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## Title 3—The President

PROCLAMATION 4323

# Veterans Day, 1974

*By the President of the United States of America*

## A Proclamation

On this Veterans Day, we pay tribute to those men and women whose service in our Armed Forces has contributed so profoundly to mankind's age-old quest for peace.

From Valley Forge to Vietnam, on battlefields around the globe, in World War I, World War II, and the Korean conflict, Americans have selflessly answered the call to arms whenever our freedoms and the freedoms of others have been threatened by tyranny and aggression.

Our Veterans have earned our deep and lasting gratitude for their valor, their patriotism, and their willingness to sacrifice so that others might remain free.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby call on all Americans to join in observing Monday, October 28, 1974, as Veterans Day. I urge both public ceremony and private contemplation in recognition of the precious gifts of freedom and security that are ours because those we honor have stood in our defense.

Let us give special consideration on that day to those who have died in our Nation's wars and those who have been disabled. Let this be a day of remembrance for those veterans who are in our hospitals, a day on which our appreciation is expressed tangibly by our visits and our attention.

Further, let this be a day on which all Americans take special cognizance of the needs of those young veterans who are currently readjusting to civilian life. Let us give them personal help and encouragement.

I direct the appropriate officials of Government to arrange for the display of the flag of the United States on this day. I request officials of Federal, State and local governments to support its observance and I

urge schools, churches, unions, civic and patriotic organizations to participate in appropriate public ceremonies throughout the Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of October, 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.74-23662 Filel 10-7-74;12:56 pm]

PROCLAMATION 4324

# National Farm-City Week, 1974

*By the President of the United States of America*

## A Proclamation

The two hundred years which have passed since America's birth has witnessed a dramatic change in our society. From a primarily rural nation, we have grown to a country of great cities and towns, and farmers now make up less than five percent of our national population.

As we have learned from our recent food shortages, however, the cities have not lost their fundamental dependence upon the farms for the basics in life. Nor are our farms any less dependent upon our urban centers for their products and services.

There is, indeed, a continuing partnership, often recognized but little honored. It is that partnership we must build upon to achieve a new abundance and prosperity in the future.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby designate the period November 22 through November 28, 1974 as National Farm-City Week.

I invite our civic and business groups, our agricultural organizations, our service clubs, our labor unions, our schools and other interested groups to participate in this observance. I request the United States Department of Agriculture, our land-grant educational institutions, and all appropriate organizations and Government officials to mark the significance of National Farm-City Week with special events and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of October, 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.74-23663 Filed 10-7-74;12:57 pm]

# EXECUTIVE ORDER 11813

## Permitting Cooperative Education Students To Be Given Career or Career-Conditional Appointments

By virtue of the authority vested in me by sections 1301 and 3301 of title 5 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. As used in this order, "cooperative education" describes a program which provides for a formally arranged schedule of periods of attendance at an institution of higher learning combined with periods of study-related work in a Federal agency under a Schedule B appointment. Together, the periods of work and study satisfy requirements for a bachelor's degree and provide experience necessary for a career or career-conditional appointment to an administrative, professional, or technical position in the Federal Government upon the student's graduation.

SEC. 2. Under this order, the appointment of a cooperative education student under Schedule B of the civil service rules may be converted noncompetitively to a career-conditional or career appointment if the student:

(1) has completed within the preceding 90 days a cooperative education program that meets the provisions of this order;

(2) has satisfied all requirements leading to the award of a bachelor's degree by the college or university in which the student completed his or her cooperative education curriculum;

(3) is recommended for such appointment by the employing agency; and,

(4) satisfies all other applicable requirements and conditions prescribed by the Civil Service Commission for career and career-conditional employment.

SEC. 3. The Civil Service Commission shall prescribe such regulations as may be necessary to carry out the provisions of this order and to provide for the coordination of the planning, implementation, and evaluation of employment of cooperative education students throughout the Government. The regulations shall provide for the periodic evaluation of the work of each cooperative education student and shall require that continuation in the program be dependent upon a finding of satisfactory performance.

SEC. 4. Executive Order No. 11202 of March 5, 1965, is hereby revoked.

SEC. 5. This order shall become effective immediately.

Gerald R. Ford

THE WHITE HOUSE,
*October 7, 1974.*

[FR Doc.74-23661 Filed 10-7-74;12:56 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 5—Administrative Personnel

### CHAPTER I—CIVIL SERVICE COMMISSION

### PART 213—EXCEPTED SERVICE

#### Department of Defense

Section 213.3306 is amended to show that one position of Special Assistant to the Principal Deputy Assistant Secretary (Comptroller) is excepted under Schedule C.

Effective on October 9, 1974, § 213.3306 (a) (66) is added as set out below.

**§ 213.3306 Department of Defense.**

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

(66) One Special Assistant to the Principal Deputy Assistant Secretary (Comptroller).

(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.74-23564 Filed 10-8-74;8:45 am]

## Title 7—Agriculture

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

[Avocado Reg. 16, Amdt. 3]

### PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

#### Maturity Requirements

This amendment to Avocado Regulation 16 reduces currently specified minimum weights and diameters for individual fruit of the Booth 8 variety of avocados. Weight, diameter and picking dates are indices used at harvest to assure that avocados will ripen satisfactorily after picking. Recent maturity studies have indicated that Booth 8 avocados are maturing earlier this season and that smaller avocados of this variety as hereinafter specified, would receive good acceptance in the markets and by consumers.

*Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the Avocado Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the maturity requirements for the handling of avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amended regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of Florida avocados are currently regulated pursuant to Avocado Regulation 16 (39 FR 20801; 30105; 33505) and, unless sooner modified or terminated, will continue to be so regulated until April 30, 1975. The recommendation and supporting information for amendment of the regulation during the period specified herein were promptly submitted to the Department after an open meeting of the Avocado Administrative Committee on October 2, 1974; such meeting was held to consider recommendations for regulations, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; it is necessary, in order to effectuate the declared policy of the act, to make this amended regulation effective during the period and in the manner hereinafter set forth so as to provide for appropriate regulation of the handling of such avocados; and it relieves restrictions by reducing currently specified minimum weights and diameters, so as to permit shipment of Booth 8 avocados at an earlier date than now provided.

The need for the amendment stems from the current avocado crop maturity situation. Recent maturity studies on the Booth 8 variety have indicated that such avocados are maturing earlier this season. Individual fruit of such variety are currently maturing at a lower minimum weight and a smaller minimum diameter than those currently specified in Avocado Regulation 16. The Avocado Administrative Committee advises that Booth 8 avocados are now sufficiently mature to ripen properly after harvesting at a specified lower minimum weight and diameter, and, therefore, such smaller Booth 8 avocados would receive good acceptance in the markets and by consumers.

*Order.* The provisions of paragraph (a) (8) of § 915.316 (Avocado Regulation 16; 39 FR 20801; 30105; 33505) are amended to read as follows:

**§ 915.316 Avocado Regulation 16.**

(a) *Order.* * * *

(8) No handler shall handle (i) prior to September 16, 1974, any Booth 8 variety avocados, (ii) during the period September 16, 1974, through October 6, 1974, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 16 ounces, or is at least 3 9/16 inches in diameter, or (iii) during the period October 7, 1974, through October 20, 1974, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 13 ounces, or is at least 3 9/16 inches in diameter, or (iv) during the period October 21, 1974, through November 3, 1974, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 onces, or is at least 3 9/16 inches in diameter, (v) during the period November 4, 1974, through November 18, 1974, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 10 ounces, or is at least 3 9/16 inches in diameter.

* * * * *

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

Dated, October 4, 1974, to become effective October 7, 1974.

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

[FR Doc.74-23574 Filed 10-8-74;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 73—SCABIES IN CATTLE

#### Area Quarantined

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

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

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

**§ 73.1a Notice of quarantine.**

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

That portion of Cimarron County comprised of sec. 30, T. 2. N., R. 3 E., and that portion of sec. 31, T. 2. N., R. 3. E., lying north of Beaver Creek.

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

*Effective date.* The foregoing amendment shall become effective October 3, 1974.

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

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

Done at Washington, D.C., this 3rd day of October 1974.

PIERRE A. CHALOUX,
*Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.*

[FR Doc.74-23541 Filed 10-8-74;8:45 am]

## Title 10—Energy

## CHAPTER II—FEDERAL ENERGY ADMINISTRATION

## PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

### Unleaded Gasoline

On September 13, 1974, the Federal Energy Administration published a notice of proposed rulemaking to amend § 211.108 of the Mandatory Petroleum Allocation Regulations (39 FR 33380) to revise the procedures for allocating unleaded gasoline to certain users of gasoline which have a particularly acute need for unleaded gasoline, such as some automobile manufacturers, new car dealers, and owners or operators of fleets of automobiles, when acting as wholesale purchaser-consumers. The proposal provided that such wholesale purchaser-consumers would receive up to their allocation entitlements of motor gasoline as unleaded gasoline.

The comments received with respect to the notice of proposed rulemaking were substantially in favor of the proposal, and raised no valid objections. Moreover, the written comments give no indication that the regulation is likely to have a substantial impact upon the Nation's economy or large numbers of individuals or businesses and, consequently, there is no need for oral presentation of views, data, and arguments in addition to those fully presented in the written comments. Therefore, FEA hereby adopts the proposed amendment.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159; Federal Energy Administration Act of 1974, Pub. L. 93–275; E.O. 11790 (39 FR 23185)).

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective October 1, 1974.

Issued in Washington, D.C. on October 4, 1974.

ROBERT E. MONTGOMERY, Jr.,
*General Counsel.*

Section 211.108 is revised in paragraphs (b) and (c)(1), and (3)(i) to read as follows:

**§ 211.108 Allocation of unleaded gasoline.**

* * * * *

(b) *Definitions.* "Adjusted supply of unleaded gasoline" means a supplier's total supply of unleaded gasoline minus the amount of unleaded gasoline which a supplier allocates pursuant to § 211.108 (c)(1)(i).

"Allocation entitlement" means for a wholesale purchaser-reseller, its allocation entitlement as described in § 211.12 (b)(1) and for a wholesale purchaser-consumer or an end-user, its allocation entitlement as described in § 211.12 (b)(2).

"Allocation ratio" means that ratio of a supplier's adjusted supply of unleaded gasoline to the supplier's adjusted supply of motor gasoline (leaded and unleaded).

"Adjusted supply of motor gasoline (leaded and unleaded)" means a supplier's total supply of leaded gasoline plus its adjusted supply of unleaded gasoline.

"Unleaded gasoline" means unleaded gasoline as defined by the Environmental Protection Agency.

(c) *Method of allocation for unleaded gasoline.* (1)(i) For a period which corresponds to a base period, each supplier shall make available to each wholesale purchaser-consumer which is an automobile manufacturer, new car dealer, fleet owner or operator or which otherwise requires unleaded gasoline and which is entitled to receive motor gasoline from that supplier, an amount of unleaded gasoline equal to the purchaser's entitlement of motor basoline. To the extent that the supplier does not have sufficient unleaded gasoline to meet its obligations under paragraph (c)(1)(i) of this section, it shall distribute its available unleaded gasoline among such purchasers on a pro-rata basis.

(ii) For a period which corresponds to a base period, each supplier shall make available to each of its purchasers which is entitled to receive motor gasoline from that supplier and which is not allocated unleaded gasoline under paragraph (c)(1)(i) of this section a volume of unleaded gasoline which bears the same ratio to that purchaser's allocation entitlement as the supplier's allocation ratio for that period. Suppliers may refuse to supply unleaded gasoline to any wholesale purchaser which does not have facilities suitable for the storage and delivery of unleaded gasoline, as required by the provisions of 40 CFR Chapter I, Part 80, Subpart B.

(iii) This subparagraph (1) applies as of July 1, 1974, to all of the supplier's wholesale purchasers and end-users which are entitled to receive motor gasoline from that supplier except those retail sales outlets which were not selling unleaded gasoline during the thirty (30) days prior to July 1, 1974, and which are not required to sell unleaded gasoline pursuant to 40 CFR Chapter I, Part 80, Subpart B. This subparagraph becomes applicable to retail sales outlets which were not selling unleaded gasoline during the thirty (30) days prior to July 1, 1974 and which are not required to sell unleaded gasoline pursuant to 40 CFR Ch. I, Part 80, Subpart B, on October 1, 1974.

* * * * *

(3)(i) After its initial offer of unleaded gasoline pursuant to paragraph (c)(1) of this section a supplier shall offer any of its supply of unleaded gasoline which remains only to its purchasers which are entitled to receive motor gasoline from that supplier and which desire to purchase unleaded gasoline.

* * * * *

[FR Doc.74-23597 Filed 10-7-74;9:25 am]

## PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

### Puerto Rico; Amendment to Opinion and Order

On August 30, 1974, the Federal Energy Administration gave notice (39 FR 32309, September 5, 1974) of a proposal to amend the manner of implementing its price regulations in Puerto Rico, as now set forth in the Opinion and Order issued on May 16, 1974 (39 FR 17764, May 20, 1974). The Notice proposed that the May 16, 1974 Opinion and Order be modified to eliminate, beginning October 1, 1974, certain price adjustments which are called for by the Opinion and Order.

Comments on this proposal were received from the Commonwealth of Puerto Rico; Federacion de Detallistas de Gasolina de Puerto Rico, Inc.; Common-

wealth Oil Refining Company, Inc.; The Shell Company (Puerto Rico) Limited; Esso Standard Oil S.A., Limited; Texaco, Inc.; Atlantic Richfield Company; and Standard Oil Company of California. The FEA has concluded, in light of these comments, and all other relevant facts and circumstances, that the May 16, 1974 Opinion and Order should be modified, as proposed.

The Opinion and Order of May 16, 1974, sought to avoid the severe adverse impact on the economy of Puerto Rico of sharply increased prices for petroleum products by adopting a regulation intended to maintain prices for petroleum products sold in Puerto Rico at approximately the same levels as in the mainland United States.

Certain mainland United States refiners, subject to the general FEA petroleum price regulations for refiners, control entities which operate in Puerto Rico, but these entities purchase the products they sell in Puerto Rico from Commonwealth Oil Refining Company, Inc. (CORCO). CORCO, which is not affiliated with any mainland United States refiner, refines only high-cost foreign source crude oil, which results in correspondingly higher prices to the Puerto Rican entities of mainland United States refiners.

In the context outlined above, the FEO (now the FEA) determined that the Puerto Rican entities of mainland United States refiners would be treated with their parent refiner firms under the refiner price rule. Such treatment of the Puerto Rican entities of mainland United States refining firms requires these entities, in effect, to average the increased cost of products purchased in Puerto Rico from CORCO with the total increased costs of crude oil and purchased petroleum products of the mainland refiner, and to apply the same amount of increased product cost to prices in Puerto Rico as is applied to prices in the mainland United States. As a result, the entities of mainland United States refiners operating in Puerto Rico have maximum lawful prices in Puerto Rico which are at approximately the same level as the maximum lawful prices for the petroleum products sold by these companies in the mainland United States, subject to certain adjustments.

Additionally, the FEA, in its May 16, 1974 Opinion and Order, dealt specifically with the prices to be charged by CORCO to Shell (Puerto Rico), which is not owned, directly or indirectly by a mainland United States refiner, and therefore can only be treated as a reseller under the price regulations. Under the reseller rule, Shell (Puerto Rico) may pass through in its prices, on a dollar-for-dollar basis, the increased cost of the products it purchases from CORCO.

The FEA concluded in May that the prospect of having one marketer on the island, controlling approximately 20% of the market, passing through directly the higher cost of CORCO's products, while other marketers were averaging in CORCO's prices with their mainland refiner firms, presented an unacceptable risk of severe market disruption. Since the maximum lawful prices of Shell (Puerto Rico) would have been substantially in excess of those of the other marketers, the impact upon Shell's independent retailers would have been very serious, and a dealer's strike having severe repercussions for consumers might well have resulted.

FEA therefore determined that its price regulations in Puerto Rico should be implemented in a manner that would result in comparable prices at the retail level for all marketers. The FEA in its May 16, 1974 Opinion and Order directed that CORCO would be required to sell products to Shell (Puerto Rico) at a price adjusted downward pursuant to the method of adjustment established in the Opinion and Order, and to make a corresponding upward adjustment in the prices charged to its other customers.

In determining that a downward adjustment in the price of CORCO products to Shell (Puerto Rico) was appropriate, the FEA took into account the general market conditions at the time in the petroleum industry. In light of those conditions, the FEA concluded that the parent mainland United States refiner firms of CORCO's purchasers other than Shell (Puerto Rico) were in a position to pass through the increased costs of the products obtained from CORCO, including the increment which resulted from the adjustment to the prices charged to Shell (Puerto Rico). In the absence of an adjustment to the prices charged to Shell (Puerto Rico), Shell (Puerto Rico) would have been in a position to pass through the full amount of the increased cost of the products it purchased from CORCO. This pass through by Shell (Puerto Rico) would have resulted in retail prices for gasoline sold by Shell (Puerto Rico) of as much as 17 cents, or more, above the prices for gasoline sold by the other marketers on the island under the refiner price rule.

The FEA stated in its Notice that, since the issuance of the Opinion and Order in May, the supply situation has improved considerably, and that market forces are beginning to have an impact on prices and to restrict somewhat the ability of sellers to pass through increased costs. In light of these changed circumstances, FEA reevaluated the equity of continuing to require CORCO purchasers other than Shell (Puerto Rico) to pay higher prices to offset lower prices to Shell (Puerto Rico), and it proposed in the Notice to eliminate entirely from the May 16, 1974 Opinion and Order, the provision which requires CORCO to adjust its prices to Shell (Puerto Rico) downward, and the corresponding provision as to upward adjustments in prices for all other purchasers.

The FEA recognizes that under the amendment adopted today, Shell (Puerto Rico), as a reseller, will be faced with the prospect of either seeking to sell products at prices that reflect a full pass through of increased cost, but which will not be competitive, or obtaining financial support from its parent company until such time as the costs to Shell (Puerto Rico) can again be recovered in the prices it charges in Puerto Rico. Nevertheless, the purpose of the May 16, 1974 Opinion and Order was not to protect Shell (Puerto Rico) from having to make this choice. (Indeed, the Puerto Rican entities of mainland United States refiners have been required by the operation of the refiner price regulations to obtain, in effect, financial assistance from their mainland parent firms.) Rather, the purpose of the May 16, 1974 Opinion and Order with respect to prices charged to Shell (Puerto Rico) was to avoid the disruptive impact on the Puerto Rican economy that the direct pass through of CORCO's high prices by Shell (Puerto Rico) would have had. This was the fundamental public interest consideration that formed the basis of the May 16, 1974 Opinion and Order.

Since supplies of petroleum products now are significantly increased, the FEA believes that the removal of the Shell (Puerto Rico) price adjustment will not have the adverse impact on the public that it would have had in May. The FEA is nevertheless concerned over the possible disruptive effect in the Puerto Rican marketplace that could result from efforts by Shell (Puerto Rico) to pass through its full increased costs, including the effect on the independent marketers that obtain their products from Shell (Puerto Rico). The FEA has therefore obtained assurances from Shell (Puerto Rico) that it will not make significant increases in the prices it charges for petroleum products in Puerto Rico pending the results of efforts that will be made to work out some other means of reducing the cost to Shell (Puerto Rico) of the products it seels in Puerto Rico.

As noted in the Nnotice, the rule now being adopted is limited in its principal effect to one section of the United States and directly affects only a few companies. On the basis of FEA's expectation that price levels to Puerto Rican consumers will not be significantly affected by the adoption of this amendment, FEA has concluded that the amendment is not likely to have a substantial impact on the Nation's economy or upon large numbers of individuals or businesses. There is, therefore, no need to afford a formal opportunity for the oral presentation of views, data and arguments. FEA reserves the right, however, to conduct further proceedings in this matter if changing market conditions or other factors warrant oversight and review of the operation of the rule as amended.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, 87 Stat. 627; Federal Energy Administration Act of 1974, Pub. L. 93-275, 88 Stat. 96; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, the Opinion and Order of May 16, 1974, (39 FR 11761, May 20, 1974) is amended to eliminate the requirement that CORCO adjust its prices to Shell (Puerto Rico) downward and the corresponding provision as to upward adjustments in

CORCO's prices for all other purchasers, effective October 1, 1974. In all other respects the Opinion and Order of May 16, 1974 remains operative.

Issued in Washington, D.C., October 4, 1974.

ROBERT E. MONTGOMERY, Jr.,
*General Counsel,*
*Federal Energy Administration.*

[FR Doc.74-23658 Filed 10-7-74;12:06 pm]

## Title 13—Business Credit and Assistance

### CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Amdt. 4]

### PART 113—NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS OF SBA—EFFECTUATION OF POLICIES OF FEDERAL GOVERNMENT AND SBA ADMINISTRATOR

#### Miscellaneous Amendments

On July 30, 1974, there was published in the FEDERAL REGISTER (39 FR 27591) a notice that the Small Business Administration proposed to change its procedures involving nondiscrimination in Financial Assistance Programs by amending 13 CFR Part 113. Interested parties were given 30 days to submit comments, suggestions or objections regarding the proposed amendments.

After consideration of all comments, suggestions and objections on the proposal and other information available, it has been determined to adopt the proposal subject to the following change: That a paragraph (c) be added to § 113.2.

Accordingly, Part 113 of Chapter I of Title I of Title 13 CFR is hereby amended by:

§ 113.1 [Amended]

1. Amending § 113.1(a) by inserting on line 16 after the word "color," the following "religion, sex,".

2. Amending § 113.2 by revising paragraph (a) and adding a new paragraph (c) as follows:

§ 113.2 **Definitions.**

As used in this part:

(a) The term "financial assistance" means any financial assistance extended pursuant to any authorizing legislation administered by the Small Business Administration, whether extended directly or in cooperation with banks or other lenders through agreements to participate on an immediate basis, or under guaranty agreements.

* * * * *

(c) The term "religion" includes all aspects of religious observance and practice, as well as belief.

3. Amending § 113.3 as follows:

a. Paragraph (a) is amended;

b. Paragraph (b) is redesignated as paragraph (c) and after the word "color" on line five, add "religion, sex,". Change "him" in that same paragraph to read "a person".

c. Paragraph (c) is redesignated as paragraph (a) of new § 113.3–1 and in the current paragraph (c), after "color" in the second, ninth and twelfth lines, add "religion, sex".

As amended, § 113.3 would read as follows:

§ 113.3 **Discrimination prohibited.**

(a) With regard to employment practices within the aided business or other enterprise, whether or not operated for profit, fail or refuse, because of race, color, religion, sex or national origin of a person, to seek his or her services, or retain the person's services or to provide the person with opportunities for advancement or promotion, or accord an employee the rank and rate of compensation, including fringe benefits, merited by the employee's services and abilities.

(b) Discriminate on the basis of race, color, religion or national origin in the use of toilets or any facilities for rest or comfort. Discriminate on the basis of race, color, religion, sex or national origin in the use of cafeterias, recreational programs or other programs sponsored by the applicant or recipient.

* * * * *

4. A new § 113.3–1 is added to Part 113 as follows:

Paragraph (a) is redesignated from paragraph (c) of § 113.3 and paragraph (b) and (c) are added to read as follows:

§ 113.3–1 **Consideration of race, color, religion, sex, or national origin.**

* * * * *

(b) Nothing in this part shall prohibit the restriction of certain jobs to members of one sex if a bona fide occupational qualification can be demonstrated by the applicant or recipient. Custom or tradition is not a bona fide occupational qualification.

(c) Nothing in this part shall apply to a religious corporation, association, educational institution or society with respect to the membership or the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its religious activities.

5. A new § 113.3–2 is added to Part 113 as follows:

§ 113.3–2 **Accommodations to religious observance and practice.**

A recipient of financial assistance must accommodate to the religious observances and practices of an employee or prospective employee unless the recipient demonstrates that it is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business. As part of this obligation, recipient must make reasonable accommodations to the religious observances and practices of an employee or prospective employee who regularly observes Friday evening and Saturday, or some other day of the week, as his Sabbath and/or who observes certain religious holidays during the year and who is conscientiously opposed to performing work or engaging in similar activity on such days, when such accommodations can be made without undue hardship on the conduct of the employer's business. In determining the extent of a recipient's obligations under this section, at least the following factors shall be considered: (a) Business necessity, (b) financial costs and expenses, and (c) resulting personnel problems.

§ 113.5 [Amended]

6. Amending § 113.5(d)(2) by adding "religion, sex," after the word "color" on line eight.

7. Amending the first sentence of § 113.6(b) to read:

§ 113.6 **Conduct of investigations.**

* * * * *

(b) *Complaints.* Any person who believes that he, she or any class of individuals has been subjected to discrimination prohibited by this part may, personally or through a representative, file with SBA a written complaint. * * *

* * * * *

§ 113.7 [Amended]

8. Amending § 113.7(d)(2) by deleting "his" on the second line and inserting instead "the Administrator's."

§ 113.9 [Amended]

9. Amending § 113.9(a) as follows: On line six delete "his" and substitute, therefore, "the hearing examiner's." On lines 16 and 17, delete the word "his." On line 19, add after "his" the words "or her." On line 21, add after the word "he" the words "or she." On line 25, add after the word "his" the words "or her."

10. Amending § 113.9(b) as follows: On line four delete the word "he" and substitute, therefore, "the Administrator." On line nine, delete the word "him" and substitute, therefore, the words "the Administrator."

11. Amending § 113.9(d) by deleting the word "his" and substituting the word "the" instead.

12. Amending the last sentence of § 113.9(f)(2) to read: If the Administrator determines that those requirements have been satisfied eligibility shall be restored.

§ 113.10 [Amended]

13. Amending § 113.10(a) to add "religion, sex," after "color" on the sixth line.

Effective date: October 9, 1974.

Dated: September 26, 1974.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.74-23503 Filed 10-8-74;8:45 am]

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74-WE-37-AD, Amdt. 39-1985]

### PART 39—AIRWORTHINESS DIRECTIVES

#### McDonnell Douglas DC-10-10, -10F, -30, -30F Series Airplanes

Amendment 39-1951, (39 FR 32011), AD 74-18-17, requires the installation of a canopy shield at the number two en-

gine position. Reports of fan blade failures of General Electric CF6 turbine engines revealed that fan blade fragment ejected in the number two engine position could strike the main fuel supply hose to that engine. The fan blades were gun-drilled. CF6 engines incorporationg solid fan blades are being installed in current production DC–10 aircraft, as well as operators' fleet aircraft.

The agency has determined that the AD, now applicable to all DC–10–10, –10F, –30, –30F Series airplanes incorporating the CF6 turbine engines, may be restricted in its applicability to those airplanes with the gun-drilled fan blades in the engines. The AD is being amended to that effect.

Since this amendment relieves a restriction, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), Amendment 39–1951 (39 FR 32011), AD 74–18–17, is amended as follows. For the sake of clarity, the AD, as amended, is republished in its entirety.

McDONNELL DOUGLAS. Applies to DC–10–10, –10F, –30, –30F Series Airplanes incorporating General Electric CF6 turbine engines with gun-drilled fan blades, certificated in all categories

To provide additional fire protection for the number two engine position in the event of fan blade fragmentation, accomplish the following:

(1) On or before December 1, 1974, unless already accomplished, install a fuel hose shield, for the number two engine per McDonnell Douglas Service Bulletin No. 71–57, dated September 3, 1974, or later FAA-approved revisions, or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(2) Prior to any flight after December 1, 1974, on any airplane on which the fuel hose shield has not been installed, the shield must be installed before incorporating any CF6 engine with one or more gun-drilled fan blades in the number two engine position.

(3) Aircraft may be flown to a base for the accomplishment of the modification described in this AD, per FAR's 21.197 and 21.199.

This amendment becomes effective October 15, 1974.

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

Issued in Los Angeles, California on September 27, 1974.

ARVIN O. BASNIGHT,
*Director, FAA Western Region.*

[FR Doc.74–23425 Filed 10–8–74;8:45 am]

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[Airspace Docket No. 74–SO–77]

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

### Alteration of Control Zone and Transition Area; Correction

On September 17, 1974, FR Doc. No. 74–21373 was published in the FEDERAL REGISTER (39 FR 33309) amending Part 71 of the Federal Aviation Regulations by altering the Savannah, Ga., control zone and transition area.

In the amendment, the geographic coordinate for Hunter AAF was cited in both the control zone and transition area descriptions as "Lat. 32°01'30" N., Long. 81°08'30" W." National Ocean Survey has refined the geographic coordinate to "Lat. 32°00'35" N., Long. 81°08'45" W." It is necessary to amend both descriptions to reflect this change. Additionally, an extension to the control zone is predicated on Hunter VOR 103° radial.

Due to restrictions that would be imposed on operations, Mr. J. C. Saffold requested that Saffold Field be excluded from the control zone and transition area. In order to comply with his request, it is necessary to alter the VOR RWY 27 Instrument Approach Procedure by establishing a Final Approach Fix (FAF) four nautical miles east of the VOR and restrict participating aircraft from descending below 1,200 feet AMSL until after passing the FAF, thus eliminating the requirement for the control zone extension. It is necessary to amend the control zone description to reflect this change. In order to comply with Mr. Saffold's request with respect to the transition area, it is necessary to amend the description to permit a rectangular shaped exclusion for Saffold Field.

Since these amendments are either minor or less restrictive in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, FR Doc. No. 74–21373 is amended as follows:

The Savannah, Ga., control zone description is amended to read:

Within a 5-mile radius of Savannah Municipal Airport (Lat. 32°07'35" N., Long. 81°12'05" W.); within a 5-mile radius of Hunter AAF (Lat. 31°00'35" N., Long. 81°08'45" W.).

In line 4 of the Savannah, Ga., transition area description "* * * (Lat. 32°01'-30" N., Long. 81°08'30" W.) * * *" is deleted and ". . . (Lat. 32°00'35" N., Long. 81°08'45" W.); excluding the portion east bounded on the south by a line 2 miles north of and parallel to the extended centerline of Hunter AAF Runway 27; on the west by a line 6 miles east of and parallel to Hunter VOR 001° radial, and on the north by a line 3 miles south of and parallel to Savannah ILS localizer east course * * *" is substituted therefor.

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

Issued in East Point, Ga., on October 2, 1974.

PHILLIP M. SWATEK,
*Director, Southern Region.*

[FR Doc.74–23426 Filed 10–8–74;8:45 am]

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[Airspace Docket No. 74–WE–14]

## PART 73—SPECIAL USE AIRSPACE

### Alteration of Restricted Areas

On July 1, 1974, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (39 FR 24328) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 73 of the Federal Aviation Regulations that would alter the time of designation for Restricted Areas R–4803 Fallon, Nev., R–4804 Twin Peaks, Nev., R–4810 Desert Mountains, Nev., R–4812 Sand Springs, Nev., and R–4813 Carson Sink, Nev.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. Three comments were received. One comment offered no objection to the proposal and two contained objections.

One individual objected to the proposal because it would restrict the areas during the only time available to her for flying. The fuel consumption necessary to circumnavigate the areas would therefore reduce the range of her aircraft and make flight planning more difficult. She also indicated that the Federal Aviation Administration had failed to adequately publicize the proposal.

Extending the time of designation as proposed means of course that the public will sometimes be restricted from access to R–4803, R–4804, R–4810, R–4812 and R–4813 on Sundays. However, the improved scheduling capability and the resultant cost savings benefit realized by the using agency serve to justify the amendment. Further, the restriction will be in effect on Sunday only when adverse weather conditions or other unforeseen factors prevent completion of training within the Monday through Saturday portion of the designation. When the areas are not required by the using agency, they will be made available to the public. The using agency is aware of the burden imposed by the restriction, and it is attempting to allow public access as much as possible. In this regard, pilots wishing to fly through one or more of the restricted areas should contact "Navy Fallon Tower" on 126.2 mHz for permission to do so. If using agency operations permit, clearance to fly through any of the areas will be issued by the tower.

The Federal Aviation Administration has also concluded that notice of this proposed rule making was adequate. The notice was published in the FEDERAL REGISTER and more than 350 copies were distributed to various aviation interests throughout Nevada. Distribution included special mailing of over 150 copies to people who had previously indicated an interest in aeronautical use of the restricted areas.

Another individual objected to the proposal on the basis that it would restrict a large amount of Nevada airspace. He also objected because in his opinion the proposal was being used by the Federal Aviation Administration as an excuse to impose additional flight restrictions on the public under the guise of safety.

The restricted areas do encompass a large portion of Nevada's airspace; however, all were established several years ago and all have been restricted from 0600 to 2400 local time Monday through

Saturday. This amendment will extend the time of designation to include only a relatively small addition, 0600 to 2400 Sundays. Furthermore, the Sunday use should generally result in a commensurate period of release for public access at some other time during the week.

R–4803, R–4804, R–4810, R–4812 and R–4813 are all currently used to contain military flight training activities which are hazardous to nonparticipating aircraft but necessary for our nation's military combat readiness. Flight safety therefore was and continues to be a major factor used to justify the restricted areas. Training activities include air-to-ground rocket, bombing and strafing runs using high speed aircraft and various weapons delivery techniques, practice of search and rescue procedures under simulated combat conditions, airborne test and evaluation of aircraft systems, and other in-flight aircraft familiarization exercises designed to improve aircrew proficiency. These activities are hazardous to nonparticipating aircraft not only because of the number of aircraft normally so engaged but also because performance of the related flight maneuvers requires a high concentration of effort which may reduce the trainees' ability to comply with normal see-and-be-seen in-flight procedures.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 GMT, December 5, 1974, as hereinafter set forth.

In § 73.48 (39 F.R. 674, 23253, 28519)

1. The Time of designation for R–4803 Fallon, Nev., is changed to read a follows: Time of designation. 0600 to 2400 local time daily.

2. The Time of designation for R–4804 Twin Peaks, Nev., is changed to read as follows: Time of designation. 0600 to 2400 local time daily.

3. The Time of designation for R–4810 Desert Mountains, Nev., is changed to read as follows: Time of designation. 0600 to 2400 local time daily.

4. The Time of designation for R–4812 Sand Springs, Nev., is changed to read as follows: Time of designation. 0600 to 2400 local time daily.

5. The Time of designation for R–4813 Carson Sink, Nev., is changed to read as follows: Time of designation. 0600 to 2400 local time daily.

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

Issued in Washington, D.C., on October 3, 1974.

GORDON E. KEWER,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.74-23427 Filed 10-8-74;8:45 am]

## Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2529]

## PART 13—PROHIBITED TRADE PRACTICES

### Campertown, Inc. and William W. Clack

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, Hayward, Calif., Docket C–2529, Aug. 20, 1974.]

*In the matter of Campertown, Inc., a corporation, and William W. Clack, individually and as an officer of said corporation*

Consent order requiring a Hayward, Calif., new and used camper and motor home 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 said Act.

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

*It is ordered,* That respondents Campertown, Inc., a corporation, its successors and assigns, and its officers, and William W. Clack, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device (hereinafter, in this and other paragraphs of this order, referred to as "respondents"), in connection with any extension or arrangement of consumer credit or advertisement to aid, promote, or assist directly or indirectly any arrangement or extension of consumer credit, as "consumer credit" and "advertisement" as defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (P.L. 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Causing to be disseminated to the public in any manner whatsoever any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, which advertisement states:

(a) The amount of the downpayment required or that no downpayment is required the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless it states all of the following items in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) of Regulation Z:

(1) The cash price;

(2) The amount of the downpayment required or that no downpayment is required, as applicable;

(3) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(4) The amount of the finance charge expressed as an annual percentage rate; and

(5) The deferred payment price.

(b) that a specific amount of credit, installment amount, or period of repayment can be arranged unless respondents usually and customarily arrange or will arrange credit amounts or installments for the stated amount and for the stated period, as required by § 226.10(a)(1) of Regulation Z.

2. 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 deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said copy of this order from each such person.

*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 this order.

*It is further ordered,* That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with

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

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 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.

The decision and order issued by the Commission Aug. 20, 1974.

VIRGINIA M. HARDING,
*Acting Secretary.*

[FR Doc.74-23513 Filed 10-8-74;8:45 am]

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[Docket No. 8929]

## PART 13—PROHIBITED TRADE PRACTICES

### Dahlberg Electronics, Inc.

Subpart—Coercing and intimidating: § 13.353 *Distributors.* Subpart—Cutting off access to customers or market: § 13.535 *Contracts restricting customers' handling of competing products;* § 13.560 *Interfering with distributive outlets;* § 13.605 *Withholding supplies or goods from competitors' customers.* Subpart—Cutting off supplies or service: § 13.610 *Cutting off supplies or service;* § 13.635 *Refusing sales to, or same terms and conditions;* § 13.655 *Threatening disciplinary action or otherwise.* Subpart—Delaying or withholding corrections, adjustments or action owed: § 13.675 *Delaying or withholding corrections, adjustments or action owed;* § 13.677 *Delaying or failing to deliver goods or provide services or facilities.* Subpart—Interfering with competitors or their goods: § 13.1080 *Interfering with competitors or their goods.* Subpart—Maintaining resale prices: § 13.1160 *Refusal to sell.*

(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, Dahlberg Electronics, Inc., Minneapolis, Minn., Docket 8929, Aug. 6, 1974]

*In the Matter of Dahlberg Electronics, Inc., a corporation*

Consent order requiring a Minneapolis, Minn., manufacturer of hearing aids, among other things to cease imposing customer and territorial restrictions and exclusive dealing requirements on its dealers; maintaining resale prices; restricting dealers in cooperative advertising from stating that dealers deal in other brands of hearing aids. Failing to include warranties with products sold by respondents. Further, respondent is required to place in a trade journal a full-page ad clearly disclosing particulars of the order, and to maintain for a ten-year period a file of any refusal to sell.

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

I. *It is ordered,* That respondent Dahlberg Electronics, Inc., and its subsidiaries, divisions, affiliates, successors, assigns, officers, directors, agents, representatives and employees, directly or indirectly, or through any corporate or other device, in connection with the manufacturing, distribution, advertising, offering for sale, sale or repair of its own brand name or trademark hearing aids, or related products, in commerce as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Entering into, maintaining, preserving, or enforcing, by refusal to sell or repair, setting of sales quota or equivalent thereof, termination or threat thereof, communicated expectation or request, or in any other manner, any arrangement or method of doing business with a dealer of hearing aids and/or accessories which has the purpose or effect of precluding or preventing a dealer from selling the product of one or more other hearing aid manufacturers;

2. Refusing to make available promptly upon request:

(a) A hearing aid, accessory or any written materials necessary to fit and sell such hearing aid or accessory, to any dealer engaged in the sale of hearing aids, if respondent makes such products available to any dealer, other than a dealer to whom hearing aids are made available pursuant to this Paragraph, located within 100 miles of the requesting dealer, or

(b) a repair or replacement part or any written materials necessary to repair or replace such hearing aid, to any person engaged in the repair of hearing aids when requested for such purpose, if respondent makes repair or replacement parts available to any dealer for such purpose, *Provided, however,* That respondent may impose a $10.00 minimum order requirement for such parts;

(c) repair service on a nondiscriminatory basis with respect to a hearing aid manufactured by respondent when requested by any dealer who sold such aid;

*Provided, however,* That if no other provision of this Order is violated thereby:

(1) Respondent may require as a condition to the availability directly from it of any of its products that the dealer or person referred to in 2 (a) (b), or (c) above has received instruction or met standards necessary for the fitting, servicing and/or repairing of respondent's hearing aids which are required at that time of all then existing dealers of respondent's products, or all persons then engaged in the repair of respondent's products, so long as such instruction, if made available to any dealer or person is made available by respondent on reasonable terms and conditions to all dealers or persons wanting to deal in or repair respondent's product,

(2) Respondent may refuse to make available directly from it any of its products to any dealer or person if such requesting dealer or person is able promptly to obtain the product from another dealer or distributor at respondent's price to such dealer for a single unit (meaning the same price and discount terms available from respondent) plus a reasonable handling charge, and

(3) Respondent may refuse to make available directly from it any of its products or services to any dealer or person on other grounds related to that dealer's or person's professional competence or ethical conduct, so long as such refusals are uniformly made where such grounds exist;

3. Entering into, maintaining, preserving or enforcing by refusal to sell or repair, setting of sales quota or equivalent thereof, termination or threat thereof, communicated expectation or request, report of sale, warranty limitation, use of names or addresses of a dealer's customers, or in any other manner, any arrangement or method of doing business which has the purpose or effect of restricting or limiting.

(a) The territory or area in which a dealer of respondents' hearing aids advertises, offers for sale, sells or repairs such products, or

(b) The person or persons with whom a dealer of respondent's hearing aids deals;

4. Failing to return any hearing aid submitted to respondent for repair directly to the person who submitted such product for repair, unless otherwise instructed in writing by such persons;

5. Fixing, establishing, stabilizing, maintaining or suggesting the prices at which a dealer of respondent's hearing aids may or shall advertise, offer for sale, or sell to the public, or a person repairing respondent's hearing aid may repair, such products: *Provided, however,* That nothing in this Order shall prohibit respondent after ten years from the date of entry of this Order from exercising any lawful rights it may then have under the Miller-Tydings Act, 50 Stat. 693 (1937) and the McGuire Act, 66 Stat. 632 (1952) with respect to hearing aids.

6. Requiring that a dealer participating in respondent's cooperative advertising program must not state or imply, in such cooperative advertisements, that the dealer also deals in other brands of hearing aids: *Provided, however,* That respondent may continue to prohibit in such cooperative advertisement the stating of other band names of hearing aids;

7. Requiring or coercing a dealer of respondent's hearing aids to submit to respondent the names or addresses of any customers of such dealer, or, with respect to such customer names or addresses obtained from a dealer after the effective date of this Order, maintaining,

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

using, publishing or disseminating them for any purpose, without securing the free and informed written consent of the dealer for each such purpose based upon full disclosure to the dealer of the specific uses and disseminations which would be made of the customer names. No such consent shall be sought for other than respondent's advertising and promotional programs for at least one hundred and twenty (120) days from the date of respondent's initial inventory shipment of hearing aids to a new dealer or, in the case of an existing dealer, at least sixty (60) days after service on the dealer of this Order and letter attached hereto as Appendix A.

8. Preventing any dealer from using respondent's product (brand) name in connection with the advertising, offering for sale, sale or repair of any of respondent's products, except that respondent may protect its rights in such name recognized at law;

9. Failing to include and delivery with any of respondent's hearings aids sold by respondent any express product warranty for such product provided by respondent to the user.

II. *It is further ordered,* That respondent shall: (a) Forthwith distribute a copy of this Order to each of its operating divisions, to its present corporate officers and to its present sales and repair personnel, and shall secure from each such officer, employee, or other person, a signed statement acknowledging receipt of said Order;

(b) Within thirty (30) days after service upon it of this Order, distribute a copy of the letter appended to this Order and made a part hereof as Appendix A to each of its existing hearing aid dealers and to every person known to be engaged in the repair of respondent's products;

(c) Within sixty (60) days after service upon it of this Order, place a full-page advertisement in a trade journal or publication with circulation among hearing aid dealers, which advertisement shall clearly and conspiculously disclose the provisions of Part I of this Order;

(d) Within one hundred and twenty (120) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order, including a list of all dealers and other persons on whom it has served a copy of the publication which includes respondent's advertisement required by this Order;

(e) For a period of ten (10) years from the date hereof establish and maintain a file of all records referring or relating to respondent's refusal to sell to any hearing aid dealer, or person engaged in the business of repairing hearing aids, which file must contain a record of a communication to such dealers or persons explaining respondent's refusal to sell, and which file will be made available for Commission inspection on reasonable notice; and annually, for a period of five (5) years from the date hereof, submit a report to the Commission listing the names of all dealers or persons with whom respondent has refused to deal over the preceding year, a description of the reason for the refusal, and the date of the refusal;

(f) 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 this Order.

Decision and Order issued by the Commission August 6, 1974.

VIRGINIA M. HARDING,
*Acting Secretary.*

APPENDIX A

(LETTER TO HEARING AID DEALERS)

(Official Stationery of Dahlberg Electronics, Inc.)

Date _____

DEAR _____, The Federal Trade Commission has entered a consent order against Dahlberg Electronics, Inc. which obligates the company not to impose various restrictions upon dealers or to engage in certain other practices. A copy of the pertinent provisions of the Order is enclosed for your careful examination. If in the future you believe that any of its terms have been violated, the details may be reported in writing to:

Federal Trade Commission,
Bureau of Competition,
Washington, D.C. 20580

We welcome the opportunity to do business with you on terms which are in accordance with the letter and the spirit of the Federal Trade Commission Order.

Very truly yours,

_____,
(Name)
President,
Dahlberg Electronics, Inc.

[FR Doc.74-23514 Filed 10-8-74;8:45 am]

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[Docket No. 8923]

## PART 13—PROHIBITED TRADE PRACTICES

### Pastime Industries, Inc., and Frank Gebbia

Subpart—Furnishing means and instrumentalities or misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception;* § 13.1057 *Packaging deceptively;* § 13.1057–40 Oversized containers. Subpart—Packaging or labeling of consumer commodities unfairly and/or deceptively: 13.2100 *Packaging or labeling of consumer commodities unfairly, and/or deceptively;* 13.2100–10 Packaging.

(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, Pastime Industries Inc., et al., New York, N.Y., Docket 8923, August 16, 1974]

*In the Matter of Pastime Industries, Inc., a corporation, and Frank Gebbia, individually and as an officer of said corporation.*

Consent order requiring a New York City seller and distributor of toy, gift and hobby products to jobbers and retailers, among other things to cease deceptively packaging its merchandise.

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

*It is ordered,* That respondent Pastime Industries, Inc., a corporation, and its officers, and Frank Gebbia, individually and as an officer of said corporation, and respondents' agents, representatives, employees, successors and assigns, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale or distribution of toy, gift and hobby merchandise or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Packaging said products in oversized boxes or other containers so as to create the appearance or impression that the width or thickness or other dimensions or quantity of products contained in a box or container is appreciably greater than is the fact; but nothing in this order shall be construed as forbidding respondents to use oversized containers if respondents justify the use of such containers as necessary for the efficient packaging of the products contained therein and establish that respondents have made all reasonable efforts to prevent any misleading appearance or impression from being created by such containers;

2. Providing wholesalers, retailers or other distributors of said products with any means or instrumentality with which to deceive the purchasing public in the manner described in Paragraph (1) above.

*It is further ordered,* That respondents or their successors or assigns notify the Commission at least 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 corporate respondent which may affect compliance obligations arising out of this Order.

*It is further ordered,* That 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 in which he is engaged as well as a description of his duties and responsibilities.

*It is further ordered,* That the respondents distribute a copy of this Order to all operating divisions and subsidiaries of said corporation, and also distribute a copy of this Order to all firms and individuals involved in the formulation or implementation or respondents' business policies, and all firms and individuals engaged in the advertising, marketing, or sale of respondents' products.

*It is further ordered,* That the respondents herein shall, within sixty (60)

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

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 August 16, 1974.

VIRGINA M. HARDING,
*Acting Secretary.*

[FR Doc.74-23515 Filed 10-8-74;8:45 am]

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[Docket No. 8889]

## PART 13—PROHIBITED TRADE PRACTICES

### Sun Oil Co. and William Esty Co.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly;* § 13.175 *Quality of product or service;* § 13.205 *Scientific or other relevant facts;* § 13.265 *Tests and investigations;* § 13.280 *Unique nature or advantages.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1710 *Qualities or properties;* § 13.1770 *Unique nature or advantages.* Subpart—Using deceptive techniques in advertising: § 13.2275 *Using deceptive techniques in advertising;* 13.2275-70 Television depictions.

(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, Sun Oil Company, et al., Philadelphia, Pa., Docket 8889, August 19, 1974.]

*In the Matter of Sun Oil Company, a Corporation, and William Esty Company, Inc., a Corporation*

Order requiring a Philadelphia, Pa., manufacturer and distributor of gasoline and other petroleum products and its New York City advertising agency, among other things to cease making false performance and uniqueness claims for its Sunoco gasoline, and using misleading demonstrations.

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

*It is ordered,* That respondent Sun Oil Company, a corporation, and respondent, William Esty Company, a corporation, either jointly or individually, and their officers, agents, representatives, employees, successors, and assigns, directly or through any corporate device in connection with the advertising, offering for sale, sale, or distribution of gasoline or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Advertising respondent Sun Oil Company's highest octane gasoline, currently designated "Sunoco 260" or any other such product, howsoever designated, in such a manner as to indicate, directly or by implication, that blending said gasoline with any lower octane gasoline results in gasoline blends that provide more engine power than do competing gasolines having octane ratings comparable to respondent Sun Oil Company's blends.

B. Advertising respondent Sun Oil Company's gasolines in such a manner as to indicate directly or by implication that the blending of Sunoco's highest octane gasoline, currently designated "Sunoco 260", or any other such product howsoever designated, with Sunoco's lower octane gasolines conveys to the resulting blends of Sunoco gasoline more octane benefits than provided by octane level of the resultant blends.

C. Advertising respondent Sun Oil Company's "custom blended" gasoline in such a manner as to indicate, directly or by implication, that automobile engines will operate at maximum power and performance only when operated on the octane of said blended gasoline.

D. Advertising any such product by presenting evidence including tests, experiments or demonstrations or the results thereof, or any other evidence of any fact or product feature that is material in inducing the sale of the product which is not evidence which actually proves such fact or product feature.

E. Misrepresenting, in any manner, the performance characteristics of Sunoco gasoline or any other gasoline.

F. Representing, directly or by implication, that any such product is unique among competing products, when such is in fact not the case.

*It is further ordered,* That the respondent corporations shall forthwith distribute a copy of this Order to each of their operating divisions involved in the advertising, promotion, distribution, or sale of consumer products.

*It is further ordered,* That each respondent 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 changes in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered,* That respondents shall, within sixty (60) days and at the end of six (6) months after the effective date of the order served upon them, file with the Commission a report, in writing, signed by respondents, setting forth in detail, the manner and form of its compliance with the order to cease and desist.

Final order issued by the Commission August 19, 1974.

VIRGINIA M. HARDING,
*Acting Secretary.*

[FR Doc.74-23516 Filed 10-8-74;8:45 am]

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

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# Title 23—Highways

## CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

### SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

### PART 1—GENERAL

### Preparation of Plans, Specifications and Estimates

Part 1 of Subchapter A of Chapter I, Title 23, Code of Federal Regulations is amended by revoking § 1.10 thereof. Those provisions of § 1.10 which the Federal Highway Administration desires to retain have been codified in Part 630, Subpart B of Title 23, Code of Federal Regulations.

Section 1.10 concerns the preparation of plans, specifications, and estimates (PS &E) for Federal-aid highway projects.

Since the matter affected relates 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 revocation will be effective on the date of issuance.

Issued on October 4, 1974.

J. R. COUPAL, Jr.,
*Deputy Administrator.*

[FR Doc.74-23428 Filed 10-8-74;8:45 am]

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### SUBCHAPTER B—PAYMENT PROCEDURES

### PART 170—STATE CONTRACT ADMINISTRATION FOR OTHER THAN COMPETITIVELY BID CONTRACTS

The Federal Highway Administration is adding Part 170, to Subchapter B of Chapter I of Title 23, Code of Federal Regulations, titled "State Contract Administration for Other than Competitively Bid Contracts."

A Federal aid to highways directive of longstanding (PPM 30-11) sets forth policies and procedures relating to State administration of Federal-aid highway contracts not awarded by competitive bidding. The directive has 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 Memorandum 30-11 to Part 170, of Chapter I of Title 23 of the Code of Federal Regulations.

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 October 4, 1974.

J. R. COUPAL, Jr.,
*Deputy Administrator.*

Sec.
170.101 Purpose.
170.103 General.
170.105 State contracting procedures.
170.107 Cost principles.
170.109 Property management.
170.111 Access to records.

AUTHORITY: 23 U.S.C. Section 315, 49 C.F.R. 1.48(b).

### § 170.101 Purpose.

(a) The purpose of this part is to prescribe procedures to be followed by the State highway agencies, in the award and administration of contracts other than those awarded by means of competitive bidding.

(b) Specific program policy as set forth in Title 23, Code of Federal Regu-

lations covering the various program areas is also to be followed with respect to individual requirements affecting the overall administration of contracts in each area of work, as appropriate.

§ 170.103 General.

(a) The State highway agency, through utilization of its own combination of staff facilities and expertise, has the responsibility for employing whatever form of organization and management techniques that may be necessary to assure proper and efficient administration of contracts. In addition to any necessary technical review and evaluation, the appropriate use of the audit function for proposal evaluations and contract cost auditing is considered an inherent part of this responsibility.

(b) The term "contract" as used herein includes contracts with railroads, utilities, consultants, construction contractors, political subdivisions, universities, nonprofit organizations and organizations engaged in right-of-way studies, planning, research, development or related activities which are awarded on a basis other than competitive bidding.

§ 170.105 State contracting procedures.

(a) The State highway agency shall establish procedures for the selection of contractors which are consistent with the policy and procedure requirements applicable to the program area involved. Before a contract is awarded, the State highway agency shall determine and document in its files that:

(1) The selected contractor is qualified professionally and is financially capable to perform the services required.

(2) The contractor will have properly trained and experienced personnel available to perform the services within the time prescribed.

(3) The contractor has been apprised of all applicable technical work requirements and administrative controls including those of the Federal Highway Administration (FHWA); and

(4) The contract proposal has been subjected to technical and audit evaluations, as appropriate, and the results of these evaluations were considered in the contract negotiations.

(b) The prospective contractor's contract cost or price proposal shall contain a breakdown of the estimate for performing the work to include the costs of material, direct salary, payroll additives, other direct costs, indirect costs and profit. As a minimum, the State highway agency shall subject each cost proposal which exceeds $50,000 to an audit evaluation which will provide the basic data needed to determine the propriety of the proposed amounts.

(c) On contracts not to be awarded on a firm fixed price basis and where the proposal or estimate of total costs and fee exceeds $50,000 as a minimum, the State highway agency shall have audit assurance as to the adequacy of the prospective contractor's system to segregate and accumulate reasonable, allocable and allowable costs for the proposed contract.

(d) The State highway agency shall establish procedures for effectively monitoring contracts in progress, including technical and audit evaluations as may be necessary.

(e) Procedures shall be established for determining and documenting adequate contract performance and the propriety of contract claims prior to final settlement of all contracts. These procedures shall provide for any necessary technical evaluations of work performed and final audits where necessary to determine total allowable contract costs under contracts and agreements which are not firm fixed price.

§ 170.107 Cost principles.

(a) The State highway agency shall establish cost principles for use in determining the allowability of individual items of costs. These cost principles shall be appropriately identified or referenced in each contractual document.

(b) The cost principles established by the State highway agency shall consider the applicable provisions of governing policy and procedural directives and the contract cost principles and procedures set forth in Part 1–15 of the Federal Procurement Regulations, (41 CFR, Part 1–15) as appropriate. When specific FHWA reimbursement policy differs from the Federal Procurement Regulations, the FHWA policy shall apply.

§ 170.109 Property management.

The State highway agency shall establish procedures relating to the control, utilization and disposition of property or equipment acquired under such contracts. These procedures shall also provide for appropriate credits for any residual values.

§ 170.111 Access to records.

(a) The contracts shall provide that contractors and any subcontractors are to maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and to make such materials available at their respective offices at all reasonable times during the contract period and for 3 years from the date of final payment under the contract for inspection by the State highway agency, FHWA or any authorized representatives of the Federal Government and copies thereof shall be furnished if requested.

(b) Contractors' records supporting cost proposals shall also be available for review by authorized representatives of the State and Federal Government, and if such data is used to support a contract entered into with the State highway agency, it shall be subject to the 3-year retention period set forth in paragraph (a) of this section.

[FR Doc.74-23506 Filed 10-8-74;8:45 am]

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

## PART 620—ENGINEERING

### Engagement of Consultants for Engineering Services

A Federal-aid to highways directive of longstanding (PPM 40-6) sets forth policies and procedures relating to the award of Federal-aid consultant contracts for engineering services. The directive has 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 Memorandum 40-6 to Part 620, Subpart C of Chapter 1 of Title 23 of the Code of Federal Regulations.

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.*

Subpart C—Engagement of Consultants for Engineering Services

Sec.
620.301 Purpose and applicability.
620.303 Engagement of consultants.
620.305 Qualification and selection.
620.307 Compensation.
620.309 Construction engineering services.
620.311 Content and approval of agreements.
620.313 Alternative procedure.
620.315 Changes or extra work.

AUTHORITY: 23 U.S.C. 315; 49 CFR 1.48(b).

### Subpart C—Engagement of Consultants for Engineering Services

§ 620.301 Purpose and Applicability.

(a) The purpose of this subpart is to prescribe policies and procedures regarding the engagement of consultants to perform engineering services under agreements with State highway departments, or with cities or counties, under agreement with the State, when Federal-aid funds are furnished for participation in the cost of the engineering services.

(b) The procedures prescribed herein do not apply to projects or, unless otherwise provided, to those parts of projects financed with Federal-aid highway planning and research funds.

§ 620.303 Engagement of consultants.

(a) Consultants may be engaged by a State, or by a county or a city under an agreement with the State, to perform preliminary engineering or construction engineering services for Federal-aid highway projects. Requests for Federal-aid participation in the costs of such services shall include a definite proposal by the consultant, accompanied by a statement by a State highway depart-

ment, county, or city, showing the adequacy of the consultant's qualifications for the specific services to be performed, the appropriateness of the methods of payment, and the reasonableness of the amount of compensation proposed.

(b) When a county or city proposes to engage the services of a consultant, any agreement entered into for such services shall be subject to the prior approval of the State higway department and the Federal Highway Administration (FHWA), and all provisions in this subpart concerning engagement of consultants by State highway departments shall apply. Nothing herein shall be taken as relieving the State of its responsibility under the Federal-aid laws and regulations for the work to be performed under any agreements entered into by a county or city.

(c) Audit requirements for administering consultant agreements are set forth in 23 CFR Part 170.

### § 620.305 Qualification and selection.

(a) The selection of a consultant shall be based on comparative evaluations of the professional qualifications necessary for satisfactory performance of the services required, and the consideration of available consultants so qualified shall be deemed to satisfy requirements for competition.

(b) The State highway department shall have on file with the FHWA an approved and current statement of the procedures it uses:

(1) In determining the engagement of consultants to be necessary or desirable.

(2) In evaluating the qualifications of prospective consultants.

(3) In selecting a specific firm from those determined to be qualified with which to negotiate for the services desired.

(4) In monitoring work in progress under active agreements.

(c) The consultants shall be required to perform with his own organizations and associate consultants acceptable to the State and FHWA the professional services imposed the agreement. The consultant may utilize, with prior consent of the State highway department other firms to perform supplemental specialized services such as aerial and ground surveys, obtaining borings, making of exhibits, and other work or services.

### § 620.307 Compensation.

(a) Compensation to the consultant should represent a just and equitable payment for the services performed.

(b) The method of payment to compensate the consultant for all work required shall be set forth in the original agreement and in any supplemental agreements thereto.

(c) Methods of payment which may be used are as follows:

(1) Lump sum.

(2) Cost per unit of work.

(3) Cost plus a net fee amount.

(4) Specific rates of compensation. This method shall be considered only if all other methods have been found by the FHWA to be inappropriate.

(d) Consultant agreements providing that payment is to be based or adjusted on a prescribed percentage of estimated or actual construction costs, or based on actual engineering cost times a multiplier will not be accepted for Federal-aid reimbursement.

(e) The consultant's actual costs, direct and indirect, eligible for Federal participation in cost plus a net fee contracts shall be those allowable under the provisions of Subpart 1–15.2, Federal Procurement Regulations, Principles and Procedures for use in Cost-Reimbursement Type Supply and Research Contracts with Commercial Organizations, Title 41, Code of Federal Regulations, or State procurement regulations accepted by the FHWA.

(f) When the method of payment is other than a lump sum, the agreement shall specify an upper limit of compensation.

### § 620.309 Construction engineering services.

A consultant may be utilized for periodic examination and consultation or for full-time technical inspection of construction. However, the prime responsibility for general supervision of the construction remains with the State highway department. The State highway department (or county or city under agreement with the State highway department) cannot be relieved of its responsibility to insure that the work is performed in accordance with the approved project plans, specifications, and estimate. Therefore, a full-time publicly employed engineer must be assigned solely to that project.

### § 620.311 Content and approval of agreements.

(a) Proposed agreements for consultant services shall be submitted to the FHWA for review to insure that appropriate features are incorporated, that objectionable features or clauses are not included, and that the method of payment is proper and the amount reasonable.

(b) The agreement shall provide for reviews, at appropriate stages during performance of the work, by the State highway department and the FHWA. It shall also provide that the prospective consultant shall agree to establish a working office at a place acceptable to the State highway department and the FHWA for such review and discussion of the work as it progresses.

(c) The agreement shall provide that the consultant and his subcontractors are to maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred, and further, to make such materials available at their respective offices at all reasonable times during the contract period and for 3 years from the date of final payment under the contract. Such materials are to be available for inspection by authorized representatives of the State highway department or of the Federal Government, and copies thereof shall be furnished if requested.

(d) Agreements with consultants under the provisions of this directive shall not be approved by the FHWA unless a certification is executed by principal or authorized corporate official of the consultant retained for the Federal-aid project involved, to the effect that neither he nor his firm has:

(1) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for him or the consultant) to solicit or secure the agreement;

(2) Agreed, as an express or implied condition for obtaining the contract, to employ or retain the services of any firm or person in connection with carrying out the agreement, or

(3) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for him or the consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the agreement.

(e) Agreements with consultants under the provisions of this directive shall not be approved by the FHWA unless a certification is executed by principal administrative officer of the Government agency responsible for selection of the consultant and for administration of the agreement, to the effect that the consultant or his representative has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out the agreement to:

(1) Employ or retain, or agree to employ or retain, any firm or person, or

(2) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind.

### § 620.313 Alternative procedure.

(a) As an alternative to the procedures set forth elsewhere in this subpart:

(1) The State highway department, at its option, may obtain approval of the FHWA of an administrative plan under which the State highway department would certify the procedures by which consultants would be utilized to provide engineering services to be financed with Federal-aid primary, secondary, urban, or TOPICS funds; this administrative planning is not to be considered for engineering services to be financed with Federal-aid Interstate funds.

(2) To the extent a State highway department's plan is found acceptable by the Regional Federal Highway Administrator, FHWA approval of individual agreements or their supplements is not required. This alternative procedure may be approved for use in any State desiring to adopt it when the requirements specified in § 620.303(b) are found by the Regional Federal Highway Administrator to be satisfied. Until this procedure has been approved by the FHWA, the procedures set forth elsewhere in this

subpart are to continue in effect.

(b) The State highway department is to file a formal application with the FHWA for approval of the alternative procedure which shall include the State highway department's written procedures for:

(1) Selecting the consultant using the approved procedures for qualification and selection.

(2) Evaluating a proposal from the consultant selected.

(3) Determining that the agreement provisions are satisfactory.

(4) Determining that the method of payment is appropriate and the amount of proposed compensation to the consultant is reasonable, and

(5) Documenting the file regarding compliance in each case.

(c) The application shall also include statement signed by the chief administrative officer of the State highway department certifying that there shall be conformance with the provisions of this subpart and all applicable Federal and State laws and administrative requirements.

**§ 620.315 Changes or extra work.**

Supplemental agreements approved by FHWA, are required for any modification in the terms of the original agreement to provide for change or extra work.

[FR Doc.74-23434 Filed 10-8-74;8:45 am]

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## PART 630—PRECONSTRUCTION PROCEDURES

### Emergency Funds Procedures

A Federal-aid to highways directive of long-standing (PPM 23-1) has set forth provisions to establish policies and procedures relating to the administration of emergency funds for the restoration of roads and bridges damaged or destroyed by natural disasters of catastrophic failures and is intended to provide a contribution in aid to the States, their political subdivisions, or other organizations or agencies for relief from the unusual heavy expenses induced by such extraordinary conditions. 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 23-1 on Emergency Funds Procedures to Part 630, Subpart E of Chapter 1 of Title 23 of the Code of Federal Regulations.

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.

**Subpart E—Emergency Funds Procedures**

Sec.

630.501 Purpose.
630.502 Definitions.
630.503 Emergency funds.
630.504 Requirements.
630.505 Limitations.
630.506 Federal share payable.
630.507 Eligibility of work.
630.508 Submission of programs and allocation of funds.
630.509 Processing of emergency projects.
630.510 Expediting emergency projects.

AUTHORITY: 23 U.S.C. 120(f), 125, and 315.

### Subpart E—Emergency Funds Procedures

**§ 630.501 Purpose.**

This part outlines the procedures to be followed in the administration of emergency funds for the restoration of roads and bridges damaged or destroyed by natural disasters or catastrophic failures, including relocation where necessary, and is intended to provide a contribution in aid to the States, their political subdivisions, or other organizations or agencies for relief from the unusually heavy expenses induced by extraordinary conditions.

**§ 630.502 Definitions.**

The following definitions shall apply as used in this part:

(a) *Catastrophic failure*—A sudden failure of a major element of the highway system from any cause, natural or otherwise, which results in disastrous impact on transportation service or has disastrous financial impact on the State or local political unit by virtue of the great cost of replacement of the failed element.

(b) *Federal roads*—Forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads regardless of whether such road or trail is on any Federal-aid highway system.

(c) *Natural disaster*—Occurrences, such as severe floods, hurricanes, severe storms, tidal waves, earthquakes, or landslides, occurring over a wide area and causing substantial damage to the highway, road, or trail system.

(d) *Official State proclamation*—Declaration by the Governor of the affected State recognizing the gravity of the situation and the resultant damage to Federal-aid systems highways and bridges. The proclamation must be issued during or shortly subsequent to the occurrence of a natural disaster or catastrophic failure and specify the area affected by a natural disaster to establish that the damage is not confined to a purely local area.

(e) *Agency or organization*—Any agency, organization, or person having jurisdiction over Federal roads not on any Federal-aid highway system.

**§ 630.503 Emergency funds.**

(a) 23 U.S.C. section 125 authorizes an emergency fund each fiscal year for the repair or reconstruction of highways, roads, and trails which the Federal Highway Administrator has determined to have suffered serious damage as the result of:

(1) A natural disaster over a wide area, or

(2) A catastrophic failure from any cause in any part of the United States.

(b) Any unused portion of the fiscal appropriation remains available for expenditure during the next two succeeding fiscal years.

**§ 630.504 Requirements.**

(a) All proposed repair or reconstruction work must be located on a Federal-aid highway system to qualify for emergency funds, except when such work is on Federal roads.

(b) When sections of Federal roads not on the Federal-aid system are damaged or destroyed, an application for emergency funds to assist in the cost of necessary repair or reconstruction may be made by the agency or organization having official jurisdiction over such roads or trails. Such notice or application shall be submitted, unless other arrangements have been made, to the FHWA.

(c) The State Highway Department (SHD) shall make application for emergency funds for damages to the Federal-aid highway system without undue delay.

(d) With the exception of damages to Federal roads, no emergency funds expenditures shall be made for damages to the Federal-aid system unless the Governor of such State has issued an official State proclamation pursuant to § 630.502 (d).

**§ 630.505 Limitations.**

(a) Extraordinary floods are natural disasters: Where flooding occurs with frequency or regularity or results in relatively minor damage, emergency funds shall not be granted. Storms of unusual intensity occur over small areas in most of the States each year. The necessary repair of roads or bridges resulting from such storms is not eligible for emergency funds.

(b) Serious damage to highways, roads, or trails resulting from a catastrophic failure shall not be eligible for emergency relief funds for replacement costs where the failure is caused by gradual and progressive deterioration or lack of proper maintenance.

(c) Diligent efforts shall be made to recover losses from the legally responsible parties where damages result from causes such as collisions with ships, barge tows, and highway vehicles, including vehicles with loads heavier than legally allowable loads for crediting to the project cost.

**§ 630.506 Federal share payable.**

(a) The Federal share payable for any repair or reconstruction of highways on the Federal-aid systems, including the Interstate System:

(1) Shall not exceed 70 percent of the cost thereof; provided, that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved), exclusive of national forests and national parks and monuments exceeding 5 percent of the total area of

all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area; or

(2) May be increased to 100 percent of the replacement cost of a comparable facility upon the request of the State when concurred in by the Federal Highway Administrator if the increased payment would be in the public interest.

(b) The Federal share payable for any repair or reconstruction of Federal roads may equal 100 percent of the cost regardless of whether such highways or roads are on any Federal-aid system.

**§ 630.507 Eligibility of work.**

(a) Emergency funds may participate in:

(1) Repairs to or reconstruction of damaged facilities of the highway within the right-of-way limits. Control features for stream channels outside the highway right-of-way shall not be eligible for emergency funds unless:

(i) The public highway agency has responsibility for the maintenance and proper operation of the stream channel section, and

(ii) The control features are necessary to preserve satisfactory operation of the highway system involved.

(2) Relocation or rebuilding, including costs of right-of-way, at higher elevations and the extension, replacement, or raising of any bridges affected where clearly economically justified to prevent future recurring damage under similar conditions.

(3) Temporary operations, including emergency repairs undertaken during or immediately following the occurrence for the purpose of:

(i) Reducing the extent of the damage;

(ii) Protecting remaining facilities; or

(iii) Restoring travel.

(4) Preliminary engineering. If performed by consultants prior approval of the contract by FHWA is required.

(b) Temporary operations and preliminary engineering as set forth in § 630.507(a)(3) and (4), respectively, may proceed without prior program approval and authorization provided the need for such is subsequently approved by the FHWA. This work must be included in a program to provide a basis for reimbursement.

(c) Permanent restoration work shall not be performed prior to program approval and authorization by the FHWA unless performed as part of an emergency repair project.

(d) Replacement highway facilities having more traffic lanes than the destroyed facility are limited in emergency relief reimbursement to a share of the cost of a new facility to current design standards of comparable traffice capacity to the destroyed facility.

**§ 630.508 Submission of programs and allocation of funds.**

(a) The FHWA concurrence in the official State proclamation and approval of the State's application is the basis for emergency funds allocations. After the allocation of emergency funds, the State highway department shall promptly submit a detailed program of projects individually justified and prepared in accordance with Federal-aid highway program procedures to the FHWA for approval.

(b) Authorization letters permitting the State to proceed with an approved program of projects shall establish the obligation of Federal funds.

**§ 630.509 Processing of emergency projects.**

(a) For projects located on a Federal-aid system, processing shall be by the State Highway Department in accordance with normal procedures for Federal-aid highway projects.

(b) For eligible projects not located on a Federal-aid system, the surveys and plans, specifications, and estimates (PS&E) shall be prepared by:

(1) The agency or organization having jurisdiction over such roads; or

(2) The FHWA and the appropriate agency or organization.

(c) Work shall be undertaken by the contract method where feasible. Requirements of advertising for bids may be waived if:

(1) Such procedure is authorized by State or local law, and

(2) Bids are solicited from a reasonable number of contractors or material supply companies.

The FHWA shall approve any such waiver.

**§ 630.510 Expediting emergency projects.**

After the approval of programs, all programs shall be constructed promptly as delay in the construction of an approved emergency project may result in withdrawal of the project from the approved emergency program.

NORBERT T. TIEMANN,
*Federal Highway Administrator.*

[FR Doc.74-23430 Filed 10-8-74;8:45 am]

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## PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS

### Hydraulic Design of Highway Encroachment on Flood Plains; Erosion and Sediment Control

Federal Highway Administration's Chapter I of Title 23, Code of Federal Regulations is amended by adding thereto Part 650, Bridges, Structures and Hydraulics; Subpart A—Hydraulic Design of Highway Encroachment on Flood Plains and Subpart B—Erosion and Sediment Control on Highway Construction Projects.

Subpart A relates to the economical use of flood plains consistent with national environmental policies and the lessening of flood losses in connection with federally-financed improvements. Additionally, this part codifies the appropriate elements of the "Flood Hazard Evaluation Guidelines for Federal Executive Agencies," May 1972, published by the Water Resources Council. Subpart B relates to minimizing water pollution and soil erosion during highway construction.

The matters affected relate to grants, benefits, or programs within the purview of 5 U.S.C. 553(a)(2), therefore, general notice of proposed rulemaking is not required. Therefore, these regulations are effective on the date of issuance set forth below.

Issued on October 3, 1974.

J. R. COUPAL, Jr.,
*Deputy Administrator.*

**Subpart A—Hydraulic Design of Highway Encroachment on Flood Plains**

Sec.
650.101 Purpose.
650.103 Policy.
650.105 Definitions.
650.107 Design standards.
650.109 Studies and reports.
650.111 Federal participation in construction costs.

**Subpart B—Erosion and Sediment Control on Highway Construction Projects**

Sec.
650.201 Purpose.
650.203 Policy.
650.205 Definitions.
650.207 Plans, specifications, and estimates.
650.209 Construction.

AUTHORITY: 23 U.S.C. 315; 49 C.F.R. 1.48(b).

## Subpart A—Hydraulic Design of Highway Encroachment on Flood Plains

**§ 650.101 Purpose.**

The purpose of this subpart is to prescribe policies and procedures for hydraulic designs for highway projects constructed with Federal-aid funds and projects under the direct supervision of the Federal Highway Administration.

**§ 650.103 Policy.**

(a) It is the policy of the Federal Highway Administration to encourage a broad and unified effort to prevent uneconomic, hazardous or unnecessary use and development of the Nation's flood plains, and in particular to lessen the risk of flood losses in connection with federally-financed improvements; and to comply with the "Flood Hazard Evaluation Guidelines for Federal Executive Agencies," May 1972, published by the Water Resources Council.

(b) It is the policy of the Federal Highway Administration that, where practicable, highway locations shall avoid areas subject to flooding.

**§ 650.105 Definitions.**

(a) The term "basic flood" shall mean the 100-year flood.

(b) The term "conveyance of the basic flood" shall mean the ability to accommodate passage of the 100-year flood.

(1) Conveyance may be through structures or both through structures and over the highway.

(2) Conveyance along a highway may include inundation of the highway.

(c) The term "design flood" shal' mean the peak discharge, volume (if appropriate), and stage or wave crest elevation of the flood associated with the recurrence interval selected for the design of a high-

way encroachment on a flood plain. By definition, the highway will not be subjected to inundation from the stage of design flood.

(d) The term "flood plain" shall mean (1) the valley area adjacent to a stream or river subject to overflow, (2) an area adjacent to a lake, an estuary, an ocean, or similar body of water subject to high tides, surges, tsunamis, or any combination of these; or (3) an area where the path of the next flood flow is unpredictable, as in a debris cone, an alluvial cone or fan, a debris slope, or a talus.

(e) The term "encroachment" shall mean a highway and/or appurtenant feature within the limits of a flood plain.

**§ 650.107 Design standards.**

(a) Where encroachment on a flood plain is necessary, an evaluation, using the basic flood, shall be made of the flood hazard to the highway, and the effect of the proposed highway on the flood hazard to other property, stream stability, and the stream and flood plain environment.

(b) All highways that encroach on flood plains, bodies of water or streams shall be designed to permit conveyance of the basic flood without causing significant damage to the highway, the stream, body of water, or other property.

(c) At each location where the highway will encroach upon a flood plain, project plans shall show (1) the magnitude, frequency, and water surface elevations for the design flood and the basic flood, if different from the design flood, and (2) the magnitude, water surface elevations and date of occurrence of the flood of record, if greater than the basic flood.

(d) The effects of existing flood control channels, levees, and reservoirs shall be considered in estimating the peak discharge and stage for all floods considered in the design.

(e) All highways on the Interstate System that encroach on flood plains shall be designed to avoid inundation of the highway from floods at least as great as the 50-year flood.

(f) Buildings, waste treatment facilities and other high cost installations or potential major source of pollution for highway rest areas shall be located outside the flood plain or flood proofed against damage from the basic flood.

(g) Where highway fills are to be used to form dams or levees, appropriate permits, with regard to water rights, impoundments, and diversions shall be obtained. Prior to authorization by the Division Engineer, the hydrologic, hydraulic, and structural design of the fill and appurtenant spillways, shall have the approval of the State or Federal agency responsible for the safety of dams or like structures within the State.

**§ 650.109 Studies and reports.**

(a) Reports shall be prepared by the State highway department or its agent showing (1) hydrologic and hydraulic data and design computations, (2) the analysis of the highway effect on stream stability, and (3) the favorable or adverse effects on the stream environment.

