North Carolina, South Carolina, and West Virginia. The purpose of this filing is to eliminate the gateway at Tennessee.

(6) from points in the District of Columbia, to points in Florida, Georgia, North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway at Tennessee. (7) from points in Florida, to points in Kentucky, Louisiana, Maine, Mississippi, New Hampshire, Tennessee, Texas, and Vermont. The purpose of this filing is to eliminate the gateways of Berne, Ind., and Arkansas. (8) from points in Georgia, to points in Louisiana, Mississippi, and Kentucky. The purpose of this filing is to eliminate the gateway at Arkansas. (9) from points in Idaho, to points in Arkansas, Iowa, and Oklahoma. The purpose of this filing is to eliminate the gateways of Burlington, Iowa, Kansas City, Mo., and Greene County, Ark. (10) from points in Iowa, to points in California, Colorado, Idaho, Kansas, Kentucky, Minnesota, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways at Burlington, Iowa, Kansas City, Mo., and Greene County, Ark. (11) from points in Kansas, to points in Arizona, California, Colorado, Iowa, Kentucky, Minnesota, New Mexico, Oklahoma, Texas, Utah, and Wyoming. The purpose of this filing is to eliminate the gateways at Burlington, Iowa, Kansas City, Mo., Arkansas and Greene County, Ark.

(12) from points in Louisiana, to points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The purpose of this filing is to eliminate the gateway at Arkansas. (13) from points in Maine, to points in North Carolina, South Carolina, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateways at Kentucky and Tennessee. (14) from points in Maryland, to points in Florida, Georgia, North Carolina, South Carolina, and West Virginia. The purpose of this filing is to eliminate the gateway at Tennessee. (15) from points in Massachusetts, to points in Florida, Georgia, and Tennessee. The purpose of this filing is to eliminate the gateway at Kentucky. (16) from points in Minnesota, to points in Arizona, Arkansas, California, Colorado, Iowa, Kansas, New Mexico, and Oregon. (21) from points in New Hampshire, to points in Florida, Georgia, North Carolina, Tennessee, and Wisconsin. The purpose of this filing is to eliminate the gateway at Kentucky. (22) from points in New Jersey, to points in Georgia, North Carolina, South Carolina, and West Virginia. The purpose of this filing is to eliminate the gateway at Tennessee. (23) from points in New Mexico, to points in Iowa, Kansas, and Minnesota. The purpose of this filing is to eliminate the gateways of Burlington, Iowa, and Arkansas. (24) from points in New York, to points in North Carolina, South Carolina, and West Virginia. The purpose of this filing is to eliminate the gateway at Tennessee.

(25) From points in North Dakota, to points in Arkansas, Iowa, Oklahoma, and South Carolina. The purpose of this filing is to eliminate the gateways of Burlington, Iowa, Kansas City, Mo., and Greene County, Ark. (26) from points in Oklahoma, to points in Alabama, Arizona, California, Colorado, Georgia, Idaho, Iowa, Kansas, Kentucky, Minnesota, Montana, Nevada, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Texas, Utah, Virginia, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways of Burlington, Iowa and Arkansas. (27) from points in Oregon, to points in Arizona, Arkansas, California, Idaho, Iowa, Minnesota, Montana, Nevada, Oklahoma, Texas, and Utah. The purpose of this filing is to eliminate the gateways at Portland, Oreg., Burlington, Iowa, Kansas City, Mo., and Greene County, Ark. (28) from points in Pennsylvania, to points in Alabama, North Carolina, South Carolina, and West Virginia. The purpose of this filing is to eliminate the gateway at Tennessee.

(29) from points in Rhode Island, to points in Florida, Georgia and Tennessee. The purpose of this filing is to eliminate the gateway at Kentucky. (30) from points in South Carolina, to points in Illinois, Iowa, Louisiana, Minnesota, Mississippi, and Tennessee. The purpose of this filing is to eliminate the gateway at Arknsas. (31) from points in South Dakota, to points in Arkansas, Iowa, and Oklahoma. The purpose of this filing is to eliminate the gateways of Burlington, Iowa, Kansas City, Mo., and Greene County, Ark. (32) from points in Utah, to points in Arkansas, Iowa, Louisiana, Minnesota, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateways of Burlington, Iowa, Kansas City, Mo., and Greene County, Ark. (33) from points in Vermont, to points in North Carolina. The purpose of this fil-

ing is to eliminate the gateway at Kentucky. (34) from points in Virginia, to points in Louisiana, Mississippi, and Tennessee. The purpose of this filing is to eliminate the gateway of Greene County, Ark. (35) from points in Washington, to points in Arizona, Arkansas, California, Idaho, Iowa, Montana, Nevada, Oklahoma, and Utah. The purpose this filing is to eliminate the gateways of Portland, Oreg., Burlington, Iowa, Kansas City, Mo., and Greene County, Ark. (36) from points in West Virginia, to points in North Carolina, South Carolina, and Virginia. The purpose of this filing is to eliminate the gateways at Kentucky and Tennessee. (37) from points in Wyoming, to points in Arkansas, Iowa, and Oklahoma. The purpose of this filing is to eliminate the gateways of Burlington, Iowa, Kansas City, Mo., and Greene County, Ark.

No. MC 107541 (Sub-No. 35G), filed June 3, 1974. Applicant: MAGEE TRUCK SERVICE, INC., 18101 SE. McLoughlin Blvd., Milwaukie, Oreg. 97222. Applicant's representative: Earle V. White, 2400 SW. Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in and north of Malheur, Harney, Deschutes, Linn, Benton, and Lincoln Counties, Oreg. to Sacramento, Fresno, and Los Angeles, Calif. The purpose of this filing is to eliminate the gateway of Klickitat, Wash.

No. MC 109238 (Sub-No. 6G), filed June 3, 1974. Applicant: DEHART MOTOR LINES, INC., P.O. Box 368, Conover, N.C. 28613. Applicant's representative: Herbert Burstein, 1 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *textiles, textile products, textile machinery, and machinery parts and supplies* used in the manufacture of textiles, from Baltimore, Md., and Philadelphia, Pa., to points in North Carolina (except those points in North Carolina bounded by a line beginning at Henderson, and extending along U.S. Highway 1 to Raleigh, thence along U.S. Highway 64 to Asheboro, thence along North Carolina Highway 49 to Charlotte, thence along U.S. Highway 74 to Rutherfordton, thence along U.S. Highway 221 to Marion, thence along U.S. Highway 70 to Morganton, thence along North Carolina Highway 18 to North Wilkesboro, thence along U.S. Highway 421 to Winston-Salem, thence along U.S. Highway 158 to Henderson, including all points on the specified portions of the indicated highways). The purpose of this filing is to eliminate the gateway at Iredell County, N.C. (2) *yarn, bobbins, spools, warp, warp pins, warp beams, warp rolls and cones, containers, and textile machinery and parts therefor*, between points in New Jersey, New York, Pennsylvania, Virginia, and those points in North Carolina east of U.S. Highway 1. The purpose of this filing is to eliminate the gateway at Conover, N.C.

No. MC 109326 (Sub-No. 108G), filed June 4, 1974. Applicant: C & D TRANSPORTATION CO., INC., P.O. Box 10506, New Orleans, La. 70121. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Packinghouse products, dairy products, fresh and frozen seafood, and fresh and frozen fruits and vegetables*, between New Orleans, La., on the one hand, and, on the other, points in Mississippi, and (2) *packinghouse products, dairy products, fresh and frozen seafood, and fresh and frozen fruits and vegetables*, between Gulfport, Pascagoula, and Bay St. Louis, Miss., on the one hand, and, on the other, points in Mississippi, and (3) *meats, meat products, meat by-products, dairy products, and commodities* distributed by meat packinghouses, as described in parts A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 276, from points in Mississippi to points in Georgia and Florida, and (4) *meats, meat products, meat by-products, dairy products, and commodities* distributed by meat packinghouses, from Montgomery, Ala., to points in Mississippi and Florida, restricted against transportation from or to any facility (plant sites, warehouses, and stores) of the Great Atlantic & Pacific Tea Company, Inc., of New York, N.Y., and Hunt Foods and Industries, Inc. (merged into Norton-Simon, Inc.), of Fullerton, Calif. The purpose of this filing is to eliminate the gateway of Mobile, Ala.

No. MC 109397 (Sub-No. 300G), filed June 3, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., a Corporation, P.O. Box 113, Business Rte. I–44 East, Joplin, Mo. 64801. Applicant's representative: E. S. Gordon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Classes A and B *explosives, and ammunition* classified as Class C explosives, between points in Delaware, Maryland, Virginia, and West Virginia, on the one hand, and on the other, points in Florida, Georgia, North Carolina, South Carolina, Ohio, Kentucky, Tennessee, and Indiana. The purpose of this filing is to eliminate the gateways of Richmond, Ky., West Jefferson, Ohio, and Nashville, Tenn. (points within 10 miles thereof). (2) *explosives*, (a) from points in Arkansas, Colorado, Illinois, Indiana, Iowa (except West Burlington), Kansas, Kentucky, Louisiana, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oregon, Oklahoma, South Dakota, Tennessee, Wisconsin, and Wyoming, to points in Pennsylvania, and (b) from points in Colorado, Idaho, Illinois, Indiana, Kansas, Kentucky, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oregon, Oklahoma, South Dakota, Tennessee, Wisconsin, and Wyoming, to points in New Jersey. The purpose of this filing is to eliminate the gateway at South Carolina. (3) *explosives and blasting supplies* between the plantsites of Ensign Bickford Company located at Simsbury and Avon, Conn., on the one hand, and, on the other, points in Arkansas Colorado, Florida, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateway of Seneca, Ill. (4) Classes A and B *explosives*, between points in Louisiana (points west of the Mississippi River only) on the one hand, and, on the other, points in Arkansas, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateways at Kansas, New Mexico, Louisiana (east of the Mississippi River, Mississippi, and Tennessee.

No. MC 111940 (Sub-No. 62G) filed June 4, 1974. Applicant SMITH'S TRUCK LINES, a Corporation, P.O. Box 88, Muncy, Pa. 17756. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel and steel products*, from points in New York and New Jersey, to points in Ohio, Delaware, Maryland, Connecticut, and the District of Columbia, and those in that part of Virginia and West Virginia on and north of U.S. Highway 60, and (2) *iron and steel articles* (except castings), from points in New York and New Jersey, to points in Kentucky and points in that part of Virginia and West Virginia south of U.S. Highway 60, and (3) *iron and steel articles* (except castings, wire rope, and tinplate and except commodities which because of size or weight require the use of special equipment), from Warren and Youngstown, Ohio, to points in Delaware, New York, New Jersey, Maryland, Connecticut, and the District of Columbia, and those in that part of Virginia and West Virginia on and north of U.S. Highway 60. The purpose of this application is to eliminate the gateway of Williamsport, Pa.

No. MC 112263 (Sub-No. 9G), filed June 3, 1974. Applicant: MARTIN VAN LINES, INC., 207 South Dawson Street, Seattle, Wash. 98108. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between points in California, Colorado, Idaho, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways of Forsyth, Miles City, Billings and Livingston, Mont., Big Horn, Park, Fergus, Carbon, and Rosebud Counties, Mont., Ontario and Klamath Falls, Oreg., and Klamath and Jackson Counties, Oreg.

No. MC 114211 (Sub-No. 234G), filed July 3, 1974. Applicant: WARREN

TRANSPORT, 324 Manhard, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Robert J. Molinaro (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Grading, paving, and finishing machinery, and equipment and contractors equipment;* and (2) *tractors*, with or without attachments, *tractor attachments, parts* of tractors, and tractor attachments when moving in mixed loads with the aforementioned tractors, restricted to shipments moving from or to foreign commerce, (a) between points in Alabama, Arizona, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Idaho, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and West Virginia, on the one hand, and, on the other, points in Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming, and (b) between points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, and Washington, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia; and (3) *Cast iron pressure pipe* (except pipe used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by products), *fittings and accessories* therefor when moving with such pipe, (a) from points in New York, Pennsylvania, West Virginia, Virginia, Maryland, Delaware, New Jersey, Michigan, Indiana, Ohio, Kentucky, Tennessee, Illinois, Wisconsin, to points in Illinois, Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Louisiana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, and Arizona, and (b) from points in Iowa, Missouri, and Nebraska, to points in the United States (except Washington, Oregon, and California), and (c) from points in Texas and Oklahoma, to points in Idaho, Montana, Wyoming, North Dakota, South Dakota, Nebraska, Minnesota, Iowa, Illinois, Wisconsin, Indiana, Michigan, Ohio, Kentucky, West Virginia, Virginia, District of Columbia, Maryland, Delaware, New Jersey, Pennsylvania, Connecticut, Rhode Island, Massachusetts, New York, Vermont, New Hampshire, and Maine. The purpose of this filing is to eliminate the gateways of Beatrice, Nebr., Minneapolis, Minn., Tulsa, Okla., Atlanta, Ill., Kansas, Okla., Claremore, Okla., Ft. Dodge, Iowa, Topeka, Kans., Martin City, Mo., Pittsburg, Kans., Dubuque, Iowa, Canton, S. Dak., Council Bluffs, Iowa, Omaha, Nebr., Iowa, Martin City, Kans., Keokuk, Iowa, Minnesota, Nassau, Minn., Springfield, Ill., St. Cloud, Minn., Des Moines, Iowa, Nebraska City, Nebr., Moorehead, Minn., Ottumwa, Iowa, Kansas, Claremore, Kans., Corbin, Kans., Independence, Kans., Hugo, Okla., Horicon, Wis., Fargo, N. Dak., Bloomington, Ill., Kansas City, Mo., Burlington, Kans., and E. St. Louis, Ill.

No. MC 114211 (Sub-No. 235G), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Robert J. Molinaro (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, road making machinery, and contractors equipment and supplies, and farm machinery*, (1) between points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming, and (2) from points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin and Wyoming, to points in Alabama, Arizona, Arkansas, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and West Virginia. The purpose of this filing is to eliminate the gateways of Beatrice, Nebr., Minneapolis, Minn., Tulsa, Okla., Atlanta, Ill., Claremore, Okla., Ft. Dodge, Iowa, Topeka, Kans., Martin City, Mo., Pittsburg, Kans., Dubuque, Iowa, Canton, S. Dak., Council Bluffs, Iowa, Omaha, Nebr., Iowa, Keokuk, Iowa, Minnesota, Nassau, Minn., Springfield, Ill., St. Cloud, Minn., Des Moines, Iowa, Nebraska City, Nebr., Moorehead, Minn., Ottumwa, Iowa, Kansas, Corbin, Kans., Independence, Kans., Hugo, Okla., Horicon, Wis., Fargo, N. Dak., Bloomington, Ill., Kansas City, Mo., E. St. Louis, Ill, Chicago, Ill., Moline, Ill., Marshall, Minn., Kansas City, Kans., Bloomington, Minn., Martin City, Kans., and Beatrice, Iowa.

No. MC 114273 (Sub-No. 206G), filed June 4, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Knochar, Suite 315 Commerce Exchange Building, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Iowa and Minnesota, to points in Colorado, Connecticut, Illinois, Indiana, Kansas, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Nebraska, Vermont, Delaware, Wisconsin and Michigan. The purpose of this filing is to eliminate the gateways at Missouri, California, and Moberly, Mo.

No. MC 116073 (Sub-No. 296G), filed June 1, 1974. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar, 1819 4th Avenue South, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in secondary movements, from points in Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, to points in Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia. The purpose of this filing is to eliminate the gateway of Birmingham, Ala., and 15 miles thereof.

No. MC 116810 (Sub-No. 9G), filed June 4, 1974. Applicant: BAIR TRANSPORT, INC., P.O. Box 216, Riverside, N.J. 08075. Applicant's representative: Kenneth T. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, films, silk, tobacco, new automobiles, commodities requiring tank truck or refrigeration, commodities in bulk, liquor, commodities requiring special equipment, and those injurious or contaminating to other lading), between Wilmington, Del., and points in Delaware within 50 miles thereof, and points in Pennsylvania within 15 miles of Wilmington, Del., on the one hand, and, on the other, points in that part of Pennsylvania east of the Susquehanna River and that part of New York within 150 miles of Newark, N.J. The purpose of this filing is to eliminate the gateway of that part of New York, N.Y., Commercial Zone in New Jersey.

No. MC 119443 (Sub-No. 29G), filed June 4, 1974. Applicant: P. E. KRAMME, INC., Main Street, Monroeville N.J. 08343. Applicant's representative: V. Baker Smith, 2107 The Fidelity Building, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chocolate, liquid chocolate products*, and *liquid cocoa butter*, in bulk, in tank vehicles, (1) from Boston, Mass., to points in Connecticut, Maine, Massachusetts, New Hampshire, New York, Ohio, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and Dover, Del. (2) from Chicago, Ill., to points in Alabama, Connecticut, District of Columbia, Florida, Georgia, Ken-

tucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateways of Elizabethtown, Pa., Newark, N.J., Scotch Plains, N.J., Dover, Del., Camden, N.J., and the Philadelphia, Pa., Commercial Zone. (3) from Elizabethtown, Pa., to points in Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateways of Dover, Del., and the Philadelphia, Pa., Commercial Zone.

(4) from Fulton, N.Y., to points in Illinois, Indiana, Iowa, New York, Minnesota, Ohio, and Wisconsin. The purpose of this filing is to eliminate the gateways of Dover, Del., Lititz, Pa., and Elizabethtown, Pa. (5) from Hershey, Pa., to points in Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Dover, Del., Elizabethtown, Pa., Lititz, Pa., and the Philadelphia, Pa., Commercial Zone. (6) from Newark and Jersey City, N.J., and New York, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Vermont, and West Virginia. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and Dover, Del. (7) from Lititz, Pa., to points in Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, and West Virginia. The purpose of this filing is to eliminate the gateways of Dover, Del., and the Philadelphia, Pa., Commercial Zone. (8) from Mansfield, Mass., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateways of Philadelphia and Hershey, Pa., Dover, Del., and Pennsylvania. (9) from Mount Joy, Pa., to points in the District of Columbia, Georgia, Illinois, Iowa, Kentucky, Minnesota, Missouri, Pennsylvania, South Carolina, Tennessee, and Wisconsin. The purpose of this filing is to eliminate the gateways of Dover, Del., Lititz and Elizabethtown, Pa., and the Philadelphia, Pa., Commercial Zone. (10) from Philadelphia, Pa., to points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateways of Dover, Del.

No. MC 119700 (Sub-No. 18G), filed June 4, 1974. Applicant: STEEL HAULERS, INC., 306 Ewing, Kansas City, Mo. 64125. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, (1) from points in Arkansas, to points in South Dakota, Iowa, Minnesota, Wisconsin, Illinois, Indiana, Ohio, Michigan, Nebraska, and Colorado, and (2) from points in Louisiana on and north of U.S. Highway 84, to points in South Dakota, Iowa, Minnesota, Wisconsin, Illinois, Indiana, Ohio, Michigan, Nebraska, Colorado, Kansas, Missouri, New Mexico, and Memphis, Tenn., and (3) from points in New Mexico, to points in Iowa, Minnesota, Wisconsin, Illinois, Indiana, Ohio, Michigan, Missouri, and Memphis, Tenn., and (4) from points in Colorado, to points in Wisconsin, Illinois, Indiana, Ohio, Michigan, Iowa, Minnesota, and South Dakota. The purpose of this filing is to eliminate the gateways of points in that part of Missouri south of U.S. Highway 55, east of U.S. Highway 65 and west of U.S. Highway 67, and Arkansas.

No. MC 119774 (Sub-No. 78G), filed June 5, 1974. Applicant: EAGLE TRUCKING COMPANY, a Corporation, 301 E. Main Street, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, stringing and picking up thereof; and *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with: (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities into or from holes or wells:

1. between points in Utah, on the one hand, and, on the other, points in Kansas and New Mexico; 2. between points in Kansas, on the one hand, and, on the other, points in Georgia, Illinois, Indiana, Kentucky, and Tennessee; 3. between points in Indiana, on the one hand, and, on the other, points in Georgia, Colorado, and Wyoming; 4. between points in Kentucky, on the one hand, and, on the other, points in Georgia; 5. between points in Illinois, on the one hand, and, on the other, points in Colorado and Wyoming; (2) *Pipe, pipe fittings, pipe connections, and pipe couplings*, from Lone Star, Tex., to points in Illinois, Indiana, Kentucky, Missouri, North Carolina, South Carolina, and Tennessee; (3) *Plastic pipe, plastic tubing, plastic conduit, valves, fittings, compounds, joint sealer, bonding cement, primer, coating, thinner, and accessories used in the installation of such products*, from Oklahoma City, Okla., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Texas. The purpose of this filing is to eliminate the gateways of Texas, Arkansas, Oklahoma, Alabama, and Van Buren, Ark.

No. MC 119897 (Sub-No. 19G), filed June 4, 1974. Applicant: A–1 TRANSPORTATION COMPANY, 3102 Maury Street, Houston, Tex. 77026. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum, and their products and by-products and (2) *machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water and sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, (a) between points in Louisiana, on the one hand, and, on the other, points in Missouri and Illinois. The purpose of this filing is to eliminate the gateway at Texas. (b) between points in Louisiana and Texas, on the one hand, and, on the other, points in Oklahoma and in Lea and Eddy Counties, N. Mex. The purpose of this filing is to eliminate the gateways of points in Texas within 100 miles of Iowa Park, Texas. (c) between points in Oklahoma and Kansas, on the one hand, and, on the other, points in Arkansas and Lea and Eddy Counties, N. Mexico. The purpose of this filing is to eliminate the gateway at Missouri. (d) between points in Kansas, on the one hand, and, on the other, points in Texas and Louisiana. The purpose of this filing is to eliminate the gateways at Oklahoma and points in Texas within 100 miles of Iowa Park, Tex. (e) between points in Arkansas, on the one hand, and, on the other, points in Texas and Louisiana. The purpose of this filing is to eliminate the gateways at Missouri, Oklahoma, and points in Texas within 100 miles of Iowa Park, Tex.

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 October 10, 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 1334 (Sub-No. E1), filed May 16, 1974. Applicant: RITEWAY TRANSPORT, INC., P.O. Box 6849, Phoenix, Ariz. 85005. Applicant's representative: Robert R. Digby, 2131 W. Roosevelt St., Phoenix, Ariz. 85009. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, and commodities requiring special equipment), between Phoenix, Ariz., on the one hand, and, on the other, points in Arizona on and north of a line beginning at the Arizona-New Mexico State line at Lupton and extending along U.S. Highways 66/666 to its intersection with Arizona Highway 63, thence along Arizona Highway 63 to its intersection with the southern boundary line of the Navajo Indian Reservation, thence along such boundary line to its intersection with Arizona Highway 99, thence along Arizona Highway 99 to Leupp, thence along the Little Colorado River to its intersection with the Colorado River and thence along the Colorado River to the Arizona-Nevada State line. The purpose of this filing is to eliminate the gateway of points in the Hopi Indian Reservation.

No. MC 5470 (Sub-No. E35), filed May 29, 1974. Applicant: TAJON, INC., R.D. 5 Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligot, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay, petroleum coke, coal tar pitch, and pitch prell*, in dump vehicles, between Robinson, Ill., and Niagara Falls, N.Y. The purpose of this filing is to eliminate the gateways of Erie, Pa., and any railhead in Ashtabula County, Ohio.

No. MC 5470 (Sub-No. E77), filed May 29, 1974. Applicant: TAJON, INC., R.D. 5, P.O. Box 146, Mercer, Pa. 16137. Applicant's representative: Patrick McEligot, 918 Sixteenth St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molding sand*, in bulk, in dump vehicles, from Muskegon and Vassar, Mich., to points in Ashtabula, Mahoning, Trumbull, and Columbiana Counties, Ohio, and points within a radius of 60 miles of any railhead in the counties of Allegheny, Beaver, Butler, and Lawrence Counties, Pa. The purpose of this filing is to eliminate the gateway of New Castle, Pa.

No. MC 15897 (Sub-No. E5) (Correction), filed June 2, 1974, published in the FEDERAL REGISTER on August 27, 1974. Applicant: O.K. TRANSFER & STORAGE CO., 207 South Union, Shawnee, Okla. 74807. Applicant's representative: Wilburn L. Williamson, Suite 280, National Foundation Life Center, 3535 NW. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Kansas on and west of U.S. Highway 81, on the one hand, and, on the other, points in Alabama on and south of U.S. Highway 278. The purpose of this filing is to eliminate the gateways of points in Creek County, Okla., and Lamar County, Tex. The purpose of this correction is to correct the highway description 'n points in Kansas above to read U.S. Highway 81 which was inadvertently published as U.S. Highway 11.

No. MC 15897 (Sub-No. E7) (Correction), filed June 2, 1974, published in the FEDERAL REGISTER on August 27, 1974. Applicant: O.K. TRANSFER AND STORAGE CO., 207 South Union, Shawnee, Okla. 74807. Applicant's representative: Wilburn L. Williamson, Suite 280 National Foundation Life Center, 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Kansas in and east of Harper, Pratt, Edwards, Pawnee, Rush, Trego, Graham, and Norton Counties, and west of U.S. Highway 81, on the one hand, and, on the other, points in that part of Texas, on, south, and west of a line beginning at the United States-Mexico International Boundary line near Brownsville, thence along U.S. Highway 77 to junction U.S. Highway 290, thence along U.S. Highway 290 to junction U.S. Highway 81, thence along U.S. Highway 81 to the United States-Mexico International Boundary line near Laredo. The purpose of this filing is to eliminate the gateway of points in Creek County, Okla. The purpose of this correction is to correct the highway description in points in Texas.

No. MC 15897 (Sub-No. E39) (Correction), filed June 2, 1974, published in the FEDERAL REGISTER on September 9, 1974. Applicant: O.K. TRANSFER AND STORAGE CO., 207 South Union, Shawnee, Okla. 74807. Applicant's representative: Wilburn L. Williamson, Suite 280 National Foundation Life Center, 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in that part of Texas on, south, and west of a line beginning at the United States-Mexico International Boundary line near El Paso, thence along Interstate Highway 10 to junction U.S. Highway 181, thence along U.S. Highway 181 to Corpus Christi, on the one hand, and, on the other, points in Cook, Lake, McHenry, Boone, Winnebago, Stephenson, and Jo Daviess Counties, Ill. The purpose of this filing is to eliminate the gateway of points in Creek County, Okla., and Lamar County, Texas. The purpose of this correction is to correct the spelling of Cook County, Ill.

No. MC 30280 (Sub-No. E62), filed May 20, 1974. Applicant: WATKINS CAROLINA EXPRESS, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Paul Daniell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from points in Lunenburg, Mecklenburg, Halifax, Charlotte, Prince Edward, and Nottoway Counties, Va., to points in Hudson, Bergen, Passaic, Sussex, Essex, Morris, Union, Middlesex, Monmouth, and Somerset Counties, N.J. The purpose of this filing is to eliminate the gateways of Baltimore, Md., and New York, N.Y.

No. MC 52938 (Sub-No. E2), filed May 13, 1974. Applicant: MASHKIN FREIGHT LINES, INC., 410 Asylum St., Hartford, Conn. 06103. Applicant's representative: Hugh M. Joseloff (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and, in connection therewith, *equipment, materials*, and *supplies* used in the conduct of such businesses (except commodities in bulk, and those requiring special equipment) limited to movements from, to, or between plants, warehouses, or other facilities of businesses, (1) between points in New York on and south of a line beginning at Buffalo and extending along U.S. Highway 20 to junction U.S. Highway 15, thence along U.S. Highway 15 to Elmira, thence along New York Highway 17 to Binghamton, thence along Interstate Highway 81 to the New York-Pennsylvania State line, on the one hand, and, on the other, points in Massachusetts on, south, and east of a line beginning at Boston and extending along Massachusetts Highway 9 to junction Massachusetts Highway 126, thence along Massachusetts Highway 126 to the Massachusetts-Rhode Island State line; and (2) between points in New York on and west of a line beginning at Rochester and extending along Interstate Highway 490 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction New York Highway 14, thence along New

York Highway 14 to junction New York Highway 224, thence along New York Highway 224 to junction New York Highway 96, thence along New York Highway 96 to junction New York Highway 17, thence along New York Highway 17 to Binghamton, thence along Interstate Highway 81 to the New York-Pennsylvania State line, on the one hand, and, on the other, Providence, R.I., and points in Connecticut on, south, and east of a line beginning at the Connecticut-New York State line and extending along Interstate Highway 84 to Hartford, thence along Interstate Highway 91 to the Connecticut-Massachusetts State line. The purpose of this filing is to eliminate the gateway of Port Chester, N.Y.

No. MC 66886 (Sub-No. E29), filed June 4, 1974. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Mo. 64801. Applicant's representative: Dick L. Shaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Incinerators and refuse treatment equipment*, which because of size or weight, requires the use of special equipment from points in Texas, Oklahoma, Colorado, and Nebraska to points in Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, and Maine. The purpose of this filing is to eliminate the gateways of any point in Kansas and Springfield, Mo.

