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To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202-523-5022.
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President's list of articles which may be affected by international trade negotiations; to be held at Portland, Oreg., 3–20–75 3517; 1–22–75

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NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.
This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are key 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 7—Agriculture

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

PART 53—LIVESTOCK, MEATS, PREPARED MEATS AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

Subpart B—Standards

GRADATES OF CARCASS BEEF; SLAUGHTER CATTLE

This document revises the official standards of the United States for grades of carcass beef and the related standards for grades of slaughter cattle which are based on the carcass grade standards.

The revisions are substantially the same as those proposed by the Department in the September 11, 1974, issue of the FEDERAL REGISTER. The principal changes in the carcass beef standards are: (1) Conformity is eliminated as a factor in determining their quality grade. (2) When officially graded, all beef (except bull beef) will be identified for both quality grade and yield grade. (3) For beef from cattle under about 30 months of age (A maturity), the minimum marbling requirements in the Prime, Choice, and Standard grades will be the same as now required for the youngest carcasses in each of these grades. However, for more mature carcasses in each of these grades (B maturity), increases in marbling are required for increases in maturity but the minimum levels of marbling are decreased. (4) In the Good grade, the same principles apply to the marbling requirements as described for Prime, Choice, and Standard. However, the minimum marbling requirements are increased for beef for the very youngest carcasses classified as beef. (5) The maximum maturity permitted in the Good and Standard grades is reduced and is the same as that permitted in Prime and Choice.

A few other minor changes are also made in the standards to improve clarity and facilitate uniform interpretation.

The standards for grades of slaughter cattle also are revised to coordinate them with the changes in standards for grades of carcass beef.

A change from the proposed standards was made for the fact that under some circumstances retention of the yield grade stamp would not be required on some graded cuts of beef. Such a clarification has been included in § 53.103(a) of the standards.

On September 11, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 32743) regarding a revision of the standards for grades of carcass beef (7 CFR 53.100 et seq.) and for grades of carcass cattle (7 CFR 53.301 et seq.) pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, 60 Stats. 1687 and 1696, as amended (7 U.S.C. 1622 and 1624).

A 90-day period was provided within which interested persons could submit written data, views, or arguments concluden to the proposal. Members of the Department also appeared at several industry meetings to explain the proposal.

The comments and other information available to the Department relative to the proposal have been carefully summarized and evaluated. Based on that evaluation, the Department has concluded that, with one addition, adoption of the standards as proposed is in the public interest.

Statement of Considerations.

Prior to developing the proposed changes announced on September 11, 1974, the Department received specific recommendations for changes in the beef grade standards from groups representing several major segments of the cattle and beef industry. One of the recommendations was that three of these groups—Prime, Choice, and Standard meat—be eliminated as factors in determining the quality grade. The Department proposed this change in 1962 but it failed to receive adoption at that time. However, as was the case in 1962, there is still no information which indicates that variations in conformation are related to differences in lean quality. Therefore, one of the important changes proposed was the elimination of conformation as a factor in determining the quality grade. Under the present standards, because of the manner in which these quality differences—Prime, Choice, Good, Standard, Commercial, Utility, Cutter, and Canner—are classified, the quality of a given grade of beef varies considerably. Under the proposed standards, this variation would be eliminated—each quality grade would include only beef of that quality. This increased uniformity of qualities for each grade would make the grades more useful and reliable guides to aid consumers in purchasing the kind of beef they prefer.

The Department acknowledges, however, that variations in conformation...
which reflect differences in muscling do affect yields of lean—and carcass value. At the same time, though, the Department has determined that this contribution is more accurately measured and reflected in yield grades than by subjective evaluations of conformation. Therefore, when carcasses are federally graded, to insure that the grade reflects the contribution of conformation and other factors affecting cut-out, it was proposed that the official grade identify both the quality grade and the yield grade. This change in the standards was strongly recommended by some producer organizations. The quality and yield grades identify the major factors that affect beef's value and acceptance but which are not otherwise readily identifiable by the marketing system. Therefore, these producer spokesmen pointed out that requiring officially graded carcasses to be identified for both quality and yield would increase the effectiveness of the grades as a tool for reflecting the relative value the producer and consumer place on the carcass. The quality and yield grades identify the major factors that affect beef's value and acceptance but which are not otherwise readily identifiable by the marketing system.

At the same time, though, the Department concurs with that view and also maintains that, if the market for beef is to reflect the relative value placed on the carcass, beef quality differences are very strongly recommended by some producer organizations. The quality and yield grades identify the major factors that affect beef's value and acceptance but which are not otherwise readily identifiable by the marketing system.

The proposed reduction in the maximum maturity limits for Good and Standard would make a corresponding decrease in the minimum maturity limit for the youngest beef included in Commercial. This change would cause some carcasses now graded Good or Standard to be graded Commercial or Utility. However, the numbers of such carcasses would be minimal since relatively few animals are marketed which have carcasses in this very restricted range of maturity. Other than the elimination of confirmation as a factor in determining the quality grade, no other changes were proposed for the Commercial, Utility, Cutter, and Canner grades. Also, no changes were proposed in the yield grades.

Most of the recent research applicable to the marbling-maturity relationships supports the concept that, for beef from cattle up to about 30 months of age, changes in maturity do not have a sufficiently significant effect on palatability of the retail cuts to warrant an increase in the yield grade. This change would cause some carcasses to be graded as individual cuts. These are the only cuts which contain a cross section of the ribeye muscle at the 12th rib—cutting and trimming the yield grade. However, rounds, chucks, and other wholesale cuts could be graded as cuts if they remain attached to a rib, short loin, or loin.

Each segment of the cattle and beef industry that suggested change—on the three parts of the proposal on the marbling-maturity relationships supports the concept that, for beef from cattle up to about 30 months of age, changes in maturity do not have a sufficiently significant effect on palatability of the retail cuts to warrant an increase in the yield grade. This change would cause some carcasses to be graded as individual cuts. These are the only cuts which contain a cross section of the ribeye muscle at the 12th rib—cutting and trimming the yield grade. However, rounds, chucks, and other wholesale cuts could be graded as cuts if they remain attached to a rib, short loin, or loin.

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Similar tabulations were not made for the other two parts of the proposal—to eliminate conformation as a factor in determining the quality grade and to make the maximum maturity for beef in the Good and Standard grades the same as for Prime and Choice. There was an obvious favorable consensus on these changes.

There were 2,610 comments received which were opposed to a part or all of the changes proposed or which suggested changes in the standards not included in the proposal. These objections and suggestions fell generally into the following categories:

A. Marbling-maturity relationships.
B. Requiring all graded beef to be identified for both quality grade and yield grade.
C. Making the Good grade more restrictive.
D. Eliminating conformation as a factor in determining the quality grade.
E. Reducing the maximum maturity for beef in the Good and Standard grades to the same as now permitted for Prime and Choice.
F. A suggested new grade "between Choice and Good."

The Department has considered each objection and suggestion carefully but, as heretofore discussed, has concluded that they are not sufficiently substantiated to warrant revisions from the standards as proposed. However, some of the comments which related to the proposed requirement that all officially graded beef be identified for both quality grade and yield grade did raise considerations which warrant an addition in one section of the proposed standards and, for the reasons discussed hereinafter, such an addition has been made.

Marbling—maturity requirements—changes were strongly supported by producers, feeders, associations, and meat scientists. Opposition was voiced by most consumers, by some feeders and feeder organizations, and by practically all representatives of hotels, restaurants, institutions and their suppliers and trade associations. Opposition was based largely on (1) the fear of a significant reduction in the eating characteristics of Prime and Choice beef, and (2) the belief by consumers that they would have to pay "Choice grade prices for Good grade beef."

The changes in marbling-maturity relationships would significantly change the eating characteristics of Prime and Choice grade beef. The changes are based on the latest available research relative to the effects of marbling and maturity on the palatability of beef. These studies indicate that in beef from cattle up to about 30 months of age (A maturity), changes in marbling have no significant effect on beef palatability. As a result, the increases in marbling with increases in maturity provided in the present standards for each beef are not necessary to insure a comparable degree of palatability. Consequently, there is a relationship between grades and prices. However, the price of any grade is determined by the overall efficiency of the marketing of beef and the yield of retail cuts. Therefore, the yield grade is not an accurate reflection of its yield of retail cuts, and is necessary to the proper function of the marketing of beef and of its yield of retail cuts. However, the price of any grade is determined by the normal market forces of supply and demand. The slight changes in marbling-maturity relationships should decrease the costs of producing Choice and Prime grade beef and should encourage their increased production. And, since the quality of all Beef grades is not significantly changed, the demand for these grades should not be affected. Thus, an increased supply coupled with an unchanged demand should result in lower prices for Choice and Prime grade beef. A study by USDA's Economic Research Service, "A Comparison of Present and Proposed Beef Grades," published as a supplement to the Livestock and Meat Situation, December 1974 concluded that: "The consumer could be indirectly affected by a lower relative price of Choice if the supply of Choice should increase dramatically due to the change, and by lower prices in general if efficiency of the industry is improved."

In addition to the foregoing, a national feeders group recommended that increased marbling be required for increased maturity beyond 33—instead of 30—months of age. Also, some university personnel, one breed group, and several individual breeders suggested that marbling requirements for the Choice grade, be reduced below the level proposed. In contrast, some restaurant and institutional interests, one breed association, and several individual breeders recommended increased marbling requirements. Research results do not substantiate these positions. The marbling-maturity relationships adopted are in accord with the research information currently available.

Requiring that all graded beef be identified for both its quality grade and yield grade was generally favored by producers, feeders, and institutional users of beef, and by meat scientists. It was strongly opposed by packers and others who indicated that it would decrease packers' opportunity to "merchandise" lower yielding carcasses, and preclude the grading of carcasses that were trimmed to such an extent that the time saved in quality grading by eliminating conformation as a factor in determining the quality grade and by eliminating consideration of changes in maturity for much of the beef graded, would offset any additional time required to identify all graded carcasses for both quality grade and yield grade. In this connection, it should be noted that the yield grade represents only a very small fraction of a cent per pound of beef graded.

Requiring that all beef graded be identified for both quality and yield grade may limit packers' ability to "merchandise" some kinds of carcasses. However, in conducting its meat grading program, the Department has a responsibility to assure that the grade identification program is of maximum benefit in facilitating marketing and conveying consumers' preferences for the different kinds of beef back through marketing channels to producers. Such information is vital to producers since they make their decisions which result in the kinds of beef produced.

Objections also were made to precluding grading carcasses that have been trimmed of lean to an extent that the yield grade is not an accurate reflection of its yield of retail cuts. However, very few such carcasses are now offered for grading. Therefore, this limitation will not have a significant effect on the overall efficiency of the marketing of beef and is necessary to the proper functioning of the revised standards. Also, it should be noted that some parts of such

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| Marbling-maturity requirements:  
  Option A: Requirements same as now permitted for Prime and Choice.  
  Levels of marbling determined by amount of meat trimmed.  
  Levels of maturity determined by age of animal.  
  Observations which warrant an addition in one section of the proposed standards.  
  For the reasons discussed hereinafter, such an addition has been made.  
  Objections also were made to precluding grading carcasses that have been trimmed of lean to an extent that the yield grade is not an accurate reflection of its yield of retail cuts. However, very few such carcasses are now offered for grading. Therefore, this limitation will not have a significant effect on the overall efficiency of the marketing of beef and is necessary to the proper functioning of the revised standards. Also, it should be noted that some parts of such grades as now permitted for Prime and Choice.  
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The Department has a responsibility to modify the “width” of a grade when experience indicates such is needed to make it more acceptable and useful in the marketing system. A factor in determining the quality grade was strongly favored by producers, packers, and university personnel. The revised Good grade could be especially useful if the trend continues, as some expect, of shorter feeding periods for cattle to reduce fatness and costs.

In the long run, such increased costs of production would be reflected in increased prices to consumers.

Accordingly, pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, the standards for grades of slaughter cattle and the standards for grades of carcass beef are adopted as proposed (39 FR 32743-32752, FR Dec. 74-20718) subject to the following change:

An addition to paragraph (a) of § 53.102 was made to clarify the Department’s intent that each of the quality and yield designations must remain on officially grade-identified carcasses, sides, quarters, and untrimmed wholesale cuts unless both such designations are removed. However, for (1) sub-primal and retail cuts and (2) wholesale cuts which have been substantially trimmed of external fat, it is the Department’s intent to permit the yield grade designation to be removed. And, for labeling and other related purposes, the grade of such items may consist of the quality designation only. This change was made because the yield grade loses some of its significance as cuts are trimmed of external fat. In addition, this change reflects the Department’s intentions concerning the use of these grade designations.

Accordingly, the Official U.S. Standards for Grades of Carcass Beef and the Official U.S. Standards for Grades of Slaughter Cattle are revised by changing §§ 53.102, 53.104, 53.105, 53.203, 53.204, 53.205, and 53.206 to read as follows:

§ 53.102 Application of Standards for Grades of Carcass Beef.

(a) The grade of a steer, heifer, cow, or bullock carcass consists of separate evaluation of fatness and cost of production. These objectives of the lean herein referred to as the “yield grade,” and (2) the fatness-cost characteristics of the lean herein referred to as the “quality grade.” When officially graded, the grade of a steer, heifer, cow, or bullock carcass consists of both the quality grade and the yield grade. Each of the quality and yield grade designations must remain on grade-identified carcasses, sides, quarters, and untrimmed wholesale cuts unless both such designations are removed. However, for sub-primal and retail cuts, and for wholesale cuts which have been substantially trimmed of external fat, the yield grade designation may be removed. And, for labeling and other related purposes, the grade and yield grade designations of such items may consist of the quality designation only. The grade of a bull carcass consists of the yield grade only.

(b) The carcass beef grade standards are written so that the quality grade and yield grade standards are contained in separate sections. The quality grade section is divided further into two separate sections applicable to carcasses from (1)
steers, heifers, and cows, and (2) bullocks. Eight quality grade designations—Prime, Choice, Good, Standard, Commercial, Utility, Cutter, and Canner—are applicable to steer and heifer carcasses. Except for Prime, the same designations apply to cow carcasses. The quality grade designations for bullock carcasses are Prime, Choice, Good, Standard, and Utility. There are five yield grade standards applicable to all classes of beef, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

The result of the cut by the ribbed bullock and bull beef will be further identified for its sex condition; steer, heifer, and cow beef will not be so identified. The designated grades of bullock beef are not necessarily comparable with all classes of designated yield grade of steer, heifer, or cow bull beef.

d) The Department uses photographs and other objective aids in the construction of the quality and yield standards.

e) To determine the grade of a carcass, it must be split down the back into two sides and one or both sides must be partially separated into a hindquarter and forequarter by cutting it with a saw and knife insofar as practicable, as follows: A saw cut perpendicular to both the long axis and split surface of the vertebral column is made across the 12th thoracic vertebra at a point which leaves not more than one-half of this vertebra attached by its natural attachments to a rib, loin, or short loin. Since bull carcasses are eligible for yield grade only, they may be graded only as carcasses, sides, and forequarters, and certain individual primal cuts—loins, short loins, and ribs. A portion of these or other primal cuts may be approved for grading by the Agricultural Marketing Service provided such deviations are necessary to meet either the demand of export trade or changing trade practices in such cases, grading shall be based on the requirements specified in these standards and shall be consistent with the normal development of grade characteristics in various parts of a carcass of the quality level involved.

(f) Carcasses qualifying for any particular grade, and which are not consistent with respect to their relative development of the various grade factors. There will be carcasses which qualify for a particular grade, some of whose characteristics may be consistent with requirements of another grade. For example, in comparison with the descriptions of maturity contained in the standards, a particular carcass might have a greater relative degree of ossification of the chine bones on the ends of its lumbar vertebrae than its other evidences of maturity. In such instances, the maturity of the carcass is not determined solely by the ossification of the lumbar vertebrae but neither is this ignored. All of the maturity-indicating factors are considered. In making any composite evaluation of two or more factors, it must be remembered that they are determined to the same degree. Because it is impractical to describe the nearly limitless number of recognizable combinations of characteristics, the standards for each quality grade and yield grade describe only beef which has a relatively similar degree of development of the various factors affecting its quality and yield. Also, the quality grade and yield grade standards each describe beef which is representative of the lower limits of each quality grade and yield grade combination.

(k) For steer, heifer, and cow beef, quality of the lean is evaluated by considering its marbling and firmness as observed in a cut surface in relation to the carcass evidences of maturity. The maturity of the carcass is determined by evaluating the size, shape, and ossification of the bones and cartilages—especially the split chine bones—and the very hard and flat in red color. In the split chine bones, ossification changes occur at an earlier stage of maturity in the posterior portion of the vertebral column (sacral vertebrae) and at progressively later stages of maturity in the lumbar and thoracic vertebrae. The ossification changes that occur in the cartilages on the ends of the split thoracic vertebrae are especially useful in evaluating maturity. Since ossification takes place on the posterior portion of the vertebral column, it is impossible to refer to this portion of the vertebrae with any certainty. The size and shape of the rib bones also are important considerations in evaluating the degree of maturity. In the very youngest carcasses considered as "beef," the cartilages on the ends of the chine bones show no ossification, cartilage is evident on all of the vertebrae of the spinal column, and the sacral vertebrae show distinct separation. In addition, the split vertebral bone usually are soft and porous and may be red in color. In such carcasses, the rib bones have only a slight tendency to flatness. In progressively more mature carcasses, ossification changes become evident first in the bones and cartilages of the thoracic vertebrae, then in the lumbar vertebrae, and finally in the sacral vertebrae. In beef which is very advanced in maturity, all the split vertebrae will be devoid of red color, the cartilage will be soft and porous, and the cartilages on the ends of the vertebrae will be entirely ossified. Likewise, with advancing maturity, the rib bones will become progressively wider and flatter until in very mature beef the ribs will be very wide and flat.

(l) In steer, heifer, and cow beef, the color and texture of the lean flesh also undergo progressive changes with advancing maturity. The youngest carcasses considered as "beef," the lean flesh will be very fine in texture and light grayish red in color. In progressively more mature carcasses, the texture of the lean is more coarsely and the color will become progressively coarser and the color of the lean will become progressively darker red. In very mature beef, the lean flesh will be very coarse in texture and very thick red in color. Since color of lean also is affected by variations in quality, references to color of lean in the standards for a given degree of maturity vary slightly with different levels of quality. In determining
the maturity of a carcass in which the skeletal evidences of maturity are different from those indicated by the color and texture of the lean, slightly more emphasis is placed on characteristics of the bones and cartilages than on the characteristics of the lean. In no case can the overall maturity of the carcass be considered more than one full maturity group different from that indicated by its bones and cartilages.

The relationship between marbling, maturity, and carcass quality grade is shown in Figure 1. This figure assumes that the firmness of lean is comparably developed with the degree of marbling and that the carcass is not a "dark cutter." From this figure it can be seen, for instance, that the minimum marbling requirement for Choice varies from a minimum small amount for carcasses having the maximum maturity permitted in Choice. Likewise, in the Commercial grade the minimum marbling requirement for carcasses having the maximum maturity permitted to a maximum small amount in beef from very mature animals. The marbling and other lean flesh characteristics specified for the various grades are based on their appearance in the ribeye muscle of properly chilled carcasses that are ribbed between the 12th and 13th ribs. For carcass evaluation programs and other purposes, in the Prime, Choice, and Commercial grades, each additional degree of marbling (up to three) greater than specified as minimum small amount increases the grade by one-third of a grade of higher quality.

The yield grade of a beef carcass is determined by considering four characteristics: (1) the amount of external fat, (2) the amount of kidney, pelvic, and heart fat, (3) the area of the ribeye muscle, and (4) the carcass weight.

The amount of external fat on a carcass is evaluated in terms of the thickness of this fat over the ribeye muscle, measured perpendicular to the outside surface at a point three-fourths of the length of the ribeye from its chine bone end. This measurement may be adjusted, as necessary, to reflect unusual
amounds of fat on other parts of the carcass. In determining the amount of this adjustment, if any, particular attention is given to the amount of fat in such areas as the brisket, plate, flank, cod or other lean areas. The actual thickness of fat over the ribeye is measured, related to the actual thickness of fat over the ribeye. Thus, in a carcass which is fatter over other areas than is indicated by the fat measurement over the ribeye, the measurement is adjusted downward. Conversely, in a carcass which has less fat over the other areas than is indicated by the fat measurement over the ribeye, the measurement is adjusted upward. In many carcasses no such adjustment is necessary; however, an adjustment in the thickness of fat measurement of one-tenth or two-tenths of an inch is not uncommon. In some carcasses a greater adjustment may be necessary. As the amount of external fat increases, the percent of retail cuts decreases—each one-tenth inch change in the fatten decreases the yield grade by 20 percent of a yield grade.

The area of the ribeye is determined where this muscle is exposed by rib bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is moderately light red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum amount of marbling is required (see Table 1) and the ribeye muscle may be slightly soft.

(c) Good. (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Good grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for two maturity groups which cover the entire range of maturity permitted in the Good grade.

(2) Carcasses in the older group range from those described above as representative of the juncture of the two groups to those at the maximum maturity permitted in the Good grade, which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is light red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum small amount to a maximum small amount (see Figure 1) and the ribeye muscle is slightly firm.

(3) Carcasses in the younger group range from those described above as representative of the juncture of the two groups to those at the minimum maturity permitted in the Good grade, which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is slightly light red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum small amount to a maximum small amount (see Figure 1) and the ribeye muscle is slightly firm.
addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean is moderately fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum slight amount to a maximum slight amount (see Figure 1) and the ribeye muscle may be moderately soft.

(c) The youngest carcasses in the fifth or oldest maturity group have hard white chine bones and the outlines of the cartilages on the ends of the thoracic vertebrae that show considerable ossification and the outlines of the cartilages are still plainly visible. In addition, the rib bones are moderately wide and flat, and the ribeye muscle is moderately coarse in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum slight amount to a maximum small amount (see Figure 1) and the ribeye muscle is firmly firm.

(1) Depending on their degree of maturity, beef carcasses possessing the minimum quality requirements for the Standard grade have hard white chine bones and the outlines of the cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat, and the ribeye muscle is dark red and coarse in texture. The range in maturity in this group from a minimum for the Standard grade to those with moderately hard, rather white chine bones and with cartilages on the ends of the thoracic vertebrae that show considerable ossification but the outlines of the cartilages are still plainly visible. In addition, the rib bones are moderately wide and flat and the ribeye muscle is moderately coarse in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum slight amount to a maximum small amount (see Figure 1) and the ribeye muscle may be slightly soft.

(2) Carcasses in the first or youngest maturity group range from the youngest that are eligible for the beef class to those at the juncture of the two maturity groups which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is slightly firm.

(3) Carcasses in the second or intermediate maturity group include the next age group of carcasses that are eligible for the beef class to those at the juncture of the first two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that are partially ossified, and the cut surface of the lean is moderately fine in texture. In carcasses throughout the range of maturity included in this group, a minimum practically devoid amount of marbling is required (see Figure 1) and the ribeye muscle may be moderately soft.

(4) Carcasses in the third or intermediate maturity group range from the third or intermediate maturity group to those at the juncture of the first two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean is moderately fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum slight amount to a maximum small amount (see Figure 1) and the ribeye muscle may be slightly soft.

(5) Carcasses in the fourth or intermediate maturity group range from the fourth or intermediate maturity group to those at the juncture of the first two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly flat and the ribeye muscle is moderately coarse in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum slight amount to a maximum small amount (see Figure 1) and the ribeye muscle may be moderately soft.

(6) Carcasses in the fifth or oldest maturity group have hard white chine bones and the outlines of the cartilages on the ends of the thoracic vertebrae that show considerable ossification but the outlines of the cartilages are still plainly visible. In addition, the rib bones are moderately wide and flat, and the ribeye muscle is dark red in color and slightly coarse in texture. The range in maturity in this group extends to include carcasses from the oldest animals produced. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum slight amount to a maximum slight amount (see Figure 1) and the ribeye muscle may be moderately soft.

(7) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Cutter grade vary in their other indications of quality as evidenced in the ribeye muscle. Carcasses within the full range of maturity included in the Cutter grade have hard white chine bones and the outlines of the cartilages on the ends of the thoracic vertebrae that are barely visible, the rib bones are wide and flat, and the ribeye muscle is very dark red in color and fine in texture. The range in maturity in this group extends from a minimum slight amount to a maximum small amount (see Figure 1) and the ribeye muscle is firm.
(4) Carcasses in the fifth or oldest maturity group have hard white chine bones and the outlines of the cartilages on the ends of the thoracic vertebrae are barely visible, the ribs are wide and flat, and the ribeye muscle is very dark red in color and coarse in texture. The range in maturity in this group extends to include carcasses from the oldest animals produced. The minimum degree of marbling required increases with advancing maturity throughout this group from minimum practically devoid (see Figure 1) and the ribeye muscle is soft and slightly watery.

(b) Canner. The Canner grade includes only those carcasses that are inferior to the minimum requirements specified for the Custer grade.

§ 53.105 Specifications for Official United States Standards for Grades of Carcass Beef (Quality—Bullock).

(a) Prime. For the Prime grade, the minimum degree of marbling required is a minimum slightly abundant amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle is moderately firm and, in carcasses having the maximum maturity for this class, the ribeye is light red in color.

(b) Choice. For the Choice grade, the minimum degree of marbling required is a minimum small amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle may be slightly soft and, in carcasses having the maximum maturity for this class, the ribeye is moderately light red in color.

(c) Good. For the Good grade, the minimum degree of marbling required is a minimum slight amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle may be moderately soft and, in carcasses having the maximum maturity for this class, the ribeye is slightly light red in color.

(d) Standard. For the Standard grade, the minimum degree of marbling required is a minimum practically devoid amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle may be soft and, in carcasses having the maximum maturity for this class, the ribeye is slightly dark red in color.

(e) Utility. The Utility grade includes only those carcasses that do not meet the minimum requirements specified for the Standard grade.

§ 53.203 Application of Standards for Grades of Slaughter Cattle.

(a) General. Grades of slaughter cattle are intended to be directly related to the grades of the carcasses they produce. To make this possible, these slaughter cattle grade standards are based on factors which are related to the grades of beef carcasses. The quality and yield grade standards are contained in separate sections of the rule. The carcass grade and standards are further divided into two sections applicable to (1) steers, heifers, and cows and (2) bullocks. Eight quality designations—Prime, Choice, Good, Standard, Commercial, Utility, Cutter, and Canner—are applicable to steers and heifers. Except for Prime, the same designations also apply to cows. The quality factor grade standards are used in determining the Prime, Choice, Good, Standard, and Utility. There are five yield grades, which are applicable to all classes of slaughter cattle and are designated by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability. The grades of slaughter cattle shall be a combination of both their quality and yield grades, except that slaughter bulls are evaluated only for their quality.

(b) (1) Quality Grades. Slaughter cattle quality grades are based on an evaluation of factors related to the palatability of the lean, herein referred to as "quality." Quality in slaughter cattle is evaluated primarily by the amount and distribution of finish, the firmness of muscling, and the physical characteristics of the animal associated with maturity. Progressive changes in quality past 30 months of age and in the amount and distribution of finish and firmness of muscling have opposite effects on quality. Therefore, for cattle over 39 months of age in each grade, the standards require a progressively greater development of the other quality-indicating factors. In cattle under about 39 months of age, a progressively greater factor with other quality-indicating characteristics is not required.

(2) Since carcass indices of quality are not directly evident in slaughter cattle, some other factors in which differences can be observed are used to evaluate their quality. Therefore, the amount of external finish is included as a major grade factor herein, even though cattle with a specific degree of fatness may have widely varying degrees of quality. Identification of differences in quality among cattle with the same degree of fatness is based on distribution of finish and firmness of muscling. Descriptions of these factors are included in the specifications. For example, cattle which have more fullness of the brisket, flank, twist, and cod or udder and which have firmer muscling than that indicated by any particular degree of fatness are considered to have higher quality than indicated by that degree of fatness.

(3) The approximate maximum age limitation for the Prime, Choice, Good, and Standard grades of steers, heifers, and cows is 42 months. The Commercial grade for steers, heifers, and cows includes only cattle over approximately 42 months. There are no age limitations for the Utility, Cutter, and Canner grades of steers, heifers, and cows. The maximum age limitation for all grades of bullocks is approximately 24 months.

§ 53.204 Yield Grades. The yield grades for slaughter cattle are based on the same factors as used in the official yield grade standards for beef carcasses. Those factors included in the carcass grade methods are the position of the parts and the amount of fat and lean on the carcass. The amount of fat and lean on the carcass is determined by the equation contained in the official standards for grades of carcass beef. However, a more practical method of appraising slaughter cattle for yield grade is to use only two appear progressively firmer. The degree of external fatness largely accounts for the effects of thickness of fat over the ribeye and the percent of kidney, pelvic, and heart fat.

(4) These fatness and muscling evaluation methods can be made simultaneously. This is accomplished by considering the development of the various parts based on an understanding of how each part is affected by variations in muscling and fatness. While a "decrease" in muscling usually develops, fat is normally deposited at a considerably faster rate on some parts than on others. Therefore, muscling can be appraised best by giving primary consideration to the parts least affected by fatness, such as the round and the blade, and the forearm. Differences in thickness and fullness of these parts—with appropriate adjustments for the effects of variations in fatness—are the best indicators of the overall degree of muscling in live cattle.