(b) The reports and design computations shall be retained in the highway agency's permanent design files for the project, and upon request made available to the Federal Highway Administration for review. Copies of these reports shall accompany preliminary plans which require regional or Washington office approval.

(c) The reports shall be commensurate with the importance of the structure and the risk to life and property. Less comprehensive reports are appropriate for encroachments on minor streams and at locations where the risk of property damage or loss of the highway is small.

**§ 650.111 Federal participation in construction costs.**

Federal-aid participation in cooperative projects using the highway fill to provide for flood control or water resource development will be limited to the pro rata share of the estimated cost to construct the highway only.

**Subpart B—Erosion and Sediment Control on Highway Construction Projects**

**§ 650.201 Purpose.**

The purpose of this subpart is to prescribe policies and procedures for the control of erosion, abatement of water pollution and prevention of damage by sediment deposition from Federal-aid highway projections and projects under the direct control of the Federal Highway Highway Administration.

**§ 650.203 Policy.**

It is the policy of the Federal Highway Administration (FHWA) that Federal-aid highways and highways constructed under the direct supervision of FHWA shall be located, designed, constructed and operated according to standards that will minimize erosion and sediment damage to the highway and adjacent properties and abate pollution of surface and ground water resources.

**§ 650.205 Definitions.**

(a) Erosion control measures are installations used to inhibit dislodging of soil particles by water or wind.

(b) Sediment control measures are installations used to inhibit dislodging of remove settleable sediments from surface runoff.

(c) Permanent erosion and sediment control measures are installations which remain in place and in service on completion of the construction project.

(d) Temporary erosion or sediment control measures are installations used on an interim basis during construction.

(e) Pollutants are substances, including sediment, which cause deterioration of water quality when added to surface or ground waters in sufficient quantity.

**§ 650.207 Plans, specifications and estimates.**

(a) Emphasis shall be placed on erosion control in the preparation of plans, specifications and estimates.

(b) All reasonable steps shall be taken to insure that highway project designs for the control of erosion and sedimentation and the protection of water quality comply with applicable standards and regulations of other agencies.

**§ 650.209 Construction.**

(a) Permanent erosion and sediment control measures shall be installed at the earliest practicable time consistent with good construction practices.

(b) Temporary erosion and sediment control measures shall be coordinated with permanent measures to assure economical, effective and continuous control throughout the construction phase. Temporary measures shall not be constructed for expediency in lieu of permanent measures specified in the contract.

(c) Erosion and sediment control measures shall be adequately maintained to perform their intended function during construction of the project.

(d) Erosion and sediment control measures necessary because of contractor negligence, carelessness or failure to install contract measures as scheduled shall be installed at no cost to Federal-aid funds.

(e) Pollutants used during highway construction or operation and material from sediment traps shall not be stockpiled or disposed of in a manner which makes them susceptible to being washed into any watercourse by runoff or high water. No pollutants shall be deposited or disposed of in watercourses.

[FR Doc.74-23432 Filed 10-8-74;8:45 am]

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## PART 660—SPECIAL PROGRAMS (DIRECT FEDERAL)

### Forest Highway Systems

The Federal Highway Administration is amending Part 660, Subchapter G, Chapter I of Title 23, Code of Federal Regulations by adding a new Subpart B—Forest Highway Systems.

A Federal Highway Administration directive (PPM 10-2) setting forth policies and procedures relating to Forest Highway Systems has been revised for inclusion in the Federal-Aid Highway Program Manual. Inasmuch as portions of the Manual addition provide information for and impose obligations on the various States which must be complied with, these portions are hereby published.

This regulation converts Policy and Procedures Memorandum 10-2 to Part 660, Subpart B, Chapter I of Title 23, Code of Federal Regulations.

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 October 4, 1974.

J. R. COUPAL, Jr.,
*Deputy Administrator.*

Subpart B—Forest Highway Systems

Sec.
660.201 Purpose.
660.203 System and classes.
660.205 System numbering.
660.207 System mileage.
660.209 System modifications—major.
660.211 System modifications—minor.
660.213 System reporting.

AUTHORITY: 23 U.S.C. 204, 315; 49 C.F.R. 148(b).

## Subpart B—Forest Highway Systems

### § 660.201 Purpose.

The purpose of this subpart is to prescribe policies and procedures with respect to Forest Highway Systems in coordination with 23 CFR, Part 660, Subpart A.

### § 660.203 System and classes

(a) The Forest Highway System is composed of Forest Roads which have been designated as Forest Highways.

(b) There are two classes of Forest Highways:

(1) Class 1 must be on the Federal-aid primary system (includes Interstate).

(2) Class 2 must be on the Federal-aid secondary system.

### § 660.205 System numbering.

Each Forest Highway route is to be designated by number and name. The numbering is to be consecutive within each State and no number is to be used more than once within each State. All other road system designations and numbers are to be disregarded in numbering Forest Highway routes. The route name is to be either the generally accepted local name, or the names of communities located near the termini of the route.

### § 660.207 System mileage.

Mileage of routes will be determined for record as follows:

(a) Measured to the nearest one-tenth mile for sections having a travelable road.

(b) Estimated to the nearest whole mile for sections not have a travelable road.

(c) Where mileage of a Forest Highway is divided into more than one classification, the termini of each class are to be described and the corresponding mileage is to be given.

### § 660.209 System modifications—major.

(a) A major modification to the Forest Highway System is the addition of a proposed route, the deletion of an approved route, or a substantial change in the termini, length, or intermediate location between approved termini. A substantial change in length is considered to be a change of one mile or more.

(b) A major modification to the Forest Highway System may be proposed by the State highway department, the Regional Forester, or the Division Engineer. When the proposed major modification has been agreed upon by the State highway department, the Regional Forester, the Regional Federal Highway Administrator, and the Division Engineer, their joint recommendation shall be submitted to the Federal Highway Administrator and the Chief of the Forest Service (FS) for approval.

(c) The joint recommendation for a major modification shall be submitted in letter form and shall include at least the following: forest highway route number, highway name, location description, approximate length, class, highway numproximate length, class, highway number (F.A., State, or U.S.), and a summary of the mileage of the system including the changes recommended in the joint recommendation.

### § 660.211 System modifications—minor.

(a) A minor modification is any change other than a major modification, including changes in classification brought about by Federal-aid systems changes. Minor modifications may be proposed by the State highway department, the Regional Forester, or the Division Engineer. When the proposed minor modification has been agreed upon by the State highway department, the Regional Forester, and the Division Engineer, the Division Engineer may approve the proposal.

(b) The approved minor modification shall be submitted in letter form and shall include, in addition to a statement of justification and appropriate maps, at least the following: forest highway route number, highway name, location description, approximate length, class, higsway number (F.A., State, or U.S.), and a summary of the mileage of the system including the changes recommended in the joint recommendation.

### § 660.213 System reporting.

Not later than July 15 of each year, a listing of the approved Forest Highway system as of June 30 shall be submitted by the State highway department. A mileage summary by class shall be shown on this listing.

[FR Doc.74-23429 Filed 10-8-74;8:45 am]

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## 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-377]

## 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 |
|---|---|---|---|---|---|---|
| * | * | * | * | * | * | * |
| Georgia | Polk | Unincorporated areas | Oct. 7, 1974, Emergency | | | |
| Missouri | Platte | Edgerton, city of | do | | | |
| Ohio | Franklin | Whitehall, city of | do | Feb. 15, 1974 | | |
| South Carolina | Pickens | Pickens, town of | do | June 7, 1974 | | |
| Texas | San Patricio | Portland, city of | do | Jan. 1, 1974 | | |
| Do | Willacy | Raymondville, city of | do | June 14, 1974 | | |
| Wisconsin | Columbia | Columbus, city of | do | Dec. 17, 1973 | | |

(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, Public Law 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 30, 1974.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.74-23414 Filed 10-8-74;8:45 am]

[Docket No. FI-378]

## 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 |
|---|---|---|---|---|---|---|
| * | * | * | * | * | * | * |
| California | Los Angeles | Claremont, city of | Oct. 3, 1974. Emergency | May 24, 1974 | | |
| Connecticut | Litchfield | Salisbury, town of | do | June 28, 1974 | | |
| Florida | Palm Beach | Juno Beach, town of | do | Jan. 16, 1974 | | |
| Iowa | Clayton | Elkader, city of | do | | | |
| Kansas | Labette | Parsons, city of | do | Feb. 1, 1974 | | |
| Massachusetts | Berkshire | Lee, town of | do | Mar. 22, 1974 | | |
| Michigan | Ontonagon | Ontonagon, township of | do | May 24, 1974 | | |
| Nebraska | Madison | Meadow Grove, village of | do | | | |
| New York | Steuben | North Hornell, village of | do | | | |
| Ohio | Lawrence | Ironton, city of | do | Feb. 15, 1974 | | |
| Pennsylvania | do | Ellwood City, borough of | do | May 31, 1974 | | |
| Texas | Tarrant | Grapevine, city of | do | June 28, 1974 | | |
| Do | Bexar | Hollywood Park, town of | do | Apr. 12, 1974 | | |
| Washington | Thurston | Olympia, city of | do | June 28, 1974 | | |
| West Virginia | Cabell | Milton, town of | do | May 31, 1974 | | |

(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, Public Law 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 27, 1974.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.74-23413 Filed 10-8-74;8:45 am]

## Title 33—Navigation and Navigable Waters

## CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74-237]

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

### Black River, S.C.

This amendment revokes the regulations for the South Carolina State Highway Department at Brown's Ferry near Rhems, South Carolina, on State Route 51 because this bridge has been removed.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking subparagraph (ii) of subparagraph (14) of paragraph (g) of § 117.245.

This revocation shall be effective on October 8, 1974.

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

Dated: October 3, 1974.

R. I. PRICE,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.74-23556 Filed 10-8-74;8:45 am]

[CGD 74-231]

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

### Bayou Bienvenue, La.

This amendment revokes the regulations for the swing bridge across Bayou Bienvenue at mile 9.8 because this bridge has been removed.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking subparagraph (24) of paragraph (i) of § 117.245.

This revocation shall be effective on October 8, 1974.

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

Dated: October 3, 1974.

R. I. PRICE,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.74-23555 Filed 10-8-74;8:45 am]

[CGD 74-232]

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

### Bayou D'Inde, La.

This amendment revokes the regulations for the Calcasieu Parish Police Jury bridge between Lake Charles and Sulphur, Louisiana, on old State Route 382 because this bridge has been removed.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revoking subparagraph (21) of paragraph (j) of § 117.245.

This revocation shall be effective on October 8, 1974.

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

Dated: October 3, 1974.

R. I. PRICE,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.74-23554 Filed 10-8-74;8:45 am]

[CGD 74-117]

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

### Lake Worth, A.I.W.W., Florida

This amendment changes the regulations for the Southern Boulevard bridge across the Atlantic Intracoastal Waterway at Palm Beach to allow closed periods during the times of the morning and evening vehicular traffic rush hours, Monday through Friday, except holidays. This amendment was circulated as a public notice dated May 24, 1974 by the Commander, Seventh Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGD 74-117) on May 22, 1974 (39 FR 17977). Six replies were received. Two had no objection. One discussed the maintenance of clearance gauges, which is not germane to the proposal. One recommended the inclusion of commercial vessels, however, it is felt that the present inclusion of tugs with tows adequately meets this recommendation. Two objected to the proposal and recommended that the draw open every 15 minutes if any vessels are waiting to pass. It is the Coast Guard's position that

the regulations, as proposed, will provide for the reasonable needs of navigation. The Commander, Seventh Coast Guard District, will closely monitor this matter and if further amendments are indicated he will recommend whatever changes he feels are needed to the Commandant for whatever action he deems appropriate.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations, is amended by adding a new § 117.440a immediately after § 117.440 to read as follows:

**§ 117.440a Southern Boulevard bridge, A.I.W.W., Palm Beach, Fla.**

(a) The draw shall open on signal except that from 7:30 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m., Monday through Friday, except Federal and State holidays, the draw need not open for the passage of vessels. However, the draw shall open at 8:15 a.m. and 5:30 p.m. if any vessels are waiting to pass.

(b) The draw shall open at any time to allow the passage of public vessels of the United States, tugs with tows, and vessels in distress. The opening signal from these vessels is four blasts of a whistle, horn, or by shouting.

(c) The owner of or agency controlling the bridge shall place conspicuously on both sides of the bridge, signs of such size that they can easily be read at any time from an approaching vessel, clearly indicating the nature of these regulations.

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

*Effective date.* This revision shall become effective on November 12, 1974.

Dated: October 3, 1974.

R. I. PRICE,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.74-23552 Filed 10-8-74;8:45 am]

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[CGD 74-115]

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

### New River Sound and Stranahan River, Fla.

This amendment changes the regulations for the Las Olas Boulevard bridge across the A.I.W.W., mile 347, at Fort Lauderdale, Florida, to require that the draw open on signal. This amendment was circulated as a public notice dated April 24, 1974 by the Commander, Seventh Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rulemaking (CGD74-115) on April 22, 1974 (39 FR 14216). Five responses were received. Three supported the proposal and one had no objection. One opposed the proposal, however, the Coast Guard feels that this change is necessary if conditions change significantly, this regulation may be changed at that time.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.446 (a) and (b), and deleting paragraph (c) as follows:

**§ 117.446 New River Sound and Stranahan River (Intercoastal Waterway), Fort Lauderdale, Fla., bridges.**

(a) East Las Olas Boulevard Bridge across New River Sound. The draw shall open promptly on signal.

(b) Sunrise Boulevard Bridge across New River Sound.

(1) From November 15 through May 15 the draw need not open from 7:15 a.m. to 6:15 p.m. except on the quarter hour and three quarters hour. At all other times the draw shall open on signal.

(2) Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at any time upon a signal of four short blasts of a whistle, horn, or by shouting.

(c) [Deleted]

* * * * *

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

*Effective date.* This revision shall become effective on November 12, 1974.

Dated: October 3, 1974.

R. I. PRICE,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.74-23553 Filed 10-8-74;8:45 am]

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## Title 41—Public Contracts and Property Management

## CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

### MISCELLANEOUS AMENDMENTS

This change to the General Services Administration Procurement Regulations (GSPR) is to (i) update and transfer the procedures concerning contract administration from Chapter 5, GSPR, to Chapter 5A, GSPR, and (ii) provides updated regulation references and contract clauses regarding renegotiation and classified information.

## PART 5A-7—CONTRACT CLAUSES

The table of contents for Part 5A-7 is amended to delete § 5A-7.000, General, and to add the following new entries:

Sec.
5A-7.102-80 Renegotiation.
5A-7.103-51 Disposition of production samples.
5A-7.103-93 Classified information.

### Subpart 5A-7.1—Fixed-Price Supply Contracts

**§ 5A-7.000 [Deleted]**

1. Section 5A-7.000 is deleted.

2. Section 5A-7.102-74 is revised as follows:

**§ 5A-7.102-74 Patent indemnification.**

The Patent Indemnity clause in § 5A-9.150 (included in GSA Form 1424) shall be included in all contracts in excess of $5000.

3. Section 5A-7.102-80 is added as follows:

**§ 5A-7.102-80 Renegotiation.**

The Renegotiation clause in § 5A-53.802(a) shall be included in all contracts subject to the Renegotiation Act of 1951. This clause and the applicability statement prescribed in § 5A-53.802(b) is included in GSA Form 1424.

4. Section 5A-7.103-3 is revised as follows:

**§ 5A-7.103-3 Examination of records by Comptroller General.**

In addition to the Examination of Records by Comptroller General clause in Standard Form 32, General Provisions (Supply Contract), the Examination of Records by GSA clause in § 5A-53.304 (included in GSA Form 1424) shall be included in those types of contracts listed in § 5A-53.303.

5. Section 5A-7.103-51 is added as follows:

**§ 5A-7.103-51 Dispostion of production samples.**

The following provision may be used in solicitations which specify source inspection if prior difficulties have been experienced with suppliers in the disposition of production samples, and testing is to be conducted at a Government facility.

DISPOSITION OF PRODUCTION SAMPLES

Production samples sent to a Government testing facility, will be disposed of in the following manner: Samples from an accepted lot, not damaged in the testing process, shall be returned promptly to the Contractor after completion of tests. Samples destroyed in the testing process shall be disposed of as requested by the Contractor. Samples from a rejected lot shall be returned to the Contractor or disposed of in the manner requested by the Contractor. (End of Provision)

6. Section 5A-7.103-76 is revised as follows:

**§ 5A-7.103-76 Patents, royalty payments, and copyrights.**

Instructions for the use of clauses relative to patents, royalty payments, and copyrights are contained in Part 5A-9.

7. Section 5A-7.103-93 is added as follows:

**§ 5A-7.103-93 Classified information.**

Except as provided in § 5A-53.203(b), contracts involving the release of classified information shall include the clause in § 5A-53.203(a).

## PART 5A-53—CONTRACT ADMINISTRATION

The table of contents for Part 5A-53 is revised as follows:

Sec.
5A-53.000 Scope of part.

Subpart 5A–53.1—General

5A–53.101 Definition.
5A–53.102 Elements of contract administration.
5A–53.103 Authority and responsibility.

Subpart 5A–53.2—Classified Information Involved in GSA Contracts

5A–53.201 General.
5A–53.202 Requests for release of classified information.
5A–53.202–1 Authorization for release.
5A–53.202–2 Termination of authorization for release.
5A–53.203 Security Requirements clause.
5A–53.204 Processing security requirements checklist (DD Form 254).
5A–53.205 Periodic review.
5A–53.206 Recurring procurement.
5A–53.207 Control of classified information.
5A–53.207–1 Records.
5A–53.207–2 Markings.
5A–53.208 Return of classified information to GSA.
5A–53.208–1 Return from prospective contractors.
5A–53.208–2 Return from contractors.
5A–53.208–3 Termination, revocation, or inactivation of facility security clearance.
5A–53.209 Breaches of security.

Subpart 5A–53.3—Audit of Contractors' Records

5A–53.301 General.
5A–53.302 Purpose of audit.
5A–53.303 Types of contracts subject to audit.
5A–53.304 Contract clause.
5A–53.305 Payments under contracts subject to audit.
5A–53.305–1 General.
5A–53.305–2 Submission and processing of invoices or vouchers.
5A–53.305–3 Action upon receipt of an audit report.
5A–53.305–4 Suspensions and disapprovals of amounts claimed.
5A–53.306 Additional internal controls.
5A–53.307 Deviation.

Subpart 5A–53.4—Contract Performance

5A–53.401 General.
5A–53.402 Contractor performance under supply or service contracts.
5A–53.403 Performance records.
5A–53.404 Request for earlier or deferred contract performance.
5A–53.470 Monitoring.
5A–53.471 Expediting.
5A–53.471–1 General.
5A–53.471–2 Nonstock and stock direct delivery orders.
5A–53.471–3 Stock replenishment orders.
5A–53.471–4 Stock availability improvement assistance.
5A–53.472 Use and issuance of preliminary notice of default.
5A–53.473 Use of GSA Form 1679, Contract Administration.

Subpart 5A–53.6—Disputes

5A–53.601 General.
5A–53.602 Appeals.

Subpart 5A–53.8—Renegotiation

5A–53.801 General.
5A–53.802 Contract clause.
5A–53.803 Exemptions by statute.
5A–53.804 National defense considerations.
5A–53.804–1 Determinations by the Renegotiation Board.
5A–53.804–2 Determinations by GSA.
5A–53.804–3 Individual prime contracts.
5A–53.805 Exemptions by the Renegotiation Board.
5A–53.805–1 Exempted classes of contracts.
5A–53.805–2 Contracts exempt subject to prescribed conditions.
5A–53.805–3 Subcontracts exempted by the Renegotiation Board.
5A–53.806 Notification required.


## Subpart 5A–53.1—General

1. Section 5A–53.102 is revised as follows:

### § 5A–53.102 Elements of contract administration.

(a) Monitoring progress of, and providing advice to contractors regarding contractual requirements and limitations; ensuring that contractors meet delivery or performance schedules in accordance with the terms of the contract and taking appropriate action with respect to delinquent contract performance; evaluating work and material rejection reports; determining the extent of deviation from contractual requirements; and directing proper disposition of rejected material, including replacement or repair action; or negotiating an equitable price reduction.

(b) Ensuring control of Government-furnished property in possession of contractors and, in cases of loss or destruction of or damage to Government property, determining liability of the contractor; enforcing proper maintenance and protection of Government-owned facilities used by a contractor.

(c) Determining the adjustment action required when discrepancies in shipments are involved.

(d) Determining whether the contractor has complied with applicable contract clauses such as those relating to patent rights, subcontracting with small business, reporting of royalties, and reporting of orders received and shipments made.

(e) Reporting and investigating observed violations of labor regulations, Executive orders, statutes and other law; e.g. nondiscrimination in employment, Walsh-Healey Public Contracts Act, Davis-Bacon Act, Copeland (Anti-Kickback) Act, and the Eight-Hour Laws; determining whether the contractor has complied with requirements for submission of payrolls; and periodic technical or progress reports.

(f) Ensuring the coordination of efforts of specialists in fields such as legal, finance, audit, production, quality control, transportation, or engineering.

(g) Coordinating with legal, technical, and requisitioning personnel requests for deviations from contract terms or specifications proposed by contractors; reviewing quotations or proposals submitted by contractors as a result of needed contract changes and negotiating revisions in price within prescribed monetary limitations; initiating action to modify contracts to provide for changes in packing and packaging, subcontracting, diversion of shipments, price adjustments, specifications, and delivery or performance dates, and for engineering changes.

(h) Rendering decisions (by the contracting officer) based upon findings of fact in cases of dispute between the Government and the contractor.

(i) Reviewing contractor's proposals for price redetermination, negotiating revisions in price, and accomplishing necessary contractual changes to reflect agreements reached.

(j) Administering progress and advance payments.

(k) Determining that contractor's costs incurred under cost-type contracts represent prudent business transactions and are necessary for the accomplishment of the contract objectives. This may include approving or disapproving actions such as issuance of subcontracts and purchase orders, and approving or disapproving payment for overhead or fixed-fees.

(l) Safeguarding classified information.

2. Section 5A–53.103 is amended as follows:

### § 5A–53.103 Authority and responsibility.

(a) The contracting officer is the Government agent with whom authority is vested to enter into and administer contracts. All contracting and related actions flow from the contracting officer's authority, either directly or through authorized representatives (See § 5A–1.404–70 and Subpart 5A–1.53.) The quality assurance specialist (QAS) of the Quality Control Division is responsible for providing quality control and field contract administration on contracts and orders if the contract specifies origin inspection, or when field contract administration on contracts or orders which do not designate origin inspection has been requested by the contracting officer. In these cases, the QAS is responsible for initiating or requesting necessary action to ensure full compliance with all terms of the contract and for keeping the contracting officer advised of the status of the contract. Aggressive contract administration is essential to ensure timely contract performance.

* * * * *

(c) Where contracts have been established to cover the particular requirements of another GSA office and the performance of the contract is an integral part of the program mission of the service or staff office for which the contract was established, the contracting officer may delegate the authority for contract administration to activities or individuals designated by the requiring office, if requested. However, basic responsibility for adequate contract arrangements and final action concerning matters such as disputes, terminations, etc., shall be retained by the contracting officer.

Subpart 5A–53.2 is added as follows:

## Subpart 5A–53.2—Classified Information Involved in GSA Contracts

### § 5A–53.201 General.

(a) This subpart prescribes procedures for safeguarding classified information required to be disclosed to contractors

in connection with the solicitation of bids and offers, and the award, performance, and termination of contracts. As used in this subpart, the term "contractor(s)" includes prospective contractors, contractors, subcontractors, vendors, and suppliers of any tier.

(b) The provisions of this subpart implements and are based on the requirements of the Department of Defense Industrial Security Regulations and the Department of Defense Industrial Security Manual for Safeguarding Classified Information. By agreement, the Department of Defense will act for and in behalf of GSA in rendering security services required for safeguarding classified information released by GSA to United States (U.S.) industry.

(c) As used in this subpart, the term "U.S. industry" pertains to those industries (including educational and research institutions) located within the United States, its possessions, and the Commonwealth of Puerto Rico.

### § 5A–53.202 Requests for release of classified information.

Prior to entering into discussion, negotiation, or solicitation of bids for contracts involving the disclosure of classified information, the contracting officer shall prepare, in duplicate, Section I of GSA Form 1720, Request for Release of Classified Information to U.S. Industry (illustrated in § 5A–16.950–1720). After signing as requesting officer and obtaining approval from his immediate supervisor, he shall forward both copies to the GSA Security Officer.

### § 5A–53.202–1 Authorization for release.

The GSA Security Officer, after determining that the contractor has been issued a Department of Defense facility security clearance, shall complete the appropriate parts of Section II, GSA Form 1720, and return one copy to the contracting officer. Under no circumstances shall classified information be disclosed or made accessible to any contractor until the completed form has been received from the GSA Security Officer. Where only Item 14b, Section II, of the form has been checked, the contracting officer shall be guided in his actions by the instructions on the reverse side of the form. In the event that a contractor is found to be ineligible for security clearance, the GSA Security Officer shall advise the contracting officer.

### § 5A–53.202–2 Termination of authorization for release.

Where information develops that a clearance should be withdrawn or revoked, the GSA Security Officer shall advise the contracting officer of the termination of authorization to release classified information. This shall include instructions concerning actions to take to safeguard, withhold, or obtain return of classified information. Reasons for such termination may include:

(a) Failure of the contractor to maintain the physical standards required by the Industrial Security Manual for Safeguarding Classified Information.

(b) Information indicating the contractor should no longer be eligible for clearance.

(c) The contractor no longer requires access to classified information.

### § 5A–53.203 Security requirements clause.

(a) All fixed price supply contracts involving the release of classified information shall include the following clause.

SECURITY REQUIREMENTS

(a) The provisions of this clause shall apply to the extent that this contract involves access to information classified "Confidential," including "Confidential—Modified Handling Authorized," or higher.

(b) The Government shall notify the Contractor of the security classifications of this contract and the elements thereof, and of any subsequent revisions in such security classification, by the use of Security Requirements Check List (DD Form 254), or other written notification.

(c) To the extent the Government has indicated as of the date of this contract or thereafter indicates security classification under this contract as provided in paragraph (b), above, the Contractor shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within his own organization in accordance with the requirements of:

(1) The Security Agreement (DD Form 441), including the Department of Defense Industrial Security Manual for Safeguarding Classified Information as in effect on the date of this contract, and any modification to the Security Agreement for the purpose of adapting the Manual to the Contractor's business; and

(2) Any amendments to said Manual made after the date of this contract, notice of which has been furnished to the Contractor by the Security Office of the Military Department having security cognizance over the facility.

(d) Representatives of the Military Department having security cognizance over the facility and representatives of General Services Administration shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the Contractor in complying with the security requirements under this contract. Should the Government, through these representatives, determine that the Contractor is not complying with the security requirements of this contract the Contractor shall be informed in writing by the Security Office of the cognizant Military Department or the General Services Administration of the proper action to be taken in order to effect compliance with such requirements.

(e) If, subsequent to the date of this contract, the security classifications or security requirements under this contract are changed by the Government as provided in this clause and the security costs under this contract are thereby increased or decreased, the contract price shall be subject to an equitable adjustment by reason of such increased or decreased costs. Any equitable adjustment shall be accomplished in the same manner as if such changes were directed under the "Changes" clause in this contract.

(f) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (f) but excluding the last sentence of paragraph (e) of this clause.

(g) The Contractor also agrees that he shall determine that any subcontractor proposed by him for the furnishing of supplies and services which will involve access to classified information in the Contractor's custody has been granted an appropriate facility security clearance, which is still in effect, prior to being accorded access to such classified information. (End of Clause)

(b) Cost reimbursement type contracts shall contain the clause set forth in (a) above, except that paragraphs (e) and (f) shall be deleted therefrom and the following paragraphs (e) and (f) substituted therefor:

(e) If, subsequent to the date of this contract, the security classifications or security requirements under this contract are changed by the Government as provided in this clause, and if such change causes an increase or decrease in the estimated cost of performance of this contract, the estimated cost and fixed fee shall, to the extent appropriate, be subject to an equitable adjustment. Any such equitable adjustment shall be accomplished in the manner set forth in the "Changes" clause in this contract.

(f) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified information, provisions which shall conform substantially to the language of this clause, including this paragraph (f) but excluding paragraph (e) of this clause. The Contractor may insert in any such subcontract, and any such subcontract entered into thereunder may contain, in lieu of paragraph (e) of this clause, provisions which permit equitable adjustments to be made in the subcontract price or in the estimated cost and fixed fee of the subcontract (as appropriate to the type of subcontract involved) on account of changes in security classifications or requirements made under the provisions of this clause subsequent to the date of the subcontract involved.

### § 5A–53.204 Processing security requirements checklist (DD Form 254).

(a) Contracts involving access to classified information by the contractor require preparation of DD Form 254, Contract Security Classification Specification (illustrated in 5A–16.951–254), to identify and indicate to DoD and contractors the areas of classified information involved. In the case of contracts for research, consultant service, graphic arts service, or other procurement of services a written notice of classification may be used in lieu thereof.

(b) Below are instructions for completing each item on the DD Form 254. The GSA contracting officer is responsible only for the preparation of DD Forms 254 that are issued to the prime contractor. Those issued to subcontractors are the responsibility of the prime contractor. Since, however, GSA has a review and distribution responsibility for DD Forms 254 that are issued to subcontractors, instructions for completing those items on the DD Form 254 as they apply to subcontractors are also included. Each item of the DD Form 254 is to be completed; N/A should be shown for items that are not applicable.

(1) Item 1: Enter as appropriate, Top Secret, Secret, or Confidential.

(2) Item 2: Check either a, b, or c as appropriate.

(3) Item 3: Enter the complete identifying number and the completion date in a or b. If item 3c is used, enter the appropriate data identifying the Request for Proposal (RFP), Request for Quote (RFQ), or Invitation for Bid (IFB).

(4) Item 4: Enter a, b, or c as applicable.

(5) Item 5: If the DD Form 254 is not for a follow-on contract, check block "Does Not Apply." If the DD Form 254 is for a follow-on contract, enter the preceding contract identification number from which this contract evolved and its completion date.

(6) Item 6: If there is a prime contract complete items a and b to show the complete name and address of the prime contractor's facility that will receive classified information in the performance of the prime contract identified in item 3a and the cognizant security office of that facility. If there is no prime contract and item 3c is completed, enter instead in items 6a and 6b the name and address of the contractor's facility to which the DD Form 254 is to be sent in connection with the RFP, RFQ, or IFB, or GSA program as described in 5A–53.201 and the cognizant security office of that facility. The identity of the cognizant security office is obtainable from Section II of the GSA Form 1720.

(7) Item 7: If there is a first tier subcontract, complete items a and b to show the complete name and address of that subcontractor's facility that will receive classified information in performance of the subcontract listed in item 3b. If there is no first tier subcontract and item 3c is completed, enter instead the name and address of the subcontractor's facility to which the DD Form 254 is to be sent in connection with the RFP, RFQ, IFB, and the cognizant security office of that facility.

(8) Item 8: List in the proper order of succession beginning with the second tier, the subcontract identification number and the complete name and address of the subcontractor of each successive tier down to and including the subcontractor facility for which the DD Form 254 is being provided, and the cognizant security office of such last facility. If item 3c is completed, the last entry should be the name and address of the subcontractor facility to which the particular DD Form 254 is to be sent in connection with RFP, RFQ, or IFB, and the cognizant security office of such facility.

(9) Item 9: Under item a, include a brief unclassified statement or notation of sufficient information to identify the nature of the procurement or program. If an unclassified notation cannot be made, enter word "classified." Under item b check "no." (If a case arises where the contracting officer believes item b should be checked "yes," the Director, Security Division should be contacted for further guidance.)

(10) Item 10: Check the appropriate box for each item listed. Use the "Remarks" column to elaborate as necessary. When either the Restricted Data, Cryptographic Information, or Communication Analysis Information block is checked "yes," identify the applicable classification guide pertinent to the contract or attach them to the DD Form 254. If these extracts are classified, forward them by separate correspondence. If it is necessary to check "yes" to the Defense Documentation Center of Defense Information Analysis Center services, coordination should be effected with the GSA Security Officer.

(11) Item 11: Enter the name, address, telephone number, and office symbol of the GSA official to whom inquiries pertaining to classification guidance determinations or interpretations for this contract or program are to be directed. (This item must be completed even if the official is the same as the official identified in item 14.) In first tier subcontracting situations, show the name, address, and telephone number of the responsible official in the facility of the prime contractor listed in item 6a. In subcontracting situations beyond the first tier, show the name, address, and telephone number of the responsible official in the subcontractor facility listed in item 3b or item 8, as appropriate, to whom inquiries pertaining to classification guidance determinations or interpretations for the subcontract are to be directed.

(12) Item 12: Strike through "Direct" and "Through" boxes and enter "To: Director, Security Division (BIS), General Services Administration, Washington, D.C. 20405."

(13) Item 13:

(i) This item provides the necessary security classification specifications for the contract. The specification must elaborate and explain sufficiently to clearly identify the areas and specific information within those areas that require classification. The guidance must be accompanied by either of the following statements: "Subject to General Declassification Schedule" or "Exempt from General Declassification Schedule." If all the specific information is subject to the General Declassification Schedule or all the information is exempt from the Schedule, then the applicable statement must appear next to each item of information.

(ii) Classified contracts in GSA are awarded for reasons that fall into the following broad categories: Release of classified information to the contractor; services by the contractor at classified or sensitive locations; and guard service contracts.

(c) Required Distribution: In addition to the distribution set forth on the DD Form 254, the GSA Security Officer shall receive two copies.

### § 5A–53.205 Periodic review.

Contracting officers shall review DD Form 254 whenever a change in the phase of performance occurs or at other times at the discretion of the contracting officer, but in any event at least once a year to determine whether the classified information can be downgraded or declassified. The contractor shall be informed of the results of the review by issuance of a revised specification, or by written instructions in lieu of DD Form 254 (where authorized), or if the review results in no change in the classification specifications, by written notification to that effect. Upon termination or completion of the contract, a final checklist shall be prepared.

### § 5AX53.206 Recurring procurement.

When procurement is of a recurring nature, a new DD Form 254 is not required if the end item is not changed and there is no change from the previous security classification.

### § 5A–53.207 Control of classified information.

(a) Classified information shall be transmitted to the contractor in the manner required by the HB, Document Security, Chapter 1–4 (ADM P 1025.2).

(b) Classified information shall be addressed and delivered to the contractor so that it may be secured and recorded at the control stations established at the contractor's facility in accordance with the requirements of the Industrial Security Manual for Safeguarding Classified Information. Classified material may be delivered or made available to an employee of the contractor if the employee has security clearance for access to classified information at the required level and the contractor has given GSA advance written notification of the name (in full) of the employee, his official position, and his current clearance status.

(c) The "Need to know" principle must be enforced at all times. "Need to know" means that knowledge or possession of classified material is permitted only to persons whose official duties require such access in the interests of promoting national security. The contracting officer is responsible for determining who is permitted access to classified material.

(d) When classified information is originated by another agency, the consent of the originating agency shall be obtained prior to releasing the classified information to the contractor.

### § 5A–53.207–1 Records.

Contracting officers shall ensure that a record is maintained of classified information released to contractors.

### § 5A–53.207–2 Markings.

Classified material furnished to a contractor shall be marked in accordance with the provisions of the HB, Document Security, Chapter 1–2.

### § 5A–53.208 Return of classified information to GSA.

Unless the classified information has been destroyed as provided in paragraph 19 of the Industrial Security Manual for Safeguarding Classified Information, the contracting officer shall obtain the return of this information. Where classified information is furnished to a GSA contractor by another Government agency, the return of such information is the responsibility of that agency.

**§ 5A–53.208–1 Return from prospective contractors.**

Where a bid or proposal is not to be submitted, any classified information furnished shall be required to be returned prior to or immediately after the time set for bid opening or the closing date for receipt of proposals. For unsuccessful bidders of offerors, any classified information shall be required to be returned within 15 days after contracts have been awarded.

**§ 5A–53.208–2 Return from contractors.**

All classified information furnished a contractor shall be required to be returned at the termination or completion of the contract or when otherwise directed by the contracting officer.

**§ 5A–53.208–3 Termination, revocation, or inactivation of facility security clearance.**

(a) When a contracting officer has been advised by the GSA Security Officer that authorization to release classified information has been withdrawn, or by the cognizant security officer that the facility security clearances have been revoked or inactivated, immediate action shall be taken for the return of classified information.

(b) If the contracting officer is advised that a facility does not have adequate means for safeguarding classified information in its possession, additional classified information shall not be furnished. Any classified information previously furnished shall be required to be returned as in (a), above, until the facility meets the standards required by the Industrial Security Manual for Safeguarding Classified Information.

**§ 5A–53.209 Breaches of security.**

When an unauthorized disclosure of classified information is discovered, which apparently emanated from an industrial source, the GSA contracting officer or other GSA employee responsible for the information shall promptly refer the facts of such breach or compromise to the GSA Security Officer for appropriate remedial action.

Subpart 5A–53.3 is added as follows:

## Subpart 5A–53.3—Audit of Contractors' Records

**§ 5A–53.301 General.**

The Contract Audits Division, Office of Audits (ADA) and the Field Audit Offices conduct contract audits (i.e., examinations) of contractors' records to the extent that such audits are required by law, regulation, or sound business judgment. These audits include the conduct of periodic or special request audits of contractors deemed warranted because of such matters as the financial condition, integrity, and reliability of the contractor and prior audit experience, adequacy of the accounting system, and the amount of unaudited claims. So that the Government can benefit to the maximum extent from these audits, a coordinated and cooperative effort shall be made by contracting officers, technical specialists, and finance and audit personnel (see §§ 1–3.801 and 5A–53.102). It is the responsibility of the contracting officer to have an audit clause inserted in all contracts subject to audit pursuant to § 5A–53.303. So that the appropriate Commissioner may be apprised of audits and related information if requested, copies of all letters from contracting officers to ADA requesting contract audits shall be furnished to the appropriate Office of the Executive Director.

**§ 5A–53.302 Purpose of audit.**

In addition to the provisions of § 1–3.809, Contract audit as a pricing aid, audits are conducted to advise and make recommendations to the contracting officer concerning the:

(a) Propriety of amounts paid, or to be paid, by GSA to contractors where such amounts are based on a cost or time determination or on variable features related to the results of contractors' operations;

(b) Adequacy of measures taken by contractors regarding the use and safeguarding of Government assets under their custody or control;

(c) Compliance by contractors with contractual provisions having financial implications such as progress payments, advance payments, guaranteed loans, cash return provisions, and price adjustments. The adequacy of a contractor's accounting system and controls shall be evaluated by contract audit (see § 1–3.809(a)(1)) before inclusion of a Progress Payments Clause in a contract, as provided in §§ 1–30.506 and 5A–30.550 (b)(3). A similar evaluation shall be made prior to the making of any advance payments or guaranteed loans pursuant to Parts 1–30 and 5A–30;

(d) Reasonableness of contractors' settlement proposals in termination of contracts (see § 1–8.207);

(e) Compliance with contract provisions; and

(f) Contractors' financial condition and ability to perform or to continue to perform under Government contracts.

**§ 5A–53.303 Types of contracts subject to audit.**

(a) The following types of contracts in excess of $10,000 shall include the Examination of Records by GSA clause (§ 5A–53.304):

(1) Cost-reimbursement type contracts (see §§ 1–3.405 and 1–3.814–2(c));

(2) Advertised or negotiated contracts involving the use or disposition of Government-furnished property (see § 5A–53.102(b));

(3) Where advance payments, progress payments based on costs, or guaranteed loans are to be made (see § 5A–53.302 (c));

(4) Contracts for supplies or services containing a price warranty or price reductions clause;

(5) Contracts or leases involving income to the Government where the income is based on operations that are under the control of the contractor or lessee;

(6) Fixed-price contracts with escalation (see §§ 1–2.104–3 and 1–3.404–3), incentives (see §§ 1–3.404–4 and 1–3.407), and redetermination (see §§ 1–3.404–5 and 1–3.404–7);

(7) Requirements and indefinite quantity (call-type) contracts (see §§ 1–2.104–4, 1–3.409, and 5A–72.105–3 containing one or more of the other features included in this § 5A–53.303.) (See also § 5A–53.306 for additional controls);

(8) Time and materials and labor-hour contracts (see §§ 1–3.406–1 and 1–3.406–2; see also § 5A–53.306 for additional internal controls); and

(9) Leases (i) where the rental is subject to adjustment (such as for a change in real estate taxes or service costs), or (ii) where the rental is dependent upon actual or estimated costs of construction, alteration, improvements, or repairs.

(b) In some of the contracts listed in paragraph (a) of this § 5A–53.303, it may be appropriate to contractually define the scope or extent of any audit such as with respect to (1) the use or disposition of Government-furnished property, or (2) variable or other special features of the contract, e.g., price escalation and compliance with the price warranty or price reductions clauses. In these cases, the contract clause in § 5A–53.304 may be appropriately modified with the concurrence of the Office of General Counsel or Regional Counsel and the Contract Audits Division or the Field Audit Office, as appropriate.

(c) Inclusion of the contract clause in § 5A–53.304 (whether or not modified) in contracts does not affect in any way the requirements for use of the Examination of Records clause permitting review of contractor books and records by the Comptroller General (see § 1–3.814–2(c)) or the clauses on Audit and Records pertaining to the verification of cost or pricing data (see § 1–3.814–2).

(d) A copy of each contract, or modification, of the types described in § 5A–53.305–1(a) subject to audit shall be furnished to the Contract Audits Division, Office of Audits, General Services Administration, Washington, DC 20405, or to the Field Audit Office, as appropriate, simultaneously with distribution of other copies of the contract.

**§ 5A–53.304 Contract clause.**

The following contract clause is prescribed for use as provided in § 5A–53.303:

EXAMINATION OF RECORDS BY GSA

The Contractor agrees that the Administrator of General Services or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR Part 1–20), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder.

The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that

the Administrator of General Services or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract or compliance with any clauses thereunder. The term "subcontract" as used in this clause excludes (a) purchase orders not exceeding $10,000 and (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public. (End of Clause)

**§ 5A-53.305 Payments under contracts subject to audit.**

**§ 5A-53.305-1 General.**

(a) The contracting officer shall not approve the initial payment invoice or voucher until he has consulted with the Contract Audits Division or the Field Audit Office where the invoices or vouchers need to be based on cost or other supporting data as required under:

(1) Cost-reimbursement type contracts;

(2) The cost-reimbursement portion of fixed-price type contracts;

(3) Time and materials or labor-hour contracts; or

(4) Fixed-price contracts providing for (i) progress payments based on costs, (ii) advance payments, (iii) guaranteed loans, or (iv) incentives or redetermination.

(b) The contracting officer shall not approve the final payment (completion) invoice or voucher for such contracts, nor for the final payment or settlement of other contracts subject to audit (see § 5A-53.303) prior to the (1) receipt and review of the contract audit report or (2) consultation with the Contract Audits Division, or the Field Audit Office if no audit is to be conducted; provided, that this paragraph (b) shall not apply to fixed-price contracts with escalation where no price revision (upward or downward) is to be made.

**§ 5A-53.305-2 Submission and processing of invoices or vouchers.**

(a) Contractors shall be required to submit the invoices or vouchers described in § 5A-53.305-1 directly to the contracting officer. The processing of invoices or vouchers prior to payment for work or services rendered shall include a review by the contracting officer, or his designated representative, to determine that the nature of items and amounts claimed are in consonance with the contract terms, represent prudent business transactions, and are within any stipulated contractual limitations. The contracting officer must ensure that these payments are commensurate with physical and technical progress under the contract. If the contractor has not deducted from his claim amounts which are questionable or which are required to be withheld, the contracting officer shall make the required deduction, except as provided in § 5A-53.305-3.

(b) Subject to the provisions of § 5A-53.305-1, approval by the contracting officer of any payment, including any specific approval as to the nature or amount of the cost, shall be noted on (or attached to) the invoice or voucher (see, for example, § 1-15.107 Advance understandings on particular cost items). The invoice or voucher shall be forwarded to the appropriate accounting center and retained therein after certification and scheduling for payment to a disbursing office.

**§ 5A-53.305-3 Action upon receipt of an audit report.**

Audit reports shall be furnished to the contracting officer, with a copy to the appropriate accounting center. Upon receipt of an audit report, the contracting officer shall, pursuant to contract terms, determine the allowability of all costs covered by audit, giving full consideration to the auditor's recommendations. Where the contracting officer is in doubt or questions the recommendations of the auditor, deductions need not be made from invoices or vouchers for provisional payments. In these cases, the contracting officer shall confer with the auditor and other appropriate Government personnel (such as a price specialist or legal counsel) to determine what further action should be taken regarding the items of cost in question. If the contracting officer disagrees with the auditor's recommendations, the contracting officer shall prepare a statement for the contract file to support and justify his decision and shall furnish the auditor with a copy of the statement (see also § 1-3.811).

**§ 5A-53.305-4 Suspensions and disapprovals of amounts claimed.**

The contracting officer shall notify the appropriate accounting center in writing when amounts claimed for payment are (a) suspended tentatively, (b) disapproved as not being allowable according to contract terms, or (c) not reasonably incident or allocable to performance of the contract. This notice by the contracting officer shall be the basis for the issuance by the accounting center of GSA Form 533, Administrative Difference Statement. A copy of GSA Form 533 shall be attached to each copy of the invoice or voucher from which the deduction has been made, including an explanation of the deduction. Control over the issuance of GSA Form 533 shall be maintained by the accounting center.

**§ 5A-53.306 Additional internal controls.**

As a supplement to the contractual right to audit (see § 5A-53.305) contractor records in cost-reimbursement type, time and materials, labor-hour, requirements, and indefinite quantity (call-type) contracts, the contracting officer (with the assistance of the Contract Audits Division or the Field Audit Office) shall establish appropriate internal controls or procedures prior to the performance of those contracts with respect to any flexible or variable features. For example, if a time and materials or labor-hour contract is performed (on a Government facility or elsewhere) subject to observation or overall supervision by Government personnel (see § 1-3.406-1 (b)), approval of time records may be provided for as incidental to the Government supervision. Any reasonable and reliable method or procedure may be established to account for such matters as the time spent on the job and materials or supplies received which will assist the contract auditor and the contracting officer to determine the correctness of the charges to the contract.

**§ 5A-53.307 Deviation.**

(a) Except as provided in paragraph (b) of this § 5A-53.307, approval of any deviation (see § 5A-1.109(b)(1)) in individual cases from the contract audit requirements of the Federal Procurement Regulations or the GSA Procurement Regulations shall be made by the appropriate Commissioner only after consultation with the Director of Audits.

(b) The contracting officer and the Director of Audits, or the Director, Field Audit Office, may agree to limit the application of specific contract audit requirements in individual cases, i.e. when the possible cost-benefits of the audit do not warrant the assignment of audit resources or when audit resources are unavailable; provided, that the stated urgency of a proposed procurement or other contract action shall not alone be adequate justification for such a waiver (see § 1-3.801-3 with respect to the avoidance of requirements issued on an urgent basis and § 1-3.807(b)(2) with respect to the allowance of adequate time for the audit work).

## Subpart 5A-53.4—Contract Performance

1. Section 5A-53.401 is revised as follows:

**§ 5A-53.401 General.**

(a) Contract performance requires effective and timely coordination directly between the contracting officer and supporting elements to ensure performance in accordance with the terms and conditions of the contract.

(b) To ensure this, a system shall be maintained for obtaining contractor performance and ensuring Government performance as required by the contract within the time period established in the contract. This system should be based on determinations by the contracting officer, early in the existence of the contract, regarding the specific contract administration actions to be taken, who shall take them, and when and where they will be performed. Followup action should include coordination with appropriate elements of GSA.

(c) Decisions regarding extension of performance time, suspension of work, and termination of a contractor's right to proceed, shall be made only by the contracting officer or, when specifically vested with such authority, another person or ordering office.

2. Section 5A–53.402 is added as follows:

**§ 5A–53.402 Contractor performance under supply or service contracts.**

(a) Followup action on performance by a contractor may be initiated before the required time of performance if, after inquiry, no definite indication is received that the contractor intends to perform in accordance with the contract terms. Subsequent follow-up, before the required performance date, should be scheduled on the basis of the reply to the inquiry.

(b) When performance time under a contract has expired, and the contractor has not performed or given substantial indication that performance will be completed within a reasonable period of time, satisfactory results can often be obtained through the use of collect telegrams, collect telephone calls, or by personal contact with the contractor or his representative.

(c) If it becomes apparent that the contractor cannot, or will not, perform in accordance with the terms of the contract, the contracting officer, as indicated in § 5A–53.401(c), shall take appropriate action as provided in Subparts 1–8.6 and 5A–8.6.

3. Section 5A–53.403 is added as follows:

**§ 5A–53.403 Performance records.**

For records to be maintained on contractor performance, see § 5A–1.310–10.

4. Section 5A–53.404 is added as follows:

**§ 5A–53.404 Request for earlier or deferred contract performance.**

When a performance date other than that specified in the contract is requested by the Government, the contractor has no contractual obligation to honor the request (unless mutually agreed to in writing by the Government and the contractor) and his failure to comply cannot be considered a performance failure.

Subpart 5A–53.6 is added as follows:

## Subpart 5A–53.6—Disputes

**§ 5A–53.601 General.**

Questions of fact arising under contracts which are not disposed of by agreement shall be decided by the contracting officer and the contractor shall be informed of the decision in accordance with § 1–1.318–1.

**§ 5A–53.602 Appeals.**

Upon receipt of an appeal or notice of appeal, the rules set forth in Subpart 5A–60.2 shall be observed.

Subpart 5A–53.8 is added as follows:

## Subpart 5A–53.8—Renegotiation

**§ 5A–53.801 General.**

(a) The Renegotiation Act of 1951, as amended (50 U.S.C. App. 1211–1224), provides for recovery by the Government of contractors' excessive profits under certain contracts. GSA contracts are subject to renegotiation under the terms of the Renegotiation Act of 1951 unless exempted by the statute or by authorization of the Renegotiation Board.

(b) The Renegotiation Board, in its Regulations under the Renegotiation Act of 1951 (32 CFR 1421.120), prescribes definitions, sets forth mandatory and permissive exemptions, implements the statute with substantive rules, and provides procedures in connection with contracts subject to renegotiation.

**§ 5A–53.802 Contract clause.**

(a) Contracts which are determined to be subject to the Renegotiation Act of 1951 shall contain the following clause:

RENEGOTIATION

The contract is subject to the Renegotiation Act of 1951, as amended, and shall be deemed to contain the provisions required by section 104 thereof. The extent of renegotiation will be determined in accordance with regulations under the Act. The Contractor agrees to include this Renegotiation clause (including this sentence) in each subcontract made to perform any part of the work or to furnish any materials required for this contract. (End of Clause)

(b) When this clause is to be included in preprinted supplemental provisions, the clause set forth in (a), above, may be preceded by a preamble setting forth the basic exemptions applicable to the contracting programs for which the supplemental provisions form is generally used; for example:

The following Renegotiation clause shall apply unless the contract calls for delivery to a GSA supply depot or a Government agency not included in the Renegotiation Act of 1951.

**§ 5A–53.803 Exemptions by statute.**

The Renegotiation Act of 1951 exempts the following:

(a) Any contract with any Territory, possession, or State, or any agency or political subdivision thereof, or with any foreign government or any agency thereof. (See 32 CFR 1453.1.)

(b) Any contract or subcontract for an agricultural commodity in its raw or natural state, or if the commodity is not customarily sold or does not have an established market in its raw or natural state, in the first form or state beyond the raw or natural state in which it is customarily sold or in which it has an established market. The term "agricultural commodity" includes but is not limited to (see 32 CFR 1453.2):

(1) Commodities resulting from the cultivation of the soil such as grains of all kinds, fruits, nuts, vegetables, hay, straw, cotton, tobacco, sugarcane, and sugar beets.

(2) Natural resins, saps, and gums of trees.

(3) Animals such as cattle, hogs, poultry, and sheep, fish and other marine life, and the produce of live animals such as wool, eggs, milk, and cream.

(c) Any contract or subcontract for the product of a mine, oil, or gas well, or other mineral or natural deposit, or timber, which has not been processed, refined, or treated beyond the first form or state suitable for industrial use. (See 32 CFR 1453.2.(b).)

(d) Any contract or subcontract with a common carrier for transportation or with a public utility for gas, electric energy, water, communications, or transportation when made in either case at rates not in excess of published rates or charges filed with, fixed, approved, or regulated by a public regulatory body, State, Federal, or local, or at rates not in excess of unregulated rates of the public utility which are substantially as favorable to users and consumers as are regulated rates. In the case of the furnishing or sale of transportation by common carrier by water, this paragraph shall apply only to such furnishing or sale which is subject to the jurisdiction of the Interstate Commerce Commission under Part III of the Interstate Commerce Act or subject to the jurisdiction of the Federal Maritime Board under the Intercoastal Shipping Act, 1933, and to such furnishing or sale in any case in which the Renegotiation Board finds that the regulatory aspects of rates for such furnishing or sale, or the type and nature of the contract for such furnishing or sale, are such as to indicate, in the opinion of the Renegotiation Board, that excessive profits are improbable. (See 32 CFR 1453.3.)

(e) Any contract or subcontract with an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1954, but only if the income from such contract or subcontract is not includable under Section 512 of this Code in computing the unrelated business taxable income of the organization. (See 32 CFR 1453.4.)

(f) Any contract which the Renegotiation Board determines does not have a direct and immediate connection with the national defense. In designating those classes and types of contracts which shall be exempt and in exempting any individual contract under this paragraph, the Board considered as not having a direct or immediate connection with national defense any contract for the furnishing of materials or services to be used by the United States, a Department or agency thereof, in the manufacture and sale of synthetic rubbers to a private person or to private persons which are to be used for nondefense purposes. (See 32 CFR 1453.5.)

(g) Any subcontract directly or indirectly under a contract or subcontract already exempt in accordance with paragraph (b), (c), (d), or (f) of this § 5A–53.803. (See 32 CFR 1453.6.)

(h) Any contract or subcontract which the Renegotiation Board exempts, as provided in § 5A–53.805.

(i) Contracts and subcontracts for standard commercial articles and standard commercial services (and "like" articles and services) exempt from renegotiation in accordance with section 106(e) of the Renegotiation Act of 1951. The exemption on standard commercial articles only is self-executing; the other requires application to the Renegotiation Board.

**§ 5A–53.804 National defense considerations.**

**§ 5A–53.804–1 Determinations by the Renegotiation Board.**

Subject to § 1453.5(c) of the Renegotiation Board's Regulations, the Renegotiation Board has determined that the following contracts do not have a direct and immediate connection with the national defense and, therefore, are exempt from renegotiation:

(a) All contracts of the National Archives and Records Service.

(b) All stores stock contracts for delivery to GSA supply distribution facilities.

(c) All Federal Supply Schedule contracts and consolidated direct delivery contracts with respect to deliveries made to Government agencies other than the Department of Defense (including the military departments), Atomic Energy Commission, and the National Aeronautics and Space Administration.

(d) Contracts to the extent they obligate funds of, or are reimbursed by, another Department named in section 103 of the Renegotiation Act of 1951 as exercising functions having a direct and immediate connection with the national defense, if the contracts would be exempt if made by such other Department. Contractors should be informed that funds of other Departments are being used. (See 32 CFR 1453.5(b)(2).) The Departments named in Section 103 are the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Maritime Administration, the Federal Maritime Board, the General Services Administration, the National Aeronautics and Space Administration, and the Atomic Energy Commission. (See 32 CFR 1451.14(b).)

(e) Contracts to the extent they obligate funds of another agency of the Government, other than a Department named in or designated in Section 103 of the Renegotiation Act of 1951, or to the extent that GSA is to be reimbursed by such other Government agency or other person. Contractors should be informed that funds of other Departments are being used. Those contracts obligating funds for military assistance in connection with foreign aid programs are not exempt from renegotiations under this paragraph. (See 32 CFR 1453.5(b)(3)(ii).)

(f) Contracts for the purchase of materials for authorized resale except contracts for the purchase of materials to be issued or sold under the monetary clothing allowance system of the armed services. (See 32 CFR 1453.5(b)(4).)

(g) Contracts for the removal of waste materials. (See 32 CFR 1453.5(b)(5).)

(h) Contracts for laundry, cleaning, and pressing services. (See 32 CFR 1453.5(b)(6).)

**§ 5A–53.804–2 Determinations by GSA.**

(a) Notwithstanding the determination set forth in § 5A–53.804–1, individual contracts will be subject to renegotiation when the appropriate Commissioner, or his designee, determines that such individual contract does have a direct and immediate connection with the national defense. This determination shall be set forth in the contract as follows:

> For the purpose of the Renegotiation Act of 1951, as amended, it has been determined that this contract has a direct and immediate connection with the national defense. (See 32 CFR 1453.5(c).)

(b) In considering whether a specific contract does have a direct and immediate connection with the national defense, the Renegotiation Board requested that such determination be made in any case in which:

(1) The language of the appropriation act making funds available, enabling legislation, or the legislative history, is such that it is evident that the project was presented to and approved by the Congress because of its importance to the national defense.

(2) Award of the contract cannot be made without a certification, determination, or comparable prior action stating that the procurement is essential or necessary in the interests of the national defense. Such certification, determination, or comparable prior action would normally be made by the General Services Administration, but could be made by any agency of the Government which is competent to act in this manner.

(3) The contract is to be made under a War Powers Act—such as Public Law 85–804 (50 U.S.C. 1431–1435).

(4) Loans or advances are to be made to the contractor under the Defense Production Act of 1950 in order to facilitate performance of the contract.

(5) For other reasons, it is believed that the contract has a direct and immediate connection with the national defense.

**§ 5A–53.804–3 Individual prime contracts.**

Individual prime contracts may be determined not to have a direct and immediate connection with the national defense by the Renegotiation Board on application of the prime contractor through GSA.

**§ 5A–53.805 Exemptions by the Renegotiation Board.**

**§ 5A–53.805–1 Exempted classes of contracts.**

In the exercise of its discretion as authorized by the Renegotiation Act of 1951, the Renegotiation Board has exempted the following classes of contracts from renegotiation:

(a) All prime contracts and subcontracts wholly performed outside the United States by any person who is not engaged in a trade or business in the United States and is (1) an individual who is not a national of the United States; (2) a partnership or joint venture in which individuals who are not nationals of the United States or corporations which are not domestic corporations are entitled to more than 50 percent of the profits; or (3) a corporation (other than a domestic corporation) more than 50 percent of the voting stock of which is owned directly or indirectly by persons described in subdivisions (1) and (2) of this paragraph. (See 32 CFR 1455.2(c), (c–1).)

For the purpose of this paragraph, the term "United States," when used in a geographical sense, includes the Territories and possessions of the United States, the Commonwealth of Puerto Rico, and the Canal Zone; and the term "domestic corporation" means a corporation organized under the laws of the United States or of any State, any Territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Canal Zone. (See 32 CFR 1455.2(c), (c–1).)

(b) Individual prime contracts or subcontracts, or the prime contracts or subcontracts related to a particular authorized procurement program when such prime contracts or subcontracts are to be performed outside the territorial limits of the continental United States or in Alaska, and when it is established to the satisfaction of the Board that (1) the prime contracts or subcontracts involved in the request are to be placed with foreign nationals or foreign corporations whom it is not practicable to subject to renegotiation; (2) the provisions of the prime contracts or subcontracts are otherwise sufficient to prevent excessive profits; (3) the program is of direct and immediate concern to the defense of the United States and refusal to grant the exemption would jeopardize the success of the program; or (4) the contract or group of contracts should be exempted for any combination of the foregoing reasons or for any other reason. (See 32 CFR 1455.2(d).)

(c) Contracts or subcontracts under which, in the opinion of the Board, the profits can be determined with reasonable certainty when the contract price is established. On this basis, the Board has exempted the following:

(1) All prime contracts with natural persons (not partnerships, joint ventures, or corporations) which call for performance of personal or professional services by the individual contractor in person under the supervision of the Government and which are paid for on a time basis. (See 32 CFR 1455.3(b)(1).)

(2) Prime contracts and subcontracts for the sale or exchange of tangible property used in the trade or business of the vendor with respect to which depreciation is allowable under section 167 of the Internal Revenue Code of 1954. (This exemption extends only to contracts under which the price is a fixed or determinable amount at the time the contract is entered into, and does not apply to any contract under which the price, at the time the contract is entered into, is contingent upon a subsequent event or is thereafter to be determined by reference to a variable element.) (See 32 CFR 1455.3(b)(3).)

(3) Prime contracts and subcontracts for perishable subsistence supplies. (See 32 CFR 1455.3(b)(4).)

(4) Prime contracts where the aggregate amount does not exceed $1000

and the period of performance is not in excess of 30 days. (See 32 CFR 1455.3(b)(5).)

(5) Contracts entered into with a nonprofit-making agency for the blind pursuant to the program for the purchases of blind-made products. (See 32 CFR 1455.3(b)(7).)

**§ 5A–53.805–2 Contracts exempt subject to prescribed conditions.**

The following contracts or subcontracts may be exempted on an individual contract basis on application to the Renegotiation Board by GSA:

(a) Contracts or subcontracts where the profits thereunder can be determined with reasonable certainty when the contract price is established. (See 32 CFR 1455.3(c).)

(b) Contracts or subcontracts where the contract provisions are otherwise adequate to prevent excessive profits. (See 32 CFR 1455.4(c).)

(c) Contracts or subcontracts the renegotiation of which would jeopardize secrecy required in the public interest. (See 32 CFR 1455.5(b).)

**§ 5A–53.805–3 Subcontracts exempted by the Renegotiation Board.**

(a) Stock item exemption. Amounts received or accrued prior to January 1, 1964, on subcontracts and groups of subcontracts subject to the Act for materials (including maintenance, repair, and operating supplies) customarily purchased for stock in the normal course of the purchaser's business, except when such materials are specially purchased for use in performing one or more prime contracts or higher tier subcontracts subject to the Act. (See 32 CFR 1455.6.)

(b) Subcontracts related to exempt prime contracts and subcontracts except those performed outside the United States (see § 5A–53.800–1(a)) and other subcontracts, when the Board, in exempting prime contracts or subcontracts, determined that the exemption will not extend to some or all of the subcontracts related to such prime contracts or subcontracts. (See 32 CFR 1455.7.)

**§ 5A–53.806 Notification required.**

(a) The Renegotiation Board shall be given notification of each contract, except contracts of the Federal Supply Service, which contains a Renegotiation clause if the actual or estimated amount of the contract is $10,000 or more; or if the amount of any change order, supplemental agreement, or amendment is $10,000 or more. (Notification of purchases subject to renegotiation under Federal Supply Service contracts is made by the Departments and agencies subject to the Act.)

(b) This notification shall be transmitted monthly (negative reports are not necessary) by the head of the procuring activity to:

Director, Office of Procurement Affairs
The Renegotiation Board
Washington, DC 20446

(c) A copy of each notification shall be sent also to the Office of Finance, OAD.

(d) The notification shall be in letter form and contain the following information:

(1) Contract number(s);

(2) Name and address of the contractor(s); and

(3) Dollar amount of each contract (if indefinite, so state).

NOTE: A copy of the form illustrated in § 5A–16.950–1720 is filed with the original document.

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

*Effective date.* These regulations are effective on the date shown below.

Dated: September 25, 1974.

M. J. TIMBERS,
*Commissioner,*
*Federal Supply Service.*

[FR Doc.74–23560 Filed 10–8–74;8:45 am]

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[FRL–270–6]

## CHAPTER 15—ENVIRONMENTAL PROTECTION AGENCY

## PART 15–3—PROCUREMENT BY NEGOTIATIONS

## PART 15–16—PROCUREMENT FORMS

### Letter Contracts and Forms

On August 2, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR–27918–27921) which stated that the Environmental Protection Agency was considering an amendment to 41 CFR, Chapter 15 to add a new § 15–3.408 *Letter contract* and § 15–16.552–1 *Letter contract.* Interested parties were invited to submit comments and written data on or before September 3, 1974. No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date: October 9, 1974.

Dated: October 4, 1974.

JOHN QUARLES,
*Acting Administrator.*

1. In 41 CFR Part 15–3 the new regulations read as follows:

### Subpart 15–3.4—Types of Contracts

**§ 15–3.408 Letter contract.**

(a) *Limitations.* (1) A letter contract may be entered into in accordance with § 1–3.408 only after approval by the:

(i) Director, Contracts Management Division, PM–214, in accordance with § 15–1.5403–2(b), when the face value of the complete contract and any individual modification thereto is expected to exceed $250,000.00, and

(ii) Chief officer responsible for procurement at the contracting activity when the face value of the complete contract and any individual modification thereto is not expected to exceed $250,000.00.

(2) A letter contract negotiated on a noncompetitive basis shall be justified as prescribed in EPA Order 1900.

(3) A letter contract shall be superseded by a definitive contract within ninety (90) days from the date the letter contract is accepted, unless a period of performance in excess of ninety (90) days is authorized by the chief officer responsible for procurement at the contracting activity. The letter contract shall specify the date by which the definitive contract is to be negotiated. In the event the letter contract is not negotiated and executed within ninety (90) days from date of acceptance, it shall be terminated unless the ninety (90) days period is extended by the chief officer responsible for procurement at the contracting activity.

(4) Ordinarily, letter contracts should not authorize payment to the contractor in excess of 50 percent of the estimated total of the anticipated definitive contract. The maximum monetary liability of the Government under the letter contract shall be stated in the contract schedule and shall not exceed 50 percent of the estimated total price or cost and fee of the definitive contract, unless a larger amount is authorized by the chief officer responsible for procurement at the contracting activity.

(5) A letter contract shall not describe, refer to, or otherwise commit the Government to a definitive contract in excess of funds available for obligation or commitment at the time the letter contract is executed. Also, the letter contract shall state, in appropriate situations (e.g., where award is based on price competition), the maximum price or cost and fee which may be negotiated for the definitive contract.

(6) A letter contract shall not be modified to:

(i) Extend the period of performance or to increase the dollar amount without the prior approval of the officials designated in § 15–3.408(c)(1), or

(ii) Accomplish new procurement, unless the new procurement is inseparable from the procurement covered by the existing letter contract. Such modifications are subject to the same limitations as new letter contracts.

(b) *Contents.* A letter contract and the resulting definitive contract shall contain all applicable provisions required by law and regulation. The letter contract will be composed of a transmittal letter and signature page, administrative recitals, appropriate EPA General Provisions, special schedule articles, and other schedule articles peculiar to the procurement. A format for a letter contract is illustrated in § 15–16.552.1.

(c) *Definitive contract.* (1) The definitive contract resulting from a letter contract shall constitute the entire agreement between the parties and shall include in the contract Schedule any letter contract clauses, articles, terms or conditions which are to continue in effect. Also, the definitive contract shall contain a contract Schedule Article similar to the following:

ARTICLE—LETTER CONTRACT

This definitive contract is effective_____ (date) _____ and replaces Letter Contract No. _____ dated _____, and all amendments thereto, and hereinafter forms the entire agreement between the parties.

Any costs incurred or payments made under Letter Contract No. _____ will be considered to have been incurred or made under this definitive contract.

(2) The effective date of the definitive contract shall be the date the contract is signed by the Contracting Officer, unless a different date is specified in the contract.

(Sec. 205(c), 63 Stat. 377, as amended (40 U.S.C. 486(c))

2. In 41 CFR Part 15–16, § 15–16.552–1 is added to Subpart 15–16.5 to read as follows:

**Subpart 15–16.5—Forms for Advertised and Negotiated Nonpersonal Service Contracts (Other Than Construction and Architect-Engineer Contracts)**

**§ 15–16.552–1 Letter contract.**

EPA letter contracts shall be prepared in a format similar to that illustrated below. The chief officer responsible for procurement at the contracting activity may authorize modification of the format.

(a) *Transmittal letter and signature page.*

ENVIRONMENTAL PROTECTION AGENCY

Date:_____
Letter Contract
Contract No.:_____

(Contractor)

GENTLEMEN: 1. This letter, when accepted by you, will constitute a Letter Contract bearing the contract number shown above, whereby you, as Contractor, agree to furnish to the Government the products or services set forth in the attached Contract Schedule in accordance with the terms, conditions, and administrative provisions set forth in the Schedule and the General Provisions identified in the Schedule which are attached hereto and made a part hereof. This Letter, Schedule, and General Provisions are submitted to you in _____ (number) copies.

2. If you agree to the terms set forth in the Schedule and General Provisions referenced therein, please indicate your acceptance by signing the original and ____ copies of this letter in the place provided in the lower left corner and return the executed copies to the Contracting Officer who signed this letter on behalf of the United States.

3. It is understood by your acceptance hereof that you will undertake, without delay, to enter into negotiations with the Environmental Protection Agency looking to the execution of a definitive contract and to furnish all cost and price information requested by the Contracting Officer. The form and provisions of the definitive contract which the Environmental Protection Agency intends to use as the basis for negotiation are set forth in the Schedule.

THE UNITED STATES OF AMERICA
By

_____
_____
(Contracting Officer)

Enclosures:
1. Administrative Recitals.
2. Schedule.
3. General Provisions, EPA Form _____.

Accepted _____ _____
(Date) (Contractor's Name)
By _____
(Name: Official Title)

(b) *Administrative recitals.*

ADMINISTRATIVE RECITALS

LETTER CONTRACT NUMBER __ __ __ __ __
BETWEEN
ENVIRONMENTAL PROTECTION AGENCY
AND
(CONTRACTOR)

Installation (EPA Issuing Office)
Purchase Request No. _____
Appropriation
Type of Contract (Type anticipated, i.e., FP, CPFF, etc.)
Office to Make Payment
Contracting Officer
Negotiator
Project Officer

This instrument has been negotiated pursuant to 41 U.S.C. 252(c) ( ).

(c) *Contract schedule.*

SCHEDULE

ARTICLE I—STATEMENT OF WORK

(Include a complete, detailed description of products and services to be furnished or cite an Exhibit and incorporate by reference.)

ARTICLE II—REPORTS AND DATA

(Specify technical, progress, and financial reports and data required or cite reporting and data requirements as Exhibits and incorporate by reference. Reporting requirements should include report contents, reporting periods, dates of submission, distribution, and approval requirements.)

ARTICLE III—PERIOD OF PERFORMANCE

(Specify number of months or other time period required for total performance or list delivery date for each end item, as applicable. If appropriate, show performance period for each phase of work. See optional ARTICLE I below.)

ARTICLE IV—INSPECTION AND ACCEPTANCE

(Specify where and by whom inspection and acceptance will be performed, e.g.:

a. Final inspection of all items and services called for by this contract will be performed by _____[1] at _____[2].

b. Final acceptance of all items and services called for by this contract will be performed by _____[1] at _____[2].

ARTICLE V—F.O.B. POINT

(State F.O.B. point(s) for each item to be delivered and include any instructions concerning transportation modes and charges; see EPPR 15–19.3. Also, packing, packaging, marking, and shipping instructions may be added or referenced here or stated in a separate ARTICLE, as considered appropriate.)

ARTICLE VI—PAYMENT

(Include the following limitations and appropriate billing instructions.

a. Payments under this Letter Contract shall not exceed $_____.

b. The total price or cost and fee to be negotiated for the definitive contract shall not exceed (insert total dollars).

c. The maximum amount for which the Government will be liable if this Letter Contract is terminated is $_____.

d. Nothing shall be paid under this Letter Contract to the Contractor for profit or fee, except as provided in the Termination clause of this Letter Contract.

e. Specify billing instructions. Note Optional ARTICLE 2 below.

Note optional ARTICLE 7 for use in cost sharing situations.)

ARTICLE VII—TECHNICAL DIRECTION

(If applicable, incorporate an appropriate technical direction article. See optional ARTICLES 4, 5 and 6 below.)

ARTICLE VIII—CONTRACTOR PROJECT DIRECTOR

(This ARTICLE may be added when a "Project Director" is to be named in the contract.

Performance of work required by this Letter Contract shall be conducted under the direction of Contractor's representative _____ (name). The Goverment reserves the right to approve any successor.)

ARTICLE IX—SUBCONTRACT CONSENT

To facilitate the review by the Contracting Officer of a proposed subcontract, the Contractor shall submit the information required by Clause _____ entitled "Subcontracts, of the General Provisions, EPA Form _____. The Contracting Officer shall review the request for consent to placement of the subcontract and advise the Contractor of his decision.

(Note: List known subcontractors, if applicable.)

ARTICLE X—PRICING OF PROPRIETARY AND/OR STANDARD ITEMS

Any and all proprietary and/or standard items manufactured by the Contractor, used in connection with the work to be performed under this contract, shall be charged to the contract at prices equal to or less than net prices charged, after the most favorable discount, to any customer for similar quantities of similar items, which prices shall also be equal to or less than the most favorable prices at which the standard items could be obtained from other suppliers.

ARTICLE XI—PUBLICITY AND PUBLICATIONS

It is agreed that the Contractor shall acknowledge Environmental Protection Agency support whenever research projects funded in whole or in part by this contract are publicized in any news media. The Contractor shall include in any publication or on any sign or billboard resulting from the research performed under this contract an acknowledgement identifying the Environmental Protection Agency as the sponsoring agency and the associated contract number.

ARTICLE XII—TERMINATION

In addition to the consideration specified in Clause(s) _____ of the General Provisions, EPA Form _____, this Letter Contract shall be terminated by the Government and the termination settled in accordance with that TERMINATION Clause if:

a. The Contracting Officer determines that the parties are unable to agree upon a definitive contract, or

b. This Letter Contract is not superseded by a definitive contract within ninety (90)

---

[1] Insert Project Officer, Contracting Officer, or _____ (name), Representative of the Contracting Officer as applicable. If appropriate, add the following statement: "For the purpose of this ARTICLE, the Project Officer named in the Administrative Recitals of this contract is the authorized representative of the Contracting Officer."

[2] State place or places of inspection and acceptance.)

days after acceptance of this Letter Contract, unless an extension of time is granted by the Contracting Officer.

ARTICLE XII—CLAUSES INCORPORATED

a. There is incorporated by reference in this Letter Contract all the clauses contained in EPA Form ------, General provisions for a *type* ------ contract, except for changes specified in ARTICLE XIV, entitled "ALTERATIONS."

b. (Identify and reference any other clauses or provisions appropriate to the contract and include such clauses with the SCHEDULE.)

ARTICLE XIV—ALTERATIONS

(Identify alterations, e.g.,

a. The following clauses of EPA Form ------, General Provisions ------, are hereby deleted.

b. Clause ------ of EPA Form ------, General Provisions ------, is hereby deleted and Clause ------ is inserted in lieu thereof and hereby made part of the General Provisions.

c. Add corrections or other changes to clauses.)

ARTICLE XV—DEFINITIVE CONTRACT

a. It is contemplated that a ------ type definitive contract will be negotiated on the basis of the Schedule and General Provisions of this Letter Contract and such additional clauses as are appropriate to the subject matter of this contract. However, the parties are not hereby committed to the negotiation of this type of contract.

b. The Contractor agrees to submit cost and pricing data promptly and to enter into negotiation of a definitive contract no later than ----------.
(date)

c. It is understood and agreed that pending negotiation of the definitive contract contemplated by this Letter Contract, the Contractor's Proposal No. ------, dated ----------, shall remain available for acceptance by the Government. To the extent that the ultimate definitive contract is for the same work covered by the aforesaid proposal, the Contractor agrees to negotiate a period of performance or delivery date and a price or cost and fee no less favorable than offered in the proposal.

ARTICLE XVI—DIRECTION TO PROCEED

Except as otherwise expressly provided to the contrary in this Letter Contract, the Contractor is directed, upon his acceptance of this Letter Contract, to proceed immediately to procure the necessary materials, and to pursue such work with all diligence to the end that the products or services called for under ARTICLE I of the Schedule will be delivered or performed in accordance with ARTICLE III of the Schedule and all other terms of this Letter Contract.

ARTICLE XVII—CONTENTS OF CONTRACT

This contract ---------- consists of the
(number)
following:

Transmittal Letter and Signature Page
Administrative Recitals
Schedule Pages 1 thru ----
General Provisions, EPA Form -------

(d) *Optional articles.* The following optional articles may be used as appropriate, article numbers may be adjusted as required.