No. MC 66886 (Sub-No. E30), filed June 4, 1974. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Mo. 64801. Applicant's representative: Dick L. Shaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Incinerators and refuse treatment equipment*, which because of size or weight, requires the use of special equipment, from points in that part of New Mexico on and north of U.S. Highway 60 to points in that part of Alabama on and north of U.S. Highway 84. The purpose of this filing is to eliminate the gateways of (1) any point in Kansas and (2) Springfield, Mo.

No. MC 66886 (Sub-No. E31), filed June 4, 1974. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Mo. 64801. Applicant's representative: Dick L. Shaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Incinerators and refuse treatment equipment*, which because of size or weight, requires the use of special equipment, from points in that part of Oklahoma on and north of U.S. Highway 66 to points in that part of Mississippi on and north of U.S. Highway 78. The purpose of this filing is to eliminate the gateway of (1) any point in Kansas and (2) Springfield, Mo.

No. MC 66886 (Sub-No. E33), filed June 4, 1974. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Mo. 64801. Applicant's representative: Dick L. Shaw (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Incinerators and refuse treatment equipment*, which because of size or weight, requires the use of special equipment, from points in Nebraska and Colorado to points in Georgia, Florida, Tennessee, Alabama, and Mississippi. The purpose of this filing is to eliminate the gateway of (1) any point in Kansas and (2) Springfield, Mo.

No. MC 95876 (Sub-No. E6), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe and fittings and accessories*, when moving as contractors' and construction materials and supplies (except oil field pipe and articles described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459), and except commodities which because of size or weight require the use of special equipment, from points in Wisconsin on and north of U.S. Highway 10 beginning at the Minnesota-Wisconsin State line and extending to junction U.S. Highway 12, thence along U.S. Highway 12 to U.S. Highway 14, thence along U.S. Highway 14 to the Wisconsin-Illinois State line to points in South Dakota on and north of U.S. Highway 18 beginning at the Iowa-South Dakota State line and extending to junction South Dakota Highway 44, thence along South Dakota Highway 44 to the Missouri River. The purpose of this filing is to eliminate the gateway of Savage, Minn.

No. MC 95876 (Sub-No. E7), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe and fittings and accessories*, when moving as contractors' and construction materials and supplies (except oil field pipe and articles described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459, and except commodities which because of size or weight require the use of special equipment, from points in Minnesota on, south, and east of U.S. Highway 169 beginning at the Minnesota-Iowa State line, and extending to U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-Wisconsin State line and points in Hennepin and Ramsey Counties; points in Wisconsin on and south of U.S. Highway 29; points in Iowa on and east of U.S. Highway 69; points in Porter and Lake Counties, Ind.; and points in Cook and DuPage Counties, Ill., to points in North Dakota. The purpose of this filing is to eliminate the gateway of Savage, Minn.

No. MC 95876 (Sub-No. E8), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe and fittings and accessories therefore* (except oil field pipe and articles described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459, and except commodities which because of size or weight require the use of special equipment), from points in Porter and Lake Counties, Ind., and Cook and DuPage Counties, Ill., to points in South Dakota on and north of South Dakota Highway 44, beginning at the Iowa-South Dakota State line, thence west to the Missouri River, thence south along the eastern bank of the Missouri River to the Nebraska-South Dakota State line. The purpose of this filing is to eliminate the gateway of Savage, Minn.

No. MC 95876 (Sub-No. E9), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe and fittings and accessories*, when moving as contractors' and construction materials and supplies (except oil field pipe and articles described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459, and except commodities which because of size or weight require the use of special equipment), from points in Wisconsin on and north of U.S. Highway 29 to points in Iowa on and west of U.S. Highway 69 beginning at the Iowa-Minnesota State line, then south on U.S. Highway 69 to Des Moines, then west on Interstate Highway 80 to the junction with U.S. Highway 169, then south on U.S. Highway 169 to the Iowa-Missouri State line. The purpose of this filing is to eliminate the gateway of Savage, Minn.

No. MC 95876 (Sub-No. E10), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe and fittings and accessories*, when moving as contractors' and construction materials and supplies (except oil field pipe and articles described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459, and except commodities which because of size or weight require the use of special equipment), from points in Iowa on and west of U.S. Highway 69 beginning at the Iowa-Minnesota State line, thence south on U.S. Highway 69 to Des Moines,

thence west on Interstate Highway 80 to the junction with U.S. Highway 169, then south on U.S. Highway 169 to the Iowa-Missouri State line to points in Wisconsin on and north of U.S. Highway 29. The purpose of this filing is to eliminate the gateway of Savage, Minn.

No. MC 95876 (Sub-No. E11), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe and fittings*, from points in Ohio and points in Michigan on and south of Michigan Highway 55, to points in Arizona, Colorado, Idaho, points in Kansas on, north, and west of U.S. Highway 81 beginning at the Kansas-Nebraska State line, then south to junction with U.S. Highway 56 at McPherson, then west on U.S. Highway 56 to the Kansas-Oklahoma State line, Montana, Nebraska, New Mexico, points in South Dakota on and south of Interstate Highway 90, Utah, and Wyoming. The purpose of this filing is to eliminate the gateway of Council Bluffs, Iowa.

No. MC 95876 (Sub-No. E14), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, cement, and asbestos products* (except in bulk), when moving as construction materials and supplies, from Waukegan, Ill., to points in Minnesota and Fargo, N. Dak. The purpose of this filing is to eliminate the gateway of New Albion, Iowa, and Fergus Falls, Minn.

No. MC 95876 (Sub-No. E15), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies* (except commodities in bulk) used in the manufacture of fibreglass and plastic products, when moving as items which require specialized handling or rigging because of size or weight, from points in Connecticut, Delaware, Florida, Georgia, Indiana, points in Kentucky on and east of U.S. Highway 41, Lower Peninsula of Michigan, Maine, Maryland, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia to points in Minnesota. The purpose of this filing is to eliminate the gateway of New London, Wis.

No. MC 95876 (Sub-No. E16), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass and plastic products*, when moving as contractors' and construction materials and supplies, from points in Minnesota to points in Connecticut, Delaware, Georgia, Florida, Indiana, points in Kentucky on and east of U.S. Highway 41, Lower Peninsula of Michigan, New Hampshire, New Jersey, New York, Maine, Maryland, North Carolina, South Carolina, Vermont, Rhode Island, points in Tennessee on and east of U.S. Highway 41, Pennsylvania, Ohio, Virginia, West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of New London, Wis.

No. MC 95876 (Sub-No. E17), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies used in the manufacture of snowmobiles* (except in bulk), when moving as items which require specialized handing or rigging because of size or weight, from points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont to points in Minnesota on, north, and west of U.S. Highway 71, beginning at International Falls, then south on U.S. Highway 71 to the junction with Minnesota Highway 210, then west on Minnesota Highway 210 to the Minnesota-North Dakota State line. The purpose of this filing is to eliminate the gateway of Twin Valley, Minn.

No. MC 95876 (Sub-No. E18), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies* used in the manufacture of snowmobiles (except in bulk), when moving as items which require specialized handling or rigging because of size or weight, from points in Arizona, Colorado, Idaho, Montana, New Mexico, Oregon, Washington, and Wyoming, to points in Minnesota on and north of Minnesota Highway 210. The purpose of this filing is to eliminate the gateway of Twin Valley, Minn.

No. MC 95876 (Sub-No. E19), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles*, when moving as items requiring specialized handling or rigging because of size or weight, from points in Minnesota on, west, and north of a line beginning at International Falls, and extending along U.S. Highway 71 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to the Minnesota-North Dakota State line, to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and those in Ohio on and east of U.S. Highway 42. The purpose of this filing is to eliminate the gateway of Twin Valley, Minn.

No. MC 95876 (Sub-No. E20), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles*, when moving as items requiring specialized handling or rigging because of size or weight, from points in Minnesota on and north of Minnesota Highway 210 to points in Arizona, Colorado, Idaho, Montana, New Mexico, Oregon, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of Twin Valley, Minn.

No. MC 95876 (Sub-No. E21), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated metal buildings*, knocked down, *prefabricated metal building sections*, knocked down, *prefabricated prefinished metal panel sections, component parts thereof*, and *equipment, materials, and supplies* used in the erection thereof, when moving as contractors' and construction equipment, materials, and supplies (except metal buildings which are designed to be drawn by passenger vehicles), from points in Minnesota to points in Connecticut, Maine, Massachusetts, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Evansville, Wisconsin.

No. MC 95876 (Sub-No. E22), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doors*, when moving as contractors' and construction materials and supplies, from points in Minnesota to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and those in Kentucky on and east of U.S. Highway 41. The purpose of this filing is to eliminate the gateway of New London, Wisconsin.

No. MC 95876 (Sub-No. E23), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boards and slabs*, composed of cement combined with wood fibers, when moving as contractors' and construction materials and supplies or as items requiring specialized handling or rigging because of size or weight, from points in Minnesota on and north of U.S. Highway 21 to points in Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, West Virginia, the District of Columbia, and those points in Illinois on and south of U.S. Highway 30. The purpose of this filing is to eliminate the gateway of Cornell, Wisconsin.

No. MC 95876 (Sub-No. E24), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, poles, and piling*, from points in Minnesota on and north of U.S. Highway 2 to points in Illinois, Indiana, Kentucky, Michigan, New York, Ohio, and Pennsylvania. The purpose of this filing is to eliminate the gateway of Superior, Wisconsin.

No. MC 95876 (Sub-No. E25), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, when moving as contractors' and construction materials and supplies, from points in the Upper Peninsula of Michigan on and east of a line beginning at the Michigan-Wisconsin State line and extending along Michigan Highway 95 to junction U.S. Highway 41, thence along U.S. Highway 41 to Marquette, to points in Minnesota on and south of U.S. Highway 60. The purpose of this filing is to eliminate the gateway of New London, Wis.

No. MC 100666 (Sub-No. E87) (Correction), filed May 10, 1974, published in the FEDERAL REGISTER September 11, 1974. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Richard W. May (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber and creosoted timbers* (a) from points in Mississippi to points in Missouri (except from points in Mississippi east and north of U.S. Highway 78 destined to points in Missouri east of a line from the Arkansas-Missouri State line along U.S. Highway 67 to the Mississippi River near Brystal Springs), and Memphis, Tenn. (points in Tennessee within 250 miles of Texarkana, Tex.)*, Restriction: The service authorized herein is restricted against the transportation of lumber from Pascagoula, Miss. . . . (11) *Lumber and creosoted posts, creosoted poles, and creosoted pilings* from points in Alabama (except lumber from Steelwood, Stockton, Mobile, Mt. Vernon, Greenville, Chapman, and Selma and poles from Mobile) to points in Colorado and New Mexico (West Memphis and Texarkana, Ark., and Duke, Okla.)*. . . The purpose of this filing is to eliminate the gateways indicated by the asterisks above. The purpose of this partial correction is to correct certain typographical errors. The remainder of the letter-notice remains as previously published.

No. MC 107403 (Sub-No. E528), filed May 29, 1974. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphatic fertilizer solution*, in bulk, in tank vehicles, from the plantsites of National Phosphatic Corporation located approximately four (4) miles north of Hahnville, La., to points in Maine, Massachusetts, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateways of the plantsite of American Cyanamid Company at Avondale, La.

No. MC 111545 (Sub-No. E611), filed June 3, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Valves, hydrants, indicator posts, floor stands, fittings, sleeves, and covers*, the transportation of which, because of size or weight, requires the use of special equipment, from points in North Carolina to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways of Ashville, N.C., and Arriston, Ala.

No. MC 111545 (Sub-No. E612), filed May 31, 1974. Applicant: HOME TRANSPORTATION COMPANY, P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe* (except pipe as described in *Mercer Extension-Oilfield Commodities*, 74 M.C.C. 459 and pipe originating at or destined to pipeline rights-of-way), from points in Georgia, to points in Arizona, California, Nevada, New Mexico, Oregon, Utah, and Washington, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment, where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading and unloading and the loading and unloading is performed by the consignor or consignee, or both. The purpose of this filing is to eliminate the gateways of Cedartown, Ga., Hugo, Okla., and Tyler, Tex.

No. MC 111545 (Sub-No. E613), filed June 3, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe* (except pipe as described in *Mercer Extension-Oilfield Commodities*, 74 M.C.C. 459, and pipe originating at or destined to pipeline rights-of-way), from points in Florida to points in Arizona, California, Nevada, New Mexico, Oregon, Utah, and Washington, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment, where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading and unloading and the loading and unloading is performed by the consignor or consignee, or both, and restricted against the transportation of agricultural implements, other than hand, as defined by the Commission. The purpose of this filing is to eliminate the gateways of Cedartown, Ga., Hugo, Okla., and the plantsite and warehouse facilities of Western Foundry Company at or near Tyler, Tex.

No. MC 111545 (Sub-No. E614), filed June 3, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe* (except pipe as described in *Mercer Extension-Oilfield Commodities*, 74 M.C.C. 459, and pipe originating at or destined to pipeline rights-of-way), from points in South Carolina, to points in Arizona, California, Nevada, New Mexico, Oregon, Utah, and Washington, restricted to the transportation of commodities which, because of size or weight, require the use of special equipment, where such transportation is performed on ordinary vehicular equipment, and special equipment is provided for loading and unloading and the loading and unloading is performed by the consignor or consignee, or both. The purpose of this filing is to eliminate the gateways of Anderson, S.C., Ringgold, Ga., Hugo, Okla., and the plantsite and warehouse facilities of Western Foundary Company at or near Tyler, Tex.

No. MC 111545 (Sub-No. E617), filed June 3, 1974. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, Ga. 30062. Applicant's representative: Robert E. Born (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, the transpor-

tation of which, because of size or weight, requires the use of special equipment, restricted against the transportation of commodities to be used in, or in connection with, main or trunk pipelines, from points in that part of Utah on and south of U.S. Highway 50, to point in Indiana. The purpose of this filing is to eliminate the gateways of Eve, Mo., and the plantsite of Continental Homes, Inc., at or near Malden, Mo.

No. MC 113362 (Sub-No. E22) (Correction), filed May 14, 1974, published in the FEDERAL REGISTER September 3, 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: *Frozen meat*, (1) from Austin and Albert Lea, Minn., and points in Martin and Fairbault Counties, Minn., to points in Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont (points in that part of Kossuth County, Iowa, with 15 miles of Elmore, Minn., and Cedar Rapids, Iowa)*, and (2) from points in Kossuth County, Iowa, to points in Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont (points in that part of Fairbault County, Minn., within 15 miles of Elmore, Minn., and Cedar Rapids, Iowa)*. The purpose of this filing is to eliminate the gateways indicated by the asterisks above. The purpose of this correction is to expand the origin territory.

No. MC 113678 (Sub-No. E24), filed May 5, 1974. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80022. Applicant's representative: David L. Metzler (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fish* (including shell fish) and *frozen agricultural commodities* (not including manufactured products thereof), as defined in Section 203(b)(6) of the Interstate Commerce Act, when moving in mixed loads with commodities (presently authorized in certificates now issued to carrier) the transportation of which is not exempt from regulation, (a) from points in Massachusetts and New York City and Hempstead, Long Island, N.Y.; Jersey City and Maurice River, N.J.; Rehoboth Beach and Dover, Del.; Nanticoke, Crisfield, Bivalue, and Tilghman, Md.; and Philadelphia, Pa. to points in Washington, Oregon, Idaho, and Montana. The purpose of this filing is to eliminate the gateway of Hall County, Nebr., (b) from St. Louis, Mo. and Omaha, Nebr. to points in Washington, Oregon, Idaho, and Montana. The purpose of this filing is to eliminate the gateway of Denver, Colorado.

No. MC 113843 (Sub-No. E398), filed May 22, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats, meat products, and meat by-products*, as defined by the Commission, from Piqua, Ohio, to points in that part of Pennsylvania on, north, and east of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 219 to junction Pennsylvania Highway 59, thence along Pennsylvania Highway 59 to junction U.S. Highway 6, thence along U.S Highway 6 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to Kingston, thence along U.S. Highway 11 to Scranton, thence along U.S. Highway 6 to junction Pennsylvania Highway 652, thence along Pennsylvania Highway 652 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.

No. MC 113843 (Sub-No. E474), filed May 13, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats, meat products, and meat by-products*, as defined by the Commission, from Cincinnati, Ohio, to points in that portion of Pennsylvania on, east, and north of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 219 to junction Pennsylvania Highway 59, thence along Pennsylvania Highway 59 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to Kingston, thence along U.S. Highway 11 to Scranton, thence along U.S. Highway 6 to junction Pennsylvania Highway 652, thence along Pennsylvania Highway 652 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.

No. MC 113843 (Sub-No. E554) (Correction), filed May 27, 1974, published in the FEDERAL REGISTER August 7, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Lakewood, N.J., to points in Nebraska. The purpose of this filing is to eliminate the gateway of Dundee, N.Y. The purpose of this correction is to reflect the gateways as being located in New York.

No. MC 114457 (Sub-No. E7), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk, in tank vehicles), as are preserved foodstuffs, from the plantsite of Armour and Company, near Worthington, Minn., to points in that part of Montana in, north, and west of Richland, McCone, Garfield, Petroleum, Fergus, Judith Basin, Cascade, Lewis and Clark, Powell, Deer Lodge, Silver Bow, and Beaverhead Counties, restricted to the transportation of traffic originating at the above named origin points. The purpose of this filing is to eliminate the gateway of Chanhassen, Mich.

No. MC 114457 (Sub-No. E8), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and container ends, accessories, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk, and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from St. Louis, Mo., to points in Wisconsin (except Lafayette, Iowa, Grant, Richland, Crawford, Vernon, and LaCrosse Counties). The purpose of this filing is to eliminate the gateway of Kankakee, Ill.

No. MC 114457 (Sub-No. E9), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and container ends, accessories, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk, and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from Fairbault, Minn., to points in Tennessee. The purpose of this filing is to eliminate the gateway of Kankakee, Ill.

No. MC 114457 (Sub-No. E10), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and container ends, accessories, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk and those which because of size or weight require the use of special equipment), when moving in mixed loads with metal containers, from

Kankakee, Ill., to points in Texas and Louisiana. The purpose of this filing is to eliminate the gateway of St. Louis, Mo.

No. MC 114457 (Sub-No. E14), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers, container ends, and materials and supplies* used in connection with the manufacture and distribution of metal containers (except commodities in bulk or those which because of size or weight require special equipment), from the plantsite or warehouse facilities of Continental Can Company, Inc., at Peoria, Ill., to points in Kentucky in and east of Meade, Hardin, Hart, Barren, and Monroe Counties, restricted to the transportation of shipments originating at the plantsite or warehouse facilities of Continental Can Company, Inc., at Makata, Minn., St. Joseph, Mo., Omaha, Nebr., La-Crosse, Wis., Peoria and Danville, Ill., Elmwood, Ind., and St. Joseph, Mich. The purpose of this filing is to eliminate the gateway of Kankakee, Ill.

No. MC 114457 (Sub-No. E15), filed June 3, 1974. Applicant: DART TRANSIT COMPANY, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meats*, from the storage facilities utilized by Armour and Company at or near Worthington and Mankato, Minn., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Madelia, Minn.

No. MC 115162 (Sub-No. E2), filed June 4, 1974. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* (except plywood), from points in that part of Florida on and west of U.S. Highway 319, to points in North Carolina, Virginia, West Virginia, Maryland, Delaware, New Jersey, Connecticut, Rhode Island, Massachusetts, New York, New Hampshire, Pennsylvania (points in that part of Alabama south of U.S. Highway 80)*, Arkansas, Texas, Kansas (points in Mobile or Baldwin Counties, Ala.)*, Mississippi, and Louisiana (points in that part of Alabama on and south of U.S. Highway 78, except points in Greene, Sumter, and Marengo Counties)*. The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 119443 (Sub-No. E13), filed May 28, 1974. Applicant: P. E. KRAMME, INC., Main Street, Monroeville, N.J. 08343. Applicant's representative: Gerald A. Kramme (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chocolate, liquid chocolate coating, liquid chocolate liquor, and liquid cocoa butter*, in bulk, in tank vehicles, from Chicago, Ill., to Naugatuck, Conn., New York, N.Y., points in Delaware, New Jersey, points in that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along Pennsylvania Highway 841 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction Pennsylvania Highway 82, thence along Pennsylvania Highway 82 to junction Pennsylvania Highway 162, thence along Pennsylvania Highway 162 to junction Pennsylvania Highway 100, thence along Pennsylvania Highway 100 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 202, thence along U.S. Highway 202 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction unnumbered Pennsylvania Highway near Lanark, thence along unnumbered Pennsylvania Highway to junction Interstate Highway 78 near Allentown, thence along Interstate Highway 78 to junction Pennsylvania Highway 987, thence along Pennsylvania Highway 987 to Pennsylvania Highway 512, thence along Pennsylvania Highway 512 to junction Pennsylvania Highway 33, thence along Pennsylvania Highway 33 to junction Pennsylvania Highway 209.

Thence along Pennsylvania Highway 209 to junction Pennsylvania Highway 402, thence along Pennsylvania Highway 402 to junction Interstate Highway 84, thence along Interstate Highway 84 to junction Pennsylvania Highway 390, thence along Pennsylvania Highway 390 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 191, thence along Pennsylvania Highway 191 to the Pennsylvania-New York State line, points in that part of Maryland on and east of a line beginning at the Maryland-Pennsylvania State line, thence along Maryland Highway 23 to junction Maryland Highway 146, thence along Maryland Highway 146 to junction Interstate Highway 695, thence along Interstate Highway 695 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction Maryland Highway 151, thence along Maryland Highway 151 to the Chesapeake Bay, thence along the west bank of the Chesapeake Bay and Maryland Highway 173, thence along Maryland Highway 173 to junction Maryland Highway 607, thence along Maryland Highway 607 to junction Maryland Highway 177, thence along Maryland Highway 177 to junction Maryland Highway 2, thence over Maryland Highway 2 to Annapolis, and that part of Maryland east of the Chesapeake Bay, points in Accomack and Northampton Counties, Va., and points in that part of Virginia on and south of a line beginning at Norfolk, thence along U.S. Highway 60 to junction U.S. Highway 17, thence along U.S. Highway 17 to the Virginia-North Carolina State line, and points in that part of North Carolina and east of U.S. Highway 17. The purpose of this filing is to eliminate the gateways of Elizabethtown, Pa., Philadelphia, Pa., Dover, Del., and Newark, N.J.

No. MC 119443 (Sub-No. E14), filed May 28, 1974. Applicant: P. E. KRAMME, INC., Main Street, Monroeville, N.J. 08343. Applicant's representative: Gerald A. Kramme (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liqiud chocolate, liquid chocolate coating, liquid chocolate liquor, and liquid cocoa butter*, in bulk, in tank vehicles, from Boston, Mass., to points in Alabama, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin, points in that part of Ohio, on, south, and west of a line beginning at the Ohio-Pennsylvania State line, thence along U.S. Highway 422 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction Ohio Highway 14, thence along Ohio Highway 14 to junction Ohio Highway 59, thence along Ohio Highway 59 to junction Ohio Highway 8, thence along Ohio Highway 8 to junction Ohio Highway 18, thence along Ohio Highway 18 to junction U.S. Highway 42, thence along U.S. Highway 42 to junction Ohio Highway 162, thence along Ohio Highway 162 to junction Ohio Highway 4, thence along Ohio Highway 4 to junction Ohio Highway 269, thence along Ohio Highway 269 to junction unnumbered Ohio Highway near Castalia, thence along unnumbered Ohio Highway to junction U.S. Highway 250 near Bogart, thence along U.S. Highway 250 to Sandusky. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa., Dover, Del., and Elizabethtown and Lititz, Pa.

No. MC 123407 (Sub-No. E124), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Indiana 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, used as a building material (except commodities in bulk), from Henry County, Tenn., to points in South Dakota. The purpose of this filing is to eliminate the gateway of Warren, Ill.

No. MC 123407 (Sub-No. E125), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Indiana 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, used as building materials

from Bartonville, Ill., to points in Cheyenne, Sherman, Wallace, Greely, Rawlings, and Thomas Counties. The purpose of this filing is to eliminate the gateway of Warren, Ill.

No. MC 123407 (Sub-No. E126), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Indiana 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat Glass*, used as a building material, from Lincoln, Ill., to points in the Upper Peninsula of Michigan, restricted to the transportation of shipments originating at the plant and warehouse sites of PPG Industries, Inc., at the above-named origin points. The purpose of this filing is to eliminate the gateway of points in that part of Wisconsin within the Warren, Ill., Commercial Zone.

No. MC 123407 (Sub-No. E127), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Indiana 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except commodities in bulk, lumber, chemicals, and commodities the transportation of which because of size or weight require the use of special equipment), from points in Jo Daviess, Stephenson, and Carroll Counties, Ill., to points in Virginia. The purpose of this filing is to eliminate the gateway of Warren, Ill., and Brookville, Ind.

No. MC 123407 (Sub-No. E128), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Indiana 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and Roofing materials* (except commodities in bulk, lumber, chemicals, and commodities the transportation of which because of their size or weight require the use of special equipment), from the plantsite of Johns-Manville Products Corporation at Waukegan, Ill., to points in that part of Ohio in and south of Butler, Warren, Greene, Madison, Franklin, Licking, Muskingum, Guernsey, Harrison, and Jefferson Counties. The purpose of this filing is to eliminate the gateway of Chicago, Ill., and Brookville, Ind.

No. MC 123407 (Sub-No. E130), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Indiana 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* used in the manufacture and distribution of windows, doors, and building woodwork, from Charleston, W. Va., to Dickinson, Iron, Baraga, Keweenaw, Houghton, Ontonagon, and Gogebic Counties, Mich., and Norton, Decatur, Rawlins, Thomas, Logan, Sherman, Wallace, Cheyenne, and Greeley Counties, Kansas, restricted against the transportation of those commodities which because of size or weight require the use of special equipment or special handling. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa, and Warren, Ill.

No. MC 123407 (Sub-No. E131), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition building board and materials* and *accessories*, used in the installation thereof (except commodities in bulk, lumber, chemicals, and commodities the transportation of which because of their size or weight require the use of special equipment), from Natchez, Miss., to points in the Lower Peninsula of Michigan, Ohio, that part of Indiana in and north of Warren, Fountain, Parke, Putnam, Morgan, Brown, Bartholomew, Jennings, and Jefferson Counties, that part of Kentucky in and north of Trimble, Henry, Owen, Grant, Harrison, Nicholas, Fleming, Rowan, Elliot, and Lawrence Counties, that part of West Virginia in and north of Wayne, Lincoln, Kanawha, Fayette, Nicholas, Webster, and Pocahontas Counties, and that part of Virginia in and north of Bath, Augusta, Rockingham, Greene, Orange, Spotsylvania, and Stafford Counties. The purpose of this filing is to eliminate the gateway of Brookville, Ind.

No. MC 123407 (Sub-No. E132), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing material* (except commodities in bulk, lumber, chemicals, and commodities the transportation of which because of their size or weight require the use of special equipment) from the plantsite of Johns-Manville Perlite Corporation at Rockdale, Ill., to points in that part of Ohio in and south of Preble, Montgomery, Clark, Madison, Franklin, Fairfield, Perry, Muskingum, Guernsey, and Belmont Counties. The purpose of this filing is to eliminate the gateways of Chicago, Ill., and Brookville, Ind.

No. MC 123407 (Sub-No. E133), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Indiana 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* used in the manufacture and distribution of windows, doors, and building woodwork, from Pennsylvania, Maryland, Delaware, New York, New Jersey, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia to points in Nebraska. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa, and Warren, Ill.

No. MC 123407 (Sub-No. E134), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Indiana 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt roofing, asbestos shingles, asbestos siding, and commodities* required in the installation thereof, vermicullite, and mineral wool insulation from Minneapolis, Minn., to points in Indiana, Ohio, and Pennsylvania.

No. MC 123407 (Sub-No. E135), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board* from the plant sites and storage facilities of the National Gypsum Company at Mobile, Ala., to points in that part of Montana bounded by a line beginning at the Idaho-Montana State line, thence along U.S. Highway 2 to junction Montana Highway 49, thence along Montana Highway 49 to junction U.S. Highway 89 to Port of Piegan, Mont. The purpose of this filing is to eliminate the gateway of Alpena, Mich.

No. MC 123407 (Sub-No. E136), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing material* from Wilmington, Ill., to points in Minnesota, South Dakota, Nebraska, and Kansas. The purpose of this filing is to eliminate the gateway of points in that part of Wisconsin within the Warren, Ill., commercial zone.