(5) On the other hand, the overall fatness of an animal can be determined best by observing those parts on which fat is deposited at a faster-than-average rate. These include the back, loin, rump, flank, cod or udder, twist, and brisket. As cattle increase in fatness, these parts appear progressively fuller, thicker, and more distended in relation to the thickness and fullness of the other parts, particularly the round. In thickly muscled cattle, the low degree of finish, the width of the back and greater than the width through the center of the round. The back on either side of the

backbone also will be flat or slightly sunken. Conversely, in thickly muscled cattle with a similar degree of finish, the thickness through the rounds will be greater than through the back and the back will appear full and rounded. At an intermediate degree of fatness, cattle which are thickly muscled will be about the same width through the round and back and the exhibited width will be considerably wider through the back than through the round and will be nearly flat across the back. Very fat cattle will be wider through the back than through the round, but this difference will be greater in thinly muscled cattle than in those that are thickly muscled. Such cattle with thin muscling also will have a distinct break from the back into the sides, while those with thick muscling will be nearly flat on top but will have a less distinct break into the sides. As cattle increase in fatness, they also become deeper bodied because of large deposits of fat in the flanks and brisket and along the underline. Fullness of the twist and cod or udder and cod will be much more evident in such cattle, most observed when an animal walks, are other indications of fatness.

(6) In determining yield grade, variations in fatness are much more important than variations in muscling and should be considered. (d) Other considerations. (1) Other factors such as heredity and management also may affect the development of the grade-determining characteristics in slaughter cattle. Although these factors do not lend themselves to description in the standards, the use of factual information of this nature is justifiable in determining the grade of slaughter cattle.

(2) Slaughter cattle qualifying for any particular grade may vary with respect to the relative development of the individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics which are nearly typical of cattle of another grade. Because it is impractical to describe the nearly infinite number of recognizable combinations of characteristics, quality, and yield grade determining factors, cattle which have a relatively similar development of the various quality and yield grade determining factors and which are near the lower limits of these grade requirements are given for two maturity groups in the quality grade standards for steers, heifers, and cows— but for only one maturity group for bullocks. The standards for cattle with two levels of muscling are described and specific examples in terms of carcass characteristics also are included.

§ 35.294 Specifications for Official United States Standards for Grades of Slaughter Steers, Heifers, and Cows (Quality).

(a) Prime. (1) Slaughter steers and heifers 30 to 42 months of age possessing the minimum qualifications for Prime have a fat covering over the crops, back, ribs, loin, and rump that tends to be thick. The brisket, flanks, and cod orudder appear full and distended and the muscling is very firm. The fat covering tends to be smooth with only slight indications of patchiness. Steers and heifers under 30 months of age have a moderately thick but smooth covering of fat which extends over the back, ribs, loin, and rump. The brisket, flanks, and cod or udder show a marked fullness and the muscling is firm.

(2) Cattle qualifying for the minimum of the Prime grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for the Prime grade. Such cattle have less width of back and loin and are less uniform in width than normal for the Prime grade. The thick, full muscling gives the back and loin a well-rounded appearance with very little evidence of flatness. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be slightly prominent. Although such cattle have a lower degree of fatness over the back and loin than described as typical, evidence of more fatness in the brisket, flanks, twist, and cod or udder is noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firm. Cattle under 30 months of age have a fat covering over the crops, back, loin, and rump than described but with evidence of less fatness in the brisket, flanks, twist, and cod or udder. The back and loin break sharply into the sides and the width over the back is much greater than through the rounds and shoulders.

(c) Good. (1) Slaughter steers, heifers, and cows 30 to 42 months of age possessing the minimum qualifications for Good have a fat covering that tends to be slightly thin with some fullness evident in the brisket, flanks, twist, and cod or udder and the muscling is firm. Cattle under 30 months of age have a fat covering which is largely restricted to the back and loin. The brisket, flanks, twist, and cod or udder are slightly full and the muscling is slightly firm.

(2) Cattle qualifying for the minimum of the Good grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for the Good grade. Such cattle are less uniform in width than normal for the grade. The thick, full muscling through the back gives the back and loin a well-rounded appearance. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be slightly prominent. Evidence of more fatness than described is especially noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firm. Cattle under 30 months of age have a fat covering over the crops, back, loin, and rump than described but with evidence of less fatness in the brisket, flanks, twist, and cod or udder and the muscling is firm.

(3) Do not lend themselves to description and specific examples in terms of carcass characteristics also are included.

§ 35.294 Specifications for Official United States Standards for Grades of Slaughter Steers, Heifers, and Cows (Quality).

(a) Prime. (1) Slaughter steers and heifers 30 to 42 months of age possessing the minimum qualifications for Prime have a fat covering over the crops, back, ribs, loin, and rump that tends to be thick. The brisket, flanks, and cod or udder appear full and distended and the muscling is very firm. The fat covering tends to be smooth with only slight indications of patchiness. Steers and heifers under 30 months of age have a moderately thick but smooth covering of fat which extends over the back, ribs, loin, and rump. The brisket, flanks, and cod or udder show a marked fullness and the muscling is firm.

(2) Cattle qualifying for the minimum of the Prime grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for the Prime grade. Such cattle have less width of back and loin and are less uniform in width than normal for the Prime grade. The thick, full muscling gives the back and loin a well-rounded appearance with very little evidence of flatness. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be slightly prominent. Although such cattle have a lower degree of fatness over the back and loin than described as typical, evidence of more fatness in the brisket, flanks, twist, and cod or udder is noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firm. Cattle under 30 months of age have a fat covering over the crops, back, loin, and rump than described but with evidence of less fatness in the brisket, flanks, twist, and cod or udder. The back and loin break sharply into the sides and the width over the back is much greater than through the rounds and shoulders.

(c) Good. (1) Slaughter steers, heifers, and cows 30 to 42 months of age possessing the minimum qualifications for Good have a fat covering that tends to be slightly thin with some fullness evident in the brisket, flanks, twist, and cod or udder and the muscling is firm. Cattle under 30 months of age have a fat covering which is largely restricted to the back and loin. The brisket, flanks, twist, and cod or udder are slightly full and the muscling is slightly firm.

(2) Cattle qualifying for the minimum of the Good grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for the Good grade. Such cattle are less uniform in width than normal for the grade. The thick, full muscling through the back gives the back and loin a well-rounded appearance. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be slightly prominent. Evidence of more fatness than described is especially noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firm. Cattle under 30 months of age have a fat covering over the crops, back, loin, and rump than described but with evidence of less fatness in the brisket, flanks, twist, and cod or udder and the muscling is firm. Cattle under 30 months of age have a fat covering over the crops, back, loin, and rump than described but with evidence of less fatness in the brisket, flanks, twist, and cod or udder and the muscling is firm. Cattle under 30 months of age have a fat covering over the crops, back, loin, and rump than described but with evidence of less fatness in the brisket, flanks, twist, and cod or udder and the muscling is firm. Cattle under 30 months of age have a fat covering over the crops, back, loin, and rump than described but with evidence of less fatness in the brisket, flanks, twist, and cod or udder and the muscling is firm. Cattle under 30 months of age have a fat covering over the crops, back, loin, and rump than described but with evidence of less fatness in the brisket, flanks, twist, and cod or udder and the muscling is firm.
than in the higher grades. Most of the cutability differences among cattle qualifying for this grade are due to a wide range in muscling. Cattle with higher cutability than normal for this grade may have a slightly lower degree of fatness than described but will have thick, well-rounded backs, wide loins, and prominent, thickly muscled shoulders. The width through the rounds will be greater than over the back. Cattle with lower cutability than normal for this grade may have slightly more fat than described and will be upstanding and narrow. The loin, rump, and rounds will appear slightly sunken.

(e) Commercial. (1) The Commercial grade is limited to steers, heifers, and cows over approximately 24 months of age. Slaughter cattle possessing the minimum qualifications for Commercial and which slightly exceed the minimum requirements for the Commercial grade have a slightly thicker fat covering over the back, ribs, loin, and rump and the muscling is moderately firm. Very mature cattle usually have at least a moderately thick fat covering over the back, ribs, loin, and the muscle thickness frequently is evident about the tail head. The brisket, flanks, and cod or udder appear to be moderately full and the muscling is firm.

(2) Cattle qualifying for the minimum of the Commercial grade will differ considerably in cutability because of widely varying combinations of muscling and degree of fatness. Cattle of this grade must have higher cutability than normal for this grade and are thickly muscled and have a lower degree of fatness than described for the Commercial grade. Thicker muscling through the shoulders, butt, loin, and rump and the muscling is firmer than described. Conversely, cattle with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described for the Commercial grade.

(f) Utility. The Utility grade includes cattle that do not meet the minimum requirements specified for any grade.

53.205 Specifications for Official United States Standards for Grades of Slaughter Cattle. (a) Prime. (1) Slaughter bullocks possessing the minimum qualifications for the Prime grade have a moderately thick but smooth covering of fat which extends over the back, ribs, loin, and rump. The brisket and flanks show a marked fullness and the muscling is firm.

(2) Cattle qualifying for the minimum of the Prime grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle of this grade have a higher degree of fatness than described but will have thick, well-rounded backs, wide loins, and prominent, thickly muscled shoulders. The width through the rounds will be greater than over the back. Cattle with lower cutability than normal for this grade may have slightly more fat than described and will be upstanding and narrow. The loin, rump, and rounds will appear slightly sunken.

(3) The range in cutability among cattle that qualify for the minimum of this grade will be narrow because of very small variations in fatness and muscling.

(b) Canner. Cattle of this grade are those which are inferior to the minimum specified for the Cutter grade.

53.206 Specifications for Official United States Standards for Grades of Slaughter Cattle (Yield). (a) Yield Grade 1. (1) Yield Grade 1 slaughter cattle produce carcases with very high yields of boneless retail cuts. Cattle with characteristics qualifying them for the lower limits of Yield Grade 1 (near the borderline between Yield Grade 1 and Yield Grade 2) will differ considerably in appearance because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled cattle typical of this grade carry a slightly thick fat covering over the top. The brisket and flanks appear moderately full and the muscling is firmer than described. Conversely, bullocks with thinner muscling than normal for this grade have a higher degree of fatness and a lower degree of yield than described as minimum for the Choice grade. Cattle of this grade are moderately wide and the width through the shoulders and rounds is greater than through the back. The top is well-rounded with the evidence of fatness, and the back and loin are thick and full. The rounds are deep, thick, and full and the width through the middle part of the rounds is greater than through the back.
The shoulders are slightly prominent and the forearms are thick and full. These cattle have only a thin covering of fat over the back and rump. The flanks are slightly shallow and thin and the brisket and cod or udder have little evidence of fullness. Slaughter cattle of this description producing 600 pound carcasses usually have 0.3 inches of fat over the ribeye and about 10.0 square inches of ribeye area.

(1) Cattle qualifying for the minimum of Yield Grade 1 will differ widely in quality grade as a result of variations in distribution of finish and firmness of muscling. For example, young cattle which have considerable firmness and muscling and considerably greater deposits of fat in the brisket, flanks, twist, and cod or udder than described for Yield Grade 1 ordinarily will qualify for the Good grade. Cattle with characteristics typical of this grade will have very firm muscling and may only qualify for the Good grade. Slaughter cattle of this description producing 600-pound carcasses usually have a thin covering of fat over the back and rump. The flanks are very deep, thick, and full. The shoulders are smooth and the forearms are thick, full, and deep and the thickness through the middle part of the rounds is greater than that over the top. The shoulders are slightly prominent and the forearms are thick and full. There is a slightly thick covering of fat over the back and rump and the flanks are slightly deep. The brisket and cod or udder are slightly full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.0 of an inch of fat over the ribeye and about 12.5 square inches of ribeye area.

(2) Very thickly muscled cattle typical of the minimum of this grade have a high proportion of lean to bone. They are wide through the back than through the rump. The cattle have a moderately thick covering of fat over the back and rump and the flanks are very deep, thick, and full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.0 of an inch of fat over the ribeye and about 12.0 square inches of ribeye area.

(3) Thinly muscled cattle typical of the minimum of this grade have a relatively low proportion of lean to bone. They tend to be flat and slightly narrow over the back and have slightly long, flat rounds. They are slightly wider at the rump than through the rounds. The shoulders are slightly prominent and the forearms are only slightly thick. These cattle have a thin covering of fat over the back and rump. The flanks are slightly shallow and thin and the brisket and cod or udder have little evidence of fullness. Slaughter cattle of this description producing 600 pound carcasses usually have 0.3 inches of fat over the ribeye and about 10.0 square inches of ribeye area.

(4) Cattle qualifying for the minimum of Yield Grade 3 will differ greatly in quality grade as a result of variations in distribution of finish and firmness of muscling. For example, young cattle which have considerable firmness and muscling and considerably greater deposits of fat in the brisket, flanks, twist, and cod or udder than described for Yield Grade 2 will qualify for the Standard grade. Conversely, cattle with characteristics typical of this grade will have very firm muscling and may only qualify for the Good grade. Slaughter cattle of this description producing 600-pound carcasses usually have a thin covering of fat over the back and rump. The flanks are very deep, thick, and full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.9 of an inch of fat over the ribeye and about 9.5 square inches of ribeye area.

(5) Cattle qualifying for the minimum of Yield Grade 4 will differ somewhat in quality grade as a result of variations in distribution of the finish and firmness of muscling. Most cattle at the minimum of this grade will qualify for the Prime or Choice grade. However, some cattle at the minimum of Yield Grade 4 with less deposits of fat in the brisket, flanks, twist, and cod or udder than described for Prime and Choice grade. Conversely, cattle with these characteristics may only qualify for the Good grade. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.9 of an inch of fat over the ribeye and about 9.5 square inches of ribeye area.

(6) Cattle qualifying for the minimum of Yield Grade 5 will differ greatly in quality grade as a result of variations in distribution of the finish and firmness of muscling. Most cattle at the minimum of this grade will qualify for the Prime or Choice grade. However, some cattle at the minimum of Yield Grade 4 with less deposits of fat in the brisket, flanks, twist, and cod or udder than described for Prime and Choice grade. Conversely, cattle with these characteristics may only qualify for the Good grade. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.9 of an inch of fat over the ribeye and about 9.5 square inches of ribeye area.
the range in quality grades will be somewhat small. Practically all cattle of this grade will qualify for either the Prime or Choice grade.

The inflationary impact of these revisions of the grade standards has been evaluated.

The foregoing changes shall become effective April 14, 1975.

Done at Washington, D.C., this 6th day of March 1975.

E. L. Peterson, Administrator,
Federal Deposit Insurance Corporation.
Agricultural Marketing Service.

[FR Doc.75-8030 Filed 3-11-75:8:45 am]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER A—Freedom of Information

PART 309—PUBLISHED AND UNPUBLISHED RECORDS AND INFORMATION

Freedom of Information

1. On January 15, 1975 the Federal Deposit Insurance Corporation ("FDIC") in accordance with the requirement in subsection (b) of Pub. L. 93-502, published (40 FR 2715) for notice and comment a uniform schedule of fees applicable to all records made available under section 3 of the Administrative Procedure Act (5 U.S.C. 552). The period of public comment on the proposed schedule ended on February 15, 1975.

The Board of Directors of the FDIC has decided to adopt the fee schedule in a form substantially similar to that which was published for comment. The Board of Directors has also decided to adopt various other amendments to §309.1 of the rules and regulations of the FDIC (12 CFR 309.1) which are necessary in its office in Washington, D.C., to the Executive Secretary of the Corporation on request will make such records available to any person who agrees to pay the costs of searching (whether or not the search is successful) and duplicating such records at the rate of (a) $4.50 per hour for clerical personnel are used, (b) $8.00 per hour where supervisory or professional personnel are used, (c) $175.00 per central processing unit hour for computer time used and (d) 10 cents per page for duplicating. Any request for records should specify an aggregate dollar limit which the person making the request is willing to pay for costs of searching and duplicating. (ii) Upon written request and duplicating as estimated by the Corporation exceeds the aggregate amount specified in the request, or where no dollar amount is so specified, the Corporation shall promptly advise the person receiving the records of such estimated cost. In addition, whenever the cost of searching and duplicating estimated by the Corporation exceeds $200.00, the requester shall be required to pay in advance to the Corporation an amount equal to 20 percent of that estimated cost. For purposes of the time period in subsection (b) of section 3 of the Administrative Procedure Act, as amended (5 U.S.C. 552(b)(8)), the Corporation determines by order printed in the Federal Register in which that record is filed or by rule (where a record is filed) that the Corporation must grant or deny a request for records. Such a request shall not be deemed to have been received by the Corporation until the person requesting such records agrees in writing to pay the costs of searching and duplicating as estimated by the Corporation and, if applicable, until the Corporation receives a payment in advance of 20 percent of such estimated costs. Where the cost of searching and duplicating is at a rate comparable to those imposed in paragraph (4)(i) of this section, the Corporation will undertake to compile requested data in summary, tabular or similar form under the Corporation determines, in its discretion, that compliance with such a request would be unduly burdensome or time consuming for the Corporation. (iii) Whenever the Corporation determines that furnishing any requested information is in the public interest because it primarily benefits the general public, it will reduce or waive any fees charged under paragraph (4)(i) of this section. In no event will the Corporation impose a charge for furnishing requested information when the aggregate fees computed under paragraph (4)(i) of this section do not exceed $2.00 for any one request.

(b) Unpublished information: confidential and privileged information. (1) All requests for records of the Corporation should clearly describe such records. Such requests or appeals from the denial of such requests should be forwarded in writing to the Office of the Executive Secretary, Records Unit, Federal Deposit Insurance Corporation, Washington, D.C. 20429. The Executive Secretary will in turn forward requests for records to the head of the Division which would reasonably be expected to

As used in this paragraph, the term "searching" includes any method of extracting requested information from computerized record systems.
have custody of such records, for action on the request. All denial of requests for records shall be made by the Chairman of the Corporation or a person specifically designated by the Chairman. The Executive Secretary will forward appeals from partial or total denial of records requests to the Board of Directors, or any person specifically designated by the Board to determine such appeals.

(2) The Corporation will grant a request which reasonably describes records of the Corporation, except to the extent that it relates to files, documents, reports, books, accounts, or records (collectively referred to as "records" in this section) pertaining to any bank, or the internal operations and affairs of the Corporation, in the possession or control of the Corporation or its officers, employees, or agents thereof, which are (i) exempt from disclosure by statute or by an Executive Order issued in regard to national defense or foreign policy; (ii) contained in or related to examination, operating, or condition reports (other than those operating or condition reports enumerated in paragraph (a)(3) of this section) prepared by or on behalf of, or for the use of the Corporation or any agency responsible for the supervision of financial institutions; (iii) related solely to the internal personnel rules and practices of the Corporation; (iv) privileged or related to the internal operations and affairs of the Corporation; (iv) privileged or related to the internal operations and affairs of the Corporation; (v) investigatory records compiled for enforcement of the Federal Deposit Insurance Act and other statutes, but only to the extent that disclosure of such records would interfere with enforcement proceedings; (vi) deprive a person of a right to a fair trial or an impartial adjudication; (C) constitute an unwarranted invasion of personal privacy; (D) disclose confidential information of a confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of any person and are furnished in confidence; (v) proceedings for cease and desist and suspension or removal orders or for the termination of the insured status of any bank; (vi) interagency or intragency memoranda or letters which would not be available by law to a private person; (vii) business, personal or financial affairs of the Corporation; (viii) records of the Corporation, or files and similar files (including financial files) the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (ix) records or information, other than the non-exempt portions of such records, which are reasonably segregable from the exempt portions, the non-exempt portions shall be provided to the requester.

(3) Where the Corporation denies, in whole or in part, a request for records or an appeal with respect to a previous denial, the Executive Secretary will so notify the requester in writing. Such written notification will (A) specify whether all or only a specific part of the request or appeal is being denied, (B) set forth the names and titles of each person responsible for the denial, (C) list the reasons which resulted in the denial, and (D) specifically designate (1) his right to appeal the initial denial of any part of the request to the Board of Directors within 30 business days following receipt of notification of the denial; and, in the case of an appeal from an initial denial, the Corporation will notify the appellant of the disposition within 20 business days following receipt of the appeal.

(4) Under unusual circumstances the Corporation may require additional time, up to a maximum of 10 business days, to determine whether to grant or deny a request or appeal. These circumstances would include, but not be limited to, (A) the records are in facilities, such as field offices, that are separate from the Corporation's Washington office, (B) the records requested are voluminous and related to one another, or (C) there is a need to consult with another agency or among two or more components of the Corporation having a substantial interest in the determination, as well as the reasons that additional time is required.

(5) The Corporation will normally notify the requester of the determination made with respect to his request for records within 10 business days following the receipt of such request; and, in the case of an appeal from an initial denial, the Corporation will notify the appellant in writing of the determination, as well as the reasons that additional time is required.

(6) Effective date. This regulation is effective February 19, 1975.

By order of the Board of Directors,
March 6, 1975.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[ SEAL] ALAN R. MILLER,
Executive Secretary.
[ FR Doc. 75-9622 Filed 3-11-75; 3:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEMS

[No. 75-207]

PART 545—OPERATIONS

Mobile Facilities

March 2, 1975.

The Federal Home Loan Bank Board, by Resolution No. 74-1114, dated October 24, 1974, proposed an amendment to §545.14-4(c)(2) of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.14-4(c)(2)) for the purpose of allowing for Board exceptions to the requirement that a mobile facility of a Federal association be at least ten miles from the locations of any home office or branch office or agency of any institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation. Notice of such proposed rulemaking was published in the Federal Register on November 4, 1974 (39 FR 38913), with an invitation for interested persons to submit written comments by December 5, 1974.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board hereby amends part 545 as proposed by revising §545.14-4(c)(2) thereof, to read as set forth below, effective April 12, 1975.

§ 545.14-4 Mobile facility.

(c) Action by the Board. Each application by a Federal association which is an eligible association under the provisions of paragraph (b) of this section will be considered or processed pursuant to the provisions of this section. The Board's approval of any such application will be subject to the following provisions
and any other conditions, requirements, and limitations the Board may specify in a particular case:

(2) The mobile facility shall be established and operated at two or more locations, each of which, at the time of filing of the application for permission to establish and operate the mobile facility, shall be more than 10 miles from the locations of any home or branch office or agency of any other institution having the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, unless the applicant establishes to the satisfaction of the Board that a shorter distance is justified;

(3a) The mobile facility shall be more than 10 miles from any home or branch office or agency of any other institution having the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, unless the applicant establishes to the satisfaction of the Board that a shorter distance is justified;

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary.

[FR Doc. 75-6842 Filed 3-11-75; 8:45 am]

Title 14—Aeronautics and Space
CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION
[Airworthiness Docket No. 75-WE-12-AD; Amdt. 39-2135]

PART 39—AIRWORTHINESS DIRECTIVES

Douglas Model DC—10 Series Airplanes

The Agency has received reports of failure of forward (No. 1) passenger doors to open when operated in the emergency mode. Due to misrigging or broken door lock cables, it has been impractical to release the doorlocks. An airworthiness directive is being issued to require inspection and rigging of the forward passenger doors to insure proper functioning during emergency operation.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public participation are impracticable and good cause exists for making this amendment effective 30 days after publication in the Federal Register.

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

**McDonnell Douglas. Applies to Douglas Model DC—10—10, -30, -50P, and -49 series airplanes, certificated in all categories, with factory serial numbers as indicated in Douglas Service Bulletin No. 82-132, Revision 1, dated February 21, 1975, or later FAA-approved revisions.**

To insure proper functioning of forward passenger doors during emergency operation, accomplish the following:

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

(1) Inspect the forward passenger door (L & R) operating mechanisms for proper rigging, broken, damaged, or corroded cables, and adjust rigging or replace cables as required, in accordance with Douglas Service Bulletin No. 82-132, Revision 1, dated February 21, 1975, or later FAA-approved revisions.

(2) After accomplishment of the inspection per paragraph (a)(1) above, check pneumatic operation of door from both the inside and outside of the aircraft.

(b) Compliance required on airplanes with 5000 hours' or more total time in service after accomplishment of the effective date of this AD, unless already accomplished per paragraph (a) above, within the next 1500 hours' time in service, and thereafter, at intervals not to exceed 1500 hours' time in service from the last inspection.

(1) Reinspect the forward passenger door (L & R) mechanism cables, and replace if required, in accordance with Douglas Service Bulletin No. 82-132, Revision 1, dated February 21, 1975, or later FAA-approved revisions.

(2) If cable(s) has been replaced, recheck pneumatic operation of applicable door(s) from both the inside and outside of the aircraft.

(3) Compliance required within the next 5000 hours' time in service after accomplishment of the above inspection per paragraph (a) above, and thereafter at intervals not to exceed 5000 hours' time in service from the last inspection.

(a) Reinspect the forward passenger door (L & R) mechanism rigging, and adjust if required, in accordance with Douglas Service Bulletin No. 82-132, Revision 1, dated February 21, 1975, or later FAA-approved revisions.

(b) If rigging has been adjusted, recheck pneumatic operation of applicable door(s) from both the inside and outside of the aircraft.

(c) Aircraft may be flown to a base for inspection per paragraph (a)(1) above, and thereafter at intervals not to exceed 100 hours time in service from the last inspection.

(a) The Chief, Aircraft Engineering Division, FAA Western Region, may approve equivalent inspections and modifications upon submission of substantiating data.

(b) Aircraft may be flown to a base for inspection per paragraph (a)(2) above, and thereafter at intervals not to exceed 100 hours time in service from the last inspection.

(c) Aircraft may be flown to a base for inspection per paragraph (a)(3) above, and thereafter at intervals not to exceed 100 hours time in service from the last inspection.

(d) The Chief, Aircraft Engineering Division, FAA Western Region, may approve equivalent inspections and modifications upon submission of substantiating data.

(e) Aircraft may be flown to a base for inspection per paragraph (a)(3) above, and thereafter at intervals not to exceed 100 hours time in service from the last inspection.

This amendment becomes effective April 14, 1975.

[Sec. 333(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1341(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1055(c))]  

Issued in Los Angeles, California, on March 3, 1975.

ROBERT H. STANTON,  
Director, FAA Western Region.

[FR Doc. 75-6842 Filed 3-11-75; 8:45 am]

[Airworthiness Docket No. 75-WE-14-AD; Amdt. 39-2135]

PART 39—AIRWORTHINESS DIRECTIVES

General Dynamics Model 240, T—29B, 340, 440 and C—131E et al.

Amendment 39-1111 (35 FR 17834), A D. 70-24-1, requires inspection of left and right pilots' compartment sliding windows for damage and replacement, if necessary, on all General Dynamics Model 240, 340 and 440 airplanes. After review of Model 240 Amendment 23—111, due to service experience, the agency has determined that age of windows made practically integral inspections not entirely reliable and that window failure in all cases results in pilot compartment damage, due to the cockpit door not remaining intact. Therefore, the A D. is being superseded by a new A D. that requires periodic replacement of windows irrespective of visual damage and to require modification to the Model 340 cockpit door.

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

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

**General Dynamics. Applies to Model 240, T—29B, 340, 440, and C—131E and all Model airplanes converted to turbopropeller power, in accordance with Title 14, Code of Federal Regulations, Parts 25 and 36.**

**General Dynamics Model 240, T—29B, 340, 440 and C—131E and all Model airplanes converted to turbopropeller power in accordance with Title 14, Code of Federal Regulations, Parts 25 and 36.**

To detect inpatient failure of the left and right sliding windows, and, to provide for a procedure to prevent damage to the pilot's compartment, this AD applies to General Dynamics Models 240, T—29B, 340, 440, and C—131E.

(a) For those sliding windows in airplanes which have been in storage or installed on airplanes which have been in storage, or installed on airplanes operated in pressurized flight, which, after the effective date of this A D., are to be used in pressurized operation:

(1) Accomplish inspection described in paragraph (a), above, within 50 hours time in service after the effective date of this A D., unless already accomplished within the last 60 hours time in service, and thereafter, at intervals not to exceed 100 hours time in service from the last inspection.

(2) Aircraft may be flown to a base for inspection, per paragraph (a)(1) above, and thereafter at intervals not to exceed 100 hours time in service from the last inspection.

(b) For those sliding windows that have been in storage or installed on airplanes which have been in storage, or installed on airplanes operated in pressurized flight, which, after the effective date of this A D., are to be used in pressurized operation:

(1) Accomplish inspection described in paragraph (a), above, within 500 hours time in service after the effective date of this A D., unless already accomplished within the last 60 hours time in service, and thereafter, at intervals not to exceed 100 hours time in service from the last inspection.

(2) Aircraft may be flown to a base for inspection, per paragraph (a)(1) above, and thereafter at intervals not to exceed 100 hours time in service from the last inspection.

This amendment becomes effective April 14, 1975.

[Sec. 333(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1341(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1055(c))]  

Issued in Los Angeles, California, on March 3, 1975.

ROBERT H. STANTON,  
Director, FAA Western Region.

[FR Doc. 75-6842 Filed 3-11-75; 8:45 am]
modify the cockpit door in accordance with General Dynamics Service Bulletin 640 (3403) No. 35-6, dated November 16, 1975, or later FAA-approved revisions, or an equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment supersedes Amendment 39-1111 (35 FR 17834), A.D. 70-24-1.

This amendment becomes effective March 17, 1975.

(1) (Sec. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1323(a), 1321, 1329); sec. 8(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Los Angeles, California, on March 3, 1975.

ROBERT H. STANTON, 
Director, FAA Western Region.

[FR Doc.75-6355 Filed 8-11-75;8:45 am]

Docket No. 75-SO-19; Amendment 39-324

PART 39—AIRWORTHINESS DIRECTIVES

Grumman Model G-1155 Airplanes

A design problem has been found which, with a single failure, could result in a dangerous condition. Both battery ground wires are connected to a single stud in the center overhead panel. The failure of this stud could result in the loss of all DC and AC electrical power.