ARTICLE 1—LEVEL OF EFFORT

(The following article may be used in CPFF Term Form situations where the total manhours of effort are specified in the scope of work.)

a. The Contractor's contractual obligation is expressed in terms of total manhours to, perform the effort set forth in ARTICLE I—SCOPE OF WORK. The Contractor shall provide approximately ------ manhours of direct labor in pursuit of the effort described in ARTICLE I—SCOPE OF WORK, which numbers of manhours shall hereinafter be referred to as the "Level of Effort" for this contract. Provided, however, the Contractor shall provide not less than ------ nor more than ------ manhours of direct labor in pursuit of the effort described in ARTICLE I—SCOPE OF WORK.

b. The parties hereto agree to negotiate an equitable adjustment in the estimated cost and fee of this contract in the event the "Level of Effort" actually expended by the Contractor is less than the number of manhours of direct labor established as the minimum effort in paragraph a. above.

c. It is recognized that the Contractor is not obligated to furnish, nor is the Government required to accept, any manhours of effort in excess of the number of manhours of direct labor established as the maximum in paragraph a. above.

ARTICLE 2—OPTIONAL PARAGRAPH E. TO PAYMENT ARTICLE VI

d. Contractor's invoices or vendor's shipping documents used as invoices shall be prepared in accordance with the attached form entitled, ----------, which is attached hereto and made a part of this Letter Contract. Vouchers shall be submitted for certification to the EPA Project Officer, who will forward them to ---------- for payment. Payment will be made as provided in Clause ------ of the General Provision, EPA Form ------, except as otherwise provided in this ARTICLE VI. The Contractor shall enter the following statement on the reverse of the voucher.

*EPA Project Officer Certificate*

I certify to the best of my knowledge and belief that the items for which reimbursement is claimed in this voucher are reasonable and were necessarily incurred in the performance of the related contract; that the Contractor performed the services for which reimbursement is claimed; that all requested reports have been received.

---------- ----------
Date Project Officer

ARTICLE 3—F.O.B. POINT

a. The F.O.B. point for all items, except reports furnished pursuant to the Article hereof entitled "REPORTS OF WORK", under this contract is ----------.

b. The F.O.B. point for reports furnished pursuant to the Article entitled "REPORTS OF WORK" is as set forth therein.

c. Shipments shall be made on commercial bills of lading. The Contractor shall place the following statement on each commercial bill of lading:

"Transportation hereunder is for the Environmental Protection Agency, and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are to be reimbursed by the Government, pursuant to cost-reimbursable contract No. ------. This may be confirmed by contacting such agency at (insert address of contracting activity).

ARTICLE 4—TECHNICAL DIRECTION

The EPA Project Officer or other authorized individual named in the Administrative Recitals of this contract is responsible for guiding the technical aspects of the project and for general surveillance of the work performed. The Project Officer or named individual is not authorized to make any commitments or any changes which constitute work not within the general scope of this contract, change the expressed terms and conditions incorporated into this contract, or constitute a basis for any increase in contract price or extension of the contract Period of Performance.

ARTICLE 5—TECHNICAL DIRECTION

(The following may be used in all Cost Reimbursement situations except cost sharing and co-sponsored Contracts and RFP's:

The attachment entitled "Technical Direction" is hereby made a part of this contract. At the time of award of this contract, the Contracting Officer will designate a Project Officer who will be responsible for the technical administration of this contract in accordance with the provisions of the attachment entitled "Technical Direction.")

ARTICLE 6—TECHNICAL DIRECTION

(The following article will be used in RFP's and Contracts which involve Cost Sharing or Co-sponsorship under separate contractual arrangements:

The attachment entitled "Technical Direction" is hereby made a part of this contract. At the time of award of this Government contract, the Contracting Officer will designate a Project Officer who will be responsible for issuing the technical directives for the Government contract in accordance with the provisions of the attachment entitled "Technical Direction.")

ARTICLE 7—PAYMENT

(The following is for use in RFP's and contracts where the Contractor is required to share some portion of costs incurred:

a. The estimated cost for the performance of this contract is $------. The Contractor agrees to bear without reimbursement by the Government ---- (%) percent of the cost for performance hereunder. Such cost sharing shall be effected as follows:

Public vouchers or invoices submitted in accordance with the provisions of this contract shall show the total cost incurred for the period for which the vouchers or invoice is submitted, the cumulative total of costs incurred through the billing period, and the percentage of costs to be reimbursed by the Government. However, the Government is not obligated to reimburse the Contractor in excess of ---- (%) percent of such amount. The Government shall not be obligated to reimburse the Contractor for the Government's share of the costs in excess of $--------, nor is the Contractor obligated by this contract to expend his own funds in excess of $---------.)

ARTICLE 8—DESIGNATION OF PATENT ADVISOR

The Patent Advisor, Office of General Counsel, Environmental Protection Agency, is hereby designated to represent the Contracting Officer in administering the Patents and Inventions clause of this contract. Correspondence with respect to this clause should be directed to the Patent Advisor with a copy to the Contracting Officer. The requirements of the Patents and Inventions clause regarding the identification and mailing address of the Contracting Officer in subcontracts containing the clause may be satisfied in such subcontracts by including this entire paragraph.

ARTICLE 9—DESIGNATION OF PROPERTY ADMINISTRATOR

----------, Contract Property Administrator, is hereby designated the property administrator for this contract. The

Contractor agrees to furnish to the Contract Property Administrator information regarding Government property as specified in this contract and in the manner and to the extent required by the Contract Property Administrator or his duly designated successors.

ARTICLE 10—DEFINITIONS

(Define terms, as appropriate.)

((40 U.S.C. (c))); sec. 205(c), 63 Stat. 377, as amended)

[FR Doc.74-23596 Filed 10-8-74;8:45 am]

## Title 43—Public Lands: Interior

## CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

### APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5434]

[Wyoming 18268]

### WYOMING

### Opening of Lands Subject to Section 24 of the Federal Power Act

By virtue of the authority contained in section 24 of the Federal Power Act of June 10, 1920, as amended, 16 U.S.C. 818 (1970), it is ordered as follows:

In DA-169-Wyoming, the Federal Power Commission determined that the power values of the following described lands, withdrawn by the Secretary's Order of January 6, 1944, creating Powersite Classification No. 346, will not be injured or destroyed by restoration to location, entry, or selection under appropriate public land laws, subject to the provisions of section 24 of the Federal Power Act:

SIXTH PRINCIPAL MERIDIAN

T. 14 N., R. 82 W.,
Sec. 1, SW¼SE¼;
Sec. 12, E½NE¼.

The areas described aggregate 120 acres in Carbon County.

At 10 a.m. on November 2, 1974, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable law, and the provisions of section 24 of the Federal Power Act, supra. All valid applications received at or prior to 10 a.m. on November 2, 1974, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been open to applications and offers under the mineral leasing laws, and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955, 30 U.S.C. 621.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Cheyenne, Wyoming 82001.

JACK O. HORTON,
*Assistant Secretary of the Interior.*

SEPTEMBER 27, 1974.

[FR Doc.74-23519 Filed 10-8-74;8:45 am]

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[Public Land Order 5437]

[CA-700]

### CALIFORNIA

### Withdrawal of Public Lands for Protection of Historical Site and Endangered Species

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands, which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C., Ch. 2, but not from leasing under the Mineral Leasing Act or the Recreation and Public Purposes Act, 43 U.S.C. 869 (1970), and reserved for preservation of the historic site of Fort Soda (ZZYZX Springs) and the protection of the endangered species of fish, the Mojave Chub:

SAN BERNARDINO MERIDIAN

T. 12 N., R. 8 E.,
Sec. 2, W½ (unsurveyed);
Sec. 11;
Sec. 14, NW¼.
T. 13 N., R. 8 E.,
Sec. 35, W½ (unsurveyed).

The areas described aggregate 1,452 acres in San Bernardino County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

JACK O. HORTON,
*Assistant Secretary*

SEPTEMBER 30, 1974.

[FR Doc.74-23496 Filed 10-8-74;8:45 am]

## Title 47—Telecommunication

## CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

## PART 0—COMMISSION ORGANIZATION

### Location of Field Office; Seattle, Washington

In the matter of editorial amendment of § 0.121(a) of the Commission's rules and regulations.

1. The following editorial change will be made to the rules and regulations to reflect the correct address of the Federal Communications Commission field office located in Seattle, Washington:

| Radio district | From | To |
|---|---|---|
| 14..... | 8012 Federal Office Building, 1st Avenue and Marion, Seattle, Washington 98104. | 8012 Federal Office Building, 1st Avenue and Madison, Seattle, Washington 98174. |

2. Since the amendment is editorial in nature the prior notice and effective date provisions of the Administrative Procedure Act are not applicable. Authority for the promulgation of this amendment is contained in sections 4(i) and 5(d) of the Communications Act of 1934, as amended, and Section 0.231(d) of the Rules.

3. Accordingly, it is ordered, effective October 15, 1974, that § 0.121(a) of the rules and regulations is amended as set forth in the Appendix attached hereto.

(Secs. 4, 5, 48 Stat., as amended, 1066, 1068, 47 U.S.C. 154, 155.)

Adopted: September 30, 1974.

Released: October 1, 1974.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOHN M. TORBET,
*Executive Director.*

APPENDIX

In Chapter I of Title 47 of the Code of Federal Regulations, § 0.121 is amended as follows:

**§ 0.121 Location of Field Offices and Monitoring Stations.**

(a) District offices and their suboffices are located at the following addresses:

| Radio district | Address of the engineer in charge | Territory within district | |
|---|---|---|---|
| | | States | Counties |
| * | * | * | * |
| 14..... | 8012 Federal Office Building, 1st Avenue and Madison, Seattle, Washington 98174. | Idaho..... | Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Nez Perce, Shoshone. |
| | | Montana..... | All counties. |
| | | Washington..... | All except District 13. |
| * | * | * | * |

[FR Doc.74-23371 Filed 10-8-74;8:45 am]

# proposed rules

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

## DEPARTMENT OF THE TREASURY

### Customs Service

### [ 19 CFR Part 142 ]

### SPECIAL PERMITS FOR IMMEDIATE DELIVERY PRIOR TO ENTRY

### Suspension of an Importer's Immediate Delivery Privileges for Failure To Pay Customs Bills

Notice is hereby given that under the authority of R.S. 251, as amended (19 U.S.C. 66), and sections 448, 484, 624, 46 Stat. 714, as amended, 722, as amended, 759 (19 U.S.C. 1448, 1484, 1624), it is proposed to amend § 142.7(b) of the Customs regulations (19 CFR 142.7(b)) to set forth in greater detail the procedure by which an importer's immediate delivery privileges may be suspended in the various Customs regions when the importer is delinquent in paying his Customs bills.

At present, § 142.7(b) of the Customs regulations describes a procedure under which the immediate delivery privileges of an importer substantially or habitually delinquent in the payment of his Customs bills may be suspended, either for a specified period of time or until the Customs bills on which he is delinquent are paid. The proposed amendment specifies that if the bills on which he is delinquent are not paid within 5 working days after the date the importer is notified of the suspension of his immediate delivery privileges in a particular Customs region, those privileges shall also be suspended in every other Customs region. This will effectively prohibit an importer delinquent in the payment of his Customs bills in one region from using the immediate delivery privilege at the ports in other Customs regions. A port of entry covered by the suspension may not lift the suspension until the port has received notification from the Commissioner of Customs or his designee that the immediate delivery privileges of the suspended importer have been reinstated.

Accordingly, it is proposed to revise § 142.7(b) of the Customs regulations to read as follows:

**§ 142.7 Suspension of immediate delivery privileges.**

* * * * *

(b) *For failure to pay Customs bills.* Immediate delivery privileges may be suspended for an importer who is substantially or habitually delinquent on Customs bills issued him, in accordance with the following procedures:

(1) The importer shall be advised in writing by the Customs region in which he is substantially or habitually delinquent on Customs bills issued him that his immediate delivery privileges have been suspended in that region. The notice of suspension will state the reason for such action and will further advise the importer that, if payment of all Customs bills on which he is delinquent is not made within 5 working days from the date of notice of suspension, the importer's immediate delivery privileges shall also be suspended in every other Customs region.

(2) If the importer pays all of the Customs bills on which he is delinquent within 5 working days after the date of the notice of suspension, the suspension shall be lifted and the importer's immediate delivery privileges reinstated.

(3) If the importer has not paid all of the Customs bills on which he is delinquent within 5 working days after the date of the notice of suspension, the importer's immediate delivery privileges shall also be suspended in every other Customs region. This suspension shall remain in effect in all ports of entry until notification is received from the Commissioner of Customs or his designee that the importer's immediate delivery privileges have been reinstated.

(4) Brokers or other parties acting as agents for the importer shall not be permitted to circumvent the suspension in effect in one Customs region by applying in that or any other region for immediate delivery of the suspended importer's merchandise in their name and under their bond.

Prior to the adoption of this amendment, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received on or before November 8, 1974.

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

[SEAL] G. R. DICKERSON,
*Acting Commissioner of Customs.*

Approved: October 1, 1974.

DAVID R. MACDONALD,
*Assistant Secretary of the Treasury.*

[FR Doc.74-23512 Filed 10-8-74;8:45 am]

## DEPARTMENT OF DEFENSE

### Corps of Engineers, Department of the Army

### [ 33 CFR Part 204 ]

### STRAIT OF JUAN DE FUCA, WASHINGTON

### Proposed Danger Zone Regulations

Notice is hereby given that pursuant to Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of July 9, 1918 (40 Stat. 892; 33 U.S.C. 3) the regulations set forth in tentative form below are proposed by the Secretary of the Army (acting through the Chief of Engineers) to govern the use and navigation of a restricted area in the Strait of Juan de Fuca in the vicinity of Smith Island, Washington.

Prior to the adoption of the proposed regulations consideration will be given to any comments, suggestions or objection thereto which are submitted in writing to the Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attention: DAEN-CWO-N on or before November 8, 1974.

**§ 204.220 Strait of Juan de Fuca, Washington; air-to-surface weapon range, restricted area.**

(a) *The restricted area.* A circular area immediately west of Smith Island with a radius of 1.25 nautical miles having its center at latitude 49°19'11" North and longitude 122°54'12" West. In the center of the area will be located a lighted and radar reflective buoy to serve as a navigational aid to mariners. The area will be used for air-to-surface target practice using non-explosive training devices.

(b) *The regulations.* (1) No vessel or other watercraft shall enter or remain within the designated restricted area between 0700 and 2400 hours daily, local time except as authorized by the enforcing agency and as follows: The area will be open to commercial gill net fishing during scheduled fishing periods from 15 June through 15 October annually. The October 15 closure date will be extended by the enforcing agency if determined as advantageous to the commercial gill net fishing by the Washington State Department of Fisheries.

(2) Prior to each target practice operation the restricted area will be patrolled by naval aircraft. Those vessels found within the restricted area will be overflown by the aircraft at an altitude of not less than 300' in the direction in

which the unauthorized vessel is to proceed to clear the area.

(c) The regulations in this section shall be enforced by the Commandant, Thirteenth Naval District, Seattle, Washington, and such agencies as he may designate.

Dated: September 13, 1974.

By authority of the Secretary of the Army.

FRED R. ZIMMERMAN,
*Lt. Colonel, U.S. Army,*
*Chief, Plans Office, TAGO.*

[FR Doc.74-23520 Filed 10-8-74;8:45 am]

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[ 33 CFR Part 207 ]

## GULF OF MEXICO AND ST. ANDREW SOUND, FLORIDA

### Proposed Navigation Regulations

Notice is hereby given that pursuant to Section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1) the regulations set forth in tentative form below are proposed by the Secretary of the Army (acting through the Chief of Engineers) to govern the use and navigation of a restricted area in the Gulf of Mexico and St. Andrew Sound, Florida.

Prior to the adoption of the proposed regulation, consideration will be given to any comments, suggestions or objections thereto which are submitted in writing to the Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attention: DEAN-CWO-N on or before November 8, 1974.

**§ 207.175e Gulf of Mexico and St. Andrew Sound, South of East Bay, Florida, Tyndall Drone Launch Corridor, Tyndall Air Force Base, Florida; restricted area.**

(a) *The area.* The waters of the Gulf of Mexico and St. Andrew Sound within an area described as follows, including Crooked Island: Beginning at a point on shore at Latitude 30°01'30", Longitude 85°32'30", thence to Latitude 30°00'58" Longitude 85°33'38", thence to Latitude 29°56'38", Longitude 85°33'38", thence to Latitude 29°55'15", Longitude 85°31'21", thence to a point on shore at Latitude 30°00'58", Longitude 85°31'21", thence northwest to the point of beginning. This area will be referred to as the "Tyndall Drone Launch Corridor."

(b) *The regulation.* (1) Military usage of areas is Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m.

(2) Vessels are allowed to enter and remain in this area providing they have operational communications to monitor CB Channel 1 (26.965Mhz). Warnings will be broadcast using the following sequence:

(i) Announcement 90 minutes prior to drone launch.

(ii) Announcement 60 minutes prior to drone launch.

(iii) Announcement of drone launch or drone cancelled, and the expected time of the next drone launch.

Upon receipt of drone warning on CB Channel 1, vessels will take the necessary action to vacate the drone launch corridor not later than 60 minutes prior to expected drone launch.

(3) Vessels are authorized direct movement without stopping through this area at any time unless warned by helicopter or patrol boat.

(4) The area will be patrolled by helicopter/vessels during periods of hazardous military activity. Verbal warnings or instructions issued by these craft will be strictly adhered to.

(5) The regulations in this section shall be enforced by the Commanding Officer, Tyndall Air Force Base, Florida, and such agencies as he may designate.

Dated: September 13, 1974.

By Authority of The Secretary of The Army.

FRED R. ZIMMERMAN,
*Lt. Colonel, U.S. Army*
*Chief, Plans Office, TAGO.*

[FR Doc.74-23424 Filed 10-8-74;8:45 am]

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# DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[ 43 CFR Part 3100 ]

## OIL AND GAS LEASING

### Continuation by Drilling

On August 22, 1974, at 39 FR 30352 the Department announced an amendment of 43 CFR 3107.2-1(b). Although it is the practice of the Department to publish amendments of regulations first as proposed rulemaking and to give the public an opportunity to comment on the proposal, this amendment was made effective immediately. It has been determined that the ordinary practice should have been followed with this amendment. Accordingly the notice published on August 22, 1974, at 39 FR 30352 is hereby rescinded and the regulation 43 CFR 3107.2-1(b) in effect prior to that notice is hereby reinstated.

The amendment published on August 22, printed below, is hereby republished as proposed rulemaking. The purpose of this amendment is to clarify the definition of "primary term" to conform to the requirements of the Mineral Leasing Act, as amended (30 U.S.C. 181 et seq.). The present regulation 43 CFR 3107.2-1(b) defines "primary term" as meaning all periods in the life of an oil and gas lease prior to its extension by reason of production of oil or gas in paying quantities. This definition was intended to be applicable only to leases subject to section 4(d) of the Mineral Leasing Act Revision of 1960 (30 U.S.C. 226-1(d)). A different definition is required for "primary term" under section 17(e) of the Mineral Leasing Act, as amended (30 U.S.C. 226(e)). Accordingly, it is proposed to amend 43 CFR 3107.2—1(b) as set forth below.

In accordance with the Department's policy on public participation in rulemaking (36 FR 8336) interested parties may submit written comments, suggestions, or objections with respect to the proposed rules to the Director (210), Bureau of Land Management, Washington, D.C. 20240, until November 15, 1974.

Copies of comments, suggestions, or objections made pursuant to this notice will be available for public inspection in the Office of Public Affairs, Bureau of Land Management, Room 5643, Interior Building, Washington, D.C., during regular business hours (7:45 a.m.-4:15 p.m.).

It is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

A final action on the proposed regulation will be taken effective January 1, 1975.

It is proposed to revise 43 CFR 3107.2-1(b) as follows:

**§ 3107.2-1 Terms defined.**

* * * * *

(b) *Primary term.* (1) "Primary term" of leases subject to section 4(d) of the Mineral Leasing Act Revision of 1960 (30 U.S.C. 226-1(d)) means all periods in the life of the lease prior to its extension by reason of production of oil and gas in paying quantities.

(2) "Primary term" of all other leases means the initial term as set forth in the lease. For a competitive lease issued under section 17 of the Mineral Leasing Act, as amended (30 U.S.C. 226(e)), this means five years and for a noncompetitive lease issued under that section this means ten years.

Dated: October 3, 1974.

JACK O. HORTON,
*Assistant Secretary of the Interior.*

[FR Doc.74-23569 Filed 10-8-74;8:45 am]

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# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[ 21 CFR Part 328 ]

## IN VITRO DIAGNOSTIC PRODUCTS FOR HUMAN USE

### Proposed Establishment of Product Class Standard for Detection or Measurement of Glucose; Correction

In FR Doc. 74-14703 appearing at page 24136 in the FEDERAL REGISTER of Friday, June 28, 1974, the following corrections are made:

1. On page 24138 in column 1, § 328.100 (b)(2)(i)(*g*) is corrected by changing "nor" to read "not."

2. On page 24138 in § 328.100(c)(1), Table I under the column heading "Max-

imum bias a" is corrected in line 2 by changing "(0.56 m/1)" to read "(0.56 mM/1)."

3. On page 24142 in column 3, § 328.102 (c)(5)(iii) is corrected in line 7, in the paragraph appearing immediately under the concentration table, by changing the word "aliquants" to read "aliquots."

4. On page 24143 in § 328.102(d)(7), the table under the column heading "Initial values (absorbance)" is corrected in the last line by changing "396" to read "0.396."

5. On page 24145 in column 1, § 328.102 (e)(2)(ii)(c)(*1*) is corrected in line 3 by changing "77 $H_2O$)" to read "7 $H_2O$)."

6. On page 24146 in § 328.102(e)(3)(i), the table "Hexokinase Reaction" is corrected by changing "ATP = Adenoscine triphosphate" to read "ATP = Adenosine triphosphate" and "ADP = Adenoscine diphosphate" to read "ADP = Adenosine diphosphate."

7. On page 24146 in column 1, § 328.102 (e)(3)(i) following the table is corrected in line 10 by changing "600/mg/dl" to read "600 mg/dl."

8. On page 24146 in column 3, § 328.102 (e)(3)(v)(*b*)(*2*) is corrected in the last line by changing "6:730, 1971" to read "6:730, 1967."

9. On page 24147 in column 1, § 328.102 (e)(3)(*b*)(*5*) is corrected in line 3 by changing "100" to read "1,000."

10. On page 24147 in column 2, § 328.102(e)(3)(v)(*d*)(*5*) is corrected in line 5 by changing "grams" to read "g (gravity)."

Dated: October 2, 1974.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.74-23533 Filed 10-8-74;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### [ 33 CFR Part 117 ]

[CGD 74-234]

### BAYOU DULARGE, LA.

### Proposed Drawbridge Operation Regulations

At the request of the Terrebonne Parish Police Jury, the Coast Guard is considering amending the regulations for the State Highway 315 drawbridge across the Bayou DuLarge, mile 23.2, to allow closed periods from 9 p.m. to 5 a.m. However, the draw would open during this period if at least 12 hours notice is given. The draw is presently required to open on signal at all times. This is being considered because of limited openings during this period and also because other drawbridges in the vicinity are already on the proposed schedule.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Eighth Coast Guard District, Custom House, New Orleans, Louisiana 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Eighth Coast Guard District.

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

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended as follows:

In § 117.540(b)(2), by inserting the words "Bayou DuLarge, mile 23.2, S-315 highway drawbridge, near Theriot", immediately after the words "Houma Canal, mile 1.7, U.S. 90 highway drawbridge at Houma" in the listing.

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

Dated: October 3, 1974.

R. I. PRICE,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.74-23551 Filed 10-8-74;8:45 am]

### [ 33 CFR Part 117 ]

[CGD 74 235]

### BAYOU TECHE, FRANKLIN CANAL, LOWER ATCHAFALAYA RIVER, LA.

### Proposed Drawbridge Operation Regulations

At the request of the St. Mary Parish Police Jury, Louisiana, the Coast Guard is considering revising the regulations for six Parish owned drawbridges. Four of these drawbridges across Bayou Teche at miles 3.9, 11.8, 27.0 and 38.9 are presently required to open on signal. The proposed change would require that the draws open on signal from 5 a.m. to 9 p.m. daily; from 9 p.m. to 5 a.m. from February 1 through September 30 the draws would open on signal if at least 12 hours notice is given; and from 9 p.m. to 5 a.m. from October 1 through January 31 the draws would open on signal if at least three hours notice is given. These proposed periods are already in effect for seven other drawbridges across Bayou Teche. The draws of the bridges across the Franklin Canal, mile 4.8 and the Lower Atchafalaya River, mile 26.8 are presently required to open on signal. The proposed change would require that the draws open on signal from 6 a.m. to 6 p.m. and from 6 p.m. to 6 a.m. if at least 12 hours notice is given. This change is being considered because logs for these bridges reflect little marine activity during the proposed periods when advance notice would be required.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Eighth Coast Guard District, Customhouse, New Orleans, Louisiana 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Eighth Coast Guard District.

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

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by:

1. Revising the listing of drawbridges affected in subparagraph (3) of paragraph (a) of § 117.540 to read as follows:

**§ 117.540 Bridges in Louisiana where constant attendance is not required.**

(a) * * *

(3) * * *

Bayou Teche, mile 3.9, S-182 highway drawbridge at Calumet.
Bayou Teche, mile 11.8, S-87 highway drawbridge at Centerville.
Bayou Teche, mile 17.2, S-3069 highway drawbridge at Franklin.
Bayou Teche, mile 19.8, S-322 highway drawbridge at Sterling.
Bayou Teche, mile 22.3, S-323 highway drawbridge at Oaklawn.
Bayou Teche, mile 27.0, S-87 highway drawbridge at Baldwin.
Bayou Teche, mile 32.5, S-324 highway drawbridge at Charenton.
Bayou Teche, mile 37.0, S-670 highway drawbridge at Adeline.
Bayou Teche, mile 38.9, S-318 highway drawbridge at Sorell.
Bayou Teche, mile 41.8, S-671 highway drawbridge at Jeanerette.
Bayou Teche, mile 48.7, S-320 highway drawbridge at Olivier.

* * * * *

2. Adding a new § 117.541 immediately after § 117.540 to read as follows:

**§ 117.541 Franklin Canal and Lower Atchafalaya River, La.**

(a) The draws of the bridges across the Franklin Canal, mile 4.8 and the Lower Atchafalaya River, mile 26.8 shall open promptly on signal from 6 a.m. to 6 p.m. and shall open promptly on signal from 6 p.m. to 6 a.m. if at least 12 hours notice is given.

(b) In all other respects, the draws of these bridges shall be operated in accordance with § 117.245.

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

Dated: October 3, 1974.

R. I. PRICE,
*Rear Admiral U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.74-23558 Filed 10-8-74;8:45 am]

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## Federal Highway Administration

## [ 23 CFR Part 470 ]

[Docket No. 74-14]

## URBAN AREA BOUNDARIES

### Notice of Proposed Rulemaking

The Federal Highway Administration (FHWA) and Urban Mass Transportation Administration (UMTA) are considering issuing regulations to implement that part of 23 U.S.C. 101(a) prescribing guidelines for the establishment, submission and approval of urban area boundaries. The proposed regulations would add a new Subpart B to Part 470 (Highway Systems). This subpart would supersede existing PPM 10-5, dated July 23, 1964.

Section 105 of the Federal-Aid Highway Act of 1973 (Pub. L. 93-87, 87 Stat. 250) modifies section 101(a) of title 23, United States Code, and allows the fixing of urban area boundaries in a manner which will provide increased flexibility to various federally aided highway and transit programs.

The regulation defines "urban area" to mean either—

(1) An urban place having a population of 5,000 or more as designated by the U.S. Bureau of the Census and not within any urbanized area; or

(2) An urbanized area as designated by the U.S. Bureau of the Census.

In fixing the boundaries of an urban place as defined in the first definition above, the boundaries of the area shall encompass the entire urban place as designated by the U.S. Bureau of the Census plus that adjacent area which shall be fixed by responsible State and local officials in cooperation with each other. The State shall also consult with local public transit operators, where appropriate, in establishing the boundary locations for nonurbanized urban areas.

In determining the boundaries of an urbanized area, the boundaries of the area shall be located so that they encompass the entire urbanized area designated by the Census Bureau within a State plus the adjacent area which shall be fixed by responsible State and local officials in cooperation with each other. A list of urbanized areas may be found in Table 20 of the U.S. Summary of 1970 Census of Population, published by the U.S. Bureau of the Census.

Section 470.202(b) of the regulations defines "responsible local officials" in nonurbanized urban areas to mean the principal elected officials of general purpose local governments. In urbanized areas "responsible local officials" are defined as the principal elected officials of general purpose local governments (and until January 2, 1975, the Commissioner of the District of Columbia) acting through the Metropolitan Planning Organization designated by the Governor.

Section 470.204 (a) requires the State, in addition to cooperating with responsible local officials, to consult with local public transit operators where appropriate in establishing boundary locations for urbanized as well as nonurbanized urban areas. In fixing urban boundaries, it is suggested that the boundaries be fixed so as to smooth out irregularities, maintain administrative continuity of peripheral routes, and encompass fringe areas having residential, commercial, industrial, and/or national defense significance. Transportation and terminals serving the area such as airports and seaports should also be included within the redefined area if they lie within a reasonable distance of the urban area boundary that would otherwise be selected. Careful consideration should be given to the selection of boundary locations which will include logical control points for transportation linkages such as interchanges, major cross roads, etc., where the inclusion of such areas will not unduly distort the urban area boundary which would otherwise be selected.

Urban area and urbanized area boundary determinations should also consider the service areas of transit operations. Such considerations are particularly important if boundaries are to determine elegibility of capital projects, e.g., commuter railroad lines and stations, and rail transit and bus lines.

Urban area boundaries are fixed primarily for capital project funding and are not to be confused with boundaries established for the comprehensive, cooperative and continuing urban transportation planning process.

In cases where a single urban area extends across State borders, the contiguous States are encouraged to agree on the proposed boundary locations at the State line and avoid irregularities.

Section 470.206 sets forth the procedures to be followed by the State highway department in submitting boundary locations for review and approval. Maps shall be of a scale necessary to show all prominent highways and streets, all fixed transit right-of-way facilities, all major bus routes, corporate limits, and township lines, as well as the new limits of the urban area. The maps, together with any supporting documentation, shall be submitted to the FHWA Division Office for review and approval. The submission shall indicate the formal approval of the responsible State and local officials and shall document consultation with local public transit operators.

Section 470.206(b) of the regulations specifies in areas over 200,000 that approvals be made jointly by the Federal Highway and Urban Mass Transportation Administrators. The FHWA approving official is the FHWA Division Engineer. He will secure the concurrence of the regional representative of UMTA. In addition, in areas under 200,000 where the designation of urban boundaries has significant transit implications, UMTA concurrence should also be sought before formal approval is given to the proposed boundary locations. Approval will be indicated by the FHWA signature on the maps in a space provided for such purpose. One copy each of the State's submission letter, and the urban area map, together with any supporting papers are to be forwarded through the Regional Office to the Washington Headquarters, ATTN: HHP-14.

This amendment to title 23, Code of Federal Regulations, is imposed under the authority of 23 U.S.C. 101(a) and 315; and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b) and 1.50(f).

In consideration of the foregoing, it is proposed to amend Chapter I of title 23 of the Code of Federal Regulations by adding a new Part 470 Subpart B, as set forth below.

Inquiries, comments, views and arguments on these proposed regulations may be submitted to the Federal Highway Administration, Department of Transportation, Room 4226, Docket No. 74-14, 400 7th Street, SW., Washington, D.C. 20590. All written communications received on or before November 15, 1974, will be considered before final action is taken on this proposal: Copies of all written communications received will be available for examination during normal business hours at the foregoing address.

Issue date: October 3, 1974.

FRANK C. HERRINGER,
*Urban Mass Transportation Administrator.*

L. P. LAMM,
*Acting Executive Director, Federal Highway Administrator.*

**Subpart B—Urban Area Boundaries**

Sec.
470.200 Purpose.
470.202 Definitions.
470.204 Fixing of boundaries.
470.206 Submission and approval of boundary location.

AUTHORITY: 23 U.S.C. 101(a) and 315; 49 CFR 1.48(b) and 1.50(f).

### Subpart B—Urban Area Boundaries

#### § 470.200 Purpose.

The purpose of this subpart is to implement those portions of 23 U.S.C. 101(a) which prescribe the establishment, submission, and approval of urban area boundaries.

#### § 470.202 Definitions.

(a) Except as otherwise provided, terms defined in 23 U.S.C. 101(a) are used in this subpart as so defined.

(b) As used herein—

"Responsible local officials" means—

(1) In urban areas with a population of under 50,000, principal elected officials of general purpose local governments, or

(2) In urbanized areas, principal elected officials of general purpose local

governments (and until January 2, 1975, the Commissioner of the District of Columbia) acting through the Metropolitan Planning Organization designated by the Governor.

"Urban area" means either—

(1) An urban place having a population of 5,000 or more as designated by the U.S. Bureau of the Census and not within any urbanized area; or

(2) An urbanized area as designated by the U.S. Bureau of the Census or in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each State.

**§ 470.204 Fixing of boundaries.**

(a) Urban area boundaries shall be fixed by responsible State and local officials in cooperation with each other, and in consultation with local public transit operators where appropriate.

(b) The boundaries fixed shall encompass:

(1) For an urban area having a population of 5,000 or more as designated by the U.S. Bureau of the Census and not within any urbanized area, as a minimum, the entire urban place as designated by the U.S. Bureau of the Census. Adjacent areas agreed upon by responsible State and local officials may also be included within the boundaries.

(2) For an urbanized area, as a minimum, the entire urbanized area within a State as designated by the U.S. Bureau of the Census. Adjacent areas agreed upon by responsible State and local officials may also be included within the boundaries.

**§ 470.206 Submission and approval of boundary locations.**

(a) The State highway department shall submit the following to the Federal Highway Administrator for review and approval of boundaries:

(1) A map delineating the selected boundaries of the urban area. The map shall be of a scale sufficient to show all prominent highways and streets, all fixed transit right-of-way facilities, major bus routes, corporate limits, and township lines; the map shall also provide a space for the approving official's signature;

(2) Documentation of formal approval of the boundaries by State and responsible local officials; and

(3) Documentation of consultation with local public transit operators where such consultation was deemed appropriate.

(b) For urban areas over 200,000, approvals will be made by the Federal Highway and Urban Mass Transportation Administrators. For all other urban areas, approvals will be made by the Federal Highway Administrator, and in consultation with the Urban Mass Transportation Administrator where the designation of boundaries has significant transit implications.

(c) Approval by both FHWA and UMTA for areas of 200,000 or more and by FHWA for areas of fewer than 200,000 will be indicated by signature of an approving FHWA official on the maps in the space provided.

[FR Doc.74-23433 Filed 10-8-74;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Housing Production and Mortgage Credit

### [ 24 CFR Part 275 ]

[Docket No. R-74-267]

### LOW RENT PUBLIC HOUSING

### Prototype Cost Limits

In the FEDERAL REGISTER issued Friday, May 17, 1974 (39 FR 17678), prototype per unit cost schedules were published pursuant to section 15(5) of the U.S. Housing Act of 1937. Consideration of subsequent factual project cost data received from the San Juan, Puerto Rico Commonwealth Area Office indicates that the prototype costs for Puerto Rico, published on May 17, 1974, should be revised as set forth below in the table entitled Prototype Per Unit Cost Schedule.

Written data, views or statements may be filed with the appropriate HUD Area Office. The offices were listed in our publication of May 17, 1974.

Accordingly, it is proposed to amend 24 CFR Part 275 as follows:

1. On pages 17687 and 17688 delete the existing protoype costs for Puerto Rico, San Juan, Ponce, Mayaguez, Arecibo, and substitute in lieu thereof the revised prototype per unit costs shown on the table set forth hereinafter, entitled Prototype Per Unit Cost Schedule.

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

*Effective date.* This amendment is effective on October 9, 1974.

SHELDON B. LUBAR,
*Assistant Secretary-Commissioner.*

REGION II.—*Prototype per unit cost schedule*

| | Number of bedrooms | | | | | | |
|---|---|---|---|---|---|---|---|
| | 0 | 1 | 2 | 3 | 4 | 5 | 6 |
| San Juan, P.R.: | | | | | | | |
| Detached and semidetached | 11,950 | 14,300 | 15,850 | 18,950 | 22,850 | 25,350 | 26,600 |
| Row dwellings | 11,450 | 13,700 | 15,250 | 18,000 | 21,700 | 24,150 | 25,300 |
| Walk-up | 11,000 | 13,550 | 15,400 | 18,300 | 21,150 | 23,300 | 24,550 |
| Elevator-structure | 12,700 | 14,850 | 18,800 | 20,900 | 22,950 | | |
| Ponce, P.R.: | | | | | | | |
| Detached and semidetached | 12,000 | 14,400 | 15,900 | 19,050 | 22,900 | 25,400 | 26,650 |
| Row dwellings | 11,500 | 13,800 | 15,300 | 18,050 | 21,800 | 24,200 | 25,350 |
| Walk-up | 11,100 | 13,600 | 15,500 | 18,300 | 21,250 | 23,350 | 24,600 |
| Elevator-structure | 12,800 | 14,900 | 18,900 | 21,000 | 23,050 | | |
| Mayaguez, P.R.: | | | | | | | |
| Detached and semidetached | 12,000 | 14,400 | 15,900 | 19,050 | 22,900 | 25,400 | 26,650 |
| Row dwellings | 11,500 | 13,800 | 15,300 | 18,050 | 21,800 | 24,200 | 25,350 |
| Walk-up | 11,100 | 13,600 | 15,500 | 18,300 | 21,250 | 23,350 | 24,600 |
| Elevator-structure | 12,800 | 14,900 | 18,900 | 21,000 | 23,050 | | |
| Arecibo, P.R.: | | | | | | | |
| Detached and semidetached | 12,000 | 14,400 | 15,900 | 19,050 | 22,900 | 25,400 | 26,650 |
| Row dwellings | 11,500 | 13,800 | 15,300 | 18,050 | 21,800 | 24,200 | 25,350 |
| Walk-up | 11,100 | 13,600 | 15,500 | 18,300 | 21,250 | 23,350 | 24,600 |
| Elevator-structure | 12,800 | 14,900 | 18,900 | 21,000 | 23,050 | | |

[FR Doc.74-23412 Filed 10-8-74;8:45 am]

### Office of Assistant Secretary for Community Planning and Development

### [ 24 CFR Part 570 ]

[Docket No. R-74-292]

### COMMUNITY DEVELOPMENT BLOCK GRANTS

### Notice of Proposed Rulemaking

*Correction*

In FR Doc. 74-21511, appearing at page 33482 of the Tuesday, September 17, 1974 issue, § 570.604(b), which now reads:

(b) HUD Special Procedures Relating environmental review responsibilities of tification for the release of funds for particular projects set forth the regulations, policies, responsibilities and procedures governing the carryingout of environmental review responsibilities of recipients.

Should read:

(b) HUD Special Procedures Relating to Environmental Review leading to certification for the release of funds for particular projects set forth the regulations, policies, responsibilities and procedures governing the carrying out of environmental review responsibilities of recipients.

## FEDERAL HOME LOAN BANK BOARD

### [ 12 CFR Part 545 ]

[No. 74-901]

### FEDERAL SAVINGS AND LOAN SYSTEM

### Withdrawal of Proposed Amendments Regarding Give-Aways

SEPTEMBER 4, 1974.

The Federal Home Loan Bank Board by Resolution No. 73-863, dated June 27, 1973, proposed to amend paragraph (a) of § 545.5 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.5(a)) by adding a new alternative provision under which the section could become applicable to Federal savings and loan associations. Notice of such proposed rule making was duly published in the FEDERAL REGISTER on July 3, 1973 (38 FR 17738, *et seq.*), and interested persons were invited to submit written data, views and argu-

ments as to whether it should be adopted, rejected or modified by July 27, 1973. This period for written comment was subsequently extended to August 24, 1973 (38 FR 21435).

In considering the proposal and the comments thereon, the Board became concerned about the considerable difficulties involved in the formulation by a single agency of regulations with respect to give-aways which would be effective, would treat associations fairly from the competitive standpoint, and could be easily administered on a national basis. The Board concluded that the proposal did not overcome these difficulties to an extent sufficient to warrant its adoption.

Accordingly, the Board hereby withdraws from consideration the amendments relating to give-aways proposed by said Resolution No. 73-863.

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

By the Federal Home Loan Bank Board.

[SEAL] A. CATHERINE POORE,
*Assistant Secretary.*

[FR Doc.74-23566 Filed 8-10-74;8:45 am]

## NATIONAL CREDIT UNION ADMINISTRATION

### [ 12 CFR Part 700 ]

### RISK ASSET CATEGORY

### Exclusion of Share-Secured Loans

Notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred by section 120, 73 Stat. 635, 12 U.S.C. 1766, and section 209, 84 Stat. 1014, 12 U.S.C. 1789, proposes to amend 12 CFR 700.1(j) by adding paragraph 13, as set forth below.

The purpose of this amendment is to provide for exclusion of share-secured loans from the risk asset category.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed rulemaking to the Administrator, National Credit Union Administration, 2025 M St., N.W., Washington, D.C. 20456. Comments received prior to December 11, 1974, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for public inspection during normal business hours at the foregoing address.

HERMAN NICKERSON, Jr.,
*Administrator.*

OCTOBER 2, 1974.

Section 700.1(j) is amended by adding paragraph thirteen (13) as follows:

(13) Loans fully secured by the borrower's pledge of shares in the lending Federal credit union, equal to and maintained to at least the amount of the loan outstanding.

[FR Doc.74-23500 Filed 10-8-74;8:45 am]

## RENEGOTIATION BOARD

### [ 32 CFR Parts 1459, 1470 ]

### COST ACCOUNTING STANDARDS

### Proposed Conformance Requirements for Financial Statements

The Renegotiation Board proposes to amend its regulations to require that all financial statements filed with the Board shall be in conformance with Cost Accounting Standards promulgated by the Cost Accounting Standards Board. The Board was designated a "relevant Federal agency" under Public Law 91-379 (84 Stat. 795, approved August 15, 1970), 50 U.S.C. App. § 2168, and Cost Accounting Standards Board Regulation, § 331.2, 4 CFR 331.2. The proposed compliance with the Cost Accounting Standards is being undertaken over a two-year period, with the first stage to become effective with respect to contractors' fiscal years beginning after December 31, 1974 but before January 1, 1976, and the second stage to be effective for fiscal years beginning on or after January 1, 1976.

The areas affected by the proposed amendments are contained in Parts 1459 and 1470 of the Board's regulations. The amendments are designed to provide better uniformity and consistency in the methods of accounting to be employed for renegotiation purposes.

The principal changes proposed are the following:

1. For fiscal years beginning after December 31, 1974 but before January 1, 1976, contractors with any renegotiable contracts or subcontracts subject to one or more of the Cost Accounting Standards will be required to file financial statements with the Board with respect to all their renegotiable business for such fiscal years in conformance with all Cost Accounting Standards in effect with respect to any such renegotiable contract or subcontract. It is intended that, for such fiscal years, any Cost Accounting Standard which is applicable to any renegotiable contract or subcontract under 50 U.S.C. App. Section 2168 for any portion of the contractor's fiscal year must be applied to all renegotiable business of such contractor for his entire fiscal year although none of the Cost Accounting Standards may be applicable to certain of his renegotiable contracts or subcontracts under 50 U.S.C. App. Section 2168.

2. For fiscal years beginning on or after January 1, 1976, all contractors subject to renegotiation will be required to file financial statements with the Board with respect to all their renegotiable business in conformance with all Cost Accounting Standards in effect even though none of the contractor's renegotiable business is otherwise subject to such standards.

3. For good cause shown, the Board may except a contractor from compliance with one or more of the Cost Accounting Standards if such compliance is not required by 50 U.S.C. App. Section 2168.

The Board proposes to issue the proposed amendments not earlier than December 2, 1974. Interested persons are hereby notified that any changes to be considered must be presented in writing, to the Renegotiation Board, 2000 M Street, NW., Washington, D.C. 20446, not later than November 25, 1974.

Written material or suggestions submitted will be available for public inspection during regular business hours in the library at the principal office of the Board, 2000 M Street, NW., Washington, D.C.

Dated: October 4, 1974.

W. S. WHITEHEAD,
*Chairman.*

Section 1459.1(b) *Profits, cost allocation and allowance; general* is amended as follows:

1. Subparagraphs (1) through (7) inclusive of paragraph (b) are deleted in their entirely and the following inserted in lieu thereof, subparagraph (8) is redesignated (9), and a new subparagraph (8) is added.

**§ 1459.1 Statutory provisions and general regulations.**

(b) *Profits, cost allocation and allowance; general*—(1) *Accounting methods.* In connection with renegotiation on an over-all fiscal year basis, except as otherwise provided in these regulations, income received or accrued and costs paid or incurred will be considered as having been received or accrue or paid or incurred in the fiscal year to which such items are to be attributed in accordance with the method of accounting employed by the contractor in determining net income for Federal income tax purposes or in accordance with such other method of accounting as the contractor and the Board may agree upon pursuant to the provisions of paragraph (b) (3) of this section: *Provided* That, the method of accounting to be employed is not in conflict with the contractor's obligations under paragraph (b) (2) of this section. Except with respect to allocations made pursuant to such paragraph (b) (2) of this section, nothing in the preceding sentence shall affect the authority of the Board under section 103(f) and (i) of the Act to determine the income received or accrued or the costs paid or incurred by the contractor with respect to renegotiable business in a fiscal year in accordance with such method of accounting as, in the opinion of the Board, properly reflects such income or costs, if the method of accounting employed by the contractor in determining net income for Federal income tax purposes does not, in the opinion of the Board, properly reflect such income or costs, and the conrtactor and the Board are unable to agree upon a method which does properly reflect such income or costs.

(2) *Cost accounting standards.* As a designated "relevant Federal agency" under Public Law 91-379 (84 Stat. 796, approved August 15, 1970), 50 U.S.C.

App. section 2168, and Cost Accounting Standards Board regulation, section 331.2, 4 CFR 331.2, the Board extends recognition to uniform Cost Accounting Standards promulgated by the Cost Accounting Standards Board and contractors, in filing financial statements with the Renegotiation Board, are required to comply with such standards as provided herein.

(i) *Fiscal years beginning after December 31, 1974 but before January 1, 1976.* For fiscal years beginning after December 31, 1974 but before January 1, 1976, contractors with any renegotiable contracts or subcontracts subject to one or more Cost Accounting Standards are required to file financial statements with the Renegotiation Board with respect to all of their renegotiable business for such fiscal years in conformance with all Cost Accounting Standards in effect with respect to any such renegotiable contract or subcontract.

(ii) *Fiscal years beginning on or after January 1, 1976.* For fiscal years beginning on or after January 1, 1976, contractors are required to file financial statements with the Renegotiation Board as follows:

(*a*) Contractors with any renegotiable contracts or subcontracts subject to one or more Cost Accounting Standards are required to file financial statements with respect to all their renegotiable business in conformance with all Cost Accounting Standards in effect with respect to any such renegotiable contract or subcontract.

(*b*) Contractors with no renegotiable contracts or subcontracts subject to any Cost Accounting Standards are required to file financial statements with respect to all their renegotiable business in conformance with those Cost Accounting Standards in effect at the beginning of the contractor's fiscal year.

(iii) *Exception.* Upon good cause shown, the Board may except a contractor from compliance with one or more of the Cost Accounting Standards for a fiscal year to the extent that compliance is not otherwise required by 50 U.S.C. App. Section 2168. A request for this exception shall be submitted to the Board in writing as soon as practicable after the close of the applicable fiscal year, but in no event later than the first day of the third month following the close of such fiscal year.

(iv) *Accounting period.* The Renegotiation Board has been excepted from certain provisions of Cost Accounting Standard No. 406, "Cost Accounting Period." Thus, where the contractor's cost accounting period is different from its fiscal year under the Act, the latter shall be used.

(3) *Differing accounting methods.* (i) The Board will permit a contractor to adopt for renegotiation purposes a method of accounting other than that used by the contractor for Federal income tax purposes, provided that:

(*a*) The method of accounting to be adopted is not in conflict with the contractor's obligation under 50 U.S.C. App. § 2168 or paragraph (b)(2) of this section to comply with the Cost Accounting Standards.

(*b*) The Board finds that the method of accounting employed by the contractor for Federal income tax purposes is manifestly unsuitable for the purpose of renegotiation because it does not clearly reflect the profits attributable to the contractor's performance of renegotiable contracts for the fiscal year under review, and the method of accounting to be adopted does clearly reflect such profits: and

(*c*) The contractor enters into a written agreement with the Board before the conclusion of the renegotiation proceedings for the year under review, providing among other things substantially as follows:

(*1*) That the contractor will employ such different method of accounting for the purposes of the renegotiation proceedings for the year under review and all subsequent years, whether such proceedings are concluded by agreement or order;

(*2*) That no cost or expense recognized in the renegotiation proceedings for the first year covered by the agreement will be recognized in any subsequent renegotiation proceeding; and

(*3*) That the computation of losses, if any, in preceding fiscal years (see § 1457.8 of this subchapter) will be made on the basis of such different method of accounting.

(ii) Under this section, a contractor may adopt a different method of accounting for the purpose of determining all amounts received or accrued and costs paid or incurred in a fiscal year, as in the case of a change from a cash receipts and disbursements method of accounting to an accrual method of accounting; or it may adopt a different method of accounting for a particular item of cost or for a particular class of items of cost which would result in recognizing such item or items in one fiscal year rather than another.

(iii) Subject to the foregoing conditions, the Board will also permit a contractor to adopt for renegotiation purposes the completed contract method of accounting for contracts to be performed over a period of more than one fiscal year, which, because of circumstances of performance, would require estimates of performance and allocation of income and cost that could result in material distortion in accounting on an interim basis prior to completion. Such contracts may include contracts for construction of major facilities or major units (such as a vessel or group of vessels) when the profits can best be determined upon completion.

(iv) If a contractor employs, for the purposes of a renegotiation proceeding relating to the year under review, a method of accounting different from that which it employed for the purposes of a renegotiation proceeding relating to the preceding fiscal year, whether pursuant to this section or otherwise, it will be required to employ such different method of accounting for the purposes of all subsequent renegotiation proceedings, and the amounts received or accrued and costs paid or incurred which have been recognized in prior renegotiation proceedings will not be recognized in the proceedings relating to the year under review.

(4) *Allocation of costs.* In general, except as provided in paragraph (b)(2) of this section, the costs paid or incurred with respect to renegotiable business in the fiscal year under review will be the costs allocated to such business and such year by the contractor's established cost accounting method if that method reflects recognized accounting principles and practices. If in the opinion of the Board there is no adequate or effective cost accounting method in use, or if the method employed does not properly reflect such costs because there are unjustified or improper allocations of items of cost in the accounting records or in the reports or statements filed for the purpose of renegotiation, costs will be allocated in accordance with such method as in the opinion of the Board does properly reflect such costs. The fact that all receipts and accruals during a fiscal year are classifiable as renegotiable does not necessarily mean that all items of cost estimated to be deductible in that year are allocable to renegotiable business.

(5) *Tax deductions.* When an item of cost is allocable in whole or in part to renegotiable business, the Board will estimate the amount allowable as a deduction or exclusion under chapter 1 of the Internal Revenue Code, and such estimated amount will be allowed as a cost of renegotiable business in the fiscal year under review to the extent that it is allocable to such business and such year in accordance with the principles set forth in this paragraph (b). No such item of cost will be allowed in an amount less than or in excess of that estimated to be deductible or excludable from income under the Internal Revenue Code, and all items of cost will be allocated to the fiscal year in which they are allowable in the determination of taxable income under said Code, except as otherwise provided in this paragraph (b). When it is clear that a contractor's deductions and exclusions under the Internal Revenue Code result in allowable costs of renegotiable business which are in the aggregate either high or low on a comparative basis, this circumstance will be considered in connection with the factor of the "reasonableness of costs" of the contractor and the determination of the amount of any profit adjustment to be required of the contractor. In estimating amounts allowable as deductions or exclusions under chapter 1 of the Internal Revenue Code, due consideration will be given to any pertinent action by the Internal Revenue Service. Published rulings of the Internal Revenue Service on matters of general application will be adhered to in making such estimates. However, the allowance of items as costs is not required merely because they have been or are expected to be allowed for tax purposes by

particular revenue agents or other field representatives of the Internal Revenue Service. Occasionally cases may be encountered in which revenue agents will have allowed salaries or other items as deductions for tax purposes which the Board concludes are not properly allowable under the Internal Revenue Code or are properly allowable in a different amount or for a different year. In such cases the action of the revenue agents is not regarded as conclusive. Similarly, disallowances by such officials are not conclusive. The Board will exercise independent judgment on whether and to what extent and for what year items are allowable as deductions or exclusions under the Internal Revenue Code. Such judgment will be based upon an estimate of what the courts would do if the deductibility or excludability of the items were the subject of litigation.

(6) *Effect of cost principles promulgated by other agencies.* Agreements for the allowance or disallowance of costs entered into by a contractor with another agency of the Government, either by specific contractual provision or by acceptance (expressed or implied) of Government regulations or policies, are not controlling with respect to recognition of such costs for renegotiation purposes. Thus, a cost properly disallowed in accordance with the Armed Services Procurement Regulation, in connection with a contract to which such regulation is applicable, will nevertheless be recognized for renegotiation purposes if such cost is a proper Federal income tax deduction. Similarly, an item allowable as a "cost" by such regulation or by specific contractual agreement will not be allowed unless it is a proper Federal income tax deduction. Furthermore, a specific agreement that additional proper costs incurred in performing a contract will not be claimed as an addition to the contract price will not result in the non-recognition of such cost for renegotiation purposes.

(7) *Conditional allowance of cost.* If an occasion should arise in which the Board is unable to make a reasonable estimate of whether or the extent to which a particular item is allowable as a deduction or exclusion under the Internal Revenue Code for the year under review and the item is material in relation to the excessive profits to be eliminated, the Board may allow the item as a cost in renegotiation, provided that the contractor agrees to refund as additional excessive profits the amount so allowed to the extent that such amount may finally be determined to be not allowable as a deduction or exclusion under the Internal Revenue Code for the year under review.

(8) *Costs previously allowed in renegotiation.* No item will be allowed as a cost of renegotiable business to the extent that such item has, in a previous renegotiation under the act or under any other renegotiation law, been allowed as a cost in determining excessive profits, notwithstanding that such item may be a deduction or exclusion under chapter 1 of the Internal Revenue Code in computing taxable net income for the taxable period corresponding to the fiscal period covered by the current renegotiation.

* * * * *

Section 1470.3 *Filing of financial statement* is amended as follows: Paragraph (c) is amended by designating the existing text as paragraph (c)(1), *General,* and adding a new paragraph (c)(2), to read as follows:

**§ 1470.3 Filing of financial statement.**

* * * * *

(c) *Sufficiency of contents*—(1) *General* * * *

(2) *Cost accounting standards.* The Board recognizes the Cost Accounting Standards promulgated by the Cost Accounting Standards Board. To the extent one or more such standards are applicable to a fiscal year, under the provisions of 50 U.S.C. App. § 2168 and § 1459.1 (b)(2) of this subchapter, the Standard Form of Contractor's Report shall be prepared in accordance therewith. Upon request there shall be filed with the Board copies of disclosure statements, if any, and other explanatory documents and information filed with the Cost Accounting Standards Board and procurement agencies.

* * * * *

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. Sec. 1219)

[FR Doc.74-23563 Filed 10-8-74;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

**[ 17 CFR Parts 231 and 271 ]**

[Release No. 33-5529, IC-8528; File No. S7-530]

### SALES LITERATURE FOR VARIABLE ANNUITIES

**Proposed Amendments of Statement of Policy; Extension of Comment Period**

The Securities and Exchange Commission has received requests for an extension of the due date for comments upon its proposal to amend the Statement of Policy under the Securities Act of 1933. These proposed amendments would permit variable annuities to use illustrations in sales literature and prospectuses. Notice of the proposed amendments was published on July 30, 1974 in Release Nos. 33-5516 and IC-8438 and in the FEDERAL REGISTER issue on August 20, 1974, 39 FR 30051. The Commission also requested comment on whether other investment companies, including mutual funds, should be permitted to use illustrations based on hypothetical investment results.

The Commission desires a prompt determination with respect to adoption of the proposed amendments but has determined that an extension until October 15, 1974, is appropriate and will not result in undue delay.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

OCTOBER 2, 1974.

[FR Doc.74-23704 Filed 10-8-74;8:45 am]

## SMALL BUSINESS ADMINISTRATION

**[ 13 CFR Part 120 ]**

**LOAN POLICY**

**Notice of Proposed Rulemaking**

The Small Business Administration (SBA) is considering amendments to its Business Loan Policy regulations. These amendments are intended (1) to preclude lending institutions participating (participating lenders) with SBA in the making of immediate or deferred participation (guaranty) loans from exacting prepaid servicing fees from any purchaser of the SBA-guaranteed portion of a loan made and serviced by any such lender; (2) to regulate the fees that may be directly or indirectly imposed by any participating lender upon an applicant for SBA financial assistance or an SBA borrower; (3) to clarify the circumstances under which an applicant for SBA financial assistance may be required to purchase insurance as a condition of such assistance; (4) to define the term "associate" for the purpose of preventing self-dealing or other financing when a conflict of interest exists; (5) to clarify the requirements that must be met by any lending institution desirous of participating with SBA in making particular loans; (6) to set forth the additional requirements that must be met by lending institutions not subject to state or Federal supervision and examination that are desirous of entering into a participation agreement with SBA; (7) to set forth operational restrictions and reporting requirements that must be adhered to by all participating lenders generally, and those restrictions and requirements applicable only to participating lenders subject exclusively to SBA supervision and examination; (8) and to set forth the procedures by which SBA will rescind a participation agreement.

Inquiries may be addressed and comments submitted with respect to the proposed amendments to the Associate Administrator for Finance and Investment, SBA, 1441 L Street, N.W., Washington, D.C. 20416. All material received on or before November 8, 1974, will be considered.

It is therefore proposed to amend Part 120 in the manner set forth below.

1. Section 120.3(b)(3) is amended, new paragraph (b)(5)–(7) are added, and paragraph (c) is revoked, to read as follows:

**§ 120.3 Terms and conditions of business loans and guarantees.**

* * * * *

(b) *Charges and interest rates.* * * *

(3) *Service fees.* In immediate participation loans, in guaranteed loans where SBA has purchased its portion,

and in guaranteed loans made and serviced by the lender, the guaranteed portion of which has been transferred to a third party, the lender may deduct a service fee only out of interest collected for the account of SBA or the said third party, as the case may be, and only so long as the lender is servicing the loan: *Provided, however,* That such fee shall not be added to any amount which the borrower is obligated to pay under the loan. Where SBA's share is 75 percent or less, the service fee shall be three eighths of one percent per annum on the unpaid principal balance of SBA's share of the loan. Where SBA's share is in excess of 75 percent of the loan, the service fee shall be one fourth of one percent per annum on the unpaid principal balance of SBA's portion of the loan.

(5) *Fees imposed on loan applicants.* No applicant for SBA financial assistance (applicant) shall be required, as a condition precedent or subsequent to the granting or disbursement of a loan, to pay any fees or charges to the lender or to any associate (as hereinafter defined) of the lender, or to purchase any goods or services (including insurance) from the lender or any associate thereof.

(i) *Permitted fees.* In addition to legal and reasonable interest charges to be paid to the lender, an applicant may be required to reimburse the lender, or any associate thereof, for the reasonable cost of accounting and appraisal services actually furnished to the applicant, for reasonable expenses incurred in connection with title and other record searches (*Provided, however,* In each case that usable certified copies of such accountant's, appraiser's or searcher's reports be furnished to the applicant) and for expenses incurred in connection with recordation or filing necessary to perfect a security interest in the lender.

(ii) *Certification of fees.* Every applicant shall be furnished with a written schedule of all fees and charges that may be imposed by the lender or by any associate of the lender in connection with the loan. Such schedule shall be furnished to every applicant prior to the commencement of the processing of any loan application, or the incurring of liability by the applicant to pay for the furnishing of any services in connection with such processing. Applications to SBA for participation in, or guaranty of, a loan shall be accompanied by a certification jointly executed by the lender and applicant setting forth the nature and amount of all fees paid, or to be paid, by the applicant to the lender or any associate in connection with the preparation, processing, submittal or disbursement of any loan. Such certification shall include a signed and dated copy of the aforesaid schedule of fees. No guaranty shall issue without SBA's express approval of all fees set forth in the certification. Failure to disclose the full amount of all fees paid or to be paid by the applicant shall relieve SBA of its obligation to the lender.

(6) *Insurance.* An applicant may be required to purchase or maintain hazard insurance on assets to be used as collateral. An applicant may also be required, when appropriate, to purchase or maintain personal insurance coverage; but such obligatory personal insurance shall be limited to declining balance term insurance in an initial face amount not in excess of the outstanding balance of the loan, and declining thereafter consistently with the amortization of the loan balance. An applicant shall not be required to purchase insurance from the lender or any associate thereof; and any insurance premiums paid to the lender or any associate thereof shall be deemed a fee for the purposes of § 120.3(b)(5)(ii).

(7) *Definition of "associate".* As used herein, the term "associate" of a lender includes:

(i) Any officer, director, holder of 10 percent or more of the lender's stock (directly or indirectly), and any employee of the lender;

(ii) Any corporation, partnership or other entity that controls, is controlled by, or is under common control with, the lender, whether directly or indirectly in each case, and any employee of the foregoing; and

(iii) Any business enterprise in which any person or entity described in paragraph (b)(1)(i) or (ii) of this section, or a partner or close relative thereof, shall be an officer, director, or partner; or in which any person or entity (other than a small business investment company licensed by SBA) described in paragraph (b)(7)(i) or (ii) of this section, or a partner or close relative thereof, shall, either individually or in concert with any other person or entity referred to in paragraph (b)(7)(i) or (ii) of this section; or a partner or close relative thereof, have a direct or indirect equity interest of 10 percent or more, or other substantial financial interest.

(A) *Close relative.* As used in this definition "close relative" means ancestor, lineal descendant, brother or sister and lineal descendants of either, spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

(B) *Period of relationship.* For the purposes of this definition any person or entity in any of the relationships described in paragraph (5)(7)(i), (ii) and (iii) of this section within six months before or after the date of the application for a guaranteed loan shall be deemed to have been in such relationship as of such date.

2. New §§ 120.4 and 120.5 are added to read as follows:

**§ 120.4 Eligible loan participants.**

(a) *General eligibility requirements.* SBA is authorized by appropriate enabling legislation to make participation loans in cooperation with banks and other lending institutions through agreements to participate on an immediate or deferred (guaranty) basis. Such agreements do not in any way obligate SBA to participate on any particular loan or loans that a lender may submit; nor does the existence of a participation agreement limit in any way SBA's right to determine (subject to applicable statutory limitations) from time to time, either as a matter of generally applicable policy, or with respect to particular loans, the ratio between its share, or the guaranteed portion, of a loan and the participating lender's share, or the unguaranteed portion. In order to serve as an eligible loan participant in any particular loan a lender must—

(1) *Business capacity.* Have a continuing capacity to evaluate, close, disburse, and service commercial term and other loans authorized to be made by SBA to small business concerns. Such a capacity will be inferred if, and only if, the lender's operations are at all times conducted by persons possessing the ability to evaluate, close and service loans of the types aforesaid; and the lender holds itself out to the public as engaged in the making of such loans.

(2) *Good character and reputation.* Have good character and reputation. A lender will be deemed to possess good character and reputation if all holders, direct or indirect, of 10 percent or more of its stock, and the members of its management (including officers and directors) possess good character and reputation.

(3) *Absence of interest in borrower.* Have no direct or indirect interest in the borrower.

(i) No loans may be made to any associate of the lender.

(ii) No loans may be made for the purpose of financing, directly or indirectly, the purchase of real or personal property, or of services, from the lender or any associate of the lender unless the application for the guaranty of such loan shall clearly show that the purchase of the property or the services from the lender or an associate of the lender is in the best interests of the borrower. Failure to disclose the interest of the lender or of any associate of the lender in the transaction shall be a basis for denial by SBA of its liability to the lender under the applicable guaranty.

(iii) No SBA participation loans may be made for the sole purpose of repaying or refinancing a pre-existing indebtedness to the lender or to any associate of the lender. However, a portion of the proceeds of an SBA participation loan may be used for the purpose of repaying or refinancing a pre-existing indebtedness of the borrower to the lender or an associate of the lender; provided that (1) the application for a guaranty shall clearly show that the refinancing of the said indebtedness is in the best interests of the borrower, and (2) the amount of loan proceeds used to repay the said indebtedness shall be added to the lender's unguaranteed portion of the loan and shall be excluded from the coverage of SBA's guaranty. Failure to disclose the interest of the lender or any associate in the loan shall be a basis for denial by SBA of its liability to the lender under the applicable guaranty.

(4) *Supervision and examination.* Be an institution subject to such supervision and examination by a state or Federal chartering, licensing or similar regulatory authority as SBA may deem satis-

factory, such as a state or National bank, or a state or Federal savings and loan association: *Provided, however,* That small business investment companies duly licensed by SBA shall in no event be eligible participants.

(b) *Special eligibility requirements.* Lenders not qualifying under the provisions of paragraph (a)(4) of this section may qualify to serve as eligible loan participants in any particular loans if, in addition to the requirements set forth in paragraph (a)(1) through (3) of this section, inclusive, they can meet the following requirements:

(1) *Business purpose.* Be corporations (profit or non-profit) engaged solely in the making of loans in participation with, or guaranteed by, SBA; and in such other activities as may be hereinafter authorized.

(2) *Capital structure.* Have paid-in capital and paid-in surplus of not less than $500,000 in cash or the equivalent thereof, which shall be unimpaired.

(3) *Acceptance of SBA supervision.* Enter into written agreements with SBA to submit appropriate financial reports to SBA, as SBA may from time to time require; to keep books and records in such manner and in such form as SBA may from time to time prescribe; to submit to periodic examination by SBA; to conduct their business operations in accordance with such regulations as may be promulgated by SBA from time to time; generally, to accept supervision and examination by SBA, and to submit to SBA's right to suspend or revoke eligibility in the manner hereinafter provided for. Lenders not subject to supervision and regulation as set forth in paragraph (a)(4) of this section, but which have agreed to accept SBA supervision and regulation shall be hereinafter referred to as "subsection (b) lenders".

(c) *Determination of eligibility.* A lender wishing to enter into a participation agreement with SBA and meeting all the requirements set forth in paragraph (a) of this section, should submit its request, together with any evidence of its qualifications requested by SBA to the SBA District Office serving the area in which its principal business office is to be located. A subsection (b) lender should submit its request, together with evidence of its qualifications, to the Associate Administrator for Finance and Investment, SBA, Washington, D.C., 20416. SBA reserves the right to suspend or to revoke its participation agreement with any lender in the manner hereinafter set forth.

(d) *Suspension and revocation of participation agreement*—(1) *General.* SBA reserves the right to revoke or to suspend temporarily, its participation agreement with any lender for any violation of SBA regulations, any breach of any agreement with SBA, or for any change of circumstance resulting in the lender's inability to meet the operation requirements set forth herein. A notice of intention to suspend or to revoke (a "notice") shall set forth in detail the basis of SBA's intention to suspend or to revoke the participation agreement.

(2) *Service of notice.* Notice of SBA's intention to suspend or revoke its participation agreement with any lender shall be served upon the lender by registered or certified mail, return receipt requested, addressed to the subject lender's principal business office.

(3) *Service of papers other than notice.* Papers other than notice may be served upon a lender as provided in § 120.4(d)(2) by service in the manner provided therein upon an attorney at law or other agent designated by the subject lender.

(4) *Service of papers upon SBA.* Papers in connection with the revocation or suspension of a participation agreement shall be served upon SBA by:

(i) Delivery to the General Counsel of SBA, 1441 L Street, N.W., Washington, D.C. 20416; or

(ii) Registered or certified mail, return receipt requested, addressed to the General Counsel at the above-listed address.

(5) *Effect of failure to respond.* The revocation or temporary suspension of a lender's eligibility to participate shall become effective as of the close of business on the tenth day following the lender's receipt of notice unless, prior to the expiration of the aforementioned time period, SBA shall have received the lender's request for a hearing with respect to the matters of fact or law set forth in the notice.

(6) *Answer and request to be heard.* On or before the tenth day following receipt of notice of intention to revoke or suspend, the lender may file an answer with SBA, or request in writing an opportunity to be heard with respect to the matters set forth in the notice, or both. A lender that has requested a hearing shall be given ten days to prepare for the hearing, commencing on the day following the expiration of the period set forth in paragraph (d)(5) of this section. Revocation or suspension of SBA's participation agreement with any lender that has filed an answer or requested a hearing shall be held in abeyance until final determination by the Administrator.

(7) *Hearing.* The hearing shall be informal. It shall be held before the Administrator or an employee duly authorized by the Administrator to hear the matter, and shall be upon the matters set forth in the notice and the lender's answer thereto. No person who has participated in the preparation or approval of the notice to the lender, or in any investigation or other fact-finding procedure in connection therewith, shall be designated to hear the matter; and no person who has participated in the lender's case as aforesaid shall communicate with, or otherwise attempt to influence the decision, findings, or recommendations of, the person hearing the lender's case, except as a participant in the hearing in the presence of the lender. The lender may, in addition to filing a written answer, furnish affidavits or produce witnesses at the hearing in support of its answer. The Administrator or his designee may determine the time (subject to the rights of the lender, as set forth in paragraph (d)(6) of this section) the place and manner in which the lender shall be heard, the form in which evidence shall be received, and may adopt rules of procedure and modify the same from time to time as may be required for the orderly disposition of the matter. Written notice of the time and place of all hearings shall be given the lender in the manner provided herein for the service of papers. No hearing shall be held without reasonable notice thereof to the lender. The Administrator or his designee may postpone or adjourn hearings when necessary or desirable on notification to the parties. Following a hearing held before a designee of the Administrator, said designee shall prepare proposed findings and conclusions and present them to the Administrator.

(8) *Decision.* The Administrator shall base his decision upon the record and, if a hearing has been held before his designee, he shall give such weight as he shall deem appropriate to the recommended findings and conclusions of his designee.

(9) *Effect of decision.* The decision of the Administrator shall, without further proceedings, be the final decision of SBA. Revocation or suspension of a participation agreement shall not relieve any lender from its obligation to service any loan made in participation with SBA or any other obligation arising out of, or out of the breach of, any agreement with SBA or any regulation promulgated by SBA.

(10) *Immaterial mistakes.* The Administrator shall disregard an immaterial misnomer of a third person, an immaterial mistake in the description of any person, thing, or place or the ownership of any property, a failure to prove an immaterial allegation, or any other immaterial mistake.

**§ 120.5 Operations of eligible loan participants.**

(a) *General.* Lenders must observe the following regulations as a condition of the continuation of a participation agreement.

(1) *Services to borrowers.* In addition to the financial assistance provided their borrowers, lenders are authorized to provide any other services not otherwise prohibited by statute or regulation, but subject to the restrictions set forth below: *Provided, however,* That subsection (b) lenders may provide only management, consulting, accounting, and related services (including insurance) to their respective borrowers only.

(i) In no event may the purchase or commitment to purchase any goods or services (including insurance) from the lender or any associate be made a condition precedent or subsequent to the making, closing, disbursing, or servicing of any loan;

(ii) No contract for goods or services (including insurance) from a lender or any associate may be entered into with any applicant until after full disbursement of the loan proceeds to the borrower or to an account controlled exclusively

by the borrower, except for contracts relating to insurance as authorized in § 120.3(b)(6).

(2) *Sale of guaranteed portions of loans.* Subject to the written consent of SBA, as manifested by SBA's execution of a tripartite agreement (SBA Form 989), a lender may sell, assign, or otherwise transfer, its interest in the SBA-guaranteed portion of any loan including its interest under the applicable guaranty agreement (hereinafter collectively referred to as the "guaranteed portion"): *Provided, however,*

(i) All loan documents, including compensation agreements and settlement sheets, have been executed by the applicant and by the lender and approved by SBA;

(ii) All fees, including fees to applicant's representatives, paid or to be paid by the applicant in connection with the loan have been approved by SBA;

(iii) The full amount of the loan, as authorized, has been disbursed by the lender to the borrower or to an account controlled exclusively by the borrower;

(iv) The terms of sale do not obligate the lender to repurchase under any circumstances other than a default on the part of the borrower;

(v) All guaranty fees payable to SBA have been paid in full.

(3) *Reports to SBA.* Except as hereinafter specifically provided each lender shall report to SBA within 30 days of the occurrence of the event in question:

(i) Any merger, consolidation, or reorganization, or the entering into of any agreement to merge, consolidate, or reorganize;

(ii) Any change in circumstances adversely affecting the validity of representations on the basis of which SBA determined that the lender was an eligible participant.

All lenders shall transmit such reports to the SBA office in the district in which the lender's principal office is located. All changes shall be subject to SBA's approval as a condition for the continuation of the lender's participation agreement with SBA. All reports and requests pursuant hereto shall be deemed accepted or approved in the absence of notification by SBA to the contrary within ninety days after receipt thereof, except where prior approval is specifically required. Approval shall be contingent upon full disclosure of all relevant facts and subject to any conditions SBA may prescribe.

(b) *Operational requirements specially applicable to subsection (b) lenders.* As a condition of continued participation with SBA, the operations of subsection (b) lenders are subject to the following additional requirements:

(1) *Maintenance of capitalization.* A subsection (b) lender shall maintain a combined paid-in capital and paid-in surplus at all times in an amount not less than $500,000, or 10 percent of the unguaranteed principal amounts of all loans disbursed by it, whichever shall be greater.

(2) *Issuance of securities.* Without prior SBA approval a subsection (b) lender may issue additional securities for cash, direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States, or as a dividend. Subject to prior written SBA approval, a subsection (b) lender may issue its securities, including stock options to management and employees, for securities of which it is the issuer in connection with a reclassification; for services previously rendered or to be rendered to it, not to exceed the fair value thereof (and subject to applicable state law); for physical assets to be currently employed in its operations, at the fair market value thereof; or in connection with a merger, consolidation or reorganization.

(3) *Voluntary capital reduction.* Without prior written SBA approval, a subsection (b) lender may not voluntarily reduce its capital or purchase and hold more than two percent of any class of its stock.

(4) *Capital impairment.* Each subsection (b) lender shall maintain at all times an unimpaired capital. Impairment shall be deemed to exist when the retained earnings deficit exceeds 50 percent of the combined paid-in capital and paid-in surplus, excluding treasury stock. SBA shall be given prompt written notice of any capital impairment; and until the said impairment is cured, a subsection (b) lender shall present no loans to SBA for guaranty.

(5) *Invested idle funds.* A subsection (b) lender shall maintain invested idle funds in such amounts as may be necessary to insure adequate liquidity and to provide cash for operations and contingencies. "Invested idle funds" means funds invested in obligations of, or fully guaranteed as to principal and interest by, the United States; insured savings accounts (up to the amount of the insurance) in any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation; time certificates of deposit maturing not later than one year after deposit; or interest-bearing demand deposits in any bank or banks belonging to the Federal Deposit Insurance Corporation.

(6) *Reserves for losses.* A subsection (b) lender shall maintain a reserve in the amount of anticipated losses on receivables and on the unguaranteed portion of loans.

(7) *Change of ownership or control.* Neither a subsection (b) lender nor its associates shall agree to any transfer of control of the subsection (b) lender without prior written approval of SBA. In particular, the following transactions require prior written approval from SBA:

(i) Any transfer of 10 percent or more of any class of the said lender's stock;

(ii) Any transfer that would result in the beneficial ownership by any person or group of persons acting in concert of 10 percent or more of any class of the said lender's stock;

(iii) Any merger, consolidation, or reorganization;

(iv) Any other transaction or agreement that in fact transfers control of the said lender.