No. MC 123407 (Sub-No. E137), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* from Sterling, Ill., to points in Nebraska, Kansas, Pennsylvania, the Upper Peninsula of Michigan, and points in the Lower Peninsula of Michigan in and north of Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, and Alcona Counties, and points in Ohio in and east of Cuyahoga, Medina, Ashland, Richland, Knox, Licking, Franklin, Pickaway, Fayette, Highland, and Brown Counties. The purpose of this filing is to eliminate the gateway of Warren, Ill.

No. MC 123407 (Sub-No. E138), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wallboard, pulpboard, hardboard, insulation, and insulation materials;* (2) *accessories and materials* used in the installation of products described in (1) above; and (3) *padding and cushion materials and mulch* from L'Anse, Mich., to points in Texas, Louisiana, and Arkansas (except points in Marion, Baxter, Fulton, Izard, Sharp, Randolph, Clay, Greene, Lawrence, Craighead, Independence, Jackson, Poinsett, Mississippi, Cross Crittenden, Woodruff, St. Francis, and Lee Counties, restricted against the transportation of lumber. The purpose of this filing is to eliminiate the gateway of Cloquet, Minn.

No. MC 123407 (Sub-No. E139), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, used in the manufacture and distribution of windows, doors, and building woodwork (except commodities which because of size or weight require the use of special equipment), from points in New York, New Jersey, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and Pennsylvania (except points in Mercer, Lawrence, Butler, Beaver, Washington, Greene, Fayette, Somerset, Westmoreland, and Allegheny Counties). The purpose of this filing is to eliminate the gateway of Dubuque, Iowa, and Warren, Ill.

No. MC 123407 (Sub-No. E140), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* used in the manufacture and distribution of windows, doors, and building woodwork from Crystal City, Mo., to points in the Upper Peninsula of Michigan, Minnesota, and South Dakota, restricted against the transportation of commodities which, because of size or weight, require the use of special equipment or special handling. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa, and Warren, Ill.

No. MC 123407 (Sub-No. E141), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from the plant sites of Georgia-Pacific Corporation at Taylorsville, Miss., to points in Maine, New Hampshire, Vermont, New York, Pennsylvania, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, Maryland, and the District of Columbia. The purpose of this filing is to eliminate the gateway of the plant and warehouse site of the Abitibi Corporation near Roaring River, N.C.

No. MC 123407 (Sub-No. E142), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from points in Illinois in and north of Whiteside, Lee, De Kalb, Kendall, Du Page, and Cook to points in Kansas. The purpose of this filing is to eliminate the gateway of Warren, Ill.

No. MC 123407 (Sub-No. E143), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt roofing, asbestos shingles, asbestos siding, vermiculite, and mineral wool insulation*, from St. Paul, Minn., to points in that part of Michigan in and south of Leelanan, Grand Tranverse, Wexford, Osceola, Clare, Midland, and Bay Counties. The purpose of this filing is to eliminate the gateway of points in that part of Wisconsin within the Warren, Ill., commercial zone.

No. MC 123407 (Sub-No. E144), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition building board and materials and accessories* used in the installation thereof, from Henry County, Tenn., to points in North Dakota (except points in Cass, Richland, Ransom, Sargent, Dickey, La Moure, and McIntosh Counties). The purpose of this filing is to eliminate the gateway of L'Anse, Mich.

No. MC 123407 (Sub-No. E145), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesive cement and materials, ingredients, and accessories* used in the installation thereof (except commodities in bulk), from the plant and warehouse sites of Permalastic Products Company located in Wayne County, Mich., to points in Kansas, restricted to the transportation of traffic originating at the plant and warehouse sites of Permalastic Products Company, located at Wayne County, Mich. The purpose of this filing is to eliminate the gateway of points in that part of Wisconsin within the Warren, Ill., commercial zone.

No. MC 123407 (Sub-No. E146), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber* used as a building material from Spearfish, S. Dak., to points in Michigan (except points in Gogebic, Ontonagon, Iron, Houghton, Keweenaw, Baraga, and Marquette Counties). The purpose of this filing is to eliminate the gateway of points in that part of Wisconsin within the Warren, Ill., commercial zone.

No. MC 123407 (Sub-No. E147), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, when used as building material, from Bartonville, Ill., to points in the Upper Peninsula of Michigan and in Emmet and Cheboygan Counties, Mich., that part of Nebraska in and west of Dakota, Wayne, Stanton, Platte, Nance, Greeley, Valley, Custer, Dawson, Frontier, and Hitchcock Counties, and that part of Pennsylvania in and west of Bradford, Sullivan, Columbia, Northumberland, Schuylkill, Lebanon, and Lancaster Counties. The purpose of this filing is to eliminate the gateway of Warren, Ill.

No. MC 123430 (Sub-No. E5), filed May 27, 1974. Applicant: BARRY TRANSPORTS, INC., 4425 Southwest Highway, Oak Lawn, Ill. 60453. Applicant's representative: Richard A. Kerwin, Suite 1133, 127 North Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils, and edible blends and edible products of animal fats, animal oils, and vegetable oils* when such commodities are such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses (except liquid commodities), from points in Lake County, Ind., on and north of U.S. Highway 30 and points in, on, and north of U.S. Highway 30 from the Illinois-Indiana State line to Joliet, Ill., and points in and north of U.S. Highway 6 from Joliet to Moline, Ill., within the territory bounded by a line beginning at Galena, Ill., and extending southeast to Savanna, Ill., thence south to Galesburg, Ill., thence southeast to Peoria, Ill., thence east Onarga, Ill., thence northeast to Warsaw, Ind.,

thence north to Goshen, Ind., thence northwest through Chicago, Ill., to Winthrop Harbor, Ill., and thence west through South Beloit and Warren, Ill., to Galena, Ill., including the points named, to points in Indiana (except Lake, Porter, Newton, and Jasper Counties), and points in Preble, Montgomery, Greene, Fayette, Butler, Warren, Clinton, Brown, Clermont, and Hamilton Counties, Ohio. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 124078 (Sub-No. E35) (Correction), filed May 22, 1974, published in the FEDERAL REGISTER on September 6, 1974. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th St., Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petrochemicals*, dry (except sulphate), in bulk, in tank or hopper-type vehicles, from Atlanta, Ga., to points in Arkansas, Illinois (except East St. Louis and points in its commercial zone as defined by the Commission), Indiana, Kentucky, Louisiana, Mississippi, Missouri (except St. Louis and points in its commercial zone as defined by the Commission), Tennessee (except Kingsport and Elizabethton and points in their commercial zones as defined by the Commission), Texas (except points in Chambers, Montgomery, Harris, Fort Bend, Galveston, Liberty, and Brazoria Counties), Virginia, West Virginia, and Wisconsin, restricted against the transportation of (1) potassium silicate and sodium silicate, to points in Mississippi and Tennessee; and (2) to orthodichlorobenzene, barium carbonate, barium chloride, and ammonium sulfide, to points in Kentucky, Louisiana, Mississippi, South Carolina, and Tennessee. The purpose of this filing is to eliminate the gateway of points in Bartow County, Ga. The purpose of this correction is to include Tennessee in the destination territory.

No. MC 124211 (Sub-No. E58), filed May 13, 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: (1) *Food products and edible grain products* (except commodities in bulk, potato products, meat and packinghouse products, and frozen foods), between points in Arkansas on the one hand, and, on the other, points in Nebraska on and north of U.S. Highway 34; and (2) *Food products* (except commodities in bulk, frozen foods, and meats, meat products and meat byproducts, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), (a) from points in Arkansas, to points in that part of Iowa on and west of U.S. Highway 75, and points in that part of Minnesota on and west of U.S. Highway 71; and (b) between points in Arkansas, on the one hand, and, on the other, points in those portions of California, Nevada, and Utah on and north of Interstate Highway 80, restricted against the transportation of fresh foods from points in California to points in Arkansas. The purpose of this filing is to eliminate the gateway of Lincoln, Nebr.

No. MC 124211 (Sub-No. E59), filed May 13, 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: *Food products* (except frozen foods, dairy products, potato products, meats, meat products, meat byproducts, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and commodities in bulk), (a) from points in that part of Kansas on and west of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 75 to junction Interstate Highway 35, thence along Interstate Highway 35 to the Kansas-Oklahoma State line, to points in Connecticut, Maine, Massachusetts, Minnesota, New Hampshire, Rhode Island, Vermont, and Wisconsin, and to those points in the Upper Peninsula of Michigan and to New York, N.Y., and Newark, N.J. The purpose of this filing is to eliminate the gateway of Lincoln, Nebr. (b) from points in that part of Kansas on and west of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 75 to junction Interstate Highway 35, thence along Interstate Highway 35 to the Kansas-Oklahoma State line to points in those portions of North Dakota and South Dakota on and east of U.S. Highway 81. The purpose of this filing is to eliminate the gateway of Omaha, Nebr.

No. MC 125294 (Sub-No. E1), filed May 15, 1974. Applicant: HILLDRUP TRANSFER AND STORAGE, INC., P.O. Box 745, Fredericksburg, Va. 22401. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, (1) between Fredericksburg, Va., and points in Virginia within 100 miles thereof, on the one hand, and, on the other, points in Delaware, New Jersey, and Rhode Island; (2) between Fredericksburg, Va., and points in Virginia within 100 miles thereof (except points in Rockingham, Shenandoah, Page, Warren, Clarke, and Frederick Counties), on the one hand, and, on the other, points in New York; (3) between Fredericksburg, Va., and points in Virginia within 100 miles thereof, on the one hand, and, on the other, New York, N.Y.; (4) between Fredericksburg, Va., and points in Virginia within 100 miles thereof, on the one hand, and, on the other, Philadelphia, Pa.; (5) between Fredericksburg, Va., and points in Virginia within 100 miles thereof (except points in Augusta, Rockingham, Shenandoah, Warren, Clarke, Frederick, Page, Loudoun, Fauquier, Rappahannock, Culpeper, Madison, Greene, Albemarle, Amherst, Nelson, Appomattox, Buckingham, Fluvanna, and Orange Counties, and the cities of Winchester, Harrisonburg, Charlottesville, Staunton, and Waynesboro), on the one hand, and on the other, points in Pennsylvania; (6) between points in Arlington, Fairfax, and Prince William Counties and the cities of Alexandria, Falls Church, and Fairfax, Va., on the one hand, and, on the other, points in North Carolina; (7) between Fredericksburg, Va., on the one hand, and, on the other, Asheville, N.C.; (8) between points in Arlington, Clarke, Loudoun, Fairfax, Prince William, and Stafford Counties, Va., and the cities of Alexandria, Falls Church, Fairfax, Fredericksburg, and Winchester, Va., on the one hand, and, on the other, points in Georgia, located on and south of Interstate Highway 85; (9) between points in Maryland (except points in Allegany, Somerset, Worcester, Wicomico, and Garrett Counties), on the one hand, and, on the other, points in North Carolina; (10) between points in Maryland (except points in Garrett County), on the one hand, and, on the other, points in Georgia; (11) between Baltimore, Md., and points in Baltimore, Carroll, Harford, Frederick, Howard, Montgomery, Prince Georges, Anne Arundel, Charles, Calvert, and St. Marys Counties, Md., on the one hand, and, on the other, points in Virginia; (12) between Baltimore, Md., on the one hand, and, on the other, Pittsburgh, Pa., and Providence and Newport, R.I.; (13) between Lexington Park, Md., on the one hand, and, on the other, Wilmington, Del. The purpose of this filing is to eliminate the gateway of Washington, D.C.

No. MC 127196 (Sub-No. E16), filed May 24, 1974. Applicant: KLINE TRUCKING, INC., Box 355, Millville, Penn. 17846. Applicant's representative: James L. Kline (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, and component parts*, used in the manufacture and assembly of mobile homes (except commodities in bulk and those which, because of size or weight, require the use of special equipment), (1) from points in that part of Pennsylvania west of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 219 to junction Pennsylvania Highway 153, thence along Pennsylvania Highway 153 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction Pennsylvania Highway 350, thence along Pennsylvania Highway 350 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania-Ohio State line, to points in New Jersey; (2) between points in that part

of Pennsylvania east of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 220 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Interstate Highway 83, thence along Interstate Highway 83 to the Pennsylvania-Maryland State line, on the one hand, and, on the other, points in Michigan; (3) from points in that part of Pennsylvania north and east of a line beginning at the New York-Pennsylvania State line, thence along Pennsylvania Highway 449 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 144, thence along Pennsylvania Highway 144 to junction Pennsylvania Highway 44, thence along Pennsylvania Highway 44 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line, to points in North Carolina.

(4) From points in that part of New York east of a line beginning at the New York-Pennsylvania State line, thence along New York Highway 14, to junction New York Highway 13, thence along New York Highway 13 to junction Interstate Highway 81, thence along Interstate Highway 81 to the United States-Canada International Boundary line, to points in that part of West Virginia south of Marshall County; (5) from points in that part of Pennsylvania north and east of a line beginning at the New York-Pennsylvania State line, thence along Pennsylvania Highway 14 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line, to points in that part of West Virginia south of Marshall County and west of Morgan County; (6) from points in that part of Pennsylvania north and east of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 15 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 147, thence along Pennsylvania Highway 147 to junction Pennsylvania Highway 54, thence along Pennsylvania Highway 54 to junction Pennsylvania Highway 44, thence along Pennsylvania Highway 44 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 191, thence along Pennsylvania Highway 191 to the New York-Pennsylvania State line, to points in Virginia (except points in Accomack and Northampton Counties).

(7) From points in that part of Pennsylvania east of a line beginning at the New York-Pennsylvania State line, thence along U.S. Highway 220 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction Pennsylvania Highway 10, thence along Pennsylvania Highway 10 to the Pennsylvania-Maryland State line, to points in that part of Ohio west and north of a line beginning at Cleveland, thence along U.S. Highway 42 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Ohio-Indiana State line; (8) from Baltimore, Md., to points in that part of Louisiana south of U.S. Highway 190; and (9) from points in that part of Ohio east and north of a line beginning at Cleveland, thence along Ohio Highway 21 to junction U.S. Highway 224, thence along U.S. Highway 224 to the Ohio-Pennsylvania State line, to points in that part of California west of a line beginning at the Oregon-California State line, thence along U.S. Highway 395 to junction California Highway 299, thence along California Highway 299 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction California Highway 99, thence along California Highway 99 to junction California Highway 137, thence along California Highway 137 to junction California Highway 65, thence along California Highway 65 to junction California Highway 99, thence along California Highway 99 to junction California Highway 58, thence along California Highway 58 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction California Highway 86, thence along California Highway 86 to the California-Mexico State line. The purpose of this filing is to eliminate the gateway of Millville, Pa.

By the Commission.

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

[FR Doc.74-22525 Filed 9-27-74;8:45 am]

[Notice No. 599]

ASSIGNMENT OF HEARINGS

SEPTEMBER 25, 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 September 30, 1974.

I & S No. 8944, Fresh Fruits & Vegetables, Transcontinental & Western Points, and FSA No. 42830, Fruits & Vegetables From and To Colorado and Utah Points, continued to October 16, 1974 (8 days), in Room 14217A, 14th Floor, 450 Golden Gate Ave., San Francisco, Calif.

MC-C-8242, General Leaseways, Inc., Burk Distributing Co., Inc., Levi Distributing, Inc., Keith V. Knight, Dba Knight Distributing Co., and Joseph G. Bowers—Investigation of Operations, now assigned October 16, 1974, at Des Moines, Iowa, is cancelled.

MC 111839, Bee Line Express, Inc., petition for modification dismissed.

MC 124947 Sub 25, Machinery Transports, Inc., application dismissed.

MC-F-12084, Transervice Corp.—Purchase—Moore-Flesher Hauling Company, MC-F-12085, J. Miller Express, Inc.—Purchase (Portion)—Transervice Corp., now assigned September 30, 1974, at Washington, D.C. is cancelled and application dismissed.

MC 134922 Sub 56, B. J. McAdams, Inc., now assigned October 1, 1974, at Philadelphia, Pa., is cancelled and the application is dismissed.

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

[FR Doc.74-22663 Filed 9-27-74;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 25, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before October 15, 1974.

FSA No. 42878—*Roofing and Building Material from Daingerfield, Texas.* Filed by Southwestern Freight Bureau, Agent (No. B-484), for interested rail carriers. Rates on roofing or building material, in carloads, as described in the application, from Daingerfield, Texas, to points in eastern Illinois, and southern territories.

Grounds for relief—Market competition.

Tariff—Supplement 3 to Southwestern Freight Bureau, Agent, tariff SW/S 302-H, I.C.C. No. 5154. Rates are published to become effective on October 25, 1974.

FSA No. 42879—*Rubber, Etc., to Points in Eastern Territory.* Filed by Southwestern Freight Bureau, Agent (No. B-486), for interested rail carriers. Rates on rubber, etc., in carloads, as described in the application, from points in Louisiana and Texas, to points in eastern territory.

Grounds for relief—Rate relationship and water competition.

Tariff—Supplement 94 to Southwestern Freight Bureau, Agent, tariff 13-E, I.C.C. No. 4982. Rates are published to become effective on October 25, 1974.

By the Commission.

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

[FR Doc.74-22660 Filed 9-27-74;8:45 am]

federal register

MONDAY, SEPTEMBER 30, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 190

PART II

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

■

Procedures for Considering Environmental Impacts

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1–95]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation of Environmental Decision-Making Authority

The purpose of this amendment is—

(1) To delegate to all Administrators those functions vested in the Secretary by section 4(f) of the Department of Transportation Act, as amended (Pub. L. 89–670, section 4(f), October 15, 1966, 80 Stat. 933, amended Pub. L. 90–495, section 18(b), August 23, 1968, 82 Stat. 824; 49 U.S.C. 1653(f)) which were not previously delegated;

(2) To delegate to the Federal Highway Administrator all functions vested in the Secretary by 23 U.S.C. 138 (Pub. L. 89–574, section 15(a), September 13, 1966, 80 Stat. 771, amended Pub. L. 90–495, section 18(a), August 23, 1968, 82 Stat. 823); and

(3) To delegate to the Federal Aviation Administrator those functions vested in the Secretary by section 16 of the Airport and Airway Development Act of 1970 (Pub. L. 91–258, section 16, May 21, 1970, 84 Stat. 226; 49 U.S.C. 1716) which were not previously delegated.

Delegation of this authority is part of a partial reassignment of decision making and review functions with respect to environmental matters within the Department of Transportation ("DOT"). The purpose of this reassignment is to accelerate environmental decision making by relieving the Secretary personally and the Office of the Secretary of much of the decision-making and review functions on environmental matters of lesser significance, while at the same time maintaining for the Office of the Secretary these functions in the more significant cases and an overview of all environmental issues in which the Department is involved.

The Department's procedures in environmental matters are governed by its internal DOT Order 5610.1B, appearing elsewhere in today's FEDERAL REGISTER (q.v.). That Order sets forth procedures for compliance with the National Environmental Policy Act (hereinafter "NEPA") (Pub. L. 91–190, January 1, 1970, 83 Stat. 852; 42 U.S.C. 4331 et seq.); section 4(f) of the DOT Act; section 16 (c), (d), and (e) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1716 (c), (d), and (e)); section 309 of the Clean Air Act (July 14, 1955, Ch. 360, section 309, as added December 31, 1970, Pub. L. 91–604, section 12(a), 84 Stat. 1709; 42 U.S.C. 1857h–7); section 14 of the Urban Mass Transportation Act, as amended (Pub. L. 88–365, section 14, formerly section 11, July 9, 1964, 78 Stat. 308, renumbered Pub. L. 89–562, section 2(a)(1), September 8, 1966, 80 Stat. 715, amended Pub. L. 90–19, section 20(a), May 25, 1967, 81 Stat. 25; Pub. L. 91–453, section 6, October 15, 1970, 84 Stat. 966; 49 U.S.C. 1610); and section 106 of the Historic Preservation Act (Pub. L. 89–665, section 106, October 15, 1966, 80 Stat. 917; 16 U.S.C. 470f); and other laws and directives listed in section 2 of the Order. Under those procedures, environmental impact statements prepared under section 102(2)(c) of NEPA (42 U.S.C. 4332 (2)(c)) serve as the vehicle for environmental findings, determinations, and clearances under the cited laws.

Under previous procedures, all environmental impact statements produced by the operating administrations within DOT were reviewed at the draft stage by the Office of the Assistant Secretary for Environment, Safety, and Consumer Affairs. The Assistant Secretary also performed a second review with concurrence in every final environmental impact statement before it could be transmitted to CEQ.

In addition, previous DOT regulations reserved to the Secretary certain determinations under section 4(f) of the DOT Act and section 16 of the Airport and Airway Development Act of 1970. For this reason, environmental impact statements which were incorporated with such determinations were transmitted to the Secretary personally.

As the Department has reviewed these procedures it has become clear that this level of review is no longer necessary for most environmental impact statements, and make unnecessary demands on the time of the Assistant Secretary for Environment, Safety, and Consumer Affairs. The majority of environmental impact statements are concerned with comparatively routine grants under Title 23, United States Code (the Federal-Aid highway statutes) and the Airport and Airway Development Act of 1970.

In this majority of instances, relatively ordinary environmental effects are involved; there is not any opposition to the project from a Federal, State, or local government agency; and there is little, if any, expression of public interest or concern. In such situations, I have concluded, review by the Assistant Secretary of final environmental impact statements is no longer necessary or desirable.

In the same fashion, the previous procedures demanded much of the Secretary's time, since he personally made all section 4(f) determinations after his own review of the accompanying environmental impact statements and staff recommendations. When section 4(f) was enacted in 1966, several years before enactment of NEPA, reservation to the Secretary of all section 4(f) decisions was appropriate as an indication of the significance of such environmental decisions. Today, the high importance of restricting the use of parkland for transportation projects is more generally appreciated, and there is little benefit to be gained from the additional demands on the Secretary's time. The same considerations apply, although to a lesser extent, with respect to those determinations under section 16 of the Airport and Airway Development Act of 1970 that are now reserved to the Secretary.

In these circumstances a partial reallocation of environmental decision-making and review functions is appropriate. Under this partial reallocation, DOT Order 5610.1B has been amended as described in section 9 of the Order.

The Secretary may, of course, decide to exercise personally with respect to any particular project the authority delegated herein, as he has already done with respect to the proposed new St. Louis Metropolitan Area Airport, Columbia-Waterloo, Illinois, and the proposed Interstate Highway Route 66 in Arlington County, Virginia.

Since these amendments relate to Department management, procedures, and practices, notice and public procedure thereon are unnecessary and they may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

1. Paragraph (a)(2) of § 1.44 is revised and paragraph (a)(7) is revoked, as follows:

§ 1.44 Reservations of authority.

* * * * *

(a) *General transportation matters.* * * *

(2) Functions relating to transportation activities, plans, and programs under section 4(g) of the Department of Transportation Act (49 U.S.C. 1653 (g)).

* * * * *

(7) [Revoked].

* * * * *

2. Paragraph (a) of § 1.45 is amended by adding a new subparagraph (4) to read as follows:

§ 1.45 Delegations to all Administrators.

(a) * * *

(4) Carry out the functions vested in the Secretary by section 4(f) of the Department of Transportation Act, as amended (49 U.S.C. 1653(f)).

* * * * *

3. Paragraph (g)(1) of § 1.47 is revised, and paragraph (h) is revoked as follows:

§ 1.47 Delegations to Federal Aviation Administrator.

* * * * *

(g) * * *

(1) The Airport and Airway Development Act of 1970 (49 U.S.C. 1701 et seq.), except sections 3 and 4 (49 U.S.C. 1702, 1703).

* * * * *

(h) [Revoked]

* * * * *

4. Paragraph (b)(23) of § 1.48 is revised to read as follows:

§ 1.48 Delegations to Federal Highway Administrator.

* * * * *

(b) * * *

(23) 135, 136, 137, 138, and 139;

* * * * *

Effective date. This amendment is effective September 30, 1974.

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e))

Issued in Washington, D.C., on September 23, 1974.

CLAUDE S. BRINEGAR,
Secretary of Transportation.

[FR Doc.74-22441 Filed 9-27-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[OST Docket No. 33; Notice 74-12]

PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

By notice in the FEDERAL REGISTER of November 1, 1973 (38 FR 30215), pursuant to guidelines of the Council on Environmental Quality ("CEQ") (40 CFR Part 1500), the Department of Transportation ("DOT") published for public comment proposed procedures for consideration of environmental impacts required by section 102(2)(C) of the National Environmental Policy Act of 1969 ("NEPA") (January 1, 1970, Pub. L. 91-190, sec. 102(2)(C), 83 Stat. 853; 42 U.S.C. 4332(2)(C)).

The proposed procedures were in the form of an internal directive, DOT Order 5610.1B, "Procedures for Considering Environmental Impacts". Nine comments on the proposed procedures were received from the public. In light of some of those comments and further consideration within DOT, the Order has been modified to a limited extent.

Citizen involvement. Several commentors suggest changes in the citizen procedures (section 5 of the Order). The Oregon Environmental Council ("OEC") suggests, with regard to negative declarations, that the early notice system should include notification of decisions to prepare negative declarations, and that these declarations should be circulated in the same manner as an Environmental Impact Statement ("EIS"). This comment has not been adopted because the process for securing early notification of most DOT actions is through the notice of a public hearing, which includes notice of availability of an EIS or environmental analysis. A negative declaration would not ordinarily be prepared significantly before a public hearing, so that the notice of the hearing is the best early notice of the action. Further information, including a copy of the negative declaration, is then available upon request.

OEC also suggests that the extent of environmental impact be a consideration in whether a public hearing is held on a proposed action. This comment has been adopted in section 5.b(2)(a).

OEC also suggests that the lists of EIS's be sent automatically to other State and Federal agencies and those members of the public who have indicated an interest in DOT projects. This is not practical, considering the numbers of persons who may be involved. The suggestion is also duplicative, as the list is published in the FEDERAL REGISTER by CEQ. Also, individual EIS's are made available to interested parties. These actions are deemed adequate notice to interested persons.

Two comments suggest that the citizen involvement process be made more prescriptive. First an environmental consultant suggests that public meetings be held on the scope of work to be included in the environmental analysis. Secondly, OEC suggests that the notification of intention to apply for Federal program assistance be required to be sent to all interested parties. Those are both good practices and are in fact often used, but in view of the large number of more routine DOT EIS's, the costs of requiring those practices in every instance would outweigh their benefit. Accordingly, the Department has determined that they should not be mandatory.

TES concurrence. Several comments were received on the procedure by which the Assistant Secretary for Environment, Safety, and Consumer Affairs ("TES") would concur in final EIS's prepared by the operating administrations of DOT. One commentor suggests that the approval process continue as under the previous order, DOT 5610.1A; under that practice, TES must concur in all EIS's. Another commentor suggests more limited concurrence by offices in the Office of the Secretary of Transportation than set forth in Order 5610.1B. On the other hand, the Environmental Protection Agency ("EPA") suggests that projects which have incurred substantial citizen opposition be added to the list of projects for which TES concurrence is required.

The Order already requires TES concurrence in the event of Federal, State or local government agency opposition on environmental grounds. To determine what constitutes "substantial citizen opposition" would be difficult and is not susceptible to administrative guidelines (10 citizens? 2 local citizens' groups? 1 national organization?).

The authority of TES to require its concurrence on any project gives citizen opposition that is in fact substantial an opportunity to be heard and TES an opportunity to intercede if it agrees. This is likely to be more effective than leaving to an administration the difficult task of deciding what constitutes "substantial citizen opposition". Therefore, this suggestion has not been adopted.

In light of these varying comments on this issue, the Order retains the basic approach set forth in Order 5610.1B as published on November 1, 1973. However, two clarifying changes have been made. First, within section 9, "Preparation of Final Statement: Procedures and Responsibilities", paragraph c.(1)(a) now provides that a highway project located on a new alignment in an urban area of over 100,000 population must have TES concurrence. "Urban area" is defined as an area within the boundaries of a comprehensive urban planning area as defined in paragraph 3.b.(2) of Federal Highway Administration ("FHWA") Policy and Procedure Memorandum 50-9, "Urban Transportation Planning" (Federal-Aid Highway Program Manual, Vol. 4, Ch. 4, Sec. 2). The proposed language was applicable to new alignments in all urban areas. Second, concurrence for projects to which a Federal, State, or local agency has expressed opposition has been limited in section 9.c.(1), (2)(c), and (3)(c) to opposition "on environmental grounds".

Finally, when the Secretary decides that a particular project will be subject to his personal review and decision, as he has done with respect to the proposed Interstate Route 66 in Arlington County, Virginia, and the proposed new St. Louis Metropolitan Area Airport at Columbia-Waterloo, Illinois, the role of TES will be the same as under the old order.

Definitions. Several comments relate to the definition of a major Federal action significantly affecting the environment. The California DOT comments with respect to section 4(f) of the DOT Act, which involves protection of park, recreation and certain other categories of land, that "section 4(f)" actions requiring an EIS be limited to those where involvement of "section 4(f) land" is significant. This comment has been adopted in Attachment 1, section 2.a.(a), which limits these effects to "any effect that is not minimal". For the same reason, another criterion for preparing EIS's has been deleted—i.e., "affect ground water, flooding, erosion or sedimentation", in Attachment 1, section 2.a.(6), as suggested by another commentor.