Since this condition is likely to exist in other airplanes of the same type design, an Airworthiness Directive is being issued to require an inspection, and modification as required, of the center overhead panel wiring to assure that the two battery control relays are grounded on separate studs.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator 31 FR 13687, § 39.13 of Part 39 of the Federal Aviation Regulations is amended, effective 0901 g.m.t., June 15, 1975, as hereinafter set forth.

In § 39.131 (40 FR 441), the following transition area is added:

VAN HORN, TEX.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Van Horn RVR (latitude 33°00'41" N., longitude 101°33'32" W.) and extending 6.0 miles north and 9.5 miles south of the 654° bearing from the airport at a point 19 miles northeast of the airport coordinates.

(49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on March 3, 1975.

HENRY L. NEWMAN, 
Director, Southwest Region.

[FR Doc.75-6356 Filed 3-11-75;8:45 am]

Docket No. 75-SW-2

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

Designation of Transition Area

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

On January 21, 1975, a notice of proposed rule making was published in the Federal Register (40 FR 3312) stating that the Federal Aviation Administration proposed to designate a transition area at Van Horn, Tex.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 g.m.t., June 15, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

MALVERN, ARK.

That airspace extending upward from 700 feet above the surface within a 1.5 statute-mile radius of Malvern Municipal Airport, Malvern, Ark. (latitude 34°16'57" N., longitude 92°25'45" W.) and within 3.5 statute miles each side of 60° bearing from the Malvern NDB (latitude 34°16'50" N., longitude 92°25'20" W.), extending from the 5-mile-radius area to 11.5 statute miles north, south, and east of the NDB, which oversees the Little Rock, Ark., transition area.

(49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on March 3, 1975.

HENRY L. NEWMAN, 
Director, Southwest Region.

[FR Doc.75-6356 Filed 3-11-75;8:45 am]

Docket No. 75-SW-3

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation regulations is to alter the Augusta, Ga., transition area.

The Augusta transition area is described in § 71.181 (40 FR 441). In the description, extensions are predicated on the Emory RBN 166° and 346° bearings and on the Augusta VORTAC 321° radial. These extensions were designed to provide controlled airspace protection for IFR airplane executing the NDB RWY 17 and, VOR/DME-A Instrument Approach Procedures. Since the final approach altitude of these procedures has been raised, these extensions are no longer required. It is necessary to amend the description to delete the extension and insert a 9-mile radius predicated on Daniel Field therefor. Since these amendments are less restrictive in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 g.m.t., March 28, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the Augusta, Ga., transition area is amended to read:

AUGUSTA, GA.

That airspace extending upward from 700 feet above the surface within a 11.5-mile radius of Daniel Field (Lat. 33°31'45" N., Long. 82°26'30" W.), extending from the 7-mile radius area to 18.5 miles south of the LOM, within a 5-mile radius of Daniel Field (Lat. 33°31'45" N., Long. 82°26'30" W.); within a 7-mile radius of Thomson-McDuffie Airport, Thomson, Ga. (Lat. 33°31'45" N., Long. 82°26'30" W.); within a 10.5-mile radius of Thomson-McDuffie RBN (Lat. 33°31'45" N., Long. 82°26'30" W.), extending from the 7-mile radius area to 18.5 miles east of the RBN.

(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 March 3, 1975.

PHILLIP M. SWAYZE, 
Director, Southern Region.

[FR Doc.75-6359 Filed 3-11-75;9:45 am]
PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On December 2, 1974, a notice of proposed rule making was published in the Federal Register (39 FR 41751), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Kenansville, N.C., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.M.T., June 19, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

KENANSVILLE, N.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Duplin County Airport (Lat. 35°00'00" N., Long. 77°59'00" W.), within 5 miles each side of the 004° bearing from Kenan RBN (Lat. 33°37'01" N., Long. 79°51'04" W.), extending from the 6.5-mile radius area to 8.5 miles northeast of the RBN.

(39 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in East Point, Ga., on February 27, 1975.

PHILLIP M. SWATEN
Director, Southern Region.

[FR Doc. 75-6361 Filed 3-11-75; 8:45 am]

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

Designation of Transition Area

On January 23, 1975, a notice of proposed rule making was published in the Federal Register (39 FR 6908), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Kingsree, S.C., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. The only comment received was from the Southern Region USAP Representative, who objected because the proposal would have a severe impact on USAP utilization of Florence 49 Low Altitude High Speed Route and Olive Branch Route 17, Statesboro, Ga. No comments were received.

In § 71.181 (40 FR 441), the following transition area is added:

KINGSTREE, S.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Williamsburg County Airport (Lat. 33°43'01" N., Long. 79°51'28" W.); within 3 miles each side of the 307° bearing from Kingsree RBN (Lat. 33°43'01" N., Long. 79°51'23" W.), extending from the 6.5-mile radius area to 6.5 miles northwest of the RBN.

(39 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))

Issued in East Point, Ga., on March 3, 1975.

PHILLIP M. SWATEN
Director, Southern Region.

[FR Doc. 75-7563 Filed 6-1-75; 8:45 am]

PART 74—PUBLIC INFORMATION

SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

PART 4—PUBLIC INFORMATION

This revision updates the rules of the Department of Commerce concerning its responsibilities under the Freedom of Information Act (the "Act"), 5 U.S.C. 552, and conforms them to the amendments to the Act (Pub. L. 93-502, 88 Stat. 1561). The Department published on January 16, 1975 in the Federal Register (40 FR 2821), a proposed uniform schedule of fees to become part of those rules. That subject is discussed hereinafter.

The rules on fees have been incorporated as § 4.9 of this revision.

The Department has continued its practice for implementation of the Act. Department Administrator Order 205-12, issued by the Secretary, contains the policies, delegations of authority, and other criteria for the issuance of supplementary rules and the taking of other actions. DAO 205-12 is attached and incorporated by reference as Appendix A to this part. It covers the making of information publicly available by publication in the Federal Register as required by 5 U.S.C. 552(a)(1), the making available of materials for inspection and copying as provided in 5 U.S.C. 552(a) (2) and (5) and the handling of requests for records as provided in 5 U.S.C. 552(a) (3), (4) and (6), subject to other provisions of the Act.

The rules in 1 CFR Part 4 set forth the procedures for the various organizational units of the Department to provide public reference facilities for the inspection and copying of materials for which each unit is responsible, and for their handling of public requests for records. The rules apply to all units in order to assure the maximum amount of uniformity and consistency within the Department in its implementation of the Act.

As in the existing rules, however, the units of the Department may decide whether or not to establish their own separate reference facilities or to join those established by other reference facilities established and maintained by the Assistant Secretary for Administration. Several units opted to establish their own facilities. Most are utilizing the central facilities, as is indicated in Appendix F to this part.

There was a question whether persons requesting records under 5 U.S.C. 552(a)(3) should be required to address their written requests to a centralized place for a specific address for a particular unit when the requester has reason to know which unit's records it is requesting. Considering the time limitations for handling these requests specified in 5 U.S.C. 552(a)(6), it was decided, and the rules so provide, that each operating unit may have its own address to receive requests for its records. Each is responsible. A central address is provided for the requests of members of the public who are unfamiliar with the organization of the Department. These addresses are specified in Appendix B to this part.

The rules establish specific requirements for the making and processing of requests, in order to insure compliance with the time limits imposed by the amendments to the Act. Thus, requests for records are required to be clearly marked and correctly addressed by the requester to the responsible unit, or, if not known, to the Department, so as to enable their timely processing. Although Department personnel are to promptly forward the incorrectly marked and addressed requests to the responsible units, the exercise of due diligence by personnel, the time limits imposed by the Act, and noncomformity of the request make it impossible to meet the time limits of the Act.

The determination of appeals from initially denied requests for records has been restricted to the Secretary, to Secretarial officers for their respective offices, and to the heads of the Department's operating units for their respective organizations. These determinations are final for the Department, and a request for review by court is not possible.

The rules recognize that situations may arise when, despite the exercise of due diligence, the statutory time periods...
for reply to a request or for determination of an appeal may expire without the Department's action. In such cases, the requestor is to be notified that it may deem the non-reply to its request to be an initial denial from which it may immediately appeal. In instances of determination of an appeal to be an exhaustion of administrative remedies enabling the requestor to bring immediate suit for judicial review. In each instance, the requestor may be asked to defer such appeal or court action while the Department is making diligent efforts to process the request. Also, a proposed decision date is to be furnished to the requestor.

The rules make it clear that requests for records or information that are (a) customarily made available to the public as part of the regular information dissemination activities of the Department, or (b) provided by the Department under statutory authorities other than the Act, such as its user charge statute (15 U.S.C. 1525-1527), are not to be considered requests made under the Freedom of Information Act and will be handled under different procedures and different fee schedules.

Fees and related procedures. As noted, a proposed uniform schedule of fees, with related rules, was published in the Federal Register on January 16, 1975. Several comments were received from the public and from within the Department.

Upon reconsideration, the fee schedule and the related rules have been amended in some respects, predicated upon the comment, a need for certain clarifications, and further consideration of how to apply the provisions of 5 U.S.C. 552(a) (4) (A). That paragraph of the Act provides that the fees be reasonable, that they apply only to document searches and duplication, and that they are fixed to recover only the direct cost of such search and duplication. Also, there shall be no fee for copying or reduction in the public interest because the information contained in the records made available to the requester can be considered as primarily benefiting the general public.

It should be noted that, by construction of law, fees which are received under the Act are not retained for use by the Department but are transferred to miscellaneous receipts of the Treasury.

1. The proposed subsection 4.8(b) for fees has been changed to subsection 4.9 to conform to the numbering of the provisions in 15 CFR Part 4.

2. The fees which have been set for searches and for copying are considered to be the Department's present actual cost or slightly less. The Department comments that the provision for copying of records should be clarified to indicate the page size, that the charge is for photocopying or similar process, and that the number of copies to be furnished be limited to one unless a demonstrable need for more is shown. The point of the latter comment is that the Department should avoid being in the duplicating business. These are valid comments, and § 4.9(a) (3) has been amended accordingly.

3. It was commented that provision should be made to permit charges at cost or slightly less on request if the search for services or materials which may be requested. Section 4.9(a) (7) has been added for such purpose.

4. A number of Department comments opposed to the proposal not to charge for a request when the fees totaled less than $25. "Fees" cover both search and copying. Under this provision as much as 357 pages of free reproduction would be furnished. Also, it was claimed that the amount proposed did not adequately consider agency resources and should be reduced. We found, from a review of the proposed fee disclosure which the other Federal agencies issued under the Act, that if they provide for a waiver of search fees, the amount waived does not exceed $10. We believe it in line and reasonable to amend the general fee waiver to restrict it to search fees only and to reduce it to a $10 ceiling. It was also made discretionary to waive a copying fee which does not exceed $1. Paragraph 4.9(b) (6) was revised accordingly.

5. It was noted that requests for records made by Federal agencies and courts, Congressional committees, the General Accounting Office and the litigant are to be handled under the Act, and that the fees provided under the Act are not, therefore, applicable to these requests. Paragraph 4.9(b) (1) was revised accordingly.

6. A comment objected to the proposed provision that search fees are chargeable even when the records requested are not found in the search or they are determined to be exempt from disclosure. It is argued that in the view of the legislative history of the amendments to the Act, Commerce is here doing what Congress did not intend it to do. The comment proposed that the Department's Justice rules permitting flexibility to charge if the requester has been notified about the estimated search cost and search time has in fact been substantial. We agree with the Justice rules and its legislative history permit an agency to charge for searches which are not productive or where records found are determined to be exempt from disclosure. A number of agencies other than Commerce have provided for this. Others have as a matter of policy decided, either not to charge or to do so when search costs are the same. It is a matter of policy, discretion exercise by the agencies in the circumstances under which the information contained in the records made available to the requester can be considered as primarily benefiting the general public.

We see no real or legal difference, so substantial effort and expense in making a search may be charged as a fee for search and duplicating. The requester is not to be charged for search time when the search is left to the requester. The time period which is to be tolled is, therefore, entirely within the control of the requester. If he is not aware of the anticipated cost, or the cost will exceed what the requester has informed the agency it will pay, or the requester has not paid prior fees.

The proposed rule did not provide for mandated search charges in the stated situations; it said that search fees in such cases were "chargeable," a discretionary matter. Nonetheless, since the Department is concerned with its having to absorb substantial search charges in these situations, the rule commented that 4.9(c) (1) has been amended to provide that when search cost exceeds $59 (manual—five hours) for a particular requester, and no records are found or forthcoming, the requester may be charged.

7. A public comment contended that there is no legal basis for a proposed rule which provides, that when the Agency notifies a requester a that estimated search costs will be substantial or will exceed the fees the requester has agreed to pay, or that the requester is diligent in the payment, and (b) that the requester shall pay the estimated search fee before the search continues; the time period between the notice and the requester's payment of the fee shall not be included in the estimated search costs set forth in 5 U.S.C. 552(a) (6) for a reply to the request. The comment asserts that the Act requires a determination of availability of records with-in the fee limit, in lieu of the time period. The Department's concern over being paid its search costs may be met by requiring payment before the records are made available to the requester.

We believe that the Act permits an agency, in its administration of fee schedules, to establish a rule setting forth the circumstances under which the agency provides, that when the Agency notifies a requester a that estimated search fees before a search is made. A requester is liable for payment of fees properly assessable under the Act. This liability is the same before or after the work is done by the agency, to the extent the fees are the same. It is a proper agency interest to request and receive payment before it incurs substantial effort and expense in making a search. Requesters are therefore advised to make sure they are aware of the anticipated cost, or the cost will exceed what the requester has informed the agency it will pay, or the requester has not paid prior fees.

The comment is directed at those instances. The Department is to notify the requester of the estimated search costs in the instances provided in the rules immediately upon their ascertainment. This notice protects the requester against its incurring unanticipated costs. It is then up to the requester to pay the estimated fee or to discuss with the unit to be charged the nature of the search charged and any dilatory action by the Department.

We see no real or legal difference, so far as the requester is concerned, between a rule saying the requester is to pay an estimated search fee prior to search (and the records are ultimately furnished to it), and the rule proposed in the comment that the records after
search shall be withheld from the requester until it pays the search fee. However, the Department's rules provide that a requester may be charged a search fee when records requested are not found in a search, and when records found are determined not to be disclosable. The requester decides for any reason not to pay the search fee in any of those situations, the Department will be left with a usually uncollectable claim for the cost of the search and may, in its discretion, charge the requester an administrative fee of $100.00 or more, as determined by the Director of the Office of General Counsel and approved by the Assistant Secretary for Administration, in any case in which the Department has determined that the requester is not reasonably progressing in the search or until it is completed.

Because this revision pertains to matters of procedure and policy, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Many of these provisions are necessary to achieve compliance with the amendments to the Freedom of Information Act (5 U.S.C. 552) which became effective on February 19, 1975. However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments on these amendments to the Office of the General Counsel, U.S. Department of Commerce, Room 5879, Washington, D.C. 20230, no later than March 28, 1975. Arrangements to inspect copies of written comments may be made by writing or by calling the Office of General Counsel, 202-987-5387. All comments received in this manner will be evaluated for possible changes in the rules.

In consideration of the above, Part 4 of Title 15, Code of Federal Regulations, is revised as set forth below.

See
4.1 Scope and purpose.
4.2 Policies.
4.3 Definitions.
4.4 Availability of materials for inspection and copying; indexes.
4.5 Requests for records.
4.6 Initial Determination of Availability of Records.
4.7 Inspection and copying of records.
4.8 Appeals from Initial Denials or Unfavorable Decisions.  
4.9 Payment of fees.

§ 4.1 Scope and purpose.
(a) This Part revises the rules of the Department Administration whereby the Department and its organizational units are to make publicly available the materials and indexes specified in 5 U.S.C. 552(a)(2) and the records requested under 5 U.S.C. 552(a)(3). This revision is to conform the rules to the requirements of the Freedom of Information Act (5 U.S.C. 552), as amended by Pub. L. 93-502, 88 Stat. 1561, effective February 19, 1975.

(b) These rules supplement Department Administrative Order 205-12, which contains policies, delegations of authority, and other rules implementing 5 U.S.C. 552. DAO 205-12 is attached as Appendix A to this Part.

(c) Certain units of the Department other than those identified in paragraph 4.4(d) of this section have, pursuant to delegated authority and for appropriate reasons, provided for their own facilities for the public inspection and copying of records. The units have provided for separate places to which requests for records are to be made and received. These facilities and places are identified in Appendix B to this Part. The units may publish supplementary rules in addition to but not inconsistent with this part, DAO 205-12, and the law in their respective chapters of the Code of Federal Regulations or otherwise in the Federal Register. All of such rules shall be maintained in the central public reference facility identified in § 4.4(c), where information about them may be obtained.

§ 4.2 Policies.
(a) Department Administrative Order 205-12 defines the basic policies and other criteria to be considered in issuing and administering these rules. To the extent that these policies and criteria are not specified in this part or in any supplementary rules of the units, they are incorporated by reference.

(b) Requests for records made under 5 U.S.C. 552(a)(3) apply only to existing records, and the Department is not required, in response to a request, to create records by combining or compiling information contained in existing records, or otherwise to prepare new records. However, Departmental officials may, upon request, provide or create new information in record form pursuant to user charge statutes, such as 15 U.S.C. 1625–1627, or in accord with authority otherwise provided by law.

§ 4.3 Definitions.
(a) All terms used in this Part which are defined in 5 U.S.C. 551 shall have the same meaning herein.


(c) The terms “Office of the Secretary” and “operating unit” are defined in Department Organization Order 1-1, "Mission and Organization of the Department of Commerce" (35 FR 19704, December 27, 1970).

(d) The term “unit” as used in this part may be a separate unit of the Department, and (2) each Secretarial officer and the persons and the Departmental officers under each.
the Department may be purchased at the facility or information about them obtained. Correspondence concerning materials available at the facility or information about the rules implementing the Act may be sent to the above address. The telephone number of the facility is Area Code 202, 507-9161. (3) United States Government agencies participating in the use of this central facility: (a) All components of the Office of the Secretary of Commerce. (b) Domestic and International Business Administration. (3) National Bureau of Standards. (4) Bureau of Economic Analysis of the Social and Economic Statistics Administration. (5) United States Travel Service. (6) Office of Minority Business Enterprise. (7) National Technical Information Service. (8) Office of Product Standards. (9) Office of Telecommunications. (10) National Fire Prevention and Control Administration. (b) Other units of the Department. The central facility which has established separate public reference facilities, listed in Appendix B to this part, shall publish rules applicable to the services provided therein, not inconsistent with this part, for public use. Each such request, so marked, and addressed by Department personnel. In each instance when a request is received and the responsible unit receiving it shall notify the requester that its request was improperly addressed and of the date the request was received by the unit. (1) Whether the records are for records which are not customarily made available to the public as part of the Department's regular informational service, or which are not available in a public reference facility described in §4.4(c) or Appendix B to this part, shall be made in writing, with the envelope and the letter clearly marked "Freedom of Information Request" or "Request for Records" or the equivalent, to distinguish it from other mail to the Department. Such requests shall be forwarded to the unit of the Department identified in Appendix B to this part which the requester knows or has reason to believe is responsible for the records requested. If the requester is not sure which is the responsible address unit, it shall address the request to the central facility identified in §4.4(e), or obtain advance information from that facility as to which is the responsible addresses unit. Any request for records which is not marked and addressed as specified in paragraph (a) of this section will be so marked and addressed by Department personnel and forwarded immediately to the responsible unit having possession or control of the records requested having primary concern with such records. A request which is improperly addressed by the requester will not be considered to have been "received" for purposes of the time period for a request for records set forth in 5 U.S.C. 552(a)(6), until the earlier of the time that (1) forwarding of the request to the responsible unit has been effected, or (2) such forwarding would have been effected with the exercise of due diligence by Department personnel. In each instance the responsible unit receiving it shall notify the requester that its request was improperly addressed and of the date the request was received by the unit. (c) The requesting unit shall sufficiently identify the records requested to enable Department personnel familiar with the subject matter to locate them with a reasonable amount of effort. The request shall (1) sufficiently describe the specific description information regarding dates and place the records were made, the file descriptions, subject matter, persons involved, and other pertinent details that will help identify the records. If the request relates to a matter in pending litigation, the court, location and case shall be identified. When more than one record is requested, the request shall (a) identify the specific record, and the specific information requested which is contained in a record, so that its availability may be separately determined. Employees at a facility or unit listed in Appendix B to this central facility which has established separate public reference facilities, listed in Appendix B to this part, shall publish rules applicable to the services provided therein, not inconsistent with this part, for public use. Each such request, so marked, and addressed by Department personnel. In each instance when a request is received and the responsible unit receiving it shall notify the requester that its request was improperly addressed and of the date the request was received by the unit. (1) Whether the records are for records which are not customarily made available to the public as part of the Department's regular informational service, or which are not available in a public reference facility described in §4.4(c) or Appendix B to this part, shall be made in writing, with the envelope and the letter clearly marked "Freedom of Information Request" or "Request for Records" or the equivalent, to distinguish it from other mail to the Department. Such requests shall be forwarded to the unit of the Department identified in Appendix B to this part which the requester knows or has reason to believe is responsible for the records requested. If the requester is not sure which is the responsible address unit, it shall address the request to the central facility identified in §4.4(e), or obtain advance information from that facility as to which is the responsible addresses unit. Any request for records which is not marked and addressed as specified in paragraph (a) of this section will be so marked and addressed by Department personnel and forwarded immediately to the responsible unit having possession or control of the records requested having primary concern with such records. A request which is improperly addressed by the requester will not be considered to have been "received" for purposes of the time period for a request for records set forth in 5 U.S.C. 552(a)(6), until the earlier of the time that (1) forwarding of the request to the responsible unit has been effected, or (2) for all records falling within a reasonably specific but broad category, shall be regarded as conforming to the statutory requirement that records be reasonably described, if the records can be identified, searched for, collected and produced without unduly burdening or disrupting the unit's operations. If the categorical request does not reasonably describe the records requested, the unit shall promptly notify the requester in writing specifying what additional identification is needed, and extend to the requester the opportunity to confer with Department personnel to attempt to reformulate the request so as reasonably to describe the records. (6) In each of the situations set forth in paragraphs (a) and (b) of this section, the procedures relating to fees described in §4.9 shall also be applied and coordinated as appropriate. (b) An authorized official in the responsible unit shall review the request to determine the availability of the records requested. (1) The determination shall be made within ten days (excluding Saturdays, Sundays and legal public holidays) of the receipt of the request (as defined in §4.8 of this section), unless that time is extended as provided in paragraph (b) of this section. (2) In unusual circumstances, an appropriate official authorized to make initial determinations of requests may extend the time for initial determination for up to ten days (excluding Saturdays, Sundays and legal public holidays) by written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. Extensions of time for the initial determination and extensions of time on appeal may not exceed a total of ten days, and time taken for the former counts against available appeal extension time. "Unusual circumstances" means, but only to the extent reasonably necessary to the processing of a particular request: (i) the need to search for, examine and collect the requested records from field facilities or other establishments that are separate from the office processing the request; (ii) the need to conduct a substantial amount of travel; (iii) that the record is voluminous. When no determination has been sent to the requester at the end of the initial ten day period, or the last extension thereof, the requester may deem his request to be initially denied, and exercise a right of appeal therefrom. When no determination can be made within the applicable time period, the responsible unit shall neither exercise due diligence in attempting to locate the requested records. (2) Therefore, the unit shall, on expiration of the ap-
plicable time period, inform the requester of the reason for the delay, of the date a determination is expected to be sent, and of the requester’s right to treat the delay as a denial of the request and appeal therefrom. It may ask the requester to forego an appeal until a determination is made.

(4) If it is determined that the records requested are to be made available, and there are fees for copying to be paid, the responsible official shall promptly notify the requester as to where and when the requested records or copies may be obtained or otherwise provide them as agreed. If there are fees still to be paid by the requester, it shall be notified that upon their payment the records will immediately be made available.

Appendix C lists the limited number of officials who have been authorized to make initial denials of requests for records, except as may be subsequently authorized. A reply initially denying, in whole or in part, a request for records shall be in writing, signed by an authorized official, and it shall include:

(1) A reference to the specific exemption or exemptions of the Act authorizing the withholding or excusing disclosure of the records, stating briefly why the exemption applies and, where relevant, why a discretionary release is not appropriate.

(2) The name and title or position of each official responsible for the denial.

(3) A statement of the manner in which any reasonably segregable portion of a record shall be provided to the requester after deletion of the portions which are determined to be exempt.

(4) A brief statement of the right of the requester to appeal the determination, and the address to which the appeal shall be sent, in accord with § 4.8 (a) and (b).

(5) A copy of each initial denial of a request for records shall be provided to the Assistant General Counsel for Administration.

§ 4.7 Inspection and copying of discloseable records.

(a) Unless the requester has otherwise indicated, discloseable records shall be sent to the appropriate facility to be held for a reasonable time for inspection by the requester, after any fees due are paid.

(b) The requester may copy by hand any portion of the record may use the coin-operated copying equipment at the facility to make copies, or may make other arrangements for copying at specified fees.

(c) No change or alteration of any kind may be made to the record being inspected, nor may any matter be added to or deleted therefrom. Papers bearing aпервышным, otherwise assembled in a record file may not be disassembled by the requester.

Title 18, United States Code, section 2701 (a) makes it a crime to conceal, mutilate, obliterate, or destroy any record filed in any public office, or to attempt to do any of the foregoing. Staff of the facility are authorized to supervise inspection as necessary to protect the records of the Department, and they shall provide assistance if disassembly of a record is necessary for copying purposes.

(d) If a requester does not want to inspect a record by personal visit to the facility, a copy shall be mailed to the requester upon its payment of copying and postage fees as set forth in subsection 4.9 of this part, and other fees due. Original copies of records of the Department may not be sent to any location other than the appropriate facility for inspection.

(e) A copy of transcripts of public hearings held by a unit of the Department may be made available for inspection when it is not in actual official use.

§ 4.8 Appeals from initial denials or untimely delays.

(a) When a request for records has been initially denied in whole or in part, or has not been timely determined, the requester may submit a written appeal to the Assistant Secretary for Administration, setting forth the reasons and the date of the written denial or, if there has been no determination, on the last day of the applicable time limit. The appeal shall include the original request, the initial denial, if any, and a statement of the reasons why the records requested should be made available and why the initial denial, if any, was in error. In such an instance, oral argument or hearing on appeal is provided.

(b) An appeal shall be addressed to the particular official identified in the initial denial notice as the person to receive an appeal or, if the requester did not receive such a notice, the appeal shall be addressed to the Assistant Secretary for Administration. Both the appeal envelope and the letter shall be clearly marked “Appeal for Records” or the equivalent. An appeal not addressed and marked as provided herein will be so marked by Department personnel when it is so identified and untimely delays.

(c) An appropriate official responsible for determining appeals of requests for records shall act upon an appeal within thirty calendar days of the date the appeal was received by that official.

(d) If a decision on appeal is to make the records available to the requester in part or in whole, such records shall be promptly made available for inspection and copying as provided in § 4.7.

(e) If no determination of an appeal has been sent to the requester within the twenty day period or the last extension thereof, the requester is deemed to have exhausted available remedies with respect to such request, giving rise to a right of judicial review as specified in 5 U.S.C. 552(e) (4).

(4) When no determination can be sent to the requester because the time limit has expired, the responsible appeals official shall nonetheless exercise due diligence in continuing to process the appeal. When the time limit expires, the requester shall be informed of the reason for the delay, of the date when a determination may be expected to be made, and his right to seek judicial review. The requester may be asked to forego judicial review until the appeal is determined.

(f) A determination on appeal shall be in writing and, when it denies records in whole or in part, the notice to the requester shall include: (1) notation of the specific exemption or exemptions of the Act authorizing the withholding, a brief explanation of how the exemption applies, and, when relevant, a statement as to why a discretionary release is not appropriate; (2) a statement that the decision is final for the Department; (3) advice that judicial review of the denial is available in the district in which the records are situated, or the District of Columbia, and (4) the names and titles or positions of each official responsible for the denial.

(5) Final appeal decisions shall be indexed and kept available for public inspection and copying in the central public reference facility referred to in § 4.7.

§ 4.9 Fees.

(a) Uniform fee schedule. Unless waived or reduced as provided in paragraph (b) of this section, the following fees shall be charged in connection with requests for records subject to this part.

(1) Searches other than for computerized records. $2.50 for each one-quarter hour for time spent by clerical, professional and supervisory personnel in examining records in order to find the records and information that are within the scope of the request, and for transportation of personnel and records necessary to the search.

(2) Searches for computerized records. Actual direct cost of the computer time to the Government agency to use the equipment involved in the search.

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not to exceed $270 per hour ($4.50 per minute). This fee includes both machine time and that of related operator and clerical personnel. If programming is necessary to conduct the search, there will be an additional fee of $2.50 for each one-quarter hour (or fraction thereof) of programming time and one and one-half times the analyst time. The fees for computer printouts shall be 20 cents per page for the original copy and carbon copies concurrently printed.

(3) Charges of records. Seventeen cents per page of each copy, up to 3½ line x 4¼", made by photoprint or similar process. Normally, only one copy will be provided. Added copies will be provided only upon a showing of need for the additional copies.

(4) Copies of microfilm or microfiche.

19 mm. (100 ft. roll), $0.60.
35 mm. (100 ft. roll), $7.00.
16 mm. fiche, $0.25 each.

Aperture cards, $0.25 each.

85 mm. (100 ft. roll), $7.00.

Other costs.