(8) *Maintenance of records.* A subsection (b) lender shall maintain current financial records, including books of account, in accordance with Appendix C hereof, SBA's *System of Account Classification for Subsection (b) Lenders.* All financial records, minutes of meetings of stockholders, directors, executive committees, or other officials; and all documents and supporting materials relating to the said lender's transactions shall be maintained at its principal office: *Provided, however,* That securities held by a custodian pursuant to a written agreement shall be exempted from this requirement.

(9) *Preservation of records.* Subsection (b) lenders shall preserve, for the periods hereinafter specified and in a manner that permits the immediate location thereof, such documents which are the basis for financial statements required by § 120.5(b)(10) (and of the accompanying independent public accountant's opinion), and shall:

(i) Preserve permanently—

(A) All general and subsidiary ledgers (or other records) reflecting asset, liability, capital stock and surplus, income, and expense accounts;

(B) All general and special journals (or other records forming the basis for entries in such ledgers); and

(C) The corporate charter, bylaws, application for determination of eligibility to participate with SBA, and all minute books, capital stock certificates or stubs, stock ledgers, and stock transfer registers.

(ii) Preserve for at least six years following final disposition of the related loan:

(A) All applications for financing;

(B) Size status declarations;

(C) Lending, participation and escrow agreements;

(D) Financing instruments;

(E) All other documents and supporting material relating to such loan, including correspondence. Records and other documents referred to hereinabove may be preserved by microfilming; provided the lender shall cause a duplicate microfilm to be made on a current basis and stored separately from the original microfilm for the time required, and shall maintain at all times at its principal place of business facilities for the projection and reproduction of the said microfilmed records.

(10) *Financial reports to SBA.* Each subsection (b) lender shall submit financial reports to SBA that are prepared in accordance with Appendix B, *Guide for the Preparation of the Financial Report.* Each subsection (b) lender shall submit at the end of its fiscal year a financial report that has been examined by the said lender's, SBA-approved independent certified public accountant in accordance with Appendix A, *Audit Guide for Subsection (b) Lenders.* When requested by SBA, interim, unaudited financial reports shall also be submitted.

(11) *Litigation reports.* When a subsection (b) lender becomes a party to litigation or other legal or administrative proceedings, including any action commenced by it or by a security holder

thereof in an individual personal or derivative capacity, against an officer, director or employee of such lender for alleged breach of official duty, it shall within ten days thereof file a report with SBA describing the proceedings, identity of and the said lender's relationship to, other parties involved and, upon request, submit copies of the pleadings and other documents specified by SBA. Where such proceedings have been terminated by settlement or final judgment, such lenders shall within 10 days advise SBA of the terms thereof. This paragraph shall not apply to collection actions or proceedings in enforcement of ordinary creditors' rights.

(12) *Other reports to SBA*—(i) *Reports to stockholders.* At the time any report (including any prospectus, letter, or other publication concerning the financial operations at a subsection (b) lender or any of its borrowers) is furnished to stockholders of the said lender, the said lender shall file three copies of such reports with SBA.

(ii) *Operational changes.* A subsection (b) lender shall, within 30 days of the event in question, notify SBA of:

(A) Any change in its name, address or telephone number;

(B) Any change in its officers or directors (to be accompanied by a statement of personal history on SBA Form 415A);

(C) Any change in capitalization not otherwise required to be reported to SBA.

(iii) *Miscellaneous reports.* Each subsection (b) lender shall file with SBA such other reports as SBA may require from time to time by written directive.

(13) *Internal control.* A subsection (b) lenders shall adopt a plan designed to safeguard its funds and other assets, to assure the reliability of its personnel, and the accuracy of its financial data.

(i) *Dual control.* Subsection (b) lenders shall maintain dual control over disbursement of funds and withdrawal of securities. Disbursements shall be made only by means of checks requiring the signatures of two or more officers covered by the said lender's fidelity bond, except that checks in amounts of $1,000 or less may be signed by one bonded officer. Two or more bonded officers or one bonded officer and one bonded employee shall be required to open safe deposit boxes or withdraw securities from safe-keeping. Subsection (b) lenders shall furnish to each depository bank, custodian, and entity providing safe deposit boxes, a certified copy of its resolution implementing the foregoing control procedures.

(ii) *Fidelity insurance.* Each subsection (b) lender shall maintain a Brokers Blanket Bond, Standard Form 14, or Finance Companies Blanket Bond, Standard Form 15, or such other form of coverage as SBA may approve, in a minimum amount of $25,000 executed by a surety holding a certificate of authority from the Secretary of the Treasury pursuant to 6 U.S.C. sections 6–13.

(14) *Examinations.* Each subsection (b) lender shall be subject to examination by the SBA Office of Examinations, and the cost of such examination shall be assessed against the examined lender. SBA may waive examination in the case of a lender whose operations have been suspended, or which is in receivership. Examination fees will be assessed for annual examinations, except for the first examination of the lender. As a general rule, SBA will not assess examination fees for special examinations to obtain specific information. The fee structure for examinations is based on the lender's assets as of the date of the latest audited financial statement submitted to SBA before the examination. The rate table is as follows:

| Total assets | Base rate | Percent of assets |
|---|---|---|
| $500,000 or less | $400 | + 0. |
| $500,000 to $1,000,000 | 400 | + 0.06 over $500,000. |
| $1,000,001 to $3,000,000 | 700 | + 0.015 over $1,000,000. |
| $3,000,001 to $5,000,000 | 1,000 | + 0.008 over $3,000,000. |
| Over $5,000,001 | 1,160 | + 0.003 over $5,000,000. |

For example, a lender with total assets of $2,000,000 would pay an examination fee of $850 ($700+0.015% of $1,000,000). SBA may assess an additional fee of $100 per day required to complete an examination that is delayed or prolonged beyond 20 days if, in the judgment of SBA, such delay or prolongation is caused by the lender's failure to keep or maintain its books and records in the manner prescribed hereon or by failure to cooperate in such examination.

(Catalog of Federal Domestic Assistance Program No. 59,012, Small Business Loans)

Dated: October 4, 1974.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.74-23575 Filed 10-8-74;8:45 am]

# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF DEFENSE

### Department of the Army

### ARMY TRANSPORTATION SCHOOL

### Industry Accreditation Program for Marine Operations and Maintenance and for Aviation Maintenance

OCTOBER 2, 1974.

Notice is hereby given of the establishment of the Transportation Corps—Industry Accreditation Program for Marine Operations and Maintenance and for Aviation Maintenance.

The purpose of the Transportation Corps—Industry Accreditation Program is to enhance enlistments in the Transportation Corps and thereby in the Army. The program's objectives are to obtain recognition by the civilian transportation industries and unions for the training a serviceman or servicewoman receives while in the military, to obtain a formal endorsement from these organizations, and to use the names of these organizations in the Transportation Corps recruiting campaigns.

The Transportation Corps believes that our purpose can best be realized by showing the prospective enlistee that military training will afford him the opportunity to obtain a skill that is desired both in and out of the Army. By equating military and civilian transportation-oriented skills the Army hopes to show a soldier who may decide to leave the service after one or two enlistments how he can step into a career in one of the world's largest industries—transportation. By developing a means of providing tangible credit for his work, the Army can show a prospective enlistee how he can apply his military training and experience to the civilian job market. The overall results of the Industry Accreditation Program should be increased recruitment and retention of personnel in the Army and, ultimately, a better trained work force for industry. To this end, the Transportation Corps is asking members of the transportation industry to examine our Marine and Aviation Maintenance training programs and determine if they satisfy their requirements. The Transportation Corps believes in this program so strongly that areas within specific training programs that are found to be deficient from the viewpoint of industry will be either corrected through changes to the formal training programs or supplemented through the use of correspondence courses or off-duty instruction.

Preliminary discussions in the Marine Operations and Maintenance Field and the Aviation Maintenance Field have already been completed and it was agreed by the attendees that the Army's training in these areas more than adequately trains a serviceman for a future in either the Marine or Aviation Maintenance Fields.

Continued success from these initial discussions between the Transportation Corps and the transportation industry may lead to complete recognition by the industry of Army training, thereby providing the separated serviceman or servicewoman employment opportunities which were previously not available to them.

Although geared primarily toward recruitment, the Transportation Corps—Industry Accreditation Program is also becoming a vehicle for providing job information relating to transportation skills to separating service personnel. It is hoped that eventually the Industry Accreditation Program will be able to establish a job referral system and act as liaison between civilian industry and the separating service person.

The Transportation Corps—Industry Accreditation Program is eager to make additional industry contracts for program endorsement and to receive information pertaining to civilian job opportunities within the Marine Operations and Maintenance Field and the Aviation Maintenance Field. Inquiries or information may be sent to the Commandant, United States Army Transportation School, ATTN: ATSP–TEA, Fort Eustis, Virginia 23604, or call (Area Code 804) 878–2966/2880.

By authority of the Secretary of the Army:

FRED R. ZIMMERMAN,
*Lt. Colonel, U.S. Army,*
*Chief, Plans Office, TAGO.*

[FR Doc.74–23423 Filed 10–8–74;8:45 am]

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### Office of the Secretary

### ADVISORY GROUP ON ELECTRON DEVICES

### Change of Meeting Date

The Department of Defense Advisory Group on Electron Devices will meet in closed session on 21 October 1974 (previously scheduled for 8 October 1974) at 201 Varick Street, New York, New York.

The purpose of the DoD Advisory Group on Electron Devices is to provide the Director of Defense Research and Engineering and the Military Departments with advice and recommendations on the conduct of economical and effective research and development programs in the field of electron devices; e.g., lasers, radar tubes, transistors, infrared sensors, etc. The group is also the vehicle for interservice coordination of planned R&D efforts.

In accordance with Pub. L. 92–463, section 10, paragraph (d), it is hereby determined that the AGED meetings concern matters listed in section 552(b) of Title 5 of the United States Code, particularly subparagraph (1) thereof, and that the public interest requires such meetings be closed insofar as the requirements of subsections (a)(1) and (a)(3) of section 10, Pub. L. 92–463 are concerned.

MAURICE W. ROCHE,
*Director Correspondence and Directives, OASD (Comptroller).*

OCTOBER 4, 1974.

[FR Doc.74–23509 Filed 10–8–74;8:45 am]

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### NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE

### Notice of Open Meeting

Pursuant to the provisions of section 10, Pub. L. 92–463, effective January 5, 1973, notice is hereby given that a meeting of the National Committee for Employer Support of the Guard and Reserve Executive Committee will be held on October 22, 1974 at the IDA Building, 400 Army Navy Drive, Arlington, Virginia.

The purpose of the meeting is to develop greater activity by members of the National Advisory Council in the solicitation of employer support of the Guard and Reserve.

A transcript of the meeting will be available to anyone desiring information about the meeting.

Additional information concerning these meetings may be obtained by contacting the Assistant to the National Chairman, National Committee for Employer Support of the Guard and Reserve, Room 3A29, 400 Army Navy Drive, Arlington, Virginia 22202, (202) 697–6902.

MAURICE W. ROCHE,
*Director, Correspondence and Directives OASD(C).*

OCTOBER 4, 1974.

[FR Doc.74–23510 Filed 10–8–74;8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[ES 4608; Survey Group 148]

### FLORIDA

### Filing of Plat of Survey

1. The plat of survey of the following described land will be officially filed in the

Eastern States Office, Silver Spring, Maryland, effective at 10 a.m. on October 30, 1974.

TALLAHASSEE MERIDIAN

T. 50 S., R. 26 E.,
Sec. 31, Lot 4.

The area described contains 45.18 acres.

2. This plat represents a retracement and reestablishment of a portion of the south boundary and the meanders, designated to restore the corners in their true original locations according to the best available evidence, and a survey of lands which were erroneously omitted from the original survey as it is shown on the plat approved June 16, 1876.

3. The omitted area is largely upland between swamp areas. The soil is a sandy loam with muck in the numerous swamp areas. The timber is chiefly pine and palm with dense willow and maple in the northern portion of lot 4. The undergrowth consists of palmetto and cat claw brush on the upland with tropical weeds and vines in the willow and maple-covered area. Mangrove is the chief vegetation in the swamps and saw grass abounds in the marshes. Cattle graze upon the upland portions. No improvements were noted on the omitted area.

4. The land omitted from the original survey and included in this survey is similar in very respect to the land included in the original surveyed area; the timber growth of the omitted upland area is the same as that on the surveyed area. The land was in place in 1845 when Florida was admitted into the Union, and at the time of the original survey.

5. Lot 4 of section 31 is over 50 percent upland in character.

6. Except for valid existing rights, this land will not be subject to application, petition, location, selection or to any other type of appropriation under any public land law, including the mining and mineral leasing laws, until a further order is issued.

7. All inquiries relating to this land should be sent to the Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

LANE J. BOUMAN,
*Acting Director,*
*Eastern States Office.*

[FR Doc.74-23567 Filed 10-8-74;8:45 am]

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[Group 246]

## WASHINGTON

### Filing of Plat of Dependent Resurvey and Survey of Tracts

1. Plat of survey of the land described below will be officially filed in the Oregon State Office, Portland, Oregon, effective at 10 a.m. on November 6, 1974.

WILLAMETTE MERIDIAN, WASHINGTON

Survey of Tracts 37 and 38, in unsurveyed Township 36 North, Range 19 East

The area described aggregates 21.29 acres

2. Tracts 37 and 38 are situated about one and one-half miles northwesterly of the hamlet of Mazama, Washington and on the west side of the Methow River. Access is by way of Washington State Highway 20 which bounds Tract 37 on the north side and Tract 38 on the South side. The soil is composed generally of sandy and gravelly loam. Timber is primarily pine, fir, cedar, cottonwood, aspen, and birch with deerbrush and willow undergrowth.

3. The above described land is embraced in the Okanogan National Forest. A portion of Tract 38 is withdrawn for the Early Winters Campground by Public Land Order No. 3335 of February 24, 1964. Tract 37 and a portion of Tract 38 is withdrawn for the Early Winters Ranger Station Administrative Site by Public Land Order No. 3380 of April 8, 1964. Subject to valid existing rights and the provisions of existing withdrawals, the land shall be open to such forms of disposition as may by law be made of national forest lands.

ROGER F. DIERKING,
*Chief, Branch of Records*
*and Data Management.*

[FR Doc.74-23518 Filed 10-8-74;8:45 am]

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[NM 22967]

## NEW MEXICO

### Notice of Application

OCTOBER 1, 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), Southern Union Gas Company has applied for an 8 inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 22 S., R. 24 E.,
Sec. 1, lot 1, SE¼NE¼, NSE¼ and SW¼SE¼;
Sec. 12, NW¼NE¼, SE¼NW¼ and NE¼ and SW¼;
Sec. 13, E½NW¼.
T. 21 S., R. 25 E.,
Sec. 19, lots 6, 10, 11, SW¼NE¼;
Sec. 30, lots 3, 4, 5, 7 and 8.

This pipeline will convey natural gas across 3.856 miles of national resources lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
*Chief, Branch of Lands*
*and Minerals Operations.*

[FR Doc.74-23497 Filed 10-8-74;8:45 am]

[NM 23162]

## NEW MEXICO

### Notice of Application

SEPTEMBER 30, 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), Transwestern Pipeline Company has applied for a 4 inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 29 E.,
Sec. 10, E½SW¼ and SW¼SE¼;
Sec. 15, W½NE¼, NW¼SE¼ and E½SE¼.

This pipeline will convey natural gas across 1.552 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
*Chief, Branch of Lands*
*and Minerals Operations.*

[FR Doc.74-23498 Filed 10-8-74;8:45 am]

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[Wyoming 47907]

## WYOMING

### Notice of Application

OCTOBER 1, 1974.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Western Nuclear, Inc., has applied for a natural gas pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 28 N., R. 92 W.,
Sec. 21, E½NE¼ and NE¼SE¼.

The pipeline will supply natural gas to the applicant's mine shaft.

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 send their name and address to the District Manager, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301.

PHILIP C. HAMILTON,
*Chief, Branch of Lands*
*and Minerals Operations.*

[FR Doc.74-23517 Filed 10-8-74;8:45 am]

### Office of Coal Research

## GENERAL TECHNICAL ADVISORY COMMITTEE

### Notice of Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the General Technical Advisory Committee will be held November 6, 1974 (9 a.m.–4:30 p.m.), Civil Service Commission Auditorium (Room GJ–14), 19th and E Streets NW., Washington, D.C.

The General Technical Advisory Committee is composed of experts from the coal-producing and consuming industries, and from industries which have coal conversion capabilities. The Committee also includes individuals who have technical or other expertise for dealing with problems related to coal production and utilization. A consistent effort is made to balance membership among various industries in the energy producing field and from academic, labor, science and the environmental and public concern areas. The Director of the Official of Coal Research serves as Chairman of this Committee and the Associate Director serves as Executive Officer. The Committee serves in a consultative role to the Secretary and advises the Director in special technical and scientific fields.

The following agenda items will be discussed:

9 to 9:15—Opening Remarks and Introduction of Secretary, Dr. S. William Gouse, Jr., Acting Director, OCR.

9:15 to 9:45—Presentation, Member of Secretariat, DOI.

9:45 to 10—Introduction of Senior OCR Professional Staff, Dr. S. William Gouse, Jr., Acting Director, OCR.

10 to 10:15—Update of OCR Progress Report, Dr. S. William Gouse, Jr., Acting Director, OCR.

10:15 to 10:45—National MHD Plan, Dr. William Jackson, OCR.

10:45 to 11—MHD Discussion and Discussion on Similar Plans.

11 to 11:45—Department of the Interior Energy Research and Development Plan—Mining, Oil Shale, Oil and Gas Program, Dr. Harry Johnson, Office of Research and Development, DOI.

11:45 to 12:30—Department of the Interior Energy Research and Development Plan—Coal Conversion Program, Dr. Alexander Mills, OCR.

12:30 to 1:45—Recess for Lunch.

1:45 to 2:05—Department of the Interior Energy Research and Development Plan—Advanced Power Cycles, Mr. James Lynch, Office of Research and Development, DOI.

2:05 to 2:25—Department of the Interior Energy Research and Development Plan—Fluidized-bed Combustion, Dr. Steven Freedman, OCR.

2:25 to 2:40—Demonstration Plant RFP Response, Mr. Neal P. Cochran, OCR.

2:40 to 3—Fluidized-bed RFP Pre-presentation, Dr. Steven Freedman, OCR.

3 to 3:10—GAO Report, Mr. George Fumich, Jr., Associate Director, OCR.

3:10 to 3:30—Technical Advisory Committee Build-up, Proposal Review Board, and Emergence of Regular Technical Reports, Dr. Ramond Zahradnik, Associate Director, OCR.

3:30 to 4—General Wrap-up and Discussion, Dr. S. William Gouse, Jr., Acting Director, OCR.

The meeting is open to the public. It is expected that approximately 300 persons will be able to attend the session in addition to the committee members. Interested persons may file written statements. Such statements should be mailed to the official listed below at least 5 days prior to the meeting.

Further information concerning this meeting may be obtained from Paul Jordan, Information Officer, Office of Coal Research, U.S. Department of the Interior, 2100 M Street, N.W., Washington, D.C., 20037 (Telephone 634–6604). Minutes of the meeting will be available for inspection and copying 2 weeks after the meeting at the Office of Coal Research.

Dated: October 4, 1974.

S. WILLIAM GOUSE, JR.,
*Acting Director,*
*Office of Coal Research.*

[FR Doc.74–23587 Filed 10–8–74;8:45 am]

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### Office of the Secretary

## EGMONT KEY NATIONAL WILDLIFE REFUGE, FLA.

### Notice of Establishment

Whereas, the Act of July 10, 1974 (88 Stat. 295) authorizes the Secretary of the Interior to establish the Egmont Key National Wildlife Refuge, Florida, for administration as a unit of the National Wildlife Refuge System, and

Whereas, section 2 of the act provides that the Secretary shall designate as the refuge, subject to existing valid rights, the land and water being approximately 250 acres located in the County of Hillsborough, State of Florida, and

Whereas, section 2 of the act further provides that a precise description of the Egmont Key National Wildlife Refuge excluding the land under the jurisdiction of the United States Coast Guard and the land therein conveyed by the United States to the County of Hillsborough, Florida, by deed dated March 8, 1928, shall be published in the FEDERAL REGISTER, and a map thereof, dated October 1973, shall be on file and available for public inspection in the office of the United States Fish and Wildlife Service, Department of the Interior.

Now, therefore, notice is given that the Egmont Key National Wildlife Refuge is established within the boundary described as follows:

T. 33 S., R. 15 E., Tallahassee Meridian; in Section 23, part of Lot 1, all of Lots 2 and 3; in Section 24, part of Lot 1; in Section 25, all of Lot 1; in Section 26, part of Lot 1 and all of Lot 2, all more particularly described as follows:

Commencing at the center of the Lighthouse on the north side of Egmont Key, thence S. 3°28′ E., 600 feet and N. 86°32′ E., about 520 feet to the place of beginning, in the line of mean high water on Tampa Bay; thence southerly, with said line of mean high water, about 4,400 feet; thence west, about 400 feet; thence south, 600 feet to a point which is located S. 2°34′04″ W., 315.25 feet and west, 200 feet from the center of the Tampa Bay Pilot's Association Lookout Tower; thence east, about 400 feet to the line of mean high water on Tampa Bay; thence southerly, with said line of mean high water, about 3,200 feet; thence northerly, with the line of mean high water on the Gulf of Mexico, about 9,200 feet; thence N. 86°32′ E., about 2,000 feet to the place of beginning.

A map showing the boundary of the Egmont Key National Wildlife Refuge is available from the Director, United States Fish and Wildlife Service, Washington, D.C. 20240; from the Regional Director, United States Fish and Wildlife Service, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329; or from the Refuge Manager, J. N. "Ding" Darling National Wildlife Refuge, Post Office Drawer "V", Sanibel, Florida 33957.

Dated October 1, 1974.

NATHANIEL P. REED,
*Assistant Secretary of the Interior.*

[FR Doc.74–23532 Filed 10–8–74;8:45 am]

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## EMERGENCY ADVISORY COMMITTEE FOR NATURAL GAS

### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

The Emergency Advisory Committee for Natural Gas will meet at 10 a.m. on October 24, 1974, in the Department of the Interior Secretary's Conference Room No. 5160, 18th and C Streets, NW., Washington, D.C. The agenda will include a discussion on:

1. The availability of natural gas for the 1974–1975 winter season.

2. The availability of propane and other alternate fuels in meeting the requirements of the gas utility industry and its other traditional markets.

The meeting will be open to the public. Further information with respect to this meeting may be obtained from L. D'Andrea, telephone number 202–961–7575.

Any member of the public may file a written statement with the Emergency Advisory Committee for Natural Gas either before or after the meeting. Interested persons who wish to speak at the meeting must apply to the Committee and obtain approval in accordance with its established procedures.

The purpose of the Emergency Advisory Committee on Natural Gas is to provide advice, information and recommendations to the Secretary of the Interior, upon request, on any matter relating to the natural gas and the LP-Gas industry.

Dated: October 4, 1974.

C. KING MALLORY,
*Deputy Assistant Secretary*
*for Energy and Minerals.*

[FR Doc.74–23588 Filed 10–8–74;8:45 am]

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# DEPARTMENT OF AGRICULTURE

### Farmers Home Administration

[FmHA Instruction 471.1]

## CERTIFICATE OF BENEFICIAL OWNERSHIP

### Interest Rates to Investors

Notice is hereby given by the Farmers Home Administration that the current rate of interest for certificates of beneficial ownership sold through the National Finance Office established pursuant to 7 CFR 1873.3(b) is as follows:

| Rate | Term of investment (years) |
|---|---|
| 8½ percent (8.50 percent) | 1 through 2. |
| 8¾ percent (8.75 percent) | 3 through 4. |
| 8.80 percent (8.80 percent) | 5 through 9. |
| 9.00 percent (9.00 percent) | 10 through 25. |

These rates supersede those announced in 39 FR 26765 and corrected in 39 FR 27931.

*Effective date.* This notice shall be effective Wednesday, October 9, 1974.

Dated: October 4, 1974.

FRANK B. ELLIOTT,
*Administrator,*
*Farmers Home Administration.*

[FR Doc.74-23653 Filed 8-10-74;8:45 am]

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[Notice of Designation Number AO70]

**IOWA**

**Designation of Emergency Areas**

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Iowa:

Adams Ringgold

The Secretary has found that this need exists as a result of a natural disaster consisting of drought from June 10 to August 13, 1974.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Robert D. Ray that such designation be made.

Applications for Emergency loans must be received by this Department no later than November 25, 1974, for physical losses and June 27, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C. this 3d day of October 1974.

F. W. NAYLOR, Jr.,
*Acting Administrator,*
*Farmers Home Administration.*

[FR Doc.74-23536 Filed 10-8-74;8:45 am]

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**Forest Service**

**TIMBERLINE LODGE, MT. HOOD NATIONAL FOREST, OREG.**

**Availability of Draft Environmental Statement**

Pursuant to section 102(2)(c) of the National Environmental Policy Act, the Forest Service has prepared a Draft Environmental Statement for Timberline Lodge, Mt. Hood National Forest, Oregon; USDA-FS-R6-DES-(Adm)-74-12.

The Statement outlines four major strategies for management. Each of the four strategies may have indicated a number of options within that broad management direction.

This Draft Environmental Statement was transmitted to CEQ on September 30, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service
South Agriculture Bldg., Room 3231
12th St. & Independence Ave., SW
Washington, D.C.

USDA, Forest Service
Pacific Northwest Region
319 SW Pine
Portland, Oregon 97204

Mt. Hood National Forest
2440 SE 195 Avenue
Portland, Oregon 97233

Copies of the Environmental Statement have been sent to various Federal, State and local agencies as outlined in CEQ guidelines.

Comments are invited from the public; and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning future management direction and requests for additional information should be addressed to Wright T. Mallery, 2440 SE 195 Avenue, Portland, Oregon 97233. Comments must be received by November 20, 1974 in order to be considered in the preparation of the Final Environmental Statement.

WRIGHT T. MALLERY,
*Forest Supervisor,*
*Mt. Hood National Forest.*

SEPTEMBER 30, 1974.

[FR Doc.74-23501 Filed 10-8-74;8:45 am]

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**Rural Electrification Administration**

**BIG RIVER ELECTRIC CORP.**

**Draft Environmental Impact Statement**

Notice is hereby given that the Rural Electrification Administration intends to prepare a Draft Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with an anticipated request for a loan guarantee for Big Rivers Electric Corporation, P.O. Box 24, Henderson, Kentucky 42420, which will provide for the installation of new generation facilities and possibly some transmission and terminal facilities.

The proposed generating facilities will consist of either one or two coal fired units of approximately 225 MW each. A proposed location for the unit(s) is the site of the existing Robert Reid Station, 2.5 miles northeast of Sebree, Kentucky, on the Green River at the county line between Henderson and Webster Counties.

Due to Big Rivers' existing transmission system, it is anticipated that additional transmission facilities, if any, will be minimal and would be located in Breckinridge or Henderson Counties.

Additional information may be obtained at the borrower's office during regular business hours.

Interested parties are invited to submit comments which may be helpful in preparing the Draft Environmental Impact Statement.

Comments should be forwarded to the Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, with a copy to the borrower whose address is given.

Dated at Washington, D.C., this 3d day of October 1974.

DAVID A. HAMIL,
*Administrator,*
*Rural Electrification Administration.*

[FR Doc.74-23539 Filed 10-8-74;8:45 am]

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**DONIPHAN TELEPHONE CO.**

**Proposed Loan Guarantee**

Under the authority of Public Law 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in the proposed REA Bulletin 320-22, "Guarantee of Loans for Telephone Facilities," published in the FEDERAL REGISTER, September 16, 1974, (Vol. 39 No. 180, pages 33228-33229) 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 $4,370,000 to Doniphan Telephone Company, Doniphan, Missouri. The loan funds will be used to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. H. R. Wilbourn, Jr., President, Doniphan Telephone Company, P.O. Box 2177, Little Rock, Arkansas 72203.

To assure consideration, proposals must be submitted (within 30 days of the date of this notice) to Mr. H. R. Wilbourn, Jr. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as the Doniphan Telephone Company and REA deem appropriate. Prospective lenders are advised that financing for this project is available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration.

Copies of the proposed REA Bulletin 320-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. De-

partment of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 3d day of October 1974.

DAVID A. HAMIL,
*Administrator,*
*Rural Electrification Administration.*

[FR Doc.74-23537 Filed 10-8-74;8:45 am]

## WEST VIRGINIA TELEPHONE CO.

### Proposed Loan Guarantee

Under the authority of Public Law 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in the proposed REA Bulletin 320-22, "Guarantee of Loans for Telephone Facilities," published in the FEDERAL REGISTER, September 16, 1974, (Vol. 39 No. 180, pages 33228-33229) 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 $5,250,000 to West Virginia Telephone Company, St. Marys, West Virginia. The loan funds will be used to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. William J. Powers, President, West Virginia Telephone Company, P.O. Box 30, St. Marys, West Virginia 26170.

To assure consideration, proposals must be submitted on or before November 8, 1974 to Mr. William J. Powers. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as the West Virginia Telephone Company and REA deem appropriate. Prospective lenders are advised that financing for this project is available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration.

Copies of the proposed REA Bulletin 320-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 3d day of October 1974.

DAVID A. HAMIL,
*Administrator,*
*Rural Electrification Administration.*

[FR Doc.74-23538 Filed 10-8-74;8:45 am]

## ST. JOSEPH TELEPHONE & TELEGRAPH CO.

### Proposed Loan Guarantee

Under the authority of Public Law 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in the proposed REA Bulletin 320-22, "Guarantee of Loans for Telephone Facilities," published in the FEDERAL REGISTER, September 16, 1974, (Vol. 39 No. 180, pages 33228-33229) 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 $5,096,000 to St. Joseph Telephone and Telegraph Company, Port St. Joe, Florida. The loan funds will be used to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. Edward Ball, President, St. Joseph Telephone and Telegraph Company, P.O. Box 220, 502 5th Street, Port St. Joe, Florida 32456.

To assure consideration, proposals must be submitted on or before November 8, 1974, to Mr. Edward Ball. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as the St. Joseph Telephone and Telegraph Company and REA deem appropriate. Prospective lenders are advised that financing for this project is available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration.

Copies of the proposed REA Bulletin 320-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 3d day of October 1974.

DAVID A. HAMIL,
*Administration, Rural*
*Electrification Administration.*

[FR Doc.74-23540 Filed 10-8-74;8:45 am]

# DEPARTMENT OF COMMERCE

## National Technical Information Service

## GOVERNMENT-OWNED INVENTIONS

### Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the licensing policy of each Agency-sponsor.

Copies of Patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22151, at the prices cited. Requests for copies of patent applications must include the patent application number and the title.

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each.

Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
*Patent Program Coordinator,*
*National Technical Information Service.*

DEPARTMENT OF THE ARMY, Chief, Patents Division, Pentagon, Washington, D.C. 20310.

Patent 3,732,727: Method and Apparatus for Testing the Tenderness of Meat; filed 7 December 1971, patented 15 May 1973; not available NTIS.

Patent 3,732,841: Explosively Embedded Anchor; filed 26 March 1971, patented 15 May 1973; not available NTIS.

Patent 3,732,846: Crystal Plating Monitoring System; filed 7 January 1972, patented 15 May 1973; not available NTIS.

Patent 3,733,447: Tilt Responsive Inertia Switch with Printed Circuit and Movable Ball Contact; filed 2 December 1971, patented 15 May 1973; not available NTIS.

Patent 3,735,004: Hepatitis Vaccine; filed 1 November 1971, patented 22 May 1973; not available NTIS.

Patent 3,735,359: Digital Conference Bridge; filed 30 July 1971, patented 22 May 1973; not available NTIS.

Patent 3,736,129: Alloy Steel; filed 13 May 1971, patented 29 May 1973; not available NTIS.

Patent 3,736,177: Water and Oil-Resistant, Antistatic and Abrasion-Resistant Finish for Nylon Fabrics; filed 12 May 1971; patented 29 May 1973; not available NTIS.

Patent 3,738,011: Thickness-Scratch Testing Device; filed 23 August 1971, patented 12 June 1973; not available NTIS.

Patent 3,738,162: Fatigue Damage Indicator; filed 10 September 1971, patented 12 June 1973; not available NTIS.

U.S. ATOMIC ENERGY COMMISSION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 443,077: Low-Temperature, Low Pressure Hydrogen Gettering; filed 15 February 1974; PC $4.00/MF $1.45.

Patent application 446,068: Light Beam Translator; filed 26 February 1974; PC $4.00/MF $1.45.

Patent 3,775,816: Method of Making a Molded Piezoelectric Transducer Assembly; filed 27 July 1972, patented 4 December 1973; not available NTIS.

Patent 3,776,831: Device for Measuring Oxygen Activity in Liquid Sodium; filed 15 November 1972, patented 4 December 1973; not available NTIS.

Patent 3,778,254: Brazing Filler Metal for Molybdenum; filed 18 November 1971, patented 11 December 1973; not available NTIS.

Patent 3,778,366: Process for Treatment of Aqueous Suspensions; filed 28 May 1971, patented 11 December 1973; not available NTIS.

Patent 3,778,497: Plutonium Recovery From Organic Materials; filed 28 July 1972, patented 11 December 1973; not available NTIS.

Patent 3,778,499: Atmosphere Purification of Radon and Radon Daughter Elements; filed 13 April 1971, patented 11 December 1973; not available NTIS.

Patent 3,780,256: Method for Producing Spike-Free Electron Beam Partial Penetration Welds; filed 8 August 1972; patented 18 December 1973; not available NTIS.

Patent 3,781,403: Recovery of Protactinium from Molten Fluoride Nuclear Fuel Compositions; filed 30 November 1971, patented 25 December 1973; not available NTIS.

Patent 3,781,404: Americium Recovery from Reduction Residues; filed 18 May 1972, patented 25 December 1973; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Chief, Research Agreements and Patent Management Branch, Hyattsville, Maryland 20782.

Patent application 275,010: Lithium Polycyanoethylated Keto Fatty Soap Based Greases; filed 25 July 1972; PC $4.00/MF $2.25.

Patent application 391,181: Difunctional Fatty Soap Based Greases; filed 24 August 1973; PC $4.00/MF $2.25.

Patent application 41,573: Process for the Preparation of Beta Dicarbonyl Compounds; filed 15 November 1973, PC $4.00/MF $2.25.

Patent 3,745,195: Process for Equilibrating Allene and Methyl-acetylene and for Recovery of Pure Allene from the Equilibrium Mixture; filed 31 August 1971, patented 10 July 1973; not available NTIS.

U.S. DEPARTMENT OF INTERIOR, Branch of Patents, 18th and C Streets, Washington, D.C. 20240.

Patent application 474,997: Process for Producing Alumina by Decomposition of Aluminum Nitrate Nonahydrate; filed 31 May 1974, PC $4.00/MF $1.45.

Patent 3,821,036: Oxyreaction Strengthening of Metals; filed 15 May 1972, patented 28 June 1974; not available NTIS.

TENNESSEE VALLEY AUTHORITY, Division of Law, Muscle Shoals, Ala. 35660.

Patent 3,825,414: Urea-Ammonium Polyphosphate Production; filed 10 December 1973, patented 23 July 1974; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matter, Washington, D.C. 20545.

Patent application 387,266: Real Time, Large Volume, Moving Scene Holographic Camera System; filed 10 August 1973, PC $4.75/MF $1.45.

Patent application 484,208: An Ndir Gas Analyzer Based on Absorption Modulation Ratios for Known and Unknown Samples; filed 28 June 1974, PC $4.25/MF $1.45.

[FR Doc.74-23559 Filed 10-8-74;8:45 am]

## Office of the Secretary

## CTAB PANEL ON PROJECT INDEPENDENCE BLUEPRINT

### Notice of Meetings

The Panel on Project Independence Blueprint was formed under the U.S. Department of Commerce Technical Advisory Board (CTAB) to provide the Secretary an assessment of the feasibility of the actions and policies resulting from the Project Independence Blueprint. Previous notices of Panel meetings have been published in the FEDERAL REGISTER, Vol. 39, No. 122, June 24, 1974; Vol. 39, No. 133, July 10, 1974 and Vol. 39, No. 134, August 8, 1974. This notice provides the schedule of Panel meetings to be held during November and December, 1974.

| Date | Time | Purpose | Meeting place |
|---|---|---|---|
| Nov. 6-7 | 8:30 a.m. to 5 p.m. | Panel review of proposed energy plans | 1522 K St. NW., Room 210, Washington, D.C. |
| Nov. 11, 12 | do | Session on panel report to CTAB on energy plans. | Do. |
| Dec. 3 | do | Panel preview of report to CTAB on energy plans. | Do. |
| Dec. 4, 5 | do | Panel report to CTAB on energy plans | Room 6802, Main Commerce Bldg. |

A limited number of seats will be available to the press and to the public. Written statements or inquiries may be filed with the Chairman before or after any of these meetings.

Persons desiring further information on the Panel or on individual meetings should contact Mr. Frank Castellon, Executive Secretary, 10th Floor, Suite 1000, 1750 K Street, NW, Washington, D.C. 20006.

Dated: September 26, 1974.

BETSY ANCKER-JOHNSON,
*Assistant Secretary of Commerce for Science and Technology.*

[FR Doc.74-23507 Filed 10-8-74;8:45 am]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Center for Disease Control

## FILING OF ANNUAL REPORTS

### Notice of Availability

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Reports for the following Center for Disease Control Committees have been filed with the Library of Congress:

Coal Mine Health Research Advisory Council
Safety and Occupational Health Study Section
Immunization Practices Advisory Committee
Medical Laboratory Services Advisory Committee
Tuberculosis Control Advisory Committee
Venereal Disease Control Advisory Committee

Copies are available to the public for inspection at the Library of Congress or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Committee Management Office, North Building, Room 4036, 330 Independence Avenue, SW., Washington, D.C. 20201, telephone 202-245-7545.

Dated: October 11, 1974.

DAVID J. SENCER,
*Director,*
*Center for Disease Control.*

[FR Doc.74-23565 Filed 10-8-74;8:45 am]

## Food and Drug Administration

[DESI 8924, 9049, and 10826]

## CERTAIN ANTIBIOTIC-CONTAINING DRUGS

### Eligibility for Release Revoked

The National Academy of Sciences-National Research Council, Drug Efficacy Study Group evaluated the effectiveness of the drug products described below, found the drugs to be less than effective, and submitted its reports to the Commissioner of Food and Drugs. Copies of the reports 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 reports and the available data and information, the Commissioner concluded that the drug products are less than effective and announced his conclusions in the FEDERAL REGISTER of June 6, 1972 (37 FR 11281, DESI 8924, and 37 FR 11283, DESI 9049) and June 29, 1972 (37 FR 12856, DESI 10826), that the drug products are possibly effective for their various claims for use in treating infections and/or dermatoses.

1. Neo-Lida-Mantle Creme containing neomycin sulfate and lidocaine; Dome Laboratories, Division of Miles Laboratories, Inc., 400 Morgan Lane, West Haven, CT 06516 (NDA 50-241, DESI 8924).

2. Dermo-Parin Ointment containing neomycin sulfate, polymyxin B sulfate, hydrocortisone, and sodium heparin; Broemmel Pharmaceuticals, 1235 Sutter St., San Francisco, CA 94109 (NDA 11-842, DESI 10826).

3. Neo-Cort-Dome Lotion ⅛% and ¼% (NDA 50-307);

4. Neo-Cort-Dome Creme ⅛% and ¼% (NDA 50-237); and

5. Neomycin-Hydrocortisone Creme ¼% (NDA 50-237); all containing neomycin sulfate and hydrocortisone and marketed by Dome Laboratories (DESI 9049).

No data have been received pursuant to the notices of June 6, 1972, and June 29, 1972, in support of effectiveness of these products. Further, although there is published elsewhere in this issue of the FEDERAL REGISTER a notice exempting certain anti-infective-containing drug products from the implementation schedule of the Drug Efficacy Study, the products listed above are not appropriate for exemption: Neo-Lida-Mantle and Dermo-Parin each contains an ingredient for which there is no evidence to support its use in a dermatologic anti-infective combination products; the other products contain ⅛% or ¼% hydrocortisone. There is a lack of substantial evidence that hydrocortisone present in amounts less than 0.5% is effective for dermatologic use.

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 the combination drug products.

Therefore, the Commissioner concludes that these drugs, and any drug product which is identical, related, or similar as defined in 21 CFR 310.6, which in the absence of a certification regulation have been released, are no longer eligible for release.

Any person who will be adversely affected by this action may, on or before November 8, 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, Food and Drug Administration, Room 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: October 2, 1974.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.74-23534 Filed 10-8-74;8:45 am]

## MANUFACTURERS AND DISTRIBUTORS

### Certain Dermatologic Anti-Infective-Containing Prescription Drugs for Human Use Affected by Drug Efficacy Study Implementation

A notice was published in the FEDERAL REGISTER of December 14, 1972 (37 FR 26623), informing manufacturers and distributors of prescription drugs for human use of the future schedule for implementation of the Drug Efficacy Study. That notice listed certain drugs, together with the justification of their medical need, which may remain on the market pending completion of scientific studies to determine effectiveness, and provided for future additions to or deletions from that list.

Included in the December 14, 1972 notice of drugs which may remain on the market were the following dermatologic antibiotic-containing drugs: neomycin, polymyxin, and bacitracin (or gramicidin); neomycin, polymyxin, and bacitracin (or gramicidin) with a steroid; chloramphenicol; and erythromycin. Chloramphenicol, initially evaluated as less than effective (probably effective) has been reevaluated as effective for certain indications (38 FR 16926), and it is appropriate to remove it from the list.

Certain other dermatologic anti-infective drug products in the Drug Efficacy Study were the subject of initial announcements, as indicated below, classifying them as less than effective (possibly effective). No reclassification of most of these drugs has been published.

DESI 8924 published June 6, 1972 (37 FR 11281)

DESI 9049 published June 6, 1972 (37 FR 11283)

DESI 9405 published July 27, 1972 (37 FR 15033)

DESI 10826 published June 29, 1972 (37 FR 12856)

DESI 10367 published June 20, 1972 (37 FR 12171)

Certain products in DESI 10367 which contains diiodohydroxyquin, hydrocortisone, and coal tar were subsequently the subject of a notice of opportunity for hearing published in the FEDERAL REGISTER of June 19, 1973 (38 FR 15986). That notice is hereby rescinded and the initial effectiveness rating of less than effective (possibly effective) reinstated.

In addition, certain anti-infective combination drugs were published as DESI 50234 in the FEDERAL REGISTER of June 20, 1972 (37 FR 12171) and upon reevaluation were classified as lacking substantial evidence of effectiveness and no longer eligible for release (38 FR 25462, September 13, 1973). This notice rescinds the notice of September 13, 1973, and reinstates the drugs as less than effective (possibly effective) and eligible for release under conditions described later in this notice.

The topical anti-infective combinations and anti-infective/corticosteroid combinations covered by this notice represent a large group of drugs which, in almost all cases, were reviewed by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group panels and rated less than effective. In general, for products containing multiple anti-infectives, they found that substantial evidence was not available to show that each component contributed to the drug products' effectiveness. Moreover, regarding anti-infective/steroid combinations, the usefulness of the anti-infective component in the treatment of corticosteroid-sensitive dermatoses was questioned. As a result, all of these drug products were classified as less than effective by the Food and Drug Administration in its initial announcements on these drugs. Nevertheless, it was recognized that many topical anti-infectives and anti-infective/steroid combinations had wide medical acceptance as useful drugs and appeared, as a class, to be unique, even if it could not be proved from available data that there was substantial evidence to fulfill the requirements of the new drug regulations (21 CFR Part 314) and the regulations for combination drugs (21 CFR 3.86). Accordingly, certain of these preparations, namely combinations containing the three antibiotics, neomycin, bacitracin (or gramicidin), and polymyxin, with and without a corticosteroid, were exempted from the Drug Efficacy Study implementation schedule, as stated above. Other preparations containing one or two of the three antibiotics or other anti-infective agents were not exempted.

The Commissioner of Food and Drugs has now considered these products further in light of the following:

a. There is at present no firm evidence that anti-infective combinations or anti-infective/corticosteroid combinations containing three specific antibiotics differ in effectiveness from those containing one or two of these antibiotics or certain other anti-infectives. In addition, concerns have been raised about the sensitizing capability and toxic potential in certain circumstances of one component (neomycin) of the triple-antibiotic combination.

b. Placement of the triple-antibiotic and antibiotic/corticosteroid combinations under an exemption has not stimulated the design or performance of adequate and well-controlled studies to determine whether any of these drug products are safe and effective under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 357) and 21 CFR 3.86, 21 CFR 314.111(a)(5), and 21 CFR Part 430.

c. The requirements for combination drugs, when applied to anti-infective/corticosteroid combinations, can be considered to raise two distinct questions. First, are there appropriate indications and conditions of use in which both a corticosteroid and an anti-infective component (composed of one or more drugs) each makes a contribution to the effectiveness of the drug product? Second, if an anti-infective component consisting of two or more drugs does make such a contribution, which specific drug or drugs are responsible? A clinical trial which attempts to answer both questions simultaneously for a four-drug combination must compare the effectiveness of the combination with each of its single ingredients and with each of the two- and three-drug combinations of these ingredients. The extreme complexity of such a trial (16 treatment groups would be needed) is apparent and has tended to discourage the conduct of any clinical trials at all. Simplification is needed; answering the two questions in separate stages can accomplish this simplification.

d. Many dermatologic products containing anti-infectives in combination, including the bacitracin, neomycin, and polymyxin combination, are available as non-prescription drugs and are also promoted to physicians for certain indications which require diagnostic skills not possessed by laymen. These combination drugs will be considered as part of the OTC review (21 CFR Part 330). Consideration will be given to all of their indications, the safety and effectiveness of such combinations, any appropriate labeling for OTC use, and whether or not there are certain indications for use which should be restricted to professional promotion or whether the product should be limited to prescription use only. It is appropriate for the FDA to await the results of these deliberations before reaching its conclusions concerning the anti-infective combinations and, in some cases, before reaching its conclusions regarding the anti-infective component of anti-infective/corticosteroid combinations.

These facts have led the Commissioner of Food and Drugs to conclude that, with certain exceptions, it is appropriate to add other dermatologic anti-infective-containing drugs to the list of drugs which may remain on the market beyond the applicable time limits for implementation (37 FR 26623). However, continued marketing depends on fulfillment of

certain specific requirements. These requirements are intended to resolve in a timely manner the question of whether such drugs are in fact effective (21 CFR 3.86, 21 CFR 314.111(a)(5), and 21 CFR Part 430).

Certain products for which no followup notice has been published are not exempted because they contain less than an effective dosage of corticosteroid (i.e., less than 0.5% hydrocortisone), because they contain another ingredient, in addition to the anti-infective and/or corticosteroid components, for which substantial evidence of its contribution to the combination is lacking, or because they contain an antibiotic which will not be reviewed by the OTC panel and for which there does not exist substantial evidence of effectiveness. These products will be the subjects of other notices.

Accordingly, the category of drugs designated III under paragraph 3 of the notice of December 14, 1972, is amended to read as follows:

III. DERMATOLOGIC ANTI-INFECTIVE AND ANTI-INFECTIVE/CORTICOSTEROID COMBINATION DRUGS

A. ANTIBIOTIC ALONE OR WITH OTHER ANTIBIOTIC(S)

1. Products with components in OTC Review: Tetracycline and neomycin.

Any two- or three-component combinations containing:

(a) Bacitracin, zinc bacitracin, or gramicidin,

(b) Neomycin sulfate, or

(c) Polymyxin B or polymyxin B sulfate.

2. Products with a component not in OTC Review: Erythromycin, chloramphenicol, and polymyxin.

B. ANTIBIOTIC(S) WITH CORTICOSTEROID

Bacitracin, typrothricin, and corticosteroid, chloramphenicol, polymyxin, and corticosteroid, corticosteroid with one or more of the following:

(a) Bacitracin, zinc bacitracin, or gramicidin,

(b) Neomycin sulface, or

(c) Polymyxin B or polymyxin B sulfate.

Neomycin sulfate, gramicidin, nystatin, and corticosteroid

Neomycin sulfate, nystatin, and corticosteroid

Neomycin sulfate, corticosteroid, and calcium amphomycin

Nystatin and corticosteroid

Tetracycline and corticosteroid

Tetracycline, neomycin, and corticosteroid

Chlortetracycline and corticosteroid

Oxytetracycline HCl with corticosteroid

Oxytetracycline, polymyxin, and corticosteroid.

C. ANTIBIOTIC WITH CORTICOSTEROID AND NON-ANTIBIOTIC COMPONENT

Neomycin sulfate, corticosteroid, and iodochlorhydroxyquin

Neomycin sulfate, corticosteroid, and calcium undecylenate

Neomycin sulfate, corticosteroid, and coal tar

Nystatin, corticosteroid, and iodochlorhydroxyquin

Neomycin sulfate, corticosteroid, resorcinol monoacetate, and sulfur

D. NON-ANTIBIOTIC ANTI-INFECTIVE WITH CORTICOSTEROID WITH OR WITHOUT OTHER COMPONENT

Corticosteroid, diiodohydroxyquin, and coal tar

Corticosteroid and iodochlorhydroxyquin

A number of FEDERAL REGISTER notices were published classifying these drugs as less than effective (possibly effective) for their labeled indications. However, these drug products appear to be potentially important and, considered as a class, to be medically unique. The vast majority of cutaneous bacterial infections are due to staphylococci and streptococci. A small number are due to proteus, pseudomonas, and other organisms. If such infections are impetigo-like and not deep and spreading, it is possible that they may be treated with topical antibiotics, thus avoiding the necessity of systemically administered agents. This may be particularly important for gram-negative organisms where many of the effective agents available are relatively toxic. Topical corticosteroids are effective in the treatment of many dermatoses. When the dermatoses are complicated by localized, non-spreading infections, it is possible that the infected dermatosis will respond more satisfactorily to a combination of a corticosteroid and an appropriate topical antibiotic(s) or other anti-infective. In addition, fungal infections characteristically provoke a significant inflammatory response. It is a strong possibility that an anti-fungal agent may be more effective when combined with a corticosteroid. Further study of the effectiveness of specific combinations for these various indications is necessary, however, in order to demonstrate that the topical anti-infective and anti-infective/corticosteriod combinations are not only reasonable and likely to be effective, but are in fact effective.

Many of the components of these anti-infective/corticosteroid drug products are also components of OTC drugs and many similar antibiotic combination products are available as non-prescription drugs which are also promoted to physicians for certain additional indications. As part of the OTC study (21 CFR Part 330), the Commissioner has appointed a review panel (Antimicrobial II Panel) and issued a call for all relevant data for OTC topical antibiotic drugs (38 FR 24391) and for other OTC antibacterial agents (37 FR 6775). That panel is actively considering such anti-infective agents and keratolytic agents, their formulations, and their uses. The conclusions emerging from the panel's reviews will be highly relevant to evaluation of the composition and labeling of the prescription drugs which contain agents reviewed by the panel.

In connection with this review, any interested person may submit to the Food and Drug Administration, Bureau of Drugs, OTC Drug Products Evaluation Staff (HFD-109), 5600 Fishers Lane, Rockville, MD 20852, data in support of the safety and effectiveness for any use, whether recommended in over-the-counter labeling or professionally promoted labeling, of an active ingredient used in a product intended for marketing OTC. Any person who expects to submit such data should notify the above office on or before October 24, 1974, either by writing or by telephoning 301-433-4960, but preferably by writing.

Because of the possible medical importance of this group of products and its uniqueness as a class, the need to deal with all such products (both OTC and Rx) in a rational and consistent manner, and the need to set in motion a process which will succeed in developing evidence as to whether any or all of these products are in fact safe and effective for specific indications, these products should be permitted to remain on the market under certain conditions pending evaluation of all relevant scientific data, including data on similar over-the-counter drugs, or completion of scientific studies to determine effectiveness, or both. The specific conditions under which these drugs may be marketed are as follows:

1. a. *Drugs in Group A.1.* Determination of the effectiveness of dermatologic combinations of an antibiotic with one or two other antibiotics will be deferred until the Antimicrobial II Panel of the OTC drug review has submitted its final report. Products in this category may continue to be marketed under their present labeling.

b. *Drugs in Group A.2.* Neither erythromycin nor chloramphenicol is offered over-the-counter. Therefore the OTC review will not provide conclusions pertinent to the chloramphenicol component of the combination containing chloramphenicol with polymyxin. However, chloramphenicol is already approved for topical use and the OTC review will consider polymyxin as a single drug product and in combinations. Therefore the chloramphenicol-polymyxin combination may be marketed under the same conditions as products in Group A.1. Erythromycin, which will not be considered in any way by the OTC review, will be exempt under its present labeling pending studies to be proposed, initiated, reported, and completed within the same time frames set forth in paragraph 2. below for anti-infective/corticosteroid combinations.

2. *Drugs in Groups B, C, and D.* These drug products will be eligible for exemption under the following conditions:

a. The corticosteroid is present in an amount not less than 0.5% if it is hydrocortisone or not less than an equivalent amount if it is another corticosteroid.

b. The indication for which the product is recommended for use is: (1) "For infected steroid-sensitive dermatoses" (with any limitations appropriate to the anti-infective agent; for example, a corticosteroid in combination with an anti-fungal agent should be labeled to show that the indicated infection is a fungal infection), (2) (for drug products containing an anti-fungal agent) "For cutaneous or mucocutaneous fungal infections" (specify the infecting organism, as appropriate to the anti-fungal agent).

c. On or before January 7, 1975, the manufacturer or distributor of such product submits protocols to the Division of Anti-Infective Drug Products

(HFD–140) Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852 for at least two adequate and well-controlled studies by independent investigators or for a multiclinic study in which the data of at least three investigators can be evaluated independently, to determine whether or not the product is safe and effective for the claimed indication and also meets the requirements of 21 CFR 3.86 (See paragraph 2.d. below).

The Bureau of Drugs will review within a 60-day period any protocol submitted in response to this notice and will provide to the manufacturer either approval of the protocol or comments.

d. Within 6 months of receipt of the agency's approval of or comments on the protocol, studies are in progress and the manufacturer or distributor so notifies the Division of Anti-Infective Drug Products by a written statement signed by a responsible official of the firm and the investigator(s).

For the purposes of the above studies, the requirements of 21 CFR 3.86 may be addressed in two stages. The first stage, to which the time limits set forth in the previous paragraphs apply, will be development of evidence that the corticosteroid and the anti-infective component taken as a whole (except in the special case of combinations containing an anti-fungal agent) both contribute to the effectiveness of the product in the treatment of infected steroid-sensitive dermatoses. The second stage, which will make use of the deliberations of the OTC Antimicrobial II Panel, will be development of evidence that specific drugs in the anti-infective component contribute to the effectiveness of the product. The first stage will require a four-group trial, consisting of the corticosteroid alone, the anti-infective component (which may be one or more drugs) alone, the steroid/anti-infective combination, and a placebo. Clinical evaluation of combinations which contain an anti-fungal agent must include studies directed at the indication: cutaneous or mucocutaneous fungal infections (specified as to the particular infection(s) treated by the anti-fungal agent). In such studies, if there are anti-infectives in addition to the anti-fungal agent, two additional treatment groups will be necessary: patients treated with the anti-fungal agent alone, and patients treated with the anti-fungal/corticosteroid combination. For such anti-fungal/anti-infective/corticosteroid combinations, the FDA will not require a study of the anti-infective(s) alone or the anti-infective/corticosteroid combination. Innovative protocols, in which more than one treatment is tested simultaneously in the same patient on different areas of the body, are encouraged.

Some manufacturers may believe that evidence already exists for the contribution of both the corticosteroid and the anti-infective component of their drug products to clinical effectiveness. Such manufacturers should submit such evidence, whether unpublished or from the medical literature, by November 8, 1974, to the Division of Anti-Infective Drug Products of the Bureau of Drugs, identifying clearly the adequate and well-controlled studies, as defined in 21 CFR 314.111(a)(5) and 21 CFR 3.86, which support their contention. These data will be reviewed within a 90-day period and a determination made concerning whether or not further studies are needed.

e. At 6-month intervals after studies have begun, the manufacturer or distributor submits a progress report to include the number of patients and investigators in the studies, and the number of studies completed and the number continuing.

f. Within 18 months after receipt of the agency's approval of or comments on the protocol, the manufacturer or distributor submits the data to the Division of Anti-Infective Drug Products.

3. If the data developed under paragraph 2 above demonstrate that a product meets the requirements of 21 CFR 3.86, namely that the corticosteroid and the anti-infective component contribute to the clinical effect, and if the product consists of a corticosteroid and a single anti-infective drug, the product will be upgraded to "effective" for the indications tested. If the product contains a corticosteroid, an anti-fungal drug, and an additional single drug anti-infective and meets the requirements of 21 CFR 3.86 in studies directed at the indication "cutaneous or mucocutaneous fungal infections," the product will be upgraded to effective for that indication, but will remain subject to a final status determination, taking into account the additional single-drug anti-infective component, through the procedures described in paragraph 4 below. If the product otherwise meets the requirements of 21 CFR 3.86, as specified, but contains a multi-ingredient anti-infective component which was considered as a unit in the tests conducted under the protocol, then the product will be upgraded to "probably effective" and its final status will be determined as in paragraph 4 below.

The requirements set forth are not intended in any way to inhibit the complete study of these combination products. A sponsor desiring to explore at this time the contribution made by each of the anti-infective drugs in his combination, in anticipation of possible future requirements, is invited to do so. FDA will review protocols submitted with this intent in a 60-day period and the same time limits described above will be in effect. A sponsor seeking to develop evidence in support of indications in addition to the ones listed in paragraph 2.b. is also invited to submit protocols for such studies.

4. When the final report of the Antimicrobial II Panel of the OTC review has been received, the Bureau of Drugs will re-examine all remaining, exempted topical anti-infective drugs and combinations and will determine the conditions and labeling under which these products can be offered for prescription use. These conditions and labeling will be consistent with proposals in the tentative final monograph for OTC topical anti-infective products. At that time all combination anti-infective drug products which are considered safe and effective for prescription or OTC use will be considered as also safe and effective for inclusion as a unit in corticosteroid/anti-infective combinations which have met the requirements of 21 CFR 3.86, as specified in paragraph 2. All corticosteroid/anti-infective combination products which are considered "probably effective" on the basis of clinical trials conducted under paragraph 2 above, and all corticosteroid/anti-fungal/additional single-drug anti-infective products upgraded to effective for "cutaneous or mucocutaneous fungal infections" under paragraph 3 above, and which contain such a safe and effective anti-infective unit, will be classified as effective without further trials. The remaining corticosteroid/anti-infective products considered "probably effective" on the basis of clinical trials conducted under paragraph 2 above, and corticosteroid/anti-fungal/additional single-drug anti-infective products considered effective for "cutaneous or mucocutaneous fungal infections" under paragraph 3 above, but which do not contain a safe and effective anti-infective component will have opportunity to reformulate to achieve effective status. Products not in compliance after that will be removed from the market but may be the subject of trials under an IND to meet the requirements of 21 CFR 3.86.

5. It should be noted that questions have been raised regarding the safety of neomycin as a topical anti-infective. A sponsor should therefore consider, in his trials conducted under paragraph 2, a test group treated with the corticosteroid and the anti-infective component minus neomycin. Although this is not required at the present time, it might be necessary in the future, and inclusion of such a group in the present studies might be prudent.

6. It will be acceptable for manufacturers of products containing the same components at the same concentrations in comparable vehicles to conduct the above tests in cooperation with one another and to submit a joint protocol.

Notices of opportunity for hearing or final orders have been published on certain other antibiotic or anti-infective products. In most, if not all, cases, no evidence was submitted to support the effectiveness of such products or their continued marketing pending completion of scientific studies. If the (former) manufacturer or distributor of any such product believes that the product is sufficiently similar to the drugs listed herein to be eligible for exemption and he is willing to meet the conditions described above, he may petition the Commissioner to exempt such product.

The kinds of drugs described above as eligible for exemption represent not only drugs in the Drug Efficacy Study but also

other drugs which are provided for by a certification regulation and which may or may not be currently marketed. In the case of any product for which no protocol is submitted within the time period specified in 2.c above or for which other conditions described above are not met, the Commissioner will publish an order to revoke provisions for its certification or release or a proposal to withdraw approval.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 507, 701, 52 Stat. 1050–1053, 1055, as amended; 59 Stat. 463, as amended; 21 U.S.C. 355, 357, 371) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 2, 1974.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.74–23535 Filed 10–8–74;8:45 am]

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### Office of Education

## DIVISION OF BASIC AND STATE STUDENT GRANTS

### Organization, Functions, and Delegations of Authority

Part 2 (Office of Education) Section 2–B, Organization and Functions, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education and Welfare is amended to change the title of the Division of Basic Grants to "Division of Basic and State Student Incentive Grants" so as to more specifically describe the functions being performed. Therefore, the statement published in the FEDERAL REGISTER of April 26, 1974 at 39 FR 1439 is amended as follows:

The statement under the heading Bureau of Postsecondary Education, Division of Basic Grants and the heading, "Division of Basic Grants", are deleted and a new statement and heading are added to read as follows:

Division of Basic and State Student Grants. Administers programs of basic educational opportunity grants which provide for the payment of entitlements to students enrolled or accepted for enrollment as undergraduates in institutions of higher education to assist them in meeting educational costs. The amount of such payment shall be based on anticipated family contributions, student needs and cost of education. Administers a program to make incentive grants available to the States for assistance to eligible students in attendance at institutions of higher education.

Dated: August 29, 1974.

JOHN OTTINA,
*Assistant Secretary for Administration and Management.*

[FR Doc.74–23474 Filed 10–8–74;8:45 am]

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# DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD 74–224]

## NATIONAL COMMITTEE FOR PREVENTION OF MARINE POLLUTION

### Notice of Open Meeting

This is to give notice in accordance with section 10(a) of the Federal Advisory Committee Act (P.L. 92–463; 5 U.S.C. App. 1) of October 6, 1972 that the National Committee for Prevention of Marine Pollution will conduct an open meeting on Friday, November 8, 1974, in Room 7200 of the Nassif Building, 400 7th Street, SW., Washington, D. C. The meeting is scheduled to begin at 9:30 a.m.

The purpose of the meetmg is to discuss the agenda for the Marine Environment Protection Committee of the Intergovernmental Maritime Consultative Organization (IMCO).

The National Committee for the Prevention of Marine Pollution was established by the Department of State to provide advice, from the best information available, toward the achievement of the United States goal of complete elimination of willful discharge of oil (and noxious substances) by 1975, or no later than the end of the decade. Public members of the Committee serve voluntarily without compensation from the Federal Government, either travel or per diem.

Interested persons may seek additional information by writing:

Captain D. C. Hintze, USCG
Chief, International Affairs Division
U.S. Coast Guard (G–AIA/83)
Washington, D.C. 20590

or by calling (202) 426–2280.

Dated: October 3, 1974.

R. I. PRICE,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.74–23557 Filed 8–10–74; 8:45 am]

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### Federal Railroad Administration

[FRA Waiver Petition No. HS–74–5]

## BELFAST AND MOOSEHEAD LAKE RAILROAD CO.

### Petition for Exemption From Hours of Service Act

The Belfast and Moosehead Lake Railroad Company has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. secs. 61, 62, 63 and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver, Petition No. HS–74–5, Room 5101, 400 Seventh Street, SW, Washington, D.C. 20590. Communications received before November 30, 1974, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW, Washington, D.C. 20590.

Issued in Washington, D.C. on October 4, 1974.

DONALD W. BENNETT,
*Chief Counsel, Federal Railroad Administration.*

[FR Doc.74–23489 Filed 10–8–74;8:45 am]

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[FRA Waiver Petition No. HS–74–7]

## TEXAS SOUTH-EASTERN RAILROAD CO.

### Petition for Exemption From Hours of Service Act

The Texas South-Eastern Railroad Company has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. secs. 61, 62, 63 and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS–74–7 Room 5101, 400 Seventh Street, SW, Washington, D.C. 20590. Communications received before November 30, 1974, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW, Washington, D.C. 20590.

Issued in Washington, D.C. on October 4, 1974.

DONALD W. BENNETT,
*Chief Counsel, Federal Railroad Administration.*

[FR Doc.74–23490 Filed 10–8–74;8:45 am]

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[FRA Waiver Petition No. HS–74–6]

## WARREN AND OUACHITA VALLEY RAILWAY CO.

### Petition for Exemption From Hours of Service Act

The Warren and Ouachita Valley Railway Company, has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. secs. 61, 62, 63 and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS–74–6, Room 5101, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before November 30, 1974, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C. on October 4, 1974.

DONALD W. BENNETT,
*Chief Counsel,*
*Federal Railroad Administration.*

[FR Doc.74–23491 Filed 10–8–74;8:45 am]

## Hazardous Materials Regulations Board

### SPECIAL PERMITS ISSUED

Pursuant to Docket No. HM–1, Rule-making procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 FR 8277) 49 CFR 170, following is a list of new DOT Special Permits upon which Board action was completed during September 1974.

| Special permit No. | Issued to—Subject | Mode or modes of transportation |
|---|---|---|
| SP 6847 | (Reclassification) E. I. du Pont de Nemours & Co., Inc., to ship Toluene diisocyanate and methyl-bis-4-cyclohexyl isocyanate as poisonous liquids, Class B in non-DOT specification steel portable tanks. | Cargo vessel, Motor vehicle. |
| SP 6895 | Westinghouse Electric Corp., Bloomfield, N.J., to ship Zirconium liquid mixture in 5-gallon DOT Specification 37A steel drums (single-trip) with inside 8-ounce French Square glass bottles. | Cargo vessel, Cargo only aircraft, Motor vehicle, Rail freight. |
| SP 6917 | Atlas Powder Company, Wilmington, Del., to ship Barium azide-50 percent or more water wet, in DOT Specification 21C fiber drums. | Motor vehicle, Rail freight. |
| SP 6919 | American LNG Company, Oak Brook, Ill., to ship certain cryogenic liquids in 10,848 gallon capacity cargo tank having a stainless steel inner tank, insulated with perlite and evacuated, and an outer steel jacket. | Motor vehicle. |
| SP 6920 | Hooker Chemicals & Plastics Corp., Niagara Falls, N.Y., to ship Phosphorus pentasulfide in uncovered DOT Specification 56 metal portable tanks loaded on a flat bed trailer. | Motor vehicle. |
| SP 6922 | Halocarbon Products Corp., Hackensack, N.J., to ship Trifluoropropylene in DOT Specification 106A500X tanks. | Motor vehicle, Rail freight. |
| SP 6923 | Dow Chemical Co., Midland, Mich., to ship liquefied ethylene in 10,800 gallon capacity cargo tank having an aluminum inner tank, insulated with polyurethane covering, and an outer steel jacket. | Motor vehicle. |

ALAN I. ROBERTS,
*Secretary.*

[FR Doc.74–23589 Filed 10–8–74;8:45 am]

## ARMS CONTROL AND DISARMAMENT AGENCY

### GENERAL ADVISORY COMMITTEE ON ARMS CONTROL AND DISARMAMENT

#### Notice of Meeting

Notice is hereby given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770, 5 U.S.C. App. I) and paragraph 8b of Office of Management and Budget Circular No. A–63 (Revised) dated March 27, 1974, that a meeting of the General Advisory Committee on Arms Control and Disarmament is scheduled to be held on Thursday, October 24, 1974 from 9 a.m. to 3:45 p.m. and on Friday, October 25, 1974 from 9 a.m. to 2 p.m., at 2201 C Street, NW., Washington, D.C. in Room 7516. The purpose of the meeting is for the Committee to receive classified briefings and hold classified discussions concerning on-going negotiations and other arms control issues of current interest, including the substance of bilateral and multilateral arms control negotiations and other issues which are the subject of present or contemplated diplomatic initiatives.

The meeting will be closed to the public. A determination has been made by the Director of the Arms Control and Disarmament Agency in accordance with section 10(d) of the Federal Advisory Committee Act and paragraph 8d(2) of Office of Management and Budget Circular No. A–63 (Revised) that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11769 dated February 21, 1974.

Dated: October 4, 1974.

SIDNEY D. ANDERSON,
*Advisory Committee Management Officer.*

[FR Doc.74–23691 Filed 10–8–74;8:45 am]

## ATOMIC ENERGY COMMISSION

[Dockets Nos. 50–461, 50–462]

### ILLINOIS POWER CO.

#### Notice of Availability of AEC Final Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Directorate of Licensing related to the proposed Clinton Power Station, Units 1 and 2 to be constructed by Illinois Power Company in Harp Township, De Witt County, Illinois, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727. The Final Statement is also being made available at the Illinois State Clearinghouse, Rm. 103 State Capitol, Springfield, Illinois 62706.

The notice of availability of the Draft Environmental Statement for the Clinton Power Station, Units 1 and 2 with request for comments from interested persons was published in the FEDERAL REGISTER on June 24, 1974 (39 FR 22447). The comments received from Federal, State and local officials and interested members of the public have been included as an appendix to the Final Environmental Statement.

Single copies of the Final Environmental Statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545. Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 7th day of October 1974.

For the Atomic Energy Commission.

B. J. YOUNGBLOOD,
*Chief, Environmental Projects Branch 3, Directorate of Licensing.*

[FR Doc.74–23668 Filed 10–8–74;8:45 am]

[Docket No. 50–201A]

### NUCLEAR FUEL SERVICES, INC.

#### Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714(a), 2.717 and 2.721 of the Commission's regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the above named proceeding:

This action is in reference to the "Notice of Receipt of Attorney General's Advice and Time for Filing of Petitions to Intervene on Antitrust Matters" published by the Commission in the above matter (39 FR 29613).

The members of the Board are:

Hugh K. Clark, Esq., Chairman
P.O. Box 127A
Kennedyville, Maryland 21645

Michael A. Duggan, Member
College of Business Administration
University of Texas
Austin, Texas 78712

Margaret Muth Laurence, Esq., Member
5007 King Richard Drive
Annandale, Virginia 22003

Dated at Bethesda, Md., this 2nd day of October 1974.

ATOMIC SAFETY AND LICENSING BOARD PANEL,
NATHANIEL H. GOODRICH,
*Chairman.*

[FR Doc.74-23508 Filed 10-8-74;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 26603; Order 74-10-12]

### AMERICAN AIRLINES, INC.

#### Order of Suspension Regarding Puerto Rico/Virgin Islands Freight Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 4th day of October, 1974.

By tariff revisions issued September 9 and marked to become effective October 9, 1974, American Airlines, Inc. (American) proposes to increase local container rates and charges applicable to general and specific commodities between points in the U.S., on the one hand, and San Juan, on the other. The container rates and charges are increased by approximately 9 percent.

In support of its proposal, American asserts, *inter alia*, that for the twelve months ended December 31, 1973, it experienced an all-cargo operating loss of $69,000 and a total Mainland-Puerto Rico/Virgin Islands deficit of $125,000; for the forecast year ending December 31, 1974, because of substantial increases in both capacity and non-capacity costs, it anticipates an operating loss in these markets of $1,487, 000. The total revenue impact of this proposal, including the bulk rate increase permitted (partially) on September 11, 1974,[1] on an annual basis, is estimated to be $625,000.

All of the proposed rates and charges are revisions to rates and charges under investigation in *Puerto Rico/Virgin Islands Freight Rates*, Docket 26603, and accordingly are within the scope of that proceeding. The issue before the Board is whether to suspend the proposal or to permit it to become effective pending final decision in that investigation.

The Board has reviewed American's proposed rates in the light of industry average costs of carrying air freight (including a full return on investment)[2] and reflecting recent fuel price increases, and finds that a significant number of these increased container rates and charges for all types of containers exceed costs and should be suspended.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404 and 1002 thereof,

*It is ordered*, That:

1. Pending hearing and decision by the Board, the increased rates, charges, and provisions described in Appendix A hereto[3] are suspended and their use deferred to and including January 6, 1975, unless otherwise ordered by the Board, and that no change be made therein during the period of suspension except by order or special permission of the Board; and

2. Copies of this order shall be filed with the tariff and served upon American Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.74-23572 Filed 10-8-74;8:45 am]

[Docket No. 26487; Order 74-10-15]

### TRANSATLANTIC, TRANSPACIFIC, AND LATIN AMERICAN MAIL RATES

#### Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of October 1974.

By Order 74-3-40, dated March 8, 1974, the Board reopened the existing final air mail rates and military ordinary mail (MOM) rates, instituted an investigation to determine and fix the fair and reasonable final mail rates for the transportation of air mail and MOM in the Transatlantic, Transpacific, and Latin American areas, and consolidated into the proceeding the investigation in Docket 25297 of the fair and reasonable mail rates for the transportation of space available mail (SAM).[1] The order[2] also indicated that we would propose a fuel surcharge to reflect any necessary increase in the existing temporary international mail rates as soon as the data and information on international fuel price changes were received and analyzed.[3] This review has now been completed, and the data show that the carriers have experienced unprecedented increases in aviation fuel costs. Thus, we believe the need exists for a fuel surcharge to be added to the temporary rates for the transportation of mail in foreign air transportation. The Board has previously approved fuel-related increases for international passenger fares and freight rates,[4] and it is reasonable that international mail operations also bear their fair share of these escalated fuel costs.[5] Of course, the final rates ultimately established in this proceeding will reflect the fuel costs currently being experienced.[6] However, we do not believe the carriers should be obliged to absorb these costs during the period before final rates can be set. Accordingly, we are herein proposing an increase in the temporary international mail rates, effective March 8, 1974, to reflect the recent escalation in the cost of fuel. Based upon the findings set forth below and in the appendices, we tentatively conclude that a fuel surcharge of 13.36 percent constitutes a reasonable adjustment for temporary rate purposes.[7]

In calculating the proper fuel price adjustment, we are unable to employ the precise methodology used in Order 74-9-100 proposing an increase in the temporary domestic mail rates to reflect escalated fuel costs. In that order, the Board determined the appropriate fuel surcharge by adjusting the capacity costs which it had previously determined were allocable to the mail service by the amount of the increase in the revenue ton-mile fuel costs which occurred since that prior determination. However, the Board currently lacks international capacity cost data comparable to that which was available in the case of the domestic mail services. In the absence of such data, the Board believes it is appropriate, for present purposes, to utilize as the starting point the surcharge proposed for domestic operations, making appropriate allowance for the sharper escalation of fuel costs in the international operation. Specifically, we have computed the ratio of our proposed fuel surcharge for domestic mail operations to the percentage increase in the price of domestic fuel per revenue ton-mile in February 1974 over calendar 1972 levels. We then applied this ratio to the percentage increase (146.51 percent) in the price of fuel in foreign air transportation per revenue ton-mile in February 1974 over calendar year 1972[8] levels to determine the proposed fuel-related increase in international mail rates of 13.36 percent.

The Board has, in the past, employed ratio techniques for the purpose of adjusting international mail rates based

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[1] Effective September 11, 1974, American proposed increases in bulk rates in these markets amounting to approximately 9 percent. By Order 74-9-26, the Board suspended a significant portion of this increase.

[2] See Order 74-7-120 for explanation of cost-based rates.

[3] Filed as part of the original document.

[1] Order 73-5-113, dated May 23, 1973. The Board by Order 74-9-66, dated September 19, 1974, has finalized SAM rates for the period May 26, 1973 through March 7, 1974.

[2] See also Orders 74-4-95, dated April 17, 1974, and 74-7-136, dated July 30, 1974.

[3] Monthly reports detailing specific fuel cost and consumption data are being filed by the carriers in their Form 41 reports (Schedules T-90 and P-5(b)).

[4] See, e.g., Order 73-12-77, dated December 19, 1973; Order 74-3-63, dated March 13, 1974; Order 74-7-141, dated July 30, 1974.

[5] The final SAM rate for January 1, to March 7, 1974, includes fuel cost increases, as does the temporary domestic rate recently proposed (Orders 74-9-66 and 74-9-100).

[6] Such retroactive rate adjustments are not possible with respect to the carriers' passenger and freight operations. Order 74-6-73.

[7] The temporary SAM rates proposed by Order 74-9-66 to be effective from March 8 include a fuel-cost factor of 6%, which would be superseded by the rates proposed herein for SAM.