Consultants. EPA recommends prohibiting primary consultants on EIS's from serving as contractors for project construction. This recommendation has not been adopted. The Department believes that the intent of the EPA comment, which is to assure an objective analysis of environmental impacts, is adequately covered by paragraph f., "Use of Consultants", of section 7, "Preparation of Draft Environmental Statements", and that the suggested prohibition would unnecessarily disrupt the use of consultants with special technical and factual expertise. Section 7.f. provides that work by consultants who may expect further contracts based on the outcome of the environmental decision shall be carefully reviewed to insure complete and objective consideration of all relevant project impacts and alternatives. Further, section 7.e.(2) provides that the Department must "make its own evaluation of the environmental issues and take responsibility for the scope and content of statements".

Retroactivity. EPA suggests adding a sentence on application of EIS requirements, turning on the status of project work and degree of completion. This suggestion has been adopted and incorporated in section 12, "Application of section 102(2)(C) Procedures to Existing Projects and Programs".

National Technical Information Service ("NTIS"). A consultant suggests that procedures be adopted whereby the NTIS number of an EIS be made available to the public, together with the address and telephone number of NTIS. The NTIS has since ceased distributing copies of EIS's. We have therefore amended paragraph 9.f. to provide for a broader distribution and public availability of statements from DOT operating administrations and grantees.

Historical properties. The Department has revised section 5 of Attachment 2, regarding the content of EIS's where properties or sites of historical or cultural significance are affected. This change was carried out after the Advisory Council on Historic Preservation ("ACHP") published new procedures to implement Executive Order 11593, concerning protection and enhancement of the cultural environment. Consultations were conducted with ACHP, and section 5 reflects this consultation and is acceptable to the Council. This section now suggests the kind of material that should be included in draft and final EIS's for projects involving properties included in, or eligible for inclusion in, the National Register of Historic Places, or properties of State or local historic, cultural, or archaeological significance.

Separate implementing instructions. One commentor suggests that the DOT Order should not provide for separate implementing instructions by the FHWA. DOT procedures provide for more detailed instructions to be promulgated by its operating administrations in carrying out their own programs because the programs of the Department vary considerably from administration to administration. Their separate instructions are necessary to incorporate environmental considerations into their normal program and project review process.

Editorial comments. Numerous editorial modifications and clarifications of the Order have been made throughout the Order to reflect public comments and further discussions within the Department.

Effective date. Paragraph 15 of the Order provides for a split effective date. The Order applies September 30, 1974, to all draft or final statements filed with the CEQ after that date. A limited exception has been made for draft and final impact statements prepared under DOT 5610.1A, which this Order otherwise supersedes. Paragraph 15 permits these statements to be processed without substantive revision for an additional sixty days. In addition, final impact statements and section 4(f) and section 16 determinations submitted to the Office of the Secretary for concurrence before the effective date will be processed under the provisions of 5610.1A until finally acted upon.

In consideration of the foregoing, Department of Transportation Order 5610.1B, "Procedures for Considering Environmental Impacts," is promulgated, to read as appears below.

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e); National Environmental Policy Act, 42 U.S.C. 4321 et seq; Executive Order 11514, 35 FR 4247; 40 CFR Part 1500.)

Issued in Washington, D.C., on September 23, 1974.

CLAUDE S. BRINEGAR,
Secretary of Transportation.

[Order 5610.1B]

PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

1. *Purpose.* This Order establishes procedures for consideration of environmental impacts through preparation and use in decision making of detailed environmental impact statements. Where required, these statements serve as the single vehicle for environmental findings, determinations, and clearances on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

2. *Cancellation.* DOT 5610.1A, Procedures for Considering Environmental Impacts, dated October 4, 1971.

3. *Authority.* This Order provides instructions for implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, hereinafter "NEPA"); sections 2(b) and 4(f) of the Department of Transportation Act of 1966 (Pub. L. 89–670, hereinafter "the DOT Act"); section 309 of the Clean Air Act of 1970, as amended (Sec. 12(a) of Pub. L. 91–604, hereinafter "the Clean Air Act"); section 106 of the National Historic Preservation Act of 1966 (Pub. L. 89–665, hereinafter "the Historic Preservation Act"); sections 303 and 307 of the Coastal Zone Management Act of 1972 (Pub. L. 92–583); section 2 of the Fish and Wildlife Coordination Act (Pub. L. 85–624); and various Executive Orders relating to environmental impacts. In addition, the Order provides instructions for implementing, where environmental statements are required, sections 138 and 109 of Federal-aid highway legislation (Title 23, United States Code, hereinafter "the Highway Act"), sections 16 and 18(4) of the Airport and Airway Development Act of 1970 (Pub. L. 91–258, hereinafter "the Airport Act"), and section 14 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq., hereinafter "the Mass Transportation Act").

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ATTACHMENT 5.—OFFICIALS IN AGENCIES TO CONTACT FOR INFORMATION OR TO RECEIVE STATEMENT FOR COMMENT

1. *Intent.* Officials of the Department of Transportation (hereinafter "DOT" or "the Department") must comply with both the procedures and the intent of the National Environmental Policy Act of 1969 ("NEPA"). The purpose of the environmental assessment and consultation process is to provide Department officials and other decision makers, as well as members of the public, with an understanding of the potential environmental effects of proposed actions significantly affecting the quality of the human environment; to avoid or minimize adverse effects wherever possible; to restore or enhance environmental quality to the fullest extent practicable; to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites; to avoid or minimize undesirable consequences to the environment; and to preserve, restore, and improve wetlands, NEPA requires Federal officials "to use all practical means, consistent with other essential considerations of national policy, and to improve and coordinate Federal plans, functions, programs, and resources", to carry out national environmental objectives; and, in effect, integrates national environmental objectives into existing Departmental policies and missions. The environmental impact statement process should be used to explore and document alternative actions that will avoid or minimize adverse impacts, and to evaluate both the long and short term implications to man and his physical and

social surroundings, and to nature. In making decisions, environmental assessments must be considered along with assessments of economic, technical, and other benefits. In short, the environmental statement serves as the record of compliance with the policy, as well as the procedures, of NEPA and it should reflect a thorough review of all relevant environmental factors.

2. *Background.* a. NEPA establishes a broad national policy to promote efforts to improve the relationship between man and his environment, and provides for the creation of a Council on Environmental Quality (hereinafter "CEQ"). NEPA sets out certain policies and goals concerning the environment, and requires that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with those policies and goals.

b. Section 102 of NEPA is designed to insure that environmental considerations are given careful attention and appropriate weight in all decisions of the Federal Government. Section 102(2)(C) requires that all agencies of the Federal Government shall

> Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—
>
> (i) The environmental impact of the proposed action,
>
> (ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented,
>
> (iii) Alternatives to the proposed action,
>
> (iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
>
> (v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.
>
> Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, United States Code, and shall accompany the proposal through the existing agency review processes * * *

c. Section 102(2)(A) of NEPA requires all agencies of the Federal Government to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decision making which may have an impact on man's environment * * *"

d. Executive Order 11514, Protection and Enhancement of Environmental Quality, dated March 4, 1970, orders all Federal agencies to "initiate measures needed to direct their policies, plans, and programs so as to meet national environmental goals."

e. Guidelines from the President's Council on Environmental Quality (38 FR 20549, 40 CFR Part 1500 et seq., August 1, 1973) provides guidance to agencies for preparation of environmental impact statements.

f. DOT N 1100.37, Realignment of Functions Within the Office of the Secretary, dated February 5, 1973, transferred to the Assistant Secretary for Environment, Safety, and Consumer Affairs (hereinafter "TES") the responsibility for environmental matters formerly vested in the Assistant Secretary for Environment and Urban Systems. These responsibilities include overseeing the Department's response to NEPA, in terms both of policies and procedures, in cooperation with the General Counsel (hereinafter "TGC").

g. Section 4(f) of the DOT Act and section 138 of the Highway Act state, "It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public parks and recreational lands, wildlife and waterfowl refuges, and historic sites. The Secretary * * * shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use."

h. Section 16(c)(1)(A) of the Airport Act provides that an airport development project may be approved only if the Secretary is satisfied that the project is reasonably consistent with plans (existing at the time of approval of the project) of planning agencies for development of the area in which the airport is located.

i. Section 16(c)(3) of the Airport Act requires consideration of the interests of communities in or near which airport development projects are proposed.

j. Section 16(c)(4) of the Airport Act directs that each airport development project "provide for the protection and enhancement of the natural resources and the quality of environment of the Nation"; and provides that the Secretary may not authorize a project found to have an adverse effect unless he finds, in writing, after full and complete review, that "no feasible and prudent alternative exists and that all possible steps have been taken to minimize such adverse effect."

k. Sections 16 (d) and (e) of the Airport Act require, as a condition to approval of certain airport projects, that (1) an opportunity be afforded for a public hearing for consideration of economic, social, and environmental effects; and (2) assurances be obtained that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

l. Section 18(4) of the Airport Act requires that assurances be obtained that "appropriate action, including the adoption of zoning laws, has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft."

m. Section 109(i) of the Highway Act requires the Secretary to develop and promulgate standards for highway noise levels compatible with different land uses and prohibits the approval of plans and specifications for certain projects unless he determines that the plans and specifications include adequate measures to implement the standards.

n. Section 109(j) of the Highway Act requires the Secretary, in consultation with the Environmental Protection Agency (hereinafter "EPA"), to develop and promulgate guidelines to assure that highways constructed under the Act "are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended."

o. Section 309 of the Clean Air Act requires the Administrator of EPA to "review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which section 102(2)(C) of Pub. L. 91–190 applies, and (3) proposed regulations published by any department or agency of the Federal Government."

p. Section 14 of the Mass Transportation Act requires the Secretary to review each transcript of the public hearing conducted in connection with a project "to assure that an adequate opportunity was afforded for the presentation of views by all parties with a significant economic, social, or environmental interest, and that the project application includes a detailed statement on (1) the environmental impact of the proposed project, (2) any adverse environmental effects which cannot be avoided should the proposal be implemented, (3) alternatives to the proposed project, and (4) any irreversible and irretrievable impact on the environment which may be involved in the proposed project should it be implemented." The Secretary may not approve an application under Section 3 of the Act unless he finds that "(1) adequate opportunity was afforded for the presentation of views * * * and fair consideration has

been given to the preservation and enhancement of the environment and to the interest of the community in which the project is located, and (2) either no adverse environmental effect is likely to result from such project, or there exists no feasible and prudent alternative to such effect and all reasonable steps have been taken to minimize such effect."

q. Section 106 of the National Historic Preservation Act requires the head of any Federal agency having jurisdiction over a Federal or federally-assisted undertaking to take into account, prior to approving the undertaking, its effect on any district, site, building, structure, or object that is included in the National Register of Historic Places, and to give the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to the undertaking.

r. Executive Order 11593, Protection and Enhancement of the Cultural Environment, requires that Federal plans and programs contribute to the preservation and enhancement of sites, structures, and objects of historical, architectural, or archaeological significance.

s. 36 CFR Part 800 (39 FR 3365, January 25, 1974) Procedures for the Protection of Historic and Cultural Properties, establishes procedures to ensure that historic and cultural resources are given proper consideration in the preparation of environmental impact statements.

t. Executive Order 11296, Flood Hazard Evaluation Guidelines, requires Federal agencies to evaluate flood hazards in planning facilities, constructing buildings and facilities, disposing of lands and properties, and land use planning.

u. The Coastal Zone Management Act of 1972 states that "* * * it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone * * *" (section 303); and requires all Federal activities affecting the zone to be carried out in a manner consistent with State coastal zone management programs (section 307).

v. Section 2 of the Water Bank Act (Pub. L. 91-559) declares that "* * * it is in the public interest to preserve, restore, and improve the wetlands of the Nation * * *"

w. Section 2 of the Fish and Wildlife Coordination Act requires, with certain limited exceptions, that "whenever the waters of any stream or other body of water are proposed or authorized to be * * * controlled or modified for any purpose whatever * * * by any department or agency of the United States, or by any public or private agency under Federal permit or license, such department or agency shall first consult with the United States Fish and Wildlife Service, Department of the Interior, and with the head of the agency exercising administration over the wildlife resources of the particular State wherein the * * * control facility is to be constructed * * *" (subsection (a)). Reports and recommendations of the Secretary of the Interior and any other applicable officials must be included in the report prepared or submitted by the agency responsible for constructing the project to the Congress or other agency with authority to approve the project (subsection (b)).

3. *Definitions and Actions Covered*—a. *Definitional guidelines.* Section 102(2)(C) of NEPA requires preparation of an environmental impact statement (hereinafter "environmental statement" or "statement") for every major recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. Definitional guidelines for "major action significantly affecting" are set forth in Attachment 1.

b. *Actions covered.* Except as provided in subparagraph c. below, the requirements in this Order calling for either a negative declaration (see paragraph 7.g.) or a statement pursuant to section 102(2)(C) of NEPA apply to, but are not limited to, the following: all grants, loans, contracts, purchases, leases, construction, research activities, rulemaking and regulatory actions, certifications, licensing, permits, plans submitted to the Department by State or local agencies which require Departmental approval, legislation proposed by DOT or legislation proposed by others and supported by DOT and for the subject matter of which DOT would have primary responsibility, and any renewals or reapprovals of the foregoing.

c. *Exceptions.* (1) Assistance in the form of general revenue sharing with no Departmental control over the subsequent use of the funds;

(2) Administrative procurements (e.g., general supplies) and contracts for personal services;

(3) Normal personnel actions (e.g., promotions, hirings);

(4) Planning grants which do not imply a project commitment;

(5) Project amendments (e.g., increases in costs) which do not alter the environmental impact of the action;

(6) Legislative proposals not originating in DOT and relating to matters not the primary responsibility of DOT; and

(7) In addition to the exceptions noted in subparagraphs (1)-(6) above, the implementing instructions called for by paragraph 4 below may provide for exceptions on specific types or categories of actions carried out by the operating administrations which are not major Federal actions significantly affecting the quality of the human environment.

d. *Class action.* A general class of actions may be covered by a single statement when the environmental impacts of all the actions (and alternatives thereto) are substantially similar.

e. *Research.* Guidelines for assessing the environmental consequences of research activities are set forth in Attachment 3.

4. *Implementing instruction.* a. Administrations shall issue instructions or regulations implementing this Order. The implementing instructions, and any substantial amendments thereto, shall be submitted to TES for review, consultation with CEQ, and concurrence by TES and TGC. In order to ensure reasonable consistency in the treatment of research and development, the Assistant Secretary for Systems Development and Technology (TST) will prepare, with the concurrence of the separate operating administrations, that part of the operating administrations' implementing instructions dealing with interpretation of the guidelines in Attachment 3. After concurrence by TES and TGC, administrations shall publish the proposed implementing instructions or modifications in the FEDERAL REGISTER, allowing a minimum of 45 days for public comment and compliance with the applicable requirements of the Administrative Procedure Act (5 U.S.C. 551 et seq.) and OMB Circular No. A-85, "Consultation with Heads of State and Local Governments in Development of Federal Rules, Regulations, Standards, Procedures, and Guidelines." With the concurrence of TES and TGC, final procedures shall then be published. The administrations shall apply this Order and the CEQ guidelines to their programs, even though implementing instructions have not yet been finally promulgated pursuant to this paragraph.

b. The implementing instructions shall incorporate the main points in this Order (or include it as an attachment), and apply them with more specificity to the programs of the operating administrations. They shall define "programs", "projects", and "actions" for purposes of 102(2)(C) statements, and prescribe the time and requirements for consultation prior to decision, and the other decision review processes for which environmental statements are to be available.

5. *Citizen involvement procedures.* a. Citizen involvement in the environmental assessment of Departmental actions is encouraged at each appropriate stage of development of the proposed action and should be sought as early as possible. Attempts to solicit the views of the public through hearings, personal contact, press releases, advertisements or notices in newspapers, maintaining mailing lists of interested parties, and other methods should be utilized. Administrations should develop lists of interested parties at the national, State, and local levels. These would include individuals and community, environmental, conservation, public service, education, labor, or business organizations, who are affected by or known to have an interest in the project, or who can speak knowledgeably on the environmental impact of the proposed action. A summary of citizen involvement and any environmental issues raised should be documented in the environmental statement. Planning stage criteria for citizen involvement and identification of social, economic, and environmental impacts in Departmental planning programs are set forth in DOT 1130.2, "Annual Unified Work Programs for Intermodal Planning," dated March 16, 1973.

b. The administrations' implementing instructions shall prescribe procedures assuring (1) that interested parties and Federal, State, and local agencies receive early notification of the decision to prepare an environmental impact statement, and (2) that their comments on the environmental effects of the proposed Federal action are solicited at an early stage in the preparation of the draft impact statement.

c. Under OMB Circular A–95, "Evaluation, Review, and Coordination of Federal Assistance Programs and Projects," and DOT 4600.4B, "Evaluation, Review and Coordination of DOT Assistance Programs and Projects," dated February 27, 1974, a grant applicant must notify the clearinghouse of its intention to apply for Federal program assistance. The notification must solicit comments on the project and its impacts from appropriate State and local agencies. The early notification requirement may be met for this type of proposed action by requiring that the notification be sent to interested parties and agencies at the same time it is sent to the clearinghouse.

d. At the time the draft environmental impact statement is circulated to Federal, State, and local agencies, copies should be sent to known interested parties, and the availability of the statement should be made generally known through advertisements in local papers or any other effective method. (See also paragraph 9.f. regarding availability of statements.)

e. Hearings. (1) In several instances, a public hearing is required by statute as a condition to Federal approval of a proposed project. Even where not required by statute, a hearing may help resolve environmental conflicts. In deciding whether a public hearing is appropriate, officials should consider:

(a) The magnitude of the proposal in terms of economic costs, environmental impact, the geographic area involved, and the uniqueness or amount of the resources to be committed;

(b) The degree of interest in the proposal as evidenced by requests for a hearing from the public or Federal, State, and local authorities;

(c) The complexity of the issue and the likelihood that the information presented at the hearing will be of assistance to the agency in fulfilling its responsibilities under NEPA and other applicable laws; and

(d) The extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives, or written comments on the proposed action.

(2) If a public hearing is to be held, the draft statement or environmental analysis should be made available to the public at least 30 days prior to the hearing. The notice of the hearing should be announced through newspaper articles, direct notification to interested parties and clearinghouses, or other means, and should note the availability of the environmental impact statements or analyses.

f. Each administration and Secretarial Office shall maintain a list of its actions for which environmental statements are being prepared and make the list available to the public upon request. Each administration and Secretarial Office shall submit a current list of these statements to TES and CEQ not less than quarterly, and make it available to the public upon request.

6. *Planning stage.* The environmental impacts of proposed activities should be initially assessed concurrently with the initial technical and economic studies. General criteria for identification of social, economic, and environmental impacts in Department planning programs are set forth in DOT 1130.2, "Annual Unified Work Programs for Intermodal Planning," dated March 16, 1973.

7. *Preparation of draft environmental statement.* a. *Form and content.* The environmental statement shall include relevant environmental determinations under section 4(f) of the DOT Act, section 16(c)(4) of the Airport Act, and section 14 of the Mass Transportation Act, and the documentation for other environmental findings, determinations, and clearances within the scope of this Order. Guidelines for the form and content of environmental statements are set forth in Attachement 2.

b. *Legislative proposals.* Before the Department submits to the Congress a legislative proposal or a favorable report on proposed legislation involving matters for which it is primarily responsible, the office which develops the Departmental position on the report or originates the legislation shall, in accordance with OMB Bulletin 72–6, "Proposed Federal Actions Affecting the Environment", prepare, circulate, and file with CEQ an environmental statement or prepare a negative declaration.

c. *Timing of preparation of draft statements.* Draft statements shall be prepared at the earliest practical time prior to the first significant point of decision in the program or project development process. They should be prepared early enough in the process so that the analysis of the environmental effects and the exploration of alternatives with respect thereto are significant inputs to the decision making process. The implementing instructions (called for by paragraph 4 above) shall specify the point at which draft statements should be prepared for each type of action to which the instructions apply.

d. *Actions originating within DOT.* If a proposed action to which this Order applies originates within DOT, the originator of the proposal shall state in the proposal whether, in his judgment, the action will require a 102(2)(C) statement. If the action originates within the Office of the Secretary, the originator of the proposal is responsible for preparing (with the assistance and concurrence of TES), circulating, and filing with CEQ, the environmental statement. The originator of the proposal is also responsible for preparing a negative declaration where appropriate.

e. *Applications.* Each applicant for a grant, loan, permit, or other DOT approval covered by paragraph 3 above may be requested to submit, with the original application, a proposed draft 102(2)(C) statement, a negative declaration, or, if the draft statement or negative declaration is to be prepared by the administration, an environmental analysis of the proposed project. In the latter event, the administration should assist the applicant by specifying the types of information required.

(1) Regardless of the nature of the applicant's participation, the administration must make its own evaluation of the environmental issues because it is responsible for the scope and content of draft and final environmental statements.

(2) The implementing instructions shall limit the actions an applicant may take prior to completion and review of the final statement and approval of the application.

f. *Use of consultants.* Consultants may prepare background or preliminary material and assist in preparing a draft or final environmental statement for which the Department takes responsibility. Care should be exercised in selecting consultants, and in reviewing their work, to insure complete and objective consideration of all relevant project impacts and alternatives, particularly if the consultant may expect further contracts based on the outcome of the environmental decision.

g. *Negative declaration.* There shall be prepared for any proposed action to which this Order applies either a statement as required by section 102(2)(C) of NEPA, or a declaration that the proposed action will not have a significant impact on the environment.

(1) A negative declaration need not be coordinated outside the originating office, but must be made available to the public upon request.

(2) A negative declaration must include documentation sufficient to support the determination that the proposed action does not have a significant impact on the environment.

(3) An operating administration or Secretarial Office shall carefully document a negative declaration covering a proposed action (a) which has been identified as normally requiring preparation of a statement; (b) which is similar to another action for which a statement has been prepared; (c) which has been previously announced to be the subject of a statement; or (d) which is prepared in response to a request from CEQ. Lists of declarations in these categories, and any determinations that preparation of a statement is not yet timely, shall be prepared and made available in the same manner as provided in paragraph 5.f. for lists of statements under preparation.

h. *Scope of statement.* The action covered by the statement should have independent significance, and must be broad enough in scope to avoid segmentation of projects and to insure meaningful consideration of alternatives. In certain circumstances, statements will be

required for broad programs in order to assess the environmental effects of a number of actions in a geographical area, the environmental impacts that are generic or common to a series of actions, or the overall impact of a chain of contemplated projects.

i. *Interdisciplinary approach.* Section 102(2)(A) of NEPA requires each Federal agency to utilize a "systematic, interdisciplinary approach" to plans and programs affecting the environment. To assure that all environmental impacts are identified and assessed, all relevant disciplines should be represented. If the necessary disciplines are not represented on the staff of the applicant or the administration, it is appropriate to use professional services available in other Federal, State or local agencies, universities, or consulting firms. The use of the interdisciplinary approach should not be limited to the environmental statement. This approach should also be used in the early planning stages to help assure a systematic evaluation of reasonable alternative courses of action and their potential social, economic, and environmental consequences.

j. *Lead agency.* CEQ guidelines provide that:

> Where more than one agency (1) directly sponsors an action, or is directly involved in an action through funding, licenses, or permits, or (2) is involved in a group of actions directly related to each other because of functional interdependence and geographic proximity, to the maximum extent possible one statement should be prepared for all Federal actions involved. Agencies in such cases should consider the possibility of joint preparation of a statement by all agencies concerned, or designation of a single 'lead agency' to assume supervisory responsibility for preparation of the statement. Where a lead agency prepares the statement, the other agencies involved should provide assistance with respect to their areas of jurisdiction and expertise. In either case, the statement should contain an environmental assessment of the full range of Federal actions involved, should reflect the views of all participating agencies, and should be prepared before major or irreversible actions have been taken by any of the participating agencies. Factors relevant in determining an appropriate lead agency include the time sequence in which the agencies become involved, the magnitude of their respective involvement, and their relative expertise with respect to the project's environmental effects. As necessary, the Council on Environmental Quality will assist in resolving questions of responsibility for statement preparation in the case of multi-agency actions. Federal Regional Councils, agencies, and the public are encouraged to bring to the attention of the Council and other relevant agencies appropriate situations which a geographic or regionally focused statement would be desirable because of cumulative effects likely to result from multi-agency actions in the area.

Questions concerning "lead agency" decisions should be raised with CEQ through TES. For projects serving and primarily involving land owned by or under the jurisdiction of another Federal agency, that agency may be the appropriate lead agency.

8. *Processing of draft environmental statement.* The originating operating administration or Secretarial Office shall circulate the draft environmental statement for comment to (1) all agencies having jurisdiction by law or special expertise with respect to the environmental impact involved; (2) interested parties (see subparagraph 5.a.); (3) CEQ (five copies); (4) TES (two copies); and (5) other elements of DOT where appropriate. If the Federal Highway Administration takes responsibility for the form and content of the statement and clears it, a statement may be circulated by a State highway department. Implementing instructions shall set forth the procedure for obtaining comments. A time period for comment may not be less than 45 days from the Friday of the week following receipt of the draft impact statement by CEQ. Requests for extensions of time shall be granted whenever possible, and particularly when warranted by the magnitude and complexity of the statement or the extent of citizen interest.

a. *Federal review.* Attachment 4 of this Order lists the Federal agencies having special expertise or jurisdiction by law with respect to environmental impacts to which the draft statement should be referred, as appropriate, for comment.

b. *State and local review.* (1) Review of the proposed action by State and local agencies, when appropriate, shall be obtained as follows:

(a) Where review of direct Federal development projects, and of projects assisted under programs listed in Attachment D to revised OMB Circular A–95 (as implemented by DOT 4600.4B "Evaluation Review and Coordination of DOT Assistance Programs and Projects", dated February 27, 1974), takes place prior to preparation of an environmental statement, comments of the reviewing agencies on the environmental effects of the proposed project are inputs to the environmental statement. These comments shall be attached to the draft statement when it is circulated for review and copies of the draft shall be sent to those that commented. A–95 clearinghouses or other agencies designated by the Governor may also secure comments on environmental statements. In all cases, copies of the draft and final environmental statements shall be sent to clearinghouses and to the applicant whose project is the subject of the statement.

(b) Project applicants or administrations shall obtain comments directly from appropriate State and local agencies, except where review is secured by agreement through A–95 clearinghouses. Comments shall be solicited from municipalities and counties on all projects located therein.

(c) State and local review of each administration's procedures, regulations, and policies for administering Federal programs of assistance to State and local governments shall be obtained pursuant to procedures established by OMB Circular No. A–85.

(2) Generally, environmental statements on legislative and budget proposals need not be subject to State and local review.

c. *Utilization of comments.* Comments received on the draft statement, and inputs (in summary form, if appropriate) from the processes for citizen participation, shall accompany the draft environmental statement through the normal internal project or program review process.

d. *Legislation.* The draft of the environmental statement for proposed legislation or legislative report shall be cleared with TES and submitted by TGC–40 to the Office of Management and Budget for circulation in the normal legislative clearance process. The statement, and any comments received, shall be furnished to the Congress and made available to the public for consideration in connection with the proposed legislation or report. If the scheduling of congressional hearings on legislation does not allow adequate time for the completion of a final environmental statement, a draft environmental statement shall be furnished to the Congress and made available to the public pending transmittal of the comments as received and the final text. Negative declarations shall be forwarded to the Congress, if requested.

9. *Final environmental impact statement: preparation, procedures, and responsibilities.* a. *Preparation.* Before being put into final form for approval of the responsible official, draft statements shall be revised, as appropriate, to reflect comments received, issues raised through the community involvement and public hearing process, or other considerations. Final statements shall conform to the guidelines for form and content in Attachment 2.

b. *Legal review.* All final environmental statements shall be reviewed for legal sufficiency by the Chief Counsel of the operating administration concerned, or his designee. Statements that also fall under section 4(f) of the DOT Act shall be reviewed for legal sufficiency by counsel at the headquarters of the operating administration.

c. *Internal processing.* Final environmental impact statements will be processed pursuant to this subparagraph.

(1) *Grants for highway construction projects.* Final environmental impact statements for all grants for highway construction projects may be approved by the Federal Highway Administrator or his designee. For projects in the following categories, that approval may be given only after concurrence of TES:

(a) Any highway project located on a new alignment in an urban area of over 100,000 population ("urban area" is defined as an area within the boundaries of a comprehensive urban planning area, as defined in paragraph 3.b.(2) of FHWA Policy and Procedure Memorandum 50–9, included in Federal-Aid Highway Program Manual, Vol. 4, Ch. 4, Sec. 2);

(b) Any new controlled access freeway;

(c) Any project to which a Federal, State, or local governmental agency has

expressed opposition on environmental grounds;

(d) Any project for which TES requests an opportunity to review and concur in the final statement;

(e) Any project for which the Federal Highway Administrator requests review and concurrence by TES in the final statement.