When other duplicating costs not specifically identified in this paragraph (a) are requested and provided, their direct cost to the Department shall be charged. Other services and materials requested which are not covered by this part are chargeable at actual cost to the Department.

(b) A copying fee totaling $1 or less may be waived. A copying fee totaling $1 or less may be waived. The fees for other purposes are chargeable, even when no records requested are found, or when the records requested are determined by the responsible Department official to be totally exempt from disclosure.

(2) If the requester has notified the Department in or with its request for records that it is willing to pay an amount sufficient to cover the necessary search, a search may be made for the records without further notice to the requester, unless the requester is delinquent in making past payments or the estimated search fee will exceed $100.

If the requester has stated in or with its request that it is willing to pay a specified amount which is less than $100 for a search, a search may be made for the records without further notice to the requester if the fees are estimated to be less than the specified limit, unless the requester is delinquent in making past payments.

(4) If the estimated fee (i) exceeds $100 for a search covered within paragraph (c) (2) of this section, (ii) exceeds the limits of the fee specified within paragraph (c) (3) of this section, or (iii) exceeds $50 and the requester has said nothing about payment; or if the requester in any instance is delinquent in past payments, the requester shall be notified immediately (by wire or telephone confirmed in writing) of the estimated total fee and shall be asked to pay such fee before the search may be conducted or continued. The notice may advise the requester that it may confer with specified Department personnel as to possible reformulation of the request in order to reduce the fee.

(5) The administrative time limitations prescribed in 5 U.S.C. 552(a) (6) shall be tolled from the time the notice described in paragraph (c) (4) of this section is sent to the requester until the time that the unit receives payment of the estimated fee from the requester, unless the responsible Department official determines to postpone payment of the search fee to the requester in the search or until it is completed.

(6) When a specific fee is determined to be payable and notice thereof has been given to the requester, the payment of such fee shall be received before the requested records or any part thereof are made available to the requester.

(7) Payment of fees shall be made in cash or preferably by check or money order payable to “U.S. Department of Commerce”, and, if they are to be sent by mail, a mailing address shall be given. If none, the unit handling the request. Where appropriate, the responsible official may require that payment be made in the form of a certified check.

(8) If an advance payment of an estimated fee exceeds the actual total fee by $1 or more, the difference shall be refunded to the requester. If the estimated fee paid is less than the actual fee later determined, any difference in excess of $1 may be further paid to and is payable by the requester.
The authority to make final decisions on appeal of initially denied requests for records, shall not be redelegated by the officials designated in subsection 4.01 of this section to make final decisions on appeal of initially denied requests for records, shall not be redelegated by the officials designated in subsection 4.01 of this section.

The General Counsel of the Department, and his designees, shall provide legal services to the Department and shall make such determinations as to the propriety of withholding of information and records; the use of the legal authorities which permit the withholding of information and records; the keeping within the limits of demonstrable need as will enable it to deal effectively and efficiently with the information which is given to individuals or summaries of the information which is given to individuals or summaries of the information which is given to individuals.

The following information of the Department and its component organizations shall be withheld from public inspection and copying pursuant to 5 U.S.C. 552(a)(1), (2), or (6).

The Department is responsible for the efficient conduct of their organizations' activities and for the Department staff information publicly available under Department Organization Order 1-1, "Mission and Organization of the Department of Commerce" (35 FR 19704, December 27, 1970). All other information subject to the Act which are in the possession of the Department, rather than records established pursuant to 5 U.S.C. 552(a)(1).

The Assistant Secretary for Administration shall also act as the focal point within the Department for the efficient conduct of their organizations' activities.

5. Functions and responsibilities—Publication in the Federal Register (6 U.S.C. 552(a)(1))

c. The following information of the Department and its component organizations shall be withheld from public inspection and copying in the Federal Register for the guidance of the public:

1. Descriptions of the central and field organizational structures and contents of all papers, reports, or examinations;

2. Rules of procedure, descriptions of forms available or the places at which forms may be examined as to the scope and contents of all papers, reports, or examinations;

3. Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of law which are promulgated in the Federal Register or another publication of general circulation;

4. That no person shall in any manner be required to resort to or be adversely affected by any matter required to be published in the Federal Register under 5 U.S.C. 552(a)(1) when it is not so published. However, actual and timely notice given to such a person, or publication of such notice should as a matter of policy be in addition to, rather than instead of, publication.

5. That no person shall in any manner be required to resort to or be adversely affected by any matter required to be published in the Federal Register under 5 U.S.C. 552(a)(1) when it is not so published. However, actual and timely notice given to such a person, or publication of such notice should as a matter of policy be in addition to, rather than instead of, publication.

b. The information contained in paragraph 5.02a. of this subsection shall be published in the Federal Register in the form of or included in:

1. Department Organization Orders, including any supplements and appendices thereto. The Assistant Secretary for Administration shall cause such materials to be published in the Federal Register. The Department Organization Orders and their supplements contain information which is not subject to the Act as well as information which is subject to the Act. The following materials, unless such materials are authorized by law, shall be followed:

2. Department Administrative Orders, including any supplements or appendices thereto.

3. That matters which are reasonably available to the class of persons affected thereby and which have been or are to be published by reference in the Federal Register with the approval of the Director of the Federal Register are deemed to be published in the Federal Register pursuant to 5 U.S.C. 552(a)(2). It is hereby determined, subject to the periodic reappraisal by the Assistant Secretary for Administration of any classification of records pursuant to changed circumstances, that it is unnecessary and impracticable to publish quarterly or more frequently and distribute (by sale or otherwise) copies of such index and supplements thereto. Copies of such materials shall be provided upon request at a cost not to exceed the direct cost of duplication.

b. The rules published in the Federal Register under paragraph 5.02a. of this subsection shall include provisions for the time,
place, copying fees, and any procedures applicable to making such materials available at facilities or otherwise for public inspection and copying.

The Assistant Secretary for Administration shall establish and maintain a centralized public reference facility for the inspection and copying of materials subject to 5 U.S.C. 552(a) (2) and (5). The head of an operating unit may, with the approval of the Assistant Secretary for Administration, establish for his organization a separate place for making the materials subject to 5 U.S.C. 552(a) (2) and (5) available for inspection and copying, and publish appropriate rules applicable thereto approved by the Assistant Secretary for Administration.

The officials responsible for determining the materials to be available for public inspection and copying for the agency or office shall, among other matters, for the following:

1. That these matters which fall within one or more of the exemptions contained in 5 U.S.C. 552(b) are not made available. However, they may be made available in any particular respect if it is determined that this would better serve the public interest.

2. That they may, to the extent required to prevent a clearly unwarranted invasion of personal privacy, delete identifying details from an opinion, statement of policy, interpretation, staff manual or instruction, or other materials, when it is made available for inspection and copying. In each case the justification for the deletion shall be explained fully in writing. Such action is to be taken in consultation with the applicable official specified in subsection 4.01 and 4.02 of this order who are responsible for determining whether any records requested under 5 U.S.C. 552(a) (2), but which were adopted or issued by an agency prior to July 4, 1967, may at any time be used, relied upon or cited as precedents by the agency against any private person or party.

3. That materials should be made available for inspection and copying, and also included in the index, as provided in this order. However, since the basic purpose of this section of the Act is to disclose to the interested members of the public essential information which will enable them to deal effectively and knowingly with an agency, materials which are of such importance as to require that they not be relied upon, used or cited as precedent by the agency against any private person or party, must be exempted from this section.

4. That the agency is not precluded from using as precedent against any affected person those matters specified in subparagraphs 1. and 2., which are made available for inspection and copying, and the making of initial determinations concerning the availability of the records requested.

5. That the agency is not precluded from using as precedent against any affected person those matters specified in subparagraphs 1. and 2., which are made available for inspection and copying, and the making of initial determinations concerning the availability of the records requested.

6. That these matters which fall within one or more of the exemptions contained in 5 U.S.C. 552(b) are not made available. However, they may be made available in any particular respect if it is determined that this would better serve the public interest.

7. That an index provides sufficient information for the deletion of personal privacy; delete identifying details from an opinion, statement of policy, interpretation, staff manual or instruction, or other materials, when it is made available for inspection and copying. In each case the justification for the deletion shall be explained fully in writing. Such action is to be taken in consultation with the applicable official specified in subsection 4.01 and 4.02 of this order who are responsible for determining whether any records requested under 5 U.S.C. 552(a) (2), but which were adopted or issued by an agency prior to July 4, 1967, may at any time be used, relied upon or cited as precedents by the agency against any private person or party.

8. That materials should be made available for inspection and copying, and also included in the index, as provided in this order. However, since the basic purpose of this section of the Act is to disclose to the interested members of the public essential information which will enable them to deal effectively and knowingly with an agency, materials which are of such importance as to require that they not be relied upon, used or cited as precedent by the agency against any private person or party, must be exempted from this section.

9. That materials required to be made available for public inspection and copying are not subject to 5 U.S.C. 552(a) (2), but which were adopted or issued by an agency prior to July 4, 1967, may at any time be used, relied upon or cited as precedents by the agency against any private person or party.

10. That the index shall include provisions which insure that:

a. The Assistant Secretary for Administration shall cause to be published in the Federal Register rules establishing the time, place and procedures for the record, with respect to making records of the Department promptly available to any person requesting information from the Department, shall briefly state the reasons for the decision and the identity of the official responsible for the decision; (ii) an appeal shall be considered out of favor if a public interest justifies the denial; (iii) an appeal may be extended, as authorized by 5 U.S.C. 552(a)(6)(B), and wherein a request is for a record initially denied in whole or in part, the appeal procedure provisions which insure that:

b. The rules published in the Federal Register in accordance with the time, place and procedures for the record, with respect to making records of the Department promptly available to any person requesting information from the Department, shall briefly state the reasons for the decision and the identity of the official responsible for the decision; (ii) an appeal shall be considered out of favor if a public interest justifies the denial; (iii) an appeal may be extended, as authorized by 5 U.S.C. 552(a)(6)(B), and wherein a request is for a record initially denied in whole or in part, the appeal procedure provisions which insure that:

c. That any advisory interpretation made by an agency on a specific set of facts which is requested by and addressed to a particular person need not be made generally available under paragraph 5.02a of this subsection if it is not to be cited or relied upon by any official of the agency as a precedent in the disposition of other cases. Nonetheless, if it may serve any useful public purpose, any such interpretation may be made publicly available upon the deletion of identifying details to the extent necessary to protect personal privacy.
RULING OF INFORMATION RECORDS

APPENDIX B—FREEDOM OF INFORMATION RECORDS

1. The following public reference facilities have been established within the Department of Commerce for the public inspection and copying of materials and which are consistent herewith and with any rules issued by the Assistant Secretary for Administration.

a. The Assistant Secretary for Administration, Freedom of Information Records Inspection Facility, Room 7019, Department of Commerce, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230 Phone (202) 377-5511. The Office of the Secretary of Commerce and all other units of the Department not identified below. See 15 CFR 4.4 (c) and (f).

b. Economic Development Administration, Freedom of Information Records Inspection Facility, Room 7019, Department of Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230 Phone (202) 377-5511.

c. Maritime Administration, Freedom of Information Records Inspection Facility, Room 7019, Department of Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230.


2. To assist in the preparation of the request for records under Sec. 6.01, the requester shall be advised of the nature of the record, and shall receive the following information:

a. The Assistant Secretary for Administration shall prepare and transmit to the Congress on or before March first of each year the annual report required by the Act.

b. To assist in the preparation of the report required by Sec. 6.01, of this order, shall, no later than January 31 of each year, provide the Assistant Secretary for Administration with the information specified in the Act and other information as he may require.

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b. To assist in the preparation of the report required by Sec. 6.01, of this order, shall, no later than January 31 of each year, provide the Assistant Secretary for Administration with the information specified in the Act and other information as he may require.

Office of the Secretary:
Office of Legislative Affairs: Special Assistant for Legislative Affairs; Deputy Director. Office of Legislative Affairs.
Public Affairs: Special Assistant for Public Affairs; Director, Office of Communications.
Office of Regional Economic Coordination: Special Assistant for Regional Economic Coordination; Program Development Officer.
Office of Policy Development: Director, Office of Policy Development.
Office of the Assistant Secretary for Science and Technology: Deputy Assistant Secretary for Science and Technology.
Office of the Assistant Secretary for Economic Affairs: Deputy Assistant Secretary for Economic Affairs.
Office of the Assistant Secretary for Administration:
Deputy Assistant Secretary for Administration.
Appeals Board Chairman.
Director and Deputy Director, Office of Administrative Services and Procurement.
Director, Office of Audits.
Director, Office of Budget and Program Analysis.
Director, Office of Emergency Readiness.
Director, Office of Financial Management Services.
Director and Deputy Director, Office of Investigations and Security.
Director and Deputy Director, Office of Policy and Planning.
Office of Organization and Management Systems: Director; Deputy Director; Chief: ADP Administrative Systems Division; ADP Management Division; Management Analysis Division; and ADP Operations Division.
Office of Personnel: Director; Deputy Director: Chief, Medical Division; Chief, Policy Division; and Policy Officer, Policy Division.
Office of the General Counsel: Deputy General Counsel and Assistant General Counsel for Administration.

Domestic and International Business Administration:
Director, Office of Public Affairs.
Director, Office of Field Operations.
Bureau of Domestic Commerce:
Director, Office of Business and Legislative Issues; Director, Office of Business Research and Analysis; Director, Office of Ombudsman for Business; Director, Office of Industrial Mobilization.

Directorate of Administrative Management:
Director, Office of Personnel; Director, Office of Administrative Support; Director, Office of Filing and Records Management; and Systems Director, Office of Budget.
International Economic Policy and Research:
Director, International Trade Analysis Staff; Director, Office of Competitive Assessments.
Director, Office of Economic Research; Director, Office of International Trade Policy; Director, Office of International Finance and Investment.
Bureau of East-West Trade:
Director of East-West Trade Analysis; Director, Office of Joint Commission Secretariat; Director, Office of East-West Trade Development; Deputy Director, Office of Export Administration.

Bureau of International Commerce:
Director, Commerce Action Group for the Near East; Director, Office of International Marketing; Director, Office of Export Development; Director, Office of Finance and Budget; Director, Office of Trade Representations.
Bureau of Resources and Trade Assistance:
Director, Office of Trade Adjustment Assistance; Director, Office of Import Programs; Director, Office of Textiles; Director, Office of Energy Programs.

Economic Development Administration:
Director, Office of Public Affairs.
Maritime Administration:
Office of Minority Business Enterprise: Assistant Director for Field Operations and Administration, or in his absence the Deputy Assistant Director.
National Bureau of Standards:
Director, Office of Export Administration.
National Fire Prevention and Control Administration:
Director, Office of Public Affairs.
National Oceanic and Atmospheric Administration:
Associate Administrator for Marine Resources; Associate Administrator for Environmental Monitoring and Prediction; Assistant Administrator, Office of Coastal Zone Management; Assistant Administrator for Advanced Applications; Director, NOAA Corps; Director, Office of Sea Grant; Director, Office of Programs and Budget; Director, Environmental Research Laboratories; Director, Environmental Data Service; Director, National Environmental Satellite Service; Director, National Marine Fisheries Service.

National Technical Information Service:
Assistant Director, Administration.
Patent Office: Solicitor of Patents, or in his absence the Deputy Solicitor.
Office of Product Standards: Assistant Director.
Social and Economic Statistics Administration:
Associate Administrator for Administration, SESIA; Director, Bureau of the Census; Director of Bureau, Economic Analyses; or in their absence their deputies.
Office of Telecommunications: Deputy Director, Office of Telecommunications; Director and Deputy Director, Institute for Telecommunication Sciences; Assistant Director for Program Development and Evaluation; Chief, Frequency Management Support Division; Chief, Telecommunications Analysis Division; Chief, Policy Support Division; Administrative Officer.

United States Travel Service:
Directors, Office of Convention and Incentive Travel; Office of Administration, Office of Information Services; Office of Research and Analysis; Office of Market Development; Office of Advertising and Promotion; Office of Visitor Services; Office of Expositions/Exhibition Projects.

Effective date. This revision becomes effective on February 19, 1975.

Signed at Washington, D.C. this 25th day of February, 1975.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary of Commerce.

[FR Doc. 75-6391 Filed 3-11-75; 8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY EXCHANGE AUTHORITY (INCLUDING COMMODITY EXCHANGE COMMISSION), DEPARTMENT OF AGRICULTURE

REPORTS BY TRADERS, MERCHANTS, PROCESSORS AND DEALERS

Hedging; Definition, Reports, and Conforming Amendments

On November 11, 1974, notice was published in the Federal Register (39 F.R. 39731) that the Secretary of Agriculture was considering amending §1.3 of the general regulations under the Commodity Exchange Act (7 U.S.C. 1 et seq.) by adding a paragraph (z) which would define "bona fide hedging transactions and positions." This amendment was proposed pursuant to section 404 of the Commodity Futures Trading Commission Act of 1974 (T.L. 93-440). This section directs the Secretary of Agriculture to promulgate regulations defining "bona fide hedging transactions and positions." Section 411 of that Act provides that such regulations shall remain in full force and effect until the newly-established Commodity Futures Trading Commission defines that term, as section 404 of that Act requires it to do. The same section provides for a revision of §1.46 and amendments to four sections of Part 19 of the general regulations under the Commodity Exchange Act (7 U.S.C. 1 et seq.) for the purpose of conforming certain references to hedging in these sections of the general regulations to the proposed hedging definition.

All interested parties were given an opportunity to request that a hearing be held on the proposed amendments and revision, and to submit their written statements, by December 26, 1974. No one requested a hearing on this matter. There were eighteen written responses. Six of these written responses gave unqualified support to the proposed rule on the hedging definition, or supported the substance of the proposed definition while suggesting minor changes of a clarifying nature.

The other meaningful responses, however, took exception to provisions of the
proposed definition which applied to hedging of unfilled anticipated requirements of the products of a traded commodity, principally that the proposed definition included in such hedging, only the \textit{actual} equivalent of a person's unfilled anticipated requirements of flour for baking. Some of these responses expressed the view that the definition should also include in such hedging, the corn equivalent of soybean meal used in poultry feed. These responses were based on the premise that the definition of "bona fide hedging transactions and positions" was for the sole purpose of conforming all references to hedging in the general regulations to the new definition contained in paragraph (2) of §1.3.

The opposing comments to the proposed amendments and revision were not of sufficient justification to warrant changes except as noted.

The general regulations under the Commodity Exchange Act (7 U.S.C. 1 et seq.) are amended by issuing a new paragraph (2) of §1.3, by revising §1.48, and by amending paragraphs (c) and (e) of §1.17, to read as set forth below, and by amending paragraph (d) of §1.46, paragraph (a) of §18.00, paragraph (b) in each of §§19.01, 19.02, 19.03, and 19.04.

PART I—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. A new §1.3(c) is added as follows:

§1.3 Definitions.

(2) Bona fide hedging transactions or positions—These shall mean sales of, or short positions in any commodity for future delivery on or subject to the rules or contract market made or held by any person to the extent that such sales or short positions are offset in quantity by the ownership or fixed-price purchase of the same cash commodity by the same person; or offset in quantity of such person's unfilled anticipated requirements for processing, in the futures market for that commodity's products or byproducts, in the futures market for any contract market made or held by any person to the extent that such sales or short positions are offset in quantity by the ownership or fixed-price purchase of the same cash commodity by the same person.

In addition, there shall be included in the amount of any commodity which may be hedged by any person—

(1) The amount of such commodity such person is raising, or in good faith intends or expects to raise, within the next twelve months, on land (in the United States or its Territories) which such person owns or leases;

(2) Any amount of such commodity the sale of which for future delivery on or subject to the rules or contract market made or held by such person in another commodity for processing or manufacturing, in the futures market for that commodity's products or byproducts, in the futures market for any contract market made or held by any person to the extent that such sales or short positions are offset in quantity by the ownership or fixed-price purchase of the same cash commodity by the same person. In addition, there shall be included in the amount of any commodity which may be hedged by any person—

(i) The amount of such commodity such person is raising, or in good faith intends or expects to raise, within the next twelve months, on land (in the United States or its Territories) which such person owns or leases;

(ii) The bushel value equivalent of their unfilled anticipated requirements of dry corn milling products.

2. Section 1.48 is revised as follows:

§1.48 Hedging anticipated requirements for processing or manufacturing or feeding requirements. Any person who desires to avail himself of the provisions of §1.3(c) of the regulations under the Commodity Exchange Act, and to acquire a long futures position in any commodity with respect to which trading and position limits established by the Commodity Exchange Commission, pursuant to section 4a of the Act, shall be then in effect, shall, at least ten days prior to acquiring any position in excess of any such limit, file with the Commodity Exchange Authority, United States Department of Agriculture, Washington, D.C. 20250, a statement showing such person's unfilled anticipated requirements for processing or manufacturing or feeding requirements for livestock and poultry products under section 4a of the Commodity Exchange Act and §1.3(c) of the regulations under the Commodity Exchange Act.

(a) Form and manner of reporting. Any person who desires to avail himself of the provisions of §1.3(c) of the regulations under the Commodity Exchange Act, and to acquire a long futures position in any commodity with respect to which trading and position limits established by the Commodity Exchange Commission, pursuant to section 4a of the Act, shall be then in effect, shall, at least ten days prior to acquiring any position in excess of any such limit, file with the Commodity Exchange Authority, United States Department of Agriculture, Washington, D.C. 20250, a statement showing such person's unfilled anticipated requirements and explain the method of determination thereof, and shall include but not be limited to the following information:

(1) Annual requirements of such commodity for processing or manufacturing or feeding for the three fiscal years immediately preceding.

(2) Anticipated requirements of such commodity for processing or manufacturing or feeding for a specified operating period not in excess of one year.

(3) Any inventory or purchases of such commodity, including any quantity in process of manufacture and finished goods and byproducts of manufacturing or processing (in terms of such commodity).

(4) Anticipated unfilled requirements of such commodity for processing or manufacturing or feeding for a specified period not in excess of one year.
Persons hedging unfilled anticipated requirements of flour, dry corn milling products, seed corn, or any commodity shall furnish the Information both in terms of the actual commodity used for manufacturing or processing and in terms of the anticipated delivery, and provide the ratio of the commodity to be purchased for future delivery. In addition, seed corn and sweet corn processors shall report their cash positions in terms of bushel value equivalents. Persons feeding livestock and poultry shall provide the number of cattle, hogs, sheep, or poultry expected to be fed during the specified period, not to exceed one year, and the derivation of their annual requirements based upon these numbers.

(b) Supplemental reports. Whenever such person's anticipated requirements as set forth in item two of such statement or any statement supplemental thereto shall change, such person shall immediately file with the Commodity Exchange Authority a supplemental statement reporting and explaining such change. Such person shall also file with the Commodity Exchange Authority, at least once each year, a statement setting forth the information described in paragraph (a) hereof.

(c) Purchases and liquidation. All purchases of any commodity for future delivery pursuant to the provisions of §1.3 (2) of these regulations shall be made and liquidated in an orderly manner and in accordance with sound commercial practice. No such purchases shall be made or liquidated in a manner which could be expected to cause sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity.

§1.17 Minimum financial requirements.

In the case of cash commodity inventories that are hedged by bona fide hedging positions in the futures market (as defined in section 1.3 (2)) of these regulations), the amount by which the value of such inventories used by the applicant or registrant in computing his working capital, exceeds 95 percent of the market value of such inventories;

(1) that such safety factor shall not apply to any spread or straddle held for the same account in the same commodity, on the same market, in the same crop year, or to any contract representing a bona fide hedging transaction as defined in §1.3 (3) (however, such factor shall apply to contracts specified in subsection (3) (ii)), representing hedges against unfilled anticipated requirements); nor shall it apply to any contract resulting from a "change of trade" made in accordance with the rules of a contract market which have been submitted to and not disapproved by the Secretary of Agriculture, and (2) that in the case of intermarket or intercrop year spread or straddle, or any intermarket and intercrop year spread or straddle, held for the same account in the same commodity, the safety factor shall be 5 percent of the market value of that side of each such spread or straddle having the greater market value.

§1.46 [Amended.]

Paragraph (d) of §1.46 is amended by striking the parenthetical phrase "in section 4a (3) of the Commodity Exchange Act".

PART 18—REPORTS BY TRADERS

§18.00 [Amended]

Paragraph (a) of §18.00 is amended by striking the parenthetical phrase "(as defined in §4a (4) of the Act)" and inserting in its place the parenthetical phrase "(as defined in §1.3 (2))".

PART 19—REPORTS BY MERCHANTS, PROCESSORS, AND DEALERS

§§ 19.01, 19.02, 19.03, 19.04 [Amended]

Paragraph (b) of §§19.01, 19.02, 19.03, and 19.04 is amended in each of these sections by striking the parenthetical phrase "(as defined in section 4a of the Act)" and inserting in its place the parenthetical phrase "(as defined in §1.3 (2))".

Section 404 of the Commodity Futures Trading Commission Act of 1974 authorizes the Commission to promulgate such rules and regulations as it shall deem necessary or appropriate to carry out the objectives of the Commodity Futures Trading Commission. In addition, the Commission is authorized to adopt rules and regulations to carry out any provision of the Commodity Futures Trading Commission Act of 1974, including any amendment of the Act, that the Commission shall deem necessary or appropriate to carry out the objectives of the Act.

The proposed amendment of §11.54 of the Customs Regulations would also change the phrase "Chief of the Customs", as used with reference to section 641 (b) of the Tariff Act of 1930, to "appropiate officer of the Customs", in order to conform the regulations with a similar amendment to the language of 19 U.S.C. 1614 (b) made in 1970.

No comments were received in response to the notice of proposed rulemaking. Accordingly, §§11.54, 11.65 through 11.76, and 11.78 of the Customs Regulations (19 CFR §§11.54, 11.65–69, 11.76) are amended as set forth below.

Effective date. This amendment shall become effective April 11, 1975.


DAVID R. MACDONALD, Assistant Secretary of the Treasury.

Section 111.54 and the heading to that section are revised to read as follows:

§11.54 Appropriate officer of the Customs.

Unless otherwise indicated in this part, the district director shall be the appropriate officer of the Customs within the district, the Customs district of which the hearing is located, and, in the case of sickness or absence of the district director, the assistant district director designated by the district director shall be the appropriate officer of the Customs. If the office of the district director is vacant or that of the assistant director, the appropriate officer of the Customs shall be the Assistant Secretary of the Treasury, or the delegate of the Assistant Secretary of the Treasury, and any reference to an officer of the Customs, or such officer, shall be read as referring to the Assistant Secretary of the Treasury, or the delegate of the Assistant Secretary of the Treasury, as appropriate.
Customs, the Commissioner shall designate one of the assistant district directors to be the appropriate officer of the Customs.

Sections 111.65 and 111.66 are revised to read as follows:

§ 111.65 Extension of time for hearing.

If the broker or his attorney requests in writing a delay in the hearing on the ground that additional time is necessary to prepare a defense, the hearing officer designated pursuant to § 111.67 (a) may reschedule the hearing, notifying the broker or his attorney in writing of the extension and the new time for which the hearing has been scheduled.

§ 111.66 Failure to appear.

When an accused broker or his attorney fails to appear for a scheduled hearing, the hearing officer designated pursuant to § 111.67 (a) shall proceed with the hearing as scheduled, and shall hear evidence submitted on behalf of the Government. The regulations of this part shall apply as though the broker were present, and the Secretary of the Treasury may issue an order of suspension or revocation which be in order.

Paragraphs (a), (c), and (d) of § 111.67 are revised to read as follows:

§ 111.67 Hearing.

(a) Government representatives. The Commissioner shall designate as hearing officer an appropriate officer of the Customs other than a Customs officer of the district for which the license was issued. The hearing officer shall provide a competent reporter to make a record of the hearing. The Commissioner shall designate one or more persons to represent the Government at the hearing. The hearing officer may designate one or more persons to assist in the proceedings.

(c) Interrogatories. Upon the written request of either party, the hearing officer may permit deposition upon oral or written interrogatories to be taken before any officer duly authorized to administer oaths for general purposes or in Customs matters. The other party to the hearing shall be given a reasonable time in which to prepare cross-interrogatories and, if the deposition is oral, shall be permitted to cross-examine the witness. The deposition shall become part of the record of the hearing.

(d) Transcript of record. When the record of the hearing has been transcribed by the reporter, the hearing officer shall deliver a copy to the broker and the Government's representative without charge.

Sections 111.68 and 111.69 are revised to read as follows:

§ 111.68 Proposed findings and conclusions.

The hearing officer shall allow the parties a reasonable period of time after delivery of the transcript of record in which to submit proposed findings and conclusions and supporting reasons therefor as contemplated by § 5 U.S.C. 557(c).

§ 111.69 Recommended decision by hearing officer.

After review of the proposed findings and conclusions submitted by the parties pursuant to § 111.68, the hearing officer shall make his recommended decision in the case and certify the entire record to the Secretary of the Treasury. The hearing officer's recommended decision shall be in conformity with the requirements of 5 U.S.C. 557.

Section 111.76 is revised to read as follows:

§ 111.76 Reopening the case.

(a) Grounds for reopening. Any person whose license has been suspended or revoked may make written application in duplicate to the hearing officer to have the order of suspension or revocation set aside or modified upon the ground of newly discovered evidence or that important evidence is now available which could not have been produced at the original hearing by the exercise of due diligence. The application must set forth specifically the precise character of the evidence to be relied upon and shall state the reasons why the applicant was unable to produce it when the original charges were heard.