[8] We have used calendar 1972 as the base period for this purpose rather than fiscal year 1966 and the twelve months ended September 30, 1968 which were the base periods employed in establishing the present international rates for Transatlantic and Transpacific operations and for the Latin American operations, respectively. See Orders 68-9-9 and 69-10-149. Since the sole purpose of the instant adjustment is to reflect the recent escalation in fuel prices, it is appropriate to proceed upon the assumption that the mail rates were not unreasonable in calendar 1972, which is the last full calendar year prior to the sharp rise in the fuel prices.

upon domestic mail rate findings.[9] Our proposal here is thus consistent with a methodology which has been found reasonable in the past.

We recognize that allocation of capacity costs to the international mail service, based upon a detailed analysis of the relevant data, would undoubtedly produce a somewhat different result—either higher or lower—than the 13.6 percent arrived at herein. However, such a detailed costing must await the development of the facts in the investigation to be conducted in this proceeding relating to the establishment of final rates. In the interim, we believe that the technique employed herein provides a fair basis for the establishment of a temporary surcharge, bearing in mind that the total rate is subject to a final adjustment, either upward or downward, retroactive to March 8, 1974.

Based on the foregoing, the Board tentatively finds and concludes that the fair and reasonable temporary rates to be paid to the carriers on or after March 8, 1974, for the transportation of military ordinary mail (MOM), space available mail (SAM), and all other mail by aircraft, the facilities used and useful therefor, and the services connected therewith for the services under investigation herein[9a] are those set forth in Appendix B[10] attached hereto for the areas set forth therein.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, and 406 thereof, and the regulations promulgated in 14 CFR Part 302,

*It is ordered*, That:

1. Airlift International, Inc., Alaska Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Hughes Air Corp., d/b/a Hughes Airwest, Mackey International, Inc., National Airlines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Seaboard World Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., the Postmaster General, and the Department of Defense are directed to show cause why the Board should not establish for the period on and after March 8, 1974, the fair and reasonable temporary rates, as set forth in Appendix B attached hereto,[11] to be paid for the transportation of mail by aircraft, the facilities used and useful therefor and the services connected therewith in the areas specified in Appendix B.

2. The terms and conditions applicable to the transportation of each class of mail at the rates proposed herein shall be those set forth in Order 68–9–8, September 4, 1968, as amended, for MOM; Order E–25654 (47 C.A.B. 959 (1967)), as amended for SAM; Order 68–9–9, September 4, 1968, as amended, for Transatlantic and Transpacific mail; and Order 69–10–149, October 30, 1969, as amended, for Latin American mail. The mail ton-miles shall be based upon nonstop great-circle ton-miles in accordance with Order 73–4–16, April 3, 1973.

3. Further procedures herein shall be in accordance with 14 CFR Part 302, and, if there is any objection to the rates or to the related findings and conclusions proposed herein, notice thereof shall be filed within 8 days after the date of service of this order, and, if notice is filed, written answer and supporting documents shall be filed within 15 days after date of service of this order.

4. If notice of objection is not filed within 8 days or if notice is filed and answer is not filed within 15 days after service of this order, or if an answer timely filed raises no material issue of fact, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix the rates specified herein.

5. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable temporary rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR section 302.307.

6. This order shall be served upon the parties listed in paragraph 1 above.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.74–23573 Filed 10–8–74;8:45 am]

[9] See 41 C.A.B. 297 for Transatlantic and Transpacific mail rates and Order 69–10–149 for the Latin American mail rate.

[9a] By Order 74–9–66 *supra*, all interested parties were directed to show cause why the Board should not finalize the previously applicable SAM rate for Continental's operations to, from, and within the Trust Territory of the Pacific. Accordingly, the temporary SAM rates proposed herein are not intended to apply to those operations.

[10] Appendices A and B held as part of the original document.

[11] This order is not intended to disturb the other service or subsidy mail rates established, or to be established, by separate order of the Board.

## CIVIL SERVICE COMMISSION

### NURSE, SAN FRANCISCO, CALIF.

### Notice of Establishment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11721, the Civil Service Commission has established special minimum salary rates and rate ranges as follows:

*Occupational Coverage.* GS–610 Nurse Series.
*Geographic Coverage. San Francisco, California Standard Metropolitan Statistical Area.*
*Effective Date.* First day of the first pay period beginning on or after September 29, 1974.

PER ANNUM RATES

| Grade | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| GS–4 | $9,358 | $9,598 | $9,838 | $10,078 | $10,318 | $10,558 | $10,798 | $11,038 | $11,278 | $11,518 |
| GS–5 | 10,467 | 10,735 | 11,003 | 11,271 | 11,539 | 11,807 | 12,075 | 12,343 | 12,611 | 12,879 |
| GS–7 | 10,965 | 11,297 | 11,629 | 11,961 | 12,293 | 12,625 | 12,957 | 13,289 | 13,621 | 13,953 |
| GS–8 | 11,765 | 12,133 | 12,501 | 12,869 | 13,237 | 13,605 | 13,973 | 14,341 | 14,709 | 15,077 |
| GS–9 | 12,573 | 12,979 | 13,385 | 13,791 | 14,197 | 14,603 | 15,009 | 15,415 | 15,821 | 16,227 |

Under provisions of section 3–2b, Chapter 571, FPM, agencies may pay the travel and transportation expenses to first post of duty under 5 U.S.C. 5723, of new appointees to positions cited.

Special salary rates previously authorized for the GS–610 Nurse Series in grades GS–4/5/6 only for San Francisco and 35-mile radius extended to include Travis Air Force Base are cancelled, effective the first day of the pay period that begins on or after September 29, 1974.

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

[FR Doc.74–23379 Filed 10–8–74;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 274–2; OPP – 32000/121]

### 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 Protec-

tion Agency, Room EB–37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before December 9, 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 after December 9, 1974. If no claims are received on or before December 9, 1974, the 2(c) application will be processed according to normal procedure. However, if claims are received on or before December 9, 1974, 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 December 9, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 3533–LL. Airkem, a Div. of Airwick Inds., Inc., 111 Commerce Rd., Carlstadt NJ 07608. ASEPTICARE CONCENTRATE. Active Ingredients: n-Alkyl Dimethyl Benzyl Ammonium Chlorides (60% C14, 30% C16, 5% C12, 5% C18) 5.12%; n-Alkyl Dimethyl Ethyl Benzyl Ammonium Chlorides (68% C12, 32% C14) 5.12%; Triethylene Glycol 27.60%; Essential Oils 17.07%; Isopropanol 14.37%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9405–ER. Chemtech, A Div. of Airwick Inds., Inc., 380 North St., Teterboro NJ 07608. PINE PREMIX CONC. (B). Active Ingredients: Isopropanol 18.87%; n-Alkyl Dimethyl Benzyl Ammonium Chlorides (60 % C14, 30% C16, 5% C12, 5% C18) 6.88%; n-Alkyl Dimethyl Ethyl Benzyl Ammonium Chlorides (68% C12, 32% C14) 6.88%; Triethylene Glycol 35.68%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 9405–EE. Chemtech, a Div. of Airwick Inds., Inc., 380 North St., Teterboro NJ 07608. CHEMTECH DISINFECTANT DEODORANT SPRAY. Active Ingredients: n-alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.15%; n-alkyl (68% C12, 32% C14) dimethyl ethyl benzyl ammonium chloride 0.15%; Ethanol 59.79%; Isopropanol 0.41%; Essential Oils 0.55%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34897–G. Allegheny Solvents & Chemicals Co., PO Box 15597, Montour Branch, Pittsburgh PA 15244. HERCO PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34897–E. Allegheny Solvents & Chemicals Co. YARMOR 302W PINE OIL. Active Ingredients: Pine oil 99.4%. Method of Support. Application proceeds under 2(b) of interim policy.

EPA File Symbol 34897–R. Allegheny Solvents & Chemicals Co. YARMOR 302 PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 3125–184. Chemagro, Div. of Baychem, PO Box 4913, Kansas City MO 64120. DYLOX 80% SOLUBLE POWDER CROP INSECTICIDE. Active Ingredients: Dimethyl (2,2,2-trichloro-1 hydroxyethyl) phosphonate 80%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 5185–EGG. Bio-Lab, Inc., PO Box 1489, Decatur GA 30031. BIO-GUARD QDA. 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) interim policy.

EPA File Symbol 5185–ETG. Bio-Lab, Inc. BIO-GUARD BTM CONCENTRATE A BACTERIOSTATIC CONCENTRATE. Active Ingredients: Alkyl (C14 90%, C12 5%, C16 5%) dimethyl dichlorobenzyl ammonium chloride 24.55%; Tributyltin neodecanoate 5.88%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5185–ETU. Bio-Lab, Inc. BIO-GUARD DUST MOP FLUID AND FLOOR SHINE. Active Ingredients: Alkyl (C14 90%, C12 5%, C16 5%) dimethyl dichlorobenzyl ammonium chloride 0.36%; Tributyltin neodecanoate 0.09%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 30948–RL. Bionomical Chemicals and Services, Inc., 1003 Pineville Rd., Chattanooga TN 37405. MC–1260 OUTDOOR FOGGING INSECTICIDE CONCENTRATE. Active Ingredients: Aromatic Petroleum Solvent 81.37%; Technical Chlordane 12.00%; Malathion 6.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 1191–GGA. Carolina Chemicals, Inc., PO Box 118, West Columbia SC 26169. PARATHION–CAPTAN 2–2 PEACH SPRAY 500. Active Ingredients: Parathion (0,0-diethyl 0-P-Nitrophenyl thiophosphate) 7.50%; Captan (N-trichloromethylmercapto-4-cyclohexene - 1,2 - dicarboximide 25.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4313–UI. Carroll Co., 2900 W. Kingsley Rd., Garland TX 75041. C W S WASH SANITIZER. Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate (provides 15.8% available chlorine) 28%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 4313–UO. Carroll Co., 2900 W. Kingsley Rd., Garland TX 75041. C D S DETERGENT SANITIZER. Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate (provides 3.2% available chlorine) 5.6%; Sodium dodecylbenzene sulfonate 4.0%; Sodium metasilicate 5.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 9461–II. Celanese Coating & Specialties Co., PO Box 99038, Jeffersontown KY 40299. DEVOE MARINE FORMULA 218 DEVRAN PERMANENT RED ANTI-FOULING PAINT MD–3891. Active Ingredients: Cuprous Oxide 35.10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34884–G. Central Solvents & Chemicals Co., 10821 N. Lombard St., Portland OR 97203. HERCO PINE OIL. Active Ingredients: Pine oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34884–E. Central Solvents & Chemicals Co. YARMOR 302W PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34884–R. Central Solvents & Chemicals Co., YARMOR 302 PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(d) of interim policy.

EPA File Symbol 34883–E. Central Solvents & Chemicals Co., 13900 Carmenita Rd., Santa Fe Springs CA 90670. YARMOR 302 PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34883–G. Central Solvents & Chemicals Co., HERCO PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34884–G. Central Solvents & Chemicals Co., YARMOR 302W PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 33832–G. Central Solvents & Chemicals Co., 6308 E. Sharp Ave., Spokane WA 99206. YARMOR 3021 PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 33832–E. Central Solvents & Chemicals Co., YARMOR 302 PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 33832–R. Central Solvents & Chemicals Co. HERCO PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 7478–T. Chem-Pak Co., PO Box 757, Miami FL 33157. MALATHION 50 SPRAY. Active Ingredients: Malathion 50%; Aromatic Petroleum Derivative Solvents 39%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 677–199. Diamond Shamrock Corp., Agricultural Chemicals Div., Union Commerce Bldg., Cleveland OH 44114. DACONATE MSMA PLUS SURFACTANT FOR POSTEMERGENCE WEED CONTROL. Active Ingredients: Monosodium Acid Methanearsonate 35.41%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 677–204. Diamond Shamrock Corp. ARSONATE LIQUID FOR POSTEMERGENCE WEED CONTROL. Active Ingredients: Monosodium Acid Methanearsonate 51.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 677–231. Diamond Shamrock Corp. BUENO MSMA PLUS SURFACTANT FOR POSTEMERGENCE WEED CONTROL. Active Ingredients: Monosodium Acid Methanearsonate 35.19%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 677–268. Diamond Shamrock Corp. DACONATE 6 MSMA PLUS SURFACTANT FOR POSTEMERGENCE WEED CON-

TROL. Active Ingredients: Monosodium Acid Methanearsonate 48.35%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 677-269. Diamond Shamrock Corp. BUENO 6 MSMA PLUS SURFACTANT FOR POSTEMERGENCE WEED CONTROL. Active Ingredients: Monosodium Acid Methanearsonate 48.35%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 677-289. Diamond Shamrock Corp. DSMA LIQUID DSMA PLUS SURFACTANT FOR POSTEMERGENCE WEED CONTROL. Active Ingredients: Disodium Methanearsonate 21.8%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 677-314. Diamond Shamrock Corp. SUPER ARSONATE FOR POSTEMERGENCE WEED CONTROL. Active Ingredients: Monosodium Acid Methanearsonate 58.2%. Method of Support: Application proceeds under 2(c) of Interim policy.

EPA File Symbol 34885-E. Dixie Solvents & Chemicals Co., PO Box 16038, Louisville KY 40216. YARMOR 302W PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34885-R. Dixie Solvents & Chemicals Co. HERCO PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34885-G. Dixie Solvents & Chemicals Co. YARMOR 302 PINE OIL. Active Ingredients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA Reg. No. 1677-39. Economics Laboratory, Inc., Osborn Bldg., General Offices: St. Paul MN 55102. PHENOLIC DETERGENT-DISINFECTANT NEW MIKRO-BAC. Active Ingredients: Isopropanol 10.0%; Potassium ortho-phenylphenate 4.0%; Potassium 4-Chloro-2-cyclopentylphenate 2.9%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium dodecyl benzene sulfonate 1.2%; Potassium p-tertiary amylphenate 1.0%; Sodium xylene sulfonate 0.2%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA Reg. No. 1677-21. Economics Laboratory, Inc., Osborn Bldg., General Offices: St. Paul MN 55102. "MIKRO-QUAT 13243" AND "MIKRO-QUAT 13268" DETERGENT-GERMICIDE DEODORIZER. Active Ingredients: Alkyl (50 C14, 40% C12, 10% C16) dimethyl benzyl ammonium chlorides 9.0% Trisodium ethylenediaminetetraacetate 0.4%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 1941-TI. Elco Manufacturing Co., 111 Third St., Pittsburgh PA 15215. ELCO ELCREOL COAL TAR DISINFECTANT. Active Ingredients: Cresylic Acid 33.4%; Coal Tar Neutral Oils 32.1%; Soap 19.8%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34886-E. Field Industries, Inc., 524 Funston St., Harahan LA 70183. YARMOR 302W PINE OIL. Active Ingrients: Pine Oil 99.4%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1304-AR. Furst-McNess Co., 120 East Clark St., Freeport IL 61032. McNESS GARDEN DUST A COMBINATION FUNGICIDE AND INSECTICIDE. Active Ingredient: Maneb (Manganese ethylene bisdithiocarbamate) 3.9%; Carbaryl (1-Naphthyl N-Methylcarbamate) 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 10107-7. Harris Serum & Supply Co., PO Box 410, McCook NB 69001. CHLORDANE 74. Active Ingredients: Tech. Chlordane 74.88%; Deodorized Kerosene 18.12%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 10107-10. Harris Serum & Supply Co., Inc., PO Box 410, McCook NB 69001. HARRIS CYTHION INSECTICIDE PREMIUM GRADE MALATHION E-5. Active Ingredients: Malathion 57%; Xylene 32.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 407-GIN. Imperial Inc., PO 423, Shenandoah IA 51601. IMPERIAL MULTI-PURPOSE SPRAY WETTABLE POWDER. Active Ingredients: Maneb: manganous ethylene bisdithiocarbamate 40%; Carbaryl: 1-naphthyl methylcarbamate 25%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 4822-RGL. S. C. Johnson & Son, Inc., 1525 Howe St., Racine WI 53403. RAID PROFESSIONAL STRENGTH AUTOMATIC INDOOR FOGGER. Active Ingredients: Pyrethrins 0.50%; technical piperonyl butoxide (equivalent to 0.80% of (butylcarbityl) (6-propylpiperonyl) ether and 0.20% related compounds) 1.00%; N-octyl bicycloheptene dicarboximide 1.67%; Petroleum distillate 11.83%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 8791-RG. King-Kratz Corp., 4 Cermak Blvd., St. Peters MO 63376. POOL START II. Active Ingredients: Sodium dichloro-s-triazinetrione dihydrate 49.1%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1021-RGEA. McLaughlin Gormley King Co., 8810 Tenth Ave. N., Minneapolis MN 55427. MGK RED SQUILL MOUSE TRACKING POWDER (F-2040). Active Ingredients: Scilliroside glycoside (from red squill) 0.05%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 10765-G. Nadco, Inc., 335 Murfreesboro Rd., Nashville TN 37210. PINE TREE ODOR DISINFECTANT. 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(c) of interim policy.

EPA File Symbol 34892-E. Russall Products Co., Inc., 886 E. 167th St., Bronx NY 10459. N-GERM. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34892-R. Russall Products Co., Inc., 886 E. 167th St., Bronx NY 10459. CLEAN-UP. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.8%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.8%; Sodium Metasilicate 2.4%; Tetrasodium ethylenediamine tetraacetate 1.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 1159-ROU. Seacoast Laboratories, Inc., 257 Highway 18, East Brunswick NJ 08816. TWIN LIGHT PYRENONE GARDEN SPRAY. Active Ingredients: Pyrethrins 0.02%; Piperonyl Butoxide, technical 0.20%; Petroleum distillate 0.08%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: October 1, 1974.

MARTIN H. ROGOFF,
*Acting Director,*
*Registration Division.*

[FR Doc.74-23324 Filed 10-8-74;8:45 am]

## FEDERAL ENERGY ADMINISTRATION

### RETAIL DEALERS ADVISORY COMMITTEE

#### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that the Retail Dealers Advisory Committee will meet Monday, October 21, 1974 at 9 a.m., Fifth Floor Conference Room, Federal Energy Administration Regional Office, 1655 Peachtree Street, NE., Atlanta, Georgia.

The Committee was established to provide the Federal Energy Administration with technical and timely information on a wide range of business activities associated with the retailing of gasoline and diesel fuel.

The agenda for the meeting is as follows:

A. Old Business.
1. Review of Amendments to Petroleum Allocation and Price Regulations.
2. Problems Associated with Changes of Suppliers.
3. Discussion of Committee Reorganization.
B. New Business.
1. Discussion of Dealer's Margins.
2. Review of Two-Tier Crude Pricing System.
3. Discussion of Compliance Problems.
4. Review of Transition to Unleaded Gasoline.
5. Remarks from the Floor (10 Minute Rule).

The meeting is open to the public; however, space and facilities are limited.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Advisory Committee Management Office, (202) 961-7022 at least 5 days before the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, D.C.

Issued at Washington, D.C. on October 3, 1974.

ROBERT E. MONTGOMERY, Jr.,
*General Counsel.*

[FR Doc.74-23473 Filed 10-8-74;8:45 am]

## FEDERAL MARITIME COMMISSION

### CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

#### Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

| *Certificate No.* | *Owner/operator and vessels* |
|---|---|
| 01106--- | N.V. Stoomvaart - Maatschappij "Oostzee": *Bussum.* |
| 01185--- | Aksjeselskapet Kosmos: *Jastella.* |
| 01426--- | Kuwait Shipping Company (S.A.K.): *Ibn Majid, Al Salimiah.* |
| 01504--- | Yngvar Hvistendahl: *Rodin.* |
| 01842--- | Christensen Canadian Enterprises Limited: *Pandora II.* |
| 01857--- | Ohg I Fa Bernhard Schulte: *Lissy Schulte.* |
| 01861--- | BP Tanker Company Limited: *British Resolution.* |
| 01871--- | F. Scinicariello: *Bruna.* |
| 01893--- | Silver Line Limited: *Spey Bridge, Avon Bridge, Eden Bridge, Stirling Bridge, Severn Bridge, Silver Bridge, Erskine Bridge.* |
| 01905--- | The Ben Line Steamers Ltd.: *Benalbanach, Benwyvis.* |
| 01935--- | Partnership between Steamship Company Svendborg Ltd. and Steamship Company of 1912 Ltd.: *Maersk Topper, Maersk Traveller, Maersk Trimmer.* |
| 01938--- | Maersk McKinney Moller: *Maersk Transporter.* |
| 02038--- | Polskie Linie Oceaniczne: *Pulawy, Westerplatte.* |
| 02152--- | A/F Klaveness & Co. A/S: *Snestad.* |
| 02163--- | Rederiet "Ocean" A/S Copenhagen: *Tunisian Reefer.* |
| 02194--- | Compagnie Generale Transatlantique: *Champlain.* |
| 02198--- | The Peninsular & Oriental Steam Navigation Company: *Island Princess.* |
| 02242--- | Dal Deutsche Afrika-Linien GMBH & Co.: *Woermann Senegal.* |
| 02330--- | Oriental Shipping Corporation: *Asia Industry.* |
| 02877--- | Nippon Yusen Kabushiki Kaisha: *Hakata Maru.* |
| 02902--- | Alamo Chemical Transportation Co.: *Sun Chem 1600, Alamo 4000, Alamo 4001, Alamo 4002, Alamo 4003, Alamo 2102, Alamo 2100, Clara Smith.* |
| 02915--- | Alamo Barge Lines: *Sun Chem 1800, Sun Chem 1900.* |
| 03216--- | Rederiaktiebolaget Rex: *Atlantic Wasa.* |
| 03219--- | Whitwill, Cole & Co. Ltd.: *Spanish Wash, Swedish Wasa.* |
| 03256--- | Upper Mississippi Towing Corporation: *Evey T.* |
| 03441--- | Japan Line K.K.: *World Monarch, World Bermuda, World Consul.* |
| 03480--- | Osaka Senpaku K.K.: *Manjusan Maru.* |
| 03508--- | Taiyo Gyogyo K.K.: *Zuisho Maru No. 77.* |
| 03635--- | Hines, Incorporated: *Hines 85, Hines 103, Hines 76B, Hines 78B, SS-301, SS-303.* |
| 03672--- | Helena Marine Service, Inc.: *Victor II.* |
| 03690--- | The Harbor Tug & Barge Company: *407, 222.* |
| 03883--- | Ohio Barge Line, Inc.: *OBL 1001, OBL 1004, OBL 1002, OBL 1003.* |
| 03980--- | Moran Towing & Transportation: *Delaware.* |
| 04098--- | Hougland Barge Line, Inc.: *WGH 9, WGH 10, WGH 11.* |
| 04172--- | Eklof Marine Corporation: *E19.* |
| 04212--- | Nilo Barge Line, Inc.: *WTC 553.* |
| 04227--- | Kahn Scheepvaart B.V.: *Stellanova, Fairlift, Daniella, Gabriella, Fairload.* |
| 04262--- | Eddie Steamship Company, Ltd.: *Anita.* |
| 04641--- | American Tugboat Company: *ATB-50, ATB-51, ATB-96, ATB-97, ATB-98.* |
| 04770--- | Texaco Panama Inc.: *Texaco Italia.* |
| 05096--- | Esso Tankschiff Reederei GMBH: *Esso Hamburg.* |
| 05098--- | Esso Tankers, Inc.: *Esso New Haven.* |
| 05197--- | Stravelakis Bros. Ltd.: *Hydrohos.* |
| 05199--- | Prekookeanska Plovidba: *Podgorica.* |
| 05203--- | The Western Company of North America: *Western Pacesetter III.* |
| 05472--- | National Shipping Corporation: *Sutlej.* |
| 05520--- | Union Carbide Corporation: *CC-104, CC-105, CC-106, CC-107, CC-108, CC-114, CC-115, CC-116, CC-117, CC-118, USL-122, USL-123, USL-124, USL-125, USL-126, USL-127, USL-128, USL-129, USL-130, USL-131, CC-210, CC-223, CC-404, CC-405, CC-406, CC-407, USL-474, USL-475, USL-476, USL-477, CC-486, CC-487, CC-488, CC-412, AC-4, CBL-911.* Hollywood Butane No. 1: *NMS-1602, NMS-1604, CC-500.* |
| 05578--- | Baltic Shipping Company: *Pavlograd.* |
| 05580--- | Kamchatka Shipping Company: *Rshev.* |
| 05743--- | Reederei Barthold Richters: *Newfoundland.* |
| 05756--- | Compagnie Nationale de Navigation: *Pluviose.* |
| 06034--- | Sincere Industrial Corporation: *Sincere No. 5.* |
| 06071--- | Compania Colombiana de Alcalis-Planta Colombiana de Soda Ltda.: *Planta de Mamonal, Planta de Betania, Salinas de Manaure.* |
| 06085--- | Alpina Reederei AG: *Alpina.* |
| 06287--- | Gates Equipment Corporation: *Commerce.* |
| 06566--- | Occidental Petroleum Corporation: *L.C.T. Co. No. 31.* |
| 06596--- | Issei Kisen K.K.: *Shinsei Maru, Kaisei Maru, Shosei Maru, Ansei Maru.* |
| 07255--- | Teh Tung Steamship Co. Ltd.: *Rainbow Volans.* |
| 07577--- | Atlantic-Mediterranean Shipping Corporation: *Medi-Sun.* |
| 08232--- | Etablissement Pour Culture at Arts Vaduz: *Patignies.* |
| 08301--- | Spearin, Preston & Burrows, Inc.: *FSC 92, FSC 99, Hughes 135.* |
| 08371--- | Seatrain Shipbuilding Corporation: *Williamsburg (Hull No. 101).* |
| 08414--- | I.F.R. Services Limited: *Labrador Clipper.* |
| 08497--- | Babitonga Shipping Corporation Monrovia Liberia: *Porto Alegre.* |
| 08757--- | Menites Shipping Co. Inc.: *Mathios Nicolas.* |
| 08948--- | Veb Deutfrach/Seereederei: *Ferdinand Freiligrath, George Weerth, Schwarzburg, Fritz Reuter, Frieden.* |
| 09004--- | Berman Enterprises, Inc.: *Sarah Frank, Jodie K.* |
| 09006--- | Stena Line AB.: *Nopal Sky.* |
| 09088--- | Dong Won Fisheries Co. Ltd.: *Dong Won No. 517.* |
| 09108--- | Gilmar Marine Services Inc.: *Semet Solvay Company No. 100.* |
| 09168--- | Seafighter Shipping Co., Ltd.: *Elmela.* |
| 09174--- | Matev Maritime Company S.A. Panama: *Akis S.* |
| 09218--- | Associated Navigation Corporation, Inc.: *Oriental Taio.* |
| 09229--- | Globetrotter Maritime Company Limited: *Skymnos.* |
| 09233--- | Tankers Overseas Transports, Inc.: *Energy Progress.* |
| 09250--- | Baldwin Trading Company D/B/A McQuiston Towing Company: *Barbara Ann, Wilmington.* |
| 09255--- | Five Star Shipping Corporation S.A.: *Five Star.* |
| 09263--- | Trumbull Asphalt Company: *GTC5, GTC10, GTC11.* |
| 09273--- | Panamax Shipping Co. S.A.: *Anastassia.* |
| 09286--- | Enterprise Bay Shipping Co. Ltd.: *Corona Forest.* |
| 09295--- | Bentsen Line A/S: *Susan Bentsen.* |
| 09307--- | Central American Barge & Towing Company: *Ponciana.* |
| 09308--- | Chemical Barge Company: *Poseidon.* |
| 09309--- | Caravel Compania Naviera, S.A.: *Suntrader.* |
| 09315--- | Kaigai Gyogyo K.K.: *Kum Bong No. 31, Kum Bong No. 32.* |
| 09317--- | Universal Seafoods, Ltd.: *Unisea.* |
| 09321--- | Intercontinental Properties Management S.A.: *Mimi.* |
| 09322--- | Van Camp Seafood Company, Division of Ralston Purina Company: *Pine March No. 2.* |
| 09324--- | State Oceanographic Institute Hydrometeorological Service USSR: *Passat, Musson, Victor Bugaev, Georgy Ushakov, Ernst Krenkel.* |
| 09329--- | Rederierne Steencoasters K/S: *Birte Steen, Jytte Steen.* |
| 09333--- | Thordrache Schiffahrtsgesellschaft de Vries & Co. M.B.H.K.G.: *Thordrache.* |
| 09336--- | Crain & Pushak Towing Inc.: *Ravenswood.* |
| 09337--- | Reefer Express Co. N.V.: *Frio Express, Iglo Express.* |
| 09338--- | Key Star Line (Panama) S.A.: *Three Star.* |
| 09341--- | Caribbean Eskimo Incorporated: *Eskimo.* |
| 09347--- | Eagle Shipping Ltd.: *New Day.* |
| 09349--- | Fortune Marine Corporation: *Cherry.* |
| 09350--- | Cherry Navigation S.A.: *Pacific Glory.* |
| 09359--- | Ilkon Shipping Company, SA.: *Ilkon Polly, Ilkon Dalio.* |
| 09361--- | OBC Lines Limited: *Raza, Noor-E-Raza, Shaan-E-Raza.* |
| 09362--- | Avonsea Shipping Co., Ltd.: *Eleusis.* |

| Certificate No. | Owner/operator and vessels |
|---|---|
| 09363 | Vasalam Shipping Corporation: *Naashi.* |
| 09364 | Ili Compania Naviera S.A.: *Ermis.* |
| 09368 | Creta Maritime, Inc.: *Stolt Zeus.* |
| 09369 | Johnson Navigation Company S.A.: *Manchester.* |
| 09370 | Marine Welding & Repair Works, Inc.: *W–15.* |
| 09371 | Bilbo E. Williamson: *GTC–4.* |
| 09372 | Lockport Chemical Company, Inc.: *Magnolia No. 1.* |
| 09373 | Chatmar Investments Inc. S.A.: *Punta Atalaya.* |
| 09374 | International Ocean Transport Corporation: *Cities Service Miami, Cities Service Baltimore, Cities Service Norfolk, Bradford Island, Cantigny, Council Grove, Fort Hoskins.* |
| 09377 | Papyros Steamship Inc.: *Papyros.* |
| 09380 | Hoffman International, Inc.: *Century, Constitution.* |
| 09382 | Stony Brook Marine Transportation Corp.: *Stonybrook.* |
| 09383 | Blue Water Marine Industries, Inc.: *Big Black River.* |
| 09384 | Rebel Enterprises, Inc. and Rebel Towing Company: *Barge ST–107.* |
| 09386 | Pearl Shipping Corporation: *Caribbean Pearl.* |
| 09390 | Seacoast Products, Inc.: *Tiny Tim, Lil Abner, Beachcomber, Fat Chance, Southwester, Sabine Pass, Trinity Shoals, Maverick, La Salle.* |
| 09391 | The New Smith Meal Company, Inc.: *Frosty Morn, Tidelands, Sinepuxent, Sikeoyness, Green Run.* |
| 09392 | Bay Rock Vessels, Inc.: *Riverside No. 1, Barge S707, Barge S716.* |
| 09394 | Milestone Enterprises Limited: *Uliang.* |
| 09395 | Interoceangas Tankers Management, S.A.: *Zenon.* |
| 09396 | Mar Intercontinent, Inc.: *Estina.* |
| 09398 | Leeward Navigation Limited: *Paros.* |
| 09399 | Compania de Navegacion Aghia Dectini S.A.: *Lily M.* |
| 09401 | Transoceanic Freighters and Charters Incorporation: *Ia.* |
| 09402 | Seabreeze Navigation Co., S.A.: *Flora N.* |
| 09405 | Seasia Shipping Company, Inc. of Liberia: *Eastern Palmas.* |
| 09406 | Greenville Steamship Corporation: *Union Friendship.* |
| 09407 | Interessentskapet Saga Spirit: *Saga Spirit.* |
| 09408 | Partenreederei MS Woermann Sanaga: *Woermann Sanaga.* |
| 09410 | Egyptian High Seas Fisheries Company: *Sinai 1.* |
| 09412 | Prestige Shipping Company Limited: *Papafotis.* |
| 09413 | Kanei Bussan K.K.: *Genpuku Maru No. 85.* |
| 09414 | Kyokko Tanker K.K.: *Kyokko Maru No. 1.* |
| 09415 | Hang On Shipping Co., S.A.: *Chuen On.* |
| 09416 | Ogden Niger Transport Inc.: *Ogden Senegal.* |
| 09417 | Negros Navigation Company, Inc.: *Dona Montserrat.* |
| 09419 | Cycladian Maritime Corporation S.A.: *Aeolian Sun.* |
| 09420 | Armadora Maritima Salvadorena, S.A. de C.V.: *Ana.* |
| 09422 | Inland River Transportation Corp.: *Barge NSBTS–1, Barge NSBTS–2.* |
| 09424 | Armadora Maritima Guatemalteca, S.A.: *Peten II.* |
| 09425 | Epimoni Compania Naviera S.A.: *Avenir.* |
| 09428 | Mayflower Shipping Co. Ltd.: *Eldia.* |
| 09429 | Marquez Alvarez, Gestoso, S.A.: *Tito Marquez.* |
| 09464 | Evelpis Shipping Co. Ltd.: *Agia Skepi.* |

By the Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.74–23577 Filed 10–8–74;8:45 am]

## MARSEILLES/NORTH ATLANTIC U.S.A. FREIGHT CONFERENCE

### 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, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. 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 24, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Stanley O. Sher, Esquire
Billig, Sher & Jones, P. C.
Suite 300
1126 Sixteenth Street, N.W.
Washington, D.C. 20036

Agreement No. 5660–17(A) among the members of the Marseilles/North U.S.A. Freight Conference is an application for permanent approval of the Conference's inland authority.

Dated: October 4, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.74–23579 Filed 10–8–74;8:45 am]

## MARSEILLES/NORTH ATLANTIC U.S.A. FREIGHT CONFERENCE

### Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C., 20573, on or before October 21, 1974. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system 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 petition, (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of agreement filed by:

Stanley O. Sher, Esquire
Billig, Sher & Jones, P. C.
Suite 300
1126 Sixteenth Street, N.W.
Washington, D.C. 20036

Agreement No. 5660 D. R. 2(A) among the members of the Marseilles/North Atlantic U.S.A. Freight Conference, is an application to modify its dual rate contract to provide for permanent approval of its inland authority.

Dated: October 4, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.74–23578 Filed 10–8–74;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. RP74–61]

### ARKANSAS LOUISIANA GAS CO.

### Proposed Change in Rates

OCTOBER 2, 1974.

Take notice that on September 20, 1974, Arkansas Louisana Gas Company (Arkla) tendered for filing Third Revised Sheet No. 4 to its FPC Gas Tariff First Revised Volume No. 1 to become effective November 1, 1974.

According to Arkla, the instant filing was made pursuant to the purchased gas cost adjustment provisions of Arkla's tariff in order to reflect a change in Arkla's deferred cost adjustment pursuant to section 13 of the General Terms and Conditions of Arkla's FPC Gas Tariff, First Revised Volume No. 1.

Arkla submitted schedules containing computations supporting the rate changes to be effective November 1, 1974. Arkla states that copies of its filing were served on Arkla's jurisdictional customers and the State Commissions of Oklahoma and Kansas.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 11, 1974. Protests will be considered by the Commission to determine appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23453 Filed 10-8-74; 8:45 am]

[Docket No. RI75-41]

## PERRY R. BASS

### Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

OCTOBER 3,1974.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

*The Commission finds:* It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

*The Commission orders:* (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Chapter I], and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

APPENDIX A

| Docket No. | Respondent | Rate schedule No. | Supplement No. | Purchaser and producing area | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until— | Cents per Mcf* | | Rate in effect subject ot refund in docket No. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | Rate in effect | Proposed increased rate | |
| | Perry R. Bass | 1 | 9 | El Paso Natural Gas Co. (Brown Bassett Field, Terrell County, Tex.) (Permian Basin). | $14,013 | 9-3-74 | | 3-4-75 | 23.5881 | [1] 24.5919 | RI73-195. |

*Unless otherwise stated, the pressure base is 14.65 lb/in² a.
[1] Includes 4.5 cents treating charge by buyer to remove diluent content.

The proposed rate increase of Perry R. Bass exceeds the applicable area ceiling rate set forth in Opinion No. 662, issued August 7, 1973, and is suspended for five months.

Good cause has not been shown for granting waiver of the 30-day notice requirement and Bass' request is denied.

In regard to any sale of natural gas for which the proposed increased rate is filed under the provisions of Opinion No. 699, issued June 21, 1974, in Docket No. R-389-B, no part of the proposed rate increase above the prior applicable area ceiling rate may be made effective until the seller submits a statement in writing demonstrating that Opinion No. 699 is applicable to the particular increased rate filing, in whole or in part. The proposed increased rates for which such support shall have been satisfactorily demonstrated prior to September 23, 1974, will be made effective as of June 21, 1974.

[FR Doc.74-23470 Filed 10-8-74;8:45 am]

[Docket No. CP75-93]

## BLACK MARLIN PIPELINE CO.

### Application

OCTOBER 1, 1974.

Take notice that on September 20, 1974, Black Marlin Pipeline Company (Applicant), P.O. Box 186, Port Lavaca, Texas 77976, filed in Docket No. CP75-93 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to continue to operate previously constructed facilities for the purpose of receiving deliveries of natural gas into its pipeline system so as to enable Applicant to transport natural gas at levels previously certificated by the Commission, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant states that it constructed facilities, at a total cost of less than $50,000, in order to augment its ability to connect to its pipeline system gas supplies in the general area of said system and to transport gas at volumes certificated by the Commission in its order of June 13, 1966, in Docket No. CP66-33 (35 FPC 976). Although the certificate in Docket No. CP 66-33 provided for deliveries from the Den Field, offshore Texas, Applicant states that the volumes of gas have been decreasing to such an extent that by 1978 Applicant expects that there will no longer be any deliveries from the Den Field. In order to maintain volumes of delivery as certificated in the June 13, 1966, order, Applicant states that it has constructed connections in Block 108, offshore Texas, to receive gas from Chevron Oil Company from production in Block 140, and in Block 99 and on the Bolivar Peninsula to receive gas from Gulf Oil Corporation. Applicant states that the Gulf taps are not presently in use. Applicant requests permission to continue to operate these facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 23, 1974, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the

Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23441 Filed 10-8-74;8:45 am]

[Docket No. CP73-329]

## CHATTANOOGA GAS CO.

### Proposed Changes in Gas Tariff

SEPTEMBER 19, 1974.

The attached Notice of Proposed Changes in FPC Gas Tariff is being reissued because the original notice issued September 19, 1974, was not published in the FEDERAL REGISTER. The new due date for filing protests and petitions to intervene is October 9, 1974.

Take notice that on August 22, 1974, Chattanooga Gas Company, (Chattanooga) tendered for filing a completely revised Volume No. 2 of its FPC Gas Tariff to be effective on September 23, 1974.

Chattanooga states that the primary purpose of this First Revised Volume No. 2 is to give effect to a new storage service contract executed as of the 17th of July, 1974, by and between East Tennessee Natural Gas Company and Chattanooga Gas Company.

Chattanooga states that other than changes in dates, the primary tariff revisions are:

(1) Storage service volumes for East Tennessee have been increased from 285,125 MCF for 1973–74 to 469,212 MCF for 1974–75.

(2) The terms of the contract as originally set forth on Sheet No. 8 have been revised so that: "East Tennessee may, upon notice given *thirty (30) days* prior to the termination hereof, request a *twelve (12) months* extension of the term of this contract. Within *thirty (30) days* of the receipt of said request * * *."

Chattanooga requests that its First Revised Volume No. 2 be made effective on September 23, 1974.

Chattanooga states that copies of the filing have been mailed to all of its jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 9, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23463 Filed 10-8-74;8:45 am]

[Docket No. CP75-100]

## CITIES SERVICE GAS CO.

### Notice of Application

OCTOBER 1, 1974.

Take notice that on September 24, 1974, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP75-100 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act, as implemented by § 157.7(g) of the Commission's Regulations thereunder (18 CFR 157.7(g)), for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the calendar year 1975, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total estimated cost of the proposed facilities will not exceed $2,000,000, nor will the cost of any single project exceed $500,000. Applicant states further that all funds expended under this authority will be from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 22, 1974, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by section 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment and grant of the certificate are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23436 Filed 10-8-74;8:45 am]

[Docket No. RP72-142]

## CITIES SERVICE GAS CO.

### Proposed Changes in Gas Tariff

OCTOBER 2, 1974.

Take notice that on September 23, 1974, Cities Service Gas Company (Cities) tendered for filing substitute Seventh Revised Sheet PGA-1 which reflects thereon a current adjustment of 3.39¢ per Mcf and a cumulative adjustment of 4.73¢ per Mcf, to be effective on July 23, 1974.

Cities states that this filing is in compliance with Ordering Paragraph (A) of the Commission's September 10, 1974, order in this docket. Cities further states that Substitute Seventh Revised Sheet PGA-1 will be effective for only one day, namely July 23, 1974, after which Eighth Revised Tariff Sheet PGA-1 reflecting a current adjustment of 3.70¢ per Mcf and a cumulative adjustment of 5.04¢ per Mcf will be effective on July 24, 1974, after suspension, as provided by the Commission's July 22, 1974 order. According to Cities, of the 5.04¢ per Mcf cumulative PGA adjustment, 0.31¢ per Mcf is being collected subject to possible refund as of July 24, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commis-

sion and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23449 Filed 10-8-74;8:45 am]

[Docket No. CP75-99]

## CITIES SERVICE GAS CO.

### Notice of Application

OCTOBER 2, 1974.

Take notice that on September 24, 1974, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP75-99 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(c) of the regulations thereunder for a certificate of public convenience and necessity authorizing the miscellaneous rearrangement of facilities during the calendar year 1975 and operation of such rearranged facilities, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to enable Applicant to act with reasonable dispatch during the calendar year 1975 in making miscellaneous rearrangements not resulting in any change of service rendered by means of the facilities involved.

Applicant states that the total estimated cost of the proposed rearrangements does not exceed $300,000, and such costs will be paid from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23461 Filed 10-8-74;8:45 am]

[Docket No. CP73-238]

## COLORADO INTERSTATE GAS CO.

### Petition To Amend

OCTOBER 2, 1974.

Take notice that on September 20, 1974, Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (Petitioner), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP73-238 a petition to amend the Commission's order issuing a certificate of public convenience and necessity in said docket on June 19, 1973 (49 FPC 1387) pursuant to section 7(c) of the Natural Gas Act by authorizing revisions in maximum daily volume obligations (MDVO) at four of six delivery points under Applicant's full requirement and partial requirement natural gas service agreements with Western Gas Interstate Company (Western), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that its full requirement service agreement with Western provides for five delivery points, a firm year-round service demand for 3,399 Mcf [1] per day (Rate Schedule G-1),[2] a winter (November-March) peaking service demand of 957 Mcf per day (Rate Schedule PS-1),[2] and a summer seasonal (May-September) service demand of 18,000 Mcf per day (Rate Schedule S-1). Applicant states that its partial requirement service agreement with Western provides for a demand of 100 Mcf per day at a single delivery point (Rate Schedule G-1).

Applicant's present and proposed contract demand and MDVO at each of the six delivery points are as follows:

*Full requirement service agreement*

| Location or measurement station | MDVO | |
|---|---|---|
| | Present | Proposed |
| 1. Stratford meter station | 9,000 | 14,000 |
| 2. Cimarron 1 meter station | 2,500 | 2,500 |
| 3. Kerrick meter station | 1,500 | 1,700 |
| 4. Judd meter station | 1,000 | 1,200 |
| 5. Pinkerton meter station | 2,000 | 2,000 |
| Total | $16,000 | 21,400 |

| Contract demands | Volume | |
|---|---|---|
| | Present | Proposed |
| Rate schedule G-1 | 3,399 | 3,399 |
| Rate schedule S-1 | 18,000 | 18,000 |
| Total | 21,399 | 21,399 |

*Partial requirement service agreement*

| Location or measurement station | MDVO | |
|---|---|---|
| | Present | Proposed |
| Underwood meter station | 2,500 | 100 |

| Contract demand | Volume | |
|---|---|---|
| | Present | Proposed |
| Rate schedule G-1 | 100 | 100 |

Applicant intends to reconcile the MDVO's with contract demand under both full requirement and partial requirement service agreements with Western. Applicant explains that because the total of the MVDO's is less than the total contract demand under the full requirement service agreement, it is not possible to deliver the total contract demand during the summer months within existing MDVO limits. The proposed changes, Applicant maintains, will permit daily deliveries equal to, but not in excess of, the daily contract entitlement during the months of May through September without affecting current contract demand. Applicant further explains that under the partial requirement service agreement, the MDVO will be equal to the contract demand and will not prevent Western from receiving the total annual contract quantity of 34,000 Mcf.

Applicant requests that said revisions be authorized effective October 1, 1974.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 29, 1974, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it

[1] All volumes are expressed at 14.65 psia and 60 degrees F.

[2] Rate Schedule G-1 and PS-1 service were authorized by the aforesaid Commission order issued June 19, 1973.

in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23459 Filed 10-8-74;8:45 am]

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[Docket No. CP73-220]

## EL PASO NATURAL GAS CO.

### Petition To Amend

OCTOBER 2, 1974.

Take notice that on September 25, 1974, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP73-220 a petition to amend the order issuing a certificate of public convenience and necessity in said docket on July 18, 1973 (50 FPC 148), pursuant to section 7(c) of the Natural Gas Act by authorizing Petitioner's construction of certain facilities in lieu of those heretofore certificated, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued July 18, 1973, Petitioner was authorized to construct and operate certain field transmission and metering facilities and to deliver up to 10,000 Mcf of natural gas on an exchange basis to Northern Natural Gas Company (Northern) in Woodward County, Oklahoma. The subject exchange is to enable Petitioner to make additional quantities of gas available by displacement to its interstate system customers. The petition indicates that the principal facilities authorized to be constructed in this regard were 29.2 miles of 6⅝-inch transmission pipeline, a submerged river crossing and a 6-inch orifice meter run. (Petitioner states it also constructed certain gathering facilities as a part of the project.)

Petitioner states that due to the inability of a 6-inch meter run to measure accurately large variations in daily and hourly volumes of gas delivered, a dual 4½-inch orifice meter run was installed in lieu of the authorized 6-inch orifice meter run. Petitioner asserts that the dual orifice meter run allows Petitioner more flexibility of operation and accuracy in measuring volumes of gas delivered to Northern and for this reason requests the Commission to amend its order of July 18, 1973, to reflect the installation of the dual 4½-inch meter in lieu of the 6-inch meter originally authorized. Petitioner also indicates that due to right-of-way and survey changes, 28.82 miles of 6⅝-inch pipe was installed in lieu of the 29.2 miles of such pipe authorized by the July 18, 1973, order.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 29, 1974, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23457 Filed 10-8-74;8:45 am]

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[Docket No. RP74-50-5]

## FLORIDA HYDROCARBONS CO. AND FLORIDA GAS TRANSMISSION CO.

### Joint Petition for Interim and Permanent Extraordinary Relief and for Declaratory Order

SEPTEMBER 19, 1974.

The attached Notice of Joint Petition for Interim and Permanent Extraordinary Relief and for Declaratory Order is being reissued because the original notice issued September 19, 1974, was not published in the FEDERAL REGISTER. The new due date for filing protests and petitions to intervene is October 11, 1974.

Take notice that on September 9, 1974, a joint petition, pursuant to § 1.7 of the Commission's rules of practice and procedure, was filed by Florida Hydrocarbons Company (Hydrocarbons) for interim and permanent extraordinary relief from the curtailment provisions of Florida Gas Transmission Company's FPC Gas Tariff, Original Volume No. 1, and by Florida Gas Transmission Company (Florida Gas) for a declaratory order confirming its administration of its curtailment program with regard to Hydrocarbons' extraction operations. Both petitioners are wholly owned subsidiaries of Florida Gas Company, a Florida corporation located in Winter Park, Florida.

In support of its petition for interim and permanent extraordinary relief, containing supporting affidavits, Hydrocarbons states that it owns and operates a liquefiable hydrocarbons extraction and processing plant adjacent to Florida Gas' main pipeline system near Brooker, Florida. It takes into that plant the gas stream flowing through Florida Gas' pipeline, processes that gas stream and extracts propane, butane, natural gasoline and raw liquid products therefrom, and then returns the processed and purified gas stream to the pipeline. Under the terms of the hydrocarbons extraction agreement with Florida Gas, it has the right to extract all of the liquefiable hydrocarbons in the Florida Gas mainline stream subject only to the limitation that the processed gas returned to the pipeline will not be reduced below 1,010 Btu per cubic foot.

Although Hydrocarbons is classified as a direct customer of Florida Gas, the processing operation does not actually consume natural gas except for approximately 10 percent of the total Btu's removed from the gas stream during the processing operation which is consumed as fuel by the plant. According to the petition, fuels other than natural gas for the aforesaid 10 percent of total Btu's could be utilized only after securing an alternate fuel supply, storage for such a supply and a major refitting of the fuel system itself. The volume of products currently extracted by Hydrocarbons has increased recently with the flow of gas supply from the Jay Field in Santa Rosa County, Florida, into the Florida Gas pipeline since Jay Field producers have experienced unexpected delays in bringing their extraction plant into service.

Florida Gas claims that Hydrocarbons does not basically consume natural gas but instead processes the gas and converts Btu's to alternate energy forms which are in short supply. However, it believes that it will be required under its curtailment program to direct Hydrocarbons to suspend its operations during periods of curtailment when the anticipated curtailment of resale interruptible customers commences during the 1974-75 winter season. If Hydrocarbons is permitted to continue its extraction of critical liquids without suspension during 1975, Florida Gas estimates that the curtailments to its resale interruptible customers would be extended 16 days. Hydrocarbons asserts that its operations utilize (but do not consume) the liquefiable hydrocarbons in the natural gas stream as the indispensable feedstock in its extraction plant and that there is no alternative to the Btu's of energy so utilized.

Hydrocarbons requests that the Commission grant it interim and permanent relief from any interruption of its processing and extraction operations when Florida Gas is required to commence curtailment of its resale interruptible customers. Florida Gas requests that the Commission issue a declaratory order confirming the manner in which it has been administering its curtailment program in regard to the extraction operations conducted by Hydrocarbons.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) on or before October 11, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. This filing

which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23465 Filed 10-8-74;8:45 am]

[Docket No. RP74-86]

## GULF ENERGY AND DEVELOPMENT CORP.

### Filing of Settlement Agreement

OCTOBER 1, 1974.

Take notice that on September 20, 1974, Gulf Energy and Development Corporation (Gulf Energy) tendered for filing a Stipulation and Agreement of Settlement in this proceeding and a motion for Commission approval of this settlement. The settlement agreement provides for settlement of all issues arising in this rate proceeding with the specific exception of the issue involving Gulf Energy's Gas Plant Acquisition Adjustment which issue the settlement expressly reserves for hearing.

The settlement proposes a rate of 10.45¢ per Mcf but provides that should that Commission decide the Gas Plant Acquisition Adjustment issue either partially, or totally, against Gulf Energy, this rate will be further reduced and refunds will be made accordingly. The settlement rate is proposed to become effective as of June 12, 1974, the end of the suspension period in this proceeding, and the settlement provides that Gulf Energy shall make appropriate refunds.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before October 16, 1974. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23437 Filed 10-8-74;8:45 am]

[Docket No. E-9030]

## IOWA POWER AND LIGHT CO.

### Change in Rate Schedule

OCTOBER 2, 1974.

Take notice that Iowa Power and Light Company (Iowa Power) on September 23, 1974 tendered for filing a revised Schedule A to the Electric Interchange Agreement between Iowa Power and Northwest Iowa Power Cooperative dated June 10, 1974. The revised Schedule A is intended to replace the previous Schedule A dated July 27, 1971 and designated as Supplement No. 1 to Iowa Power and Light Company Rate Schedule FPC No. 41.

The revised Schedule A provides for the establishment of points of delivery and points of interconnection between the two companies, and further specifies the nature of the facilities to be furnished by the companies at these points.

Iowa Power contends that Schedule A was revised in order to further increase the interchange and displacement capabilities between the systems of the two companies and to facilitate coordinated development of adequate transmission capacity for service to customers of the companies at minimum cost.

Iowa Power requests the Commission to waive the prior notice requirements and accept the filing with a retroactive effective date of June 10, 1974. Iowa Power states that copies of the filing have been served upon Northwest Iowa Power Cooperative and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said appplication should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before October 11, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23458 Filed 10-8-74;8:45 am]

[Project 2741]

## KINGS RIVER CONSERVATION DISTRICT

### Application for Preliminary Permit

OCTOBER 2, 1974.

Public Notice is hereby given that application for preliminary permit has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Kings River Conservation District of Fresno, California (Correspondence to: Mr. Hugh V. Johns, President of the Board of Directors, Kings River Conservation District, 4886 East Jensen Avenue, Fresno, California 93725, and copies to International Engineering Company, Inc., 220 Montgomery Street, San Francisco, California 94104) for proposed Project No. 2741 to be known as Kings River Hydroelectric Project located on Kings River and its Tributaries in the vicinity of the Cities of Fresno, Hanford and Visalia in Fresno County, California.

Applicant is seeking a 36 month preliminary permit in order that it may secure and maintain priority for a license while procuring data and performing the studies that are necessary to perfect an application for license. No construction would be authorized by the issuance of a preliminary permit. Applicant proposes to sell all project power to a public utility.

The proposed Project would have an installed capacity of 394,500 kW and would consist of several developments. The Pine Flat Power Plant would be located immediately downstream from the U.S. Army Corps of Engineers Pine Flat Dam on the Kings River and would have an installed capacity of 165 MW. The Piedra Development would be located on the Kings River about two (2) miles downstream of Piedra. The development would consist of a 100-foot high rockfill reregulating dam, a spillway, a 7000 acre-foot-capacity reservoir and a powerhouse containing two (2) 12 MW generating units for a total of 24 MW. The Mill Creek Development would be located on Mill Creek about one mile upstream from its confluence with the Kings River. The development would consist of a 300 foot high rockfill dam, a spillway, a 355,000 acre-foot capacity reservoir and a powerhouse containing a 16 MW generating unit. The Rogers Crossing Development would be located on the Kings River about 3000 feet upstream from its confluence with the North Fork Kings River. The development would consist of a 570-foot high rockfill dam, a spillway, a 601,000 acre-foot capacity reservoir and a powerhouse containing three (3) generating units with a total capacity of 100.5 MW. The Dinkey Creek Development would be located on Dinkey Creek about eleven miles upstream from its confluence with the North Fork Kings River. The development would consist of a 240-foot high rockfill dam, a spillway, a 50,000 acre-feet capacity reservoir, an intake, a 38,000-foot long tunnel leading to a 50 MW generating unit in a powerhouse on Dinkey Creek, a low diversion dam, and a 19,800-foot tunnel, leading to a 39 MW generating unit in a powerhouse located at Balch Camp on the North Fork Kings River.

Any person desiring to be heard or to make protest with reference to said application should on or before November 29, 1974, file with the Federal Power Commission, Washington, DC, 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

The Application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23450 Filed 10-8-74;8:45 am]

[Docket No. CP74-319]

## MICHIGAN CONSOLIDATED GAS CO.

### Application

OCTOBER 2, 1974.

Take notice that on September 20, 1974, Michigan Consolidated Gas Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP74-319 an application pur-

suant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a natural gas storage service for Panhandle Eastern Pipe Line Company (Panhandle) and subsequent redelivery of the gas to Southeastern Michigan Gas Company (Southeastern) for the account of Panhandle, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

On July 12, 1974, notice was published in the FEDERAL REGISTER (39 FR 25701) of Applicant's application in the subject docket for a continuing exemption from the provisions of the Natural Gas Act pursuant to section 1(c) of the Natural Gas Act. The subject storage service was described in said notice and application. Applicant now applies for a certificate of public convenience and necessity for the same storage service, requesting that the remainder of its operations, except for those certificated by the Commission's order issued on September 6, 1974, in Michigan Wisconsin Pipeline Company Docket No. CP74–157, et al. (52 FPC ----), be considered exempt from the provisions of the Natural Gas Act

Applicant states that it and Panhandle have entered into a gas storage agreement dated May 22, 1974, providing that during the months June through October 1974, Panhandle will deliver for storage to Applicant at Applicant's River Rouge Station, Melvindale, Michigan, approximately two million Mcf of natural gas and that during the months of November and December 1974 and January, February and April 1975 Applicant will redeliver an equivalent amount of natural gas through displacement to Southeastern at an existing interconnection at Adair, Michigan, for the account of Panhandle. The cost to Panhandle for this service will be 56 cents per Mcf.

Applicant further states that the gas storage agreement between it and Panhandle is intended only as a temporary arrangement to enable some of Panhandle's resale and direct sale customers to meet their anticipated market or processing requirements during the 1974–1975 heating season.

Applicant states that it commenced receiving gas from Panhandle on June 1, 1974 and that a temporary certificate was issued to Panhandle for the subject deliveries on August 22, 1974.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 22, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74–23455 Filed 10–8–74;8:45 am]

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[Docket No. RP73–102]

## MICHIGAN-WISCONSIN PIPE LINE CO.

### Extension of Procedural Dates

OCTOBER 3, 1974.

On September 30, 1974, Staff Counsel filed a motion to extend the procedural dates fixed by order issued August 12, 1974, in the above-designated matter. The motion states that all parties have been notified and have voiced no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Staff Service of Testimony and Exhibits, November 26, 1974.
Rebuttal Service by Company and Intervenors, December 17, 1974.
Hearing, January 7, 1975 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74–23467 Filed 10–8–74;8:45 am]

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[Docket No. CP75–97]

## MISSISSIPPI RIVER TRANSMISSION CORP.

### Notice of Application

OCTOBER 1, 1974.

Take notice that on September 24, 1974, Mississippi River Transmission Corporation (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP75–97 an application pursuant to sections 7(c) and 7(b) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of natural gas pipeline facilities and for permission to abandon certain existing facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct approximately 12.3 miles of 26-inch pipeline loop and related facilities on its main line system in Madison County, Missouri, and to abandon its Twelve Mile No. 1 Station located in Madison County, Missouri, with seven 1,000 horsepower compressor units and its Bonne Terre Station located in St. Francois County, Missouri, with one 1,850 horsepower compressor unit.

Applicant states that the proposed abandonment involves the retirement of certain of the oldest compressors on Applicant's system. Applicant also states that the replacement of these units and the related loop construction which will complete the third main line on this north-south system, will result in improvements in the operating dependability and efficiency of Applicant's system.

The application states that the program proposed herein involves no change in Applicant's sales and sales volumes and will not affect its system capacity. Applicant states that the estimated cost of the proposed construction will be $2,750,000, which will be financed from available funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1974, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval of the proposed abandonment and grant of the certificate are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74–23443 Filed 10–8–74;8:45 am]

[Docket No. RP72-149]

## MISSISSIPPI RIVER TRANSMISSION CORP.

### Proposed Change in Rates

OCTOBER 2, 1974.

Take notice that Mississippi River Transmission Corporation (Mississippi) on September 19, 1974 tendered for filing Twenty-Second Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1 to become effective November 1, 1974.

Mississippi states that the instant filing was made pursuant to the Purchased Gas Cost Adjustment provisions of Mississippi's tariff to reflect the general rate increase filing by United Gas Pipe Line Company at Docket No. RP74-83 and that the rate change filing of Natural Gas Piepline Company of America (Natural) pursuant to the provisions of its tariff in Docket No. RP73-110.

Mississippi's filing of September 19, 1974, submits schedules containing computations supporting the rate changes to be effective November 1, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 18, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene unless such petition has previously been filed. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23460 Filed 10-8-74;8:45 am]

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[Docket No. RP74-91-6]

## MISSISSIPPI VALLEY GAS CO.

### Petition for Emergency Relief

OCTOBER 1, 1974.

Take notice that on September 19, 1974, Mississippi Valley Gas Company (Mississippi Valley), filed in Docket No. RP74-91-6, a petition pursuant to § 2.78 (b) of the Commission's regulations and § 1.7(b) of the Commission's rules of practice and procedure requesting: (1) that the Commission give Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) authorization to restructure its 1974 allocation to Mississippi Valley; or in the alternative (2) that the Commission order that no penalty be imposed on Mississippi Valley for volumes of gas taken in excess of its April-October 1974 curtailment period quantity entitlement (CPQE) of 2,769 Mcf as long as the overrun does not exceed the 2,070 Mcf that Mississippi Valley was entitled to but did not take during the January-March, 1974 curtailment period; and (3) that the Commission waive any and all requirements which would delay the immediate grant of the relief herein requested.

Mississippi Valley states that during the January-March 1974 curtailment period it purchased 2,070 Mcf less than its CPQE for that period; but that it will purchase more than its CPQE during the April-October, 1974 curtailment period. Mississippi Valley states that the error in computing its estimate was a miscalculation caused by the fact that Mississippi Valley was still in the development stage when it submitted its estimate for the April-October, 1974, curtailment period and therefore was at a point in time when it did not have actual figures to rely on. Mississippi Valley further states that unless the relief requested is granted its customers will suffer irreparable injury. Mississippi Valley therefore requests that the Commission transfer 1,500 Mcf to the April-October, 1974 curtailment period from the 2,070 Mcf that was not taken in the January-March, 1974 curtailment period but which Mississippi Valley was entitled to or in the alternative that no overrun penalty be assessed against Mississippi Valley for volumes taken for the April-October period, in excess of the 2,769 Mcf that Mississippi Valley was entitled to under Tennessee's curtailment plan, as long as any overrun, does not exceed the 2,070 not taken by Mississippi Valley during the January-March 1974 period. Mississippi Valley further requests that the Commission waive all requirements which would delay an immediate grant of relief herein.

A shortened notice period in this proceeding may be in the public interest. Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Washington, DC 20426 in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23440 Filed 10-8-74;8:45 am]

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[Docket No. RP74-35]

## NATIONAL FUEL GAS SUPPLY CORP.

### Tendered PGA Tariff Revision

OCTOBER 2, 1974.

Take notice that on September 23, 1974, National Fuel Gas Supply Corporation (National), formerly United Natural Gas Company, tendered for filing Eleventh Revised Sheet No. 3-A to its FPC Gas Tariff, Original Volume No. 1. The tariff sheet is proposed to be effective October 1, 1974.

National states that the revised tariff sheet reflects an adjustment of .37¢ per Mcf, an increase of $176,814 annually over the revenues that would be generated from the rates set forth in National's Tenth Revised Sheet No. 3-A filed August 21, 1974. National attributes the increased costs to increases from their suppliers. If any of National's supplier rates as billed are different than the rates included in the subject filing, National proposes to accrue the difference in Account 191—Unrecovered Purchased Gas Costs.

National requests waiver of the notice requirements set forth in the Commission regulations and its tariff to permit its filing to become effective October 1, 1974.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23456 Filed 10-8-74;8:45 am]

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[Docket No. CP75-94]

## NORTHERN NATURAL GAS CO.

### Application

OCTOBER 3, 1974.

Take notice that on September 23, 1974, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP75-94 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to exchange 413,000 Mcf of natural gas annually with Pioneer Natural Gas Company (Pioneer) in the state of Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to exchange volumes of natural gas with Pioneer pursuant to an agreement between the two parties dated June 1, 1974. Under the terms of said agreement Pioneer will deliver up to 2,000 Mcf of gas per day (620,000 Mcf annually) at Applicant's Plainview, Texas, compressor station for use by Applicant as compressor fuel gas. The application indicates that these deliveries by Pioneer are to commence October 1, 1974, with two-thirds of such volumes (413,000 Mcf annually) de-

livered by Pioneer to Applicant considered exchange gas volumes, and the remaining one third of such deliveries (207,000 Mcf of the total annual volume of 620,000 Mcf) will be purchased by Applicant from Pioneer.

Applicant states that during the period April 1 through October 1 of each year, Applicant will cause El Paso Natural Gas Company (El Paso) to deliver an annual volume of 413,000 Mcf of natural gas to Pioneer from various plants along El Paso's Dumas pipeline located between Plains and Dumas, Texas. Applicant states further that this exchange of gas is on a volume for volume basis adjusted for Btu content with no monetary compensation by either party. The application further indicates that the base price applicable to the sale of the 207,000 Mcf of gas also proposed to be delivered by Pioneer to Applicant will be the sum of thirteen cents plus Pioneer's latest available weighted average cost of gas to Pioneer's West Texas Transmission System, provided, however, that the total base price shall not be less than fifty-five cents per Mcf.

Applicant states that no new facilities are required to implement the proposed exchange of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1974, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23466 Filed 10-8-74;8:45 am]

[Docket No. E-9031]

## NORTHERN STATES POWER CO.

### Supplement to Power Pool Agreement

OCTOBER 2, 1974.

Take notice that on September 23, 1974, Northern States Power Company (Northern) tendered for filing the last step of the rates in a power pool arrangement contained in Revised Service Schedules A, B, and I. The proposed effective date is November 1, 1974.

The filing contained Exhibit A, Exhibit B, and Exhibit C, with the following information, respectively, (1) a Service Schedule B for the twelve months preceding and subsequent to November 1, 1974; (2) an updated tabulation of fuel costs; (3) the investment cost per kilowatt of generating units installed or planned from 1967 to 1979 by the members of the Upper Mississippi Valley Power Pool.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 11, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.23451 Filed 10-8-74;8:45 am]

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[Docket No. CP73-332]

## NORTHWEST PIPELINE CORP.

### Amendment to Petition To Amend

OCTOBER 2, 1974.

Take notice that on September 26, 1974, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP73-332 an amendment to its petition to amend the order of the Commission heretofore issued in said docket, pursuant to section 3 of the Natural Gas Act, on September 21, 1973 (50 FPC ____), as amended on December 28, 1973 (51 FPC ____), and on January 21, 1974 (51 FPC ____), so as to change its request for authorization to include the costs of short-term emergency volumes of gas imported from Canada in Petitioner's Purchased Gas Adjustment Clause (PGAC) under its FPC Gas Tariff, Original Volume No. 1, to a request for authorization to provide for pricing of said gas under a separate rate schedule, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

On September 3, 1974, Petitioner filed a petition to amend the Commission's order of September 21, 1973, authorizing the continued importation of natural gas from Canada, by authorizing the importation of up to 55,000 Mcf per day of natural gas from Westcoast Transmission Company Limited (Westcoast) at the Sumas, Washington, import point for the period from January 1, 1975, through April 30, 1977. Petitioner requests authorization to import such emergency volumes of gas in order to offset scheduled curtailments by Westcoast at the Sumas delivery point.

Petitioner originally requested that its PGAC be amended so as to "roll-in" the costs of said emergency volumes of gas. Petitioner now proposes to provide for these costs in a separate rate schedule which calls for the sale of said gas at its full cost, plus a one-cent per Mcf incremental transportation charge. Petitioner states that service under the proposed rate schedule would be available to those customers who wish to contract for such service, and deliveries thereunder would be exempt from Petitioner's then-effective curtailment procedures.[1] Petitioner further states that no additional facilities are required to render this service nor will any new customers or markets be served.

Petitioner relates that because deliveries under the proposed rate schedule are to offset curtailment and are consistent with existing certificate authorizations and customer service agreements, the instant submittal is not tendered pursuant to section 7(c) of the Natural Gas Act. Petitioner claims that the Commission adequately can protect the public interest by its review of the proposed supply increment under section 3 of the Natural Gas Act and of the proposed rate schedule, as an initial rate schedule, under section 4 of the Act.

Any person desiring to be heard or to make any protest with reference with said amendment should on or before October 15, 1974, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Any person who has heretofore filed a protest or petition to intervene need not file again.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23464 Filed 10-8-74;8:45 am]

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[1] Section 13 of the General Terms and Conditions of Petitioner's FPC Gas Tariff, Original Volume No. 1.

[Docket No. E-8152]

## OTTER TAIL POWER CO.

### Filing of Supplemental Amendment to the Complaint

OCTOBER 1, 1974.

Take notice that on September 23, 1974, Otter Tail Power Company (Company) filed a supplemental amendment to its complaint in this proceeding, pursuant to a September 20, 1974 directive ordered under § 1.11 of the Commission's rules by Presiding Administrative Law Judge Ellis. The Company maintains by way of directed amendment that it presently furnishes excess capacity transmission service to the municipalities of Alexandria, Bonnesville, Benson, Breckinridge, Detroit Lakes, Henning, Lake Park, Newfolden, Nielsville, Ortonville, Shelly Stephen, Tyler and Warren, Minnesota, and Badger, Big Stone City and Estelline, South Dakota under arrangements with the United States Bureau of Reclamation.[1] The Company further discloses that the same compensatory, fully-allocated cost rate for firm transmission service rendered the Village of Elbow Lake to be determined by the Commission in this docket will thereafter be offered to any municipality falling within the Company's service area as the only available rate for Otter Tail transmission service. The Company proposes herein to render Elbow Lake firm wheeling (transmission) service for $21.05 per year per kw of peak demand, plus a $27.72 per year per kw of peak demand charge for replacement power and energy in the event of supplier failure and a 0.0896¢ per kwh excess energy charge, subject to a fuel cost adjustment clause and a 100 percent billing demand ratchet. The Company additionally states that it does not now know if any of the enumerated municipalities will eventually apply for firm transmission service under the compensatory, fully-allocated cost rate to be determined by the Commission in this proceeding.

Any person desiring to be heard or to make any protest with reference to this filing should on or before November 12, 1974, file with the Federal Power Commission, Washington, DC 20426, petitions to intervene out-of-time or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The supplemental amendment is on file with the Commission and available for public inspection. The hearing has been set to reconvene herein at 9:30 a.m. on November 18, 1974.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23438 Filed 10-8-74;8:45 am]

[1] Pursuant to Otter Tail-Bureau Contract No. I79r-1592 (Rate Schedule FPC No. 84), and associated Otter Tail-Municipal Special Electric Service Agreements.

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[Docket No. E-8878]

## POTOMAC EDISON CO.

### Extension of Time

OCTOBER 1, 1974.

On September 19, 1974, The Potomac Edison Company filed a motion to extend the time for filing the case in-chief as fixed by order issued August 26, 1974, in the above designated matter. Staff Counsel has no objections to the motion.

Upon consideration, notice is hereby given that the date for filing the case-in-chief in the above matter is extended to and including October 18, 1974.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23445 Filed 10-8-74;8:45 am]

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[Docket No. E-8882]

## PUBLIC SERVICE COMPANY OF COLORADO

### Compliance Filing

OCTOBER 1, 1974.

Take notice that the Public Service Company of Colorado on September 23, 1974, tendered for filing proposed revised fossil fuel cost adjustment paragraphs pursuant to Paragraph F of the Commission's order issued August 30, 1974, in the above referenced docket. Said filing would revise the Company's FPC Rate Schedule Nos. 3, 6, 9, 11, 12, 13 and 14. The Company states that copies of the revised fuel clause have been sent to its wholesale customers and the Public Utilities Commission of the State of Colorado.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 10, 1974, file with the Federal Power Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23439 Filed 10-8-74;8:45 am]

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[Docket No. E-9021]

## SOUTHERN CALIFORNIA EDISON CO.

### Application

OCTOBER 1, 1974.

Take notice that on September 16, 1974, Southern California Edison Company (Applicant) tendered for filing pursuant to section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder, a March 14, 1974 Interim Transmission Agreement with the City of Los Angeles (City), whereby Applicant provides the City with 244 mw of transmission service between Moenkopi Switching Station and Eldorado Substation for start-up power to Navajo Project No. 1 and generation therefrom during the start-up period. The scheduled 244 mw of transmission capacity represents the equivalent of generation entitlement shares of the City and Nevada Power Company in Navajo Unit No. 1, subject to certain restrictions including exercise of operating requirements curtailment by Arizona Public Service Company which operates the Moenkopi-Eldorado transmission line. Charges for transmission service total $85,400 per month from the January 15, 1974 date of service commencement until the earlier of the in-service date of the Navajo-McCullough Transmission line or the initial generation date of Navajo Project Unit No. 2. Applicant requests an effective agreement date of January 15, 1974.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 16, 1974, file with the Federal Power Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23448 Filed 10-8-74;8:45 am]

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[Docket No. RP72-121; PGA 75-2]

## SOUTHWEST GAS CORP.

### Gas Tariff

OCTOBER 2, 1974.

Take notice that on September 17, 1974, Southwest Gas Corporation (SGC)

tendered for filing revisions [1] in its FPC Gas Tariff, Original Volume No. 1. SGC requests an effective date of October 17, 1974, or thirty days' notice.

SGC states the purpose of this filing is to revise the Purchased Gas Adjustment Clause.[2] SGC further states that section 9, *"Purchased Gas Adjustment Clause,"* has been revised to eliminate any reference to Northwest Pipeline Corporation's Rate Schedule PL–4 and make possible the calculation of the adjustments using purchases from single or multiple rate schedules. It is contemplated by the filing of Northwest in Docket No. CP75–74 that Southwest will be changing to purchasing gas under Northwest's Rate Schedule ODL–1; and if the Commission grants this change, Southwest will then, through Northwest's filing in Docket No. CP75–18, receive service under Northwest's Rate Schedule SGS01.

SGC states that copies are being posted in accordance with § 154.16 of the Commission's rules and regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 9, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74–23469 Filed 10–8–74;8:45 am]

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[Docket No. RP 75–15]

## SOUTHWEST GAS CORP.

### Filing of Proposed Tariff Sheets

OCTOBER 2, 1974.

Take notice that on September 17, 1974, Southwest Gas Corporation (Southwest), 2011 Las Vegas Blvd, So., P.O. Box 1450, Las Vegas, Nevada, 89101, tendered for filing in Docket No. RP75–15, proposed changes to Original Volume No. 1 of its FPC Gas Tariff, consisting of the following tariff sheets: [1]

Third Revised Sheet No. 13
Fourth Revised Sheet Nos. 13A and 13B
Second Revised Sheet No. 13C
Original Sheet Nos. 13D, 13E, 13F, 13G, 13H, and 13I

Southwest states that the purpose of their filing is to (1) file a curtailment plan; and (2) add an unauthorized overrun provision; all as more fully set out in Southwest's filing and open to the public for inspection.

Section 6 (Force Majeure) of Southwest's proposed tariff sheets sets forth a curtailment plan to be implemented during periods of impaired deliveries. The plan set forth therein is consistent with priorities of deliveries contained in Commission Order No. 467–B, issued March 2, 1973. Section 10 (Unauthorized Overrun Provision) imposes a penalty for unauthorized overruns of gas.

Southwest requests that the tariff sheets become effective on October 17, 1974, or upon thirty (30) days notice.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74–23468 Filed 10–8–74;8:45 am]

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[Docket No. E–9033]

## TAMPA ELECTRIC CO.

### Filing of Initial Rate Schedule

OCTOBER 2, 1974.

Take notice that on September 25, 1974, Tampa Electric Company (Tampa) tendered for filing an Agreement Covering Special Sale of Electric Energy From Coal Reserves with Florida Power Corporation.

Tampa requests waiver of the notice requirements of § 35.3 of the Commission's regulations under the Federal Power Act to allow an effective date of October 1, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 18, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74–23452 Filed 10–8–74;8:45 am]

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[Docket No. RP74–91–7]

## TENNESSEE NATURAL GAS LINES, INC.

### Filing of Petition for Extraordinary Relief Pendente Lite

OCTOBER 1, 1974.

Take notice that on September 25, 1974, Tennessee Natural Gas Lines, Inc., (Tennessee Natural), filed in Docket No. RP74–91–7, pursuant to §§ 1.7 and 2.78 of the Commission's rules of practice and procedure a petition for extraordinary relief pendente lite requesting, (1) that the Commission order Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee to deliver to Tennessee Natural its pro rata share of the volumes certificated at Docket No. CP 73–115 until final Commission orders are issued in Docket Nos. CP73–115 and RP74–24. If the Commission does not grant Tennessee Natural the above-requested relief, Tennessee Natural requests in the alternative that the Commission order Tennessee to, (1) accept revised data relating to Tennessee Natural's priorities of sales and to use same in implementing its curtailment plan; (2) allow Tennessee Natural to shift a minimum of 1,500,000 Mcf of their entitlements between curtailment periods; and (3) give Tennessee Natural credit for the approximately 1,600,000 Mcf of natural gas of which Tennessee Natural has been deprived by Tennessee's refusal to allow shifts of entitlements between periods and its refusal to base its current additional curtailment on total period entitlements rather than the specific 39-day entitlement.