For those highway construction project grants in categories (a) through (e) above that also fall under section 4(f) of the DOT Act, concurrence from both TGC and TES is required prior to approval of the final environmental impact statement/section 4(f) determination by the Administrator or his designee.

(2) *Grants for airport development projects.* Final environmental impact statements for all airport development grants may be approved by the Federal Aviation Administrator or his designee. For projects in the following categories, that approval may be given only after concurrence of TES:

(a) Any new airport serving a metropolitan area;

(b) Any new runway or runway extension for an airport located in whole or in part within a metropolitan area and either certificated under section 612 of the Federal Aviation Act of 1958, as amended, or used by large aircraft (except helicopters) of commercial operators;

(c) Any project to which a Federal, State, or local governmental agency has expressed opposition on environmental grounds;

(d) Any project for which TES requests an opportunity to review and concur in the final statement;

(e) Any project for which the Federal Aviation Administrator requests review and concurrence by TES in the final statement.

For those airport grants in categories (a) through (e) above that also fall under section 4(f) of the DOT Act, concurrence from both TGC and TES is required prior to approval of the final environmental impact statement/section 4(f) determination by the Administrator or his designee.

(3) *Bridge permits.* Final environmental impact statements for all bridge permits issued under section 9 of the Act of March 3, 1899, 33 U.S.C. 401; the Bridge Act of 1906, as amended, 33 U.S.C. 491 et seq.; or the General Bridge Act of 1946, as amended, 33 U.S.C. 525 et seq.; may be approved by the Commandant of the Coast Guard or his designee. For bridge permits in the following categories, that approval may be given only after concurrence of TES:

(a) Any bridge that would be part of a road located on a new alignment in an urban area (as defined in paragraph 9.c.(1)(a));

(b) Any bridge that would be part of a new controlled access freeway;

(c) Any bridge to which a Federal, State, or local governmental agency has expressed opposition on environmental grounds;

(d) Any bridge for which TES requests an opportunity to review and concur in the final statement;

(e) Any bridge for which the Commandant of the Coast Guard requests review and concurrence by TES in the final statement.

For those Coast Guard projects in categories (a) through (e) above that also fall under section 4(f) of the DOT Act, concurrence from both TGC and TES is required prior to approval of the final environmental impact statement/section 4(f) determination by the Commandant or his designee.

(4) *Other final environmental impact statements.* Final environmental impact statements with respect to actions not dealt with in subparagraphs (1) through (3) above may be approved by the Administrator or Secretarial Officer originating the action, but only after concurrence of TES.

(5) *Copies and notification.* Where TES concurrence is required, the administrations shall submit to TES two copies of the final environmental statement, together with all comments received on the draft from the responsible Federal, State, and local agencies and private organizations. The final statement may be deemed to be concurred in by TES unless, within two weeks after its receipt, TES notifies the administration to the contrary, or unless it is an item requiring concurrence by other Secretarial Officers. With respect to the latter items, TES shall transmit the coordinated decisions of the appropriate Secretarial Offices to the originating administration or office. A final statement requiring TES concurrence may not be formally transmitted to CEQ until that concurrence has been secured. When TES does not concur, the final statement shall be returned to the originating administration or office with a statement of the reasons for non-concurrence.

d. *Availability pending approval.* Proposed final statements may be made available to the public and Federal, State, or local agencies pending final approval and filing with CEQ, if they carry a notation that the statement is not approved and filed.

e. *Decisions reserved to the secretary.* If an action requires the personal approval of the Secretary or Under Secretary pursuant to a request by them or by TES, TGC, or the administration or Secretarial Office originating the action, the final environmental statement shall be accompanied by a brief cover memorandum requesting the Secretary's or Under Secretary's approval of the action.

(1) The memorandum shall have signature lines for the concurrence of the Assistant Secretary for Environment, Safety, and Consumer Affairs, the General Counsel, and the Under Secretary, and for the approval of the Secretary or Under Secretary.

(2) TES, in conjunction with the Executive Secretary, is responsible for informing the Assistant Secretary for Congressional and Intergovernmental Affairs and the Office of Public Affairs of the Secretary's decisions so that they, in coordination with the operating administrations or other Secretarial Offices involved, may take the appropriate actions.

f. Availability of statements to the president, the CEQ, and the public. After approval, the originating office shall transmit five copies of each final statement to CEQ, which transmittal shall be deemed a transmittal to the President.

(1) The office preparing the environmental statement shall make the draft and final versions of the statement, and the comments received thereon, available to the public, pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552), at the headquarters and appropriate regional offices of the administration, and at appropriate State, regional, and metropolitan clearinghouses unless the Governor of the State involved designates some other point for receipt of this information. Notice of that designation is included in an OMB listing of clearinghouses.

(2) In accordance with the policy set forth in 49 CFR 7.87(c), it is hereby determined that waiver or reduction of the fee for copying statements is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Accordingly, materials to be made available to the public shall be provided without charge to the fullest extent practical, or at a reduced charge which is not more than the actual cost of reproducing copies.

(3) Draft and final statements shall be made available in public places such as local public libraries, the offices of the administration or Secretarial Office preparing the statement, and the offices of the applicant and grantee.

(4) A copy of the final statement, with comments attached, should be sent, at the same time it is sent to CEQ, to the applicant whose project is the subject of the statement, to appropriate offices of EPA, to all Federal, State, and local agencies and private organizations who commented substantively on the draft statement or requested copies of the final statement, and to individuals who requested copies. If the length of the statement or the number of comments make this distribution requirement highly impractical, TES shall consider an alternative arrangement, in consultation with CEQ.

g. *Timing of decision.* Action to implement a proposed action (other than proposals for legislation to Congress, budget proposals, or reports on legislation) for which an environmental statement is required may not be taken sooner than 90 days after a draft environmental statement has been circulated for comment, and furnished to CEQ, or sooner than 30 days after the final environmental statement has been filed with CEQ and made available to commenting agencies and the public. Exceptions to these time periods may be made for emergency procurement or when advance public disclosure will result in significant added costs of procurement to the Government. If the final text of an environmental statement is

filed within 90 days after a draft statement has been circulated for comment, furnished to the CEQ and made public pursuant to this section of these guidelines, the 30-day period and 90-day period may run concurrently.

h. *Supplemental or amended statements.* Departmental officials may supplement or amend a draft or final environmental statement. When substantial changes are made in a proposed action, or where significant new information regarding its environmental impacts comes to light, the operating administration should secure the concurrence of TES as required under subparagraph 9.c. In any case the operating administration should consult with CEQ, through TES, with respect to the need for, or desirability of, recirculating the statement for the appropriate period.

10. *Determinations under section 4(f) of the DOT Act.* a. As indicated in Attachment 1, subparagraph 2.a.(1), any action falling under the provisions of section 4(f) of the DOT Act will normally require the preparation of an environmental statement. In these cases, the statement shall include the material required by paragraph 4 of Attachment 2.

b. If an environmental statement is not required, the material called for by paragraph 4 of Attachment 2 shall be set forth in a separate document, accompanied by a negative declaration. The section 4(f) determination shall be reviewed for legal sufficiency by the Chief Counsel of the operating administration involved, or by his designee. The document must reflect consultation with the Department of the Interior and, where appropriate, the Departments of Agriculture or Housing and Urban Development.

11. *Implementation of representations in environmental statements.* The administrations shall assure, through funding agreements and project review procedures, that applicants carry out any actions to minimize adverse environmental effects set forth in the approved statement. Any proposed deviation from prescribed action that may reduce protection to the environment must be submitted to TES for concurrence, if the approved statement was concurred in by TES.

12. *Requests from the Council on Environmental Quality.* CEQ, in fulfilling its responsibilities under NEPA and Executive Order 11514, may request reports and other information dealing with issues arising in connection with the implementation of NEPA. Administrations and Secretarial Offices shall make every reasonable effort to be responsive to requests by CEQ for either the preparation or circulation of environmental statements, unless it is determined that an environmental statement is not required. In that event, an environmental assessment should be prepared briefly setting forth the reasons for that determination, and that assessment should be available to the public.

13. *Application of section 102(2)(C) procedure to existing projects and programs.* The section 102(2)(C) procedure applies to major Federal actions having a significant effect on the environment even though they arise from projects or programs initiated prior to enactment of NEPA on January 1, 1970. In assessing the environmental effect of proceeding with such a project, and in evaluating alternatives, consideration shall be given to the status of work and degree of completion. If the project or program is continued, it must, to the extent feasible, be shaped so as to enhance and restore environmental quality, avoid or minimize adverse environmental consequences, and take into account environmental consequences not fully evaluated at the outset of the project or program.

14. *Review of environmental statements prepared by other agencies.* Other agencies may consult with the Department in preparing environmental statements. The purpose of DOT review and comment on environmental statements drafted by other agencies is to provide constructive assistance and expertise on the environmental impact of the proposal on areas within this Department's functional area of responsibility or special expertise. Accordingly, the responsibility of the Departmental official commenting is limited generally to providing a competent and cooperative advisory and consultative service.

a. Comments should be organized in a manner consistent with the structure of the draft statement and should identify alternatives or modifications that may enhance environmental quality or avoid or minimize adverse environmental impacts.

b. DOT projects that are environmentally related to the proposed action should be identified so interrelationships may be discussed in the final statement.

c. Environmental monitoring for which DOT has special expertise may be suggested and encouraged during construction, startup, or operation phases.

d. Other agencies may consult with DOT operating administrations and be requested to forward the draft environmental statements directly to the appropriate regional offices of the operating administrations. There are several types of matters, however, that should be referred to Departmental headquarters for comment. These generally include the following:

(1) Actions with national policy implications;

(2) Projects that involve natural, ecological, cultural, scenic, historic, or park or recreation resources of national significance;

(3) Legislation, regulations having national impacts, or national program proposals;

(4) Projects affecting the transportation of hazardous materials, or natural gas and liquid-products pipelines; and

(5) Water resource projects.

Water resource projects are to be referred to the Water Resources Coordinator, U.S. Coast Guard (G-WS). All other items are to be referred to TES and, where appropriate, to the headquarters of the operating administrations. In referring these matters to headquarters, the regional office is encouraged to prepare a proposed Departmental response.

f. Comments on draft environmental statements that do no have national implications should be prepared by the regional offices of DOT and forwarded directly to the regional or area office of the originating agency. If the receiving office believes that another DOT office also has an interest, or is in a better position to respond, it should transmit the statement to the other office. If more than one administration is commenting at the regional level, the comments shall be coordinated by the Secretarial Representative or his designee.

g. When appropriate, the commenting office should coordinate a response with Departmental offices having special expertise in the subject matter.

h. Comments shall be submitted within the time limits set forth in the request, unless the office responsible for submitting comments seeks an extension of time. Comments should be concise, and specify any changes desired either in the action proposed or in the environmental statement, or both. A lengthy analysis should be preceded by a summary of the principal areas of comment, the conclusions, and the recommendations, if any.

i. Comments shall be distributed as follows: the original and one copy to the requesting agency; one copy to TES-70; five copies to CEQ; one copy to the Secretarial Representative if the comment is prepared by a regional office. Requests by the public for copies should be referred to the agency originating the statement.

15. *Applicability.* a. Except as provided in subparagraph c. below, this Order and Attachments 1 and 3-5 apply to all draft and final statements filed by DOT with CEQ after September 30, 1974.

b. Except as provided in subparagraph c. below, Attachment 2 applies to all draft and final statements filed by DOT with CEQ on and after November 29, 1974. Paragraphs 8.o. and 9.c.-f. of DOT Order 5610.1A apply to all statements filed before that date.

c. This Order and attachments do not apply to final statements submitted to the Office of the Secretary for concurrence before September 30, 1974. DOT Order 5610.1A continues to apply to them.

ATTACHMENT I

DEFINITIONAL GUIDELINES

1. *General.* Where the environmental consequences of a proposed action are unclear but potentially significant, a statement should be prepared. It should be noted that the effects of many Federal decisions, including related Federal actions and projects in the area, can be individually limited but cumulatively considerable. This can occur when one or more offices over a period of years put

into a project individually minor, but collectively major, resources; when one decision involving a limited amount of money is a precedent for action in much larger cases or represents a decision in principle about a future major course of action; or when several Government agencies individually make decisions about partial aspects of a major action. In all such cases, an environmental statement should be prepared if it is reasonable to anticipate a cumulatively significant impact on the environment from Federal action. Moreover, NEPA is not limited to adverse environmental effects; any significant effect, positive or negative, requires a statement. CEQ, on the basis of a written assessment of the impacts involved, is available to assist in determining whether specific actions require impact statements.

2. *"Major Federal action significantly affecting" environment.* a. Any of the following actions should ordinarily be considered as major Federal actions significantly affecting the quality of the human environment:

(1) Any effect that is not minimal on properties protected under section 4(f) of the DOT Act or section 106 of the Historic Preservation Act.

(2) Any action that is likely to be highly controversial on environmental grounds.

(3) Any action that is likely to have a significantly adverse impact on natural, ecological, cultural, or scenic resources of national, State, or local significance.

(4) Any action that is likely to be highly controversial with respect to the availability of adequate relocation housing.

(5) Any action which (a) causes a significant division or disruption of an established community or disrupts orderly, planned development or is determined to be significantly inconsistent with plans or goals that have been adopted by the community in which the project is located; or (b) causes a significant increase in congestion.

(6) Any action which (a) is determined to be inconsistent with any Federal, State, or local law or administrative determination relating to the environment; (b) has a significant detrimental impact on air or water quality or on ambient noise levels for adjoining areas; or (c) may contaminate a public water supply system.

(7) Other action that directly or indirectly significantly affects human beings by creating an adverse impact on the environment.

b. Administrations shall review the typical classes of actions that they undertake and, in consultation with TES, develop specific criteria and methods of identifying those actions likely to require environmental statements. CEQ suggests that this involve:

(1) Making an initial assessment of the environmental impacts typically associated with principal types of actions.

(2) Identifying on the basis of this assessment types of actions which normally do, and types of actions which normally do not, require statements.

(3) With respect to remaining actions that may require statements depending on the circumstances, and those actions determined under the preceding paragraph (2) as likely to require statements, identifying: (a) what basic information needs to be gathered; (b) how and when such information is to be assembled and analyzed; and (c) on what basis environmental assessments and decisions to prepare impact statements will be made.

ATTACHMENT 2

FORM AND CONTENT OF STATEMENT

1. *Form.* a. Each statement will be headed as follows:

DEPARTMENT OF TRANSPORTATION

(operating administration)

(Draft) Environmental Impact Statement Pursuant to section 102(2)(C), Pub. L. 91-190.

b. The heading specified in paragraph a. above shall be modified to indicate that the statement also covers sections 4(f), 14, 106 and/or sections 16 and 18(4) requirements, as appropriate.

c. Each statement will, as a minimum, contain sections corresponding to paragraph 3 herein, supplemented as necessary to cover other matters provided in Attachment 2.

d. The format for the summary to accompany draft and final environmental statements is as follows:

SUMMARY

(Check one) ( ) Draft ( ) Final

Department of Transportation (with name of operating administration where appropriate). Name, address, and telephone number of individual who can be contacted for additional information about the proposed action or the statement.

(1) Name of Action. (Check one) ( ) Administrative Action. ( ) Legislative Action.

(2) Brief description of action indicating what States (and counties) are particularly affected.

(3) Summary of environmental impact and adverse environmental effects.

(4) List alternatives considered.

(5) (a) (For draft statements) List all Federal, State, and local agencies from which comments have been requested.

(b) (For final statements) List all Federal, State, and local agencies and other sources from which written comments have been received.

(6) Dates the draft statement and the final statement if issued were made available to the Council on Environmental Quality and the public.

2. *Guidance as to content of statements.* The following paragraphs of Attachment 2 are intended to be considered, where relevant, as guidance regarding the content of environmental statements. This guidance is expected to be supplemented by research reports, guidance on methodology, and other material from the literature as may be pertinent to evaluation of relevant environmental factors.

3. *General content.* The following points are to be covered:

a. A description of the proposed Federal action (e.g., "The proposed Federal action is approval of location of highway * * *" or "The proposed Federal action is approval of a grant application to construct * * *"), a statement of its purpose, and a description of the environment affected, including information, summary technical data, and maps and diagrams where relevant, adequate to permit an assessment of potential environmental impact by commenting offices and the public.

(1) Highly technical and specialized analyses and data should generally be avoided in the body of the draft impact statement. Such materials should be appropriately summarized in the body of the environmental statement and attached as appendices or footnoted with adequate bibliographic references.

(2) The statement should succinctly describe the environment of the area affected as it exists prior to a proposed action, including other related Federal activities in the area, their interrelationships, and cumulative environmental impact. The amount of detail provided in such descriptions should be commensurate with the extent and expected impact of the action, and with the amount of information required at the particular level of decision making (planning, feasibility, design, etc.). In order to insure accurate descriptions and environmental assessments, site visits should be made where appropriate.

(3) The statement should identify, as appropriate, population and growth characteristics of the affected area and any population and growth assumptions used to justify the project or program or to determine secondary population and growth impacts resulting from the proposed action and its alternatives (see paragraph 3c(2)). In discussing these population aspects, the statement should give consideration to using the rates of growth in the region of the project contained in the projection compiled for the Water Resources Council by the Bureau of Economic Analysis of the Department of Commerce and the Economic Research Service of the Department of Agriculture (the OBERS projection).

(4) The sources of data used to identify, quantify, or evaluate any or all environmental consequences must be expressly noted.

b. The relationship of the proposed action and how it may conform to or conflict with adopted or proposed land use plans, policies, controls, and goals and objectives as have been promulgated by affected communities. Where a conflict or inconsistency exists, the statement should describe the extent of reconciliation and the reasons for proceeding notwithstanding the absence of full reconciliation.

c. The probable impact of the proposed action on the environment. (1) This requires assessment of the positive and negative effects of the proposed action as it affects both national and international human environment. The attention given to different environmental factors will vary according to the nature, scale, and location of proposed actions. Among factors to be considered should

be the potential effect of the action on such aspects of the environment as those listed in Attachment 4. Primary attention should be given in the statement to discussing those factors most evidently impacted by the proposed action.

(2) Secondary and other foreseeable effects, as well as primary consequences for the environment, should be included in the analysis. Secondary effects, such as impacts on existing community facilities and activities inducing new facilities and activities, may often be even more substantial than the primary effects of the original action itself. For example, the effects of the proposed action on population and growth may be among the more significant secondary effects. Such population and growth impacts should be estimated and an assessment made on their effects upon the resource base, including land use, water, and public services, of the area in question.

d. Alternatives to the proposed action, including, where relevant, those not within the existing authority of the responsible preparing office. Section 102 (2) (D) of NEPA requires the responsible agency to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." A rigorous exploration and an objective evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might enhance environmental quality or avoid some or all of the adverse environmental effects, are essential. Sufficient analysis of such alternatives and their environmental benefits, costs, and risks should accompany the proposed action through the review process in order not to foreclose prematurely options which might enhance environmental quality or have less detrimental effects. Examples of such alternatives include: the alternative of not taking any action or of postponing action pending further study; alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts, e.g., low capital intensive improvements, mass transit alternatives to highway construction; alternatives related to different locations or designs or details of the proposed action which would present different environmental impacts. In each case, the analysis should be sufficiently detailed to reveal comparative evaluation of the environmental benefits, costs, and risks of the proposed action and each reasonable alternative. Where an existing impact statement already contains such an analysis its treatment of alternatives may be incorporated, provided such treatment is current and relevant to the precise purpose of the proposed action.

e. Any probable adverse environmental effects which cannot be avoided (such as water or air pollution, noise, undesirable land use patterns, or impacts on public parks and recreation areas, wildlife and waterfowl refuges, or on historic sites, damage to life systems, traffic congestion, threats to health, or other consequences adverse to the environmental goals set out in section 101(b) of NEPA). This should be a brief section summarizing in one place those effects discussed in paragraph 3c that are adverse and unavoidable under the proposed action. Included for purposes of contrast should be a clear statement of how all adverse effects will be mitigated.

f. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This section should contain a brief discussion of the extent to which the proposed action involves tradeoffs between short-term environmental gains at the expense of long-term losses, or vice versa, and a discussion of the extent to which the proposed action forecloses future options.

g. Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. This requires identification of unavoidable impacts and the extent to which the action irreversibly curtails the range of potential uses of the environment. "Resources" means not only the labor and materials devoted to an action but also the natural and cultural resources lost or destroyed.

h. An indication of what other interests and considerations of Federal policy are thought to offset the adverse environmental effects of the proposed action identified pursuant to subparagraphs (c) and (e) of this paragraph. The statement should also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed action (as identified in subparagraph (d) of this paragraph) that would avoid some or all of the adverse environmental effects. In this connection, cost-benefit analyses of proposed actions, if prepared, should be attached, or summaries thereof, to the environmental impact statement, and should clearly indicate the extent to which environmental costs have not been reflected in such analyses.

i. A discussion of problems and objections raised by other Federal agencies, State and local entities, and citizens in the review process, and the disposition of the issues involved and the reasons therefor. (This section may be added to the final environmental statement at the end of the review process.)

(1) The draft and final statements should document issues raised through consultations with Federal, State, and local agencies with jurisdiction or special expertise and with citizens, of actions taken in response to comments, public hearings, and other citizens involvement proceedings.

(2) Any unresolved environmental issues and efforts to resolve them, through further consultations or otherwise, should be identified in the final statement. For instance, where an agency comments that the statement has inadequate analysis or that the agency has reservations concerning the impacts, or believes that the impacts are too adverse for approval, either the issue should be resolved or the final statement should reflect efforts to resolve the issue and set forth any action that will result.

(3) The statement should reflect that every effort was made to discover and discuss all major points of view on the environmental effects of the proposed action and alternatives in the draft statement. However, where opposing professional views and responsible opinion have been overlooked in the draft statement and are raised through the commenting process, the environmental effects of the action should be reviewed in light of those views. A meaningful reference should be made in the final statement to the existence of any responsible opposing view not adequately discussed in the draft statement indicating responses to the issues raised.

(4) All substantive comments received on the draft (or summaries of responses from the public which have been exceptionally voluminous) should be attached to the final statement, whether or not each such comment is thought to merit individual discussion in the text of the statement.

j. Draft statement should indicate at appropriate points in the text any underlying studies, reports, and other information obtained and considered in preparing the statement, including any cost-benefit analyses prepared. In the case of documents not likely to be easily accessible (such as internal studies or reports), the statement should indicate how such information may be obtained. If such information is attached to the statement, care should be taken to insure that the statement remains an essentially self-contained instrument, capable of being understood by the reader without the need for undue cross reference.

4. *Publicly owned parklands, recreational areas, wildlife and waterfowl refuges and historic sites.* The following points are to be covered:

a. Description of "any publicly owned land from a public park, recreational area or wildlife and waterfowl refuge" or "any land from an historic site" affected or taken by the project. This includes its size, available activities, use, patronage, unique or irreplaceable qualities, relationship to other similarly used lands in the vicinity of the project, maps, plans, slides, photographs, and drawings showing in sufficient scale and detail the project. This also includes its impact on park, recreation, wildlife, or historic areas, and changes in vehicular or pedestrian access.

b. Statement of the "national, State or local significance" of the entire park, recreational area, refuge, or historic site "as determined by the Federal, State or local officials having jurisdiction thereof."

(1) In the absence of such a statement lands will be presumed to be significant. Any statement of "insignificance" by the official having jurisdiction is subject to review by the Department as to whether such statement is capricious.

(2) Where Federal lands are administered for multiple uses, the Federal official having jurisdiction over the lands shall determine whether the subject lands are in fact being used for park, recreation, wildlife, waterfowl, or historic purposes.

c. Similar data, as appropriate, for alternative designs and locations, including detailed cost estimates (with figures showing percentage differences in total project costs) and technical feasibility, and appropriate analysis of the alternatives, including any unique problems present and evidence that the cost or community disruptions resulting from alternative routes reach extraordinary magnitudes. This portion of the statement should demonstrate compliance with the Supreme Court's statement in the Overton Park case, as follows:

> The very existence of the statute indicates that the protection of parklands was to be given paramount importance. The few green havens that are public parks were not to be lost unless there were truly unusual factors present in a particular case or the cost or community disruption resulting from alternative routes reached extraordinary magnitudes. If the statutes are to have any meaning, the Secretary cannot approve the destruction of parkland unless he finds that the alternative routes present unique problems.

d. If there is no feasible and prudent alternative, description of all planning undertaken to minimize harm to the protected area and statement of actions taken or to be taken to implement this planning, including measures to maintain or enhance the natural beauty of the lands traversed.

(1) Measures to minimize harm may include replacement of land and facilities, providing land or facilities, provision for functional replacement of the facility (see 49 CFR 25.267).

(2) Design measures to minimize harm; e.g., tunneling, cut and cover, cut and fill, treatment of embankments, planting, screening, maintenance of pedestrian or bicycle paths and noise mitigation measures all reflecting utilization of appropriate interdisciplinary design personnel.

e. Evidence of concurrence or description of efforts to obtain concurrence of Federal, State or local officials having jurisdiction over the section 4(f) property regarding the action proposed and the measures planned to minimize harm.

f. If Federally-owned properties are involved in highway projects, the final statement shall include the action taken or an indication of the expected action after filing a map of the proposed use of the land or other appropriate documentation with the Secretary of the Department supervising the land (23 U.S.C. 317).

g. If land acquired with Federal grant money (Department of Housing and Urban Development open space or Bureau of Outdoor Recreation land and water conservation funds) is involved, the final statement shall include appropriate communications with the grantor agency.

h. TGC will determine application of section 4(f) to public interests in lands, such as easements, reversions, etc.

i. A specific statement that there is no feasible and prudent alternative and that the proposal includes all possible planning to minimize harm to the "4(f) area" involved.

5. *Properties and sites of historic and cultural significance.* The statement should document actions taken to preserve and enhance districts, sites, buildings, structures, and objects of historical, architectural, archeological, or cultural significance affected by the action.

a. Draft environmental statements should include identification, through consulting the National Register and applying the National Register Criteria (36 CFR Part 800), of properties that are included in or eligible for inclusion in the National Register of Historic Places that may be affected by the project. The National Register is published in its entirety each February in the FEDERAL REGISTER. Monthly additions and listings of eligible properties are published in the FEDERAL REGISTER the first Tuesday of each month. The Secretary of the Interior will advise, upon request, whether properties are eligible for the National Register.

b. If application of the Advisory Council on Historic Preservation's (ACHP) Criteria of Effect (36 CFR Part 800) indicates that the project will have an effect upon a property included in or eligible for inclusion in the National Register of Historic Places, the draft environmental statement should document the effect. Evaluation of the effect should be made in consultation with the State Historic Preservation Officer (SHPO) and in accordance with the ACHP's criteria of Adverse Effect (36 CFR Part 800).

c. Determinations of no adverse effect should be documented in the draft statement with evidence of the application of the ACHP's Criteria of Adverse Effect, the views of the appropriate State Historic Preservation Officer, and submission of the determination to the ACHP for review.

d. If the project will have an adverse effect upon a property included in or eligible for inclusion in the National Register of Historic Places, the final environmental statement should include either an executed Memorandum of Agreement or comments from the Council after consideration of the project at a meeting of the ACHP and an account of actions to be taken in response to the comments of the ACHP. Procedures for obtaining a Memorandum of Agreement and the comments of the Council are found in 36 CFR Part 800.

e. To determine whether the project will have an effect on properties of State or local historical, architectural, archaeological, or cultural significance not included in or eligible for inclusion in the National Register, the responsible official should consult with the State Historic Preservation Officer, with the local official having jurisdiction of the property, and where appropriate, with historical societies, museums, or academic institutions having expertise with regard to the property. Use of land from historic properties of Federal, State and local significance as determined by the official having jurisdiction thereof involves section 4(f) of the DOT Act and documentation should include information necessary to consider a 4(f) determination (see paragraph 4).

6. *Impacts of the proposed action on the human environment involving community disruption and relocation.* a. The statement should include a description of probable impact sufficient to enable an understanding of the extent of the environmental and social impact of the project alternatives and to consider whether relocation problems can be properly handled. This would include the following information obtainable by visual inspection of the proposed affected area and from secondary sources and community sources when available.

(1) An estimate of the households to be displaced including the family characteristics (e.g., minorities, and income levels, tenure, the elderly, large families).

(2) Impact on the human environment of an action which divides or disrupts an established community, including where pertinent, the effect of displacement on types of families and individuals affected, effect of streets cut off, separation of residences from community facilities, separation of residential areas.

(3) Impact on the neighborhood and housing to which relocation is likely to take place (e.g., lack of sufficient housing for large families, doublings up).

(4) An esimate of the businesses to be displaced, and the general effect of business dislocation on the economy of the community.