(b) Procedure. The hearing officer shall forward the application with his recommendation to the Secretary of the Treasury. The Secretary may grant or deny the application for reopening of the case and may order the taking of additional testimony before the hearing officer. The hearing officer shall notify the applicant of the Secretary's decision. If the Secretary grants the application and orders a hearing, the hearing officer shall set a time and place for such hearing and give due notice thereof to the applicant. The procedure governing the additional hearing and recommended decision of the hearing officer shall be the same as that governing the original proceeding.

§ 111.69 Proposed findings and conclusions.

The hearing officer shall allow the parties a reasonable period of time after delivery of the transcript of record in which to submit proposed findings and conclusions and supporting reasons therefor as contemplated by § 5 U.S.C. 557(c).

§ 122.10 (21 CFR 122.10).

PCB's toxic substances, very stable and highly persistent in the environment, which have been employed in a wide range of industrial uses in the United States (37 FR 3776). Due to their widespread use, PCB's have been found in food as a result of industrial accidents and unavoidable sources of contamination, including the migration of PCB's to food from food-packaging materials which contain PCB's. Toxicological data have shown that the ingestion of PCB's can produce adverse health effects in both humans and animals.

The order provided that any person who would be adversely affected could at any time on or before August 6, 1973 file written objections to the provisions and request a hearing of the issues raised by the objections.

Eight responses to the order were filed by various paperboard manufacturers, a trade association, government and industry trade associations, all of which objected to the tolerance of 10 parts per million (ppm) for PCB's in paper food-packaging material and seven of which requested a hearing on this provision of the regulation.

In the Federal Register of August 24, 1973 (38 FR 22794), the Commissioner issued a notice confirming September 4, 1973 as the effective date for § 122.10(a) (1) through (8), the tolerances for PCB's in certain foods and animal feeds, and, on the basis of the objections filed, stayed the effectiveness of § 122.10(a) (9), the tolerance for PCB's in paper food-packaging material. This stay was required under section 701(e) of the act, which provides that a regulation promulgating a tolerance for added poisonous or deleterious substances such as PCB's in food be stayed if timely objections to it are filed.

The Commissioner since carefully evaluated the objections to § 122.10(a) (9), the issues raised by these objections and the requests for hearing, and his conclusions follow.

A. Legal authority to promulgate the tolerance for PCB's in paper food-packaging material:

Six responses objected that the Commissioner erred as a matter of law in determining that § 406 of the act authorizes tolerances for paper food-packaging material. This objection is based on the respondents' contention that paper food-packaging material is not “food” within the meaning of the act, and that a tolerance under section 406 of the act may therefore not be established for such material since that section requires that all tolerances for added poisonous or deleterious substances only in “food” as food is defined by the statute.

The Commissioner concludes that this objection presents no ground which warrants a public hearing under section 701(e) of the act in that it raises a purely legal issue, not a genuine and material issue of fact that could be decided upon adduction of evidence at a
under section 406 of the act, the Commissioner in promulgating a tolerance for an unavoidable poisonous or deleterious substance added to food is not required to consider factors for which there is no existing data in establishing a particular tolerance level; rather, under this section he is required to establish the necessity of the extent he finds necessary to protect the public health. In the absence of data on the factors above, the Commissioner concludes that the PCB tolerance was promulgated on the basis of existing toxicological and migration data. The Commissioner notes here, as he did in the preamble to the order of April 29, that he will consider the extent he finds necessary to protect the public health. If they warrant a reassessment of the tolerance level.

A consideration of the effect of barriers on migration of PCB's from paper food-packaging material to packaged food was made by the Commissioner in the promulgation of the PCB tolerance.

Six responses objected that the Commissioner erred in promulgating a blanket PCB tolerance level for paper food-packaging material without considering certain factors affecting migration rates of PCB's from such material into packaged food. The Court ruled that as a matter of law the Food and Drug Administration has the authority under the act to regulate paper food-packaging material containing PCB's in excess of 10 parts per million as adulterated food.

Factors not considered in the promulgation of the tolerance for PCB's in paper food-packaging material:

One response objected that the Commissioner failed to consider factors affecting migration rates of PCB's from such materials into packaged food, the ratio of package weight to food weight, exposure time and conditions and barriers. Another response objected that the Commissioner failed to consider the variance of PCB content in paperboard to sheet and within a particular sheet itself, and the amount and time of vapor phase emission of PCB's from paper packaging to packaged food.

As the Commissioner stated in the preamble to the order published in the Federal Register of July 6, 1973 (38 FR 18100), at the time of the order no data were available either to the paperboard industry or to FDA determining the extent of the effects that type of food, ratio of package weight to food weight, or exposure time and conditions might have on the PCB contamination of food packaged in paperboard. Since the respondents advancing these objections have presented no data on these factors or on variance of PCB content of paperboard and amount and time of vapor phase, the objections related to the migration of PCB's from paper to food are not valid.

The Commissioner concludes that neither of these objections creates a factual hearing issue.

The Commissioner further proposed that since paper food-packaging material produced by some of these plants represents an insignificant portion of the total amount of paper-food-packaging material in the United States, it would be necessary to exempt from the tolerance levels for food-packaging material based on an industry-wide basis that section 406 contains no provisions for exemptions from the tolerance for particular segments or plants of the affected industry.

Regulatory alternatives to the PCB tolerance.

Six responses objected that the Commissioner adopt one of two alternatives to the PCB tolerance for paper food-packaging material: (1) that the exemption from the tolerance for paper food-packaging material be conditional on the food being packaged by a barrier impermeable to PCB migration, or (2) that the tolerance be confined to packaged foods alone.

The Commissioner notes that the objections related to his determinations that PCB's are added poisonous and deleterious substances which unavoidably contaminate paper food-packaging material and thereby their nature may be the subject of a section 406 tolerance.
els of Chemicals in Food (Washington, DC, 1969), and Report on "No Residue" and "Zero Tolerance" (Washington, DC, 1965), and on the affidavit of a toxicologist, these responses asserted that the average dietary intake of PCB's in the United States from 1970 to 1972—no average dietary intake for an adult weighing 70 kilograms—was so far below the Food and Drug Administration's acceptable safe level of 175 micrograms/day to render such daily intake in foods toxicologically insignificant, obviating the need to regulate PCB's in foods and in paper food-packaging material to protect the consuming public from any potential threat of chronic toxicity.

Since the Commissioner promulgated the PCB tolerance for paper food-packaging material on the basis of his conclusion, inter alia, that existing toxicological and exposure data on PCB's establish the possibility of chronic toxicity necessitating the reduction of the levels of PCB's in foods as soon as possible; he includes that the facts cited in support of his decision raise a genuine and material issue of fact warranting a hearing on §122.10(a) (9), which issue is set forth hereafter in this order.

3. Alarm to the national recycling effort:

Six responses objected that the PCB tolerance for paper food-packaging material will significantly and unnecessarily harm the nation's recycling effort in that the burden of added costs and liabilities entailed in compliance threaten the competitive position and/or survival of many wastepaper recycling mills and will undermine the growth rate of the paper recycling industry as noted in the

The respondents documenting this objection contended that the impact of the PCB tolerance on recycling will neither be minimized nor negated by an exemption to ease the impact of the PCB tolerance on recycling will neither be minimized nor negated by an exemption to the tolerance for paper food-packaging material to assess the extent to which the presence of PCB's in recycled paperboard used for food-packaging cannot be avoided in the production of such packaging. The Commissioner recognized that PCB's may be present in recycled paper because of the inclusion of some types of carbonless copy paper containing PCB's in unavoidable contamination of PCB residues into wastepaper stocks used in the manufacture of recycled paper.

Thus, in order to minimize or negate the impact of the PCB tolerance on recycling programs, the order (1) established an exemption to the tolerance for food-packaging separated from the food therein by a functional barrier which is impermeable to PCB migration; (2) raised the level of the tolerance from 5 ppm as provided in the proposed order to 10 ppm on the basis of an FDA survey of PCB's in foods, and food-packaging showing that the food portion of the samples contained the same range of PCB levels (0.1 to 0.6 ppm) as the food portion of the samples with 0 to 5 ppm in the paper food-packaging, as stated in the report at the reference July 6, 1973 (38 FR 18100-18101); and (3) on June 29, 1973, made available to the paperboard industry draft compliance procedures for FDA's enforcement of the 10 ppm limit which, among other things, stated that paper food-packaging containing PCB's in excess of 10 ppm, separated from the packaged food by a barrier, will be considered to meet the barrier exemption standard of impermeability if migration of PCB's from the packaging does not result in any detectable PCB's in the food. Presently, the Commissioner has indicated that every barrier commonly used with recycled paperboard will be considered to meet the barrier exemption noted above.

The respondents advancing this objection contended that the impact of the PCB tolerance on recycling will neither be minimized nor negated by an exemption to the tolerance for paper food-packaging material to level of the food samples in the survey to contain PCB's and 19 percent of the samples to contain PCB's and 19 percent of the samples to contain PCB's. The respondents maintain that a tolerance for PCB's in the food-packaging material is his determination that the respondents have failed to show that the PCB tolerance for paper food-packaging material to level of the tolerance level for PCB's in food to be 5 ppm and then to 10 ppm on the basis of the survey of PCB's in foods and food-packaging showing that the food portion of the samples contained the same range of PCB levels (0.1 to 0.6 ppm) as the food portion of the samples with 0 to 5 ppm in the paper food-packaging, as stated in the reference report at the reference July 6, 1973 (38 FR 18100-18101).

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cited by this objection raise a further genuine and material issue of fact warranting a hearing on § 122.10(a) (9), which issue is set forth hereafter in this order.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 406, 701, 52 Stat. 1049, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 346, 371) and under authority delegated to the Commissioner (21 CFR 10.23), the following is ordered:

1. That a public hearing be held to adduce evidence on the issues requiring a hearing raised by the objections to the order of July 6, 1973 with respect to § 122.10(a) (9) established by §122.10(a) (9), which establishes a tolerance of 10 parts per million for polychlorinated biphenyls (PCB's) in paper food-packaging material.

2. That the stay of § 122.10(a) (9) be continued pending the outcome of the hearing.

3. That the issues requiring a hearing raised by the objections to the order of July 6, 1973 with respect to § 122.10(a) (9) be decided upon the adduction of evidence at said public hearing, shall be as follows:

a. Whether or not, based on available medical and scientific evidence and on the recognition of experts qualified by scientific training and experience to evaluate the toxic effects of PCB's, there is a sufficient potential long term human toxicity hazard from dietary intake of PCB's for the Commissioner of Food and Drugs to find necessary for the protection of public health the promulgation of a tolerance of 10 parts per million for these substances in paper food-packaging material, as provided by his order of July 6, 1973.

b. Whether or not, in promulgating the tolerance level of 10 parts per million for PCB's in paper food-packaging material by his order of July 6, 1973, the Commissioner of Food and Drugs properly and adequately took into account the extent to which PCB's cannot be avoided in the production of paper food-packaging material from recycled paperboard.

c. Whether or not, in establishing by his order of July 6, 1973 an exemption from the tolerance of 10 parts per million for PCB's in paper food-packaging material for such material separated from the food therein by a functional barrier which is impermeable to migration of PCB's, the Commissioner of Food and Drugs properly and adequately took into account the effect of an exemption providing for such a barrier on the production of paper food-packaging material from recycled paperboard, including a consideration of the availability of barriers which are not impermeable but which prevent or reduce such migration of PCB's to varying degrees.

d. Whether or not, based on available scientific data, the Commissioner of Food and Drugs properly concluded, as a basis for promulgating the tolerance of 10 parts per million for PCB's in paper food-packaging material by his order of July 6, 1973, that paper food-packaging material is a demonstrated source of PCB's contained in the food packaged therein.

The hearing shall take place in the Hearing Room, Food and Drug Administration, Rm. 4A-35, 5600 Fishers Lane, Rockville, MD 20853. The name of the presiding Administrative Law Judge and the date of the hearing will be announced in the Federal Register after the time for filing written appearances has elapsed. Written appearances must be filed with the Hearing Clerk at the Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, not later than April 11, 1975.

Parties to the hearing, i.e., persons who filed objections to the final order as well as timely written appearances, shall submit all direct evidence for the hearing record, including both testimony and documentary exhibits, in written form to the Administrative Law Judge pursuant to such requirements and by such date as he orders. Nonparty participants in the hearing, i.e., persons who did not file written objections to the final order but who filed timely written appearances, shall also have the right to present such written direct evidence in accordance with the same requirements and at the same time.

Witnesses whose written direct testimony has been submitted for the hearing record shall be subject to oral cross-examination by any party upon a showing to and determination by the Administrative Law Judge for each such witness that such cross-examination is necessary to adduce relevant testimony required for a full and true disclosure of the subject matter of the proceeding. The Administrative Law Judge may be permitted to conduct such cross-examination upon such a showing and determination, in addition to a finding by the Administrative Law Judge that his finding of fact and conclusion of law shall be protected.

The material referenced in support of the objections and requests for hearing filed is on display in the office of the Hearing Clerk at the address above.

As stated in the order of July 6, 1973, while the tolerance is stayed pending the outcome of the hearing, the Food and Drug Administration will enforce the PCB level of 16 parts per million established by §122.10(a) (9) by seizing, as adulterated food under section 402 of the act, any paper food-packaging material shipped in interstate commerce containing PCB's in excess of that level.

(Dated: February 5, 1976.)

A. M. SCHMITT, Commissioner of Food and Drugs.

[FR Doc. 75-6381 Filed 3-11-75; 8:45 am]

PART 1284—PROCESSING AND BOTTLING OF BOTTLED DRINKING WATER

In the Federal Register of November 28, 1973 (38 FR 32565), the Commissioner of Food and Drugs proposed to amend Chapter I of Title 21 of the Code of Federal Regulations by adding a new part 1284 setting forth certain good manufacturing practice for bottled water. Interested persons were invited to submit comments on the proposal on or before May 12, 1975.

More comments were received, from the American Bottled Water Association, from a consulting firm, and from individual members of industry. The individual issues raised by the comments and the Commissioner's conclusions are as follows:

1. Two comments took exception to the requirement under § 1284.3 (d) that the bottle washing and sanitizing operation be conducted in an enclosed room.

The Commissioner points out that an enclosed room, but not necessarily a separate room, is not required for the washing and sanitizing operation, as distinguished from the bottling operation. Other plant operations could be conducted within the same enclosed room as the bottle washing and sanitizing operation in enclosed cells designed to minimize post-sanitizing contamination of the bottles. The concern expressed by the comments about moisture developed by the bottle washing operation to be conducted in enclosed cells could be avoided by providing proper venting to the outside in accordance with 21 CFR 128.3(b) (4). The Commissioner concludes that it is not good manufacturing practice to have a separate room for the washing operation.

2. Two comments took exception to the requirement under § 1284.5(a) (3) for semiannual analysis of source water by plants, in addition to the analysis performed by the regulatory agency that approves the water source. The required analysis includes chemical, physical, and radio logical determinations.

The Commissioner concludes that this exception is without merit. Only one or two water samples a year are normally taken by the regulatory agency that also inspects the water source and approves it for use. Due to this requirement of sampling by regulatory agencies and the fact that the water bottling plant is obtaining a raw material for food for human consumption, it is unreasonable to require the plant to perform or have performed at least two analyses of their source water at intervals of not less than 5 months nor more than 7 months duration. Plants which obtain water from a municipal supply cannot safely rely on the sampling and tests conducted by the regulatory agency that approves the water source. The required analysis includes chemical, physical, and radiological determinations.

3. One comment suggested, in reference to § 1284.6(e), that the "F.S. Public Health Service (PHS) recommended standard for fabrication of single-service containers and closures for milk and milk
The Commissioner concludes that for purposes of quality assurance it is more desirable that the procedures of periodically checking containers and closures be included at its present location in the setting pertaining to processes and controls and samples selected from the line at the point of filling and closing.

11. Two comments were not in agreement with the requirement under § 128d.7(g)(2) that bottling plants sample and analyze their products at least semiannually for chemical and physical attributes. The Commissioner concludes that such a requirement is reasonable.

12. For editorial purposes, § 128d.4(a)(2) of the subject GMP has been amended to include reference to section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348) concerning indirect food additives. Additionally, a typographical error in § 128d.7(d)(2) as proposed and published in the Federal Register of November 19, 1974, has been corrected to read “At least 170° F for at least 15 minutes.” This section is also amended to provide another example of an equivalent (200° F for at least 5 minutes) hot water sanitization operation for enclosed systems.
that the regulation should be promulgated as forthwith below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 402(a)(4), 409, 701(a), 52 Stat. 1046, 1055, 72 Stat. 1785-1788 as amended; 21 U.S.C. 342(a)(4), 348, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended by adding a new Part 128d as follows:

Sec. 128d.1 Definitions.

128d.2 Current good manufacturing practice (sanitation).

128d.3 Plant construction and design.

128d.4 Equipment and utensils.

128d.5 Sanitary facilities and controls.

128d.6 Sanitary operations.

128d.7 Processes and controls.


§ 128d.1 Definitions.

(a) "Approved source" when used in reference to a plant's product water or operations area, means that the source of the water and the water therefrom, whether it be from a spring, artesian well, drilled well, municipal water supply, or any other source, shall have been inspected and the water sampled, analyzed, and found to be of a safe and sanitary quality in accordance with the applicable laws and regulations of the government agency or agencies having jurisdiction. The inspection, in the plant, of current certificates or notifications of approval from the government agency or agencies having jurisdiction shall constitute approval of the source and the water supply.

(b) "Bottled drinking water" means all water which is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water.

(c) "Lot" means a collection of primary containers or unit packages of the same size, type, and style produced under conditions necessary to maintain uniform quality as set forth in a method or manner which is designated and described by or on a common container code or marking.

(d) "Multiservice containers" means containers intended for use more than one time.

(e) "Nontoxic materials" means materials for product water contact surfaces utilized in the transporting, processing, storing, and packaging of bottled drinking water, which are free of substances which may render the water injurious to health or which may adversely affect the flavor, color, odor, or bacteriological quality of the water.

(f) "Operations water" means water which is delivered under pressure to a plant for container washing, filling, and equipment cleanup and for other sanitary purposes.

(g) "Primary container" means the immediate container to which the product water is packaged.

(h) "Product water" means processed water used by a plant for bottled drinking water.

(1) "Shall and should." "Shall" refers to mandatory requirements and "should" refers to recommended or advisory procedures or equipment.

(i) "Shipping case" means a container in which one or more primary containers of the product water are held, protected, and operated or administered in conformity with good manufacturing practice to assure that bottled drinking water is safe and that it has been processed, bottled, held, and transported under sanitary conditions.

(j) "Unit package" means a standard package of bottled drinking water, which may consist of one or more containers.

§ 128d.2 Current good manufacturing practice (sanitation).

The applicable criteria in §§ 128.3 through 128.8 of this chapter, as well as the criteria in § 128c.3 through 128c.7 shall apply in determining whether the facilities, methods, practices, and controls used in the processing, bottling, holding, and shipping of bottled drinking water are in conformance with the applicable laws and regulations of the government agency or agencies having jurisdiction.

The presence, in the plant, of current copy of the water source and the sample analysis, performed by the plant, shall be maintained on file at the plant.

(a) Bottled drinking water shall be separated from other plant operations or storage areas by self-closing doors to protect against contamination. All openings shall not exceed the size required to permit passage of containers.

(b) If processing operations are conducted in other than a sealed system under pressure, adequate protection shall be provided to prevent contamination of the water and the system.

(c) Adequate ventilation shall be provided to minimize condensation in processing rooms, bottling rooms, and in certain washing and sanitizing areas.

(d) The washing and sanitizing of containers for bottled drinking water shall be performed in an enclosed room. The washing and sanitizing operation shall be positioned within the room so as to avoid any possible post-sanitizing contamination of the containers before they enter the bottling room.

(e) Rooms in which product water is handled, processed, or held or in which containers, utensils, or equipment are washed or held shall not open directly into any room used for domestic household purposes.

§ 128d.4 Equipment and utensils.

(a) Suitability. (1) All plant equipment and utensils shall be suitable for their intended use. This includes all collection and storage tanks, pipes, fittings, connections, bottling washers, fillers, cappers, and other equipment which may be used to store, handle, process, package, or transport product water.

(2) All product water contact surfaces shall be constructed of nontoxic and nonabsorbent material which can be adequately cleaned and sanitized in compliance with section 409 of the act.

(b) Design. Storage tanks shall be of the type that can be closed to exclude all foreign matter and shall be adequately vented.

§ 128d.5 Sanitary facilities and controls.

Each plant shall provide adequate sanitary facilities including, but not limited to, the following:

(a) Product water and operations water.—(1) Product water. The product water supply for each plant shall be from an approved source properly located, protected, and operated and shall be easily accessible, adequate, and of a safe, sanitary quality which shall be in accordance at all times with the applicable laws and regulations of the government agency or agencies having jurisdiction.

(2) Operations water. If different from the product water supply, the operations water supply shall be obtained from an approved source properly located, protected, and operated and shall be easily accessible, adequate, and of a safe, sanitary quality which shall be in accordance at all times with the applicable laws and regulations of the government agency or agencies having jurisdiction.

(3) Product water and operations water from approved sources.—(1) Water supply shall be taken from approved sources by the plant as often as is necessary, but at a minimum frequency of twice each year with an interval between samples of not less than 3 months or more than 7 months to assure that the supply is in conformance with the applicable standards, laws, and regulations of the government agency or agencies having jurisdiction. The sampling and analysis shall be by qualified plant personnel and shall be in addition to any sampling performed by the government agency or agencies having jurisdiction. Records of both government agency approval of the water source and the sampling and analysis performed by the plant shall be maintained on file at the plant.

(c) Test and sample methods shall be those recognized and approved by the government agency or agencies having jurisdiction over the approval of the water source, and shall be consistent with the minimum requirements set forth in § 117.14 of this chapter.

(3) Analysis of the samples may be performed for the plant by competent commercial laboratories.

Air under pressure. Whenever air under pressure is directed at product water or a product water-contact surface, it shall be free of oil, dust, rust, excessive moisture, and extraneous materials that would adversely affect the bacteriological quality of the water; and should not adversely affect the color, odor, or odor of the water.

(c) Locker and lunchrooms. When employee locker and lunchrooms are provided, they shall be separate from plant operations and storage areas and shall be...
equipped with self-closing doors. The rooms shall be maintained in a clean and sanitary condition and refuse containers should be provided. Packaging or wrapping material or other processing supplies shall not be stored in locker or lunchrooms.

§ 128d.6 Sanitary operations.

(a) The product water-contact surfaces of all multiservice containers, utensils, pipes, and equipment used in the transportation, processing, handling, and storage of product water shall be clean and adequately sanitized. All product water-contact surfaces shall be inspected by plant personnel as often as necessary to maintain the sanitary condition of such surfaces and to assure they are kept free of scale, evidence of oxidation, and other residues. The presence of any unsanitary condition, scale, residue, or oxidation shall be immediately remedied by adequate cleaning and sanitizing of that product water-contact surface prior to use.

(b) After cleaning, all multiservice containers, utensils, and disassembled piping and equipment shall be transported and stored in such a manner as to maintain the sanitary condition of such surfaces and to assure drainage and shall be protected from contamination.

(c) Single-service containers and caps or seals shall be purchased and stored in sanitary condition, and kept clean therein in a clean, dry place when unused. Prior to use they shall be examined, and as necessary, washed, rinsed, and sanitized and shall be handled in a sanitary manner.

(d) Filling, capping, closing, sealing, and packaging of containers shall be done in a sanitary manner so as to preclude contamination of the bottled drinking water.

§ 128d.7 Processes and controls.

(a) Treatment of product water. All treatment of product water by distillation, ion-exchanging, filtration, ultrafiltration, reverse osmosis, carbonation, mineral addition, or any other process shall be done in a manner so as to be effective in accomplishing its intended purpose and in accordance with section 409 of the Federal Food, Drug, and Cosmetic Act. All such processes shall be performed in and by equipment and with substances which will not adulterate the bottled product. A record of the type and date of physical inspections of such equipment, conditions found, and the performance and effectiveness of such equipment shall be maintained by the plant. The methods of analysis shall be those approved by the government agency or agencies having jurisdiction.

(b) Containers. (1) Multiservice primary containers shall be adequately cleaned, sanitized, and inspected just prior to being filled, capped, and sealed. Containers found to be unsanitary or defective by the inspection shall be reprocessed or discarded. All multiservice primary containers shall be washed, rinsed, and sanitized by mechanical washers or by any other method giving adequate sanitary results. Mechanical washers shall be inspected as often as is necessary to assure adequate performance. Records of physical maintenance, inspections and conditions found, and performance of cleaning and sanitizing washer shall be maintained by the plant.

(2) Multiservice shipping cases shall be maintained in such condition as to assure they will not contaminate the primary container or the product water. Adequate dry or wet cleaning procedures shall be performed as often as necessary to maintain the cases in satisfactory condition.

(c) Cleaning and sanitizing solutions. Cleaning and sanitizing solutions utilized by the plant shall be sampled and tested by the plant as often as is necessary to assure adequate performance in the cleaning and sanitizing operations. Records of these tests shall be maintained by the plant.

(d) Sanitizing operations. Sanitizing operations, including those performed by chemical means or by any other means such as circulation of live steam or hot water, shall be adequate to effect sanitization of the intended product water-contact surfaces and any other critical area. The plant should maintain a record of the intensity of the sanitizing agent and the time duration that the agent was in contact with the surface being sanitized. The following times and intensities shall be considered a minimum:

(1) Steam in enclosed system: At least 170° F. for at least 15 minutes or at least 200° F. for at least 5 minutes.

(2) Hot water in enclosed system: At least 170° F. for at least 15 minutes or at least 200° F. for at least 5 minutes.

(e) Chemical treatments. Equivalent in bacteriological action to a 2-minute exposure of 50 parts per million of available chlorine at 57° F., when used as an immersion or circulating solution. Chemical sanitizing agent or fog shall have as a minimum 100 parts per million of available chlorine at 57° F. or its equivalent in bactericidal action.

(1) 0.1 part per million ozone-water solution in an enclosed system for at least 5 minutes.

(2) When containers are sanitized using a substance other than one provided for in this chapter, such substances shall be removed from the surface of the container by a rinsing procedure. The final rinse, prior to filling the container with product water, shall be performed with a distilled water rinse free of pathogenic bacteria or by an additional sanitizing procedure equivalent in bacteriological action to that required in paragraph (d)(3) of this section.

(f) Unit package production code. Each unit package from a batch or segment of a continuous production run of bottled drinking water shall be identified by a production code. The production code shall identify a particular batch or segment of a continuous production run and the day produced. The plant shall record and maintain information as to the kind of product, volume produced, the day produced, and the distribution of the finished product to wholesale and retail outlets.

(g) Compliance procedures. To assure that the plant's production of bottled drinking water is in compliance with the applicable standards, laws, and regulations of the government agency or agencies having jurisdiction, the plant shall:

(1) For bacteriological purposes, take and analyze at least once a week a representative sample from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The representative sample shall consist of primary containers of product or unit packages of product.

(2) For chemical, physical, and radiological purposes, take and analyze at least semi-annually a representative sample from a batch or segment of a continuous production run for each type of bottled drinking water produced during a day's production. The representative sample shall consist of primary containers of product or unit packages of product.

(3) Analyze such samples by methods approved by the government agency or agencies having jurisdiction. The plant shall maintain records of sampling, type of product sampled, production code, and results of the analysis.

(h) Record retention. All records required by §§ 128d.2 through 128d.7 shall be retained at the plant for not less than 2 years. Plants shall also retain an unfiled certificate of approval issued by the
government agency or agencies approving the plant's source and supply of product water and operations water. All required documents shall be available for official review at reasonable times.

Effective date. This order shall become effective April 11, 1975.

(Secs. 609(a) (4), 609, 701(a), 52 Stat 1046, 1055, 72 Stat 1786-1788 as amended; 21 U.S.C. 924(a) (4), 546, 371(a))

Dated: March 6, 1975.

SAM D. FIRE,
Associate Commissioner for Compliance.

[FR Doc.75-6373 Filed 3-11-75;8:45 am]

SUBCHAPTER C—DRUGS

CHANGE IN SPONSOR AND SPONSOR NAME

The Commissioner of Food and Drugs has been advised by Bayvet Corp., P.O. Box 390, Shawnee Mission, KS 66201 of their assuming sponsorship of certain new animal drug applications of their Hawer-Lockhart Laboratories Division and of Chemagro Division of Baychem Corp. Specifically these are: NADA No. 12-054V (protokylol hydrochloride Corp. Specifically, these are: NADA No. 12-054V (protokylol hydrochloride injection, veterinary), NADA No. 10-549V (calcium disodium edetate injection), NADA No. 42-413V (erysamine sodium aqeous injection, veterinary), NADA No. 12-054V (protokylol hydrochloride tablets, veterinary), NADA No. 13-602V (sulfadimethoxine tablets), NADA No. 32-336V (sulfadimethoxine injection) and NADA Nos. 34-641V, 47-138V (fenithion), NADA Nos. 47-965V, 47-965V (xylazine hydrochloride injection), NADA No. 15-161V (trichlorfon oral veterinary), NADA Nos. 15-965V, 40-001V, 45-287V (coumaphos), NADA No. 34-394V (niclosamide tablets).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(1), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter 1 of Title 21 of the Code of Federal Regulations is amended as follows:

PART 135—NEW ANIMAL DRUGS

1. Part 135 is amended in § 135.501(c) by deleting and designating as reserved item 007 and revising item 074, as follows:

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

(c) * * *

Code No. * * *

Firm name and address

007. * [Reserved]

074. Bayvet Corp., P.O. Box 390, Shawnee Mission, Kans. 66201.


C. D. Van Houweling, Acting Director, Bureau of Veterinary Medicine.

[FR Doc.75-6976 Filed 3-11-75;8:45 am]

PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

1. § 135a.7 [Amended]

2. Part 135a is amended in § 135a.7 Fenethyl in paragraphs (b) (2) and (c) (2) by deleting the number "007" and inserting in its place the number "074."