In support of its petition Tennessee Natural states that Tennessee implemented its curtailment plan on the basis of estimated requirements for 1974 submitted by its customers in 1973; that Tennessee's customers were not informed that the estimates would be used as the basis for the implementation of Tennessee's curtailment plan; that the estimates submitted by the customers and used by Tennessee in implementing its curtailment plan were not prepared on common bases or by use of common definitions; and that certain volumes of interruptible sales were improperly classified as firm by some customers. Tennessee Natural states that it has therefor absorbed approximately 23 percent of the curtailment of the Tennessee system even though it only purchases 2½ percent of Tennessee's total sales. Furthermore, Tennessee Natural states

[1] Revision include a Third Revised Sheet No. 13, a Fourth Revised Sheet Nos. 13A and 13B, a Second Revised Sheet No. 13C and Original Sheet Nos. 13D, 13E, 13F, 13G, 13H and 13I constituting a portion of the General Terms and Conditions.

[2] The subject tariff sheets also include a curtailment plan and an unauthorized overrun provision which will be noticed separately.

[1] The subject tariff sheets also includes a revision to the PGA clause.

that it was informed by Tennessee on September 20, 1974, that due to a hurricane in Tennessee's supply area, and its need to replenish its storage as the result thereof, Tennessee Natural would be curtailed an additional 50 percent of its entitlement for 39 days starting on September 23, 1974. Tennessee Natural states that this additional curtailment is not based on the total period quantity entitlement but is based on the quantity entitlement for the 39-day period only.

Tennessee Natural adds that due to the inaccuracy of the estimates used by Tennessee in implementing its curtailment plan, it is being forced to completely curtail all sales above Priority 2 and a number of sales in Priorities 1, 2, and 3.

Therefore, Tennessee Natural requests that the Commission immediately issue an order, pendente lite, granting the above-stated relief.

A shortened notice period in this proceeding may be in the public interest. Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23442 Filed 10-8-74;8:45 am]

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[Docket No. RP74-37-13]

## UNITED GAS PIPE LINE CO.

### Petition for Extraordinary Relief

OCTOBER 1, 1974.

Take notice that on September 20, 1974, the American Sugar Cane League of the U.S.A., Inc. (League), representing eighteen sugar cane processing mills,[1] filed a joint petition for extraordinary relief from the curtailment program of United Gas Pipe Line Company (United).

The petition states that the sugar cane processing mills in Louisiana presently obtain their gas supplies from United on a firm basis either directly, or indirectly through distribution companies, which companies are unable to provide the requested relief. Specifically, the League is seeking relief from fixed daily and monthly deliveries either in the summer (October) or winter season (November, December and January) with such relief limited to annual base requirements as established in the curtailment program. In this connection, the League states that the normal sugar cane harvesting season is from October to January, and that the mills use virtually all the gas received from United only during these months. In the event of the suspension of gas deliveries to the processing mills during this seasonal operating period, it is averred that irreparable loss of a major or substantial part of the entire year's crop of sugar cane will inevitably result. Because of the continuous nature of the processing operations, it is stated that even a short interruption in the supply of natural gas will have a severe impact on the sugar processing industry substantially exacerbating the existing national shortage of sugar.

The petition sets out in detail the estimates of the gas requirements of each of the 18 mills for the 1974–75 season in Exhibit B, attached thereto. The specific end-uses to which the requested relief volumes of natural gas would be utilized are primarily in the steam boilers of said mills, in combination with bagasse (residue of sugar cane after juice is removed), for the generation of power and for the processing of sugar cane juice into raw sugar and in minimal amounts for plant heating. It is further stated that none of the sugar mills have presently installed alternate fuel capability, though partial conversions have been and are being effected.

Any person desiring to be heard or to protest said petition should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 18, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this petition are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23447 Filed 10-8-74;8:45 am]

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[Docket No. RP74-83]

## UNITED GAS PIPELINE CO.

### Filing of Revised Tariff Sheet

OCTOBER 2, 1974.

Take notice that on September 23, 1974, United Gas Pipe Line Company (United) tendered for filing with the Commission Substitute Seventeenth Revised Sheet No. 4. United states that this revised tariff sheet is being filed as a replacement for Seventeenth Revised Sheet No. 4, filed with the Commission April 15, 1974, as well as Substitute Sixteenth Revised Sheet No. 4, filed with the Commission May 16, 1974, in Docket No. RP72-133 and which became effective July 2, 1974, subject to refund. According to United, this revised tariff sheet reflects modifications thereto which include current gas cost and substitution of the effective surcharge. The proposed effective date is November 1, 1974.

United states that a copy of Substitute Seventeenth Revised Sheet No. 4 is being mailed to United's jurisdictional customers, interested state commissions, and parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol, Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 11, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23454 Filed 10-8-74;8:45 am]

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[Docket No. E-9005]

## VIRGINIA ELECTRIC AND POWER CO.

### Supplemental Contract Filing

SEPTEMBER 19, 1974.

The attached Notice of Supplemental Contract Filing is being reissued because the original notice issued September 19, 1974, was not published in the FEDERAL REGISTER. The new due date for filing protests and petitions to intervene is October 15, 1974.

Take notice that on September 3, 1974, Virginia Electric and Power Company (Applicant) tendered for filing a contract supplement, dated July 1, 1974, to the Agreement designated as Applicant's Rate Schedule FPC No. 83-27 between Applicant and Halifax Electric Membership Corporation. Said supplement requests Commission authorization for connection of a new Delivery Point (Sam's Head) located west of Route 903 and east of Sectland Neck in Halifax County, North Carolina.

Applicant requests an effective date as that of the date of connection of facilities which is expected to occur sometime in November, 1974.

Applicant also requests a waiver of the billing data requirement, since it is alleged that there will be no significant increase in the unit cost of electricity to

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[1] Billeaud Sugar Factory; Columbia Sugar Factory; Helvetia Sugar Cooperative, Inc.; Iberia Sugar Cooperative, Inc.; Meeker Sugar Cooperative, Inc.; St. James Sugar Cooperative, Inc.; St. Martin Sugar Cooperative, Inc.; South Coast Corporation, Mathews Mill; South Coast Corporation, Oaklawn Mill; South Coast Corporation, Raceland Mill; South Coast Corporation, Montegut Mill; Sterling Sugars, Inc.; Valentine Sugars, Inc.; Breaux Bridge Sugar Cooperative, Inc.; Caire & Graugnard; Cajun Sugar Cooperative, Inc.; Cleanerette Sugar Co., Inc.; M. A. Patout and Son, Inc.

the Halifax Electric Membership Corporation as a result of the planned connection of facilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 15, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23462 Filed 10-8-74;8:45 am]

[Docket No. E-9026]

## WASHINGTON WATER POWER CO.

### Sale Agreement

OCTOBER 1, 1974.

Take notice that on September 20, 1974, The Washington Water Power Company (Washington) submitted for filing an Agreement between Washington and Puget Sound Power and Light Company (Puget). The Agreement, dated February 28, 1973, provides for the sale of surplus firm peak capacity and energy to Puget during the period April 1, 1974, through March 31, 1975.

The Agreement recites that Puget had rights to withdraw certain amounts of Columbia Storage Power Exchange (CSPE) power from California utilities for Puget's use during the period April 1, 1974, through March 31, 1975. Washington, however, offered to provide capacity and energy to Puget during that period in amounts equal to what Puget would have been entitled to receive under its rights to withdraw such CSPE power. As a result, Puget accepted Washington's offer rather than exercising said rights with CSPE.

Washington has requested that the Commission waive its prior notice requirement and permit the effective date of the Agreement to be made retroactive to April 1, 1974, the date of initial service under the Agreement. Washington states that if such notice requirement is waived, there will be no effect upon purchasers under other rate schedules.

Washington states that a copy of this filing has been provided to Puget.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 9, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23446 Filed 10-8-74;8:45 am]

[Docket No. CP75-83]

## WESTERN LNG TERMINAL CO.

### Application

OCTOBER 1, 1974

Take notice that on September 17, 1974, Western LNG Terminal Company (Applicant), 720 West Eighth Street, Los Angeles, California 90017, filed in Docket No. CP75-83 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity conditioned as described below authorizing the construction and operation of facilities at three proposed locations in southern California to receive, unload, store and vaporize liquefied natural gas (LNG) to be shipped by future and unknown customers of Applicant from sources both within and without the United States and authorizing the construction of pipeline facilities for and the transportation of such vaporized LNG in interstate commerce, all as more fully set forth in the application on file with the Commission and open to public inspection.

In response to the national energy crises, Applicant suggests that domestic supplies of natural gas must be augmented with LNG from areas outside the contiguous United States. Inasmuch as there are now no Commission certificated LNG receiving terminal facilities on the West Coast, Applicant, a wholly-owned subsidiary of Pacific Lighting Corporation, proposes to develop and operate three LNG terminals and storage, revaporization and transmission facilities in order to receive and transport gas reserves that Applicant believes are being developed in the Pacific Ocean area and will ultimately be made available to this county.

Applicant requests the granting by the Commission of a conditioned certificate of public convenience and necessity, authorizing construction and operation of all facilities required for the operation of the proposed three LNG terminal sites. Applicant proposes that such authorization be conditioned so as to preclude the actual construction or use of any right of eminent domain until further order of the Commission stemming from a subsequent filing by Applicant.[1] Applicant concludes that under this procedure it will be authorized to construct facilities only after the Commission has had an opportunity for each proposed project to pass upon such specific issues of public convenience and necessity as supply, market and economic feasibility.

Applicant intends this application to allow simultaneous evaluation by the Commission of the various eligible LNG terminal sites from a cost and environmental standpoint. Applicant believes that such regulatory preplanning will shorten the time for later approvals of specific required LNG projects.

Applicant proposes to make its terminal service available to all qualified companies desirous of the service which have potentially viable LNG projects, subject to applicable regulatory authorization and the availability of adequate financing for the requisite facilities. Applicant states that, as yet, it has no firm customers, but Applicant claims that it is presently conducting active negotiations for its services with various parties.[2]

Although Applicant states that it will perform said service without purchasing or selling any of the LNG or revaporized gas, Applicant concedes that it will be a natural gas company within the meaning of the Natural Gas Act because Applicant intends to engage in the transportation of natural gas in interstate commerce.

Applicant contemplates that the terminal service will be rendered on a cost-of-service basis and that the tariff and service agreement will provide the ultimate credit support and security for project financing. Applicant states that definitive plans for financing the proposed facilities will be developed for specific projects as appropriate and will be

[1] Applicant contemplates that when its prospective customers desire terminal service the customers will execute letters of intent with Applicant and concurrently file with the Commission applications for import authorization and/or certificates of public convenience pursuant to sections 3 and 7 of the Natural Gas Act, respectively. Then, Applicant states, it will make supplemental filings in which Applicant will request that the condition in the certificate sought herein by Applicant be removed with respect to the specific facilities required to receive, store, revaporize and transport the volumes requested by Applicant's customers. Applicant envisions that these supplemental filings by Applicant will set out the specific facilities needed, precise cost estimates for those facilities, a definitive tariff, proposed financing plan for those facilities, together with any additional data required.

[2] According to an application filed by El Paso Alaska Company (El Paso Alaska) in Docket No. CP75-96, El Paso Alaska proposes to contract with Applicant for terminaling, storage and regasification services at Point Conception, California, of natural gas produced and liquefied in Alaska and for delivery of such gas for the benefit of El Paso Natural Gas Company.

furnished as part of subsequent supplemental filings.

Specifically, Applicant seeks authorization to construct facilities at three proposed locations in southern California—Los Angeles Harbor, Oxnard, and Point Conception—to receive LNG transported by ship, unload and transfer it into insulated storage tanks, and withdraw and vaporize it for delivery into gas transmission systems. The proposed Los Angeles Harbor facilities are to be located 22 miles south of downtown Los Angeles on about 59 developed acres of a leased 103-acre site on Terminal Island.[3] Applicant states that the Los Angeles Harbor Department will build the necessary ship-berthing facilities adjacent to the storage and vaporization site. The proposed Oxnard facilities are to be located at Ormond Beach in the City of Oxnard on about 53 developed acres of a 210-acre site.[4] Applicant states that the ship-berthing facilities will be about 6,000 feet offshore, connected to the Oxnard plant by a cryogenic pipeline on a trestle and will occupy about 34 acres of leased subtidal lands. The proposed Point Conception facilities are to be located on a coastal plateau approximately 4 miles east of Point Conception on about 101 developed acres of a 227-acre site.[5] Applicant states that the ship-berthing facilities will be about 4,600 feet offshore, connected to the Point Conception plant by a cryogenic pipeline on a trestle and will occupy about 31 acres of leased subtidal lands.

Applicant projects that each proposed terminal facility will be capable of handling LNG with a base load vaporization rate of 4,000,000 Mcf [6] per day and will have a peaking capacity of an additional 1,000,000 Mcf per day. Applicant states that the three terminals will be operated as follows: LNG will be unloaded from ships [7] at the berthing facility via a cryogenic pipeline and stsored in cryogenic tanks.[8] The LNG will be stored at about −260 degrees F. slightly above atmospheric pressure in four tanks of 550,000 barrels capacity each. The volume of LNG at each terminal facility is equal to about 2 days storage capacity (assuming a base load gas output rate of 1,144,000 barrels of LNG per day or 4,000,000 Mcf of gas per day) which will provide an uninterrupted base load rate and a contingency for irregularities in LNG shipments. At Los Angeles Harbor and Point Conception, LNG will be pumped from storage to a vaporizer where heat exchange with seawater [9] will yield vaporized gas at 40 degrees F. Gas-fueled trim heaters will then be used to raise the temperature of the vaporized gas to its delivery temperature of 50 degrees F. However, the proposed Oxnard terminal, adjacent to Southern California Edison's Ormond Beach Generating Station (Edison's Power Station), will utilize warm sea water (15 degrees F. above ambient seawater temperature) discharged from Edison's Power Station to yield vaporized LNG at about 50 degrees F.[10] If Edison's Power Station is operating at reduced loads or is shut down the Oxnard facility will use seawater heaters to increase the seawater temperature. When the base load seawater vaporizers require maintenance or when gas output above base load is needed for peaking (expected to total 480 hours per year), the three plants will use gas-fired peaking vaporizers with capacity of up to 1,000,000 Mcf per day. After vaporization by either base load or standby units, the gas will be odorized and metered prior to delivery into the gas transmission system.

Applicant intends to construct new pipeline to tie each terminal facility into existing gas pipeline transportation facilities as follows:

(1) Applicant proposes to construct and operate a total length of approximately 37 miles of 48-inch underground pipeline to transport up to 4,000,000 Mcf per day of natural gas at a maximum allowable line pressure of 1,200 psig from Los Angeles Harbor to a proposed metering station near Yorba Linda, California. It is stated that the proposed line will feed gas to two existing 36-inch gas transmission pipelines operated by Southern California Gas Company (So Cal Gas). Applicant states that the total permanent land requirements for such pipeline are approximately 5 acres (of which only 1.5 acres—to be used for measurement and pressure control facilities at Yorba Linda—will require permanent conversion of land use), and no new corridors through developed or undeveloped land will be required.

(2) Applicant proposes to construct and operate approximately 53 miles of twin 42-inch parallel underground pipeline to transport up to 4,000,000 Mcf per day of natural gas at a maximum allowable line pressure of 1,200 psig from Oxnard to So Cal Gas' existing Quigley Canyon pressure limiting station near Newhall, California. It is stated that the proposed line will feed natural gas into So Cal Gas' existing pipeline system at the Quigley Canyon station and at the La Vista pressure limiting station in Ventura County, California. Applicant states that the proposed line will create no new corridors but will require a permanent right-of-way width of 75 feet, and the total land area required during operation will be about 486 acres including land necessary for measurement and control facilities.

(3) Applicant proposes to construct and operate approximately 142 miles of twin 42-inch parallel underground pipeline to transport up to 4,000,000 Mcf per day of natural gas at a maximum allowable line pressure of 1,440 psig from Point Conception to a proposed metering station at Arvin, California. It is stated that no compressor will be needed to deliver gas to two existing 34-inch gas transmission pipelines at Arvin operated by Pacific Gas and Electric Company.

Applicant states that the pipeline, which for the most part will traverse undeveloped mountainous and grassland areas through Santa Barbara, San Luis Obispo and Kern Counties in California, will require a permanent right-of-way width of 75 feet, and the total land area required during operation will be about 1,300 acres including land for a metering station.

Applicant contemplates that a portion of the imported gas may be physically transported to the California State boundary over existing facilities. Although Applicant does not presently own or operate any facilities, Applicant intends to enter into negotiations with those companies having existing transportation facilities so that Applicant can provide such transportation. While existing facilities will be utilized to the maximum extent possible,[11] Applicant envisions that it may find necessary in the future to construct some additional pipeline facilities to effectuate such transportation.

In order to allow for the most comprehensive analysis of its proposal, Applicant presents each of the three sites at maximum development (4,000,000 Mcf of gas per day base load plus 1,000,000 Mcf per day peaking). At such maximum development, Applicant estimates relevant costs as follows:

[3] Applicant states that Terminal Island is a man-made landfill primarily for industrial use in a low density population area. Applicant also states that a permanent right-of-way will be necessary for seawater discharge lines which will extend about two miles into the open ocean.

[4] Applicant states that the Oxnard site is currently in agricultural use and is planned for industrial use.

[5] Applicant states that the Point Conception site is principally cattle range, interspersed with citrus groves.

[6] All volumes at 14.73 psia and 60 degrees F.

[7] Applicant states that each terminal may handle two 165,000 cubic meter capacity ships at one time. Applicant points out that the ships will be able to use LNG boil-off as fuel, thereby avoiding atmospheric venting of boil-off. Applicant also points out that while LNG is being received, vapors displaced from onshore storage tanks will be returned to the ship via a vapor return line to prevent in-breathing of air into the ship's tanks and atmospheric venting of gas from the onshore tanks.

[8] Applicant states that each tank is to be constructed of 9 percent nickel steel inner wall, an insulating annulus of Perlite, and an outer wall of carbon steel and will be surrounded by a concrete dike.

[9] Applicant states that seawater to vaporize the gas will be drawn from the harbor through two parallel lines at 600,000 gallons per minute; then the seawater, 12 degrees F. cooler, is to be discharged into the open ocean.

[10] Applicant states that the warmed seawater will be cooled about 15 degrees F. through heat exchange thereby returning the warmed seawater to ambient seawater temperature prior to discharge into the ocean.

[11] Applicant claims that displacement of gas by reversing the flow of gas into California from existing sources and idle pipeline capacity will be utilized in any delivery to the California border.

[In thousands]

| Terminal facility | Construction costs | Operation costs per annum |
|---|---|---|
| Los Angeles Harbor: | | |
| Terminal | $390,859 | $30,292 |
| Pipeline | 91,869 | 45 |
| Total | 482,728 | 30,337 |
| Oxnard: | | |
| Terminal | 382,533 | 21,298 |
| Pipeline | 104,048 | 71 |
| Total | 486,571 | 21,369 |
| Point Conception: | | |
| Terminal | 462,625 | 22,444 |
| Pipeline | 259,248 | 188 |
| Total | 721,873 | 22,632 |
| Cumulative: | | |
| Terminals | 1,236,017 | 74,034 |
| Pipelines | 455,165 | 304 |
| Total | 1,691,182 | 74,338 |

Depreciation and amortization assumptions will be determined for each specific project as appropriate.

After settling upon the idea that two or more LNG terminals would be necessary in order to preclude major disruptions in gas service due to a single mechanical failure and to overcome volume limitations at the sites themselves, Applicant states that it selected the aforementioned three terminal sites among seven possible sites.[12] Applicant states that (1) the Los Angeles Harbor site is a preferred location because of engineering planning and cost factors, although there could be a short-term impact associated with required dredging and landfill operations, (2) the Oxnard site is favorable in terms of both engineering planning factors and environmental effects and is considered a preferred site, and (3) the Point Conception site is a preferred site because of favorable engineering planning factors, but since it is not now an industrial area any negative aesthetic impace must be reduced with appropriate arrangement of facilities and landscaping.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 1974, file with the Federal Power Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23444 Filed 10-8-74;8:45 am]

## NATIONAL POWER SURVEY COORDINATING COMMITTEE

### Cancellation of Meeting

The meeting of the National Power Survey Coordinating Committee, announced for October 9, 1974, is cancelled.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.74-23605 Filed 10-8-74;10:40 am]

## FEDERAL RESERVE SYSTEM

### ALTON BANCORPORATION

### Order Approving Formation of Bank Holding Company and Engaging in Insurance Agency Activities

Alton Bancorporation, Alton, 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)) of formation of a bank holding company through acquisition of 50.47 per cent or more of the voting shares of The Alton Savings Bank, Alton, Iowa ("Bank"). Applicant has also applied, pursuant to section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire 50 per cent ownership of the Krogman Kiernan Insurance Agency, Alton, Iowa ("Agency"), a company that engages in the activities of a general insurance agency in a community with a population not exceeding 5,000 persons. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(9)(iii)).

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with §§ 3 and 4 of the Act (39 Federal Register 27755). The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act, and the considerations specified in section 4(c)(8) of the Act.

Applicant is a non-operating corporation recently organized for the purposes of becoming a bank holding company through acquisition of Bank and of engaging in general insurance agency activities through Agency. Bank (deposits of $5.4 million) is the only banking institution in Alton, an agricultural community (population of approximately 1,000 as of the 1970 census) located in the northwest portion of the State. Bank is the thirteenth largest of fifteen banks in the relevant banking market[1] and controls almost 3 per cent of deposits therein. (Banking data are as of December 31, 1973.) Since Applicant has no existing banking subsidiary, consummation of the proposal would not eliminate any existing or potential competition, increase the concentration of banking resources, nor have any adverse effects on the other banks in the relevant market. Therefore, competitive considerations are consistent with approval of the application.

The financial condition, managerial resources, and future prospects of Bank are regarded as satisfactory and consistent with approval of the application. The management of Applicant is satisfactory, and Applicant's financial condition and future prospects, which are dependent upon profitable operations by both Bank and Agency, appear favorable. Although Applicant will incur debt in connection with the proposal, its projected income from Bank and the insurance agency activities should provide sufficient revenue to service the debt without impairing the financial condition of Bank. Consummation of the transaction would have no immediate effect on the area's banking convenience and needs; however, some expansion of services may result in the future under the more flexible corporation structure of the holding company. Considerations relating to the convenience and needs of the community to be served, therefore, are regarded as being consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application to acquire Bank should be approved.

Agency, the only general insurance agency in Alton, currently operates from Bank's premises. Applicant proposes to engage in these insurance agency activities, pursuant to § 225.4(a)(9)(iii) of Regulation Y, as a result of its acquisition of a 50 percent interest in Agency. Approval would enable Applicant to continue to offer Bank's customers a convenient source of insurance services. It does not appear that Applicant's acquisition of Agency would have any significant effect on existing or future compe-

[12] In addition to Los Angeles Harbor, Oxnard and Point Conception, Applicant considered El Segundo, Port Hueneme, Carlsbad and Border Field, all in California. Applicant explains that favorable weather conditions allowing uninterrupted ship docking narrowed its area of consideration to southern California.

[1] The relevant banking market is approximated by Sioux County, the western portion of O'Brien County, and the northeastern portion of Plymouth County.

tition. There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices or other adverse effects on the public interest.

Based on the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of § 4(c)(8), that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects and the application to acquire Agency should be approved.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank shall not be made before the thirtieth calendar day following the effective date of this Order. The acquisition of Bank and Agency shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority. The determination as to Applicant's insurance activities is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[2] effective October 1, 1974.

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

[FR Doc.74-23524 Filed 10-8-74;8:45 am]

## COUNTY NATIONAL BANCORPORATION

### Acquisition of Bank

County National Bancorporation, Clayton, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of First National Bank of Arnold, Arnold, Missouri, a proposed new bank. 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 St. Louis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 28, 1974.

[2] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Wallich.

Board of Governors of the Federal Reserve System, September 30, 1974.

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

[FR Doc.74-23529 Filed 10-8-74;8:45 am]

## FIRST INTERNATIONAL BANCSHARES, INC.

### Order Approving Acquisition of Bank

First International Bancshares, Inc., Dallas, Texas, 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 100 per cent, less directors' qualifying shares, of the voting shares of the successor by merger to International Bank of Commerce of Laredo, Laredo, Texas. The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization 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 § 3(b) of the Act. 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 is the largest banking organization in Texas and presently controls 18 banks[1] with aggregate deposits of approximately $3 billion, representing approximately 8 percent of total commercial bank deposits in Texas.[2] Approval of this application would increase Applicant's share of Statewide deposits by less than one-tenth of 1 percent and would have no appreciable effect upon the concentration of banking resources in the State.

Bank is located in Laredo, Texas, and is the third largest of four banks in the Laredo banking market, which is approximated by the Laredo SMSA including only Webb County. Bank holds $27 million in deposits, or about 13 percent of total commercial bank deposits in the market. The two larger banking organizations in the market presently control approximately 86 percent of total market deposits. The acquisition of Bank would effect Applicant's initial entry into the Laredo market, thereby introducing Applicant as a new competitive force. There is no substantial existing competition between Bank and any of Applicant's banking subsidiaries, the nearest of which is approximately 153 miles northeast of Bank. In view of the market's low per capita deposits, its relatively slow population growth, and its traditionally high unemployment rate, the market appears unattractive for de novo entry, and Applicant cannot be considered a likely de novo entrant. Moreover, in view of distances involved and Texas' prohibitive branching laws, it is unlikely that any substantial future competition will develop between Bank and any of Applicant's present banking subsidiaries. The three remaining independent market banks would be available as a potential means of entry into the market by other bank holding companies. Competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank are regarded as generally satisfactory and consistent with approval, especially in light of Applicant's projected addition of an aggregate $400,000 to the equity capital structure of Bank. Applicant's acquisition of Bank would permit Bank to commit additional funds to stimulate needed economic development of the market area and would make Applicant's expertise in industrial development available to the area. Bank's affiliation with Applicant will also strengthen Bank's ability to provide international services to area businesses deeply involved in trade with Mexico. Considerations relating to the convenience and needs of the community to be served lend weight toward approval. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[3] effective October 1, 1974.

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

[FR Doc.74-23525 Filed 10-8-74;8:45 am]

[1] In addition Applicant indirectly controls interests of less than 25 percent in two banks; Applicant has agreed to divest its minority interests in the two banks.

[2] All deposit figures are as of December 31, 1973, and reflect holding company formations and acquisitions approved by the Board through August 15, 1974.

## MERCANTILE BANCORPORATION INC.

### Order Approving Acquisition of Bank

Mercantile Bancorporation Inc., St. Louis, Missouri ("Applicant"), 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 90 per cent or more of the voting shares of Washington County Commercial Bank, Potosi, Missouri ("Bank").

[3] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, Holland and Wallich. Absent and not voting: Chairman Burns.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and the application and all comments received have been considered by the Board in light of factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Missouri, presently controls twenty subsidiary banks [1] with aggregate deposits of $1.57 billion, representing approximately 10.4 percent of total commercial bank deposits in Missouri.[2] Acquisition of Bank, with $13.3 million in deposits, would increase Applicant's share of commercial bank deposits by .09 of one percentage point and would not result in any significant increase in the concentration of banking resources in Missouri.

Bank is the largest of the three banks in its market area (approximated by Washington County), and controls approximately 53.4 percent of market deposits. Applicant's closest subsidiary bank is located 28 miles from Bank in another banking market. No significant competition exists between Bank and any of Applicant's bank or nonbank subsidiaries. Prospects for de novo entry do not appear favorable as population per banking office in the market is somewhat lower than the state ratio. On the basis of the record, it appears that consummation of the proposed acquisition would have no significant adverse effects upon existing or potential competition within the market.

The financial and managerial resources and prospects of Applicant, its subsidiaries and Bank are all regarded as satisfactory and consistent with approval of the application. As a result of affiliation with Applicant, Bank will offer trust services on a referral basis and four year certificates of deposit. In addition, Applicant will assist Bank in providing installment and student loans. Bank's management continuity will also be strengthened by Applicant. Considerations relating to convenience and needs of the community are consistent with approval of the application. It is the Board's judgment that 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 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.

[1] Applicant has also received approval to acquire a *de novo* bank.

[2] All banking data are as of December 31, 1973, and reflect holding company formations and acquisitions approved by the Bank through August 31, 1974.

By order of the Board of Governors,[3] effective October 1, 1974.

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

[FR Doc.74-23530 Filed 10-8-74;8:45 am]

## MICHIGAN NATIONAL CORP.

### Acquisition of Bank

Michigan National Corporation, Bloomfield Hills, Michigan, 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 West Oakland Bank, National Association, Novi, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 30, 1974.

Board of Governors of the Federal Reserve System, October 2, 1974.

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

[FR Doc.74-23531 Filed 10-8-74;8:45 am]

## MORAMERICA FINANCIAL CORP.

### Order Conditionally Approving Merger of Bank Holding Companies

MorAmerica Financial Corporation, Cedar Rapids, Iowa ("MorAmerica"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(5) of the Act (12 U.S.C. 1842(a)(5)) to merge with another bank holding company, Bezanson Investments, Inc., Cedar Rapids, Iowa ("Investments"), under the charter and name of MorAmerica.

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. 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)).

MorAmerica, the 27th largest banking organization in Iowa, controls two banks (Jackson State Bank and Trust Company, Maquoketa, Iowa; and First Trust and Savings Bank, Wheatland, Iowa) with aggregate deposits of $45.6 million representing 0.5 percent of the total deposits in commercial banks in the State.[1] Investments, which has operated a general insurance agency from its office in Cedar Rapids, Iowa, since its organization in July, 1957, is a bank holding company solely by reason of its ownership and control of 40.77 percent of MorAmerica's outstanding voting stock. All outstanding voting shares of Investments are owned by Peter F. Bezanson and his family; the Bezanson family also controls, directly and through its control of Investments, 47.41 percent of the voting rights of Applicant. Upon consummation of the proposed merger between Applicant and Investments, the Bezanson family's interest in Applicant would increase to 49.26 percent of the total voting rights.[2] Thus the proposed merger would merely simplify the close association which has existed between Applicant and Investments since 1957 while retaining effective control of Applicant in the Bezanson family. On the basis of the foregoing and the facts of record, the Board concludes that consummation of the proposal would not adversely affect competition in any relevant area and that competitive considerations are consistent with approval.

Applicant has committed itself to increase the holding company's equity capital accounts by approximately $3.0 million.[3] In consideration of this undertaking and the other facts of record, the Board concludes that the financial and managerial resources of Applicant and its subsidiaries are satisfactory and that the future prospects of Applicant following the merger with Investments appear favorable. Banking factors are thus consistent with approval of the application. There are no changes contemplated in the operations of Applicant's banking subsidiaries; however, considerations relating to the convenience and needs of the communities to be served likewise are consistent with approval of the application.

In connection with its consideration of the application, the Board has also reviewed, pursuant to section 4(a)(2) of the Act, the "grandfather" privileges of Applicant, a "company covered in 1970" as that term is defined in the Act. Under section 4(a)(2) of the Act, the Board may terminate such "grandfather" privileges if the Board determines, having due regard to the purposes of the Act, that such action is necessary to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. Accordingly, the Board has reviewed the nonbanking activities of Applicant for the purpose of determining

[3] Voting for this action: Vice-Chairman Mitchell and Governors Sheehan, Bucher, Holland and Wallich. Absent and not voting: Chairman Burns.

[1] Deposit data as of December 31, 1973.

[2] We refer to a percentage of voting rights, rather than to a percentage of voting shares, since Applicant has two classes of voting shares, of unequal weight, outstanding.

[3] Applicant renews the commitment relied upon by the Board in its Order of February 26, 1974, approving Applicant's request for prior approval to acquire First Trust and Savings Bank, Wheatland, Iowa (39 FR 8660).

whether the combination of banking and nonbanking interests in Applicant's holding company system would be likely to have an adverse effect on the public interest. Notice of the Board's proposed review of the "grandfather" privileges of Applicant and an opportunity for interested persons to submit comments and views or request a hearing was given (39 FR 21083). The time for filing comments, views, and requests has expired, and none has been received.

Applicant has been engaged in a number of nonbanking activities since prior to June 30, 1968. Among these are Morris Plan financing, ownership of a small business investment company,[4] mortgage lending, and personal property leasing. In addition Applicant enjoys "grandfather" privileges in varying degrees with respect to a travel agency and certain subsidiary corporations engaged in the ownership, development, and leasing of real estate; but Applicant has committed itself to divest its travel agency within two years and its real estate activities within five years.[5] In addition, Applicant has 10-year "grandfather" rights with respect to Morplan, Inc., a company which rents airplanes to Applicant's affiliates and to certain subsidiaries of certain of Applicant's permanently grandfathered activities.[6] Applicant's nonbanking subsidiaries have total assets of about $123 million (as of September 30, 1973) and all but $5 million of such assets represent companies headquartered in Cedar Rapids, Iowa, Applicant's home city. On the basis of the facts before the Board and in consideration of the referenced divestiture commitments, it appears that Applicant does not occupy a dominant position in the product lines and markets in which Applicant's nonbanking subsidiaries operate and that the volume, scope, and nature of the activities of Applicant do not indicate an undue concentration of resources, nor is there any evidence before the Board of decreased or unfair competition, conflicts of interest, or unsound banking practices.

There appears to be no reason to require Applicant to terminate its nonbanking activities. It is the Board's judgment that at this time termination of the "grandfather" privileges of Applicant is not necessary in order to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest or unsound banking practices. However, this determination is not authority to enter into any activity that Applicant was not engaged in on June 30, 1968, and continuously thereafter, or any activity that is not the subject of this determination. A significant alteration in the nature or extent of applicant's activities, or a significant change in location thereof will be cause for a reevaluation by the Board of Applicant's activities under the provisions of section 4(a)(2) of the Act. Such an alteration or change may result in a finding that "grandfather" privileges should be terminated in order to prevent an undue concentration of resources or any of the other evils designated in the Act. No merger, consolidation, acquisition of assets (other than in the ordinary course of business), and no acquisition of any interest in a going concern, to which the Applicant or any nonbank subsidiary thereof is a party, may be consummated without prior approval of the Board. Further, the provision of any credit, property, or service by the Applicant or any subsidiary thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970.

Applicant has not applied for permission to acquire Investments' general insurance activities but has instead urged that, with respect to such activities, it is a successor to the "grandfather" privileges of Investments pursuant to section 2(e) of the Act, 12 U.S.C. 1841(e). The Board notes that the proposed merger does not involve the acquisition "directly or indirectly from a bank holding company [of] shares of any bank." Further, the legislative history of this provision indicates that its purpose was to close a loophole in the Act, not to expand the subsequently enacted "grandfather" exemptions to the prohibitions of Section 4 of the Act. On the basis of the Board's review of the legislative history of the relevant provisions, the Board concludes that MorAmerica is not a "successor" to Investments within the meaning of section 2(e);[7] and today's action is, therefore, conditioned as set forth below with respect to Investments' insurance activities that will be acquired as a result of the proposed merger.

On the basis of the record, the application is approved for the reasons summarized above subject to the conditions set forth herein. Upon consummation of the transaction, Applicant shall cease immediately to sell as agent any insurance that is not permissible under § 225.4(a)(9) of the Board's Regulation Y (12 CFR 225.4(a)(9)) and shall dispose of such insurance assets no later than twelve months after consummation of the proposed merger. With respect to Investments' insurance activities that are of the type that are generally permissible for a bank holding company under § 225.4(a)(9) of Regulation Y, Applicant may continue to sell such insurance for a period no longer than 90 days after consummation of the merger, unless during such 90 day period Applicant submits an application pursuant to section 4(c)(8) of the Act and receives Board approval to continue to engage in such insurance activities beyond said 90 day period. If no such application is submitted, Applicant must divest itself of all insurance assets acquired from Investments no later than twelve months after consummation of the proposed merger. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[8] effective October 1, 1974.

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

[FR Doc.74-23526 Filed 10-8-74;8:45 am]

[4] Applicant's interest in a small business investment company is also permissible on the basis of section 4(c)(5) of the Act.

[5] These commitments were made by Applicant in connection with the Board's consideration of its application to acquire First Trust and Savings Bank, Wheatland, Iowa, and are referenced in the Board's Order in that case (39 FR 8660). The Board considers that the period of each divestiture commitment begins to run on the date on which each such commitment was made.

[6] Applicant's interest in Morplan, Inc., may also be permissible on the basis of section 4(c)(1) of the Act.

[7] For the same reasons, the Board has concluded that MorAmerica does not succeed to Investments' apparent family exemption under section 4(c)(11) of the Act, 12 U.S.C. 1843(c)(11). MorAmerica does not itself qualify for a family exemption.

[8] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Wallich.

## NATIONAL CENTRAL FINANCIAL CORP.

### Order Approving Acquisition of Princeton Life Insurance Co.

National Central Financial Corporation, Lancaster, Pennsylvania, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to acquire all of the voting shares of Princeton Life Insurance Company ("Company"), Camp Hill, Pennsylvania, and thereby to engage in the underwriting of credit life and credit accident and health insurance in connection with extensions of credit by Applicant's subsidiaries. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 28570). The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant controls one bank with total deposits of $763 million representing about 2 per cent of total deposits in commercial banks in Pennsylvania. Applicant is also engaged, through subsidiaries, in mortgage banking and commercial finance activities. Company is chartered under Pennsylvania law to engage in the underwriting of ordinary life insurance. However, since 1971 Company

has only written the minimal amount of insurance and carried the minimal amount of assets that would permit it to qualify under the applicable laws of Pennsylvania and, therefore, is essentially a "shell" company. Upon consummation of the proposal, Company will engage only in the underwriting of credit life and credit accident and health insurance directly related to consumer loans made by Applicant. Since Company has not previously engaged in the underwriting of such insurance, the effect of the subject proposal is, in essence, the introduction of a de novo competitor into the activity of underwriting credit life and credit accident and health insurance in those personal loan markets in which Applicant competes.[1]

Credit life and credit accident and health insurance is generally made available by banks and other lenders and is designed to insure payment of a loan in the event of death or disability of a borrower. In connection with the addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board has stated:

> To insure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an Applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by projected reduction in rates or increase in policy benefits due to bank holding company performance of this service.

Applicant proposes to underwrite through Company credit life insurance at rates that are 3.3 per cent below the maximum rate of 50 cents per $100 of coverage as authorized by Pennsylvania. Applicant also proposes to eliminate certain exclusions from its policy coverage and estimates the value of these policy improvements will be the equivalent of a 9 per cent rate reduction. The Board views the reduction in the rate for credit life insurance, as well as the proposed improvements in policy coverage to be considerations favorable to the public interest. The Board concludes, therefore, that such public benefits, in the absence of any evidence in the record indicating the presence of any adverse statutory factors provides support for approval of the application.

Based upon the foregoing and other considerations reflected in the record, the Board has determined, in accordance with the provisions of section 4(c)(8), that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of the holding company or any of its subsidiaries as the Board finds necessary to insure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Philadelphia pursuant to delegated authority.

By order of the Board of Governors,[2] effective October 1, 1974.

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

[FR Doc.74-23527 Filed 10-8-74;8:45 am]

## NINNESCAH BANC SHARES, INC.

### Formation of Bank Holding Company

Ninnescah Banc Shares, Inc., Arlington, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of an additional 63.2 percent of the voting shares of The Citizens State Bank of Arlington, Arlington, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than October 29, 1974.

Board of Governors of the Federal Reserve System, October 1, 1974.

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

[FR Doc.74-23523 Filed 10-8-74;8:45 am]

## PANNATIONAL GROUP INC.

### Acquisition of Bank

PanNational Group Inc., El Paso, 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 First National Bank of Waco, Waco, 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 28, 1974.

Board of Governors of the Federal Reserve System, September 30, 1974.

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

[FR Doc.74-23504 Filed 10-8-74;8:45 am]

## SOUTHEAST BANKING CORP.

### Order Denying Acquisition of Bank

Southeast Banking Corporation, Miami, 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 23 percent of the voting shares of Bank of Lake Buena Vista, Lake Buena Vista, Florida ("Bank"), a proposed new bank.

Notice of the application, affording opportunity for interested person 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 application and all comments received have ben considered by the Board in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Florida, controls 36 banks with aggregate deposits of approximately $2.1 billion, representing about 9.4 percent of the total deposits in commercial banks in the State.[1] Since Bank is a proposed new bank, consummation of the proposed acquisition would not immediately increase Applicant's share of commercial bank deposits in the State and therefore would not immediately result in an increase in the concentration of banking resources in Florida.

Bank is to be located in Lake Buena Vista, a community currently under construction and located in the Walt Disney World entertainment complex near Orlando, Florida. Bank, therefore, would be located in the Orlando banking market, which is approximated by Orange County and the southern half of Seminole County. Applicant, the fifth largest banking organization operating in the Orlando market, controls three banks with aggregate deposits of $83 million representing approximately 7 percent of total market deposits.

Since Bank is a proposed new bank, Applicant's acquisition of Bank would have no immediate effect on Applicant's share of commercial bank deposits in the Orlando market; nor would it have any adverse effects on existing competition with respect to this market. However, as discussed more fully below, acquisition of Bank by Applicant would result in adverse competitive effects due to the Board's decision today, in a related matter, approving the acquisition of 50.4 per-

[1] Applicant's only lending subsidiary, National Central Bank, operates in the Reading, Harrisburg-Carlisle, York, Lancaster, and Philadelphia-Camden banking markets.

[2] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Wallich.

[1] All banking data are as of December 31, 1973, and reflect bank holding company acquisition approved through August 31, 1974.

cent of the voting shares of Bank by Sun Banks of Florida.[2]

In view of the Board's action approving the Sun Banks of Florida proposal, the extent to which the proposal herein would have adverse effects on competition depends on the likelihood of either bank holding company expanding in the market without the assistance of the other and the extent of competition already existing between the two bank holding companies in the relevant market. In light of the long-run projections for development and growth in the Orlando banking market, particularly in and around the Walt Disney World Complex, it appears that both Applicant and Sun Banks would be likely to expand de novo in the area. Moreover, either of the organizations has the managerial and financial resources, independent of the other, for such meaningful expansion.. Since there are several potential bank sites available close to the Walt Disney Complex, approval of this proposal would, in the Board's view, significantly reduce the prospects that Applicant would attempt de novo expansion in the area.

On a previous occasion where the Board permitted the ownership of a nonbanking subsidiary by two bank holding companies the circumstances were such that there were significant public benefits to be derived from the proposal that could not be easily derived from either organization acting independently and the organizations were not meaningful competitors.[3] The public benefits that may be gained through concurrent ownership of a company arise where neither co-owner would have the ability to enter a market but for the assistance of the other co-owner. In connection with this application, however, either Applicant (the largest bank holding company in the State) or Sun Banks of Florida (the third largest bank holding company in the State) has the ability to expand in the market de novo without the assistance of the other. Further, both bank holding companies are already significantly represented in the market as well as the State and, therefore, the anticompetitive effects of this proposal are compounded in that cooperation flowing from the proposed joint ownership of Bank would likely influence the other operations by these two bank holding companies in the Orlando banking market and in other markets in the State in which the two bank holding companies compete. It would appear, therefore, that to allow the 1st and 5th largest bank holding companies in the relevant market, holding in the aggregate about 46 percent of market deposits, to join together in that same market in the establishment of a new bank would result in significant adverse effects on competition and therefore, would not be in the public interest. Accordingly, the Board concludes that consummation of the proposed acquisition would have significant adverse effects on competition. Unless such anticompetitive effects are outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the communities to be served, the application must be denied.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are satisfactory and consistent with approval. Bank, as a proposed new bank, has no financial or operating history; however, its future prospects as a subsidiary of Sun Banks of Florida appear favorable and are not dependent on this Applicant acquiring an ownership interest in Bank. Accordingly, the Board concludes that banking factors do not lend weight toward approval of this application.

As noted by the Board in its Order of today's date approving the related application of Sun Banks of Florida to acquire Bank, considerations relating to the convenience and needs of the community to be served lend weight toward approval of that application. However, the benefits to be derived from consummation of that proposal are not dependent on the Applicant in this case being permitted an interest in Bank. Thus, the Board is unable to conclude, under the circumstances of this application, that considerations relating to convenience and needs outweigh the adverse effects this proposal would have upon competition. Therefore, it is the Board's judgment that consummation of the proposed acquisition would not be in the public interest and that the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

By order of the Board of Governors,[4] effective October 1, 1974.

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

[FR Doc.74-23521 Filed 10-8-74;8:45 am]

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## SUN BANKS OF FLORIDA, INC.

### Order Approving Acquisition of Bank

Sun Banks of Florida, Inc., Orlando, 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 50.4 percent of the voting shares of Bank of Lake Buena Vista, Lake Buena Vista, Florida ("Bank"), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and the application and all comments received have been considered by the Board in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the third largest banking organization in Florida, presently controls 43 banks with aggregate deposits of $1.6 billion, representing about 7.2 percent of deposits in commercial banks in the State.[1] Since Bank is a proposed new bank, consummation of the proposed acquisition would not immediately increase Applicant's share of commercial bank deposits in the State and therefore would not immediately result in an increase in the concentration of banking resources in Florida.

Bank is to be located in Lake Buena Vista, a community currently under construction and located in the Walt Disney World entertainment complex near Orlando, Florida. Bank, therefore, would be located in the Orlando banking market, which is approximately by Orange County and the southern half of Seminole County. Applicant, the largest banking organization operating in the Orlando market, controls seven banks with aggregate deposits of $476.4 million representing approximately 39.5 percent of total market deposits.

While Applicant does presently operate in the Orlando banking market, Applicant's nearest subsidiary bank is located approximately 12 miles north of Bank. Since Bank is a proposed new bank, Applicant's acquisition of Bank would have no immediate effect on Applicant's share of commercial bank deposits in the Orlando market; nor would it have any adverse effects on existing or potential competition with respect to this market. In view of the long-run projections for continued growth in the Orlando banking market, it does not appear that acquisition of Bank by Applicant would significantly reduce the prospects of future expansion or entry by other banking organizations. While Applicant will have control of the only bank in the Disney World complex, other potential bank sites still remain available for de novo entry within the proximity of the Disney World complex.

In a related matter, the Board has today denied the acquisition of 23 percent of the voting shares of Bank by Southeast Banking Corporation, Miami, Florida.[2] In that Order the Board indi-

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[2] Board's Order of October 1, 1974, approving the acquisition of 50.4 percent of the voting shares of Bank by Sun Banks of Florida.

[3] See Board's Order approving the acquisition of American Cattle and Crop Services Corporation, Guyman, Oklahoma, by The Fort Worth National Corporation, Fort Worth, Texas, and Shawmut Association, Inc., Boston, Massachusetts, 60 Fed. Res. Bulletin 382 (May, 1974). The previous case considered by the Board involved the joint formation by two bank holding companies of a nonbanking concern, whereas the proposal herein contemplates joint ownership of a bank.

[4] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, Wallich, and Holland. Absent and not voting: Chairman Burns.

[1] All banking data are as of December 31, 1973, and represent bank holding company acquisitions approved through August 31, 1974.

[2] See Board's Order of October 1, 1974, denying the application of Southeast Banking Corporation, Miami, Florida, to acquire 23 percent of the voting shares of Bank of Lake Buena Vista.

cated that the concurrent ownership of a subsidiary bank by two bank holding companies is supportable and in the public interest only where the circumstances are such that significant public benefits would be gained, and that the benefits would not be available except through such joint ownership. From the record, it appears that both Applicant and Southeast Banking Corporation have the resources to expand within the relevant market de novo and, therefore, the public interest would not be served, nor would competition be fostered, by permitting these two bank holding companies to expand in the market de novo through the concurrent ownership of Bank. Further, the adverse effects on competition of such a joint ownership arrangement are even more significant when viewed in light of Applicant's and Southeast Banking Corporation's rankings in the market (1st and 5th respectively) and in the State (3rd and 1st respectively).

However, with respect to this particular application, the Board finds that ownership of Bank by Applicant creates no similar adverse competitive effects and finds that approval of this application would facilitate the opening of Bank as a subsidiary of Applicant. Accordingly, the Board concludes that consummation of the proposed acquisition by Applicant would not have any significant adverese effects on competition in any relevant area, and that such considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and its subsidiary banks are regarded as satisfactory. Bank, as a proposed new bank, has no financial or operating history; however, its future prospects as a subsidiary of Applicant appear favorable. Considerations relating to the banking factors are consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application. The addition of a new banking alternative in this developing sector of the market would provide greater convenience to the public, and affiliation with Applicant would permit Bank to provide its customers with new services not normally made available by new banks. It is the Board's judgment that 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 made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) Bank of Lake Buena Vista, Lake Buena Vista, Florida, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[3] effective October 1, 1974.

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

[FR Doc.74-23522 Filed 10-8-74;8:45 am]

## UNITED BANKS OF COLORADO, INC.

### Acquisition of Bank

United Banks of Colorado, Inc., Denver, Colorado, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Republic National Bank of Englewood, Englewood, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 28, 1974.

Board of Governors of the Federal Reserve System, September 30, 1974.

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

[FR Doc.74-23505 Filed 10-8-74;8:45 am]

## UNITED BANKS OF WISCONSIN, INC.

### Order Approving Acquisition of Bank

United Banks of Wisconsin, Inc., Madison, Wisconsin, 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 80 per cent or more of the voting shares of Prairie State Bank, Sun Prairie, Wisconsin ("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. 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 fifteenth largest banking organization in Wisconsin, controls three banks with aggregate deposits of $84.4 million, representing about sixtenths of 1 per cent of the total deposits in commercial banks in Wisconsin.[1] Acquisition of Bank ($5.1 million in deposits) would increase Applicant's share of commercial bank deposits in the State by less than one-tenth of one percentage point and would not result in a significant increase in the concentration of banking resources in Wisconsin.

Bank ranks 21st out of 22 banking organizations located in the relevant market, which is approximated by the Madison RMA. Applicant presently ranks third in the relevant market with two banks controlling about 9 per cent of the total deposits. The largest banking organization in the market has almost 31 per cent of total deposits and the second largest has about 19 per cent. Upon consummation of the proposal, Applicant would continue as the third largest banking organization in the market with approximately 10 per cent of the total deposits in the market. It appears that there is no significant existing competition between Bank and Applicant's present subsidiaries. Moreover, in view of the number of intervening banking offices, it is unlikely that such competition would develop in the future. The Board concludes that consummation of the proposed acquisition would not have significant adverse effects on completion in any relevant area.

The financial and managerial resource and future prospects of Applicant, its subsidiary banks and Bank are satisfactory. Accordingly, banking factors are consistent with approval of the application. The proposed affiliation of Bank with Applicant should enable Bank to expand and improve the banking services offered. Accordingly, the Board regards considerations relating to the convenience and needs of the community to be served as consistent with approval of the application. It is the Board's judgment that 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 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 Chicago pursuant to delegated authority.

By order of the Board of Governors,[2] effective October 1, 1974.

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

[FR Doc.74-23528 Filed 10-8-74;8:45 am]

# GENERAL SERVICES ADMINISTRATION

## NEW SMALL BUSINESS MEASUREMENT STANDARDS

### Opportunity for Comment

The Office of Management and Budget (OMB), in memorandums to Heads of

[3] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, Wallich, and Holland. Absent and not voting: Chairman Burns.

[1] All banking data are as of December 31, 1973 and reflect holding company formations and acquisitions approved through August 31, 1974.

[2] Voting for this action: Vice Chairman Mitchell, Governors Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Wallich.

Executive Departments and Agencies on December 7, 1972, and on March 14, 1973, established and outlined plans for coordination of executive branch efforts in response to the Commission on Government Procurement (COGP) Report. Interagency task groups made up of assigned lead and participating agencies were formed to examine and recommend an executive branch position on each of the 149 COGP recommendations. Direction of executive branch efforts on COGP matters is a function delegated to General Services Administration (GSA) by Executive Order 11717 dated May 9, 1973.

COGP Recommendation Number 47 found in Part A of the Report reads as follows:

Establish new standards for annually measuring the performance of procuring agencies and their prime contractors in using small business. Standards for measuring performance, including the sound use of setaside techniques, should assess a fair proportion of awards—not just statistical percentages.

The purpose of this notice is to seek public comment and suggestions for new small business measurement standards. The interagency task group report for A–47 and official agency positions have been received and are being evaluated at GSA, Office of Federal Management Policy. Interested persons should submit their comments and suggestions to the General Services Administration (AMC) Washington, D.C. 20405. To be given consideration, written comments must be submitted on or before December 9, 1974.

After careful consideration of the views of Executive Departments and Agencies and all other interested parties responding to this request, an executive branch position and implementation will be formulated.

Dated at Washington, D.C. on September 27, 1974.

R. E. ZECHMAN,
*Associate Administrator for Federal Management Policy.*

[FR Doc.74–23499 Filed 10–8–74;8:45 am]

## INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

### CONSOLIDATION COAL CO.

### Application for Renewal Permit, Electric Face Equipment Standard; Opportunity for Hearing

Application for a Renewal Permit for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 has been received for the item of equipment in underground coal mine as follows:

ICP DOCKET NO. 4352–000, CONSOLIDATION COAL COMPANY, Franklin No. 25 Mine, Mine ID No. 33 00963 0, New Athens, Ohio.

ICP Permit No. 4352–028 (National Mine Service 48–45 Shuttle Car, Ser. No. 1104).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed on or before October 24, 1974. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW, Washington, D.C. 20006.

C. DONALD NAGLE,
*Vice Chairman, Interim Compliance Panel.*

OCTOBER 3, 1974.

[FR Doc.74–23494 Filed 10–8–74; 8:45 am]

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### BICENTENNIAL COMMITTEE OF THE NATIONAL COUNCIL ON THE ARTS

### Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Bicentennial Committee of the National Council on the Arts will be held on October 20, 1974 from 9 a.m.–6 p.m. in the 14th floor conference room of Columbia Plaza, 2401 E Street, NW, Washington, D.C.

The purpose of this meeting is for discussion on the City Spirit Program, Bicentennial Media Program, and the Endowment Newsletter.

The meeting will be open to the public on a space available basis. Accommodations are limited. Further information can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6110.

EDWARD M. WOLFE,
*Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.*

[FR Doc.74–23495 Filed 10–8–74;8:45 am]

## NATIONAL SCIENCE FOUNDATION

### ADVISORY PANEL FOR DEVELOPMENTAL BIOLOGY

### Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92–463), notice is hereby given of a meeting of the Advisory Panel for Developmental Biology to be held at 9 a.m. on October 25 and 26, 1974, in room 543, 1800 G Street, NW., Washington, D.C.

The purpose of the Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individual research proposals. These proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of P.L. 92–463.

For further information about this Panel, please contact Dr. Antonie Blackler, Program Director, Developmental Biology, Rm. 326, National Science Foundation, Washington, D.C., telephone 202/632–4314.

FRED K. MURAKAMI,
*Committee Management Officer.*

OCTOBER 3, 1974.

[FR Doc.74–23546 Filed 8–10–74;8:45 am]

### WORKSHOP ON LINGUISTIC RESEARCH

### Notice of Meeting

A workshop on Linguistic Research is to be held at 9 a.m. on October 24–25, 1974, in room 517 at the National Science Foundation, 1800 C Street NW., Washington, D.C.

The purpose of this workshop is to provide a forum for the exchange of information on linguistic research between the scientific community and the National Science Foundation. Emphasis will be on the previous and current NSF programs in the field of linguistics.

While this ad hoc informal session is not considered to be a meeting of an "advisory committee" as that term is defined in Section 3 of the Federal Advisory Committee Act (P.L. 92–463), this workshop is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open for public attendance and observation.

The subject matters for discussion include:

1. The review of NSF support of linguistic research, including areas of emphasis;

2. The role of the Division of Social Sciences in relation to other sponsors;

3. Procedures and structure of the research grant program; and

4. Discussion of the future orientation of NSF support.

Members of the public are invited to observe this meeting on a space available basis. Public participation will include oral comments with permission of the Workshop Coordinator. Persons wishing to attend this workshop are requested to either write or phone Dr. Alan Bell, Staff Associate (Linguistics), National Science Foundation, Washington, D.C. 20550, telephone 202/632–4216.

FRED K. MURAKAMI,
*Committee Management Officer.*

[FR Doc.74–23547 Filed 10–8–74;8:45 am]

## WORKSHOP ON MILLIMETER WAVE ASTRONOMY

### Notice of Meeting

The Astronomy Section of the National Science Foundation plan to host a meeting of astronomers involved in millimeter wave astronomy. The meeting will be held on October 25, 1974, at 9 a.m. in room 540, 1800 G Street NW., Washington, D.C.

The purpose of the meeting is to provide a forum for exchange of information between the Foundation and the astronomical community. Emphasis will be on defining the current state of knowledge about millimeter wave instrumentation. The format will be that of a workshop with full participation of all those invited. The feasibility and scientific need for various approaches to the next major step in millimeter wave instrumentation will be developed, providing a common base of knowledge upon which detailed proposals for new millimeter wave instrumentation can be based.

While this ad hoc informal workshop is not considered to be a meeting of an "advisory committee" as that term is defined in section 3 of the Federal Advisory Committee Act (P.L. 92-463), this workshop is considered to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open for public attendance and observation.

Members of the public are invited to observe this meeting on a space available basis. Public participation is limited to questions or statements submitted to the Workshop Coordinator in writing or to such oral presentations as the Coordinator may permit within available time. Persons wishing to attend this workshop should either write or phone Dr. Robert Fleischer, Head, Astronomy Section, Rm. 305, National Science Foundation, Washington, D.C. 20550, telephone 202/632-4196.

FRED K. MURAKAMI,
*Committee Management Officer.*

[FR Doc.74-23548 Filed 10-8-74;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 October 4, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF DEFENSE

Departmental: Statement of Personal History, Form DD 398, Occasional, Sheftel (395-3898), Applicants of sensitive DOD positions.

ENVIRONMENTAL PROTECTION AGENCY

Clinical Interview Questionnaire, Daily Symptom Questionnaire, Asthma Form, Bronchitis Form, Form —, Occasional, Weiner (395-4890), Health and sick persons.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration: Sickle Cell Clinic Reporting Forms, Form HSABCHS 0909, Quarterly, HRD (395-3532) Sickle cell clinics.

U.S. CIVIL SERVICE COMMISSION

Application for Federal Employment, Form CSC 1200, Occasional, Caywood (395-3443), Applicants for Federal employment.

Finance and Business Occupational Supplement, Form CSC 1203-A, Occasional, Caywood (395-3443), Applicants for Federal employment.

List of College Courses, Form CSC 1202, Occasional, Caywood (395-3443), Applicants for Federal employment.

U.S. CIVIL SERVICE COMMISSION

Description of Significant Experience, Form CSC 1201, Occasional, Caywood (395-3443), Applicants for Federal employment.

Correctional Treatment Specialist—Supplemental Qualifications Statement, Form CSC 1196. Occasional, Caywood (395-3443), Individuals.

REVISIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service: Hop Survey—Growers, Form —, Occasional, Lowry (395-3772), Hop growers.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education: Application Forms for EPDA, Part E Support, Form OE 1180, Annual, Sheftel (395-3878), Institutions of Post secondary education.

Center for Disease Control: Tuberculosis Statistics and Program Evaluation Activity, Form CDC 5.1393, Annual, HRD (395-3532), State and local health departments.

Health Services Administration: Health Facility Surveyor Inventory, Form HSABQA 0912, Annual, Caywood (395-3443), Collins (395-3756), State Medicare and medicaid surveyors and supervisors.

DEPARTMENT OF THE INTERIOR

Bureau of Mines: Iron and Steel Scrap and Pig Iron, Form M-33-AM, Monthly, Weiner, Consumers of iron and steel scrap.

DEPARTMENT OF LABOR

Employment Standards Administration: Claimant Reimbursement Voucher, Form CM 957, Occasional, Sheftel (395-3878), Individuals.

Supplemental Data Sheet for Sheltered Workshop Certificate, Form WH 227, Annual, Sheftel (395-3878), Government agencies.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration: The Conference of Radiation Control Program Directors, Nationwide Evaluation of X-ray Trends Survey Form, Form FDA 0909, Occasional, Caywood (395-3443), Doctors, dentists, hospitals.

DEPARTMENT OF LABOR

Employment Standards Administration: Physician's Report on Impairment of Vision, Form LS 205, Occasional, Sheftel (395-3878), Physicians.

DEPARTMENT OF THE TREASURY

U.S. Customs Service:

Lay Order, Form 3189, Occasional, Evinger (395-3648).

Application and Permit To Manipulate, Examine, Sample or Transfer Goods in Customs Custody, Form 3499, Occasional, Evinger (395-3648).

U.S. Customs In-Transit Manifest, Form 7533B, Occasional, Evinger (395-3648).

U.S. Customs Declaration, Form 6059B, Occasional, Evinger (395-3648).

Inward Cargo Manifest for Vessel Under Five Tons, Ferry Train, Car, Vehicle, Etc., Form 7533, Occasional, Evinger (395-3648).

VETERANS ADMINISTRATION

USVAC Veteran's Registration, Form 23-8481, Occasional, Caywood (395-3443), Veterans.

Supplement to Application for Direct Loan, Form 26-6921a, Occasional, Caywood (395-3443), Veterans.

Application for Direct Loan, Form 26-6921, Occasional, Caywood (395-3443), Veterans.

PHILLIP D. LARSEN,
*Budget and Management Officer.*

[FR Doc.74-23688 Filed 10-8-74;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[812-3677]

### AMERICAN GENERAL LIFE INSURANCE COMPANY OF NEW YORK AND AMERICAN GENERAL LIFE INSURANCE COMPANY OF NEW YORK SEPARATE ACCOUNT C

### Filing of Application

OCTOBER 1, 1974.

Notice is hereby given that American General Life Insurance Company of New York Separate Account C ("Separate Account C"), a unit investment trust registered under the Investment Company Act of 1940 ("Act"), and American General Life Insurance Company of New York ("Insurance Company") (collectively "Applicants"), 90 Presidential Plaza, Syracuse, New York 13202, have filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants, to the extent noted below, from the provisions of sections 22(d), 26(a), and 27(c)(2) of

the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Insurance Company, a wholly-owned subsidiary of American General Life Insurance Company of Delaware, which is a wholly-owned subsidiary of American General Insurance Company (the "Parent"), is a stock life insurance company incorporated under New York law. Separate Account C is a separate account of Insurance Company established on August 6, 1974, pursuant to New York law, as the facility for issuing single and periodic payment deferred, and single payment immediate, variable annuity contracts (the "Contracts"). Amounts allocated to Separate Account C pursuant to the Contracts will be applied to purchase shares of American General Growth Fund, Inc. ("Fund"), a diversified, open-end management investment company registered under the Act. American General Management Company, Inc., a wholly-owned subsidiary of the Parent, is the investment adviser for the Fund. Persons who are registered representatives of Channing Company, Inc., another wholly-owned subsidiary of the Parent and a registered broker-dealer under the Securities Exchange Act of 1934, will sell the Contracts.

*Section 22(d)* of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security to the public except at a current offering price described in the prospectus.

Applicants offer annuity contracts under which purchase payments may be accumulated on either a fixed or a variable basis or a combination of both. Deductions for sales and administrative expenses are made from each payment as described in the prospectus. Applicants request exemption from section 22(d) of the Act to permit sales of Contracts without sales and administrative charges when (i) accumulated purchase payments are transferred, not more than once each year, from a fixed to a variable basis, before the annuity payment period begins, with a $5.00 charge for each transfer; (ii) surrender values or death benefits under a life insurance policy issued by Insurance Company are applied to the purchase of a Contract; (iii) proceeds payable on the death of a contract holder, under an annuity contract offered by Applicants, either before or after annuity payments have begun, and whether on a fixed or variable annuity basis, are applied to the purchase of a Contract for the beneficiary of such contract; and (iv) accumulated values of contracts are applied at the end of the accumulation periods of such contracts to the purchase of single payment deferred Contracts then being offered by Insurance Company.

Applicants state that the sales and administrative charges imposed upon payments accumulated on a fixed or variable basis are identical and that the sales and administrative charges imposed under Insurance Company's life insurance policies are often greater than those levied under the Contracts. Applicants assert that the assessment of additional sales and administrative expense charges for the transfer or application of accumulated values or amounts payable under existing policies or annuity contracts for the purchase of Contracts would result in double or even greater fees being imposed upon the purchasers of such Contracts. Therefore, Applicants contend that no discrimination would result from the elimination of such charges because no purchaser would be relieved of the duty to pay some sales and administrative charge whether under an annuity contract or life insurance policy; all that is avoided is the discrimination that results from the double payment of charges. Applicants represent that the elimination of sales and administrative charges will not result in disruptive distribution patterns for the Contracts. Applicants assert that a secondary market in Contracts cannot develop.

*Sections 26(a) and 27(c)(2)*, as here pertinent, provide in substance that a registered unit investment trust, and any depositor and principal underwriter for the trust are prohibited from selling periodic payment plan certificates unless the proceeds of all payments other than sales load are deposited with a qualified bank as trustee or custodian and held under an indenture or agreement containing specified provisions. Such indenture or agreement must provide (1) that the trustee or custodian be a bank of designated size, (2) that the assets be held in trust and prescribes the charges which may and may not be charged against such assets, (3) that the trustee or custodian may only resign in a specified fashion and (4) that certain records be kept and certain notices be given to security holders.

Applicants request an exemption from sections 26(a) and 27(c)(2) to permit the Applicant's to sell Contracts without need of an independent trustee or custodian. In support of such request, Applicants state that the net purchase payments under the Contracts will be invested in the shares of the Fund whose assets will be held in the custody of a custodian meeting the requirements of section 26(a) of the Act. The ownership of Fund shares by Separate Account C will be held in an open account so that such ownership will be indicated only on the books of the Fund and Separate Account C and will not be evidenced by transferable stock certificates. Applicants assert that Insurance Company is subject to extensive supervision and control by the New York Superintendent of Insurance, the National Association of Securities Commissioners, and the insurance commissioners of each state in which the Contracts will be sold. Under New York law and the terms of the Contracts, the assets of Separate Account C are not chargeable with liabilities arising out of any other business conducted by Insurance Company. Obligations arising under the Contracts as general obligations of Insurance Company, cannot be abrogated without violating the New York insurance law. Therefore, Applicants assert that such existing regulation of Insurance Company affords substantially the same protection contemplated by the provisions of sections 26(a) and 27(c)(2) of the Act.

Applicants have consented that the requested exemption from section 26(a) and 27(a)(2) be subject to the following conditions: (1) That the deductions for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, the Commission reserving jurisdiction for such purpose, and (2) that the payment of sums and charges out of the assets of Separate Account C shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants' consent to this condition shall not be deemed to be concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Section 6(c) of the Act authorizes the Commission, upon application, to exempt any person from any provision or provisions of the Act conditionally or unconditionally if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 25, 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, if any, 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 shall be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants 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.74-23483 Filed 10-8-74;8:45 am]

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[File No. 500-1]

## ATLANTIC INDUSTRIES, INC.

### Suspension of Trading

OCTOBER 2, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Atlantic Industries, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 2:45 P.M. (e.d.t.) on October 2, 1974 through midnight (e.d.t.) on October 11, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-23477 Filed 10-8-74;8:45 am]

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[File No. 500-1]

## AVIS, INC.

### Suspension of Trading

OCTOBER 1, 1974.

The common stock of Avis, Inc. being traded on the New York, Boston and Pacific Stock Exchanges pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Avis, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from 10:10 a.m. (e.d.t.) on October 1, 1974 through midnight (e.d.t.) on October 10, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74-23478 Filed 10-8-74;8:45 am]

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## CHICAGO BOARD OPTIONS EXCHANGE, INC.

### Proposed Amendment to Option Plan

Notice is hereby given that the Chicago Board Options Exchange, Inc. (CBOE) has filed an amendment to its Option Plan pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 (17 CFR 240.9b-1). The CBOE proposes to amend Rule 8.7 concerning the obligations of Market-Makers.

This proposed amendment would supplement the quotation requirements of Rule 8.7(b)(i) in cases where the last preceding transaction price of an option contract was $.50 or less. At present, the Rule requires a Market-Maker to maintain a difference between his bid and offer of no more than ½ of $1 when the last preceding transaction price for an option contract was $10 or less. The proposed amendment would alter that provision by requiring a Market-Maker to maintain a difference between his bid and offer of no more than ¼ of $1 when the last preceding transaction price was $.50 or less. The ½ point difference would still apply to option contracts when the last preceding transaction price was greater than $.50 but did not exceed $10. The remaining obligations of Rule 8.7(b)(i) would not be changed.

This change in the Rule's expression of the requirement for narrow quotations will not affect Market-Maker performance to any appreciable extent. Under current floor practices, the quotations for option contracts trading at a price of $.50 or less are already much narrower than the ½ point spread required by the present version of the Rule. The amendment is intended to be responsive to questions raised by the SEC in connection with the development of a Market-Maker exemption from the Exchange's deep-out-of-the-money restrictions. With the change, the Rule will reflect what Market-Makers on the floor have already learned, namely, that a quotation with a ½ point spread is inappropriate for option contracts trading at a price of $.50 or less.

The proposed amendment will become effective on November 8, 1974, or upon such earlier date as the Commission may allow unless the Commission shall disapprove the change in whole or in part as being inconsistent with the public interest or the protection of investors.

All interested persons are invited to submit their views and comments on the proposed amendment to CBOE's plan either before or after it has become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10-54. The proposed amendment is, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street NW., Washington, D.C.

GEORGE A. FITZSIMMONS, *Secretary.*

OCTOBER 2, 1974.

[FR Doc.74-23475 Filed 10-8-74;8:45 am]

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## CHICAGO BOARD OPTIONS EXCHANGE, INC.

### Amendment Delaying Proposed Amendments to Option Plan

Notice is hereby given that the Chicago Board Options Exchange, Inc. (CBOE) has filed an amendment to certain of its proposed changes to its Option Plan filed pursuant to Rule 9b-1 (17 CFR 240.-9b-1) delaying their effectiveness.

The following proposed changes were originally published at 39 FR 32196 on September 6, 1974.

CBOE proposes to amend new subparagraphs (bbb), (ccc), (ddd) and (eee) of Article I, Section 1 and Article VII, Section 1 and 5 of the by-laws of the Chicago Board Options Exchange Clearing Corporation (the Corporation); amend Rules 101(i), 602(c) and 904; and adopt Rule 913, 914 and 915 of the Corporation.

These amendments are deemed by the Corporation to be advisable or necessary to permit it to establish interfaces with other clearing corporations, such as the Midwest Securities Company (MSTC), for the purpose of facilitating stock deliveries between its clearing members in respect of exercised options. The Corporation explains the purpose of the proposed arrangement is to achieve the maximum netting of security transactions in order to eliminate unnecessary paperwork, certificate handling and money movement, and to permit the delivery of stocks through bookkeeping entries at interfaced clearing corporations.

The CBOE also proposes to amend Rule 602(c), 610(f), 610(h), 801, 802, 803, 805, and 806 of the Corporation. These amendments were primarily designed to eliminate the right of a clearing member to whom an exercise notice has been assigned to retender the exercise notice.

All interested persons are invited to submit their views and comments on the proposed amendments to CBOE's plan either before or after it has become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10-54. The proposed amendments are, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street NW., Washington, D.C.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

OCTOBER 2, 1974.

[FR Doc.74-23476 Filed 10-8-74;8:45 am]

## CONTINENTAL VENDING MACHINE CORP.

### Suspension of Trading

[File No. 500–1]

OCTOBER 1, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 2, 1974 through October 11, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.74–23479 Filed 10–8–74;8:45 am]

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[812–3683]

## EQUITY GROWTH FUND OF AMERICA, INC. ET AL.

### Filing of Application

SEPTEMBER 30, 1974.

Notice is hereby given that Equity Growth Fund of America, Inc., Equity Progress Fund, Inc., and Fund of America, Inc. (collectively referred to as the "Equity Funds"), each of which is registered as an open-end diversified management investment company under the Investment Company Act of 1940 ("Act"), and Channing Company, Inc. ("CCI") (collectively referred to with the Equity Funds as the "Applicants"), 2777 Allen Parkway, Houston, Texas 77019, have filed an application for an order (1) pursuant to section 11(a) of the Act to permit the Equity Funds to offer to exchange their shares for shares of American General Reserve Fund, Inc. ("AGR") on a basis other than their relative net asset value per share at the time of the exchange and (2) pursuant to 6(c) of the Act granting exemption from section 22(d) of the Act and Rule 22d–1 thereunder, in connection with such exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

CCI, as principal underwriter for each of the Equity Funds, maintains a continuous public offering of the shares of each of the Equity Funds at their respective net asset value plus a sales charge. The sales charge is 8.5 percent on purchases of less than $15,000 and is reduced on larger purchases. Shares of each of the Equity Funds may be exchanged for shares of any of the other Equity Funds on the basis of their relative net asset value per share at the time of the exchange without any sales charge but with an exchange fee of $5 which is payable to CCI.

AGR is an open-end diversified management investment company registered under the Act. Its registration statement under the Securities Act of 1933 became effective on July 12, 1974. CCI is the principal underwriter for AGR. AGR offers its shares to the public at an offering price equal to net asset value plus a sales load of 1 percent of the offering price.

Each of the Equity Funds proposes to offer its shares to AGR shareholders in exchange for AGR shares in the following manner:

(1) AGR shares acquired through a share exchange of one of the Equity Funds or through reinvestment of dividends or distributions will be exchanged for shares of any of the Equity Funds on the basis of their relative net asset value per share at the time of the exchange.

(2) AGR shares purchased at the public offering price will be exchanged for shares of any of the Equity Funds on the basis of their relative net asset value per share at the time of the exchange, plus the sales charge described in the prospectus of the Equity Fund whose shares are being acquired, less an amount equal to the sales charge that was paid on the AGR shares being exchanged.

Applicants state that as a result, a shareholder acquiring shares of one of the Equity Funds, through an exchange of shares of AGR that had been purchased, would pay approximately the same overall sales charge that he would have paid had he directly purchased the shares of that Equity Fund, but any shareholder of AGR who acquired his shares of AGR through an exchange of Equity Funds shares would be able to reexchange the acquired shares for Equity Fund shares at net asset value. The latter would have previously paid a normal sales load on the Equity Fund shares he had purchased and no further sales load would, therefore, be assessed on any future exchanges of such shares or on exchanges of shares acquired as a result of such exchanges.

AGR shares may, under a previous order of the Commission, be exchanged for shares of Channing Bond Fund, Inc., Channing Income Fund, Inc., Channing Securities, Inc., Channing Shares, Inc. and Channing Venture Fund, Inc. (the "Channing Funds") upon the same terms as proposed in the present application.

Applicants represent that shareholders of the Equity Funds and Channing Funds have the right to exchange their shares for AGR shares without any sales load but no exchange privilege exists between Equity Funds and Channing Funds. Therefore, if the proposed exchange offer is permitted, AGR shareholders could exchange AGR shares for shares of one of either group of funds, and thereafter among that group and AGR. However, Equity and Channing shareholders would not be permitted to transfer from one group to another through the medium of AGR exchanges.

Should a AGR shareholder wish to exchange only a portion of his shares, those shares that may be exchanged at relative net asset value without sales charge will be exchanged first. The remaining shares to be exchanged will be selected from those shares which are entitled to be exchanged upon payment of the lowest additional sales charge.

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company or any principal underwriter for such company to make or cause to be made an offer to the shareholder of a security of such a company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net assets values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus. The sales charge described in the prospectus of each of the Equity Funds is greater than the sales charge which would be applicable to the proposed exchange offer.

Applicants state that the purpose of the proposed exchange offer is to permit a shareholder of AGR who changes his investment objective to change his investment to a different investment company without paying the full sales charge otherwise applicable. Applicants assert that the exchange offer to shareholders of AGR cannot be made at the relative net asset values of the Fund to be acquired because the AGR shareholder would have paid substantially less sales load on his investment than similiarly situated investors in the Fund to be acquired. Applicants further submit that if shares of Equity Funds could be acquired by an AGR shareholder at net asset value in an exchange section 22(d) of the Act might be violated as an investor would be able to purchase shares of one of the Equity Funds at a shares charge other than that described in its prospectus merely by purchasing shares of AGR and thereafter exchanging the AGR shares for Equity Funds shares at net asset value.