(5) A discussion of relocation housing in the area and the ability to provide adequate relocation housing for the types of families to be displaced. If the resources are insufficient to meet the estimated displacement needs, a description of the actions proposed to remedy this situation including, if necessary, use of housing of last resort.

(6) Results of consultation with local officials and community groups regarding the impacts to the community affected. Relocation agencies and staff and other social agencies can help to describe probable social impacts of this proposed action.

(7) Where necessary, special relocation advisory services to be provided the elderly, handicapped and illiterate regarding interpretations of benefits, assistance in selecting replacement housing, and consultation with respect to acquiring, leasing, and occupying replacement housing.

b. This data should provide the preliminary basis for assurance of the availability of relocation housing as required by DOT 5620.1, Replacement Housing Policy, dated June 24, 1970, and 49 CFR 25.53.

7. *Considerations relating to pedestrians and bicyclists.* Where appropriate, the statement should discuss impacts on and consideration to be given in the development of the project to pedestrian and bicycle access, movement and safety within the affected area, particularly in medium and high density commercial and residential areas.

8. *Other social impacts.* The general social groups specially benefitted or harmed by the proposed action should be identified in the statement, including the following:

a. Particular effects of a proposal on the elderly, handicapped, non-drivers, transit dependent, or minorities should be described to the extent reasonably predictable.

b. How the proposal will facilitate or inhibit their access to jobs, educational facilities, religious institutions, health and welfare services, recreational facilities, social and cultural facilities, pedestrian movement facilities, and public transit services.

9. *Standards as to noise, air, and water pollution.* The statement shall reflect sufficient analysis of the effects of the proposed action on attainment and maintenance of any environmental standards established by law or administrative determination (e.g., noise, ambient air quality, water quality) including the following documentation:

a. With respect to water quality, there should be consultation with the agency responsible for the State water pollution control program as to conformity with standards and regulations regarding storm sewer discharge sedimentation control, and other non-point source discharges.

b. The comments or determinations of the offices charged with administration of the State's implementation plan for air quality as to the consistency of the project with State plans for the implementation of ambient air quality standards.

c. Conformity to adopted noise standards, compatible, if appropriate, with different land uses.

10. *Energy supply and natural resources development.* Where applicable, the statement should reflect consideration of whether the project or program will have any effect on either the production or consumption of energy and other natural resources, and discuss such effects if they are significant.

11. *Flood hazard evaluation.* When an alternative under consideration encroaches on a flood plain, the statement should include evidence that studies have been made and evidence of consultations with agencies with expertise have been carried out. Necessary measures to handle flood hazard problems should be described, in compliance with Executive Order 11296, and Flood Hazard Guidelines for Federal Executive Agencies, promulgated by the Water Resources Council, or how such requirements can be met during project development.

12. *Considerations relating to wetlands or coastal zones.* Where wetlands or coastal zones are involved, the statement should include:

a. Information on location, types, and extent of wetlands areas which might be affected by the proposed action.

b. An assessment of the impacts resulting from both construction and operation of the project on the wetlands and associated wildlife, and measures to minimize adverse impacts.

c. A statement by the local representative of the Department of the Interior, and any other responsible officials with special expertise, setting forth his views on the impacts of the project on the wetlands, the worth of the particular wetlands areas involved to the community and to the Nation, and recommendations as to whether the proposed action should proceed, and, if applicable, along what alternative route.

d. Where applicable, a discussion of how the proposed project relates to the State coastal zone management program for the particular State in which the project is to take place.

13. *Construction impacts.* In general, adverse impacts during construction will be of less importance than long-term impacts of a proposal. Nonetheless, statements should appropriately address such matters as the following identifying any special problem areas:

a. Noise impacts from construction and any specifications setting maximum noise levels.

b. Disposal of spoil and effect on borrow areas and disposal sites (include specifications where special problems are involved).

c. Measures to minimize effects on traffic and pedestrians.

14. *Land use and urban growth.* The statement should include, to the extent relevant and predictable:

a. The effect of the project on land use, development patterns, and urban growth.

b. Where significant land use and development impacts are anticipated, identify public facilities needed to serve the new develoment and any problems or issues which would arise in connection with these facilities, and the comments of agencies that would provide these facilities.

15. *Projects under section 16 of the Airport Act: new airports, runways, and runway extensions.* a. Identification of communities in or near which the project is located.

b. Identification of steps taken by the applicant to determine the interests of those communities, including economic, environmental, and social interests, as well as transportation interests.

c. Statement of the specific actions taken in planning the project to recognize and to meet the communities' interests.

d. For identified community interests which are in conflict with the project, a statement explaining why the interests have not been met, what alternatives have been investigated to meet the community interests, estimated costs of the alternatives, and the reasons for not adopting the alternatives.

e. Consistency of the project with plans (existing at the time of approval of the project) of planning agencies for development of the area in which the airport is located.

f. Identification of existing land uses and location and nature of nearby noise sensitive public or private facilities, with noise contours describing cumulative impact on existing and planned land uses.

g. Assurances that appropriate action, including the adoption of zoning laws, has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and take-off of aircraft.

h. For any project found to have an adverse effect on the environment, and for which no feasible and prudent alternative exists, identify all steps taken to minimize such adverse effect.

i. Statement that the public hearings required by section 16(d) of the Airport Act have been held.

j. Statement by appropriate local planning officials that the project is consistent with the goals and objectives of such urban planning as has been carried out by the community.

k. Where relevant, certification by the Governor or appropriate Federal official that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

16. *Projects under section 14 of the Mass Transportation Act: mass transit projects with a significant impact on the quality of the human environment.* a. Evidence of the opportunity that was afforded for the presentation of views by all parties with a significant economic, social or environmental interest.

b. Evidence that fair consideration has been given to the preservation and enhancement of the environment and to the interests of the community in which the project is located.

c. If there is an adverse environmental effect and there is no feasible and prudent alternative, description of all planning undertaken to minimize such adverse environmental effect and statement of actions taken or to be taken to implement the planning; or a specific statement that there is no adverse environmental effect.

ATTACHMENT 3

RESEARCH ACTIVITIES

Pursuant to CEQ guidelines, Departmental officials "engaging in major technology research and development programs should develop procedures for periodic evaluation to determine when a program statement is required for such programs." (§ 1500.6(d)(2)) Such procedures shall be developed under the direction of TST in accordance with paragraph 4.a. of this Order.

1. Factors to be considered in making this determination include the magnitude of Federal investment in the program,

the likelihood of widespread application of the technology, the degree of environmental impact which would occur if the technology were widely applied, and the extent to which continued investment in the new technology is likely to restrict future alternatives.

2. Statements must be written late enough in the development process to contain meaningful information, but early enough so that this information can practically serve as an input in the decision-making process.

3. Where it is anticipated that a statement may ultimately be required but that its preparation is still premature, the office should prepare a publicly available record briefly setting forth the reasons for its determination that a statement is not yet necessary. This record should be periodically updated, particularly when significant new information becomes available concerning the potential environmental impact of the program.

4. In any case, a statement must be prepared before research activities have reached a state of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

5. Statements on technology research and development programs should include an analysis not only of alternative forms of the same technology that might reduce any adverse environmental impacts but also of alternative technologies that would serve the same function as the technology under consideration.

6. Efforts should be made to involve other Federal agencies and interested groups with relevant expertise in the preparation of such statements because the impacts and alternatives to be considered are likely to be less well defined than in other types.

ATTACHMENT 4

AREAS OF ENVIRONMENTAL IMPACT AND FEDERAL AGENCIES AND FEDERAL-STATE AGENCIES [1] WITH JURISDICTION BY LAW OR SPECIAL EXPERTISE TO COMMENT THEREON [2]

AIR

Air Quality

Department of Agriculture—
Forest Service (effects on vegetation)
Atomic Energy Commission (radioactive substances)
Department of Health, Education, and Welfare
Environmental Protection Agency
Department of the Interior—
Bureau of Mines (fossil and gaseous fuel combustion)
Bureau of Sport Fisheries and Wildlife (effect on wildlife)
Bureau of Outdoor Recreation (effects on recreation)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
National Aeronautics and Space Administration (remote sensing, aircraft emissions)
Department of Transportation—
Assistant Secretary for Systems Development and Technology (auto emissions)
Coast Guard (vessel emissions)
Federal Aviation Administration (aircraft emissions)

Weather Modification

Department of Agriculture—
Forest Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense—
Department of the Air Force
Department of the Interior
Bureau of Reclamation

WATER RESOURCES COUNCIL

WATER

Water Quality

Department of Agriculture—
Soil Conservation Service
Forest Service
Atomic Energy Commission (radioactive substances)
Department of the Interior—
Bureau of Reclamation
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
Geological Survey
Office of Saline Water
Environmental Protection Agency
Department of Health, Education, and Welfare
Department of Defense—
Army Corps of Engineers
Department of the Navy (ship pollution control)
National Aeronautics and Space Administration (remote sensing)
Department of Transportation—
Coast Guard (oil spills, ship sanitation)
Department of Commerce—
National Oceanic and Atmospheric Administration
Water Resources Council
River Basin Commissions (as geographically appropriate)

Marine Pollution, Commercial Fishery Conservation, and Shellfish Sanitation

Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense—
Army Corps of Engineers
Office of the Oceanographer of the Navy
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
Bureau of Land Management (outer continental shelf)
Geological Survey (outer continnetal shelf)
Department of Transportation—
Coast Guard
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
Water Resources Council
River Basin Commissions (as geographically appropriate)

Waterway Regulation and Stream Modification

Department of Agriculture—
Soil Conservation Service
Department of Defense—
Bureau of Reclamation
Army Corps of Engineers
Department of the Interior—
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
Geological Survey
Department of Transportation—
Coast Guard
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
Water Resources Council
River Basin Commissions (as geographically appropriate)

FISH AND WILDLIFE

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Commerce—
National Oceanic and Atmospheric Administration (marine species)
Department of the Interior—
Bureau of Sport Fisheries and Wildlife
Bureau of Land Management
Bureau of Outdoor Recreation
Environmental Protection Agency

SOLID WASTE

Atomic Energy Commission (radioactive waste)
Department of Defense—
Army Corps of Engineers
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Mines (mineral waste, mine acid waste, municipal solid waste, recycling)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Geological Survey (geologic and hydrologic effects)
Office of Saline Water (demineralization)
Department of Transportation—
Coast Guard (ship sanitation)
Environmental Protection Agency
River Basin Commissions (as geographically appropriate)
Water Resources Council

NOISE

Department of Commerce—
National Bureau of Standards
Department of Health, Education, and Welfare
Department of Housing and Urban Development (land use and building materials aspects)
Department of Labor—
Occupational Safety and Health Administration
Department of Transportation—
Assistant Secretary for Systems Development and Technology
Environmental Protection Agency
Federal Aviation Administration, Office of Noise Abatement
National Aeronautics and Space Administration

RADIATION

Atomic Energy Commission
Department of Commerce—
National Bureau of Standards
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Mines (uranium mines)
Mining Enforcement and Safety Administration (uranium mines)
Environmental Protection Agency

[1] River Basin Commissions (Delaware, Great Lakes, Missouri, New England, Ohio, Pacific Northwest, Souris-Red-Rainy, Susquehanna, Upper Mississippi) and similar Federal-State agencies should be consulted on actions affecting the environment of their specific geographic jurisdictions.

[2] In all cases where a proposed action will have significant international environmental effects, the Department of State should be consulted, and should be sent a copy of any draft and final impact statement which covers such action.

HAZARDOUS SUBSTANCES

Toxic Materials

Atomic Energy Commission (radioactive substances)
Department of Agriculture—
Agricultural Research Service
Consumer and Marketing Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense
Department of Health, Education, and Welfare
Environmental Protection Agency

Food Additives and Contamination of Foodstuffs

Department of Agriculture—
Consumer and Marketing Service (meat and poultry products)
Department of Health, Education, and Welfare
Environmental Protection Agency

Pesticides

Department of Agriculture—
Agricultural Research Service (biological controls, food and fiber production)
Consumer and Marketing Service
Forest Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Sport Fisheries and Wildlife (fish and wildlife effects)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Reclamation (irrigated lands)
Environmental Protection Agency

Transportation and Handling of Hazardous Materials

Atomic Energy Commission (radioactive substances)
Department of Commerce—
Maritime Administration
National Oceanic and Atmospheric Administration (effects on marine life and the coastal zone)
Department of Defense—
Armed Services Explosive Safety Board
Army Corps of Engineers (navigable waterways)
Department of Transportation—
Federal Highway Administration, Bureau of Motor Carrier Safety
Coast Guard
Federal Railroad Administration
Federal Aviation Administration
Assistant Secretary for Systems Development and Technology
Office of Hazardous Materials
Office of Pipeline Safety
Environmental Protection Agency

ENERGY SUPPLY AND NATURAL RESOURCES DEVELOPMENT

Electric Energy Development, Generation, and Transmission, and Use

Atomic Energy Commission (nuclear)
Department of Agriculture—
Rural Electrification Administration (rural areas)
Department of Defense—
Army Corps of Engineers (hydro)
Department of Health, Education, and Welfare (radiation effects)
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Bureau of Indian Affairs (Indian lands)
Bureau of Land Mangement (public lands)
Bureau of Reclamation
Power Marketing Administrations
Geological Survey
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Environmental Protection Agency
Federal Power Commission (hydro, transmission, and supply)
River Basin Commissions (as geographically appropriate)
Tennessee Valley Authority
Water Resources Council

Petroleum Development, Extraction, Refining, Transport, and Use

Department of the Interior—
Office of Oil and Gas
Bureau of Mines
Geological Survey
Bureau of Land Management (public lands and outer continental shelf)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife (effects on fish and wildlife)
Bureau of Outdoor Recreation
National Park Service
Department of Transportation (Transport and Pipeline Safety)
Environmental Protection Agency
Interstate Commerce Commission

Natural Gas Development, Production, Transmission, and Use

Department of Housing and Urban Development (urban areas)
Department of the Interior—
Office of Oil and Gas
Geological Survey
Bureau of Mines
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Department of Transportation (transport and safety)
Environmental Protection Agency
Federal Power Commission (production, transmission, and supply)
Interstate Commerce Commission

Coal and Minerals Development, Mining, Conversion, Processing, Transport, and Use

Appalachian Regional Commission
Department of Agriculture—
Forest Service
Department of Commerce
Department of the Interior—
Office of Coal Research
Mining Enforcement and Safety Administration
Bureau of Mines
Geological Survey
Bureau of Indian Affairs (Indian lands)
Bureau of Land Management (public lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Department of Labor—
Occupational Safety and Health Administration
Department of Transportation
Environmental Protection Agency
Interstate Commerce Commission
Tennessee Valley Authority

Renewable Resource Development, Production, Management, Harvest, Transport, and Use

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Commerce
Department of Housing and Urban Development (building materials)
Department of the Interior—
Geological Survey
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Department of Transportation
Environmental Protection Agency
Interstate Commerce Commission (freight rates)

Energy and Natural Resources Conservation

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Commerce—
National Bureau of Standards (energy efficiency)
Department of Housing and Urban Development—
Federal Housing Administration (housing standards)
Department of the Interior—
Office of Energy Conservation
Bureau of Mines
Bureau of Reclamation
Geological Survey
Power Marketing Administration
Department of Transportation
Environmental Protection Agency
Federal Power Commission
General Services Administration (design and operation of buildings)
Tennessee Valley Authority

LAND USE AND MANAGEMENT

Land Use Changes, Planning and Regulation or Land Development

Department of Agriculture—
Forest Service (forest lands)
Agricultural Research Service (agricultural lands)
Department of Housing and Urban Development
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife (wildlife refuges)
Bureau of Outdoor Recreation (recreation lands)
National Park Service (NPS units)
Department of Transportation
Environmental Protection Agency (pollution effects)
National Aeronautics and Space Administration (remote sensing)
River Basins Commissions (as geographically appropriate).

Public Land Management

Department of Agriculture—
Forest Service (forests)
Department of Defense
Department of the Interior—
Bureau of Land Management
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife (wildlife refuges)
Bureau of Outdoor Recreation (recreation lands)
National Park Service (NPS units)
Federal Power Commission (project lands)
General Services Administration
National Aeronautics and Space Administration (remote sensing)
Tennessee Valley Authority (project lands)

PROTECTION OF ENVIRONMENTALLY CRITICAL AREAS—FLOODPLAINS, WETLANDS, BEACHES AND DUNES, UNSTABLE SOILS, STEEP SLOPES, AQUIFER RECHARGE AREAS, ETC.

Department of Agriculture—
- Agricultural Stabilization and Conservation Service
- Soil Conservation Service
- Forest Service

Department of Commerce—
- National Oceanic and Atmospheric Administration (coastal areas)

Department of Defense—
- Army Corps of Engineers

Department of Housing and Urban Development (urban and floodplain areas)

Department of the Interior—
- Office of Land Use and Water Planning
- Bureau of Outdoor Recreation
- Bureau of Reclamation
- Bureau of Sport Fisheries and Wildlife
- Bureau of Land Management
- Geological Survey

Environmental Protection Agency (pollution effects)

National Aeronautics and Space Administration (remote sensing)

River Basins Commissions (as geographically appropriate)

Water Resources Council

LAND USE IN COASTAL AREAS

Department of Agriculture—
- Forest Service
- Soil Conservation Service (soil stability, hydrology)

Department of Commerce—
- National Oceanic and Atmospheric Administration (impact on marine life and coastal zone management)

Department of Defense—
- Army Corps of Engineers (beaches, dredge and fill permits, Refuse Act permits)

Department of Housing and Urban Development (urban areas)

Department of the Interior—
- Office of Land Use and Water Planning
- Bureau of Sport Fisheries and Wildlife
- National Park Service
- Geological Survey
- Bureau of Outdoor Recreation
- Bureau of Land Management (public lands)

Department of Transportation—
- Coast Guard (bridges, navigation)

Environmental Protection Agency (pollution effects)

National Aeronautics and Space Administration (remote sensing)

REDEVELOPMENT AND CONSTRUCTION IN BUILT-UP AREAS

Department of Commerce—
- Economic Development Administration (designated areas)

Department of Housing and Urban Development

Department of the Interior—
- Office of Land Use and Water Planning

Department of Transportation

Environmental Protection Agency

General Services Administration

Office of Economic Opportunity

DENSITY AND CONGESTION MITIGATION

Department of Health, Education, and Welfare

Department of Housing and Urban Development

Department of the Interior—
- Office of Land Use and Water Planning
- Bureau of Outdoor Recreation

Department of Transportation

Environmental Protection Agency

NEIGHBORHOOD CHARACTER AND CONTINUITY

Department of Health, Education, and Welfare

Department of Housing and Urban Development

National Endowment for the Arts

Office of Economic Opportunity

IMPACTS ON LOW-INCOME POPULATIONS

Department of Commerce—
- Economic Development Administration (designated areas)

Department of Health, Education, and Welfare

Department of Housing and Urban Development

Office of Economic Opportunity

HISTORIC, ARCHITECTURAL, AND ARCHEOLOGICAL PRESERVATION

Advisory Council on Historic Preservation

Department of Housing and Urban Development

Department of the Interior—
- National Park Service
- Bureau of Land Management (public lands)
- Bureau of Indian Affairs (Indian lands)

General Services Administration

National Endowment for the Arts

SOIL AND PLANT CONSERVATION AND HYDROLOGY

Department of Agriculture—
- Soil Conservation Service
- Agricultural Service
- Forest Service

Department of Commerce—
- National Oceanic and Atmospheric Administration

Department of Defense—
- Army Corps of Engineers (dredging, aquatic plants)

Department of Health, Education, and Welfare

Department of the Interior—
- Bureau of Land Management
- Bureau of Sport Fisheries and Wildlife
- Geological Survey
- Bureau of Reclamation

Environmental Protection Agency

National Aeronautics and Space Administration (remote sensing)

River Basin Commissions (as geographically appropriate)

Water Resources Council

OUTDOOR RECREATION

Department of Agricultural—
- Forest Service
- Soil Conservation Service

Department of Defense—
- Army Corps of Engineers

Department of Housing and Urban Development (urban areas)

Department of the Interior—
- Bureau of Land Management
- National Park Service
- Bureau of Outdoor Recreation
- Bureau of Sport Fisheries and Wildlife
- Bureau of Indian Affairs

Environmental Protection Agency

National Aeronautics and Space Administration (remote sensing)

River Basin Commissions (as geographically appropriate)

Water Resources Council

ATTACHMENT 5

OFFICES WITHIN FEDERAL AGENCIES AND FEDERAL-STATE AGENCIES FOR INFORMATION REGARDING THE AGENCIES' NEPA ACTIVITIES AND FOR RECEIVING OTHER AGENCIES' IMPACT STATEMENTS FOR WHICH COMMENTS ARE REQUESTED

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Office of Architectural and Environmental Preservation, Advisory Council on Historic Preservation, Suite 430, 1522 K Street, N.W., Washington, D.C. 20005 254–3974.

Regional Administrator, I, U.S. Environmental Protection Agency, Room 2303, John F. Kennedy Federal Bldg., Boston, Mass. 02203 (617) 223–7210.

Regional Administrator, II, U.S. Environmental Protection Agency, Room 908, 26 Federal Plaza, New York, New York 10007 (212) 264–2525.

Regional Administrator, III, U.S. Environmental Protection Agency, Curtis Bldg., 6th & Walnut Sts., Philadelphia, Pa. 19106 (215) 597–9801.

Regional Administrator, IV, U.S. Environmental Protection Agency, 1421 Peachtree Street, N.E., Atlanta, Ga. 30309 (404) 526–5727.

Regional Administrator, V, U.S. Environmental Protection Agency, 1 N. Wacker Drive, Chicago, Illinois 60606 (312) 353–5250.

Regional Administrator VI, U.S. Environmental Protection Agency, 1600 Patterson Street, Suite 1100, Dallas, Texas 75201 (214) 749–1962.

Regional Administrator VII, U.S. Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Missouri 64108 (816) 374–5493.

Regional Administrator VIII, U.S. Environmental Protection Agency, Suite 900, Lincoln Tower, 1860 Lincoln Street, Denver, Colorado 80203 (303) 837–3895.

Regional Administrator IX, U.S. Environmental Protection Agency, 100 California Street, San Francisco, California 94111 (415) 556–2320.

Regional Administrator X, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101 (206) 442–1220.

ENVIRONMENTAL PROTECTION AGENCY [2]

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

New Jersey, New York, Puerto Rico, Virgin Islands

Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Arkansas, Louisiana, New Mexico, Texas, Oklahoma

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[2] Contact the Office of Federal Activities for environmental statements concerning legislation, regulations, national program proposals or other major policy issues.

For all other EPA consultation, contact the Regional Administrator in whose area the proposed action (e.g., highway or water resource construction projects) will take place. The Regional Administrators will coordinate the EPA review. Addresses of the Regional Administrators, and the areas covered by their regions are as follows:

Director, Office of Federal Activities, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 755–0777.

Iowa, Kansas, Missouri, Nebraska
Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territories of Pacific Islands, Wake Island
Alaska, Idaho, Oregon, Washington

DEPARTMENT OF AGRICULTURE [3]

Office of the Secretary, Attn: Coordinator Environmental Quality Activities, U.S. Department of Agriculture, Washington, D.C. 20250 447–3965.

APPALACHIAN REGIONAL COMMISSION

Office of the Alternate Federal Co-Chairman, Appalachian Regional Commission, 1666 Connecticut Avenue, N.W., Washington, D.C. 20235 967–4103.

DEPARTMENT OF THE ARMY (CORPS OF ENGINEERS)

Executive Director of Civil Works, Office of the Chief of Engineers, U.S. Army Corps of Engineers, Washington, D.C. 20314 693–7168.

ATOMIC ENERGY COMMISSION

For nonregulatory matters: Office of Assistant General Manager for Biomedical and Environmental Research and Safety Programs, Atomic Energy Commission, Washington, D.C. 20545 973–3208.

For regulatory matters: Office of the Assistant Director for Environmental Projects, Atomic Energy Commission, Washington, D.C. 20545 973–7531.

DEPARTMENT OF COMMERCE

Office of the Deputy Assistant Secretary for Environmental Affairs, U.S. Department of Commerce, Washington, D.C. 20230 967–4335.

DEPARTMENT OF DEFENSE

Office of the Assistant Secretary for Defense (Health and Environment), U.S. Department of Defense, Room 3E172, The Pentagon, Washington, D.C. 20301 697–2111.

DELAWARE RIVER BASIN COMMISSION

Office of the Secretary, Delaware River Basin Commission, Post Office Box 360, Trenton, N.J. 08603 (609) 883–9500.

FEDERAL POWER COMMISSION

Commission's Advisor on Environmental Quality, Federal Power Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426 386–6084.

GENERAL SERVICES ADMINISTRATION

Office of Environmental Affairs, Office of the Deputy Administrator for Special Projects, General Services Administration, Washington, D.C. 20405 343–4161.

GREAT LAKES BASIN COMMISSION

Office of the Chairman, Great Lakes Basin Commission, 3475 Plymouth Road, P.O. Box 999, Ann Arbor, Michigan 48105 (313) 769–7431.

[3] Requests for comments or information from individual units of the Department of Agriculture, e.g., Soil Conservation Service, Forest Service, etc. should be sent to the Office of the Secretary, Department of Agriculture, at the address given above.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE [4]

For information with respect to HEW actions occurring within the jurisdiction of the Departments' Regional Directors, contact the appropriate Regional Environmental Officer:

Office of Environmental Affairs, Office of the Assistant Secretary for Administration and Management, Department of Health, Education and Welfare, Washington, D.C. 20202 963–4456.

Region I, Regional Environmental Officer, U.S. Department of Health, Education and Welfare, Room 2007B, John F. Kennedy Center, Boston, Massachusetts 02203 (617) 223–6837.

Region II, Regional Environmental Officer, U.S. Department of Health, Education and Welfare, Federal Building, 26 Federal Plaza, New York, New York 10007 (212) 264–1308.

Region III, Regional Environmental Officer, U.S. Department of Health, Education and Welfare, P.O. Box 13716, Philadelphia, Pennsylvania 19101 (215) 597–6498.

Region IV, Regional Environmental Officer, U.S. Department of Health, Education and Welfare, Room 404, 50 Seventh Street, N.E., Atlanta, Georgia 30323 (404) 526–5817.

Region V, Regional Environmental Officer, U.S. Department of Health, Education and Welfare, Room 712, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois 60607 (312) 353–1644.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT [5]

Regional Administrator II, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 26 Federal Plaza, New York, New York 10007 (212) 264–8068.

Regional Administrator III, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, Curtis Building, Sixth and Walnut Street, Philadelphia, Pennsylvania 19106 (215) 597–2560.

Regional Administrator IV, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, Peachtree-Seventh Building, Atlanta, Georgia 30323 (404) 526–5585.

Regional Administrator V, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 360 North Michigan Avenue, Chicago, Illinois 60601 (312) 353–5680.

Director, Office of Community and Environmental Standards, Department of Housing and Urban Development, Room 7206, Washington, D.C. 20410, 755–5980.

[4] Contact the Office of Environmental Affairs for information on HEW's environmental statements concerning legislation, regulations, national program proposals or other major policy issues, and for all requests for HEW comment on impact statements of other agencies.

[5] Contact the Director with regard to environmental impacts of legislation, policy statements, program regulations and procedures, and precedent-making project decisions. For all other HUD consultation, contact the HUD Regional Administrator in whose jurisdiction the project lies, as follows:

Regional Administrator I, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, Room 405, John F. Kennedy Federal Building, Boston, Mass. 02203 (617) 223–4066.

Region VI, Regional Environmental Officer, U.S. Department of Health, Education and Welfare, 1114 Commerce Street, Dallas, Texas 75202 (214) 749–2236.

Region VII, Regional Environmental Officer, U.S. Department of Health, Education and Welfare, 601 East 12th Street, Kansas City, Missouri 64106 (816) 374–3584.

Region VIII, Regional Environmental Officer, U.S. Department of Health, Education and Welfare, 9017 Federal Building, 19th and Stout Streets, Denver, Colorado 80202 (303) 837–4178.

Region IX, Regional Environmental Officer, U.S. Department of Health, Education and Welfare, 50 Fulton Street, San Francisco, California 94102 (415) 556–1970.

Region X, Regional Environmental Officer, U.S. Department of Health, Education and Welfare, Arcade Plaza Building, 1321 Second Street, Seattle, Washington 98101 (206) 442–0490.

DEPARTMENT OF THE INTERIOR [6]

Director, Office of Environmental Project Review, Department of the Interior, Interior Building, Washington, D.C. 20240 343–3891.

INTERSTATE COMMERCE COMMISSION

Office of Proceedings, nIterstate Commerce Commission, Washington, D.C. 20423 343–6167.

DEPARTMENT OF LABOR

Assistant Secretary for Occupational Safety and Health, Department of Labor, Washington, D.C. 20210 961–3405.