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

1. § 135b.15 [Amended]

a. In § 135b.15 Sulfadimethoxine injection in paragraph (b) (2), by adding after the number "069" the phrase "for use in cats and dogs and 074 for use in dogs only."

b. In § 135b.58 [Amended]

b. In § 135b.58 xylazine hydrochloride injection in paragraph (b), by deleting the number "007" and inserting in its place the number "074."

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

1. Part 135c is amended as follows:

§ 135c.39 [Amended]

a. In § 135c.39 Trichlorfon oral veterinary in paragraph (b), by deleting the phrase "049 and 048" and inserting in its place the phrase "047, 048, and 074."

§ 135c.65 [Amended]

b. In § 135c.65 Coumaphos crumbles in paragraph (c), by deleting the number "007" and inserting in its place the number "074."

§ 135c.101 [Amended]

c. In § 135c.101 Niclosamide tablets in paragraph (c), by deleting the number "007" and inserting in its place the number "074."

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

5. Part 135e is amended in § 135e.39 Coumaphos in paragraph (b) (1), by deleting the number "007" and inserting in its place the number "074."

Effective date. This order shall become effective on March 12, 1975.

(Secs. 512(1), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: March 6, 1975.

Fred J. KINONAC,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.75-6976 Filed 3-11-75;8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Diethylcarbamazine Citrate Tablets

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (93-512V) filed by R. Squibb & Sons, Inc., Georges Rd., New Brunswick, NJ 08902, proposing safe and effective use of 200 and 300 milligram diethylcarbamazine citrate tablets for prevention of heartworm infection and treatment of ascariid infections in dogs. The supplemental application is approved, effective March 12, 1975.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(1), 82 Stat. 347; 21 U.S.C. 360b(i) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended by revising § 135c.-86(b) (1) to read as follows:

§ 135c.86 Diethylcarbamazine citrate tablets.

(b) (1) Specifications. Diethylcarbamazine citrate tablets contain 100, 200, or 300 milligrams of diethylcarbamazine citrate per tablet.

Effective date. This order shall become effective on March 12, 1975.

(Secs. 512(1), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: March 6, 1975.

Fred J. KINONAC,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.75-6976 Filed 3-11-75;8:45 am]
is a suspension of procaine penicillin G and sodium novobiocin in menthol vegetable oil with a suitable and harmless suspending agent and preservative. It contains in each 10-milliliter dose 100-900 units of procaine penicillin G and 100 milligrams of sodium novobiocin. Its potency is satisfactory if it is not less than 60 percent and no more than 125 percent of the number of units of penicillin or milligrams of novobiocin that it is represented to contain. Its moisture content is not more than 1.0 percent. The procaine penicillin G used conforms to the requirements of § 440.74a of this chapter, except sterility and pyrogens, and the sodium novobiocin used conform to the requirements of § 455.51 of this chapter.

(2) Labelling. It shall be labeled in accordance with the requirements of § 148.8 and § 135d.17 of this chapter.

(3) Requests for certification; samples. In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(a) Results of tests and assays on:

(1) The procaine penicillin G used in making the batch for potency percent G content, safety, moisture, pH, and crystallinity.

(b) The sodium novobiocin used in making the batch for potency, safety, loss on drying, pH, specific rotation, identity, and crystallinity.

(c) The batch for potency and moisture.

(ii) Samples required:

(a) The procaine penicillin G used in making the batch: 10 packets, each containing approximately 300 milligrams.

(b) The sodium novobiocin used in making the batch: 10 packets, each containing approximately 300 milligrams.

(c) The batch: A minimum of 5 immediately containers.

(ii) Tests and methods of assay—(1) Potency. Proceed as directed in § 436.105 of this chapter using test organism 0 in lieu of A to assay for penicillin content, preparing the samples for assay as follows:

(1) Penicillin content. Expel the syrings contents into a high speed glass blender jar containing 1 milliliter of polysorbate 80 and 1 percent potassium phosphate buffer, pH 6.0 (solution 1) to give a final volume of 500 milliliters. Blend for 3 to 5 minutes. Further dilute an aliquot of this stock solution with saline solution 1 to the reference concentration of 1 unit of penicillin per milliliter (estimated).

(ii) Novobiocin content. Expel the syrings contents into a high speed glass blender jar containing 1 milliliter of polysorbate 80 and sufficient 0.1M potassium phosphate buffer, pH 8.0 (solution 3) to give a final volume of 500 milliliters. Blend for 3 to 5 minutes. To an aliquot of this stock solution, add sufficient penicillinase to inactivate the penicillin; further dilute with 10 percent potassium phosphate buffer, pH 6.0 (solution 6) to the reference concentration of 0.5 microgram of novobiocin per milliliter (estimated). Allow to stand for ½ hour at 37° C before filling the cylinders of the plates.

(2) Moisture. Proceed as directed in § 436.201 of this chapter.

Effective date. This order shall be effective on March 12, 1975.

(Doc. No. FT 496)

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

(Part 1914—Areas Eligible for the Sale of Insurance)

Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at 59 FR 26366-69). A list of servicing companies is also available from the Federal Insurance Administration, HUSD, Seventh Street SW., Washington, D.C. 20410.

Purchasers of flood insurance policies in the United States, so that, after that date, no such financial assistance can be provided for acquisition or construction in these areas unless the community has entered the program and flood insurance has been purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. Therefore notice and public proceedings under 5 U.S.C. 553(b) are impracticable, unnecessary, and contrary to the public interest.
### RULES AND REGULATIONS

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 new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community.

The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.4 Status of participating communities.

<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Location</th>
<th>Effective date of authorization of sale of flood insurance for area</th>
<th>Hazard area identified</th>
<th>State map repository</th>
<th>Local map repository</th>
</tr>
</thead>
<tbody>
<tr>
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J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-549 Filed 3-11-75; 8:45 am]
### RULES AND REGULATIONS

<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Location</th>
<th>Effective date of authorization of sale of flood insurance for area</th>
<th>Hazard area identified</th>
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<td>Virginia</td>
<td>Halifax</td>
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<td>Washington</td>
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<td>Mercer</td>
<td>Princeton, city of</td>
<td>Jul. 19, 1974</td>
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</table>

Issued: February 27, 1975.

[Docket No. FI 498]

#### PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

##### Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128).

Insurance policies can be obtained from any licensed property insurer or agent or broker serving the eligible community, or from the National Flood Insurers Association serving company for the state (addresses are published at 39 FR 2680). A list of servicing companies is also available from the Federal Insurance Administration, HUD, 451 Seventh Street, S.W., Washington, D.C. 20410.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special hazards that is located within any community currently participating in the National Flood Insurance Program.

Until July 1, 1975, the statutory requirement for the purchase of flood insurance does not apply until and unless the community enters the program and the special flood hazards have been identified. However, on July 1, 1975, or one year after the identification of the community as flood prone, whichever is later, the requirement will apply to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and flood insurance has been purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. Therefore notice and public procedure under 5 U.S.C. 553(b) are impracticable, unnecessary, and contrary to the public interest.

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 new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

**§ 1914.4 Status of participating communities.**
<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Location</th>
<th>Effective date of authorization of sale of flood insurance for area</th>
<th>Hazard area identified</th>
<th>State map repository</th>
<th>Local map repository</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
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<td>Aug. 24, 1974</td>
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<tr>
<td>Indiana</td>
<td>Carroll</td>
<td>Garrett, city of</td>
<td>May 10, 1974</td>
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<tr>
<td>Iowa</td>
<td>Clayton</td>
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<td>Ohio</td>
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<td>Pennsylvania</td>
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</table>

**State** | **County** | **Location** | **Effective date of authorization of sale of flood insurance for areas** | **Hazard area identified** | **State map repository** | **Local map repository**
---|---|---|---|---|---|---
**Idaho** | Jerome | Jerome, city of. | March 10, 1975, emergency | | | 
**Illinois** | Clinton | Albers, village of. | | Mar. 22, 1974 | | 
**Indiana** | Harrison | Harrisonville, town of. | | Mar. 22, 1974 | | 
**Iowa** | Clayton | Oel, city of. | | Mar. 22, 1974 | | 
**Massachusetts** | Monroe | Monroe, village of. | | Mar. 22, 1974 | | 
**Michigan** | Missaukee | Missaukee, city of. | | Mar. 22, 1974 | | 
**Minnesota** | Chippewa | Chippewa City, city of. | | Mar. 22, 1974 | | 
**New York** | Oswego | Oswego, village of. | | Mar. 22, 1974 | | 
**Ohio** | Allenport | Allenport, borough of. | | Mar. 22, 1974 | | 
**Tennessee** | Cheatham | Ashland, town of. | | Mar. 22, 1974 | | 
**Texas** | Kemah | Kemah, city of. | | Mar. 22, 1974 | | 
**Utah** | Cache | Cache City, city of. | | Mar. 22, 1974 | | 
**Wisconsin** | Sauk | Sauk City, city of. | | Mar. 22, 1974 | | 
**Texas** | Kemah | Kemah, city of. | | Mar. 22, 1974 | | 
**Utah** | Cache | Cache City, city of. | | Mar. 22, 1974 | | 
**Wisconsin** | Sauk | Sauk City, city of. | | Mar. 22, 1974 | | 


J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

**PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS**

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding. Since this publication is merely for the purpose of informing the public of the location of areas of special flood hazard and has no binding effect on the sale of flood insurance or the commencement of construction, notice and public procedure are impracticable, unnecessary, and contrary to the public interest. Inasmuch as this publication is not a substantive rule, the identification of special hazard areas shall be effective on the date shown. Where two dates appear in the column marked effective date of identification, the first listing refers to the initial identification of areas having special flood hazards, and the second date refers to additional areas identified. Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Location</th>
<th>Map No.</th>
<th>State map repository</th>
<th>Local map repository</th>
<th>Effective date of identification of areas which have special flood hazards</th>
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<tbody>
<tr>
<td>Alabama</td>
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<td>H 010341-01</td>
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<td>Arkansas</td>
<td>Yell</td>
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<td>H 000384-01</td>
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FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975
<table>
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<th>State</th>
<th>County</th>
<th>Location</th>
<th>Map No.</th>
<th>State map repository</th>
<th>Local map repository</th>
<th>Effective date</th>
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<tbody>
<tr>
<td>Georgia</td>
<td>Bulloch</td>
<td>Unincorporated areas</td>
<td>H 130019 01</td>
<td>Department of Natural Resources, Office of Planning and Research, 270 Washington St. SW., Room 707, Atlanta, Ga. 30334.</td>
<td>Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.</td>
<td>Do</td>
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<tr>
<td>Georgia</td>
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<td>Unincorporated areas</td>
<td>H 130019 04</td>
<td>Lady Lake, Village of, Madison, Ga. No ZIP.</td>
<td>Mayor, City of Madison, Madison, Ga. No ZIP.</td>
<td>Do</td>
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<tr>
<td>Georgia</td>
<td>Bulloch</td>
<td>Unincorporated areas</td>
<td>H 130019 03</td>
<td>Governor's Park Forest on Flood Control, 160 North State St., Room 810, Chicago, Ill. 60601.</td>
<td>Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. 62703.</td>
<td>Mar 3, 1974</td>
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<td>Georgia</td>
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<td>Unincorporated areas</td>
<td>H 130019 02</td>
<td>Delaware, Village of, Newton, Ga. 31770.</td>
<td>Mayor, City of Newton, Newton, Ga. 31770.</td>
<td>Mar 26, 1975</td>
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<td>Kentucky</td>
<td>Leiper</td>
<td>Flemington, city of</td>
<td>H 310226 01</td>
<td>Division of Water, Kentucky Department of Natural Resources, Capitol Plaza Office Tower, Frankfort, Ky. 40601.</td>
<td>Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.</td>
<td>Do</td>
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<tr>
<td>Kentucky</td>
<td>Leiper</td>
<td>Flemington, city of</td>
<td>H 310226 02</td>
<td>Old Capitol Annex, Frankfort, Ky. 40601.</td>
<td>City Manager, City Bldg., City of Frankfort, Ky. 40601.</td>
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Title 39—Postal Service
CHAPTER I—UNITED STATES POSTAL SERVICE
PART 233—INSPECTION SERVICE
AUTHORITY

Mail Covers

The Postal Service has decided to re-publish the mail cover regulations governing the use of the mail cover as an investigative technique to make these regulations more accessible to the public, and to discourage confusion concerning the nature and uses of this important law enforcement tool. In this re-publication, the Postal Service has updated the provisions dealing with the delegation of mail cover authority to reflect the present organizational structure of the Postal Inspection Service. However, no substantive changes have been made in mail cover procedures or safeguards.

The use of mail covers has been governed by regulations contained in §233.2 of the Postal Service Manual, supplement D by provisions formerly contained in Part 861 of the Postal Manual of the old Post Office Department which have been retained as operating instructions by the Postal Inspection Service. The combination of these provisions under one heading in the Code of Federal Regulations will improve their accessibility and facilitate their interpretation.

A mail cover is a relatively simple investigatory or law enforcement technique. It involves recording the name and address of the sender, the date of postmarking, the class of mail, and any other data appearing on the outside cover of a piece of mail. Mail is not opened, and the mail cover is necessary to (A) protect the national security, (B) locate a fugitive, or (C) obtain evidence of commission or attempted commission of a crime.

(a) Policy. The U.S. Postal Service maintains rigid controls and supervision with respect to the use of mail covers as investigatory or law enforcement techniques.

(b) Scope. These regulations constitute the sole authority and procedure for initiating, processing, placing and using mail covers.

(c) Delegation. For purposes of these regulations, the following terms are hereby defined:

(1) "Mail cover" is the process by which a record is made of any data appearing on the outside cover of any class of mail matter, including checking the contents of any second-, third-, and fourth-class mail matter may be examined in connection with a mail cover.

(2) "Mail cover authority" is any authority of the Federal Government or any authority of a State or local government one of whose functions is to investigate the commission or attempted commission of acts constituting a crime.

(3) "Mail cover order" is any order, pursuant to a written request from a law enforcement agency only if the requesting authority stipulates and specifies the reasonable grounds that exist which demonstrate the need for a legitimate purpose. No officers or employees of the Postal Service other than the Chief Postal Inspector, a Postal Inspector in Charge, and a limited number of their designees are authorized to order mail covers. Only the Chief Postal Inspector, or his designees at Inspection Service Headquarters, may order a national security mail cover. Mail covers do not include mail matters concerning the commission or attempted commission of acts constituting a crime.

(4) "Law enforcement agency" is any authority of the Federal Government or any authority of a State or local government one of whose functions is to investigate the commission or attempted commission of acts constituting a crime.

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(39) "Law enforcement agency" is any authority of the Federal Government or any authority of a State or local government one of whose functions is to investigate the commission or attempted commission of acts constituting a crime.
(3) Where time is of the essence, the Postal Inspector in Charge, or his designate, may act upon an oral request to be confirmed by the requesting authority in writing within 2 business days. However, no information shall be released until an appropriate written order is received.

(4) Records. (1) All requests for mail covers, with records of action ordered thereon, and actions taken thereon, shall be retained in the custody of the Chief Postal Inspector. However, the physical housing of this data shall be at the discretion of the Chief Postal Inspector.

(5) The retention period for files and records pertaining to mail covers shall be 8 years.

(6) Authorization to Request Mail Covers. The Chief Postal Inspector, or his designee, shall authorize action to be taken by any officer in the Postal Service to transmit mail cover reports directly to the requesting authority. Where at all possible, the transmitting officer should be a Postal Inspector.

(7) Review. (1) The Chief Postal Inspector, or his designee, shall review all actions taken by Postal Inspectors in Charge or their designees upon initial submission of a request for mail cover.

(2) The Chief Postal Inspector’s determination in all matters concerning mail covers shall be final and conclusive and not subject to further administrative review.

2. In the table of sections of 39 CFR Part 233 the following entries are renumbered to read as follows:

Sec. 233.1 Circulars and rewards.
233.2 Mail covers.
233.3 Withdrawal of mail privileges.

Rogers P. Clarke, Deputy General Counsel.

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

PART 1-7—CONTRACT CLAUSES

Subcontracts

This amendment of the Federal Procurement Regulations prescribes a new Subcontracts clause for use in fixed-price supply and construction contracts. The clause requires the contractor to obtain written cooperation from the Postal Inspector’s written consent prior to entering into certain types and dollar values of subcontract. The clause becomes operative only with respect to unpriced modifications under fixed-price contracts. Adoption of the clause requires a significant amount of why cost or pricing data was, or was not requested by the Postal Inspector.

The table of contents for Part 1-7 is changed to add new entries as follows:

Sec. 1-7.102-22 Payment of Interest on contractors’ claims.

Subpart 1-7.1—Fixed-Price Supply Contracts

1. Section 1-7.102 required clauses is amended by the addition of § 1-7.102-22 as follows:

§ 1-7.102-22 Payment of Interest on contractors’ claims.

Insert the clause set forth in § 1-7.322 under the conditions prescribed therein.

2. Section 1-7.103 Clauses to be used when applicable is amended by the addition of § 1-7.103-27 as follows:

§ 1-7.103-27 Subcontracts.

The following clause may be inserted in fixed-price supply contracts whenever it is likely that subsequent to award major modifications will be initiated pursuant to the Changes clause, or other contract provisions, and that such modifications will result in the placement of additional subcontract. The pricing arrangements of such subcontract have an impact upon the final price of the modification; therefore, it is essential that they be made available by the contractor for review by the Postal Inspector (see §§ 1-3.807-10(b) and 1-3.903).

Subcontracts

(1) No mail covers shall include matter mailed between the mail cover subject and his known attorney-at-law.

(2) No officer or employee of the Postal Service other than the Chief Postal Inspector, or Postal Inspectors in Charge, and their designees are authorized to order mail covers. Under no circumstances shall a postmaster or postal employee furnish information as defined in § 233.2(c) to any person except as authorized by the Chief Postal Inspector, a Postal Inspector in Charge, or their designees.

(6) Excepting fugitive cases, no mail cover shall remain in force when the subject has been indicted for any cause.

(9) The Chief Postal Inspector, or his designee, may act upon an oral request to be confirmed by the requesting authority in writing within 2 business days. However, no information shall be released until an appropriate written order is received.

(2) Records. (1) All requests for mail covers, with records of action ordered thereon, and actions taken thereon, shall be retained in the custody of the Chief Postal Inspector. However, the physical housing of this data shall be at the discretion of the Chief Postal Inspector.

(3) The Postal Inspectors in Charge shall promptly submit copies of all requests for mail covers and the determination made thereon to the Chief Postal Inspector, or to his designee for review.

(4) Any data concerning mail covers shall be made available to any mail cover subject in any legal proceeding through appropriate discovery procedures.
obtained from the subcontractor. by other provisions of this contract to be obtained or Certificate relating to Cost Accounting Standards when such data are required

Insert the clause set forth in 1-7.103-27 under the conditions contained in the section,

(See. 205(c), 63 Stat. 390; 40 U.S.C. 406(c))

Effective date. This amendment is applicable April 14, 1975, but may be observed earlier.

Dated: February 27, 1975.

ARTHUR F. SAMPSON, Administrator of General Services.

[F.R. Doc. 75-6326 Filed 3-11-75; 8:45 a.m.

Title 47—Telecommunication

CHAPTER 1—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20012, FFC 75-240]

PART 73—RADIO BROADCAST SERVICES

Non-Aural FM Subcarrier Signals

In the matter of Amendment of Part 73 of the Commission's rules and regulations concerning the transmissions of non-aural signals on an FM broadcast subcarrier pursuant to a Subsidiary Communications Authorization, Docket No. 20012, RM—1927.

1. This proceeding, initiated by a notice of proposed rule making (FCC 74-267), adopted April 9, 1974, contemplates the amendment of the Commission's Rules to provide the technical framework within which FM broadcast subcarrier service, pursuant to a Subsidiary Communications Authorization (SCA), may be rendered by visual, as well as by aural means. 3

2. A variety of such visual services are feasible, as has been demonstrated by a number of experimental operations that the Commission has authorized. However, the bandwidth available for their provision is quite limited (a channel width of 1.0 mHz is assigned to accommodate an aural signal), while the bandwidth required by some visual systems is potentially great. Accordingly, it appears necessary to establish engineering standards applicable to visual systems to assure compatibility with the basic FM broadcast service.

3. In the aforementioned Notice the Commission pointed out that it might attempt to establish rules prescribing the structure of the transmitted signal, at least for the major categories of visual transmissions, or it could restrict its technical regulations to those intended to limit the potentiality of these transmissions for degrading the broadcast service provided by the FM station. It requested comments as to which of these approaches should be followed, and engineering proposals from those favoring one or the other of these approaches.

4. In a related context, we asked what exposition should be made of the facsimile signals contained in §§ 73.316 and 73.266 of the rules, which, respectively, establish detailed standards for facsimile transmissions and permit main channel transmission of facsimile during hours not devoted to regular programs, or subcarrier transmission of facsimile on any desired schedule.

5. Within the deadlines set for the submission of comments and reply comments, initially prescribed as May 23, 1974 and June 3, 1974, and subsequently extended by Order of June 13, 1974, to June 19 and July 3, 1974, eleven comments were filed, by the following parties:

University of Missouri
Colorado Video, Inc.
Michigan Department of Education Control Signal Company
University of Illinois

6. All comments and reply comments have been fully considered in arriving at a decision in this matter.

7. There is no disagreement among the parties commenting on one point—that the facsimile comments and reply comments, initially contained in § 73.318 of the rules, adopted in 1948 in furtherance of a concept of a radio newspaper, which never materialized—are obsolete, serve no useful purpose, and should be stricken from our rules in their present form. Similarly, § 73.266, which permits simplex facsimile transmission pursuant to these engineering standards and requires that multiplex facsimile transmission adhere to these standards, has no relevance to present day conditions. We concur generally in this view. Main carrier modulation with a facsimile signal may only be justified for the purposes of a service expected to be generally available for and widely used by the general public.

8. Over the course of many years there has been interest in developing a facsimile newspaper service of general circulation, and there is no discernible trend toward future implementation of this service. On the other hand, it is clear that, although the list of subscriber services, provided by subcarrier transmission, facsimile has considerable potential usefulness. Thus, the provision in § 73.266 for simplex facsimile can safely be deleted. Whether the facsimile standards of § 73.318 should be deleted, or revised to reflect current practice, is a part of the larger question of whether
10. As a second step, we have undertaken to define this category of signals, and are adopting, for inclusion in our rules, a definition for visual transmission. This definition, which is intended to be applicable only to SCA subcarrier operations, reads as follows:

**Visual transmission**: Transmissions of a broadcast nature on a subcarrier modulated with a signal of such characteristics as to permit its employment, in receivers of suitable design, for visual presentation of the information so transmitted, e.g., on a viewing screen or a graph screen.

By couching this definition in terms of the end result of the visual transmission, i.e., the presentation of the received information in a form suitable for visual assimilation by the recipient, we believe that we arrived at a formulation sufficiently broad to encompass all kinds of "non-aural" transmissions, ranging from those in which the "information" to be transmitted possesses physical form and substance, as in facsimile and slow-scan television, to those where it has none whatever—as when digital information is converted into electrical signals through the keys of a teletypewriter or character generator. "Graphic", as used in this definition is intended to include all kinds of information reproducible in a two-dimensional visual record, e.g., photographs, drawings, printed matter, etc. As a further step, we must consider what, if any technical restrictions should be established with respect to the transmission of visual signals on the SCA. As we had suggested, since visual systems which might be proposed for SCA use could, in some cases, require bandwidths greatly exceeding those required for satisfactory audio signal transmissions, we should forego a regulatory approach which would restrict visual systems to those suitable for SCA transmission by the specification of system parameters, and instead develop rules a suitable limitation on the base band occupied by the visual system.

11. The majority of those commenting agree that this is necessary or highly desirable. We have two suggestions that it should be necessary for a licensee only to demonstrate compliance with § 73.319(e), which requires that SCA modulation in the frequency range occupied by the main program signal, whether monophonic or stereophonic, be at least 60 dB below 100 percent modulation.

12. In examining this question, we note that all visual systems which have been tested pursuant to experimental authorization for subcarrier transmission appear to function satisfactorily with information contained in a band of frequencies not exceeding 6 kilohertz in width, and that it apparently is possible for some such systems, if suitably engineered, to operate compatibly with stereophonic main channel programming with bandwidths of this magnitude. Characteristically, such systems employ filters to confine base band components substantially within an 8 kHz channel, or within a narrower channel, if the system requires a lower order of base band filtering. However, it is apparent that base band filtering, alone, has been found insufficient to avoid excessive cross-talk in the broadcast signal in all cases, and an additional high pass filters may be required. Thus, the output of the SCA generator, particularly in instances where the regular broadcast is stereophonic, and as a matter of fact, in many instances it appears is necessary to restrict the band occupied by a normal aural signal before it enters the SCA generator, to restrict the subcarrier swing, and, perhaps, to employ additional filtering at the generation point. The limits which may be required are not established in the rules.

13. Under such circumstances, while it is safe to assert that base band filtering of the visual signal is almost certainly necessary, it is apparent that additional restrictions on reception may be required to insure compatibility between SCA transmissions and the regular broadcast operation. Accordingly, it seems infeasible to attempt to prescribe the specific characteristics of a base band filter but rather the relative strength of components falling outside the filter pass band, since restrictions which may be found adequate in one case may be insufficient in another.

14. It has been argued that we are, after all, concerned primarily with the end result of the SCA operation, and it should be sufficient to require that SCA transmissions, whether intended for visual or aural use by the recipient, meet the requirements of § 73.319(e) of the rules. For the reasons which we have discussed, we believe that this is perhaps the
most feasible way of regulating visual transmissions effectively. 

Accordingly, § 73.319(e) has been applied heretofore, we have not required a specific showing by a station licensee proposing SCA operation that subcarrier transmission will comply with its requirements. Furthermore, the Commission has been unable, because of limitations in personnel and equipment, to undertake, in its FM station inspection procedure, other than a minimal program to verify that SCA to undertake, in its FM station inspection

16. Considering the variety of visual signals which may be proposed for SCA use, and the potential for adverse effects obviously inherent in any of these signals, we do not believe that their use should be authorized without some assurance that a particular system, as installed, will perform compatibly with main channel programming. Accordingly, we are amending § 73.293 of the rules to require that an applicant for an SCA proposing to employ a visual system submit (1) full details of the system, including apparatus and techniques employed, and a block diagram showing the location of these filters in the system and (2) the results of properly made measurements demonstrating that the system, as installed, meets the requirements of § 73.319(e). While the measures taken to assure compliance with § 73.319(c) would tend to lessen the probability that an FM station engaging in visual transmission would radiate out-of-band signals of undue strength, we do not think it safe to assume that this necessarily would be the case. Therefore, we are also requiring the applicant to show by observations or measurements that such out-of-band components are not produced.

17. We do not believe that in requiring the above mentioned, we are imposing an undue burden on the licensee. Rather, we are simply requiring that he furnish to the Commission the results of the measurements and observations which common prudence would dictate that he perform, in any case, before regularly engaging in such transmissions.

18. NAB and RCA have suggested that, since the technical rules governing FM broadcast operation will require substantial amendment to accommodate discrete quadraphonic FM transmissions, the Commission should delay action in this proceeding until such time as they are proposed. We disagree with this view, and are amending the § 73.293 to require the same showing from educational station licensees proposing visual subcarrier transmissions as is prescribed for commercial FM stations in amended § 72.283(b). 5

20. The determination, in our Memorandum Opinion and Order of March 14, 1974 (File No. ESCA-1274, FCC 74-392) that broadcast-related subcarrier services pursuant to an SCA may be rendered in a visual, as well as an aural format, was made primarily with respect to the use of visual systems by noncommercial educational FM broadcast stations also is permissible.

21. Indeed, much of the current interest in visual systems has been expressed by educational institutions, both by noncommercial educational FM stations, and we find that the employment of visual subcarrier systems by noncommercial educational FM broadcast stations also is permissible.

22. The technical standards applying to SCA transmissions by noncommercial educational broadcast stations generally parallel those established for regular FM stations, either as set forth in Subpart C of Part 73 of the rules, or as incorporated by reference to pertinent sections of Subpart B. We therefore believe it appropriate to amend Subpart C, at this time, in a manner consistent with those amendments of Subpart B which we have previously discussed and adopted.

23. To this end, we are deleting § 73.566, FASCIMILE TRANSMISSION AND MULTIPLEX TRANSMISSION, and are amending § 72.283 so as to require the same showing from educational station licensees proposing visual subcarrier transmissions as is prescribed for commercial FM stations in amended § 72.283(b).

24. Accordingly, it is ordered, That, effective April 11, 1975, Part 73 of the Commission's Rules is amended as set forth below.

25. It is further ordered, That this proceeding is terminated.


Released: March 6, 1975.

(Secs. 4, 307, 308, 47 Stat., as amended, 1064, 1082, 1083; 47 U.S.C. 154, 303, 307)

FEDERAL COMMUNICATIONS COMMISSION
[SEAL] VINCENT J. MULLINS, Secretary.

§ 73.266 [Reserved]

1. Section 73.266 and headnote are deleted and designated (Reserved).

2. Section 73.293(b) is revised to read as follows:

§ 73.293 Subcarrier communications authorizations.