Section 6(c) provides, in part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision or provisions of the Act and the Rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 28, 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, if any, 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 com-

munication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants 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 October 28, 1974, 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.74–23484 Filed 10–8–74;8:45 am]

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[File No. 500–1]

## FRANKLIN NATIONAL BANK

### Suspension of Trading

OCTOBER 1, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the preferred stock and 4.75 percent debentures of Franklin National Bank being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 2, 1974 through October 11, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.74–23480 Filed 10–8–74;8:45 am]

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[File No. 500–1]

## FRANKLIN NEW YORK CORP.

### Suspension of Trading

OCTOBER 1, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common and preferred stock and 7.30 percent notes of Franklin New York Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 2, 1974 through October 11, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.74–23481 Filed 10–8–74;8:45 am]

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[70–5332]

## INDIANA & MICHIGAN ELECTRIC CO.

### Filing of Post-Effective Amendment

OCTOBER 1, 1974.

Notice is hereby given that Indiana & Michigan Electric Company ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed with this Commission post-effective amendments to its application previously filed in this matter, pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application as now amended, which is summarized below, for a complete statement of the proposed transactions.

By orders dated June 29, 1973, June 7, 1974, June 11, 1974, and July 5, 1974 (Holding Company Act Release Nos. 18014, 18445, 18453, and 18479), this Commission, among other things, authorized the issuance and sale of short-term notes by I&M to 38 banks which have agreed to purchase up to $135,387,500. At the time of said orders, the maximum amount of short-term indebtedness which I&M was authorized to incur at any one time was $125,000,000.

It is now proposed that I&M incur short-term indebtedness in an aggregate amount not to exceed $150,000,000. In no event would the borrowings by I&M of short-term funds through the issuance and sale of notes to banks and commercial paper to dealers in commercial paper exceed the maximum amount allowable both under I&M's Articles of Acceptance and the consent granted by I&M's Cumulative Preferred stockholders permitting an increase in the amount of unsecured short-term debt that I&M could incur, which maximum amount as of June 30, 1974, was approximately $175,000,000.

Each note payable to a bank to be issued by I&M will be dated as of the date of the borrowing which it evidences and will mature not more than 270 days after the date of issuance or renewal thereof. The notes are to be issued from time to time prior to December 31, 1974, as funds are required, provided that none of the notes will mature later than June 30, 1975.

Each note will bear interest no greater than the prime rate of commercial banks at the time of issuance or in effect from time to time and will be prepayable at any time without premium or penalty. It is stated that I&M will not pay any fees or charges to any such banks in connection with the issuance and sale of the notes. Sufficient bank balances to meet operating and financial needs are kept at the banks to satisfy any compensating balance requirements of such banks in connection with the borrowing. If the average of such bank balances were maintained solely in order to fulfill the prevailing compensating balance requirements of such banks, generally between 15 percent and 20 percent, the effective interest cost to I&M of issuance and sale of such notes to banks, assuming a 12 percent prime interest rate, woud range between 14 percent and 15 percent.

The commercial paper will be in the form of promissory notes in denominations of not less than $50,000 nor more than $5,000,000 and will be of varying maturities, with no maturity more than 270 days after the date of issue; none will be prepayable prior to maturity. The commercial paper notes will be sold directly to not more than two dealers at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity more than 90 days at an effective interest cost which exceeds the effective interest cost at which I&M could borrow from banks. The dealers will reoffer the commercial paper notes to not more than 100 of their customers identified and designated in a list (nonpublic) prepared in advance. It is expected that I&M's commercial paper notes will be held by each dealer's customers to maturity but if the customers wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer them to others in its group of 100 customers.

I&M also proposes to increase in an aggregate amount from $10,000,000 to $25,000,000 the issuance and sale of such short-term notes to Morgan Guaranty Trust Company. I&M will be required to maintain compensating balances of 10 percent regarding the additional $15,000,000 of the bank lines made available by Morgan Guaranty Trust Company and additional compensating balances of 10 percent on the amount of any borrowings from this bank. If the full amount were borrowed from this bank, the effective interest cost to I&M would be 15 percent.

I&M requests exception from the competitive bidding requirements of Rule 50 for the proposed issuance and sale of its commercial paper pursuant to paragraph (a)(5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper. I&M also requests authority to file certificates under Rule 24 with respect to the issue and sale of commercial paper hereafter consummated pursuant to this proceeding on a quarterly basis.

The proceeds from the issue and sale of the notes will be used by I&M to re-

pay short-term debts presently outstanding and to pay part of the cost of its future construction program. Such construction expenditures for 1974 is estimated to total $150,000,000. The application states that, unless otherwise authorized by the Commission, all of the short-term debt of I&M will be retired prior to June 30, 1975, from internal cash resources, debt or equity financing, or cash capital contributions.

No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 24, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issue of fact or law raised by said post-effective amendments to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.74-23485 Filed 10-8-74;8:45 am]

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[812-3669]

## INVENT INC.

### Filing of Application

OCTOBER 2, 1974.

Notice is hereby given that Invent Incorporated ("Applicant"), 9235 Katy Freeway, Suite 430, Houston, Texas 77024, a Delaware corporation, has filed an application pursuant to section 3(b)(2) of the Investment Company Act of 1940 ("Act"), for an order of the Commission declaring that Applicant is primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities or, alternatively, for an order pursuant to section 6(c) exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized in 1969 for the purpose of exploring for, developing and producing oil and gas. Since Applicant commenced business in December 1970, it has derived all of its revenues from consulting and management fees and sales of geophysical data. Applicant has entered into an agreement with Tanganyika Concessions Limited ("Tanks"), a United Kingdom registered company, pursuant to which Applicant and Tanks will transfer certain oil and gas exploration interests to a company to be called Tanks Oil and Gas Limited ("Oil and Gas"), a United Kingdom registered company. The value of the assets to be transferred by Applicant will exceed those to be contributed by Tanks. It is believed that Applicant may transfer assets to Oil and Gas which constitute the greater portion of the present value of Applicant's assets. Tanks will also contribute cash to Oil and Gas and may provide additional financing.

Tanks will receive 149 "A" shares issued by Oil and Gas, and Applicant will receive 149 "B" shares. Each class will be entitled to elect three directors and will have identical rights except that the directors elected by the "A" shares will have the right to appoint the Chairman of the Board. Under the proposed articles of association, which incorporate a portion of the English Companies Act, if there is a tie vote of either directors or stockholders, the Chairman can cast an additional vote.

Applicant undertakes to provide Oil and Gas with all technical expertise, information and services which Oil and Gas may reasonably require in its oil and gas exploration business, and Tanks undertakes to provide Oil and Gas with all financial, administrative and secretarial services and expertise which Oil and Gas may reasonably require. For these services, Applicant and Tanks will receive $125,000 and $25,000 respectively during the first year of the agreement. Thereafter, the parties shall consult together and decide the nature of the services to be performed for Oil and Gas by Applicant and/or Tanks as the case may be and the terms as to payment or otherwise upon which such services shall be provided. Tanks as the owner of the "A" Shares would be in a position to cause the termination of the arrangement whereby Applicant is to provide technical expertise, information and services directly for Oil and Gas after one year.

During 1973, 98.9 percent of the total revenues of Applicant resulted from geological, geophysical and management services provided to various exploration groups of which Applicant is either the operator or a member, as well as to other groups in which Applicant is not a participant. Applicant had a net operating loss of $262,414, or 16 cents per share, in 1973. It is because Applicant has not to date realized any income from production on oil and gas properties within or without the areas covered by the agreement with Tanks, the application asserts, that its need for further financing has arisen. The agreement with Tanks does not contain any restriction on the performance of these services by Applicant in the future, and, according to the application, it is anticipated by management that the continuation of these services by Applicant will not be affected by the transaction.

A significant amount of the efforts of management of Applicant has been devoted to the formation of participation groups and to the rendering of services to operating groups of which Applicant is a member or operator in areas not affected by the transaction. The application states that not only will these activities continue unaffected by the agreement but it is anticipated that management will be able to devote an increasing amount of time and attention to exploring for oil and gas throughout the world.

Section 3(a)(3) of the Act defines an investment company as any issuer which "* * * is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." After the proposed transaction, Invent's 149 shares of Oil and Gas will constitute over 40 percent of its total assets. Section 3(a) states that securities issued by majority-owned subsidiaries of the owner are not investment securities.

Section 2(a)(24) of the Act defines "majority-owned subsidiary" of a person as a company 50 percent or more of whose outstanding voting securities are owned by such person, or by a company which is a majority-owned subsidiary of such person. Although Applicant will own a 50 percent interest in Oil and Gas, the application alleges that, because of the right of Tanks' appointee to the chairmanship of the Board of Directors to cast a tie-breaking vote, Applicant may not have a "majority" interest in Oil and Gas within the meaning of the Act.

The application also states that section 3(c)(9) of the Act excludes from the definition of an investment company "any person substantially all of whose business consists of owning or holding oil, gas, or other mineral royalties or leases, or fractional interests therein, or certificates of interest or participation in or investment contracts relative to such royalties, leases or fractional interests." While Applicant will continue in the oil and gas business, its stock interest in Oil and Gas will render the section 3(c)(9) exclusion unavailable to it.

Applicant represents that, after the proposed transaction, it will continue to explore for, seek to develop and produce oil and gas, and provide geophysical data and that the transfer of certain of its

assets to Oil and Gas will have no significant effect on the manner in which Applicant conducts its business.

Applicant asserts that the purposes of the Act do not relate to an ongoing business concern, which it is, and that its proposed interest in Oil and Gas is not the type of interest the regulation of which is contemplated by the Act.

Section 3(b)(2) of the Act excepts from the definition of an investment company in section 3(a)(3) of the Act any issuer which the Commission finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities, either directly or (a) through majority-owned subsidiaries or (b) through controlled companies conducting similar types of businesses.

Section 6(c) of the Act provides, in pertinent part, that the Commission upon application may conditionally or unconditionally exempt any person from any provision or provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 25, 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, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit, or in the 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.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.74-23486 Filed 10-8-74;8:45 am]

[70-5559]

## METROPOLITAN EDISON CO. AND GENERAL PUBLIC UTILITIES CORP.

### Filing of Application

OCTOBER 2, 1974.

Notice is hereby given that General Public Utilities Corporation ("GPU"), 80 Pine Street, New York, New York 10005, a registered holding company, and its electric utility subsidiary, Metropolitan Edison Company ("Met-Ed"), 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pennsylvania 19605, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7 and 12 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Met-Ed proposes to enter into a loan agreement with the Small Business Administration of the United States (the "SBA") for the purpose of borrowing $2,330,000 for repairs and replacements to its property and equipment damaged by Hurricane Agnes in June 1972, of which $2,500 of the principal balance will be forgiven by the SBA. As security for the loan, which was authorized by the SBA on June 15, 1973 under the Disaster Relief Act of 1969, Met-Ed would issue to the SBA a first mortgage bond in the principal amount of $2,327,500 (the "Bond"). The Bond would be issued under the Indenture, dated as of November 1, 1944, between Met-Ed and Guaranty Trust Company of New York (now Morgan Guaranty Trust Company of New York), Trustee, as heretofore supplemented and amended and to be further supplemented and amended by a Supplemental Indenture to be executed and delivered in connection therewith. The Bond would bear interest at the rate of 1 percent per annum on the unpaid principal balance, and Met-Ed would pay the principal and interest thereon in equal monthly installments of approximately $21,225 commencing six months following consummation of the loan with the last such installment being payable ten years from the date of the loan. The Bond would be prepayable at any time without premium or penalty. As further security for the SBA loan, GPU proposes to enter into an agreement with the SBA unconditionally guaranteeing Met-Ed's payment of principal and interest on the loan.

Met-Ed requests an exception from the competitive bidding requirements of Rule 50 pursuant to subparagraph (a)(5) thereof in view of the 1 per cent annual interest rate to be charged by the SBA with respect to the proposed borrowing from the SBA by Met-Ed.

The entire proceeds realized from the proposed borrowing will be used by Met-Ed to finance replacements and repairs to its property and equipment or to reimburse Met-Ed's treasury for expenditures therefrom for such purposes.

The fees and expenses to be paid by Met-Ed in connection with the transaction, including legal fees, will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over Met-Ed's proposed borrowing from the SBA and Met-Ed's issuance of the Bond and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 25, 1974, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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 Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.74-23487 Filed 10-8-74;8:45 am]

[812-3492]

## NEUWIRTH FUND, INC. ET AL.

### Filing of Amended Application

OCTOBER 1, 1974.

Notice is hereby given that Neuwirth Fund, Inc. ("Neuwirth Fund") Neuwirth Century Fund, Inc. ("Century"), and Neuwirth Income Development Corporation ("NIDCO") (collectively the

"Funds"), registered under the Investment Company Act of 1940 ("Act") as open-end management investment companies, Neuwirth Management and Research Corporation ("NMRC"), and Neuwirth Financial Corporation ("NFC") (collectively the "Advisers"), (collectively the "Applicants"), Middletown Bank Building, Middletown, New Jersey 07748, have filed an application pursuant to Section 6(c) of the Act to amend an order granting temporary exemptions from the provisions of sections 15(a) and 15(c) of the Act to the extent noted below. All interested persons are referred to the application, as amended, on file with the Commission for a statement of the representations contained therein, which are summarized below.

Henry Neuwirth, the controlling stockholder of the Advisers died on July 28, 1973. By operation of law, the voting securities of the Advisers owned by Neuwirth passed to his estate. The existing investment advisory contracts between the Funds and the Advisers each provided, as required by Section 15 of the Act, that it would terminate in the event of an assignment. An assignment is defined by section 2(a)(4) of the Act to include any direct or indirect transfer of a controlling block of the outstanding voting securities of the assignor by a security holder of the assignor. The investment advisory contracts may, therefore, be deemed to have been terminated upon Neuwirth's death by the transfer of controlling interests in the investment advisers.

Section 15(a) of the Act prohibits any person from serving as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of such investment company. Section 15(c) of the Act prohibits any registered investment company having a board of directors from entering into, renewing, or performing any investment advisory of underwriting contract unless the terms of the contract and any renewal thereof are approved by the vote of a majority of the directors, who are not parties to such contract or interested persons of any such party, cast in person at a meeting called for the purpose of voting on such approval.

On July 31, 1973, the directors of the Funds, all of whom serve on the boards of each of the Funds, voted to ratify the performance of the Advisers from July 28 to July 31, 1973 and to readopt the terminated advisory contracts for the period from August 1 to October 31, 1973. On September 20, 1973, an order was issued (Investment Company Act Release No. 7998) granting exemptions to the Applicants from sections 15(a) and 15(c) of the Act during the period from July 28 to July 31, 1973, and from section 15(a) of the Act during the period from August 1 to October 31, 1973, so as to permit the Advisers to continue to render investment advisory services to the Funds at the same fees provided for under the terms of the terminated contracts, subject to the condition that the shareholders of each of the Funds at meetings held on or before November 1, 1973, ratify the rendition of investment advisory services by the Advisers to the respective Funds at such fees. Such meetings were not held within the time provided.

On January 15, 1974, Applicants applied to amend the Commission's order of September 20, 1973, so as to extend to February 28, 1974, the date for holding such special shareholder's meetings of the Funds. In support of such request, Applicants indicated that on October 10, 1973, after considering the many management alternatives available after Neuwirth's death, the Board of Directors of Neuwirth Fund and Century voted to recommend to shareholders that Clark, Dodge & Co. Incorporated ("Clark, Dodge") be retained as investment adviser to Neuwirth Fund and Century, and the Board of Directors of NIDCO voted to liquidate and dissolve NIDCO subject to shareholder approval and that, as a result of the time required for consideration of such alternatives, the Board of Directors of the Funds were unable to call the special shareholders' meeting by November 1, 1973 as required by the order of September 20, 1973. Applicants further represented that unnecessary expenses would be avoided by submitting to shareholders proposals to ratify the performances by the Advisers of investment advisory services from July 28 to October 31, 1973 at the same meetings of shareholders at which they would be called upon to approve new investment advisory services with Clark, Dodge and, in the case of NIDCO, its liquidation and dissolution. Applicants submitted that no prejudice to shareholders would result from the delay in holding special shareholder's meetings to ratify the rendition by the Advisers of investment advisory services since the periods during which such services were rendered by the Advisers without contracts were no longer than was contemplated by the first order.

On February 26, 1974, special meetings of shareholders of Neuwirth Fund and Century were held at which the shareholders of each fund by a vote of a majority of the outstanding voting securities ratified the performance of the respective investment advisory contracts with NMRC for the period from July 28 to October 31, 1973. No special meeting of shareholders of NIDCO for the purpose of ratifying the performance of the investment advisory contract with NFC for the period from July 28 to October 31, 1973 was held prior to February 28, 1974. On August 2, 1974, a meeting of shareholders of NIDCO was held at which shareholders voted to ratify such performance by NFC from July 28 to October 31, 1973, and voted to approve a proposal to liquidate and dissolve NIDCO.

Applicants now apply to amend their application so as to extend to August 2, 1974 the date for holding the special shareholder's meeting of NIDCO required by the order of September 20, 1973. Applicants assert that NIDCO was unable to hold a special meeting of shareholders prior to February 28, 1974 because of the time required by the directors of NIDCO to consider alternatives for NIDCO and to prepare the legal and accounting work necessary for liquidation. Applicants represent that no prejudice to NIDCO shareholders resulted from the delay in holding such special shareholder's meeting since continuity of management was provided by NFC during the period from July 28 to October 31, 1974 under the terms of an investment advisory contract which was previously approved by NIDCO shareholders, and since advisory fees payable by NIDCO to NFC during such period were only $572 while, for the same period, NIDCO received a net reimbursement of $5,090 from NFC as a result of expenses in excess of NIDCO's expense limitations.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally exempt any persons or transactions from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the requested exemptions from sections 15(a) and 15(c) of the Act are in the public interest and consistent with the general policies of the Act.

Notice is further given that any interested persons may, not later than October 28, 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, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants 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 October 28, 1974, 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.74-23488 Filed 10-8-74;8:45 am]

[File No. 500-1]

## SAVOY INDUSTRIES, INC.

### Suspension of Trading

OCTOBER 2, 1974.

The common stock of Savoy Industries, Inc. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Savoy Industries, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from October 3, 1974 through October 12, 1974.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.74-23482 Filed 10-8-74;8:45 am]

# SMALL BUSINESS ADMINISTRATION

[Application 09/09-5176]

## SPACE VENTURES, INC.

### Application for a License as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Space Ventures, Incorporated (applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1974).

The officers and directors are as follows:

M. R. Dahn, 7826 Timor Street, Long Beach, California 90808—President, Chairman of the Board of Directors.

C. D. Sword, 2067 Avenida Feliciano, Eastview, California 90732—Executive Vice President & General Manager, Director.

R. A. DePalma, 70 Woodland Drive, Pittsburgh, Pennsylvania 15228—Treasurer.

W. J. Smollen, 3044 Arrowhead Drive, Los Angeles, California 90068—Vice President and Assistant Treasurer, Director.

F. A. Mente, 6753 Eberle Street, Lakewood, California 90713—Vice President.

J. S. Kerlegon, 1137 Shasta Street, West Covina, California—Vice President.

L. A. Villegas, 3799 Humboldt Drive, Huntington Beach, California—Vice President, Director.

R. C. Art, Jr., 11212 Cashmere Street, Los Angeles, California 90049—Secretary.

D. G. Schmidt, 812 Via Somonte, Palos Verdes Estates, California—Director.

L. A. Wilson, 15731 Stulman Avenue, Gardena, California—Director.

The applicant with its principal place of business located at 12214 Lakewood Boulevard, Downey, California 90241, will begin operations with $310,070 of paid-in capital and surplus. All of the issued and outstanding stock of the applicant, consisting of 3,070 shares of common stock, will be owned by Rockwell International Corporation, a large public corporation.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

The applicant plans to provide "front end" equity and debt financing to those socially or economically disadvantaged small businesses requiring capital for both current operations and growth which are primarily engaged in supporting the aerospace industry. First consideration is to be given to those qualifying businesses which are or which have the potential to be subcontractors, suppliers or vendors at any tier or level to the Space Shuttle Program.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Any person may, on or before October 24, 1974, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW, Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Downey, California.

Dated: September 30, 1974.

JAMES THOMAS PHELAN,
*Deputy Associate Administrator for Investment.*

[FR Doc.74-23502 Filed 10-8-74;8:45 am]

# DEPARTMENT OF LABOR

## Office of the Secretary

[Secretary's Order 11-74]

## FEDERAL ADVISORY COUNCIL ON UNEMPLOYMENT INSURANCE

### Notice of Reconstitution

1. *Purpose.* This Order reconstitutes the Federal Advisory Council on Unemployment Insurance to designate a public member as the Chairman.

2. *Reassignment of Functions of Federal Advisory Council on Employment Security.* Reorganization Plan No. 2 of 1949 assigned responsibility to the Federal Advisory Council on Employment Security for furnishing advice on unemployment insurance to the Secretary of Labor. Hereafter, this responsibility shall be carried out by the Federal Advisory Council on Unemployment Insurance, as provided for in Public Law 91-373.

3. *Functions of the Council.* The Council was established for the purpose of reviewing the Federal-State program of unemployment compensation and making recommendations to the Secretary of Labor for improvement of the system. Advisory opinions are sought on contemplated legislation, program policy, and operational implementation. All duties are of an advisory nature.

4. *Composition of the Council.* a. The Council shall be appointed by the Secretary of Labor and shall consist of men and women who shall be representatives of employers and employees in equal numbers, and the general public.

b. The Council shall include a maximum of 16 members, including the Chairman. The Secretary shall appoint the Chairman from among the public members. A Vice Chairman shall be designated to act in the absence of the Chairman.

c. There shall be such standing and temporary subcommittees of the Council as may be established by the Chairman. Subcommittee members will be appointed from the membership of the Council.

5. *Term of Membership.* Members of the Council are appointed for a term of 2 years, approximately half being appointed annually on a fiscal year basis.

6. *Council Meetings.* a. Regular meetings shall be held at such time and place as designated by an authorized Department of Labor official, but not less frequently than twice yearly. The agenda must be approved by the authorized Labor Department official.

b. Notice of Council meetings will be published in the FEDERAL REGISTER. Such meetings will be open to the public.

c. Every meeting shall be conducted in the presence of a duly authorized full-time salaried officer or employee of the Department.

d. Minutes will be maintained which will include as a minimum a record of persons present, an account of matters discussed and conclusions reached and copies of reports received, issued and approved by the Council. The accuracy of all minutes shall be certified by a full-time salaried officer or employee of the Department present during the proceedings recorded. All other materials prepared for the Council will be available to the public.

7. *Technical and Other Services.* The Unemployment Insurance Service shall provide an Executive Secretary and secretarial, technical and other services to the Council, as necessary.

8. *Authority and Directives Affected.* This Order is issued pursuant to Section 908(a) of the Social Security Act added by Section 908 of Public Law 91-373, 84 Stat. 706, 42 U.S.C. 1108 and Sec. 11(a) of the Wagner-Peyser Act, PL 30, 1933, 48 Stat. 116, 29 U.S.C. 49(j), and hereby supersedes Secretary's Order 1-71.

9. *Effective Date.* This Order is effective July 1, 1974.

Signed at Washington, D.C. this third day of May, 1974.

PETER J. BRENNAN,
*Secretary of Labor.*

[FR Doc.74-23545 Filed 10-8-74;8:45 am]

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[Secretary's Order 21-74]

## INTERDEPARTMENTAL WORKERS' COMPENSATION TASK FORCE

### Labor Department Support Responsibilities

1. *Purpose.* This Order defines the responsibilities of the Department of Labor (DOL) in support of the Interdepartmental Workers' Compensation Task Force (IWCTF).

2. *Background.* On May 15, 1974, the President directed the Secretaries of Labor, Commerce, Health, Education, and Welfare, and Housing and Urban Development (Federal Insurance Administration) to organize a new Federal task force on workers' compensation. On the same date, the President endorsed an Interdepartmental White Paper which recognizes the deficiencies of present State workers' compensation systems which prevent them from meeting the goal of protecting workers. The IWCTF, established at the direction of the President, will work toward improving the State systems and initiate a major research program. The IWCTF will operate for 18 to 24 months and in January 1976, an evaluation of State progress and a report on research results, together with any appropriate recommendation for legislation, will be transmitted to the President, the Congress, and the States.

DOL has been assigned primary responsibility for administrative support of IWCTF. The IWCTF Director will report to the Under Secretary of Labor for operational guidance and to an interdepartmental group for policy decisions.

The Departments of Labor, Commerce, Health, Education and Welfare, and Housing and Urban Development (Federal Insurance Administration) will support IWCTF with staff and funds.

3. *DOL Responsibilities*—a. *Departmentwide.* (1) Cooperating fully with the IWCTF, including the furnishing of appropriate staff assistance and support;

(2) Coordinating with, and responding to, IWCTF on all policies and programs potentially affecting workers' compensation;

(3) Providing available data and expertise necessary for workers' compensation research and technical assistance;

(4) Participating with the IWCTF in joint studies; and

(5) Informing ASPER of all activities carried out with, or at the request of, the IWCTF.

b. *Specific Agencies and Organizations*—(1) *The Program Budget Review Committee* (PBRC) is responsible for determining the number of personnel to be assigned to the IWCTF by DOL units, including ceiling, positions, and average grade points, and for assessing the Consolidated Working Fund to finance DOL support for the IWCTF.

(2) *The Assistant Secretary for Policy, Evaluation and Research* is responsible for tracking and reviewing DOL input to the IWCTF (including coordination where necessary), contributing to the research programs initiated by IWCTF, and considering options in planning papers for the Secretary.

(3) *The Assistant Secretary for Administration* is responsible for providing all administrative support to the IWCTF, including accounting, budgeting, contracting, data processing, personnel, space, and supplies.

(4) *The Solicitor of Labor* is responsible for providing IWCTF with legal support and assistance.

(5) *The Assistant Secretary for Employment Standards* is responsible for providing appropriate staff assistance and support to the IWCTF through the Division of State Workers' Compensation Standards. In addition the Employment Standards Administration (ESA) is responsible for reconciling Federal workers' compensation programs, to the extent feasible and appropriate, with the minimum objectives which the Interdepartmental White Paper has established for improvement of State systems. All personnel and functions of the Division of Workers' Compensation Standards, ESA, are transferred to the Office of the Under Secretary only until the completion of the IWCTF for the purpose of working with the IWCTF's Technical Assistance Unit. During the period of the transfer, personnel of the Division shall remain under the supervision of the Division Chief.

(6) *The Regional Directors* are responsible for general supervision of the IWCTF regional workers' compensation advisors. The advisors will receive policy guidance and technical direction from IWCTF's Director.

4. *Directives Affected.* Secretary's Order 18-74 is cancelled.

5. *Effective Date.* This Order is effective immediately and will continue in force during IWCTF's existence.

Signed at Washington, D.C. this 13th day of September 1974.

PETER J. BRENNAN,
*Secretary of Labor.*

[FR Doc.74-23544 Filed 10-8-74;8:45 am]

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## SBICCA OF CALIFORNIA, INC.

### Certification of Eligibility of Workers to Apply for Adjustment Assistance

Under date of April 26, 1974, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-228) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance on behalf of the workers and former workers of Sbicca of California, Inc., South El Monte, Calif. In this report, the Commission, being equally divided, made no finding with respect to whether articles like or directly competitive with footwear for women produced by Sbicca of California, Inc., are as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause unemployment or underemployment of a significant number or proportion of the workers of the firm or an appropriate subdivision thereof. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930, as amended, to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation (Notice of Delegation of Authority and Notice of Investigation, 34 FR 18342; 37 FR 2472; 39 FR 33039; 29 CFR Part 90).

Following this, the Director made a recommendation to me relating to the matter of certification. In the recommendation, she noted that concession generated imports like or directly competitive with footwear for women produced by Sbicca of California, Inc. tripled from 1968 to 1973. In an effort to compete with imports, the company strove to keep material costs down, updated styles, and obtained fast and efficient production runs through the manufacture of all necessary subassemblies at the plant. Despite these efforts, Sbicca was not able to overcome the price advantage gained by foreign shoe producers as a result of tariff reductions. Company production began a steady downward trend in 1972 when imports of women's nonrubber footwear increased 18 million pairs over the 1971 level and supplied 47 percent of domestic consumption; in 1973 such imports supplied 53 percent of domestic consumption. Labor force reductions required by falling production at Sbicca were handled by normal attrition through October 1973. In November 1973 layoffs of long duration involving significant numbers of workers were required to achieve necessary labor force reductions. Unemployment of the company's workers, caused in major part by increased import competition began in November 1973 and continues to date. After due consideration, I make the following certification:

All workers, hourly, piecework, and salaried of Sbicca of California, Inc., South El Monte, Calif. who became or will become unemployed or underemployed after November 2, 1973 are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

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

JOEL SEGALL,
*Deputy Under Secretary, International Affairs.*

[FR Doc.74-23543 Filed 10-8-74;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice 16]

### TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

| Temporary authority application | Final action or certificate or permit | Date of action |
|---|---|---|
| Frozen Food Express, MC–108207 Sub-348 | MC–108207 Sub-361 | Jan. 2, 1974 |
| Rogers Transfer, Inc., MC–108884 Sub-22 | MC–108884 Sub-24 | Jan. 17, 1974 |
| Commercial Truck Co., Ltd., MC–109294 Sub-16 | MC–109294 Sub-19 | Dec. 26, 1973 |
| Lee Motor Lines, Inc., MC–109612 Sub-33 | MC–109612 Sub-34 | Jan. 9, 1974 |
| Coldway Food Express, Inc., MC–110563 Sub-96 | MC–110563 Sub-98 | Jan. 14, 1974 |
| Home Transportation Co., Inc., MC–111545 Sub-176 | MC–111545 Sub-174 | Jan. 9, 1974 |
| Manfredi Motor Transit Co., MC–112184 Sub-37 | MC, 112184 Sub-39 | Jan. 11, 1974 |
| Big Valley Supply & Enterprises, Ltd., MC–139084 | MC–139084 Sub-I | Sept. 19, 1974 |

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

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PART II

# DEPARTMENT OF AGRICULTURE

## Agricultural Research Service

■

# NATIONAL POULTRY IMPROVEMENT PLAN

Notice of Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

### Agricultural Research Service

### [ 9 CFR Parts 445, 447 ]

### NATIONAL POULTRY IMPROVEMENT PLAN AND AUXILIARY PROVISIONS

### Notice of Proposed Rule Making

Notice is hereby given, under the administrative procedure provisions of 5 U.S.C. 553, that the Department of Agriculture has under consideration proposed amendments of the National Poultry Improvement Plan and Auxiliary Provisions recommended by the 1974 Conference of representatives of the poultry industry and State Agencies cooperating in the administration of the Plan, and that pursuant to section 101(b) of the Department of Agriculture Organic Act of 1944, as amended (7 U.S.C. 429), it is proposed to revise Parts 445 and 447 of Title 9, Chapter IV, Subchapter A, Code of Federal Regulations, to incorporate such recommended amendments and to make incidental changes for clarity and consistency.

Included in these proposed amendments are the criteria for a voluntary program for the control of *Mycoplasma synoviae* and *Salmonella typhimurium* in meat type poultry breeding flocks. Changes are proposed in the provisions of the existing program for the control of *Mycoplasma gallisepticum* in poultry breeding flocks in an effort to permit more flexibility in blood testing procedures and more definitive diagnostic procedures. These amendments were proposed to permit use of the newest techniques and materials in the voluntary programs to eliminate certain Mycoplasmas from poultry breeding flocks.

Another proposal would provide for the classification of a State as "U.S. Pullorum-Typhoid Clean State" when the State has reached a certain stage in the control of *Salmonella pullorum* and *S. gallinarum* in its poultry breeding flocks. This proposed amendment would provide an incentive for States to make the final effort necessary to eliminate these two diseases from the poultry breeding flocks in the United States.

Parts 445 and 447 would be amended in the following respects:

### PART 445—NATIONAL POULTRY IMPROVEMENT PLAN

1. Part 445 Table of Contents is amended by revising the titles of §§ 445.10, 445.23, 445.33, 445.43 and 445.53, and by adding new §§ 445.24, 445.34, 445.44 and 445.54 as follows:

Sec.
445.10 Terminology and classification; flocks, products, and States.
445.23 Terminology and classification; flocks and products.
445.24 Terminology and classification; States.
445.33 Terminology and classification; flocks and products.
445.34 Terminology and classification; States.
445.43 Terminology and classification; flocks and products.
445.44 Terminology and classification; States.
445.53 Terminology and classification; flocks and products.
445.54 Terminology and classification; States.

2. By revising § 445.3(c) to read as follows:

(c) A participant in any State shall participate with all of his poultry hatching egg supply flocks and hatchery operations within such State. He shall report to the Official State Agency on NPIP Form 3B or through other appropriate means each breeding flock before the birds reach 24 weeks of age. This report will include:

(1) Name and address of flockowner;
(2) Flock location and designation;
(3) Type: Primary or Multiplier;
(4) Breed, variety, strain, or trade name of stock;
(5) Source of males;
(6) Source of females;
(7) Number of birds in the flock; and
(8) Intended classification of flock.

3. Section 445.10 would be amended by revising the title and introductory statement to read as follows:

**§ 445.10 Terminology and classification; flocks, products, and States.**

Participating flocks, products produced from them, and States which have met the respective requirements specified in Part 445 Subpart B, C, D, or E may be designated by the following terms or illustrative designs:

4. Section 445.10(d) would be amended by deleting reference to § 445.43(d) and adding § 445.33(d) to the parenthetical portion, and by adding new paragraphs (e), (f), (g), and (h) to read as follows:

(e) *U.S. M. Synoviae Clean*—(see § 445.33(e).)




Figure 6

(f) *U.S. Salmonella Controlled*—(see § 445.43(f).)




FIGURE 7

(g) *U.S. Pullorum-Typhoid Clean State*—(see § 445.24(g), § 445.34(g), § 445.44(g), and § 445.54(g).)




FIGURE 8

(h) *U.S. Pullorum-Typhoid Clean State, Turkeys*—(see § 445.44(h).)




FIGURE 9

5. Section 445.12(b) would be revised to read as follows:

(b) Each year at least 15 percent of the independent flocks and the affiliated flocks of each hatchery shall be inspected by a State Inspector. Each inspection shall include the examination of a sufficient number of males and females and, in flocks qualified for participation by the whole-blood test, the blood testing of a sufficient number of birds to determine whether the work of the Authorized Agent was satisfactory and that the flock is qualified for participation. The State Inspector shall also determine whether or not the flock and premises are in compliance with the provisions in § 445.5 (a) and (b).

6. Section 445.14(a)(4) and (8) would be revised to read as follows:

(4) Poultry must be more than 4 months of age when tested: *Provided,* That candidates for participation under Subpart E of this part shall have attained the age of sexual maturity before being tested.

* * * * *

(8) Reactors shall be submitted to a laboratory for autopsy and bacteriological examination. All reactors in a flock if there are 4 or less reactors shall be submitted to a laboratory designated by the Official State Agency for bacteriological examination, as described in § 447.11: *Provided,* That if more than 4 reactors are found, a minimum of 4 birds shall be submitted. The recommended minimum procedure for bacteriological examination is described in § 447.11. When reactors are submitted within 10 days from date of reading the test and the bacteriological examination fails to demonstrate infection of the serotype for which the test was conducted, the flock shall be deemed to have had no reactors to the specified test.

7. Section 445.14(b) would be revised to read as follows:

(b) *For M. gallisepticum and M. synoviae.* (1) The official blood test for M. gallisepticum or M. synoviae shall be either the serum plate agglutination test, the tube agglutination test, the hemagglutination inhibition (HI) test, or a combination of two or more of these tests. The HI test shall be used to confirm the positive results of other serological tests.

(2) The tests shall be conducted using M. gallisepticum or M. synoviae antigens approved by the Department or the Official State Agency and shall be performed in accordance with the recommendations of the producer of the antigen.

(3) When reactors to the test for which the flock was tested are submitted to a laboratory as prescribed by the Official State Agency, the criteria found in § 447.6 shall be used in determining the final status of the flock.

8. Section 445.22(d) would be revised to read as follows:

(d) Hatching eggs produced by primary breeding flocks shall be fumigated according to the procedures described in § 447.25(a) of this chapter: *Provided,* That alternative sanitizing procedures may be used with the approval of the Official State Agency in each specific instance and with the general concurrence by the Service in the policy adopted by the Official State Agency.

9. Section 445.23(a) would be amended by deleting the present provisions, effective July 1, 1975. Upon deletion, (a) would be marked as "(Reserved)".

10. Section 445.23 would be further amended by revising the introductory statement of (b) (2) and (3) to read as follows:

(2) It is a multiplier breeding flock, or a breeding flock composed of first generation progeny of a primary breeding flock which is intended solely for the production of multiplier breeding flocks, and meets the following specifications as determined by the Official State Agency and the Service:

(3) It is a multiplier breeding flock, or a breeding flock composed of first generation progeny of a primary breeding flock which is intended solely for the production of multiplier breeding flocks, that originated from U.S. Pullorum-Typhoid Clean primary breeding flocks or from flocks that met equivalent requirements under official supervision, and is located in a State in which it has been determined by the Service that:

11. Section 445.23(b)(3)(vii) would be revised to read as follows:

(vii) All poultry, including exhibition, exotic, and game birds, but excluding waterfowl, going to public exhibition shall come from U.S. Pullorum-Typhoid Clean or equivalent flocks, or have had a negative pullorum-typhoid test within 90 days of going to public exhibition;

12. Section 445.23(b)(4) would be reviewed to read as follows:

(4) It is a multiplier breeding flock located in a State which has been determined by the Service to be in compliance with the provisions of (b)(3) of this section, and in which pullorum disease or fowl typhoid is not known to exist nor to have existed in hatchery supply flocks, other than turkey, waterfowl, exhibition poultry, and game bird supply flocks, within the State during the preceding 12 months.

13. Section 445.23(c)(1) (i) and (ii) would be revised to read as follows:

(i) It is a flock in which all birds, or a sample of at least 500 birds, in the flock have been tested for M. gallisepticum as provided in § 445.14(b) when more than 4 months of age: *Provided,* That to retain this clasification, all birds or a sample of at least 500 birds shall be tested at intervals or not more than 90 days: *And provided further,* That a flock, and subsequent flocks, located on a premises on which, during the preceding two years, all birds originated from U.S. M. Gallisepticum Clean sources and were initially tested as provided above, may retain this classification by testing, in an authorized laboratory, serum samples from at least 200 day-old chicks produced from the flock at intervals of not more than 60 days; or

(ii) It is a multiplier breeding flock which originated as U.S. M. Gallisepticum Clean chicks from primary breeding flocks and a sample comprised of 50 percent of the birds in the flock, with a maximum of 300 birds and a minimum of 30 birds per flock, has been tested for M. gallisepticum as provided in § 445.14(b) when more than 4 months of age: *Provided,* That to retain this classification, the flock shall be subjected to one of the following procedures:

14. Section 445.23(d)(1)(ii) would be revised to read as follows:

(ii) A sample of at least 500 birds in the flock has been tested within the past 12 months for S. typhimurium as provided in § 445.14(a) and environmental samples or cloacal swabs collected by a State Inspector or Authorized Agent as described in § 447.12 of this chapter have been examined for S. typhimurium by an authorized laboratory, and no evidence of the disease was found: *Provided,* That when the only typhimurium isolation made in a flock is from a single environmental or cloacal sample, the Official State Agency may make additional bacteriological examinations before classifying the flock.

15. Part 445, Subpart B, would be amended by adding a new § 445.24 to read as follows:

**§ 445.24 Terminology and classification; States.**

(a) *U.S. Pullorum-Typhoid Clean State.* (1) A State will be declared a U.S. Pullorum-Typhoid Clean State when it has been determined by the Service that:

(i) The State is in compliance with the provisions contained in § 445.23(b)(3) (i) thorugh (vii), § 445.33(b)(3) (i) through (vii), § 445.43(b)(3) (i) through (vi), and § 445.53(b)(3) (i) through (vii).

(ii) No pullorum disease or fowl typhoid is known to exist nor to have existed in hatchery supply flocks within the State during the preceding 12 months: *Provided,* That pullorum disease or fowl typhoid found in waterfowl, exhibition poultry, and game bird breeding flocks will not prevent a State, which is otherwise eligible, from qualifying for a period of two years.

(2) Discontinuation of any of the conditions described in paragraph (a)(1)(i) of this section, or repeated outbreaks of pullorum or typhoid occur in hatchery supply flocks described in paragraph (a)(1)(ii) of this section, or if an infection spreads from the originating premises, the Service shall have grounds to revoke its determination that the State is entitled to this classification. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity for a hearing.

16. Section 445.32(c) would be revised to read as follows:

(c) Hatching eggs produced by primary breeding flocks shall be fumigated according to the procedures described in § 445.25(a): *Provided,* That alternative sanitizing procedures may be used with the approval of the Official State Agency in each specific instance and with the general concurrence by the Service in the policy adopted by the Official State Agency.

17. Section 445.33(b)(3)(vii) would be revised to read as follows:

(vii) All poultry, including exhibition, exotic, and game birds, but excluding waterfowl, going to public exhibition shall come from U.S. Pullorum-Typhoid Clean or equivalent flocks, or have had a negative pullorum-typhoid test within 90 days of going to public exhibition;

18. Section 445.33(b)(4) would be revised to read as follows:

(4) It is a multiplier breeding flock located in a State which has been determined by the Service to be in compliance with the provisions of (c)(3) of this section, and in which pullorum disease or fowl typhoid is not known to exist nor to have existed in hatchery supply flocks, other than turkey, waterfowl, exhibition poultry, and game bird supply flocks, within the State during the preceding 12 months.

19. Section 445.33(c)(1) (i) and (ii) would be revised to read as follows:

(i) All birds have been tested for M. gallisepticum as provided in § 445.14(b) when more than 4 months of age: *Provided,* That birds in primary breeding flocks may be sample tested after qualifying for this classification for two generations. This random sample shall consist of 500 birds in flocks of more than 500 and each bird in flocks of 500 or less: *And provided further,* That to retain this classification, a random sample of at least 5 percent of the birds in the flock, with a minimum of 100 birds, shall be tested at intervals of not more than 90 days: *And provided further,* That, at the discretion of the Official State Agency and with the concurrence of the Service, a sample comprised of less than 5 percent may be tested at any one time, provided that a total of at least 5 percent of the birds in the flock, with a minimum of 100 birds, is tested within each 90-day period; or

(ii) It is a multiplier breeding flock which originated as U.S.M. Gallisepticum Clean chicks from primary breeding flocks and a random sample comprised of 300 birds in flocks of more than 300 and each bird in flocks of 300 or less has been tested for M. gallisepticum as provided in § 445.14(b) when more than 4 months of age: *Provided,* That to retain this classification, the flock shall be subjected to one of the following procedures:

20. Section 445.33(d) and (e) would be added to read as follows:

(d) *U.S. Typhimurium Controlled.* (1) A flock in which freedom from S. typhimurium has been demonstrated under the criteria specified in paragraph (d)(1)(i) or (ii) of this section.

(i) All birds have been tested within the past 12 months for S. typhimurium as provided in § 445.14(a) and no reactors were found on the first test, or

(ii) A sample of at least 500 birds in the flock has been tested within the past 12 months for S. typhimurium as provided in § 445.14(a) and environmental samples or cloacal swabs collected by a State Inspector or Authorized Agent as described in § 447.12 of this chapter have been examined for S. typhimurium by an authorized laboratory, and no evidence of the disease was found: *Provided,* That when the only typhimurium isolation made in a flock is from a single environmental or cloacal sample, the Official State Agency may make additional bacteriological examinations before classifying the flock.

(2) In order to sell hatching eggs or chicks of this classification, all hatching eggs and chicks handled shall meet the requirements for this classification.

(e) *U.S. M. Synoviae Clean.* (1) A flock maintained in compliance with the provisions of § 447.26 and in which freedom from M. synoviae has been demonstrated under the criteria specified in paragraph (e)(1)(i) or (ii) of this section.

(i) It is a flock in which 5 percent, or a maximum sample of 500 birds, in the flock have been tested for M. synoviae as provided for in § 445.14(b) when more than 4 months of age: *Provided,* That to retain this classification, a random sample of at least 1 percent of the birds, with a minimum of 30, shall be tested at intervals of not more than 30 days.

(ii) It is a multiplier breeding flock which originated as U.S. M. Synoviae Clean chicks from primary breeding flocks and a sample of 1 percent of the birds in the flock has been tested for M. synoviae as provided in § 445.14(b) when more than 4 months of age: *Provided,* That to retain this classification, a random sample of at least 1 percent of the birds, with a minimum of 30 birds, shall be tested at intervals of not more than 90 days: *And provided further,* That a sample of less than 1 percent may be tested at any one time, provided that a total of at least 1 percent of the birds in the flock is tested within each 90 day period.

(2) A participant handling U.S. M. Synoviae Clean products shall keep these products separate from other products in a manner satisfactory to the Official State Agency: *Provided,* That U.S. M. Synoviae Clean chicks from primary breeding flocks shall be produced in incubators and hatchers in which only eggs from flocks qualified under subdivision (i) or (ii) of subparagraph (1) of this paragraph are set.

(3) U.S. M. Synoviae Clean chicks shall be boxed in clean boxes and delivered in trucks that have been cleaned and disinfected as described in § 447.24 (a).

21. Part 445, Subpart C, would be amended by adding a new § 445.34 to read as follows:

**§ 445.34 Terminology and classification; States.**

(a) *U.S. Pullorum-Typhoid Clean State.* (1) A State will be declared a U.S. Pullorum-Typhoid Clean State when it has been determined by the Service that:

(i) The State is in compliance with the provisions contained in § 445.23(b)(3) (i) through (vii), § 445.33(b)(3) (i) through (vii), § 445.43(b)(3) (i) through (vi), and § 445.53(b)(3) (i) through (vii).

(ii) No pullorum disease or fowl typhoid is known to exist nor to have existed in hatchery supply flocks within the State during the preceding 12 months: *Provided,* That pullorum disease or fowl typhoid found in waterfowl, exhibition poultry, and game bird breeding flocks will not prevent a State, which is otherwise eligible from qualifying for a period of two years.

(2) Discontinuation of any of the conditions described in paragraph (a)(1)(i) of this section, or repeated outbreaks of pullorum or typhoid occur in hatchery supply flocks described in paragraph (a)(1)(ii) of this section, or if an infection spreads from the originating premises, the Service shall have grounds to revoke its determination that the State is entitled to this classification. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity for a hearing.

22. Section 445.42 would be amended by adding a new paragraph (c) to read as follows:

(c) Hatching eggs shall be fumigated according to the procedures described in § 447.25(a) of this chapter: *Provided,* That alternative sanitizing procedures may be used with the approval of the Official State Agency in each specific instance and with the general concurrence by the Service in the policy adopted by the Official State Agency.

23. Section 445.43 would be amended by deleting (b)(3)(vii) and marking this subdivision as "(Reserved)".

24. Section 445.43(b)(3)(viii) would be revised to read as follows:

(viii) Discontinuation of any of the conditions or procedures described in paragraph (b)(3) (i), (ii), (iii), (iv), (v), and (vi) of this section, or the occurrence of repeated outbreaks of pullorum or typhoid in turkey breeding flocks within or originating within the State shall be grounds for the Service to revoke its determination that such conditions and procedures have been met or complied with. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity to present its views.

25. Section 445.43(c)(2) would be revised to read as follows:

(2) A flock qualified as U.S. M. Gallisepticum Clean may retain the classification for 1 year, provided it is maintained in isolation and no evidence of M. gallisepticum infection is revealed. Each flock and premises shall be inspected at least once during the laying period by an Authorized Agent of the Official State Agency or the State Animal Disease Control Official. If a flock proves to be infected with M. gallisepticum, it shall lose this classification.

26. Section 445.43 would be further amended by deleting paragraph (d) and marking paragraph (d) as "(Reserved)" and by adding a paragraph (e) and marking it as "(Reserved)", and by adding a new paragraph (f) to read as follows:

(f) *U.S. Salmonella Controlled.* (1) A flock meeting the following requirements as determined by the Official State Agency and the Service.

(i) The flock is maintained in compliance with the provisions of § 447.21, and the hatching eggs are handled in compliance with the provisions of § 447.22 in a manner satisfactory to the Official State Agency. Each flock and premises

shall be inspected at least once during the egg production season by an Inspector to ascertain that these provisions are being followed.

(ii) Hatching eggs shall be visibly clean and fumigated as described in § 447.25(a) as soon as possible after collection: *Provided*, That alternative sanitizing procedures may be used with the approval of the Official State Agency in each specific instance and with the general concurrence of the Service in the policy adopted by the Official State Agency.

27. Part 445, Subpart D, would be amended by adding a new § 445.44 to read as follows:

**§ 445.44 Terminology and classification; States.**

(a) *U.S. Pullorum-Typhoid Clean State.* (1) A State will be declared a U.S. Pullorum-Typhoid Clean State when it has been determined by the Service that:

(i) The State is in compliance with the provisions contained in § 445.23(b)(3)(i) through (vii), § 445.33(b)(3)(i) through (vii), § 445.43(b)(3)(i) through (vi), and § 445.53(b)(3)(i) through (vii).

(ii) No pullorum disease or fowl typhoid is known to exist nor to have existed in hatchery supply flocks within the State during the preceding 12 months: *Provided*, That pullorum disease or fowl typhoid found in waterfowl, exhibition poultry, and game bird breeding flocks will not prevent a State, which is otherwise eligible, from qualifying for a period of two years.

(2) Discontinuation of any of the conditions described in paragraph (a)(1)(i) of this section, or repeated outbreaks of pullorum or typhoid occur in hatchery supply flocks described in paragraph (a)(1)(ii) of this section, or if an infection spreads from the originating premises, the Service shall have grounds to revoke its determination that the State is entitled to this classification. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity for a hearing.

(b) *U.S. Pullorum-Typhoid Clean State, Turkeys.* (1) A State will be declared a U.S. Pullorum-Typhoid Clean State, Turkeys, when it has been determined by the Service that:

(i) The State is in compliance with the provisions contained in § 445.43(b)(3)(i) through (vi).

(ii) No pullorum disease or fowl typhoid is known to exist nor to have existed in turkey hatchery supply flocks within the State during the preceding 24 months.

(2) Discontinuation of any of the conditions described in paragraph (b)(1)(i) of this section, or repeated outbreaks of pullorum or typhoid occur in hatchery supply flocks described in paragraph (b)(1)(ii) of this section, or if an infection spreads from the originating premises, the Service shall have grounds to revoke its determination that the State is entitled to this classification. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity for a hearing.

28. Section 445.53(a) would be revised to read as follows:

(a) *U.S. Approved.* All birds in the breeding flock observed by Authorized Agents or State Inspectors are found to conform with the criteria for the breed represented, as contained in the Standard of Perfection[1] or the breeder's specifications for the stock represented in the flock, and such specifications are on file with the Official State Agency.

29. Section 445.53(b)(3)(vii) would be revised to read as follows:

(vii) All poultry, including exhibition, exotic, and game birds, but excluding waterfowl, going to public exhibition shall come from U.S. Pullorum-Typhoid Clean or equivalent flocks, or have had a negative pullorum-typhoid test within 90 days of going to public exhibition;

30. Section 445.53(c) would be revised to read as follows:

(c) *U.S. M. Gallisepticum Clean.* (1) A flock maintained in compliance with the provisions of § 447.26 and in which freedom from M. gallisepticum has been demonstrated under the criteria specified in paragraph (c)(i) or (ii) of this section.

(i) All birds have been tested for M. gallisepticum as provided in § 445.14(b) when more than 4 months of age: *Provided*, That birds in primary breeding flocks may be sample tested after qualifying for this classification for two generations. This random sample shall consist of 300 birds in flocks of more than 300 and each bird in flocks of 300 or less: *And provided further*, That to retain this classification, a random sample of at least 5 percent of the birds in the flock, with a minimum of 100 birds, shall be tested at intervals of not more than 90 days: *And provided further*, That, at the discretion of the Official State Agency and with the concurrence of the Service, a sample comprised of less than 5 percent may be tested at any one time, provided that a total of at least 5 percent of the birds in the flock, with a minimum of 100 birds, is tested within each 90-day period; or

(ii) It is a multiplier breeding flock which originated as U.S. M. Gallisepticum Clean baby poultry from primary breeding flocks and a random sample comprised of 50 percent of the birds in the flock, with a maximum of 300 birds and a minimum of 30 birds per flock, has been tested for M. gallisepticum as provided in § 445.14(b) when more than 4 months of age: *Provided*, That to retain this classification, the flock shall be subjected to one of the following procedures:

(*a*) At intervals of not more than 90 days, a random sample of at least 2 percent of the birds in the flock, with a minimum of 30 birds per pen, shall be tested; or

(*b*) At intervals of not more than 30 days, a sample of 25 cull baby poultry produced from the flock shall be subjected to laboratory procedures acceptable to the Official State Agency and approved by the Service, for the detection and recovery of M. gallisepticum; or

(*c*) At intervals of not more than 60 days, serum samples obtained from at least 100 day-old baby poultry produced from the flock shall be examined for M. gallisepticum antibodies by an authorized laboratory.

(2) A participant handling U.S. M. Gallisepticum Clean products shall keep these products separate from other products in a manner satisfactory to the Official State Agency: *Provided*, That U.S. M. Gallisepticum Clean baby poultry from primary breeding flocks shall be produced in incubators and hatchers in which only eggs from flocks qualified under paragraph (c)(1)(i) of this section are set.

(3) U.S. M. Gallisepticum Clean baby poultry shall be boxed in clean boxes and delivered in trucks that have been cleaned and disinfected as described in § 447.24(a).

31. Part 445, Subpart E, would be amended by adding a new § 445.54 to read as follows:

**§ 445.54 Terminology and classification; States.**

(a) *U.S. Pullorum-Typhoid Clean State.* (1) A State will be declared a U.S. Pullorum-Typhoid Clean State when it has been determined by the Service that:

(i) The State is in compliance with the provisions contained in § 445.23(b)(3)(i) through (vii), § 445.33(b)(3)(i) through (vii), § 445.43(b)(3)(i) through (vi), and § 445.53(b)(3)(i) through (vii).

(ii) No pullorum disease or fowl typhoid is known to exist nor to have existed in hatchery supply flocks within the State during the preceding 12 months: *Provided*, That pullorum disease or fowl typhoid found in waterfowl, exhibition poultry, and game bird breeding flocks will not prevent a State, which is otherwise eligible, from qualifying for a period of two years.

(2) Discontinuation of any of the conditions described in paragraph (a)(1)(i) of this section, or repeated outbreaks of pullorum or typhoid occur in hatchery supply flocks described in paragraph (a)(1)(ii) of this section, or if any infection spreads from the originating premises, the Service shall have grounds to revoke its determination that the State is entitled to this classification. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity for a hearing.

## PART 447—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

32. Subpart A would be amended by adding a new § 447.6 to the table of contents to read as follows:

[1] Published by The American Poultry Association, Inc.

Sec.
447.6 Procedure for determining the status of flocks reacting to tests for Mycoplasma gallisepticum and Mycoplasma synoviae.

33. Part 447, Subpart A, would be amended by adding a new § 447.6 to read as follows:

**§ 447.6 Procedure for determining the status of flocks reacting to tests for Mycoplasma gallisepticum and Mycoplasma synoviae.**

The macroagglutination tests for Mycoplasma antibodies, as described in "Standard Methods for Testing Avian Sera for the Presence of Mycoplasma Gallisepticum Antibodies" published by the Agricultural Research Service, USDA, March 1966, and the microagglutination tests, as reported in the Proceedings, Seventy-Seventh Annual Meeting, United States Animal Health Association, 1973, shall be the official tests.

(a) When reactors are submitted to a laboratory as prescribed by the Official State Agency, the following criteria shall be used to determine if the flock is negative for M. gallisepticum or M. synoviae:

(1) Active air sac lesions, sinusitis, synovitis, or other clinical signs of a respiratory disease;

(2) Recovery by culture of the Mycoplasma for which the flock was tested;

(3) Supplemental serological tests.

(b) If all of these tests are negative, the flock shall be deemed to have had no reactors for the Mycoplasma for which the flock was tested. If the Mycoplasma for which the flock was tested is isolated bacteriologically, the flock shall be considered infected. If any of the other tests described in paragraph (a) (1) or (3) of this section is positive, the flock shall be considered suspicious, and supplemental serological tests shall be conducted according to the following sequence:

(1) If the tube agglutination or the serum plate test is negative, the flock qualifies.

(2) If the tube agglutination or the serum plate test is positive, the hemagglutination inhibition (HI) test shall be conducted.

(3) If the HI test is negative, the flock qualifies.

(4) If HI titers of 1:40 are found, the flock shall be considered suspicious and shall be retested in accordance with paragraph (b)(6) of this section.

(5) If HI titers of 1:80 or higher are found, the flock shall be considered infected: *Provided*, That, at the discretion of the Official State Agency, additional tests may be conducted in accordance with paragraph (b)(6) of this section before final determination of the flock status is made.

(6) Fourteen days after the previous bleeding date, all birds or a random sample comprised of 5 percent of the birds in the flock, with a minimum of 100, whichever is greater, shall be tested by the serum plate or tube agglutination test. Tested birds shall be identified by numbered bands.

(7) If the tube agglutination test or serum plate test is negative for the Mycoplasma for which the flock was tested, the flock qualifies.

(8) If the tube agglutination or serum plate test is positive, the HI test shall be conducted on the reacting samples.

(9) If the HI test is negative, the flock qualifies.

(10) On the retest if HI titers 1:80 or higher are found, the flock shall be considered infected: *Provided*, That, at the discretion of the Official State Agency, additional tests may be conducted in accordance with paragraph (b)(6) of this section before final determination of the flock status is made.

(11) If HI titers of 1:80 or higher are found on the second retest, the flock shall be considered infected for the Mycoplasma for which it was tested.

34. Section 447.26 would be amended by revising the title and the introductory statement of paragraph (a) to read as follows:

**§ 447.26 Procedures for establishing isolation and maintaining sanitation and good management practices for the control of Mycoplasma gallisepticum and Mycoplasma synoviae.**

(a) The following procedures are required for participation in the U.S. M. Gallisepticum Clean and U.S. M. Synoviae Clean classifications:

35. Section 447.26(b)(1) would be revised to read as follows:

(1) Avoid the introduction of Mycoplasma gallisepticum or Mycoplasma synoviae infected poultry;

36. Section 447.43(a) would be revised to read as follows:

(a) The General Conference Committee shall consist of the Assistant Secretary of Agriculture for Conservation, Research, and Education, or his designee, and one member to be elected, as provided in paragraph (b) of this section, from each of the following regions:

37. Section 447.43(d)(2)(iii) would be revised to read as follows:

(iii) Recommending to the Secretary of Agriculture such administrative changes in the requirements of the Plan as may be necessitated by unforeseen conditions when postponement until the next conference would seriously impair the operation of the program. Such recommendations shall remain in effect only until confirmed or rejected by the next Plan Conference, or until sooner rescinded by the committee;

Any person who wishes to submit written data, views, or arguments concerning the proposed amendments to the National Poultry Improvement Plan and Auxiliary Provisions may do so by filing them with the Chairman, Animal Physiology and Genetics Institute, Bldg. 161, BARC-East, Beltsville, Maryland 20705 by November 9, 1974.

All written submissions made pursuant to this notice will be made available for public inspection at said Institute at times and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 1st day of October, 1974.

T. W. EDMINSTER,
*Administrator,*
*Agricultural Research Service.*

[FR Doc.74-23323 Filed 10-8-74;8:45 am]

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PART III

# ENVIRONMENTAL PROTECTION AGENCY

■

# CERTIFICATION OF PESTICIDE APPLICATORS

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 269.1]

## PART 171—CERTIFICATION OF PESTICIDE APPLICATORS

On February 22, 1974, notice was published in the FEDERAL REGISTER (40 CFR Part 171) proposing standards for the certification of applicators of restricted use pesticides pursuant to section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 987, 997).

Section 4(a)(1) of the Act provides that "the Administrator shall prescribe standards for the certification of applicators of pesticides. Such standards shall provide that to be certified, an individual must be determined to be competent with respect to the use and handling of pesticides, or to the use and handling of the pesticide or class of pesticides covered by such individual's certification." The regulations, as proposed, established categories of commercial applicators and set forth minimum standards that commercial and private applicators must meet before they are certified to use pesticides classified under section 3 of the Act for "restricted use."

Written comments on the proposed standards were invited and received from interested parties. All of the comments have been reviewed and are on file with the Agency. Certain of the comments have been incorporated into the revised standards. Some of the revisions involved editorial changes for purposes of clarification. Other changes were made in an effort to balance amended FIFRA's requirements to establish certification standards that will assure the proper use of pesticides with the impact of these requirements upon both pesticide applicators and State agencies responsible for establishing and maintaining certification programs. Significant comments, modifications and policy issues are described below:

1. *General Comments*

The actual general and specific standards (§ 171.4 (b) and (c)) contained in the regulations received little adverse comment and several commentators commended the Agency approach. Some commentators suggested, however, that Congress intended certification standards to relate entirely to human safety; that, therefore, the proposed standards went beyond the intent of Congress; and that some States may not be able to implement the standards by the October 1976, deadline.

While there is no doubt that implementation of strict interpretations of the certification standards may temporarily strain the resources of some States, EPA feels that the inclusive standards as now presented are reasonable, do not go beyond the intentions of Congress, and reflect genuine concern for human health, the environment, and the importance of proper use. Furthermore, EPA feels that they are sufficiently broad and flexible to allow for implementation in all States by October 1976. Finally, in the Agency's opinion, the fact that the standards specifically require that testing be "based on examples of problems and situations appropriate to the particular category or subcategory of the applicators' certification" directly follows the Congressional mandate "to establish restrictions which are suited to the degree of the hazard and adverse environmental effects that could be caused by the misuse of the pesticide." In this connection, however, consideration is given to such factors as the multiplicity of pest control activities requiring different types and levels of competency standards.

Many commentators—particularly pest control companies and associations—strongly urged that there be a "Grandfather clause" in the regulations. The basis for this request was that many commercial applicators have had extensive experience and are licensed as pest control operators by a number of States. Some contended that the State examinations they have already taken and passed exceed the Federal standards.

It is EPA's view that certification under section 4 constitutes a first-time entry into regulation of pesticide use on a national basis and that there is no statutory authority for an across-the-board "Grandfather clause." FIFRA, as amended, specifies that all individuals who use restricted use pesticides must be determined to be competent. In some States, licensing of applicators has consisted merely of granting a business license with little or no emphasis placed on the competency of the applicator. In some few States, however, at least some categories of applicators were required to pass written examinations of varying degrees of difficulty before being granted a license to apply pesticides.

The Agency believes that State plans for the certification of applicators should be considered and evaluated on a case-by-case basis to determine whether or not a State's present or past licensing or certification standards for one or more particular categories meet or exceed those established by the EPA. If EPA is satisfied that a State's current or past licensing procedures do in fact meet the Agency standards, the State may provide that applicators so licensed or certified be initially certified under the new program without reexamination. This aspect will be covered more fully in EPA proposed regulations dealing with State plans which will be published soon. Conversely, if a State's current or past licensing or certification program did not require applicators to meet tests for competency or if such tests were not sufficiently inclusive, those applicators must be tested or retested to meet EPA standards of competence.

Several commentators, particularly those in educational work, expressed the opinion that the proposed standards call for heavy reliance on memorizing facts on such things as pest species, life cycles, dosages, properties of pesticides, and the like. The thrust of these comments was that reliance on memory is dangerous in that the memory is "not infallible."

The proposed standards relate to broad, general areas of knowledge that should be covered in an applicator's certification. The Agency deliberately avoided spelling out the specific testing or certification procedures (other than §§ 171.4(a) and 171.5(b)) believing that such procedures should be left largely up to the discretion of the States. The Agency did not intend to suggest that an extensive amount of rote memory work was required. However, it is the Agency's contention that the certified applicator should have a storehouse of general knowledge to enable him to understand the nature of problems that may be encountered and/or avoided. With such knowledge, the applicator is in a better position to seek out the specific guidance he needs from pesticide labeling, his university, Cooperative Extension Service, State regulatory office, dealer, or other appropriate sources of information.

One commentator expressed concern over what he considered lack of emphasis on pesticides and pesticide container disposal requirements for certified applicators and suggested that reference be made to the FEDERAL REGISTER notice of May 1, 1974, (40 CFR 165) which contains recommended procedures for the disposal and storage of pesticides and pesticide containers. As a result of this comment, disposal knowledge requirements for both private and commercial applicators have been strengthened. In addition, it should be emphasized that guidance contained in 40 CFR 165, and, in some cases, State laws and regulations, may be very helpful in formulating examination questions relating to pesticide disposal needs of individual States.

An issue in the preamble that attracted considerable attention from State agencies, industry associations and pest control companies, was the question of certification of Federal employees who use or supervise the use of restricted use pesticides.

Because of the number of comments received, the complexity of the situation, and because of the fact that a procedural matter is involved, rather than standards for certification per se, the issue of certification of Federal applicators has been considered further and will, more appropriately, be presented in detail in the proposed regulations dealing with the approval of State plans.

Industry associations and pest control companies said that any multi-State concept of certification, such as was mentioned in the proposal for certifying Federal applicators, should apply equally to pest control companies operating in interstate commerce. It is the Agency's view that the two situations are not comparable in that many of the Federal employees are fulfilling legal responsibilities whereas commercial concerns are voluntarily engaging in interstate commerce. However, States with similar situations and a need to facilitate certification of both private and commercial applicators engaged in business in more than one State may, and some will, develop reciprocity procedures at their dis-

cretion. Standards for certification of applicators described in these regulations provide sufficient commonality to permit such procedures—providing great differences do not exist between the States involved.

This procedural matter will also be detailed in regulations dealing with approval of State plans.

An industry commentator objected to the use of the term "restricted use pesticides" in the standards and preamble on the basis that this implies that EPA may classify by chemical pesticide rather than on a use-by-use, product-by-product basis. The Agency prefers to use the term "restricted use pesticide" since that term was used in the Act. However, the Agency wants to make it clear that classification will be by pesticide uses—not by the chemical pesticide per se.

A new § 171.4(e) has been added to read as follows:

(e) The above standards do not apply to the following persons for purposes of these regulations:

(1) Persons conducting laboratory type research involving restricted use pesticides; and

(2) Doctors of Medicine and Doctors of Veterinary Medicine applying pesticides as drugs or medication during the course of their normal practice.

Persons conducting laboratory type research are not considered to be applying pesticides for use to which the restricted classification applies (sec. 3(d)(1)C, amended FIFRA) and they are not, therefore, using pesticides in the sense contemplated by the Act. Laboratory research workers, by the very nature of their occupation can safely be presumed to be familiar with the acute toxic hazards of restricted use pesticides and such research does not present an appreciable hazard to the environment. Further, most uses of restricted use pesticides by such researchers would be in association with tests designed to determine the potential of new chemicals as pesticides rather than for pest control purposes, per se. Accordingly, and in the interest of facilitating exploratory research, EPA feels that such persons do not have to be certified to engage in laboratory type research involving restricted use pesticides.

Field researchers who do require certification are discussed in section-by-section comments of § 171.3(b)(10).

Concern about the status of Veterinarians was expressed in comments by the American Veterinary Medical Association which recommended that provisions of the Act relating to certification should not apply to Doctors of Veterinary Medicine applying pesticides to animals during the course of veterinary medical practice; provided that such veterinarian is not regularly engaged in the business of applying pesticides for hire (amounting to a principal or regular occupation), or does not publicly hold himself out to be a pesticide applicator.

The recommendation seems reasonable since both Doctors of Medicine and Doctors of Veterinary Medicine are qualified and regulated under other laws. In addition, the products involved (pesticides used as drugs and medications) are regulated under the Federal Food, Drug, and Cosmetic Act. Thus, there is no need to require certification of persons using or prescribing these uses of pesticide products.

Veterinarians requiring certification as pesticide applicators are discussed in section-by-section comments of § 171.3(b)(1)(ii).

2. Specific Comments About the Regulations by Section [1]

*§ 171.2(a).* It was pointed out that use of the word "unintended" in the definition of "accident" is inaccurate since some undesirable events may well be deliberate. Therefore, the words "and unintended" have been omitted in the final standards, while the word "unexpected" has been added.

*§171.2(e).* It was pointed out that omission of "animal product" eliminates such legitimate agricultural commodities as eggs, milk and honey. Thus, the words "or animal product" have been added to the definition.

*§171.2(k).* Many commentators noted that use of the word "proficient" in defining the word "competent" implies requiring a much higher level of knowledge than the dictionary definition of "competent." The words "properly qualified" have been substituted for the word "proficient" where used in the standards.

*§ 171.2(n).* EPA's proposed definition of farmer elicited more public comments than did any other provision of the proposed standards. The effect of the proposed definition would have been to limit the private applicator category to persons producing agricultural commodities worth at least $1000 per year.

There were objections from farmers and farm organizations, home gardeners, and State regulatory and extension officials. A major objection was that the proposed definition would discriminate against low-income and retired farmers, and especially home gardeners. As proposed, such persons would have to qualify as commercial applicators or they would not be able to use restricted use pesticides. Some commentators objected to inclusion of the term "farmer" in the regulations at all since it is not mentioned in the Act's definition of "private applicator."

State regulatory officials also objected that it would be administratively difficult to implement the proposed definition (which involved the requirement of production of agricultural commodities having a gross value of at least $1000 per year or which would be expected to have that or greater value at the time of their sale or use).

After reconsidering the matter, EPA has concluded that this definition need not be retained and that there are other ways to ensure that an individual's access to restricted use pesticides is related to his competence to handle such products.

The farmer definition (and $1000 requirement) had been included in the original proposal to assist State agencies in defining the private applicator and to assist in keeping restricted use products from being easily available to persons whose knowledge and experience in using pesticides is limited, e.g., many home gardeners. Farmers and others similarly engaged in agricultural production usually have long experience and familiarity with pesticides and are thus more likely to know how to use a restricted use product properly and safely.

Although it is true that the Act itself does not specifically mention the term "farmer" when defining the term "private applicator," this definition twice refers to "producing agricultural commodities," a clear indication that the private applicator classification was meant to be reserved primarily for farmers and other similar persons. In addition, there were frequent references to farmers in the Legislative History of the Act which is considered in formulating regulations.

Therefore, while eliminating the term "farmer" as a separate definition, along with the dollar value requirement, the concept of limiting the availability of certain highly toxic products to those who regularly employ them and are thus familiar with their potentially dangerous properties when used improperly remains valid. This concept is embodied, in the revised definition of the term "agricultural commodity." In addition, other provisions of FIFRA, as amended, will be employed to ensure that pesticide products available to individuals such as home gardeners are products that can be used properly and safely by the general public. Such provisions include pesticide registration and classification and pesticide packaging and labeling.

*§ 171.3(a).* Several State regulatory officials expressed concern that the phrase "State systems of applicator identification shall adopt these categories * * *" implied that all States would be required to establish all categories, whether or not they are needed in a particular State. This sentence has been clarified by adding the words "as needed."

*§ 171.3(b)(1)(ii).* In recognition of the fact that some veterinarians engage in pest control activities beyond their normal veterinary medical practice, a new paragraph was added as follows:

Doctors of Veterinary Medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large scale use of pesticides are included in this category.

*§ 171.3(b)(10).* This proposed section was expanded to include persons conducting field research with pesticides, and in doing so, use or supervise the use of restricted use pesticides. The omission of such persons in the proposed standards apparently implied that they did not need to be certified.

Exemption of field researchers using or supervising the use of restricted use pes-

[1] Section numbers beginning each new paragraph refer to the original section numbers in the proposed rules unless prefaced with the term "new."

ticides from compentency standards was never intended. Instead, it was the Agency's opinion that such persons would be either: (1) Covered under provisions of section 5 (Experimental Permit) or (2) would be certified in one or more categories (1) through (9) appropriate to their research activities. However, it was brought to the Agency's attention that field researchers often conduct testing which does not involve an experimental permit. Additionally, it was pointed out that research workers' activities may fall within several categories and that certification in all of them could lead to complications and a multiplicity of required certification. In order to simplify the situation, a separate designation for field researchers was established within the Demonstration Pest Control category. The new provision will allow such persons the alternative of being certified under the more inclusive requirements of category 10 pertaining to demonstration or of being certified under a specific category or categories.

§ *171.4(a)* The word "performance" was substituted for the word "demonstration" to avoid confusion with category § 171.3(b)(10) discussed above. In addition, the proposed § 171.4(e) which said that State standards may exceed EPA standards was revised to read, "State standards must conform and be at last equal to those prescribed herein,' and was inserted in this section. An explanation of this change follows in the appropriate section comment.

§ *171.4(c)*. Explanatory paragraph leading to (8), (9), and (10). Some commentators (an industry association, pest control companies, a Federal agency) objected to reference to "college degrees" and "scientific societies" on the basis that such references are philosophical, not a standard of competency. In fact, the references were to standards of competency established by professional scientific societies and were designed to be useful to States in developing their own standards for those applicators in categories 8, 9, and 10. The paragraph has been clarified and placed in the introductory section of § 171.4(c).

§ *171.4(d)*. EPA's proposed standards would have provided for adoption of special standards applicable principally to commercial applicators upon a determination by the Administrator that special competence would be necessary for use of a particular pesticide. There were many objections from State officials, pesticide manufacturers, pest control operators, and farm organizations, mainly on the grounds that this provision would have the effect of setting up a "use by prescription" classification, a concept specifically rejected by the Congress.

EPA did not—and still does not—intend to establish any such classification.

It is quite possible, however, that the re-registration and classification process mandated by amended FIFRA, will indicate that certain pesticide products/uses require special expertise on the part of applicators if they are to be used without causing unreasonable adverse effects on the environment, which is defined by amended FIFRA to include man and animals. There is no way to determine at this time whether there will, in fact, be such situations. It should be noted, however, that section 4 authorizes EPA to establish such special standards, i.e., by authorizing standards of competence applicable not only to "the use and handling of pesticides" generally, but also to "the use and handling of the pesticide or class of pesticides" (emphasis added) to be covered by an individual's certification.

Hopefully, most situations can be adequately handled through appropriate labels and labeling and/or other regulatory measures which EPA is authorized to take. However, the Agency wishes to reserve the concept of this section to be able to handle unforeseen situations. Accordingly, while the contents of proposed § 171.4(d) have been deleted, this section is being reserved in the final regulations for possible use in setting special standards if and when there is a need for them. It is emphasized that any such standard-setting would be done in accordance with the usual rulemaking procedures. Thus, interested parties would be given an opportunity to review and comment on proposed standards before they are promulgated. In addition, adequate time would be provided for affected parties to come into compliance with such standards.

Establishing special standards is not tantamount to setting up a "prescription use" system. The latter is a system in which a pesticide user might obtain authorization to use a particular pesticide for a particular purpose at a particular time and place, the authorization being valid only for that particular situation. In contrast, an applicator who meets a special standard for a particular pesticide would be authorized to use that pesticide within the limits of its registered uses, whenever and wherever necessary without obtaining further authorization.

§ *171.4(e)*. Many commentators expressed concern that the phrasing of this sentence would in effect exert subtle pressure on States to greatly exceed EPA standards in order to ensure acceptance of State plans. On the other hand, use of the word "conform" alone which was suggested as an alternative to "exceed," might likewise be interpreted as meaning that States could not exceed Federal standards for certification. It is not the Agency intention either to encourage or discourage States from exceeding the Federal standards, since this is the State prerogative. Therefore, proposed section 4(e) is deleted and, using guidance from the Legislative History, a sentence to accommodate this situation is inserted in §§ 171.4(a) and 171.5(a).

A new § 171.4(e) has been added to exclude persons conducting laboratory type research involving restricted use pesticides and Doctors of Medicine and Doctors of Veterinary Medicine applying pesticides as drugs or medication during the course of their normal practice (discussed in detail on page 7).