MISSOURI RIVER BASINS COMMISSION

Office of the Chairman, Missouri River Basins Commission, 10050 Regency Circle, Omaha, Nebraska 68114 (402) 397–5714.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Office of the Comptroller, National Aeronautics and Space Administration, Washington, D.C. 20546 755–8440.

NATIONAL CAPITAL PLANNING COMMISSION

Office of Environmental Affairs, Office of the Executive Director, National Capital Planning Commission, Washington, D.C. 20576 382–7200.

NATIONAL ENDOWMENT FOR THE ARTS

Office of Architecture and Environmental Arts Program, National Endowment for the Arts, Washington, D.C. 20506 382–5765.

NEW ENGLAND RIVER BASINS COMMISSION

Office of the Chairman, New England River Basins Commission, 55 Court Street, Boston, Mass. 02108 (617) 223–6244.

Regional Administrator VI, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, Federal Office Building, 819 Taylor Street, Fort Worth, Texas 76102 (817) 334–2867.

Regional Administrator VII, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 911 Walnut Street, Kansas City, Missouri 64106 (816) 374–2661.

Regional Administrator VIII, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, Samsonite Building, 1051 South Broadway, Denver, Colorado 80209 (303) 837–4061.

[6] Requests for comments or information from individual units of the Department of the Interior should be sent to the Office of Environmental Project Review at the address given above.

Regional Administrator IX, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 450 Golden Gate Avenue, Post Office Box 36003, San Francisco, California 94102 (415) 556–4752.

Regional Administrator X, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, Room 226, Arcade Plaza Building, Seattle, Washington 98101 (206) 583–5415.

OFFICE OF ECONOMIC OPPORTUNITY

Office of the Director, Office of Economic Opportunity, 1200 19th Street, N.W., Washington, D.C. 20506 254–6000.

OHIO RIVER BASIN COMMISSION

Office of the Chairman, Ohio River Basin Commission, 36 East 4th Street, Suite 208–20, Cincinnati, Ohio 45202 (513) 684–3831.

PACIFIC NORTHWEST RIVER BASINS COMMISSION

Office of the Chairman, Pacific Northwest River Basins Commission, 1 Columbia River, Vancouver, Washington 98660 (206) 695–3606.

SOURIS-RED-RAINY RIVER BASINS COMMISSION

Office of the Chairman, Souris-Red-Rainy River Basins Commission, Suite 6, Professional Building, Holiday Mall, Moorhead, Minnesota 56560 (701) 237–5227.

DEPARTMENT OF STATE

Office of the Special Assistant to the Secretary for Environmental Affairs, Department of State, Washington, D.C. 20520, 632–7964.

SUSQUEHANNA RIVER BASIN COMMISSION

Office of the Executive Director, Susquehanna River Basin Commission, 5012 Lenker Street, Mechanicsburg, Pa. 17055, (717) 737–0501.

TENNESSEE VALLEY AUTHORITY

Office of the Director of Environmental Research and Development, Tennessee Valley Authority, 720 Edney Building, Chattanooga, Tennessee 37401, (615) 755–2002.

DEPARTMENT OF TRANSPORTATION [1]

Director, Office of Environmental Quality, Office of the Assistant Secretary for Environment, Safety, and Consumer Affairs, Department of Transportation, Washington, D.C. 20590, 426–4357.

For information regarding the Department of Transportation's other environmental statements, contact the national office for the appropriate administration:

U.S. Coast Guard

Office of Marine Environment and Systems, U.S. Coast Guard, 400 7th Street, S.W., Washington, D.C. 20590, 426–2007.

Federal Aviation Administration

Office of Environmental Quality, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, 426–8406.

Federal Highway Administration

Office of Environmental Policy, Federal Highway Administration, 400 7th Street, S.W., Washington, D.C. 20590, 426–0351.

[1] Contact the Office of Environmental Quality, Department of Transportation, for information on DOT's environmental statements concerning legislation, regulations, national program proposals, or other major policy issues.

Federal Railroad Administration

Office of Policy and Plans, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590, 426–1567.

Urban Mass Transportation Administration

Office of Program Operations, Urban Mass Transportation Administration, 400 7th Street, S.W., Washington, D.C. 20590, 426–4020.

For other administration's not listed above, contact the Office of Environmental Quality, Department of Transportation, at the address given above.

For comments on other agencies' environmental statements, contact the appropriate administration's regional office. If more than one administration within the Department of Transportation is to be requested to comment, contact the Secretarial Representative in the appropriate Regional Office for coordination of the Department's comments:

SECRETARIAL REPRESENTATIVE

Region I Secretarial Representative, U.S. Department of Transportation, Transportation Systems Center, 55 Broadway, Cambridge, Massachusetts 02142 (617) 494–2709.

Region II Secretarial Representative, U.S. Department of Transportation, 26 Federal Plaza, Room 1811, New York, New York 10007 (212) 264–2672.

Region III Secretarial Representative, U.S. Department of Transportation, Mall Building, Suite 1214, 325 Chestnut Street, Philadelphia, Pennsylvania 19106 (215) 597–0407.

Region IV Secretarial Representative, U.S. Department of Transportation, Suite 515, 1720 Peachtree Rd., N.W. Atlanta, Georgia 30309 (404) 526–3738.

Region V Secretarial Representative, U.S. Department of Transportation, 17th Floor, 300 S. Wacker Drive, Chicago, Illinois 60606 (312) 353–4000.

Region V Secretarial Representative, U.S. Department of Transportation, 9–C–18 Federal Center, 1100 Commerce Street, Dallas, Texas 75202 (214) 749–1851.

Region VII Secretarial Representative, U.S. Department of Transportation, 601 E. 12th Street, Room 634, Kansas City, Missouri 64106 (816) 374–2761.

Region VIII Secretarial Representative, U.S. Department of Transportation, Prudential Plaza, Suite 1822, 1050 17th Street, Denver, Colorado 80225 (303) 837–3242.

Region IX Secretarial Representative, U.S. Department of Transportation, 450 Golden Gate Avenue, Box 36133, San Francisco, California 94102 (415) 556–5961.

Region X Secretarial Representative, U.S. Department of Transportation, 1321 Second Avenue, Room 507, Seattle, Washington 98101 (206) 442–0590.

FEDERAL AVIATION ADMINISTRATION

New England Region, Office of the Regional Director, Federal Aviation Administration, 154 Middlesex Street, Burlington, Massachusetts 01803 (617) 272–2350.

Eastern Region, Office of the Regional Director, Federal Aviation Administration, Federal Building, JFK International Airport, Jamaica, New York 11430 (212) 995–3333.

Southern Region, Office of the Regional Director, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320 (404) 526–7222.

Great Lakes Region, Office of the Regional Director, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018 (312) 694–4500.

Southwest Region, Office of the Regional Director, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101 (817) 624–4911.

Central Region, Office of the Regional Director, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Missouri 64106 (816) 374–5626.

Rocky Mountain Region, Office of the Regional Director, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colorado 80207 (303) 837–3646.

Western Region, Office of the Regional Director, Federal Aviation Administration, P.O. Box 92007, WorldWay Postal Center, Los Angeles, California 90009 (213) 536–6427.

Northwest Region, Office of the Regional Director, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108 (206) 767–2780.

FEDERAL HIGHWAY ADMINISTRATION

Region 1, Regional Administrator, Federal Highway Administration, 4 Normanskill Boulevard, Delmar, New York 12054 (518) 472–6476.

Region 3, Regional Administrator, Federal Highway Administration, Room 1621, George H. Fallon Federal Office Building, 31 Hopkins Plaza, Baltimore, Maryland 21201 (301) 962–2361.

Region 4, Regional Administrator, Federal Highway Administration, Suite 200, 1720 Peachtree Road, N.W., Atlanta, Georgia 30309 (404) 526–5078.

Region 5, Regional Administrator, Federal Highway Administration, Dixie Highway, Homewood, Illinois 60430 (312) 799–6300.

Region 6, Regional Administrator, Federal Highway Administration, 819 Taylor Street, Fort Worth, Texas 76102 (817) 334–3232.

Region 7, Regional Administrator, Federal Highway Administration, P.O. Box 7186, Country Club Station, Kansas City, Missouri 64113 (816) 361–7563.

Region 8, Regional Administrator, Federal Highway Administration, Room 242, Building 40, Denver Federal Center, Denver, Colorado 80225.

Region 9, Regional Administrator, Federal Highway Administration, 450 Golden Gate Avenue, Box 36096, San Francisco, California 94102 (415) 556–3895.

Region 10, Regional Administrator, Federal Highway Administration, Room 412, Mohawk Building, 222 S.W. Morrison Street, Portland, Oregon 97204 (503) 221–2065.

URBAN MASS TRANSPORTATION ADMINISTRATION

Region I, Office of the UMTA Representative, Urban Mass Transportation Administration, Transportation Systems Center, Technology Building, Room 277, 55 Broadway, Boston, Massachusetts 02142 (617) 494–2055.

Region II, Office of the UMTA Representative, Urban Mass Transportation Administration, 26 Federal Plaza, Suite 1809, New York, New York 10007 (212) 264–8162.

Region III, Office of the UMTA Representative, Urban Mass Transportation Administration, Mall Building, Suite 1214, 325 Chestnut Street, Philadelphia, Pennsylvania 19106 (215) 597–0407.

Region IV, Office of UMTA Representative, Urban Mass Transportation Administration, 1720 Peachtree Road, Northwest, Suite 501, Atlanta, Georgia 30309 (404) 526–3948.

Region V, Office of the UMTA Representative, Urban Mass Transportation Administration, 300 South Wacker Drive, Suite 700, Chicago, Illinois 60606 (312) 353–6005.

Region VI, Office of the UMTA Representative, Urban Mass Transportation Administration, Federal Center, Suite 9E24, 1100 Commerce Street, Dallas, Texas 75202 (214) 749–7322

Region VII, Office of the UMTA Representative, Urban Mass Transportation Administration, c/o FAA Management Systems Division, Room 1564D, 601 East 12th Street, Kansas City, Missouri 64106 (816) 374–5567.

Region VIII, Office of the UMTA Representative, Urban Mass Transportation Administration, Prudential Plaza, Suite 1822, 1050 17th Street, Denver, Colorado 80202 (303) 837–3242.

Region IX, Office of the UMTA Representative, Urban Mass Transportation Administration, 450 Golden Gate Avenue, Box 36125, San Francisco, California 94102 (415) 556–2884.

Region X, Office of the UMTA Representative, Urban Mass Transportation Administration, 1321 Second Avenue, Suite 5079, Seattle, Washington (206) 442–0590.

DEPARTMENT OF THE TREASURY

Office of Assistant Secretary for Administration, Department of the Treasury, Washington, D.C. 20220 964–5391.

UPPER MISSISSIPPI RIVER BASIN COMMISSION

Office of the Chairman, Upper Mississippi River Basin Commission, Federal Office Building, Fort Snelling, Twin Cities, Minnesota 55111 (612) 725–4690.

WATER RESOURCES COUNCIL

Office of the Associate Director, Water Resources Council, 2120 L Street, N.W., Suite 800, Washington, D.C. 20037 254–6442.

[FR Doc.74–22440 Filed 9–27–74;8:45 am]

federal register

MONDAY, SEPTEMBER 30, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 190

PART III

FEDERAL ENERGY ADMINISTRATION

■

NATIONAL UTILITY RESIDUAL FUEL OIL ALLOCATION

Supplier Percentage Notice For October and November, 1974

FEDERAL ENERGY ADMINISTRATION

NATIONAL UTILITY RESIDUAL FUEL OIL ALLOCATION

Supplier Percentage Notice for October and November, 1974

Pursuant to the provisions of 10 CFR 211.163(b)(3), 211.165, and 211.166(d)(2), the Federal Energy Administration (FEA) hereby provides notice of the volumes of residual fuel oil allocated to each utility for October and November 1974, and the percentage of such volumes required to be supplied by each supplier for delivery in those months. This information is set forth in Appendix A for the month of October, and Appendix B for the month of November, 1974. Adjustments of certain supplier base period percentages have been made at the request of affected utilities, pursuant to the criteria of 10 CFR 205.25 and are reflected in the Appendices.

The utility allocations were determined after review of the impact of available fuel supplies between utility and non-utility uses of residual fuel oil. In calculating the allocation level for each utility the FEA considered all of the factors enumerated in 10 CFR 211.163(b) and also the following other factors:

1. The data contained in the Federal Power Commission (FPC) Forms 23 and 23A submitted by utilities;

2. Dwindling utility coal reserves combined with favorable residual fuel oil supply forecast for the fourth quarter, which justify temporary suspension of FEA's efforts to maximize non-oil based energy production. Accordingly, no reductions have been made in allocation levels for conservation efforts.

3. FEA's prediction that the supply level of residual fuel oil is expected to equal or exceed the total demand. In view of the impact of natural gas curtailments and the possibility of coal shortages, the supply/demand balance could rapidly change. Accordingly, utilities are encouraged to build up inventories through purchase of surplus volumes pursuant to the procedures set forth in 10 CFR 211.10(g), consistent with the provisions of 10 CFR 211.166(c).

The amounts shown in the Appendices are the quantities of residual fuel oil to be delivered to the utility listed during the months of October and November 1974. Some utilities will not receive any allocation for these months. This is due to the fact that these utilities burn other fuels primarily and use residual fuel oil only for standby purposes.

The Appendices provide the names of the suppliers obligated to supply each utility and each supplier's percentage and volume of each month's allocation to a utility. The first column of each Appendix lists each utility with its suppliers. The second column sets forth the recommended FEA burn level for October and November. The third and fourth columns provide each supplier's respective percentage and volume share of a utility's allocated volume of residual fuel oil. The fifth column provides the total volume of residual fuel oil for each utility from all suppliers. Following the name of certain suppliers, an additional supplier is shown in parentheses. The supplier in parentheses is presumed, on the basis of the best information available, to be the supplier of the utility's supplier. This information is provided for the convenience of such suppliers and the FEA requests that any additions or corrections in this regard be forwarded to FEA Electrical Utilities Reports, Code 47, Washington, D.C. 20461.

FEA will consider special circumstances such as unexpected outages which may cause fuel consumption to exceed FEA burn levels in any month. Adjustments have been made in the allocation levels of certain utilities to reflect necessary corrections in the delivery levels authorized in previous months. It is contemplated that corrections or adjustments to delivery levels for certain utilities may be required during the months of October and November to avoid undue hardship. Such corrections or adjustments may be made pursuant to 10 CFR 205.20 et seq.

FEA expects the utilities to consume supplies at or below FEA burn levels, which are based on the utilities' proposed burn levels less adjustments for projected growth exceeding historic averages.

The utility residual fuel oil allocation program is based in part on the data derived from utilities' filings of FPC Forms 23 and 23A. Thus, the timely submission of these forms will be a necessary prerequisite to receiving future allocation notices.

Reports should be addressed to FEA Electrical Utilities Reports, Code 47, Washington, D.C. 20461.

Issued in Washington, D.C., September 23, 1974.

ROBERT E. MONTGOMERY, JR.
General Counsel.

APPENDIX A

RESIDUAL FUEL OIL ALLOCATIONS TO UTILITIES FOR THE MONTH OF OCTOBER 1974

1. NORTHEAST POWER COORDINATING COUNCIL AREA (NPCC)

CONNECTICUT				
NORTHEAST UTILITIES	2,061,000			2,061,000
AMERADA HESS CORP		68.0	1,401,480	
TAD JONES CO (GULF)		21.0	432,810	
WYATT INC (EXXON)		10.0	206,100	
H N HARTWELL&SON INC		1.0	20,610	
UNITED ILLUMINATING CO	761,000			761,000
TEXACO		87.0	662,070	
WYATT INC (EXXON)		13.0	98,930	
MAINE				
BANGOR HYDRO ELEC. CO.	27,795			27,795
SPRAGUE		100.0	27,795	
CENTRAL MAINE POWER CO.	297,000			297,000
TEXACO		100.0	297,000	
MAINE PUBLIC SERVICE CO.	25,325			25,325
DEAD RIV.O.(SPRAGUE)		100.0	25,325	
MASSACHUSETTS				
BOSTON EDISON CO.	746,000			746,000
WHITE FUEL (TEXACO)		46.0	343,160	
EXXON		42.0	313,320	
SPRAGUE		12.0	89,520	
BRAINTREE ELEC. LT. DEPT.	15,884			15,884
CK SMITH(GOLD.EAGLE)		100.0	15,884	
E.UTIL.ASSOC.(MONTAUP&BLACKS	290,000			290,000
TEXACO		100.0	290,000	
FITCHBURG GAS & EL.	14,000			14,000
NORTHEAST PETROLEUM		100.0	14,000	
HOLYOKE GAS AND ELECTRIC	5,458			5,458
WYATT INC (EXXON)		100.0	5,458	
NEW ENG. ELEC	1,070,000			1,070,000
ASIATIC PETRO CORP		60.0	642,000	
GOLD.EAGLE		40.0	428,000	

NEW ENG. G & E	648,000			648,000
NEW ENGLAND PETRO		84.8	549,504	
WHITE FUEL(TEXACO)		15.2	98,496	
PEABODY ELECTRIC LT DEPT	0			0
TAUNTON MUN. LT.	33,220			33,220
QUINCY OIL CO (EXXON		100.0	33,220	
NEW HAMPSHIRE				
PUB SER OF N.H.	553,000			553,000
SPRAGUE		26.3	145,439	
CONOCO		73.7	407,561	
NEW YORK				
CENTRAL HUDSON GAS & ELEC CO	870,980			870,980
AMERADA HESS CORP		100.0	870,980	
CONSOL EDISON OF NY	3,379,000			3,379,000
NEW ENGLAND PETRO		45.5	1,537,445	
EXXON		20.8	702,832	
AMERADA HESS CORP		22.3	753,517	
TEXACO		11.4	385,206	
FREEPORT, VILLAGE OF	20,900			20,900
BURNS BROS O.(NEPCO)		100.0	20,900	
LONG ISLAND LIGHT CO.	1,602,000			1,602,000
NEW ENGLAND PETRO		100.0	1,602,000	
NIAGARA MOHAWK POWER CO.	568,760			568,760
NEW ENGLAND PETRO		100.0	568,760	
ORANGE & ROCKLAND UTILITIES	1,135,751			1,135,751
NEW ENGLAND PETRO		31.6	358,897	
HOWARD FUEL CORP		68.4	776,854	

ROCHESTER GAS & ELECTRIC	31,371			31,371
ALLIED O		29.7	9,317	
MONOCO OIL COMPANY		70.3	22,054	
RHODE ISLAND				
NEWPORT ELECTRIC CORP	7,100			7,100
CK SMITH		100.0	7,100	

2. MID-ATLANTIC AREA COORDINATION AGREEMENT (MAAC)

DELAWARE				
DELMARVA PWR & LT	637,003			637,003
STEUART PETROLEUM CO		22.0	140,141	
TEXACO		5.0	31,850	
GULF		8.0	50,960	
CONOCO		65.0	414,052	
DOVER, CITY OF	16,399			16,399
TEXACO		100.0	16,399	
DISTRICT OF COLUMBIA				
POTOMAC ELEC. PWR.	745,000			745,000
ASIATIC PETRO CORP		79.0	588,550	
STEUART PETROLEUM CO		21.0	156,450	
MARYLAND				
BALTIMORE GAS & ELECTRIC	1,120,449			1,120,449
AMERADA HESS CORP		52.7	590,477	
EXXON		47.3	529,972	
NEW JERSEY				
ATLANTIC CITY ELECTRIC COMPA	243,781			243,781
AMERADA HESS CORP		100.0	243,781	
GPU INTEGRATED SYSTEM	440,078			440,078
AMERADA HESS CORP		91.6	403,111	
SWANN OIL INC		5.0	22,004	
ARCONE OIL CO.		2.4	10,562	
SHIPLEY-HUMBLE		1.0	4,401	

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PUBLIC SERVICE ELECTRIC	1,589,000			1,589,000
AMERADA HESS CORP		78.0	1,239,420	
EXXON		22.0	349,580	
VINELAND, CITY OF ELEC.	62,730			62,730
SWANN OIL INC		100.0	62,730	
PENNSYLVANIA				
PENNSYLVANIA PWR & LT	310,000	100.0	310,000	310,000
BP TRADING LTD				
PHILADELPHIA ELECTRIC CO.	1,300,000			1,300,000
ARCO		28.5	370,500	
AMERADA HESS CORP		21.5	279,500	
GULF		9.0	117,000	
NEW ENGLAND PETRO		2.1	27,300	
TEXACO		24.0	312,000	
CONOCO		14.9	193,700	

3. SOUTHEASTERN ELECTRIC RELIABILITY COUNCIL (SERC)

FLORIDA				
FLORIDA KEYS ELEC COOP	4,970			4,970
BELCHER OIL(EXXON)		100.0	4,970	
FLORIDA P & L	3,376,827			3,376,827
EXXON		15.0	506,524	
BELCHER OIL(EXXON)		85.0	2,870,303	
FLORIDA POWER CORPORATION	1,529,600			1,529,600
EXXON		60.0	917,760	
AMERADA HESS CORP		40.0	611,840	
FORT PIERCE, CITY OF	30,500			30,500
NEW ENGLAND PETRO		100.0	30,500	
GAINESVILLE, CITY OF	90,580			90,580
EASTERN SEABOARD		100.0	90,580	
GULF POWER CO.	9,763			9,763
BAKER SERVICE(EXXON)		100.0	9,763	

JACKSONVILLE ELEC. AUTH.	718,000			718,000
VEN FUEL INC		82.6	593,068	
CONOCO		17.4	124,932	
KEY WEST UTILITIES	62,694			62,694
STD.OIL-KY		100.0	62,694	
LAKE WORTH UTIL AUTHORITY	0			0
LAKELAND LIGHT & WTR DEPT	98,000			98,000
BELCHER(STD.OIL-KY)		100.0	98,000	
NEW SMYRNA BEACH	0			0
ORLANDO UTILITIES COMM.	450,071			450,071
NEW ENGLAND PETRO		100.0	450,071	
SEBRING UTILITIES COMM.	2,800			2,800
UNION OIL OF CA		100.0	2,800	
TALLAHASSEE, CITY OF	57,110			57,110
UNION OIL OF CA		100.0	57,110	
TAMPA ELECTRIC CO.	143,000			143,000
WESTERN (STD.OIL-KY)		100.0	143,000	
VERO BEACH MUNICIPAL POWER	14,144			14,144
BELCHER OIL(EXXON)		100.0	14,144	
GEORGIA				
GEORGIA POWER COMPANY	88,517			88,517
NEW ENGLAND PETRO		100.0	88,517	
SAVANNAH ELECTRIC & POWER CO	184,000			184,000
COLONIAL OIL(EXXON)		100.0	184,000	
MISSISSIPPI				
MISSISSIPPI POWER CO.	68,260			68,260
ERGON(INTL TRADING)		45.0	30,717	
BAKER SERVICE(EXXON)		55.0	37,543	

SOUTH MISSISSIPPI ELEC	49,129			49,129
SOUTHLND OIL		83.0	40,777	
AMERADA HESS CORP		17.0	8,352	
NORTH CAROLINA				
CAROLINA POWER & LT.	195,131			195,131
EXXON		100.0	195,131	
SOUTH CAROLINA				
S.CAROLINA ELEC & GAS CO	436,067			436,067
EXXON		100.0	436,067	
S.CAROLINA PUB SERV AUTH	15,705			15,705
AMERADA HESS CORP		100.0	15,705	
VIRGINIA				
VIRGINIA ELECTRIC POWER	1,877,500			1,877,500
EXXON		64.0	1,201,600	
AMERADA HESS CORP		22.5	422,438	
AMOCO		13.5	253,463	

4. SOUTHWEST POWER POOL COORDINATION COUNCIL (SPP)

ARKANSAS				
ARKANSAS ELEC COOP	135,052			135,052
LOGICON INC (SHELL)		80.0	108,042	
E L BRIDE(TEXACO)		20.0	27,010	
JONESBORO WATER AND LIGHT PL	212			212
DELTA REFINING CO		83.0	176	
E L BRIDE(MIDLAND)		17.0	36	
COLORADO				
CT&U. S.COLO PWR DIV.	0			0
KANSAS				
CENTRAL KANSAS PWR	1,667			1,667
GR.PLS/CRA-FARMLAND)		100.0	1,667	

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CHANUTE,CITY OF	200			200
MID AMER.REFINING		100.0	200	
CLAY CENTER LT&WTR	0			0
COFFEYVILLE LT & PWR	0			0
CT&U, WESTERN PWR DIV	0			0
KANSAS GAS & ELEC	0			0
KANSAS POWER & LIGHT	0			0
LARNED WTR & ELEC	0			0
MCPHERSON BD OF PUB UTIL	0			0
OTTAWA WTR & LT	975			975
CARTER WTR(AMOCO)		100.0	975	
LOUISIANA				
CENTRAL LOUISIANA ELECTRIC C	0			0
JONESBORO POWER & LIGHT	0			0
MIDDLE SOUTH SERVICES	1,060,021			1,060,021
MURPHY OIL CORP		30.0	318,006	
TAUBER OIL CO		20.5	217,304	
SHELL		21.3	225,784	
EXXON		12.9	136,743	
GULF		9.5	100,702	
ERGON INC (EXXON)		3.8	40,281	
E L BRIDE(OKC REF.)		1.7	18,020	
REESE OIL(SUN OIL)		.3	3,180	
SOUTHWESTERN ELECTRIC POWER	5,000			5,000
FALCO		100.0	5,000	

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MISSISSIPPI				
CLARKSDALE WTR & LT	0			0
YAZOO CITY PUB SERV	0			0
MISSOURI				
EMPIRE DIST ELEC	0			0
ST JOSEPH LT & PWR	0			- 0
OKLAHOMA				
BLACKWELL WTR & LT	0			0
OKLAHOMA GAS & ELEC	0			0
WESTERN FARMERS ELEC COOP	0			0
TEXAS				
GULF STATES UTILITIES	200,000			200,000
COASTAL STATES MKTG		37.5	75,000	
TENNECO		16.1	32,200	
LAJET		4.0	8,000	
EXXON		20.1	40,200	
SOUTH HAMPTON CO		22.3	44,600	

5. ELECTRIC RELIABILITY COUNCIL OF TEXAS (ERCOT)

AUSTIN CITY ELEC DEPT	1,895			1,895
TESORO		100.0	1,895	
BRAZOS ELEC COOP	0			0
BRYAN, CITY OF	0			0
DALLAS POWER &LT.	0			0
GARLAND, CITY OF	0			0

HOUSTON LIGHT & PWR	165,000			165,000
AMERADA HESS CORP		100.0	165,000	
LOWER COLORADO RIVER AUTH	0			0
MEDINA ELEC COOP	0			0
SAN ANTONIO PUB SERV	412,491			412,491
TESORO		100.0	412,491	
TEXAS ELEC SERV	0			0
TEXAS PWR & LT	0			0
WEST TEXAS UTIL	0			0

6. MID-AMERICA INTERPOOL NETWORK (MAIN)

ILLINOIS

COMMONWEALTH EDISON CO.	430,000			430,000
ALLIED O.		98.0	421,400	
CLARK OIL&REF.CORP		2.0	8,600	
ILLINOIS POWER CO	47,053			47,053
ALLIED O.		100.0	47,053	

MISSOURI

UNION ELECTRIC	47,500			47,500
APEX OIL CO		100.0	47,500	

WISCONSIN

SUPERIOR WTR & LT	0			0
WISCONSIN ELEC PWR	22,677			22,677
INDUST FUEL&ASPHALT		100.0	22,677	

7. MID-CONTINENT AREA RELIABILITY COORDINATION AGREEMENT (MARCA)

IOWA				
ATLANTIC MUNICIPAL UTILITIES	0			0
INTERSTATE POWER	49,751			49,751
NORTHWESTERN REF		100.0	49,751	
LAMONI MUNIC	0			0
MINNESOTA				
AUSTIN UTILITIES	1,806			1,806
NORTHWESTERN REF		48.3	872	
GUSTAFSON OIL CO		33.0	596	
W H BARBER		18.7	338	
FAIRMONT WTR & LT	0			0
MARSHALL MUNICIPAL UTIL	114			114
E L BRIDE		100.0	114	
MINNESOTA PWR & LT	21,800			21,800
MURPHY OIL		100.0	21,800	
NORTHERN STATES PWR	0			0
OWATONNA MUN UTIL	2,435			2,435
NORTHWESTERN REF		60.0	1,461	
GUSTAFSON OIL CO		40.0	974	
WORTHINGTON, CITY OF	0			0
NEBRASKA				
CENTRAL NEBRASKA PUBLIC	0			0
FAIRBURY LT & WTR	0			0
GRAND ISLAND ELEC	8,686			8,686
E L BRIDE		100.0	8,686	