(b) An application for an SCA shall be submitted on FCC Form 318. An application for SCA shall specify the particular nature and purpose of the proposed use. If visual transmission of program material is contemplated (see § 73.310(e)), the application shall include certain technical information concerning the visual system, on which the Commission shall rely in issuing an SCA. If any significant change is subsequently made in the system, revised information shall be submitted. The technical information to be submitted is as follows:

(1) A full description of the visual transmission system.

(2) A block diagram of the system, as installed at the station, with all components, including filters, identified as to make and type. Response curves of all composite filters shall be furnished.

(3) The results of measurements which demonstrate that the subcarrier, when modulated by a visual signal, meets the requirements of § 73.319(e), and of such observations or measurements as may be necessary to show that signal components of appreciable strength are not directed outside of the band normally occupied by the FM station's emissions (see § 73.317(a)(12) and (13)). A description of the apparatus and techniques employed in performing these and observations shall be furnished.

Note: Operation of an FM broadcast station to obtain the technical information necessary to support an application for an SCA shall be considered "** experimenta for experimental purposes in testing and maintaining apparatus ** ** and may be conducted without specific authorization from the Commission pursuant to § 73.262(a) of the rules. Tests may be conducted for this purpose during the period from 6 a.m. to midnight, with prior notification to the Commission and the Engineer in Charge of the radio district in which the station is located, subject to the provisions of § 73.262(b), (1), (2), and (9).

3. Section 73.310(c) is revised to read as follows:

§ 73.310 Definitions.

(c) Visual transmission. Transmissions of a broadcast nature on a subcarrier modulated with a signal of such characteristics as to permit its employment, in receivers of appropriate design, for visual presentation of the information so transmitted, e.g., on a viewing screen or a graphic record.

§ 73.318 [Reserved]

4. Section 73.318 and headnote are deleted and reserved.

§ 73.566 [Reserved]

5. Section 73.566 is amended by deletion of the title and text. Section number is reserved.

6. Section 73.593(b) is revised to read as follows:

FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975
§ 73.593 Subsidiary communications authorizations.

(b) An application for an SCA shall be submitted on FCC Form 318. An applicant for an SCA shall identify the purpose and purpose of the proposed use. If visual transmission of program material is contemplated (see § 73.310(c)), the application shall include certain technical information about the visual system, on which the Commission shall rely in issuing an SCA. If any significant change is subsequently made in the system, revised information shall be submitted. The technical information to be submitted is as follows:

(a) A full description of the visual transmission system.

(2) A block diagram of the system, as installed at the station, with all components, including filters, identified as to make and type. Response curves of all composite filters shall be furnished.

(3) The results of measurements which demonstrate that the subcarrier, when modulated by the visual signal, meets the requirements of § 73.319(e), and of such observations or measurements as may be necessary to show that signal components of appreciable strength are not produced outside of the band normally occupied by the FM station's emissions (see § 73.317(a) (12) and (13)).

The technical information concerning the apparatus and techniques employed in these measurements and observations shall be furnished.

Note: Operation of an FM broadcast station to obtain the technical information necessary to support an application for an SCA for visual transmission shall be considered "..." for experimental purposes in testing and maintaining apparatus "..." and may be conducted without specific authority from the Commission pursuant to §73.562(a) of the rules. Tests may be conducted for this purpose during the period from 6 a.m. to midnight, with prior notification to the Engineer in Charge of the radio district in which the station is located, subject to the provisions of §73.562(b) (1) and (2).

[FR Doc 75-3366 Filed 3-11-75; 8:45 am]

Title 49—Transportation

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

[Docket No. 70-27; Notice 13]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Hydraulic Brake Systems

This notice amends Standard No. 105-75, "Hydraulic brake systems, 49 CFR §571.105-75", as it applies to passenger cars. In response to comments on reconsideration of amendments published July 15, 1974 (39 FR 28943) (Notice 11), the amendments defer for 1 year the requirement for a brake fluid level indicator and modify the permissible pedal force values used in recovery stops. Manufacturers of hydraulic-braked motor vehicles responded to the Notice 11 amendments of the standard with petitions for reconsideration of specific technical changes in some performance requirements, and also with far-ranging requests for delay, or revocation of the standard. These broad requests are answered in a separate proposal to delay the effective date of the standard for 4 months in the case of conformity with the safety and reliability of the visual system, on which the Commission shall rely in issuing an SCA. If any significant change is subsequently made in the system, revised information shall be submitted. The technical information to be submitted is as follows:

(a) A full description of the visual transmission system.

(b) A block diagram of the system, as installed at the station, with all components, including filters, identified as to make and type. Response curves of all composite filters shall be furnished.

(c) The results of measurements which demonstrate that the subcarrier, when modulated by the visual signal, meets the requirements of § 73.319(e), and of such observations or measurements as may be necessary to show that signal components of appreciable strength are not produced outside of the band normally occupied by the FM station's emissions (see § 73.317(a) (12) and (13)).

The technical information concerning the apparatus and techniques employed in these measurements and observations shall be furnished.

Note: Operation of an FM broadcast station to obtain the technical information necessary to support an application for an SCA for visual transmission shall be considered "..." for experimental purposes in testing and maintaining apparatus "..." and may be conducted without specific authority from the Commission pursuant to §73.562(a) of the rules. Tests may be conducted for this purpose during the period from 6 a.m. to midnight, with prior notification to the Engineer in Charge of the radio district in which the station is located, subject to the provisions of §73.562(b) (1) and (2).

[FR Doc 75-3366 Filed 3-11-75; 8:45 am]

Title 49—Transportation

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(a) A full description of the visual transmission system.

(b) A block diagram of the system, as installed at the station, with all components, including filters, identified as to make and type. Response curves of all composite filters shall be furnished.

(c) The results of measurements which demonstrate that the subcarrier, when modulated by the visual signal, meets the requirements of § 73.319(e), and of such observations or measurements as may be necessary to show that signal components of appreciable strength are not produced outside of the band normally occupied by the FM station's emissions (see § 73.317(a) (12) and (13)).

The technical information concerning the apparatus and techniques employed in these measurements and observations shall be furnished.

Note: Operation of an FM broadcast station to obtain the technical information necessary to support an application for an SCA for visual transmission shall be considered "..." for experimental purposes in testing and maintaining apparatus "..." and may be conducted without specific authority from the Commission pursuant to §73.562(a) of the rules. Tests may be conducted for this purpose during the period from 6 a.m. to midnight, with prior notification to the Engineer in Charge of the radio district in which the station is located, subject to the provisions of §73.562(b) (1) and (2).

[FR Doc 75-3366 Filed 3-11-75; 8:45 am]
5. The last sentence of §5.3.1 is amended to read:

\[ \text{S5.3.1} \]

A vehicle manufactured before September 1, 1976, need not meet the requirements of subparagraph (b) if:

6. In the last sentence of §7., the phrase "approximately 7 mph" is replaced by "4 to 8 mph."

7. References to "mph" in the definition of "Gross vehicle weight rating" and §7.11 (including its subdivisions), §5.1.2.3, §4.10, §7.1, §7.2, §7.3, §7.4.1.1, §7.8, §7.9.1, §7.9.4, §7.10.1, §7.10.2(a), §7.11 (including its subdivisions), §7.16.1, and §7.16.2 as these sections appear in the Federal Register of May 18, 1973 (38 FR 13017), are changed to "mph."

8. References to "ft/s" or "fps" in §1.4.2, §7.1, §7.2, §7.4.1.1, §7.7.11 (including its subdivisions), and §7.16.2 as these sections appear in the Federal Register of May 18, 1973 (38 FR 13017), are changed to "ft/s."

9. In Table I, "S5.17" appearing in line 16 of the column titled "Test procedure" is changed to "S7.17."

Effective date. September 1, 1975: Because the amendments relax a requirement and because the present effective date of the standard is September 1, 1975, it is found for good cause shown that an effective date sooner than 180 days following publication of the amendments in the Federal Register is in the public interest.

Issued on March 6, 1975.

Noel C. Buff,
Acting Administrator.
PART 33—SPORT FISHING

Muscatatuck National Wildlife Refuge, Indiana

The following special regulation is issued and is effective on March 12, 1975.

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

Indiana

Muscatatuck National Wildlife Refuge

Sport fishing on the Muscatatuck National Wildlife Refuge, Seymour, Indiana, is permitted only on the six ponds designated by signs as open to fishing. These open areas comprising 160 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Minneapolis, Minnesota 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge shall extend from April 15, 1975, and remain open until further notice, daylight hours only.

(2) Fishing through the ice will be permitted during the winter on designated areas which have been determined to be safe and announced by the Refuge Manager.

(3) The use of boats is prohibited.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33.

Dated: March 5, 1975.

Charles E. Scheffe
Refuge Manager, Muscatatuck National Wildlife Refuge, Seymour, Indiana.

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Incidental Taking in the Course of Commercial Fishing Operations

Amendment to Regulations governing the incidental taking of marine mammals in the course of commercial fishing operations.

Regulations governing commercial fishing operations where marine mammals are incidentally taken were published on September 5, 1974 (39 FR 32117) as amended. The regulations require that certificate holders maintain logbooks that record certain information regarding activities permitted under the certificates.

The purpose of this amendment is to stipulate retention periods for the complete logs.

The following sections are hereby amended:

In §216.24(d) (1) (v), add following the last sentence; "Certificate holders shall retain the original logs for a period of one year from the date the required report is made in writing to the Regional Director, National Marine Fisheries Service."

In §216.24(d) (2) (ii), add following the last sentence; "Certificate holders shall retain the original logs for a period of one year from the date the required copies are submitted to the Regional Director, National Marine Fisheries Service."

In §216.24(d) (3) (v), add following the last sentence; "Certificate holders shall retain the original logs for a period of one year from the date the required report is made in writing to the Regional Director, National Marine Fisheries Service."

In §216.24(d) (4) (v), add following the last sentence; "Certificate holders shall retain the original logs for a period of one year from the date the required report is made in writing to the Regional Director, National Marine Fisheries Service."

In §216.24(d) (5) (v), add following the last sentence; "Certificate holders shall retain the original logs for a period of one year from the date the required report is made in writing to the Regional Director, National Marine Fisheries Service."

Dated: March 5, 1975.

Jack W. Gehring
Acting Director, National Marine Fisheries Service.
DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service

[7 CFR Part 908]

HANDLING OF VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Expenses and Rate of Assessment for the 1974-75 Fiscal Period and Carryover of Unexpended Funds

This notice invites written comment relative to the proposed expenses of $282,550 and rate of assessment of $0.014 per carton of Valencia oranges to support the provisions of the Agricultural Marketing Agreement, as amended, and Order No. 908, as amended (7 CFR Part 908) for the period from November 1, 1974, through October 31, 1975.

Consideration is being given to the following proposals submitted by the Valencia Orange Administrative Committee, established under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

(1) that the expenses which are reasonable and likely to be incurred by the Valencia Orange Administrative Committee during the period from November 1, 1974, through October 31, 1975, will amount to $282,550; (2) that there be fixed, at $0.014 per carton of oranges, the rate of assessment payable by handlers in accordance with § 908.41 of the aforesaid marketing agreement and order; and (3) that unexpended funds in excess of expenses incurred during the fiscal year ended October 31, 1974, in the amount of $25,000, be carried over as a reserve in accordance with § 908.42.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file same in quadruplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Agricultural Marketing Service, Washington, D.C. 20250, not later than April 7, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: March 7, 1975.

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

[FR Doc. 75-3450 Filed 3-11-75; 8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Notice of Proposed Rulemaking

Notice is hereby given in accordance with the provisions contained in section 553 of Title 5, United States Code, that it is proposed to amend certain of the regulations relating to viruses, serums, toxics, and analogous products. In Part 113 of Title 9, Code of Federal Regulations, issued pursuant to the provisions of the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), as amended, § 113.135, § 113.162, § 113.163, § 113.164, and § 113.165, as amended, these changes are being proposed in response to a review of the Standard Requirements in these regulations by a Joint committee composed of Veterinary Services personnel and representatives of poultry biologies producers.

Section 113.160 would be amended to provide for the use of the pathogen test in § 113.38 if vaccine cannot be evaluated by the test in § 113.161. Paragraphs (b), (d), and (e) would be affected. The virus titration test in paragraph (c)(2) would be amended to permit use of 20 embryos as negative controls with 75 percent hatch rate as a valid test. Paragraph (d) of § 113.160 would also be amended to provide a safety test and to clarify release requirements. Paragraph (e) of § 113.161 would be amended to limit the incubation requirement to desiccated samples. Paragraph (e)(3) would be added to provide a safety requirement.

Paragraphs (a) and (e)(2) of § 113.161 would be corrected by deleting “of this section” in (a) and by changing “means” to “mean” in (e)(2). A new safety test would be added to § 113.161 by revising paragraph (d)(1) and adding paragraphs (a)(1)(i) and (ii). Virus titer requirements would be included in a revised paragraph (d)(2).

The introductory portion of paragraph (e) would be reworded for clarification. Safety requirements would be added as a new paragraph (e)(2).

The introductory portion of § 113.163 would be corrected by deleting the last sentence and § 113.162 would be revised to conform with other sections.

FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975

11587

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 rule making prior to the adoption of the final rules.
kept in separate containers and allowed for safety as follows:

For each dilution, inoculate at least 10 embryos, 5 or 6 days old, in the yolks with 0.2 ml each. Twenty similar embryos obtained from the same source shall be kept as uninoculated negative controls. Disregard all deaths during the first 48 hours post-inoculation.

(ii) Eggs for each dilution shall be kept in separate containers and allowed to hatch. The inoculation shall be taken to assure that embryos from each dilution remain separated. To be a valid test, at least 75 percent of the inoculated eggs shall hatch.

(d) After a lot of Master Seed Virus has been established as prescribed in §§ 113.37 and 113.36, each serial and subserial shall meet the applicable requirements in § 113.135 and the requirements prescribed in this paragraph.

(1) Final container samples from each serial shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inconclusive because of a vaccine virus override, the test may be repeated and if the repeat test is inconclusive for the same reason, the chicken inoculation test prescribed in § 113.36 may be conducted and the vaccine judged accordingly.

(ii) If unfavorable reactions attributable to the biological product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated. Except that, if the test is not repeated, the serial shall be unsatisfactory.

(3) Virus titer requirements. Final container samples of completed product shall be tested for virus titer using the titration method described in paragraph (d) of this section. To be eligible for release, each serial and each subserial shall have a virus titer of 0.7 logs greater than that used in such immunogenicity test but not less than 10^2.0 EID₅₀ per dose.

(a) Until a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section. Each serial and subserial shall meet the applicable requirements prescribed in § 113.135, except paragraph (c), in paragraph (d) (1) of this section, and in this paragraph.

(i) Virus titration.

(1) For release, desiccated samples shall be incubated at 37°C for not less than 7 days before preparation for use in the virus titration test. A serial or subserial which does not contain at least 10^2.0 EID₅₀ per dose of avian encephalomyelitis virus shall not be released.

(b) A geometric mean titer of the virus of each serial and each subserial shall be determined by the titration method used in paragraph (c) of this section. Each serial and subserial shall meet the requirements prescribed in § 113.36, § 113.135, except paragraph (c), and in this paragraph.

(iii) Safety test. The prechallenge portion of the immunogenicity test in this paragraph shall be the safety test. If unfavorable reactions occur which are attributable to the vaccine, the serial or subserial is unsatisfactory.

2. § 113.161 is amended by revising paragraphs (a), (c), and (d) (1); by adding paragraph (d) (2) and the introductory portion of paragraph (e); and by adding paragraphs (e) (2) to read:

§ 113.161 Avian pox vaccine.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135, except paragraph (c) and shall meet the requirements prescribed in this section.

(b) A geometric mean titer of the virus of each serial and each subserial shall be determined by the titration method used in paragraph (e) (3); and by revising paragraph (d) (2) to read:

§ 113.162 Bronchitis vaccine.

Bronchitis Vaccine shall be prepared from virus-bearing cell culture fluids or embryonated chicken eggs. Only Master Seed Virus which has been established as pure, safe, and immunogenic in accordance with the requirements in paragraphs (a), (b), and (c) of this section shall be used for preparing the production seed virus for vaccine production. Each serial shall be prepared by the first through the fifth passage from the Master Seed Virus.

(b) Each lot of Master Seed Virus used for vaccine production shall be tested for safety as follows:

(i) At least 25 AE susceptible birds (6 to 10 weeks of age) shall be vaccinated with the equivalent of 10 doses by each of all routes recommended on the label and observed each day for 21 days.

(ii) If unfavorable reactions attributable to the biological product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated. Except that, if the test is not repeated, the serial shall be unsatisfactory.

(3) Virus titer requirements. Final container samples of completed product shall be tested for virus titer using the titration method described in paragraph (d) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (e) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall contain a virus titer of 0.7 logs greater than that used in such immunogenicity test but not less than 10^2.0 EID₅₀ per dose.

(a) Until a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section. Each serial and subserial shall meet the applicable requirements prescribed in § 113.36, § 113.135, except paragraph (c), and in this paragraph.

(iii) Safety test. The prechallenge portion of the immunogenicity test provided in paragraph (e) (2) of this section shall be the safety test. If unfavorable reactions attributable to the product, the serial is unsatisfactory.

3. Section 113.162 is amended by revising the introductory portion of § 113.162; by revising paragraphs (b) and (c); by revising the introductory portion of paragraph (d); by revising paragraph (d) (1); and by adding paragraph (d) (2) to read:

§ 113.162 Bronchitis vaccine.

Bronchitis Vaccine shall be prepared from virus-bearing cell culture fluids or embryonated chicken eggs. Only Master Seed Virus which has been established as pure, safe, and immunogenic in accordance with the requirements in paragraphs (a), (b), and (c) of this section shall be used for preparing the production seed virus for vaccine production. Each serial shall be prepared by the first through the fifth passage from the Master Seed Virus.

(b) Each lot of Master Seed Virus used for vaccine production shall be tested for safety as follows:

(i) At least 25 AE susceptible birds (6 to 10 weeks of age) shall be vaccinated with the equivalent of 10 doses by each of all routes recommended on the label and observed each day for 21 days.

(ii) If unfavorable reactions attributable to the biological product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated. Except that, if the test is not repeated, the serial shall be unsatisfactory.

(2) Virus titer requirements. Final container samples of completed product shall be tested for virus titer using the titration method described in paragraph (d) of this section. To be eligible for release, each serial and each subserial shall have a virus titer of 0.7 logs greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section. To be eligible for release, each serial and each subserial shall have a virus titer of 0.7 logs greater than that used in such immunogenicity test but not less than 10^2.0 EID₅₀ per dose.

(a) Until a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section. Each serial and subserial shall meet the applicable requirements prescribed in § 113.36, § 113.135, except paragraph (c), and in this paragraph.

(iii) Safety test. The prechallenge portion of the immunogenicity test prescribed in paragraph (c) of this section shall be the safety test. If unfavorable reactions attributable to the product, the serial is unsatisfactory.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for safety as follows:

(i) At least 25 AE susceptible birds (6 to 10 weeks of age) shall be vaccinated with the equivalent of 10 doses by each of all routes recommended on the label and observed each day for 14 days.

(ii) If unfavorable reactions attributable to the biological product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated. Except that, if the test is not repeated, the serial shall be unsatisfactory.

(2) Virus titer requirements. Final container samples of completed product shall be tested for virus titer using the titration method described in paragraph (d) of this section. To be eligible for release, each serial and each subserial shall have a virus titer of 0.7 logs greater than that used in such immunogenicity test but not less than 10^2.0 EID₅₀ per dose.

(a) Until a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section. Each serial and subserial shall meet the applicable requirements prescribed in § 113.36, § 113.135, except paragraph (c), and in this paragraph.
be used as vaccines. Ten additional chickens for each serotype against which protection is claimed shall be held as unvaccinated controls. If all the unvaccinated controls do not show evidence of infection, the test is inconclusive and may be repeated.

(iv) If less than 90 percent of the vaccine virus used in the immunogenicity test prescribed in §113.36 may be conducted and the virus judged accordingly. Each lot shall also be tested for safety as follows:

*****

(d) After a lot of Master Seed Virus has been established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the applicable requirements in §113.135 and the requirements prescribed in this paragraph.

(1) Final container samples from each serial shall be tested for pathogens by the chicken embryo inoculation test prescribed in §113.37, except that, if the test is inconclusive because of a vaccine virus override, the test may be repeated and if the repeat test is inconclusive for the same reason, the chicken inoculation test prescribed in §113.36 may be conducted and the vaccine judged accordingly.

(2) Safety test. Live virus vaccines prepared under special label shall be tested for safety as provided in the filed Outline of Production. Final container samples of completed product from each serial of modified live virus vaccine shall be tested for safety as provided in this paragraph.

(i) Twenty-five 3 to 4 week old laryngotracheitis chickens shall be injected intratracheally with 0.2 ml of vaccine rehydrated at the rate of 30 ml for 1,000 doses. Chickens shall be observed each day for 14 days. Deaths shall be counted as failures, and post-stage sequential testing may be conducted if the first test (which then becomes stage one) has five, six, or seven failures.

(ii) The results shall be evaluated according to the following table:

<table>
<thead>
<tr>
<th>Chicken</th>
<th>Serials for satisfactory</th>
<th>Serials for unsatisfactory</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>25</td>
<td>8 or more.</td>
</tr>
<tr>
<td>2</td>
<td>60 or less</td>
<td>11 or more.</td>
</tr>
</tbody>
</table>

(iii) If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated or in lieu thereof, the serial declared unsatisfactory.

(3) Virus titer requirements. Final container samples of completed product shall be tested for virus titer using the titration method provided in paragraphs (c) (2) or (3) of this section. To be eligible for release, each serial and subserial shall have a virus titer sufficient greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraphs (c) (2) or (3) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of 0.7 logs greater than that used in such immunogenicity test but not less than 10^6 EID_{50} per dose. To be eligible for release, each serial and subserial shall have a virus titer sufficient greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraphs (c) (2) or (3) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of 0.7 logs greater than that used in such immunogenicity test but not less than 10^6 EID_{50} per dose.
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10^6 TCID₅₀ per dose for tissue culture origin vaccine.

(e) Until a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the applicable requirements prescribed in § 113.135, except paragraph (e), in paragraph (d) (1) of this section and the requirements prescribed in this paragraph.

(3) Safety test: Live virus vaccines prepared under special license shall be tested for safety as provided in the filed Outline of Production. Final container samples of completed product from each serial and subserial shall be tested to determine whether the vaccine is safe for use in susceptible young chickens. Vaccines recommended for use in chickens 10 days of age or younger shall be tested in accordance with paragraphs (d)(2) (1), (ii), and (iii) of this section.

(iii) Twenty-five susceptible chickens, 5 days of age or older, properly identified and obtained from the same source and hatch, shall be vaccinated by the eye drop method with the equivalent of 10 doses of vaccine and the chickens observed each day for 21 days. Severe respiratory signs or death shall be counted as failures. Two-stage sequential testing may be conducted if the first test (which severe clinical signs of disease or death during the observation period due to causes attributable to the product, the serial is unsatisfactory.

(ii) Vaccines not recommended for use in chickens 10 days of age or younger shall be tested for safety as follows:

Each of twenty-five 3 to 5 week old Newcastle disease susceptible chickens shall be vaccinated as recommended on the label with at least 10^6 EID₅₀ of virus per dose. Each serial and subserial shall be tested to determine whether the vaccine is safe for use in susceptible young chickens. Vaccines recommended for use in chickens 10 days of age or younger shall be tested in accordance with paragraphs (d)(2) (1), (ii), and (iii) of this section.

(i) Final container samples of completed product from each serial shall be tested to determine whether the vaccine is safe for use in susceptible young chickens. Vaccines recommended for use in chickens 10 days of age or younger shall be tested in accordance with paragraphs (d)(2) (1), (ii), and (iii) of this section.

(ii) For vaccines not recommended for use in chickens 10 days of age or younger, the pre-challenge period of the immunogenicity test provided in subparagraph (e) (2) of this section shall be the safety test. If any of the birds show severe clinical signs of disease or death during the observation period due to causes attributable to the product, the serial is unsatisfactory.

(iii) Twenty-five susceptible chickens, 5 days of age or older, properly identified and obtained from the same source and hatch, shall be vaccinated by the eye drop method with the equivalent of 10 doses of vaccine and the chickens observed each day for 21 days. Severe respiratory signs or death shall be counted as failures. Two-stage sequential testing may be conducted if the first test (which severe clinical signs of disease or death during the observation period due to causes attributable to the product, the serial is unsatisfactory.

(iv) Vaccines not recommended for use in chickens 10 days of age or younger shall be tested for safety as follows:

Each of twenty-five 3 to 5 week old Newcastle disease susceptible chickens shall be vaccinated as recommended on the label with at least 10^6 EID₅₀ of virus per dose.

(v) Twenty to twenty-eight days postvaccination, all vaccines and controls shall be challenged intramuscularly with at least 10^6 EID₅₀ Newcastle disease virus provided or approved by Veterinary Services. The chickens shall be observed each day for 14 days.

(muscularly with at least 10^6 EID₅₀ Newcas-

Newcastle disease virus provided or approved by Veterinary Services. The chickens shall be observed each day for 14 days.

380, 84 Stat. 151, 20 U.S.C. 880b) , notice

amended (Title VII of the Elementary


DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Education

[45 CFR Part 123]

BILINGUAL EDUCATION

Notice of Proposed Rule Making

is hereby given that the U.S. Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend various sections of Part 123 of Title 45 of the Code of Federal Regulations.

Various technical and substantive amendments to Part 123 are necessitated by the enactment of the Elementary and Secondary Education Act (applicable for Fiscal Year 1975) made by Pub. L. 93-380 and by an increased emphasis on training and curriculum and materials development activities to meet the needs of the bilingual community in the light of the provisions of the statute and relevant legislative history.

Section 105(a)(1) of the Education Amendments of 1974 (Pub. L. 93-380) substantially amends the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act, and divides it into a new part A relating to bilingual education programs, a new part B relating to administration, and a new part C relating to supportive services and activities. Section 105(a)(2) of Pub. L. 93-380 provides that the amendment made by section 105(a) shall be effective on the date of enactment of Pub. L. 93-380 (August 21, 1974), except that the provisions of Title VII of the Elementary and Secondary Education Act of 1965 (as amended) shall become effective on July 1, 1975 and the provisions of Title VII of the Elementary and Secondary Education Act in effect immediately prior to August 21, 1974 "shall remain in effect through June 30, 1975, to the extent not inconsistent with the amendment made by" section 105 of Pub. L. 93-380.

The proposed amendments to the regulations in Part 123 (which relate to financial assistance for bilingual education programs) have been prepared in light of the preceding technical and substantive provisions of section 105. The provisions of the Bilingual Education Act in effect immediately prior to August 21, 1974 form the basis for the grant-making authority in the proposed regulation that the amendment made by section 105(a) of Pub. L. 93-380, New authority in Part A of the Act, as amended, is not implemented unless specifically authorized by law for Fiscal Year 1975 Implementation. Citations of authority are generally to the sections of the United States Code in effect prior to August 21, 1974. Citations to various provisions of the amended version of the Bilingual Education Act are also provided where appropriate, designated by an asterisk.

The proposed regulation would be applicable only to assistance to eligible recipients under the Bilingual Education Act. It does not purport to implement Part C of the amended act or any other provision of the act which may involve competitive contracts.

The proposed regulation is intended as an interim regulation applicable for Fiscal Year 1975. A regulation under the Bilingual Education Act to implement the program for Fiscal Year 1976, the first fiscal year for which the Act will be fully effective, is in preparation.

The major changes in the current regulations relating to bilingual and second language education programs are as follows:

1. Section 123.02 provides a new and expanded set of definitions pursuant to changes in the general section of the Act made by Pub. L. 93-380, including the definition of "programs of bilingual education" contained in the amended act.

2. Section 123.12 provides a more extensive listing of authorized activities or services and additional criteria as described in an asterisk.

3. As mandated by Pub. L. 93-380 for Fiscal Year 1975, a new § 123.12-1 is added to provide for fellowships for recipients preparing to become trainers of leaders in bilingual education programs.

4. Section 123.14 of the regulations (relating to criteria for evaluation of applicants) is substantially rewritten. The general criteria for evaluation in (§ 123.14(a)) and accompanying distribution of maximum points are restated and reorganized. Section 123.14(b) (relating to identification of children in private education projects) is substantially revised. New paragraphs (c) and (d) are added to set forth particular criteria for evaluation of training activities and centers described in § 123.12(a)(1), and a new paragraph (e) is added to describe the process by which applications will be evaluated for funding.

5. Pub. L. 93-380 also mandates a different composition and selection of community advisory groups than that used in Pub. L. 90-247 and requires their consultation before submission of an application as provided in § 123.16.

6. Other amendments to the regulations include the provisions regarding the documentation necessary for the Commissioner's approval of non-profit institutions or organizations of Indian tribes to operate elementary and secondary schools for Indian children as eligible applicants in § 123.13(d), and clarifying language in § 123.15(a) regarding the participation of children in private schools where the dominant language of the participating child is not the same as the dominant language spoken by the participating children in the non-profit private school is not the same as the dominant language spoken by the participating children in the proposed program submitted by the applicant agency.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulation changes to:


or on or before April 30, 1975. Comments received shall be available for public inspection at the above office, Monday through Friday between the hours of 8:00 a.m. to 4:30 p.m.

(Catalog of Federal Domestic Assistance Number 12.403; Bilingual Education)


T. H. BELL
U.S. Commissioner of Education

Approved: March 5, 1975.

Casper W. Weinberger, Secretary of Health, Education, and Welfare.