§ *171.5 (a) & (b)*. Many pest control associations and companies expressed the opinion that EPA should require the same standards of competency for private and commercial applicators. Others said that, although they recognized that EPA could allow less comprehensive standards of competency for the private applicators, the Agency should not allow a different method of determining such competency. The latter refers, of course, to allowing the competency of the private applicator to be determined by an oral examination or "equivalent system" while requiring a written examination for the commercial applicator. The Act specifically requires separate standards for commercial and private applicators but does not spell out how competency must be determined. Accordingly, the Agency feels that how competency is to be determined must take into consideration a number of inherent differences between the two groups.

The proposed applicator certification standards included a requirement that private applicators must be able to "read and understand" pesticide labels. There were objections to this requirement on the grounds that some private applicators who would need to use restricted use pesticides are unable to read. Among the farmers of the United States are some who at this time cannot, for one reason or another, read a pesticide label sufficiently to use reading as a method of understanding the content of a pesticide label. The number of such persons is relatively small but they are present (probably in every State but a greater number in some areas than in others), and they are legitimate producers of agricultural commodities. They not only earn their livelihood that way; they are frequently the ones producing crops particularly important to their community. Inability to read a label because the applicator cannot read the English language can in part be handled by extended labeling in the appropriate language.

EPA's proposed standards were based on the role of pesticide labels as the primary means of communicating information relevant to the handling and use of any given pesticide; therefore, the need to read and understand the label and labeling information is considered a particularly important requirement. EPA recognizes the validity of the arguments that accommodation should be provided for the person who produces agricultural commodities yet cannot, for one reason or another, read the label. There is no thought of discriminating against such people by denying a competent person certification. Consequently, a provision has been included in the administration procedures (§ 171.5(b)(1)) to permit States to develop procedures for assessing the competence of persons who, at the time of examination, cannot read. Such procedures must be incorporated in the relevant State plan which, in turn, must be approved by EPA.

The Act does not require that applicator certification be granted for across-the-board access to restricted use products. Section 4 provides that "an individ-

ual must be determined to be competent with respect to the use and handling of pesticides, or to the use and handling of the pesticide or class of pesticides covered by such individual's certification." Thus, FIFRA as amended, provides that a private applicator can be certified to use just one or a particular group of pesticides needed in hisp articular agricultural activities. A person conceivably could learn by oral communication and training all that he needs to know about a small number of pesticides, but not enough to qualify him to use all restricted use pesticides. Any waiver of the reading requirement, therefore, will have to be on a case-by-case basis based on a plan incorporated in the State plan and approved by the Administrator. In any case, where a private applicator cannot read a label and labeling information, he must demonstrate (as is the case for all private applicators) his understanding of the requirements of § 171.5(a). Additionally, certification will focus on each individual restricted use pesticide which he needs in his agricultural operation and he will be authorized to use only those pesticides for which he has demonstrated competence. With respect to § 171.5(a)(2) where the ability to read a label is required, the non-reader must be tested on his understanding of the label and labeling information and must know sources of advice and guidance on the safe and proper use of pesticides. A State must also develop as part of its plan specific procedures for approving certification for such an applicator when he plans to use a new pesticide in his operations.

In order that EPA may provide guidelines to the States in the near future regarding acceptable procedures to use in assessing the competency of those who cannot read a label, EPA is soliciting proposals for appropriate procedures to be used in assessing the competence of these private applicators. Acceptable procedures will be published as part of the guidelines to certification procedures.

Effective date: October 9, 1974.

JOHN QUARLES,
*Acting Administrator.*

OCTOBER 1, 1974.

A new part 171 is added, effective October 9, 1974, to read as follows:

Sec.
171.1 General.
171.2 Definitions.
171.3 Categorization of commercial applicators of pesticides.
171.4 Standards for certification of commercial applicators.
171.5 Standards for certification of private applicators.
171.6 Standards for supervision of non-certified applicators by certified private and commercial applicators.

AUTHORITY: Section 4, Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 86 Stat. 987, 997.

### § 171.1 General.

This section deals with the certification of applicators of restricted use pesticides.

### § 171.2 Definitions.

Terms used in this subpart shall have the meanings set forth for such terms in the Act. In addition, as used in this subpart, the following terms shall have the meanings stated below:

(a) The term "accident" means an unexpected, undesirable event, caused by the use or presence of a pesticide, that adversely affects man or the environment.

(b) The term "Act" means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973), and other legislation supplementary thereto and amendatory thereof.

(c) The term "Administrator" means the Administrator of the Environmental Protection Agency, or any office or employee of the Agency to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) The term "Agency," unless otherwise specified, means the United States Environmental Protection Agency.

(e) The term "agricultural commodity" means any plant, or part thereof, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

(f) The term "calibration of equipment" means measurement of dispersal or output of application equipment and adjustment of such equipment to control the rate of dispersal, and droplet or particle size of a pesticide dispersed by the equipment.

(g) The term "certification" means the recognition by a certifying agency that a person is competent and thus authorized to use or supervise the use of restricted use pesticides.

(h) The term "certified applicator" means any individual who is certified to use or supervise the use of any restricted use pesticides covered by his certification.

(i) The term "commercial applicator" means a certified applicator (whether or not he is a private applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by the definition of "private applicator."

(j) The term "compatibility" means that property of a pesticide which permits its use with other chemicals without undesirable results being caused by the combination.

(k) The term "competent" means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsibility.

(l) The term "common exposure route" means a likely way (oral, dermal, respiratory) by which a pesticide may reach and/or enter an organism.

(m) The term "environment" means water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among them.

(n) The term "forest" means a concentration of trees and related vegetation in non-urban areas sparsely inhabited by and infrequently used by humans; characterized by natural terrain and drainage patterns.

(o) The term "hazard" means a probability that a given pesticide will have an adverse effect on man or the environment in a given situation, the relative likelihood of danger or ill effect being dependent on a number of interrelated factors present at any given time.

(p) The term "host" means any plant or animal on or in which another lives for nourishment, development, or protection.

(q) The term "non-target organism" means a plant or animal other than the one against which the pesticide is applied.

(r) The term "ornamental" means trees, shrubs, and other plantings in and around habitations generally, but not necessarily located in urban and suburban areas, including residences, parks, streets, retail outlets, industrial and institutional buildings.

(s) The term "practical knowledge" means the possession of pertinent facts and comprehension together with the ability to use them in dealing with specific problems and situations.

(t) The term "private applicator" means a certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

(u) The term "protective equipment" means clothing or any other materials or devices that shield against unintended exposure to pesticides.

(v) The term "regulated pest" means a specific organism considered by a State or Federal agency to be a pest requiring regulatory restrictions, regulations, or control procedures in order to protect the host, man and/or his environment.

(w) The term "restricted use pesticide" means a pesticide that is classified for restricted use under the provisions of section 3(d)(1)(C) of the Act.

(x) The term "standard" means the measure of knowledge and ability which must be demonstrated as a requirement for certification.

(y) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(z) The term "susceptibilty" means the degree to which an organism is affected by a pesticide at a particular level of exposure.

(aa) The term "toxicity" means the property of a pesticide to cause any adverse physiological effects.

(bb) The term "under the direct supervision of" means the act or process whereby the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is responsible for the actions of that person and who is available if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied.

**§ 171.3 Categorization of commercial applicators of pesticides.**

(a) *Procedure.* Categories of applicators (other than private) using or supervising the use of restricted use pesticides are identified below. State systems of applicator identification shall adopt these categories as needed, along with such appropriate subcategories as are necessary to meet the particular requirements of the State.

(b) *Categories*—(1) *Agricultural pest control*—(i) *Plant.* This category includes commercial applicators using or supervising the use of restricted use pesticides in production of agricultural crops, including without limiting the foregoing, tobacco, peanuts, cotton, feed grains, soybeans and forage; vegetables; small fruits; tree fruits and nuts; as well as on grasslands and non-crop agricultural lands.

(ii) *Animal.* This category includes commercial applicators using or supervising the use of restricted use pesticides on animals, including without limiting the foregoing, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock, and to places on or in which animals are confined.

Doctors of Veterinary Medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large-scale use of pesticides are included in this category.

(2) *Forest pest control.* This category includes commercial applicators using or supervising the use of restricted use pesticides in forests, forest nurseries, and forest seed producing areas.

(3) *Ornamental and turf pest control.* This category includes commercial applicators using or supervising the use of restricted use pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf.

(4) *Seed treatment.* This category includes commercial applicators using or supervising the use of restricted use pesticides on seeds.

(5) *Aquatic pest control.* This category includes commercial applicators using or supervising the use of any restricted use pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in category 8 below.

(6) *Right-of-way pest control.* This category includes commercial applicators using or supervising the use of restricted use pesticides in the maintenance of public roads, electric powerlines, pipelines, railway rights-of-way or other similar areas.

(7) *Industrial, institutional, structural and health related pest control.* This category includes commercial applicators using or supervising the use of restricted use pesticides in, on, or around food handling establishments, human dwellings, institutions such as schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent areas, public or private; and for the protection of stored, processed, or manufactured products.

(8) *Public health pest control.* This category includes State, Federal or other governmental employees using or supervising the use of restricted use pesticides in public health programs for the management and control of pests having medical and public health importance.

(9) *Regulatory pest control.* This category includes State, Federal or other governmental employees who use or supervise the use of restricted use pesticides in the control of regulated pests.

(10) *Demonstration and research pest control.* This category includes: (i) individuals who demonstrate to the public the proper use and techniques of application of restricted use pesticides or supervise such demonstration, and (ii) persons conducting field research with pesticides, and in doing so, use or supervise the use of restricted use pesticides. Included in the first group are such persons as extension specialists and county agents, commercial representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs. The second group includes: State, Federal, commercial and other persons conducting field research on or utilizing restricted use pesticides.

(c) *Other categories and subcategories.* Any State submitting a plan pursuant to this section for the certification of applicators, as provided for below, may designate such subcategories within the above 10 categories as it deems necessary. In addition, a State may delete a category not needed or may request the Administrator's approval of additional major categories.

**§ 171.4 Standards for certification of commercial applicators.**

(a) *Determination of competency.* Competence in the use and handling of pesticides shall be determined on the basis of written examinations, and, as appropriate, performance testing, based upon standards set forth below and which are approved by the Administrator. Such examination and testing shall include the general standards applicable to all categories (section 171.4(b)) and the additional standards specifically identified for each category or subcategory (if any) in which an applicator is to be classified (section 171.4(c)). State standards must conform and be at least equal to those prescribed herein. In developing the details of standards at the State level and in structuring examinations, it is important to recognize and reflect the extent of competency appropriate and necessary to a particular category.

(b) *General standards for all categories of certified commercial applicators.* (1) All commercial applicators shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. Testing shall be based on examples of problems and situations appropriate to the particular category or subcategory of the applicator's certification and the following areas of competency:

(i) *Label & labeling comprehension.* (*a*) The general format and terminology of pesticide labels and labeling;

(*b*) The understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels;

(*c*) Classification of the product, general or restricted; and

(*d*) Necessity for use consistent with the label.

(ii) *Safety.* Factors including: (*a*) Pesticide toxicity and hazard to man and common exposure routes;

(*b*) Common types and causes of pesticide accidents;

(*c*) Precautions necessary to guard against injury to applicators and other individuals in or near treated areas;

(*d*) Need for and use of protective clothing and equipment;

(*e*) Symptoms of pesticide poisoning;

(*f*) First aid and other procedures to be followed in case of a pesticide accident; and

(*g*) Proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticides and pesticide containers.

(iii) *Environment.* The potential environmental consequences of the use and misuse of pesticides as may be influenced by such factors as: (*a*) Weather and other climatic conditions;

(*b*) Types of terrain, soil or other substrate;

(*c*) Presence of fish, wildlife and other non-target organisms; and

(*d*) Drainage patterns.

(iv) *Pests.* Factors such as: (*a*) Common features of pest organisms and characteristics of damage needed for pest recognition;

(*b*) Recognition of relevant pests; and

(*c*) Pest development and biology as it may be relevant to problem identification and control.

(v) *Pesticides.* Factors such as: (*a*) Types of pesticides;

(*b*) Types of formulations;

(*c*) Compatibility, synergism, persistence and animal and plant toxicity of the formulations;

(*d*) Hazards and residues associated with use;

(*e*) Factors which influence effectiveness or lead to such problems as resistance to pesticides; and

(*f*) Dilution procedures.

(vi) *Equipment.* Factors including:

(a) Types of equipment and advantages and limitations of each type; and

(b) Uses, maintenance and calibration.

(viii) *Application techniques.* Factors including: (a) Methods of procedure used to apply various formulations of pesticides, solutions, and gases, together with a knowledge of which technique of application to use in a given situation;

(b) Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and

(c) Prevention of drift and pesticide loss into the environment.

(viii) *Laws and regulations.* Applicable State and Federal laws and regulations.

(c) *Specific standards of competency for each category of commercial applicators.* Some of the factors referenced in paragraph (b) of this section are of particular importance because of the different types of activities carried out by applicators in each category. Such factors must be especially stressed and specifically reflected in State certification standards, as appropriate. For example, practical knowledge of drift problems should be required of agricultural applicators but not of seed treatment applicators. The latter, however, should be particularly knowledgeable of the hazards of the misuse of treated seed and the necessary precautionary techniques. Many applicators in § 171.3(b) (8), (9), and (10) will have had considerable formal education, training and experience in preparation for their positions. Their competency with respect to the use and handling of pesticides will have been determined by examining boards of their professional scientific societies utilizing standards which equal or exceed those prescribed herein. Such standards should be consulted by States in developing their State standards for certification of such applicators under these regulations. Commercial applicators in each category shall be particularly qualified with respect to the practical knowledge standards elaborated below:

(1) *Agricultural pest control*—(i) *Plant.* Applicators must demonstrate practical knowledge of crops grown and the specific pests of those crops on which they may be using restricted use pesticides. The importance of such competency is amplified by the extensive areas involved, the quantities of pesticides needed, and the ultimate use of many commodities as food and feed. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, re-entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury and community problems resulting from the use of restricted use pesticides in agricultural areas.

(ii) *Animal.* Applicators applying pesticides directly to animals must demonstrate practical knowledge of such animals and their associated pests. A practical knowledge is also required concerning specific pesticide toxicity and residue potential, since host animals will frequently be used for food. Further, the applicator must know the relative hazards associated with such factors as formulation, application techniques, age of animals, stress and extent of treatment.

(2) *Forest pest control.* Applicators shall demonstrate practical knowledge of types of forests, forest nurseries, and seed production in their State and the pests involved. They should possess practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basis for programming pesticide applications. A practical knowledge is required of the relative biotic agents and their vulnerability to the pesticides to be applied. Because forest stands may be large and frequently include natural aquatic habitats and harbor wildlife, the consequences of pesticide use may be difficult to assess. The applicator must therefore demonstrate practical knowledge of control methods which will minimize the possibility of secondary problems such is unintended effects on wildlife. Proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.

(3) *Ornamental and turf pest control.* Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs, plantings, and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this category must demonstrate practical knowledge of application methods which will minimize or prevent hazards to humans, pets, and other domestic animals.

(4) *Seed-treatment.* Applicators shall demonstrate practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers, and surface active agents which influence pesticide binding and may affect germination. They must demonstrate practical knowledge of hazards associated with handling, sorting and mixing, and misuse of treated seed such as introduction of treated seed into food and feed channels, as well as proper disposal of unused treated seeds.

(5) *Aquatic pest control.* Applicators shall demonstrate practical knowledge of the secondary effects which can be caused by improper application rates, incorrect formulations, and faulty application of restricted use pesticides used in this category. They shall demonstrate practical knowledge of various water use situations and the potential of downstream effects. Further, they must have practical knowledge concerning potential pesticide effects on plants, fish, birds, beneficial insects and other organisms which may be present in aquatic environments. These applicators shall demonstrate practical knowledge of the principles of limited area application.

(6) *Right-of-way pest control.* Applicators shall demonstrate practical knowledge of a wide variety of environments, since rights-of-way can traverse many different terrains, including waterways. They shall demonstrate practical knowledge of problems on runoff, drift, and excessive foliage destruction and ability to recognize target organisms. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides within the right-of-way area, and the impact of their application activities in the adjacent areas and communities.

(7) *Industrial, institutional, structural and health related pest control.* Applicators must demonstrate a practical knowledge of a wide variety of pests, including their life cycles, types of formulations appropriate for their control, and methods of application that avoid contamination of food, damage and contamination of habitat, and exposure of people and pets. Since human exposure, including babies, children, pregnant women, and elderly people, is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category. Because health related pest control may involve outdoor applications, applicators must also demonstrate practical knowledge of environmental conditions, particularly related to this activity.

(8) *Public health pest control.* Applicators shall demonstrate practical knowledge of vector-disease transmission as it relates to and influences application programs. A wide variety of pests is involved, and it is essential that they be known and recognized, and appropriate life cycles and habitats be understood as a basis for control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They should also have practical knowledge of the importance and employment of such non-chemical control methods as sanitation, waste disposal, and drainage.

(9) *Regulatory pest control.* Applicators shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulation of pests, and the potential impact on the environment of restricted use pesticides used in suppression and eradication programs. They shall demonstrate knowledge of factors influencing introduction, spread, and population dynamics of relevant pests. Their knowledge shall extend beyond that required by their immediate duties, since their services are frequently required in other areas of the country where emergency measures are invoked to control regulated pests and where individual judgments must be made in new situations.

(10) *Demonstration and research pest control.* Persons demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problem situations will be encountered in the course

of activities associated with demonstration, and practical knowledge of problems, pests, and population levels occurring in each demonstration situation is required. Further, they should demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other control methods. In general, it would be expected that applicators doing demonstration pest control work possess a practical knowledge of all of the standards detailed in section 171.4(b). In addition, they shall meet the specific standards required for categories (1) through (7) of this section as may be applicable to their particular activity.

Persons conducting field research or method improvement work with restricted use pesticides should be expected to know the general standards detailed in 171.4(b). In addition, they shall be expected to know the specific standards required for paragraph (c) (1) through (9) of this section, applicable to their particular activity, or alternatively, to meet the more inclusive requirements listed under "Demonstration."

(d) *Special standards.* This space reserved for possible issuance of Special Standards.

(e) *The above standards do not apply to the following persons for purposes of these regulations.* (1) Persons conducting laboratory type research involving restricted use pesticides; and (2) Doctors of Medicine and Doctors of Veterinary Medicine applying pesticides as drugs or medication during the course of their normal practice.

**§ 171.5 Standards for certification of private applicators.**

(a) Competence in the use and handling of pesticides by a private applicator will be determined by procedures set forth below. State standards must conform and be at least equal to those prescribed herein. As a minimum requirement for certification, a private applicator must show that he possesses a practical knowledge of the pest problems and pest control practices associated with his agricultural operations; proper storage, use, handling and disposal of the pesticides and containers; and his related legal responsibility. This practical knowledge includes ability to:

(1) Recognize common pests to be controlled and damage caused by them.

(2) Read and understand the label and labeling information—including the common name of pesticides he applied; pest(s) to be controlled, timing and methods of application; safety precautions; any pre-harvest or re-entry restrictions; and any specific disposal procedures.

(3) Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances taking into account such factors as area to be covered, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation.

(4) Recognize local environmental situations that must be considered during application to avoid contamination.

(5) Recognize poisoning symptoms and procedures to follow in case of a pesticide accident.

(b) Such competence of each private applicator shall be verified by the responsible State agency through the administration of a private applicator certification system which ensures that the private applicator is competent, based upon the standards set forth above, to use the restricted use pesticides under limitations of applicable State and Federal laws and regulations. A certification system shall employ a written or oral testing procedure, or such other equivalent system as may be approved as part of a State plan.

(1) In any case where a person, at the time of testing for certification, is unable to read a label, the responsible State agency may employ a testing procedure, previously approved by the Administrator, which can adequately assess the competence of such person with regard to all of the above standards. Certification must be related and limited to the use and handling of each individual pesticide for which he desires certification at any time. Therefore, the applicator will be authorized to use only the pesticide(s) for which he has demonstrated competence. A specific procedure is required for section 171.5(a)(2) relating to label comprehension, with testing designed to assure his knowledge of the following:

(i) Understanding of the label and labeling information including those items indicated in that subsection.

(ii) Sources of advice and guidance necessary for the safe and proper use of each pesticide related to his certification.

**§ 171.6 Standards for supervision of non-certified applicators by certified private and commercial applicators.**

Certified applicators whose activities indicate a supervisory role must demonstrate a practical knowledge of Federal and State supervisory requirements, including labeling, regarding the application of restricted use pesticides by non-certified applicators.

The availability of the certified applicator must be directly related to the hazard of the situation. In many situations, where the certified applicator is not required to be physically present, "direct supervision" shall include verifiable instruction to the competent person, as follows: (1) detailed guidance for applying the pesticide properly, and (2) provisions for contacting the certified applicator in the event he is needed. In other situations, and as required by the label, the actual physical presence of a certified applicator may be required when application is made by a non-certified applicator.

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PART IV

# DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

■

# SAFETY AND HEALTH PROVISIONS FOR FEDERAL EMPLOYEES

## Title 29—Labor

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

## PART 1960—SAFETY AND HEALTH PROVISIONS FOR FEDERAL EMPLOYEES

On September 28, 1973, proposed rules for a new Part 1960, Safety and Health Provisions for Federal Employees, were published in the FEDERAL REGISTER (38 FR 27070) for public comment. Over 35 comments were received from Government agencies, private citizens, public interest groups, and labor unions, ranging in length from 1 to 50 pages. Many of the comments raised issues about the basic theory underlying the proposed rules as well as having recommended specific changes.

After careful evaluation of all of the comments received, the Department of Labor revised the proposed regulations and guidelines and presented them to the Federal Safety Advisory Council for further review and comment. Further changes were made in the regulations and guidelines, and at a public meeting on June 10, 1974, the Council voted to approve the version submitted to it and recommended that it be adopted, as modified, by the Secretary of Labor. The regulations and guidelines considered by the Council reflect the changes made in the new Executive Order being issued simultaneously with this part. The Council was kept informed of the major changes in the Executive Order during its deliberations of the provisions of this part.

Subpart A of these provisions has been changed to make it clearer that the regulations and guidelines apply only to Federal employees and do not apply to employees of private contractors even where the contract work is performed in Government-owned or -leased facilities, or with Government equipment or in conjunction with Federal personnel. Another change in Subpart A was the inclusion of a definition of the term "representative of employees" which clarifies the relationship between the employee-participation requirements of section 19 of the Act and labor-management relations arrangements for Federal employees.

The recordkeeping requirements in Subpart B have been changed to provide agencies with more flexibility in their recordkeeping systems.

The functions of safety and health officials and committees have been clarified by changes in Subpart C and other portions of these guidelines. It is anticipated that the Civil Service Commission will provide agencies with appropriate guidance in personnel matters affected by the provisions of this part.

Subpart D has been changed, principally to improve the procedures for employee reports of unsafe or unhealthful working conditions. The functions of the designated safety and health official have been further described to specify which responsibilities he may delegate and which he should perform himself. The provisions dealing with abatement procedures have been changed to specify and allocate responsibility for correction of hazards, and to allow procedures with appropriate time-periods for abatement plans.

Other changes include the expansion of the provisions regarding standards into a separate subpart. The type of consultation to be provided by the Secretary of Labor during the standards adoption process has been made compatible with the differing methods by which Federal agencies may arrive at a comprehensive body of standards. The problems associated with conflicting standards have been addressed and changes on this point reflect the need for methods to resolve difficult situations that may arise as a result of the application of standards of other Federal agencies.

A new subpart on Field Federal Safety and Health Councils has been added. Many of these councils are already in existence and the importance of their work is expected to increase.

It is expected that the Federal agencies will be provided with further guidelines regarding training, field councils, and other areas of occupational safety and health matters.

Accordingly, pursuant to sections 19 and 24 of the Occupational Safety and Health Act of 1970, 84 Stat. 1609, 1614, 29 U.S.C. 668, 673, Secretary of Labor's Order No. 12–71 (36 FR 8754) and the provisions of Executive Order 11807, this part is adopted and reads as follows:

### Subpart A—General


Sec.
1960.1 Purpose and scope of this part.
1960.2 Definitions.


### Subpart B—Recordkeeping and Reporting Requirements for Occupational Injuries, Illnesses and Accidents


1960.3 Purpose, scope and general provisions.
1960.4 Record or log of Federal occupational injuries and illnesses.
1960.5 Supplementary record of Federal occupational injuries and illnesses.
1960.6 Quarterly an dannual summaries of Federal occupational injuries and illnesses.
1960.7 Quarterly and annual summaries of Federal occupational accidents.
1960.8 Reporting of serious accidents.
1960.9 Location and utilization of records and reports.
1960.10 Access to records by Secretary of Labor.
1960.11 Retention of records.
1960.12 Plan of action.
1960.13 [Reserved.]
1960.14 [Reserved.]


### Subpart C—Agency Organization


1960.15 Purpose and scope.
1960.16 Designated safety and health official.
1960.17 Safety and health committees.
1960.18 Posting of notice; availability of Act, this part, and details of the agency safety and health program.
1960.19 Duties of agency officials and employees.
1960.20–24 [Reserved.]


### Subpart D—Procedures for Inspections and Abatement


Sec.
1960.25 Purpose, scope and general provisions.
1960.26 Safety and health inspectors; frequency of inspection.
1960.27 Conduct of inspection.
1960.28 Advance notice of inspections.
1960.29 Representatives of officials in charge and representatives of employees.
1960.30 Consultation with employees.
1960.31 Reports by employees of unsafe or unhealthful working conditions.
1960.32 Imminent danger.
1960.33 Notices of unsafe or unhealthful working conditions.
1960.34 Correction of unsafe or unhealthful working conditions.
1960.35–39 [Reserved.]


### Subpart E—Agency Occupational Safety and Health Standards


1960.40 Purpose and scope.
1960.41 Procedures for adoption.
1960.42 Initial adoption of agency standards.
1960.43 Adoption of different and/or supplementary agency standards.
1960.44 Conflicting standards.
1960.45 Emergency standards.
1960.46 Access to standards.
1960.47–49 [Reserved.]


### Subpart F—Field Federal Safety and Health Councils


1960.50 Purpose and scope.
1960.51–59 [Reserved.]


AUTHORITY: Sections 19 and 24 of the Occupational Safety and Health Act of 1970, 84 Stat. 1609, 1614, 29 U.S.C. 668, 673, and the provisions of Executive Order 11807.

### Subpart A—General

#### § 1960.1 Purpose and scope of this part.

(a) The primary purpose of the Occupational Safety and Health Act of 1970 is to assure safe and healthful working conditions for all employees in the Nation. While the enforcement procedures in sections 8, 9 and related sections of the Act do not apply to the Federal Government as an employer, Section 19 of the Act contains special provisions to afford protection to Federal employees. Under that section, it is the responsibility of the head of each Federal agency to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standard promulgated under section 6 of the Act. The Secretary of Labor has important responsibilities in connection with the Federal agency occupational safety and health program, stemming from his duty under Section 19 to report to the President his evaluations and recommendations with respect to the programs of the various agencies. In addition, under Section 24 of the Act, the Secretary is directed to develop and maintain an effective program of collection, compilation and analysis of occupational safety and health statistics. To carry out that mandate, private-sector employers are required to file reports with the Secretary. While these reporting requirements do not apply to Federal agencies, the duties which section

24 imposes upon the Secretary of Labor necessarily extend to the collection, compilation and analysis of occupational safety and health statistics from the Federal Government, so that the Secretary may carry out the mandate of section 24 to conduct a comprehensive statistical program of job related injuries.

(b) The earlier Executive Order, No. 11612, issued on July 26, 1971 to implement the provisions of section 19 of the Act, has been reconsidered in light of experience, and a new Executive Order 11807 was issued on September 28, 1974 to replace it. Under the new Executive Order, certain detailed responsibilities of the heads of agencies are set forth, and the Secretary of Labor is required to issue recordkeeping and reporting regulations to carry out the provisions of Section 24 of the Act. In addition, the Secretary is required to issue guidelines which the heads of agencies are required to observe, taking into account the mission, size and organization of the agency. The purpose of this part is to carry out the requirements that the Secretary issue regulations and guidelines for the safety and health programs of the various federal agencies.

(c) Since, under section 24 of the Act and section 3(2) of the Order, the Secretary is authorized to prescribe requirements for the agencies with respect to recordkeeping and reporting, the provisions in Subpart B of this part have generally been phrased in mandatory terms. The remaining subparts are guidelines to the agencies to assist them establish and operate effective safety and health programs. While the guidelines are phrased in nonmandatory terms, it should be emphasized that under terms of the new Executive Order the heads of the agencies are required to observe the guidelines, taking into consideration the mission, size and organization of the agency. It is the view of the Secretary that these guidelines will constitute a framework for a strong occupational safety and health program for Federal employees.

(d) Under the new Executive Order the Secretary is required to perform various services for the agencies. Agencies are encouraged to seek the assistance of the Secretary as needed to comply with the guidelines of this part and to otherwise operate effective safety and health programs for their employees. In addition, the Secretary will seek, with the cooperation of agency heads, to establish permanent channels between the Office of Federal Agency Safety Programs, Occupational Safety and Health Administration, U.S. Department of Labor, and Federal agencies to enable the purposes of this part to be effectuated, including agreements concerning the transmittal by agencies of information needed by the Secretary as set forth herein. Upon the request of an agency, the Office of Federal Agency Safety Programs will review proposed agency plans for the implementation of the provisions of this part in order to assure that such plans are in conformity with the intent of these provisions. To further aid the implementation of these guidelines, the Department of Labor will take steps to prepare and distribute handbooks to assist agencies in observing the guidelines of the Secretary in accordance with individual agency missions, sizes and organizations.

(e) The new Executive Order requires the heads of agencies to consult with representatives of employees and to provide for employee participation in the operation of agency safety and health programs. This requirement reflects the provisions of section 19 of the Act. In order to provide agencies with some guidance in this regard, the provisions of this part suggest specific instances where participation by employees and their representatives is particularly important in the operation of an agency's safety and health program. Such participation by employees and their representatives is separate but consistent with the provisions of other Executive Orders dealing with labor-management relations within the Federal Government.

(f) The regulations and guidelines of this part are applicable only to Federal employees and do not apply to employees of private contractors performing work under Government contracts, regardless of whether such privately employed workers perform their duties in Government-owned or-leased facilities, with government equipment, and together with government personnel. Protection of employees of private contractors is assured under the other provisions of the Act. Although this part does not make provision for the inclusion of Federal contractors nor their employees in agency safety and health programs, except as provided in § 1960.8 for reporting of serious accidents, safety and health programs operated pursuant to this part will offer some incidental protection to contractor employees working with Federal employees. Some agencies may wish to make further arrangements with such contractors to promote the safety and health of contractor employees when they are engaged in joint operations with Federal personnel. Agencies who wish to make such arrangements would be well advised to consult with their legal and budgetary personnel in this regard. Further, no such arrangement shall operate to relieve Federal contractors or their employees of any rights or responsibilities under the provisions of the Act, including compliance activities conducted by the Department of Labor or other appropriate authority.

### § 1960.2 Definitions.

(a) "Act" means the Williams-Steiger Occupational Safety and Health Act of 1970 (Stat. 1590 et seq., 29 U.S.C. 651 et seq.).

(b) The term "agency" for the purposes of this part means an Executive Department, as defined in 5 U.S.C. 101, or any employing unit or authority of the government of the United States not within an Executive Department to which the provisions of Executive Order 11807 are applicable.

(c) The term "employee" as used in this part means any person employed or otherwise suffered, permitted or required to work by an "agency" as the latter term is defined in paragraph (b) of this section including non-civilian personnel.

(d) As used in Executive Order 11807, the term "consultation with representatives of the employees thereof" shall include such consultation, conference, or negotiation with representatives of agency employees as is consistent with Executive Order 11491, as amended, Executive Order 11636, or other collective bargaining arrangement. As used in this part, the term "representative of employees" should be interpreted with due regard for any obligation imposed by the aforementioned Executive Orders and any labor agreement that may cover the employees involved.

(e) The term "establishment" means a single physical location where business is conducted or where services or operations are performed. Where distinctly separate activities are performed at a single physical location, each activity shall be treated as a separate establishment.

(f) The term "reporting unit" means an establishment, except as otherwise agreed between the agency and the Office of Federal Agency Safety Programs, U.S. Department of Labor. Any such agreement in effect prior to the promulgation of this part shall remain in effect unless either party desires modification.

(g) The term "designated safety and health official" means the individual who is responsible for the management of the safety and health program within his agency and is designated or appointed by the head of the agency pursuant to § 1960.16 and the provisions of Executive Order 11807.

(h) The term "safety and health specialist" means a person or persons who meet the Civil Service standards for Safety Manager/Specialist GS–018, Safety Engineer GS–803, Fire Protection Engineer GS–804, Industrial Hygienist GS–690, Fire Protection Specialist/Marshal GS–801, Health Physicist GS–1306, or equally qualified military, agency or nongovernment personnel.

(i) The term "safety and health inspector" means a safety and health specialist or other person authorized pursuant to § 1960.26 of this part to carry out inspections for the purpose of Subpart D of this part.

(j) The term "working days" means Mondays through Fridays (excluding Federal holidays), or other appropriate authorized days of agency operation.

(k) "Recordable occupational injuries or illnesses" are any occupational injuries or illnesses which result in:

(1) Facilities, regardless of the time between the injury and death, or the length of the illness; or

(2) Cases, other than fatalities, that result in lost workdays; or

(3) Non-fatal cases without lost workdays which result in transfer to another job or termination of employment, or require medical treatment (other than first aid), or involve loss of consciousness

or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

(l) "Medical treatment" includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even though provided by a physician or registered professional personnel.

(m) "First aid" is any one-time treatment, and any followup visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment, and followup visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel.

(n) The term "lost workdays" means the number of days the employee would have worked but could not because of occupational injury or illness. The number of lost workdays should not include the day of injury. The number of days includes all days (consecutive or not) on which, because of the injury or illness:

(1) the employee would have worked but could not, or

(2) the employee was assigned to a temporary job, or

(3) the employee worked at a permanent job less than full time, or

(4) the employee worked at a permanently assigned job but could not perform all duties normally assigned to it.

For employees not having a regularly scheduled shift, i.e., certain truck drivers, construction workers, part-time employees, etc., it may be necessary to estimate the number of lost workdays. Estimates of lost workdays shall be based on prior work history of the employee and days worked by employees, not ill or injured, working in the agency and/or occupation of the ill or injured employee.

## Subpart B—Recordkeeping and Reporting Requirements for Occupational Injuries, Illnesses and Accidents

### § 1960.3 Purpose, scope and general provisions.

(a) The purpose of this subpart is to establish uniform requirements for the collection and compilation by agencies of occupational safety and health data, thereby assisting the Secretary of Labor in meeting the requirement imposed upon him by Section 24 of the Act to "develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics," and enabling agencies to establish occupational safety and health management information systems pursuant to the requirements of Executive Order 11807.

(b) In order to perform his duties under Section 19 of the Act and Executive Order 11807, particularly with respect to providing the President with current information about the Federal agency safety and health program, it is necessary that the Secretary be promptly informed of serious accidents involving agency employees as provided in § 1960.8. Assistance to agencies in the investigation of such accidents is available pursuant to the provisions of Executive Order 11807, and agencies are urged to avail themselves of such assistance.

(c) Each agency should seek to utilize the information collected through its management information system to identify unsafe and unhealthful working conditions, and to establish program priorities. Assistance by the Secretary of Labor in such matters is available to agencies pursuant to the provisions of Executive Order 11807. The guidelines in § 1960.9 of this subpart, which discuss the utilization of agency records and reports, were developed to assist agencies to further joint labor-management safety and health efforts in this regard.

(d) The Department of Labor shall provide Federal agencies with detailed instructions for the proper completion of the recordkeeping and reporting forms specified in §§ 1960.4, 1960.5, 1960.6, and 1960.7, with which agencies shall comply. The Department of Labor shall also provide agencies with sufficient copies of all forms necessary to record and report the required information. Occupational Safety and Health Administration (OSHA) Forms No. 100F, 101F, 102F, 102FF, and instructions for their completion are hereby filed with the Office of the Federal Register as part of the original document. Copies may also be inspected during regular business hours at the Office of Federal Agency Safety Programs, U.S. Department of Labor, Washington, D.C. 20210.

(e) The provisions of this subpart are not intended to discourage agencies from utilizing recordkeeping and reporting forms which contain a more detailed breakdown of information than the forms provided by the Department of Labor, nor are they intended to preclude agencies from establishing accident, injury and illness subcategories within the coded categories established by the Department of Labor for the completion of its forms, provided that subtotals are provided for each coded category established by the Department of Labor.

(f) Information required to be submitted to the Department of Labor by this subpart may be submitted on media processable by electronic data processing equipment provided that such media comply with the requirements of the Office of Federal Agency Safety Programs, U.S. Department of Labor.

(g) Information concerning occupational injuries, illnesses or accidents which, pursuant to statute or Executive Order, must be kept secret in the interest of national defense or foreign policy, shall be recorded on separate forms. Such records shall not be submitted to the U.S. Department of Labor, but may be used by the appropriate Federal agency in evaluating the agency's program to reduce occupational injuries, illnesses and accidents.

### § 1960.4 Record or log of Federal occupational injuries and illnesses.

(a) Each Federal agency shall maintain a record or log of all recordable occupational injuries and illnesses for each establishment. Where both civilian and noncivilian employees are employed at a single establishment, separate records or logs shall be maintained for each category.

(b) Within 6 working days after receiving information of a recordable occupational injury or illness, appropriate information concerning such injury or illness shall be entered on the record or log. For this purpose, OSHA Form No. 100F, or its equivalent, shall be used and shall be completed in the detail required by that form and the instructions contained therein.

### § 1960.5 Supplementary record of Federal occupational injuries and illnesses.

In addition to the record or log of Federal occupational injuries and illnesses provided for under § 1960.4, each Federal agency shall maintain a supplementary record for each occupational injury and illness. The record shall be completed within 6 working days after the receipt of information that a recordable occupational injury or illness has occurred. For this purpose, OSHA Form No. 101F, or Federal Employees' Compensation Forms, or other equivalent forms may be used. OSHA Form No. 101F, or its equivalent, shall be completed in the detail required by the form and the instructions contained therein.

### § 1960.6 Quarterly and annual summaries of Federal occupational injuries and illnesses.

(a) Each Federal agency, on a calendar year basis, should compile an annual summary of occupational injuries and illnesses for each establishment, and shall compile both a quarterly and annual summary of occupational injuries and illnesses for each reporting unit. The summaries shall be based on the record or log of Federal occupational injuries and illnesses maintained pursuant to § 1960.4. OSHA Form No. 102F shall be used for these purposes, and shall be completed in the form and detail required by that form and the instructions contained therein.

(b) Each agency shall furnish the Department of Labor with a copy of its quarterly and annual summaries compiled on the basis of reporting units. Each quarterly summary and the annual summary of Federal occupational injuries and illnesses shall be completed and forwarded to the Department of Labor no later than 45 calendar days after the close of the applicable reporting period.

### § 1960.7 Quarterly and annual summaries of Federal occupational accidents.

(a) Each Federal agency, on a calendar year basis, shall compile both a quarterly and an annual summary of Federal occupational accidents for each reporting unit. OSHA Form No. 102FF shall be used for this purpose, and shall be completed in the form and in the detail required by that form and the instruction contained therein.

(b) Each quarterly summary and the annual summary of Federal occupational accidents shall be completed and forwarded to the Department of Labor no later than 45 calendar days after the close of the applicable reporting period.

**§ 1960.8 Reporting of serious accidents.**

(a) Within 2 working days after the occurrence of an employment accident which is fatal to one or more employees, which results in the hospitalization of five or more employees, or which involves property damage of $100,000 or more, or within 2 working days after the occurrence of a death which is the result of an employment accident, the head of the Federal agency shall report the accident either by telephone or by telegraph to the Secretary of Labor. The report shall relate the circumstances of the accident, any actions taken by the agency regarding the accident, the number of fatalities, and the extent of any injuries. The agency head shall also report any employment accident involving both Federal and non-Federal employees which results in a fatality or the hospitalization of five or more such employees. The Secretary of Labor may require such additional reports, in writing or otherwise, as he deems necessary.

(b) Agencies shall construe the term "employment accident" in a liberal manner for the purposes of this section, and shall report such accidents even where there is some doubt as to the relationship between the accident and the "course" or "scope" of employment activities. This requirement is necessary in order that the Secretary of Labor may meet his legal obligations, and the reporting of an accident pursuant to this section therefore does not preclude an agency from making separate determinations regarding the circumstances of the accident as they may relate to administrative or legal proceedings to establish liability for compensation.

**§ 1960.9 Location and utilization of records and reports.**

(a) Section 2(b)(13) of the Act declares that one of the purposes of the Act is to encourage joint labor-management efforts to reduce injuries and disease arising out of employment; and, as set forth in § 1960.1(e), the participation of all employees and labor organizations representing employees has been deemed particularly significant in the success of a Federal agency's occupational safety and health program. The provisions of this section, dealing with the availability of information compiled pursuant to the provisions of this subpart, are designed to guide agencies in providing agency employees and their representatives with the basic information necessary to assure that they can actively participate in an agency safety and health program. The provisions of this section are also designed to encourage agencies to allow agency safety and health inspectors to have direct access to the accident, injury and illness records of the establishments they are inspecting in order that they may better carry out their duties pursuant to Subpart D of this part.

(b) The log and supplementary records required by §§ 1960.4 and 1960.5 should be maintained at each establishment. Where, for reasons of efficient administration or practicality, an agency must maintain these records at a place other than at each establishment, such agency should ensure that there is available at each establishment a copy of these records. The copy of the log so maintained or made available at an establishment should reflect separately the injury and illness experience of that esttablishment. These records should be complete and as current as possible; in no case should more than 45 days elapse after the recording of an illness or injury occurring in an establishment and the availability of the records reflecting that injury or illness at that establishment.

(c)(1) For agencies engaged in activities such as agriculture, construction, transportation, communications, and electric, gas and sanitary services, which may be physically dispersed, the log and supplementary records, or copies thereof, may be maintained at a place to which employees report each day.

(2) For personnel who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as traveling employees, technicians, engineers, etc., the log and supplementary records, or copies thereof, may be maintained at the location from which they are paid or the base from which personnel operate to carry out their activities.

(d) Each Federal agency should post a copy of the annual summary of Federal occupational injuries and illnesses for an establishment, as compiled pursuant to § 1960.6, at such establishment, no later than 45 calendar days after the close of the calendar year, or otherwise disseminate a copy of the annual summary for an establishment in written form to all employees of the establishment. Copies of the annual summary should be posted for a minimum of 30 consecutive days in a conspicuous place or places in the establishment where notices to employees are customarily posted. Where establishment activities are physically dispersed, the notice may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the notice may be posted at the location from which the employees operate to carry out their activities. Each Federal agency should take any necessary steps to ensure that such summary is not altered, defaced, or covered by other material.

(e) The head of each agency should make provision to ensure the availability of the records maintained under this subpart to employees and, with the permission of the employees involved, to representatives of employees. Such provision should be in accordance with other applicable statutes and regulations, and any applicable collective bargaining agreements.

(f) Agency safety and health inspectors should have access to accident, injury and illness records in accordance with the provisions of § 1960.27(b).

**§ 1960.10 Access to records by Secretary of Labor.**

The records required to be maintained under the provisions of this subpart shall be available and made accessible to the Secretary of Labor or his authorized representative (including personnel of the National Institute for Occupational Safety and Health) unless such records are specifically required by statute or Executive Order to be kept secret in the interest of national defense or foreign policy, in which case the Secretary of Labor shall have access to only such information as will not jeopardize national defense or foreign policy. The Secretary of Labor or his authorized representative shall request access to such records from the head of the agency prior to examination.

**§ 1960.11 Retention of records.**

The records and reports required to be maintained under the provisions of this subpart shall be retained by each agency for 5 years following the end of the calendar year to which they relate, at any location including a Federal record retention center, to which the Secretary of Labor or his authorized representative would have reasonable access.

**§ 1960.12 Plan of action.**

If it has not already done so by the effective date of this part, each Federal agency shall submit the following information to the Department of Labor no later than January 1, 1975 and at such other times as changes occur:

(a) A list of the names and addresses of each Federal reporting unit which will be covered in the records and reports required by this subpart.

(b) The average number of full-time and part-time personnel employed in each reporting unit for which separate records and reports will be maintained.

(c) A brief description of any differences between an agency's internal recordkeeping and reporting system and the recordkeeping and reporting system provided by this subpart.

Any Federal agency created or reorganized after October 1, 1974 shall submit an appropriate plan within sixty working days of commencement of operations as a new entity.

**§ 1960.13 [Reserved]**

**§ 1960.14 [Reserved]**

## Subpart C—Agency Organization

**§ 1960.15 Purpose and scope.**

(a) The provisions of this subpart have been developed by the Secretary of Labor to provide guidance to agency heads in the management of an effective and comprehensive occupational safety and health program.

(b) Nothing in this subpart is intended in any way to modify the organization or the operation of an agency health services program conducted pur-

suant to 5 U.S.C. 7901 and OMB Circular A–72. Such a program can, however, contribute to the successful implementation of the occupational safety and health program set forth by this part, by providing for medical examinations, other health monitoring procedures, and the maintenance of medical records, where agency safety and health standards adopted pursuant to this part so require. The Department of Labor will cooperate with the Civil Service Commission and other appropriate authorities and organizations to resolve problems which arise in connection with the implementation of an agency occupational safety and health program in relation to health services and other personnel policies and programs.

**§ 1960.16 Designated safety and health official.**

(a) Executive Order 11807 provides that the head of each agency shall:

> Designate or appoint, to be responsible for the management and administration of the agency occupational safety and health program, an agency official with sufficient authority to represent effectively the interest and support of the agency head.

It is the considered judgment of the Secretary of Labor that an official of the rank of Assistant Secretary, or of equivalent rank or equivalent degree of responsibility, would be of such stature as to be able to fill such a position adequately. It is also the considered judgment of the Secretary of Labor that in order for such official "to represent effectively the interest and support of the agency head," such official should have sufficient headquarters staff with necessary training and experience, and who report directly and exclusively to such official, to carry out his functions under this part.

(b) The designated safety and health official should assist the agency head in establishing: (1) an occupational safety and health policy to carry out the provisions of section 19 of the Act and Executive Order 11807; (2) an organization and set of procedures that will effectively implement that policy by observing the provisions of this part, considering the mission, size and organization of the agency; (3) goals and objectives for reducing and eliminating occupational accidents, injuries and illnesses; (4) plans and procedures for evaluating the agency's occupational safety and health program effectiveness at all operational levels; and (5) priorities with respect to the factors which cause occupational accidents, injuries and illnesses so that appropriate corrective action can be taken.

(c) The designated safety and health official should assist the agency head in taking appropriate steps to provide sufficient funds for necessary safety and health staff, equipment, material, and training required to ensure an effective agency occupational safety and health program.

**§ 1960.17 Safety and health committees.**

The head of each agency should provide for the establishment of agency safety and health committees, composed of representatives of management and representatives of the employees, at the national level, at the regional or comparable level, and at the establishment level, for the purpose of advising and assisting agency officials, at those respective levels, with respect to their responsibilities under the agency occupational safety and health program. Such committees may also include technical personnel in accordance with the functions to be performed by a particular committee. Suggested functions of such committees are set forth in §§ 1960.25(b) and 1960.41, but these are not exclusive.

**§ 1960.18 Posting of notice; availability of Act, this part, and details of the agency safety and health program.**

(a) Each agency should post and keep posted a notice or notices informing employees of the protections and obligations provided for in the Act, Executive Order 11807 and agency programs under this part. The Department of Labor will furnish a uniform poster to agencies. Each agency should add to this uniform poster, or include in its notice or notices, the details of the agency's procedures (established pursuant to § 1960.31) for reports by employees of possible unsafe or unhealthful working conditions of which they have cognizance, the location where employees will be able to obtain information about the agency's occupational safety and health program, including specific agency occupational safety and health standards, and relevant information about any establishment safety and health committee. Such notice or notices should be posted by the agency in each establishment in a conspicuous place or places where notices to employees are customarily posted. Such notices should not be altered, defaced, or covered by other material, and should be kept up to date. Agencies may also convey the information required by this paragraph to employees by other means, provided the notice or notices are also posted in accordance with this paragraph.

(b) Copies of the Act, Executive Order, regulations and guidelines published in this part, details of the agency's safety and health program and applicable safety and health standards, or summaries of any of the forgoing items, should be made available upon request to employees or employee representatives for review in the establishment where the employees are employed as soon as practicable and at a time mutually convenient to the employees or employee representatives and the agency.

**§ 1960.19 Duties of agency officials and employees.**

(a) Each employee who exercises any supervisory functions should comply with agency occupational safety and health standards and all rules, regulations, and orders issued by the head of the agency with respect to the agency occupational safety and health program. In addition, any such employee who is the official in charge of an establishment should comply with any additional rules, regulations or orders issued by the head of the agency to implement the provisions of Subpart D of this part with respect to the particular duties of such an official in the identification and correction of unsafe or unhealthful working conditions.

(b) Each employee should comply with agency occupational safety and health standards and all rules, regulations, and orders issued by the head of the agency which are applicable to an employee's own actions and conduct; and each employee should report any unsafe or unhealthful working condition of which he becomes aware to employees who exercise supervisory functions, or, pursuant to the procedure established in accordance with the provisions of § 1960.31 to this part, to agency safety and health officials.

(c) The head of each agency should ensure that in any evaluation of performance or potential, the excellence or culpable failure of each official in charge of an establishment, supervisory employee, or other employee in the performance of his or her occupational safety and health responsibilities be taken into consideration in accordance with any applicable rules of the Civil Service Commission or other appropriate authority. Recognition of group or individual superior performance should be encouraged.

(d) The head of each agency should ensure that needed safeguards are included in the agency occupational safety and health program to ensure that no employee is subject to restraint, interference, coercion, discrimination or reprisal by virtue of such employee's participation in the agency occupational safety and health program, including the filing of a report of an unsafe or unhealthful working condition, the initiation of any proceeding under or related to this program, participation by comment or testimony in such proceeding, or the exercise by such employee on behalf of himself or of others of any other right afforded by section 19 of the Act, Executive Order 11807, and the agency program established pursuant to this part. These safeguards should include procedures for the enforcement of these rights which should be consistent with any rules and regulations of the Civil Service Commission and of the agency involved which deal with such matters of restraint, interference, coercion, discrimination, or reprisal.

**§§ 1960.20–24 [Reserved]**

## Subpart D—Procedures for Inspections and Abatements

**§ 1960.25 Purpose, scope and general provisions.**

(a) Executive Order 11807 provides that the head of each agency shall:

> * * * assure prompt attention to reports by employees or others of unsafe or unhealthful working conditions; assure periodic inspections of agency workplaces by personnel with sufficient technical competence to recognize unsafe and unhealthful working conditions in such workplaces; and assure

prompt abatement of unsafe or unhealthful working conditions, including those involving facilities and/or equipment furnished by another Government agency, informing the Secretary of significant difficulties encountered in this regard.

The purpose of this subpart is to provide guidance to agency heads in carrying out these duties.

(b) It is the general intent of these guidelines that day to day responsibility for the inspection and abatement activities to be carried out pursuant to the provisions of this subpart be delegated by designated safety and health officials of agencies to appropriate agency personnel qualified for this purpose. The Secretary of Labor recognizes, however, that designated safety and health officials may desire and should in fact retain personal responsibility for some day to day agency safety and health activities. Appropriate provisions has therefore been made in these guidelines for the direct exercise of responsibility by designated safety and health officials where, as in §§ 1960.31, 1960.32, and 1960.34, communication with the Secretary of Labor may be involved.

(c) Safety and health committees at the establishment and higher levels, as described in § 1960.17, can play a significant role in assisting the designated safety and health official and his respective designees in carrying out their safety and health duties and the provisions of this subpart, as suggested by §§ 1960.26 (b), 1960.29(a) and 1960.31(f). Such committees should be kept informed of safety and health matters within their area of concern, as provided in §§ 1960.32, 1960.33(a) and 1960.34(c).

(d) The provisions of this subpart are not intended to relieve agencies which occupy space for which the General Services Administration or another agency has assignment responsibility from the duties imposed upon them by such occupancy, including the development and maintenance of sound fire prevention programs for such facilities, the conservation of services and supplies, the use of good housekeeping methods, the preservation of a good working atmosphere, participation in a Facility Self-Protection Plan for dealing with safety emergencies, and payment of user charges. Agencies providing safety and health services pursuant to this subpart and which occupy space for which GSA or another agency has assignment responsibility should take note of those services which GSA or the other agency provides for various levels of user charges, and appropriate reimbursement provisions where the agency performs the services for which GSA or the other agency has responsibility.

(e) Nothing in the provisions of this subpart is intended to preclude arrangements between agencies for the exchange of information and personnel necessary to carry out these provisions.

(f) Executive Order 11807 authorizes assistance to agencies by the Secretary of Labor, upon request and reimbursement for the expenses thereof, in the training of appropriate agency safety and health personnel, the conduct of inspections, and the abatement of unsafe or unhealthful working conditions. Agencies are encouraged to take advantage of such assistance, particularly with respect to the investigation of serious accidents.

(g) The Secretary of Labor has determined that in order to successfully perform his consultation, evaluation and guidance functions pursuant to Section 3 of Executive Order 11807, he needs certain information from each agency about special problems that occur in agency inspection and abatement activities. Accordingly, agencies should furnish the information retquested in §§ 1960.31, 1960.32 and 1960.34, pursuant to agreements with the Secretary concerning the transmittal of information.

### § 1960.26 Safety and health inspectors; frequency of inspection.

(a) Executive Order 11807 requires that each agency utilize as inspectors "personnel with sufficient technical competence to recognize unsafe or unhealthful working conditions" in the workplaces to be inspected. For workplaces there is an increased risk of accident, injury or illness due to the nature of the work performed, as in the case of chemical or machine processes or material-handling or loading operations, inspections should therefore be made by a safety and health specialist, as defined in § 1960.2(h) of this part. For workplaces where there is little risk involved, inspections need not be made by a safety and health specialist, but should be conducted by a person having sufficient training and/or experience in the safety health needs of the workplaces involved to adequately carry out the duties of an inspector as set forth in Executive Order 11807 and this subpart. Also inspectors should be accompanied on such inspections by representatives of the official in charge of the establishment being inspected, and representatives of the employees of such establishment, pursuant to the provisions of § 1960.29.

(b) Agencies should authorize safety and health inspectors to utilize the services of additional technical and professional personnel, including labor organization and/or safety committee personnel who possess such expertise, to aid them to evaluate the safety and health of working conditions while conducting an inspection. All safety and health inspectors should be provided with technical test equipment where appropriate.

(c) Each agency which has areas containing information classified in the interest of national security should provide access to safety and health inspectors who have obtained the appropriate security clearance.

(d) All workplaces, including offices, should be inspected at least once annually. For all workplaces where there is an increased risk of accident, injury or illness due to the nature of the work performed, inspections should be conducted more frequently, as determined by the designated safety and health official or his designee based upon extent and degree of risk of accident, injury or illness involved.

### § 1960.27 Conduct of inspection.

(a) For the purpose of assuring safe and healthful working conditions for employees of agencies, safety and health inspectors should be authorized to enter without delay, and at reasonable times, any building, installation, facility, construction site, or other area, workplace or environment where work is performed by employees of the agency; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein; and to question privately any employee, and/or any supervisory employee, and/or any official in charge of an establishment. Subject to these provisions, and to the provisions of §§ 1960.26 and 1960.28, inspections should take place at such times and in such establishments as the designated safety and health official or his designee directs.

(b) Prior to commencement of an inspection, the inspector should be instructed to examine appropriate accident, injury and illness records of the establishment to be inspected, pursuant to § 1960.9(f), in order to facilitate the identification of unsafe or unhealthful working conditions.

(c) Safety and health inspectors should be instructed to take environmental samples where appropriate, to take or obtain photographs related to the purpose of the inspection, and to employ other reasonable techniques of inspection.

(d) Safety and health inspectors should be instructed to comply with all safety and health rules and practices at the establishment being inspected, and to wear and use appropriate protective clothing and equipment.

(e) The conduct of inspections should be such as to preclude unreasonable disruption of the operations of the establishment.

(f) At the conclusion of an inspection, the safety and health inspector should confer with the official in charge of the establishment or his representative, and an appropriate representative of the employees of the establishment, and informally advise them of any apparent unsafe or unhealthful working conditions disclosed by the inspection. During such conference, the official in charge of the establishment and the employee representative should be afforded an opportunity to bring to the attention of the safety and health inspector pertinent information regarding conditions in the workplace.

### § 1960.28 Advance notice of inspections.

(a) Advance notice of inspections should not be given to the official in charge of an establishment, except in the following situations: (1) in cases of apparent imminent danger, to enable the

official in charge of an establishment to abate the danger as quickly as possible; (2) in circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection; (3) where necessary to assure the presence of representatives of the official charge of the establishment or representatives of employees, or the appropriate personnel needed to aid in the inspection; and (4) where required by security regulations.

(b) In the situations described in paragraph (a) of this section, advance notice of inspections should be given only if authorized by the designated safety and health official or his designee, except that in cases of apparent imminent danger, advance notice could be given by the safety and health inspector without such authorization if the designated safety and health official or his designee is not immediately available. When advance notice is given to the official in charge of the establishment, it should be his responsibility to notify promptly, upon receipt of this information, the representative of employees for the purposes set forth in § 1960.29. Advance notice in any of the situations described in paragraph (a) of this section should not be given more than 24 hours before the inspection is scheduled to be conducted, except in unusual circumstances.

**§ 1960.29 Representatives of officials in charge and representatives of employees.**

(a) Safety and health inspectors should be in charge of inspections and questioning of persons. A representative of the official in charge of an establishment and a representative of employees under his supervision should be given an opportunity to accompany the safety and health inspector during the physical inspection of any workplace, both to aid the inspection and to provide such representatives with more detailed knowledge about any existent or potential unsafe or unhealthful working conditions. A safety and health inspector should also arrange for additional representatives of the official in charge and additional representatives of employees to accompany him where he determines that such additional representatives will further aid the inspection. A different representative of the official in charge and a different representative of employees may be allowed to accompany the safety and health inspector during each different phase of an inspection. The members of an establishment's safety and health committee, created pursuant to § 1960.17, may act in the capacity of representatives for the purposes of this section if the committee and the official in charge of the establishment so agree.

(b) Safety and health inspectors should be authorized to deny the right of accompaniment under this section to any person whose participation interferes with a fair and orderly inspection. With regard to facilities classified in the interest of national security, only persons authorized to have access to such facilities should be allowed to accompany a safety and health inspector in such areas.

**§ 1960.30 Consultation with employees.**

Safety and health inspectors should consult with employees concerning matters of occupational safety and health to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee should be afforded an opportunity to bring to the attention of the safety and health inspector any unsafe or unhealthful working condition which he has reason to believe exists in the workplace.

**§ 1960.31 Reports by employees of unsafe or unhealthful working conditions.**

(a) The purpose of this section is to provide guidance in the establishment of a channel of communication between agency employees and those with responsibilities for safety and health matters which will assure prompt analysis and response to reports of alleged unsafe or unhealthful working conditions in accordance with the requirements of Executive Order 11807. Since many safety and health problems can be eliminated as soon as they are identified, the existence of this channel of communication is intended to supplement oral reports of unsafe or unhealthful working conditions made by employees to their supervisors, not to act as a substitute for such reports. At the same time, however, an employee should not be required to await the outcome of such an oral report before filing a written report pursuant to the provisions of this section. Nothing in this section is intended to interfere in any way with the prior, simultaneous or subsequent use by any employee of the grievance procedures established pursuant to Executive Order No. 11491, as amended, Executive Order 11636, collective bargaining agreement, or 5 CFR Part 771 (or military equivalent) as a means of requesting correction of alleged unsafe or unhealthful working conditions.

(b) Any employee or representative of employees who believes that an unsafe or unhealthful working condition exists in any workplace where such employee is employed, should be authorized to request an inspection of such workplace by giving notice of the alleged unsafe or unhealthful working condition to the designated safety and health official, or to his designee for this purpose. Any such report should be reduced to writing; should set forth with reasonable particularity the grounds for the report; and should be signed by the employee or representative of employees. Upon the request of the person making such report, the designated safety and health official or his designee for this purpose should not disclose the name of such person or the names of individual employees referred to in the report to anyone other than authorized representatives of the Secretary of Labor, except as provided in paragraph (c) of this section. In the case of imminent danger situations, employees should be allowed to make reports first by telephone or telegraph and reduce them to writing as soon as practicable thereafter.

(c) The designated safety and health official or his designee should consider the report and determine within 5 working days after receipt of such report whether there are reasonable grounds to believe that the alleged unsafe or unhealthful working condition exists. If he does so determine, he should cause an inspection to be made as soon thereafter as possible to determine if such alleged unsafe or unhealthful working condition does in fact exist. If the inspector is unable to locate the alleged unsafe or unhealthful working condition without the assistance of the person who submitted the report, the designated safety and health official or his designee may give the inspector the name of such person, but he should satisfy himself that the name of the person submitting the report and the names of individual employees referred to in the report will not be disclosed to anyone else. In the event the employee report, whether oral or in writing, describes an unsafe or unhealthful working condition which may present imminent danger to the safety or health of employees, the designated safety and health official or his designee should make an immediate determination as to whether there are reasonable grounds to believe that the alleged unsafe or unhealthful working condition exists; and if he does so determine, he should cause an immediate inspection to be made.

(d) Inspections initiated pursuant to this section need not be limited to matters referred to in the report of an alleged unsafe or unhealthful working condition. Prior to or during any inspection of a workplace initiated pursuant to this section, any employee employed in such workplace, or representative of employees, should be permitted to notify the safety and health inspector of any other unsafe or unhealthful working condition which he has reason to believe exists in such workplace.

(e) If the designated safety and health official or his designee determines that there are no reasonble grounds to believe an unsafe or unhealthful working condition exists, or if an inspection is made on the basis of a report alleging such condition but no such condition is determined to exist, the employee or representative of employees who filed the report should be so notified in writing. The employee or representative of employees should be given an opportunity for prompt and informal review of such determination by appropriate officials, including final review by the designated safety and health official. Any determination made during this review process should be in the form of a written statement setting forth the reasons for such disposition. Employees and employee representatives should be informed of these rights and procedures for review.

(f) The designated safety and health official may utilize as his designee for the purposes of this section, where this section entitles a designee to act on his behalf, an appropriate safety and health

committee created pursuant to § 1960.17, but he should satisfy himself that the confidentiality of the identity of the persons making or named in a report of an alleged unsafe or unhealthful working condition will be adequately preserved.

(g) Agencies should include in their procedures a means for any employee or representative of employees who filed a report alleging an unsafe or unhealthful working condition, and who is dissatisfied with the final disposition by the agency, to contact in writing the Office of Federal Agency Safety Programs, U.S. Department of Labor (with a copy to the designated safety and health official), describing in detail the entire processing of the report of the alleged unsafe or unhealthful working conditions and setting forth his or her objections thereto. Each such person should be notified of such right by the agency upon final disposition of his report. The Office of Federal Agency Safety Programs, pursuant to § 1960.25(g), may request the agency to submit a report of its investigation, and may arrange for an inspection of the alleged unsafe or unhealthful working condition if necessary. Each agency should maintain its files on such reports and their disposition intact for 5 years following the end of the calendar year to which they relate, at any location, including a Federal record retention center, to which the Secretary of Labor or his authorized representative would have reasonable access.

### § 1960.32 Imminent danger.

Whenever and as soon as a designated safety and health official or his designee concludes on the basis of an inspection that conditions or practices exist in any place of employment which could reasonably be expected to cause death or serious physical harm immediately, or before the imminence of such danger can be eliminated through the normal abatement procedures described in §§ 1960.33 and 1960.34, he should inform the affected employees and official in charge of the establishment of the danger. The official in charge of the establishment, or a person empowered to act for him in his absence, should undertake immediate abatement and the withdrawal of employees not necessary for abatement of the dangerous conditions. In the event the official in charge of the establishment needs assistance to undertake full abatement, he should promptly contact the designated safety and health official and othe rresponsible agency officials, who should assist him. Pursuant to § 1960.25(g), the designated safety and health official should inform the Secretary of Labor, as soon as time permits, of any imminent danger which cannot be promptly and completely abated. Agency safety and health committees should be informed of all relevant actions as soon as time permits, as should representatives of the employees.

### § 1960.33 Notices of unsafe or unhealthful working conditions.

(a) Each agency should establish a procedure for issuing notices of unsafe or unhealthful working conditions discovered upon inspection. Notices should describe with particularity the nature of the unsafe or unhealthful working condition, including a reference to the standard or other requirement involved. The notice should also fix a reasonable time for the abatement of the unsafe or unhealthful working condition. A copy of the notice should be sent to the official in charge of the establishment, and to the safety and health committee of the establishment, if any.

(b) If a notice of an unsafe or unhealthful working condition is issued as a result of a report filed pursuant to § 1960.31, a copy of the notice of the unsafe or unhealthful working condition should also be sent to the person who made such report or notification.

(c) Upon receipt of any notice of an unsafe or unsafe or unhealthful working condition, the official in charge of an establishment should immediately post such notice, or a copy thereof, unedited, at or near each place an unsafe or unhealthful working condition referred to in the notice exists or existed. Where, because of the nature of the establishment operations, it is not practicable to post the notice at or near each such place, such notice should be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where establishment activities are physically dispersed, the notice may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the notice may be posted at the location from which the employees operate to carry out their activities. The official in charge of an establishment should take steps to ensure that the notice is not altered, defaced, or covered by other material.

(d) Each notice of an unsafe or unhealthful working condition, or a copy thereof, should remain posted until the unsafe or unhealthful working condition has been abated, or for 3 working days, whichever is later.

### § 1960.34 Correction of unsafe or unhealthful working conditions.

(a) The official in charge of an establishment should have primary responsibility for the correction of unsafe or unhealthful working conditions brought to his attention by any means. Where a notice of an unsafe or unhealthful working condition has been issued pursuant to § 1960.33, abatement should be within the time set forth in the notice.

(b) The procedures for correcting unsafe or unhealthful working conditions should include reinspection, where practicable, to determine whether the correction was made. If upon reinspection, it appears that the correction was not made, or was not carried out in accordance with an abatement plan submitted pursuant to paragraph (c) of this section, the designated safety and health official should inform the head of the agency for appropriate action, including action in accordance with the provisions of § 1960.19(c).

(c) The official in charge of the establishment should immediately submit an abatement plan to the designated safety and health official, if in his judgment the abatement of an unsafe or unhealthful working condition will not be possible within 30 working days. Such plan should contain an explanation of the circumstances of the delay in abatement, a proposed timetable for the abatement, and a summary of steps being taken in the interim to protect employees from being injured by the unsafe or unhealthful working condition. A copy of the plan should be sent to the safety and health committee of the establishment, if any, for appropriate comment and assistance. If the estimated abatement time is more than 60 working days, the designated safety and health official shall forward a copy of the plan to the agency head who should convey it to the Secretary of Labor. The head of each agency should inform the Secretary of Labor, pursuant to § 1960.25(g) and at regular intervals to be determined by the Secretary in accordance with the scope and extent of the risk to employee safety and health involved, as to the progress made in carrying out the abatement plan. Any changes in an abatement plan will require the submission of a new plan in accordance with the provisions of this section.

### §§ 1960.35–39 [Reserved]

## Subpart E—Agency Occupational Safety and Health Standards

### § 1960.40 Purpose and scope.

Executive Order 11807 requires that the head of each Federal agency establish procedures for the adoption of agency occupational safety and health standards, and that these agency standards be "consistent" with the standards promulgated by the Secretary of Labor pursuant to section 6 of the Act and applicable to private employment (hereinafter referred to as the Occupational Safety and Health Administration (OSHA) standards). For the purposes of this subpart, standards are "consistent" with OSHA standards if they provide protection to employees which is at least as effective, as the protection provided by the OSHA standards. Executive Order 11807 requires the Secretary of Labor to provide "such consultation to agencies as he deems necessary and appropriate to ensure" that agency standards are consistent with OSHA standards. Specific assistance to agencies in the evaluation of working conditions and the adoption of standards is available from the Secretary of Labor pursuant to the provisions of Executive Order 11807. The purpose of this subpart is to provide guidance to agencies as to all aspects of standards adoption and application, based upon the experience of the Secretary of Labor in this regard, including guidance as to the type of consultation that should be undertaken with the Secretary of Labor prior to the adoption of various types of agency standards. In carrying out his responsibilities under this subpart, the Secretary of Labor shall

have due regard for the need of agencies to move promptly in adopting agency safety and health standards.

**§ 1960.41 Procedures for adoption.**

Executive Order 11807 requires the head of each agency to establish procedures for the adoption of any agency occupational safety and health standards. These procedures should include special provisions for the adoption of emergency temporary agency standards pursuant to § 1960.45, and which parallel those of section 6(c) of the Act. These procedures should also provide an opportunity for written comment by all interested persons. Agency safety and health committees may play an active role in the formulation and consideration of agency occupational safety and health standards, as appropriate. Where employees of one or more Federal agencies primarily report to work in an establishment, as defined in § 1960.2(e), which is physically located on an establishment of another agency, such employees should be considered as interested parties with respect to the actions of such other agency pursuant to this subpart.

**§ 1960.42 Initial adoption of agency standards.**

(a) In the order to meet the requirements of Executive Order 11807, agencies should proceed to adopt agency standards as soon as possible, pursuant to the provisions of § 1960.41 and this section.

(b) The OSHA standards should in most cases be adopted as agency occupational safety and health standards unless an agency head determines that employees of the agency are not and will not be exposed to working conditions for which an appropriate group of OSHA standards have been promulgated (i.e., that specific subparts of Parts 1910, 1915, 1916, 1917, 1918 and 1926 of this chapter are not relevant to agency working conditions). Consultation with the Secretary of Labor will be available in this regard and will consist of a review of an agency's own evaluation of the nature of agency working conditions, or such additional assistance as is requested by an agency pursuant to the provisions of Executive Order 11807.

(c) Where an agency has already adopted, prior to October 1, 1974 comprehensive agency occupational safety and health standards for the protection of agency employees which are not OSHA standards, the head of such agency may request the Secretary of Labor to consult with him as to the appropriateness of readoption of such standards as the agency occupational safety and health standards required to be adopted pursuant to the provisions of this subpart. Such a request should include copies of the standards proposed to be so readopted, arranged insofar as practicable to correspond to appropriate subparts of the OSHA standards contained in Parts 1910, 1915, 1916, 1917, 1918 and 1926 of this Chapter, and should also include any other pertinent information.

(d) Agencies which traditionally adopt occupational safety and health standards as, and only as, part of particular job operation descriptions such as technical manuals, rather than as standards of general applicability to all employees, may request the Secretary of Labor to consult with them as to the consistency of such standards with OSHA standards, and as to the appropriateness of adoption of such standards pursuant to the provisions of this part. Such a request should be accompanied by a description of the system utilized and its scope, proposals to assure that such particular standards are and will be as effective as OSHA standards, and proposals to assure the participation of all interested persons in the adoption of such standards. Where the Secretary of Labor is unable to determine whether such standards are fully consistent with OSHA standards, he shall consult with the agency head as to the appropriate steps he believes necessary.

**§ 1960.43 Adoption of different and/or supplementary agency standards.**

(a) The head of an agency, at any time after the adoption of standards pursuant to § 1960.42, may adopt in place of particular standards adopted pursuant to § 1960.42 such different standards as he determines are necessary and appropriate for specialized application to particular working conditions and other related needs of the agency. Such standards shall be consistent with the equivalent OSHA standards in accordance with the provisions of the Executive Order; and the head of such agency should consult with the Secretary of Labor prior to the adoption of such standards so as to allow the Secretary to provide such technical advice and guidance as may be necessary and appropriate in making such a determination.

(b) The head of an agency, at any time, should adopt such supplementary standards as he determines are necessary and appropriate for application to working conditions of agency employees for which there exists no appropriate OSHA standards. The head of such agency should consult with the Secretary of Labor prior to the adoption of such standards so as to allow the Secretary to inform the agency head of any relevant matters of which he is aware.

(c) The head of each agency may revise, modify, or revoke any agency occupational safety or health standard, but such actions should be taken in accordance with the procedures established under § 1960.41 and pursuant to other appropriate provisions of this subpart.

**§ 1960.44 Conflicting standards.**

(a) Where employees of different agencies primarily engage in joint operations, and/or primarily report to work or carry out operations in the same establishment, as defined in § 1960.2(e), the heads of the agencies involved should consult with each other and with the Secretary of Labor as to the resolution of any conflict or potential conflict between the occupational safety and health standards of the agencies for the conduct of such joint operations and/or the design of such facilities.

(b) Where the head of an agency is required by law to comply with requirements promulgated by a Federal authority affecting the occupational safety and health of the employees of his agency, such requirements might conflict with the agency occupational safety and health standards adopted pursuant to this subpart; that is, compliance with such requirement may make simultaneous compliance with an agency occupational safety and health standard impossible. For example, standards issued by the General Services Administration pertaining to space for which it has assignment responsibility, pursuant to its statutory authority to conserve and protect such property, might create a conflict with the standards adopted pursuant to this part because GSA standards pertain to certain aspects of fire safety and sanitation, as well as levels of illumination, heating, cooling, and gas consumption for government vehicles. In cases where compliance with standards of another agency conflicts with the duty imposed upon the head of an agency to assure employee safety and health pursuant to Section 19 of the Act and Executive Order 11807, the head of such agency should inform the head of the other Federal authority and the Secretary of Labor of such conflict, so that joint efforts to resolve the conflict may be undertaken.

(c) Appropriate employee representatives should be kept informed of any activities undertaken pursuant to this section.

**§ 1960.45 Emergency standards.**

(a) In emergency situations, the Secretary of Labor will not have the time necessary to consider whether or not emergency temporary occupational safety and health standards adopted by agencies are "consistent" with those emergency temporary OSHA standards promulgated by the Secretary of Labor pursuant to section 6(c) of the Act. Therefore, in the event the Secretary of Labor does promulgate such a standard, the head of each agency should adopt it without change, and should immediately assure that any agency employees exposed to the unsafe or unhealthful working condition involved receives the protection provided for in such standard unless an emergency affecting the national defense makes this impossible. Such standard should remain effective as an agency standard until such time as the Secretary of Labor promulgates a permanent standard and the agency has completed procedures provided for by this subpart for the adoption of an agency occupational safety and health standard.

(b) An agency head may also adopt emergency temporary agency occupational safety and health standards when he deems such action necessary for the protection of agency employees from grave dangers. Such agency head should immediately inform the authorized representatives of employees of the agency

and the Secretary of Labor of such action.

§ 1960.46 Access to standards.

(a) Each agency should notify the Secretary of Labor on a quarterly basis of the final adoption, revision, modification, or revocation of any agency occupational safety and health standard taken within the current quarter, and make copies available to him upon request.

(b) Where any incorporation by reference is involved in promulgating, revising or modifying any standard pursuant to this subpart, agencies should follow the rules set forth in 1 CFR 51.6, 51.7, and 51.8. Difficulties in this regard should be reported to the Secretary of Labor, who will consult with the Director of the FEDERAL REGISTER and then advise agencies in this regard.

§§ 1960.47–49 [Reserved]

## Subpart F—Field Federal Safety and Health Councils

§ 1960.50 Purpose and scope.

Executive Order 11807 provides that the Secretary of Labor shall "facilitate the exchange of ideas and information throughout the Government with respect to matters of occupational and health through such arrangements as he deems appropriate." The Secretary of Labor will establish and continue Field Federal Safety and Health Councils in the fulfillment of this provision with respect to matters of occupational safety and health on a local level. The councils will consist of representatives of local area Federal agencies, and of labor organizations representing employees of local area Federal agencies. The Secretary of Labor will provide leadership and guidance to the Field Federal Safety and Health Councils in fulfilling their responsibilities, and agency heads should ensure that field units within an agency are officially represented and actively participate in the programs of these councils.

§§ 1960.51–59 [Reserved]

*Effective date.* This part shall become effective on November 1, 1974.

Signed in Washington, D.C. this 28th day of September 1974.

JOHN STENDER,
*Assistant Secretary of Labor for Occupational Safety and Health.*

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