HASTINGS UTILITIES DEPT	0			0
LINCOLN ELECTRIC SYSTEM	0			0
NEBRASKA PUBLIC POWER DISTRI	15,121			15,121
PANHANDLE COOP ASSOC		100.0	15,121	
OMAHA PUB PWR DIST	0			0
WISCONSIN				
LAKE SUPERIOR DIST PWR	0			0

8. EAST CENTRAL AREA RELIABILITY COORDINATION AGREEMENT (ECAR)

MICHIGAN				
CLINTON LT & WTR	726			726
CRYSTAL REFINING CO		100.0	726	
CONSUMERS POWER	338,720			338,720
CONSUMERS PWR-CRUDE		54.0	182,909	
LAKESIDE REFINING CO		14.0	47,421	
OSCEOLA REFINING CO		8.0	27,098	
TOTAL LEONARD INC		4.0	13,549	
MURPHY MI.DIV.AMOCO		6.0	20,323	
ENTERPRISE OIL CO		6.0	20,323	
BORON OIL(STANDARD)		3.0	10,162	
INDUST FUEL&ASPHALT		2.0	6,774	
RUPP OIL COMPANY		2.0	6,774	
GLADIEUX REF		1.0	3,387	
DETROIT EDISON CO.	419,878			419,878
SUN OIL LTD		70.0	293,915	
CANADIAN FUEL MKTRS		9.9	41,568	
ENTERPRISE OIL CO		4.8	20,154	
PETRO PRODUCTS		5.4	22,673	
MARATHON OIL		9.9	41,568	
GRAND HAVEN BD PUB	1,790			1,790
OSCEOLA REF		100.0	1,790	

HILLSDALE BD OF PUB WORKS	1,900			1,900
LEWIS(GLADIEUX REF)		100.0	1,900	
OHIO				
CLEVELAND ELEC ILLUMIN	195,405			195,405
ALLIED O.(ASHLAND)		100.0	195,405	
TOLEDO EDISON	520			520
SUN OIL		100.0	520	
PENNSYLVANIA				
ALLEGHENY POWER SERVICE	114,200			114,200
ALLIED O.(NEPCO)		100.0	114,200	
9. WESTERN SYSTEMS COORDINATING COUNCIL (WSCC)				
ARIZONA				
ARIZONA PUBLIC SERVICE CO.	241,000			241,000
UNION OIL OF CAL		63.0	151,830	
PACIFIC SOUTHWEST		16.5	39,765	
SAN JOAQUIN REF		16.5	39,765	
BASIN FUELS		4.0	9,640	
SALT RIVER PROJECT	167,000			167,000
TESORO		12.4	20,708	
DOUGLAS OIL CO		2.8	4,676	
GUSTAFSON OIL CO		.9	1,503	
MACMILLAN		17.0	28,390	
POWERINE OIL CO		18.1	30,227	
LITTLE AMERICA		19.7	32,899	
SAN JOAQUIN REF		29.1	48,597	
TUCSON GAS & ELEC	340,079			340,079
GOLDEN GATE PETRO		22.0	74,817	
NAVAJO REFINING		5.0	17,004	
TOSCO		43.0	146,234	
UNION OIL OF CA		25.0	85,020	
HOLLAND OIL(TOSCO)		5.0	17,004	

CALIFORNIA				
BURBANK CITY PUBLIC SER.	83,400			83,400
CARSON(GOLD.EAGLE)		100.0	83,400	
GLENDALE PUBLIC SERVICES	98,017			98,017
POWERINE OIL CO		100.0	98,017	
IMPERIAL IRRIGATION DISTR	0			0
LOS ANGELES DEPT OF WATER &	1,268,000			1,268,000
ARCO		59.8	758,264	
EDGINGTON OIL CO		20.9	265,012	
PETROBAY		7.6	96,368	
NEWHALL REFINING CO		5.0	63,400	
SAN JOAQUIN REF		3.5	44,380	
POWERINE OIL CO		3.2	40,576	
PACIFIC GAS & ELECTRIC CO	1,164,000			1,164,000
ARCO		59.8	696,072	
UNION OIL OF CA		4.0	46,560	
PHILLIPS PETROLEUM		20.1	233,964	
PERTA OIL		16.1	187,404	
PASADENA POWER CO.	117,882			117,882
GOLD.EAGLE		100.0	117,882	
SAN DIEGO GAS & ELECTRIC CO.	444,000			444,000
UNION OIL OF CA		29.8	132,312	
HIRI		16.2	71,928	
EDGINGTON OIL CO		21.3	94,572	
TESORO		32.7	145,188	
SOUTHERN CALIF EDISON	4,392,000			4,392,000
STD.OIL-CAL		50.1	2,200,392	
TEXACO		9.7	426,024	
ARCO		7.8	342,576	
EXXON		20.4	895,968	
PACIFIC RESOURCES		6.8	298,656	
MACMILLAN R.F.OIL		3.0	131,760	
CONOCO		2.2	96,624	

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COLORADO				
COLORADO SPRINGS LT & PWR	0			0
LAMAR LT & PWR	0			0
PUB SERV COLORADO	37,133			37,133
PLATEAU INC		100.0	37,133	
MONTANA				
MONTANA POWER	0			0
NEVADA				
NEVADA POWER COMPANY	30,000			30,000
GUSTAFSON OIL CO		54.0	16,200	
HUSKY OIL COMPANY		46.0	13,800	
SIERRA PACIFIC POWER	29,441			29,441
GOLDEN GATE PETRO		100.0	29,441	
NEW MEXICO				
PLAINS ELEC GEN & TRANSM	0			0
PUB SERV NEW MEXICO	0			0
OREGON				
PACIFIC POWER & LIGHT CO	0			0
TEXAS				
COMMUNITY PUB SERV	0			0

EL PASO ELECTRIC	121,350			121,350
SOUTHERN UNION		74.5	90,406	
TESORO		25.5	30,944	
UTAH				
UTAH POWER &LIGHT CO.	0			0
WASHINGTON				
PUGET SOUND POWER &LIGHT CO.	0			0
SEATTLE DEPT OF LI	0			0
TACOMA DEPT OF PUBLIC UTILIT	0			0
10. ASCC				
ALASKA				
CORDOVA, TOWN OF	0			0
HAWAII				
HAWAIIAN ELECTRIC COMPANY	729,466			729,466
STD.OIL-CA		100.0	729,466	
HILO ELEC LT	27,295			27,295
STD.OIL-CA		100.0	27,295	
KAUAI ELECTRIC	15,202			15,202
STD.OIL--CA		100.0	15,202	
MAUI ELECTRIC	42,751			42,751
STD.OIL-CA		100.0	42,751	

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11. NOT OTHERWISE CLASSIFIED

	UNK			
GUAM PWR AUTH	80,301			80,301
U.S.NAVY		100.0	80,301	
PUERTO RICO WATER RESOURCES	2,024,112			2,024,112
COMMONWEALTH OIL		50.0	1,012,056	
PUERTO RICO SUN OIL		30.0	607,234	
CARIBBEAN GULF REF		20.0	404,822	
ST CROIX, V.I. WTR PWR	39,542			39,542
AMERADA HESS CORP		100.0	39,542	
ST THOMAS, V.I. WTR PWR	55,020			55,020
AMERADA HESS CORP		100.0	55,020	

APPENDIX B

RESIDUAL FUEL OIL ALLOCATIONS TO UTILITIES FOR THE MONTH OF NOVEMBER 1974

1. NORTHEAST POWER COORDINATING COUNCIL AREA (NPCC)

CONNECTICUT				
NORTHEAST UTILITIES	1,953,332			1,953,332
AMERADA HESS CORP		68.0	1,328,266	
TAD JONES CO (GULF)		21.0	410,200	
WYATT INC (EXXON)		10.0	195,333	
H N HARTWELL&SON INC		1.0	19,533	
UNITED ILLUMINATING CO	761,000			761,000
TEXACO		87.0	662,070	
WYATT INC (EXXON)		13.0	98,930	
MAINE				
BANGOR HYDRO ELEC. CO.	36,429			36,429
SPRAGUE		100.0	36,429	
CENTRAL MAINE POWER CO.	313,281			313,281
TEXACO		100.0	313,281	
MAINE PUBLIC SERVICE CO.	3,069			3,069
DEAD RIV.O.(SPRAGUE)		100.0	3,069	
MASSACHUSETTS				
BOSTON EDISON CO.	739,098			739,098
WHITE FUEL (TEXACO)		46.0	339,985	
EXXON		42.0	310,421	
SPRAGUE		12.0	88,692	
BRAINTREE ELEC. LT. DEPT.	15,648			15,648
CK SMITH(GOLD.EAGLE)		100.0	15,648	
E.UTIL.ASSOC.(MONTAUP&BLACKS	290,000			290,000
TEXACO		100.0	290,000	
FITCHBURG GAS & EL.	13,929			13,929
NORTHEAST PETROLEUM		100.0	13,929	
HOLYOKE GAS AND ELECTRIC	5,392			5,392
WYATT INC (EXXON)		100.0	5,392	
NEW ENG. ELEC	989,000			989,000
ASIATIC PETRO CORP		60.0	593,400	
GOLD.EAGLE		40.0	395,600	

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NEW ENG. G & E	646,000			646,000
NEW ENGLAND PETRO		84.8	547,808	
WHITE FUEL(TEXACO)		15.2	98,192	
PEABODY ELECTRIC LT DEPT	0			0
TAUNTON MUN. LT.	104,844			104,844
QUINCY OIL CO (EXXON		100.0	104,844	
NEW HAMPSHIRE				
PUB SER OF N.H.	561,000			561,000
SPRAGUE		26.3	147,543	
CONOCO		73.7	413,457	
NEW YORK				
CENTRAL HUDSON GAS & ELEC CO	1,183,470			1,183,470
AMERADA HESS CORP		100.0	1,183,470	
CONSOL EDISON OF NY	3,902,000			3,902,000
NEW ENGLAND PETRO		45.5	1,775,410	
EXXON		20.8	811,616	
AMERADA HESS CORP		22.3	870,146	
TEXACO		11.4	444,828	
FREEPORT, VILLAGE OF	20,400			20,400
BURNS BROS O.(NEPCO)		100.0	20,400	
LONG ISLAND LIGHT CO.	1,590,000			1,590,000
NEW ENGLAND PETRO		100.0	1,590,000	
NIAGARA MOHAWK POWER CO.	683,870			683,870
NEW ENGLAND PETRO		100.0	683,870	
ORANGE & ROCKLAND UTILITIES	1,102,784			1,102,784
NEW ENGLAND PETRO		31.6	348,480	
HOWARD FUEL CORP		68.4	754,304	

ROCHESTER GAS & ELECTRIC	11,188			11,188
ALLIED O		29.7	3,323	
MONOCO OIL COMPANY		70.3	7,865	
RHODE ISLAND				
NEWPORT ELECTRIC CORP	7,165			7,165
CK SMITH		100.0	7,165	

2. MID-ATLANTIC AREA COORDINATION AGREEMENT (MAAC)

DELAWARE				
DELMARVA PWR & LT	559,983			559,983
STEUART PETROLEUM CO		22.0	123,196	
TEXACO		5.0	27,999	
GULF		8.0	44,799	
CONOCO		65.0	363,989	
DOVER, CITY OF	43,967			43,967
TEXACO		100.0	43,967	
DISTRICT OF COLUMBIA				
POTOMAC ELEC. PWR.	1,125,000			1,125,000
ASIATIC PETRO CORP		79.0	888,750	
STEUART PETROLEUM CO		21.0	236,250	
MARYLAND				
BALTIMORE GAS & ELECTRIC	961,809			961,809
AMERADA HESS CORP		52.7	506,873	
EXXON		47.3	454,936	
NEW JERSEY				
ATLANTIC CITY ELECTRIC COMPA	201,924			201,924
AMERADA HESS CORP		100.0	201,924	
GPU INTEGRATED SYSTEM	385,979			385,979
AMERADA HESS CORP		91.6	353,557	
SWANN OIL INC		5.0	19,299	
ARCONE OIL CO.		2.4	9,263	
SHIPLEY-HUMBLE		1.0	3,860	

PUBLIC SERVICE ELECTRIC	1,442,000			1,442,000
AMERADA HESS CORP		78.0	1,124,760	
EXXON		22.0	317,240	
VINELAND,CITY OF ELEC.	64,979			64,979
SWANN OIL INC		100.0	64,979	
PENNSYLVANIA				
PENNSYLVANIA PWR & LT	0			0
PHILADELPHIA ELECTRIC CO.	1,046,000			1,046,000
ARCO		28.5	298,110	
AMERADA HESS CORP		21.5	224,890	
GULF		9.0	94,140	
NEW ENGLAND PETRO		2.1	21,966	
TEXACO		24.0	251,040	
CONOCO		14.9	155,854	

3. SOUTHEASTERN ELECTRIC RELIABILITY COUNCIL (SERC)

FLORIDA				
FLORIDA KEYS ELEC COOP	1,114			1,114
BELCHER OIL(EXXON)		100.0	1,114	
FLORIDA P & L	2,820,708			2,820,708
EXXON		15.0	423,106	
BELCHER OIL(EXXON)		85.0	2,397,602	
FLORIDA POWER CORPORATION	1,371,600			1,371,600
EXXON		60.0	822,960	
AMERADA HESS CORP		40.0	548,640	
FORT PIERCE, CITY OF	26,000			26,000
NEW ENGLAND PETRO		100.0	26,000	
GAINESVILLE, CITY OF	89,831			89,831
EASTERN SEABOARD		100.0	89,831	
GULF POWER CO.	0			0
JACKSONVILLE ELEC. AUTH.	642,000			642,000
VEN FUEL INC		82.6	530,292	
CONOCO		17.4	111,708	

KEY WEST UTILITIES	53,089			53,089
STD.OIL-KY		100.0	53,089	
LAKE WORTH UTIL AUTHORITY	0			0
LAKELAND LIGHT & WTR DEPT	83,000			83,000
BELCHER(STD.OIL-KY)		100.0	83,000	
NEW SMYRNA BEACH	0			0
ORLANDO UTILITIES COMM.	431,596			431,596
NEW ENGLAND PETRO		100.0	431,596	
SEBRING UTILITIES COMM.	800			800
UNION OIL OF CA		100.0	800	
TALLAHASSEE, CITY OF	40,413			40,413
UNION OIL OF CA		100.0	40,413	
TAMPA ELECTRIC CO.	176,000			176,000
WESTERN (STD.OIL-KY)		100.0	176,000	
VERO BEACH MUNICIPAL POWER	17,119			17,119
BELCHER OIL(EXXON)		100.0	17,119	
GEORGIA				
GEORGIA POWER COMPANY	0			0
SAVANNAH ELECTRIC & POWER CO	203,800			203,800
COLONIAL OIL(EXXON)		100.0	203,800	
MISSISSIPPI				
MISSISSIPPI POWER CO.	66,130			66,130
ERGON(INTL TRADING)		45.0	29,759	
BAKER SERVICE(EXXON)		55.0	36,372	
SOUTH MISSISSIPPI ELEC	37,473			37,473
SOUTHLND OIL		83.0	31,103	
AMERADA HESS CORP		17.0	6,370	

NORTH CAROLINA				
CAROLINA POWER & LT.	215,384			215,384
EXXON		100.0	215,384	
SOUTH CAROLINA				
S.CAROLINA ELEC & GAS CO	446,666			446,666
EXXON		100.0	446,666	
S.CAROLINA PUB SERV AUTH	0			0
VIRGINIA				
VIRGINIA ELECTRIC POWER	1,963,444			1,963,444
EXXON		64.0	1,256,604	
AMERADA HESS CORP		22.5	441,775	
AMOCO		13.5	265,065	

4. SOUTHWEST POWER POOL COORDINATION COUNCIL (SPP)

ARKANSAS				
ARKANSAS ELEC COOP	124,523			124,523
LOGICON INC (SHELL)		80.0	99,618	
E L BRIDE(TEXACO)		20.0	24,905	
JONESBORO WATER AND LIGHT PL	0			0
COLORADO				
CT&U, S.COLO PWR DIV.	490			490
KANSAS				
CENTRAL KANSAS PWR	3,405			3,405
GR.PLS(CRA-FARMLAND)		100.0	3,405	
CHANUTE,CITY OF	290			290
MID AMER.REFINING		100.0	290	

CLAY CENTER LT&WTR	0			0
COFFEYVILLE LT & PWR	0			0
CT&U, WESTERN PWR DIV	0			0
KANSAS GAS & ELEC	2,098			2,098
FRONTIER PRODUCTION		15.3	321	
ASPH&PETRO INDUST		84.7	1,777	
KANSAS POWER & LIGHT	0			0
LARNED WTR & ELEC	261			261
CARTER WTR		100.0	261	
MCPHERSON BD OF PUB UTIL	2,490			2,490
NTL COOP REFINERY		100.0	2,490	
OTTAWA WTR & LT	836			836
CARTER WTR(AMOCO)		100.0	836	
LOUISIANA				
CENTRAL LOUISIANA ELECTRIC C	0			0
JONESBORO POWER & LIGHT	0			0
MIDDLE SOUTH SERVICES	655,365			655,365
MURPHY OIL CORP		30.0	196,610	
TAUBER OIL CO		20.5	134,350	
SHELL		21.3	139,593	
EXXON		12.9	84,542	
GULF		9.5	62,260	
ERGON INC (EXXON)		3.8	24,904	
E L BRIDE(OKC REF.)		1.7	11,141	
REESE OIL(SUN OIL)		.3	1,966	
SOUTHWESTERN ELECTRIC POWER	0			0
MISSISSIPPI				
CLARKSDALE WTR & LT	0			0

YAZOO CITY PUB SERV	0			0
MISSOURI				
EMPIRE DIST ELEC	1,200			1,200
E L BRIDE		100.0	1,200	
ST JOSEPH LT & PWR	0			0
OKLAHOMA				
BLACKWELL WTR & LT	0			0
OKLAHOMA GAS & ELEC	0			0
WESTERN FARMERS ELEC COOP	0			0
TEXAS				
GULF STATES UTILITIES	200,000			200,000
COASTAL STATES MKTG		37.5	75,000	
TENNECO		16.1	32,200	
LAJET		4.0	8,000	
EXXON		20.1	40,200	
SOUTH HAMPTON CO		22.3	44,600	

5. ELECTRIC RELIABILITY COUNCIL OF TEXAS (ERCOT)

AUSTIN CITY ELEC DEPT	0			0
BRAZOS ELEC COOP	0			0
BRYAN, CITY OF	8,649			8,649
PETROLEUM T&T(3 RIVE		100.0	8,649	
DALLAS POWER &LT.	0			0
GARLAND,CITY OF	3,800			3,800
PRIDE REFINERY INC		74.7	2,839	
DELTA REFINING CO		25.3	961	
HOUSTON LIGHT & PWR	37,000			37,000
AMERADA HESS CORP		100.0	37,000	

LOWER COLORADO RIVER AUTH	0			0
MEDINA ELEC COOP	0			0
SAN ANTONIO PUB SERV	350,055			350,055
TESORO		100.0	350,055	
TEXAS ELEC SERV	0			0
TEXAS PWR & LT	0			0
WEST TEXAS UTIL	33,028			33,028
PRIDE REFINING INC		100.0	33,028	

6. MID-AMERICA INTERPOOL NETWORK (MAIN)

ILLINOIS				
COMMONWEALTH EDISON CO.	430,000			430,000
ALLIED O.		98.0	421,400	
CLARK OIL&REF.CORP		2.0	8,600	
ILLINOIS POWER CO	0			0
MISSOURI				
UNION ELECTRIC	13,796			13,796
APEX OIL CO		100.0	13,796	
WISCONSIN				
SUPERIOR WTR & LT	0			0
WISCONSIN ELEC PWR	32,406			32,406
INDUST FUEL&ASPHALT		100.0	32,406	

7. MID-CONTINENT AREA RELIABILITY COORDINATION AGREEMENT (MARCA)

IOWA				
ATLANTIC MUNICIPAL UTILITIES	0			0

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INTERSTATE POWER	51,890			51,890
NORTHWESTERN REF		100.0	51,890	
LAMONI MUNIC	0			0
MINNESOTA				
AUSTIN UTILITIES	3,060			3,060
NORTHWESTERN REF		48.3	1,478	
GUSTAFSON OIL CO		33.0	1,010	
W H BARBER		18.7	572	
FAIRMONT WTR & LT	0			0
MARSHALL MUNICIPAL UTIL	1,214			1,214
E L BRIDE		100.0	1,214	
MINNESOTA PWR & LT	26,950			26,950
MURPHY OIL		100.0	26,950	
NORTHERN STATES PWR	0			0
OWATONNA MUN UTIL	8,516			8,516
NORTHWESTERN REF		60.0	5,110	
GUSTAFSON OIL CO		40.0	3,406	
WORTHINGTON, CITY OF	0			0
NEBRASKA				
CENTRAL NEBRASKA PUBLIC	24,380			24,380
FARMLAND INDUSTRIES		100.0	24,380	
FAIRBURY LT & WTR	4,000			4,000
CARTER WTR(TEXACO)		100.0	4,000	
GRAND ISLAND ELEC	23,520			23,520
E L BRIDE		100.0	23,520	
HASTINGS UTILITIES DEPT	2,066			2,066
CARTER WTR		100.0	2,066	

LINCOLN ELECTRIC SYSTEM	0			0
NEBRASKA PUBLIC POWER DISTRI	15,780			15,780
PANHANDLE COOP ASSOC		100.0	15,780	
OMAHA PUB PWR DIST	0			0
WISCONSIN				
LAKE SUPERIOR DIST PWR	0			0

8. EAST CENTRAL AREA RELIABILITY COORDINATION AGREEMENT (ECAR)

MICHIGAN				
CLINTON LT & WTR	766			766
CRYSTAL REFINING CO		100.0	766	
CONSUMERS POWER	352,600			352,600
CONSUMERS PWR-CRUDE		54.0	190,404	
LAKESIDE REFINING CO		14.0	49,364	
OSCEOLA REFINING CO		8.0	28,208	
TOTAL LEONARD INC		4.0	14,104	
MURPHY MI.DIV.AMOCO		6.0	21,156	
ENTERPRISE OIL CO		6.0	21,156	
BORON OIL(STANDARD)		3.0	10,578	
INDUST FUEL&ASPHALT		2.0	7,052	
RUPP OIL COMPANY		2.0	7,052	
GLADIEUX REF		1.0	3,526	
DETROIT EDISON CO.	299,164			299,164
SUN OIL LTD		70.0	209,415	
CANADIAN FUEL MKTRS		9.9	29,617	
ENTERPRISE OIL CO		4.8	14,360	
PETRO PRODUCTS		5.4	16,155	
MARATHON OIL		9.9	29,617	
GRAND HAVEN BD PUB	996			996
OSCEOLA REF		100.0	996	
HILLSDALE BD OF PUB WORKS	3,020			3,020
LEWIS(GLADIEUX REF)		100.0	3,020	

OHIO				
CLEVELAND ELEC ILLUMIN	207,476			207,476
ALLIED O.(ASHLAND)		100.0	207,476	
TOLEDO EDISON	31,634			31,634
SUN OIL		100.0	31,634	
PENNSYLVANIA				
ALLEGHENY POWER SERVICE	91,800			91,800
ALLIED O.(NEPCO)		100.0	91,800	

9. WESTERN SYSTEMS COORDINATING COUNCIL (WSCC)

ARIZONA				
ARIZONA PUBLIC SERVICE CO.	136,398			136,398
UNION OIL OF CAL		63.0	85,931	
PACIFIC SOUTHWEST		16.5	22,506	
SAN JOAQUIN REF		16.5	22,506	
BASIN FUELS		4.0	5,456	
SALT RIVER PROJECT	248,360			248,360
TESORO		12.4	30,797	
DOUGLAS OIL CO		2.8	6,954	
GUSTAFSON OIL CO		.9	2,235	
MACMILLAN		17.0	42,221	
POWERINE OIL CO		18.1	44,953	
LITTLE AMERICA		19.7	48,927	
SAN JOAQUIN REF		29.1	72,273	
TUCSON GAS & ELEC	196,173			196,173
GOLDEN GATE PETRO		22.0	43,158	
NAVAJO REFINING		5.0	9,809	
TOSCO		43.0	84,354	
UNION OIL OF CA		25.0	49,043	
HOLLAND OIL(TOSCO)		5.0	9,809	
CALIFORNIA				
BURBANK CITY PUBLIC SER.	80,200			80,200
CARSON(GOLD.EAGLE)		100.0	80,200	

GLENDALE PUBLIC SERVICES	83,639			83,639
POWERINE OIL CO		100.0	83,639	
IMPERIAL IRRIGATION DISTR	0			0
LOS ANGELES DEPT OF WATER &	1,569,000			1,569,000
ARCO		59.8	938,262	
EDGINGTON OIL CO		20.9	327,921	
PETROBAY		7.6	119,244	
NEWHALL REFINING CO		5.0	78,450	
SAN JOAQUIN REF		3.5	54,915	
POWERINE OIL CO		3.2	50,208	
PACIFIC GAS & ELECTRIC CO	1,410,000			1,410,000
ARCO		59.8	843,180	
UNION OIL OF CA		4.0	56,400	
PHILLIPS PETROLEUM		20.1	283,410	
PERTA OIL		16.1	227,010	
PASADENA POWER CO.	95,769			95,769
GOLD.EAGLE		100.0	95,769	
SAN DIEGO GAS & ELECTRIC CO.	950,000			950,000
UNION OIL OF CA		29.8	283,100	
HIRI		16.2	153,900	
EDGINGTON OIL CO		21.3	202,350	
TESORO		32.7	310,650	
SOUTHERN CALIF EDISON	4,487,000			4,487,000
STD.OIL-CAL		50.1	2,247,987	
TEXACO		9.7	435,239	
ARCO		7.8	349,986	
EXXON		20.4	915,348	
PACIFIC RESOURCES		6.8	305,116	
MACMILLAN R.F.OIL		3.0	-134,610	
CONOCO		2.2	98,714	

COLORADO

COLORADO SPRINGS LT & PWR	0			

LAMAR LT & PWR	0			0
PUB SERV COLORADO	87,443			87,443
PLATEAU INC		100.0	87,443	
MONTANA				
MONTANA POWER	0			0
NEVADA				
NEVADA POWER COMPANY	119,189			119,189
GUSTAFSON OIL CO		54.0	64,362	
HUSKY OIL COMPANY		46.0	54,827	
SIERRA PACIFIC POWER	55,546			55,546
GOLDEN GATE PETRO		100.0	55,546	
NEW MEXICO				
PLAINS ELEC GEN & TRANSM	0			0
PUB SERV NEW MEXICO	13,193			13,193
PLATEAU INC		39.8	5,251	
SHELL		26.4	3,483	
THRIFTWAY		5.4	712	
NAVAJO REFINING		24.1	3,180	
STD.OIL-TEXAS		4.3	567	
OREGON				
PACIFIC POWER & LIGHT CO	0			0
TEXAS				
COMMUNITY PUB SERV	233			233
STD.OIL-TEXAS		100.0	233	
EL PASO ELECTRIC	116,520			116,520
SOUTHERN UNION		74.5	86,807	
TESORO		25.5	29,713	

UTAH				
UTAH POWER &LIGHT CO.	0			0
WASHINGTON				
PUGET SOUND POWER &LIGHT CO.	133,859			133,859
ROSSO INC		1.0	1,339	
PACIFIC NORTHERN		16.0	21,417	
HOME OIL CO		2.0	2,677	
SOUTH CENTER OIL		16.5	22,087	
LILYBLAD		8.5	11,378	
CASCADE		8.0	10,709	
OLDS OLYMPIC		4.0	5,354	
SHELL		44.0	58,898	
SEATTLE DEPT OF LI	0			0
TACOMA DEPT OF PUBLIC UTILIT	0			0

10. ASCC

ALASKA				
CORDOVA, TOWN OF	0			0
HAWAII				
HAWAIIAN ELECTRIC COMPANY	679,083			679,083
STD.OIL-CA		100.0	679,083	
HILO ELEC LT	26,455			26,455
STD.OIL-CA		100.0	26,455	
KAUAI ELECTRIC	15,353			15,353
STD.OIL--CA		100.0	15,353	
MAUI ELECTRIC	38,140			38,140
STD.OIL-CA		100.0	38,140	

11. NOT OTHERWISE CLASSIFIED

UNK				
GUAM PWR AUTH	92,700			92,700
U.S.NAVY		100.0	92,700	

PUERTO RICO WATER RESOURCES	1,964,891			1,964,891
COMMONWEALTH OIL		50.0	982,446	
PUERTO RICO SUN OIL		30.0	589,467	
CARIBBEAN GULF REF		20.0	392,978	
ST CROIX, V.I. WTR PWR	39,542			39,542
AMERADA HESS CORP		100.0	39,542	
ST THOMAS, V.I. WTR PWR	55,020			55,020
AMERADA HESS CORP		100.0	55,020	

[FR Doc.74-22536 Filed 9-24-74;4:37 pm]

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