Part 123 of Chapter I of Title 45 of the Code of Federal Regulations is amended as follows:

1. Section 123.01 is revised to read as follows: § 123.01 Purpose and scope

(a) This part applies only to the provision of assistance to eligible recipients under the Bilingual Education Act.

(b) This part applies only to the provision of assistance to eligible recipients under the Bilingual Education Act.

2. Section 123.02 is revised to read as follows: § 123.02 Definitions.

As used in this part (except as otherwise defined by an applicable statute or regulation):

"Act" means the Bilingual Education Act as amended.

(20 U.S.C. 880b—880d—12)

"Dependent" means any of the following persons over half of whose support, for the calendar year in which the school year begins, was received from the fellow or participant:

(a) A spouse,

(b) A child, or descendant of such child, or stepchild,

(c) A brother or sister,

(d) A brother or sister by the half blood,

(e) A stepbrother or stepsister,

(f) An aunt, or ancestor of such parent,

(g) A stepfather or stepmother,

(h) A son or daughter of fellow’s or participant’s brother or sister,

(i) A brother or sister of fellow’s or participant’s brother’s or sister’s

(j) A son-in-law, or daughter-in-law, or father-in-law, or mother-in-law, or brother-in-law, or sister-in-law,

(k) A person (other than the fellow’s or participant’s spouse) who, during the fellow’s or participant’s entire calendar year, lives in the fellow’s or participant's home and is a member of the fellow’s or participant’s household (but not if the relationship between the person and the
fellow or participant is in violation of local law), or

(1) A cousin (descendant of a brother or sister of the fellow's or participant's father or mother) who, during the fellow's or participant's calendar year, is receiving institutional care on account of a physical or mental disability, and before receiving such care was a member of the same household as the fellow or participant.

(2) A legally adopted child or a child placed in the fellow's or participant's home for adoption by an authorized agency is considered to be a child by blood.

(3) A citizen of a foreign country may not be claimed as a dependent, unless he is a resident of the United States, Canada, Mexico, Panama, or the Canal Zone, at some time during the calendar year in which the school year of the fellow or participant begins, or is a resident of the Philippines, born to or adopted by a fellow or participant while he was a member of the Armed Forces before January 1, 1956, or is an alien legally adopted by and living with a fellow or participant as a member of his household for the entire calendar year.

(4) (20 U.S.C. 880b-9 (a) (2), (3)) * "Dominant language" means the language most relied upon for communication in the home.

(5) (20 U.S.C. 880b-8-880b-5) "Fellowship" means an award under this part to an individual to enable him to participate in a program of study in the field of training teachers for bilingual education.

(6) (20 U.S.C. 880b-9 (2)) * "Fellow" means an individual who has been awarded a fellowship under this Part.

(7) (20 U.S.C. 880b-9 (3)) * "Institution of higher education" means an educational institution in any State which meets the requirements set forth in section 881(e) of the Elementary and Secondary Education Act of 1965, as amended.

(8) (20 U.S.C. 880b-3(a), 881(e)) "Limited English-speaking ability," when used with reference to an individual, means—(a) Individuals who were not born in the United States or whose native language is a language other than English, and (b) Individuals who come from environments where a language other than English is dominant, and by reason thereof, have difficulty speaking, and understanding instruction in, the English language.

(9) (20 U.S.C. 880b-3(a)) * "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function, for public elementary or secondary schools in a city, county, township, school district, or other political sub-division of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

(10) Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school. In addition, such term includes a non-profit institution or organization of an Indian tribe which operates on or near a reservation an elementary or secondary school for Indian children and which is approved by the Commissioner of Education for purposes of this part, and an elementary or secondary school for Indian children on a reservation which is operated or funded by the Department of the Interior.

(11) (20 U.S.C. 880b-38, 881(f)) "Low-income", when used with respect to a family, means an annual income (for such a family) which does not exceed the low annual income determined pursuant to section 103 of Title I of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 91-336, on the basis of the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

(12) (20 U.S.C. 880b-1 (a) (3)) * "Program of bilingual education" or "bilingual education program" means a program of instruction, designed for children of limited English-speaking ability in elementary and secondary schools, in which respect to the years of study to which such program is applicable (1) there is instruction given in, and study of, (1) English and, (2) to the extent necessary to allow a child to progress effectively through the educational system) the native language of the children of limited English-speaking ability; (2) such instruction is given with appreciation for the cultural heritage of such children, and, (3) with respect to elementary school instruction, such instruction is given, to the extent necessary, in all courses or subjects of study which will allow a child to progress effectively through the educational system. A program of bilingual education shall also meet the requirements of section 103(a) (4) (B)-(E) of the Act, which are as follows:

(1) A program of bilingual education may make provision for the voluntary enrollment to a limited degree therein, of children where the dominant language is English, in order that they may acquire an understanding of the cultural heritage of the children of limited English-speaking ability for whom the particular program of bilingual education is designed. In determining eligibility to participate in such programs, priority shall be given to the children whose language is other than English. In no event shall the program be designed for the purpose of teaching a foreign language to English-speaking children. (See §123.12(d)(1))

(2) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children of limited English-speaking ability in regular classes.

(3) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent feasible, in classes, in which the ages or levels of educational attainment, as determined after considering such attainment through the use of all necessary language assessments, are as nearly as possible the same as approximately the same age and level of educational attainment, as determined after considering such attainment through the use of all necessary language assessments. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

(4) An application for a program of bilingual education shall be developed in consultation with parents of children of limited English-speaking ability, teachers, and, where applicable, secondary school students, in the areas to be served, and all courses or subjects of study which will allow a child to progress effectively through the educational system. In determining eligibility to participate in such programs, priority shall be given to the children whose language is other than English. In no event shall the program be designed for the purpose of teaching a foreign language to English-speaking children. (See §123.12(d)(1))

(5) (20 U.S.C. 880b-9(a) (4)), 880b-2(b) "Teacher" means an individual providing instruction in a program of bilingual education and, for the purposes of this part, also includes other pupil-service personnel, such as librarians, counselors, school social workers, child psychologists, and educational media specialists participating in such programs.

(6) "Teacher aide" means a person who assists a teacher in the performance of his professional teaching duties in a program of bilingual education. Such term does not include persons in positions such as clerk to a principal, food-handlers in
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a cafeteria or in other jobs not related to the teaching-learning process.
(20 U.S.C. 8808-2(b))

"Traineeships" means awards to individuals from grants to local educational agencies applying jointly with institutions of higher education to provide financial assistance in pursuing a degree and/or credentials in bilingual education.
(20 U.S.C. 8808-2(b))

3. Section 123.12 is amended as follows: Subparagraph (1) of paragraph (a) is revised, paragraph (d) is revised, and a new paragraph (h) is added. Such revisions read as follows:

§ 123.12 Authorized activities.

(a) * * *

(1) Planning for and taking other steps leading to the development of bilingual education programs (as defined in § 123.02) designed to meet the special educational and cultural needs of children of limited English-speaking ability in schools having a high concentration of such children from low-income families (as defined in § 123.02) including research projects, resource centers, materials development centers, and dissemination/assessment centers designed to test the effectiveness of plans so developed and to develop and disseminate special instructional materials (including tests) for use in bilingual education programs. For the purpose of this part: a resource center means a set of activities under a project designed to provide direct services such as personnel training in the use of materials and resources and field testing of materials for bilingual education programs for use by local educational agencies and institutions of higher education. A materials development center means a set of activities under a project designed to develop instructional materials for bilingual education programs and education of training, materials utilization in resource centers and other bilingual education projects. A dissemination/assessment center means a set of activities under a project designed to publish and distribute materials developed for bilingual education programs and to evaluate the appropriateness and effectiveness of materials for such programs.

(d) (1) A program assisted under this Part shall include such provisions as are necessary to prevent the separation of children by language or ethnic background in any activity included in such programs, unless the applicant demonstrates that such separation for a portion of the school day for specified language learning activities is essential to the achievement of the purpose of this part.

(d) (1) (i) Nothing in this part shall be interpreted or applied to authorize isolation of children of limited English-speaking ability by language or ethnic background for a substantial portion of the school day.

(b) No child of limited English-speaking ability attending a school having a high concentration of the children described in paragraph (a)(1) of this section shall be prohibited from participating in a program assisted under this part on the ground that such child is not a member of a low-income family as defined in § 123.02.
(20 U.S.C. 8808-2(b))

(2) The Commissioner will notify each individual seeking a fellowship under this section whether such request has been approved.

(c) Award of fellowships to individuals. (1) An individual seeking a fellowship under this section shall submit an application for such fellowship in such form and detail as prescribed by the Commissioner through an institution of higher education. (2) The Commissioner will notify each institution of higher education which has submitted a request pursuant to paragraph (b) of this section whether such request has been approved.

(d) (2) From among those individuals applying for such fellowship which may be necessary, the Commissioner will consider the information specified in paragraph (b) of this section and the relative need for teachers, for programs of bilingual education of various groups of individuals with limited English-speaking ability. (3) The Commissioner will notify each institution of higher education which has submitted a request pursuant to paragraph (b) of this section whether such request has been approved.

(2) The Commissioner will notify each institution of higher education which has submitted a request pursuant to paragraph (b) of this section whether such request has been approved.

(d) (1) A program assisted under this Part shall include such provisions as are necessary to prevent the separation of children by language or ethnic background in any activity included in such programs, unless the applicant demonstrates that such separation for a portion of the school day for specified language learning activities is essential to the achievement of the purpose of this part.

(d) (1) (i) Nothing in this part shall be interpreted or applied to authorize isolation of children of limited English-speaking ability by language or ethnic background for a substantial portion of the school day.

(a) General. The Commissioner may arrange for awarding fellowships for persons preparing to become trainers of teachers in bilingual education pursuant to this section. For the fiscal year ending June 30, 1975, the Commissioner will undertake to award not less than 100 such fellowships.

(b) Requests for participation by institutions. (1) In order to effectuate the purposes of this section, the Commissioner will entertain requests for participation under this section from institutions of higher education proposing to carry out graduate or other programs leading to an advanced degree in the field of training teachers for bilingual education.

(2) Such requests for participation shall indicate the number of fellowships which the institution is prepared to sponsor and shall contain information as to the number of fellowships which will be carried out by such institution, including information with respect to the faculty, facilities and equipment pertaining to such program and such other information as the Commissioner deems necessary to enable him to test the capacity of the institution and of such program to fulfill the purposes of the Act and to make the determinations under this section.

(c) Approval of requests. (1) In approving requests of the paragraph (b) of this section, the Commissioner shall consider the information submitted by the institution of higher education under paragraph (c) of this section and the relative need for teachers, for programs of bilingual education of various groups of individuals with limited English-speaking ability.

(d) Award of fellowships to individuals. (1) An individual seeking a fellowship under this section shall submit an application for such fellowship in such form and detail as prescribed by the Commissioner through an institution of higher education. (2) The Commissioner will notify each institution of higher education which has submitted a request pursuant to paragraph (b) of this section whether such request has been approved.

(e) (2) From among those individuals applying for such fellowship which may be necessary, the Commissioner will consider the information specified in paragraph (b) of this section and the relative need for teachers, for programs of bilingual education of various groups of individuals with limited English-speaking ability.
have the intention of becoming a permanent resident thereof, or be a permanent resident of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(2) The Commissioner will award fellowships to individuals selected by him from among those nominated as described in this paragraph. In making such selections, the Commissioner will be guided by the relative need for teachers, for programs of bilingual education, of various groups of individuals with limited English-Speaking ability and by available indicia as to the likelihood that individual will pursue a permanent career in bilingual education teacher training. Each individual nominated will be advised as soon as practicable of the action taken by the Commissioner on his nomination.

(e) Stipends. (1) Each fellow awarded a fellowship under this section will receive a stipend, which includes where appropriate, the costs of tuition, fees, and books. In order for the Commissioner to approve such organizations as eligible applicants for the purposes of section 706 (a) of the Act, as added by Pub. L. 91-236, any of the following shall be acceptable evidence of non-profit status:

(i) A reference to the organization's listing in the Internal Revenue Service's most recent cumulative list of organizations described in section 501 (c) (3) of the Internal Revenue Code as tax exempt;

(ii) A copy of currently valid Internal Revenue Service tax exemption certificate,

(iii) A statement from a State taxing body or the State attorney general certifying that the organization is a non-profit organization operating within the State and that no part of its net earnings may lawfully inure to the benefit of any private shareholder or individual;

(iv) A certified copy of the organization's certificate of incorporation or similar document if it clearly establishes the non-profit status of the organization;

(v) Any of the evidence described in clauses (i) through (iv) of this subparagraph which applies to a State or national parent organization, and a statement from the parent organization that the applicant organization is a local non-profit affiliate.

(f) * * * * *

§ 123.14 Criteria for competition for assistance.

(a) General criteria. In approving applications for assistance under this part (except as provided in paragraph (b)) the Commissioner will apply 225 points distributed according to the following criteria:

(1) Relative need for assistance. (50 points) The extent to which the educational needs identified and addressed in the application are for programs reaching areas having the greatest need for assistance under this part determined on the basis of the following:

(i) (10 points) The geographic distribution of children of limited English-speaking ability within the State;

(ii) (10 points) The relative need of persons in different geographic areas within the State for the kinds of services and activities described in § 123.15.

(iii) (10 points) The extent to which the educational approach, method, or technique involved in the program with respect to the target population for which the program is designed and with respect to bilingual education programs for children with the particular dominant language concerned;

(iv) (10 points) The extent of the relative intensity of the educational needs of the children for whom the project is designed.

(b) Target population and program objectives. (25 points) The extent to which the educational needs identified and addressed in the application are clear and specific and relate the purpose of § 123.15.

(ii) (15 points) The extent to which evidence presented by documented objective data demonstrates the existence of students with needs described in § 123.15 (a) (1) by individual:

(A) (5 points) The number and percentage of children of limited English-speaking ability between the ages of 3 and 18 inclusive, residing in the school district served by the applicant agency; and

(B) (5 points) The numbers of such children enrolled in the school or schools which the proposed project is intended to serve, both public and non-public and

(C) (5 points) The percentage of such children for which funds are being requested within the project school or schools which the project is intended to serve, both public and non-public.

(iii) Statement of objectives. (5 points) The extent to which the application sets forth unattained objectives and plans for attaining them in relation to the needs assessed and to specific identified paragraphs in § 123.15, which are interrelated, specific, measurable, and realistically attainable within the specified periods.

(c) Results or benefits expected. (25 points) (1) Evaluation. (20 points) The extent to which the application sets forth a quantifiable measurement of the success of the program in attaining the stated objectives including: (A) a statement of the criteria, the extent to which each of the objectives is to be measured; (B) a description of the instruments to be used to collect data for evaluation of the proposed program (and the method to be used to validate such instruments where necessary); or a description of the procedure to be employed in selecting such instruments; (C) an assessment of the validity of such instruments when used to evaluate the language skills, academic achievement, academic aptitude, or general intelligence of children whose dominant language is other than English; (D) a table showing the collection of data for evaluation, and a description of the method to be used to review the program in light of such data; and (E) provisions for comparison of evaluation results with pre-program results, control group performance, results or other programs, or other external standards.

(2) Dissemination (5 points) The extent to which the application sets forth provisions for (A) disseminating the results of the program and (B) making
materials, techniques, and other outputs resulting therefrom available to persons residing in the school district served by the applicant local educational agency, the general public, and those concerned with the educational opportunities of children of limited English-speaking ability.

Program Selection. (65 points) (1) Activities. (20 points) (A) The extent to which the activities included in the proposed program (1) are defined in reference to authorized activities specified in § 123.12 and (B) assure positive results in the attainment of the applicant’s stated objectives, and (B) in the case of an applicant which received assistance under this part during the fiscal year prior to the fiscal year for which assistance is sought, the extent to which the applicant demonstrates, by evaluation reports and other objective evidence, that any programs used to be continued has made substantial progress in meeting the special educational needs of children of limited English-speaking ability;

(2) Use of educational resources. (5 points) The extent to which the applicant proposes to utilize the expertise and cultural and educational resources described in § 123.13(b) (7).

(3) Parent and community involvement. To the extent to which the application delineates specific opportunities for the participation of the community advisory group described in § 123.16 in the planning, implementation, operation and evaluation of the proposed program and (B) includes evidence that such participation has been encouraged and has in fact occurred;

(4) Concentration. (6 points) The degree to which the program is sufficiently restricted in size and scope in relation to the nature of the program to avoid jeopardizing its effectiveness in managing this part;

(5) Program administration. (5 points) The extent to which the application contains evidence that (A) a plan for meeting the logistical requirements of the proposed program is included, (B) a statement of methods of administration that will ensure the proper and efficient operation of the proposed program, and (C) a statement of fiscal control and fund accounting for funds made available under this part;

(6) Resource management. (10 points) The extent to which the application contains evidence that (A) the costs of program components are reasonable in relation to the expected benefits, (B) the proposed program will be coordinated with and/or supported by other training programs, including: (i) adequate and conveniently available facilities and equipment; (B) a statement of methods of administration that will ensure the proper and efficient operation of the proposed program, and (C) a statement of fiscal control and fund accounting for funds made available under this part;

(7) Program evaluation. (10 points) The extent to which the program is designed in such a manner as to facilitate the continuation of such program as part of the regular school program of the applicant local educational agency upon the unavailability of assistance under this part.

(8) Staffing. (60 points) The extent to which the application:

(1) (10 points) Sets forth an adequate staffing plan which includes provisions for making maximum use of the best available staff capabilities, including the direct participation of:

(ii) (10 points) Provides for the continuing training of professional and paraprofessional staff which will assist the applicant in increasing the effectiveness of the proposed program.

(iii) (40 points) Indicates that the personnel to be employed in the program possess qualifications relevant to the objectives of the program.

(9) U.S.C. 880b-1(b), 880b-3(a) (2), (6), (8), 880b-3(b) (1) and (2), 880b-3(b) (8) (a) (A). 1231d; Sen. Rep. No. 86-798, 96 (1976); Sen. Rep. No. 91-534, 57 (1970))

(b) Funding categories. (1) The Commissioner may make awards for bilingual education programs under this part on a project-by-project basis. The duration of the project will reflect only the minimum period needed to carry out the demonstration or other approved objective involved in the program. Award decisions made during the project period but subsequent to the initial fiscal year of award will be based upon an evaluation of the progress of the program in its objectives.

(2) Applications for such "continuation awards" in subsequent fiscal years during the project period will not be competitive with applications for new programs and will be rated during the minimum period needed to carry out the demonstration or other approved objective described in § 123.13(b) (7).

(3) Following the expiration of the project period for a particular program, an application for further assistance with respect to such program shall be evaluated and rated in accordance with the criteria in this section in competition with other applications evaluated thereunder.

(4) In approving applications for assistance under this part, the Commissioner shall take into consideration any recommendations made by the appropriate State educational agency or the criteria in this section only if funds are insufficient to support all satisfactory continuation programs.

(5) The Commissioner may make awards for bilingual education programs under this part on a regular school program or project as part of the regular school program as part of the regular school program of the applicant local educational agency upon the unavailability of assistance under this part.

(6) Staffing. (60 points) The extent to which the application:

(1) (10 points) Sets forth an adequate staffing plan which includes provisions for making maximum use of the best available staff capabilities, including the direct participation of:

(ii) (10 points) Provides for the continuing training of professional and paraprofessional staff which will assist the applicant in increasing the effectiveness of the proposed program.

(iii) (40 points) Indicates that the personnel to be employed in the program possess qualifications relevant to the objectives of the program.

(2) The extent to which the proposed program includes effective measures for forecasting the impact of the program or project;

(3) The extent to which the program or project is directed toward education personnel serving children of limited English-speaking ability;

(4) (10 points) The extent to which the proposed program or project is coordinated with, or supportive of, local educational agency projects or other projects funded under the Act;

(5) (10 points) The extent to which the proposed program or project is coordinated with, or supportive of, local educational agency projects or other projects funded under the Act;

(6) (10 points) The extent to which the proposed program or project is directed toward education personnel serving children of limited English-speaking ability;

(7) (10 points) The extent to which the proposed program includes effective measures for forecasting the impact of the program or project;

(8) (10 points) The extent to which the trainees will be trained and be able to teach in academic subjects in the non-English language involved;

(9) (10 points) The extent to which the proposed program or project is directed toward training education personnel to identify and deal with individual learning problems related to limited non-English speaking ability.

(2) The extent to which the proposed program or project is directed toward training education personnel to identify and deal with individual learning problems related to limited non-English speaking ability.

(2) The extent to which the proposed program or project is directed toward training education personnel to identify and deal with individual learning problems related to limited non-English speaking ability.

(c) Criteria for curriculum activities. In addition to the criteria in paragraph (a), the Commissioner shall apply the following criteria to those applications which propose centers as described in § 123.18 (1):

(1) The extent to which the center will have an effective and efficient delivery system of services for bilingual education programs;

(2) The extent to which the center will have an effective and efficient delivery system of services for bilingual education programs;

(3) The extent to which the center will have an effective and efficient delivery system of services for bilingual education programs;

(4) The extent to which the center will have an effective and efficient delivery system of services for bilingual education programs.

(2) The extent to which the center will have an effective and efficient delivery system of services for bilingual education programs.

(e) Application of criteria. (1) In the case of a program involving training to be carried out in whole or in part by an institution of higher education, the training component of the application shall be evaluated in accordance with the criteria in paragraph (e) of this

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section. Applications for training assistance will be rated and ranked in accordance with such evaluation, except that consideration will be given to applications involving instructional components in the fundable range as determined in accordance with the criteria in paragraph (a) of this section through the establishment of a minimum point score. Approval of the instructional component of a program will not, however, necessarily lead to approval of the training component.

(2) The Commissioner will reserve $16,000,000 of that part of the appropriations to carry out the provisions of this part which does not exceed $70,000,000 for all training activities and will reserve for such activities 33 1/3 per cent of that part which is in excess of $70,000,000.

(3) In the case of a project involving a center as described in § 123.12(a)(1), the applicant for the project will first be evaluated, in its entirety, in accordance with the criteria in paragraph (a) except that all applications proposing such a center applying to join component consortia composed of two or more local educational agencies applying jointly with one or more institutions of higher education shall receive up to 26 additional points for the proposed project component only. Such project will also be evaluated in accordance with the criteria in paragraph (d) of this section. Applications will be ranked on the basis of such rating in paragraph (a) of this section and the evaluation under paragraph (d) of this section. Consideration will be given only to applications which receive a point score in excess of a minimum point score established on the basis of available funds.


7. Paragraph (a) of § 123.15 is revised to read as follows:

§ 123.15 Participation of children enrolled in private schools.

(a) Assurances. (1) Applications submitted under this part shall contain an assurance that (i) all children of limited English-speaking ability enrolled in non-profit private schools in the area to be served, provision has been made for the participation of such children in the proposed program. Such participation may, at the option of the applicant, involve children in a private school whose dominant language is not the dominant language of the children to be served in the public school by the proposed program.

(2) An applicant shall provide satisfactory assurance that it is in a position to maintain administrative direction and control over the components of the proposed program in which such private school children participate and is in a position to provide such public school or other publicly provided personnel (having competence in the dominant language of such private school children) as are necessary for the implementation of a quality bilingual education program for such children.

(3) Applications shall contain a description of the provisions which have been made for such participation. Such provisions shall assure that the special educational needs of such children enrolled in private schools to which the program is directed are addressed to the same extent as the special educational needs of children of limited English-speaking ability enrolled in the schools of the applicant local educational agency.


8. § 123.16 is amended as follows: Paragraph (a) is revised and paragraph (c) is revised. Such revisions read as follows:

§ 123.16 Parent and community participation.

(a) Assurances. (1) Applications submitted under this part shall contain an assurance that (i) all children of limited English-speaking ability, teachers, and where applicable, secondary school students, in the areas to be served, were consulted in the development of an application for a program of bilingual education; (ii) that the applicant local educational agency will consult with a community advisory group established in accordance with paragraph (c) of this section at reasonable intervals (in formal meetings open to the public) with respect to the administration and operation of any program assisted under this part; (iii) that such agency will provide such group with a reasonable opportunity periodically to observe (upon prior and adequate notice to such agency and at such time or times as such groups and such agency may agree) and comment upon all activities included in any program assisted under this part; and (iv) that such agency will make such provisions as are necessary to insure that all participation of such group in the evaluation of any program assisted under this part.

(2) No application for assistance under this Act may be considered unless the local educational agency making such application certifies to the Commissioner that members of the public have been afforded the opportunity upon reasonable notice to testify or otherwise comment regarding the subject matter of the application.

Interest persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire.
Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of West Point, Virginia, proposes the airspace action heretofore set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting in the description of the West Point, Va., Transition Area, “and within 4 miles each side of the Harcum, Va., VOR 148° radial extending from the 6-mile radius area to 8 miles southeast of the VOR,” and by substituting the following in lieu thereof: “within a 6-mile radius extending 5 miles horizontally and vertically around Smith Island, Wash.”

2. At 51°46’11” N., Long. 122°50’33” W., and excluding that airspace designated as described by the following:

R-6713A WHIDBEY ISLAND, WASH.

Boundaries. Beginning at Lat. 48°14’54” N., Long. 122°53’30” W., thence to Lat. 48°16’00” N., Long. 122°49’12” W.; to Lat. 48°20’12” N., Long. 122°48’27” W., to point of beginning, thence to Lat. 48°21’27” N., Long. 122°55’18” W.; to Lat. 48°22’54” N., Long. 122°53’30” W.; thence to Lat. 48°19’11” N., Long. 122°54’12” W.

Designated altitudes. Surface to 10,000 feet MSL. 

Time of designation. Daily, 0700 to 2400 local time.

Controlling agency. Federal Aviation Administration, Seattle ARTC Center.


R-6713B WHIDBEY ISLAND, WASH.

Boundaries. Beginning at Lat. 48°14’54” N., Long. 122°53’30” W., thence to Lat. 48°16’00” N., Long. 122°49’12” W.; to Lat. 48°20’12” N., Long. 122°48’27” W., to point of beginning, thence to Lat. 48°21’27” N., Long. 122°55’18” W.; to Lat. 48°22’54” N., Long. 122°53’30” W.; thence to Lat. 48°19’11” N., Long. 122°54’12” W.

Designated altitudes. Surface to 10,000 feet MSL.

Time of designation. 0800 to 2400 local time, Monday through Friday.

Controlling agency. Federal Aviation Administration, Seattle ARTC Center.


R-6713C WHIDBEY ISLAND, WASH.

Boundaries. Beginning at Lat. 48°14’54” N., Long. 122°53’30” W., thence to Lat. 48°16’00” N., Long. 122°49’12” W.; to Lat. 48°20’12” N., Long. 122°48’27” W., to point of beginning, thence to Lat. 48°21’27” N., Long. 122°55’18” W.; to Lat. 48°22’54” N., Long. 122°53’30” W.; thence to Lat. 48°19’11” N., Long. 122°54’12” W.

Designated altitudes. Surface to 15,000 feet MSL.

Time of designation. 0800 to 2600 local time, Monday through Friday.

Controlling agency. Federal Aviation Administration, Seattle ARTC Center.

PROPOSED RULES

PRIVATE RADIO AIDS TO NAVIGATION

Withd rawal of Proposed Rulemaking

The purpose of this notice is to withdraw the rulemaking proposal, CGD 70-159 (36 FR 928). The proposed rulemaking document would have amended 33 CFR 127.130. In light of the prohibition of private radio aids to navigation in U.S. navigable waters and on the continental shelf, it also proposed a new subpart 66.15 which allowed private radio aids to navigation.

The reason for the withdrawal was that the need for more radio aids to navigation than the government could provide. The withdrawal was meant to have the limited effect of authorizing private radio aids to navigation when they would provide necessary navigation service which could not be reasonably provided by the government.

The proposal is withdrawn because the Coast Guard now can provide all necessary radio aids to navigation. A system in which the Coast Guard provides all necessary radio aids to navigation is simpler to administer and less confusing for the mariner than a system that includes private radio aids to navigation.

If further information is requested interested parties are invited to write to Commandant (G-WAN-3/73), U.S. Coast Guard, 400 7th St. SW., Washington, D.C. 20590.

Dated: March 6, 1975

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


[33 CFR Part 127]

COGD 74-188

NEW LONDON HARBOR, CONN.

Proposed Establishment of Security Zone

The Coast Guard is considering amending Title 33 of the Code of Federal Regulations to establish an additional security zone on the Thames River, west of the Naval Submarine Base, New London, Connecticut. This security zone is needed to safeguard U.S. Naval vessels from destruction, loss or injury from sabotage or other subversive acts, accidents or other causes of a similar nature.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Commander (mps), Third Coast Guard District, Governors Island, New York, N.Y. 10004. Each person submitting comments should include his name and address and give reasons for any recommended change in the proposed rulemaking.

The Coast Guard will also be included in the continental control area.

Alteration of R-6713 as proposed would permit establishment of a hydrauliccoast automated maneuvering radar in the waters west of Smith Island thereby enhancing the Navy's capability to perform effective air-to-ground weapon training in the area. The additional altitude would be used to contain flight maneuvers of current operational military aircraft using the range. All related flight operations would be subsonic and associated target practice would employ nonexplosive training devices.

The altered restricted area would also be used to contain the activities for which R-6713 is now authorized. R-6713A, B and C would all be designated for joint use to contain the activities for which R-6713 is now authorized.

In addition to this proposal, nonrulemaking action is being considered that would establish three alert areas extending generally northwest, southwest and southeast from the amended R-6713.

These alert areas would not impose any restriction to flight. Their depiction on air navigation charts would, however, direct pilot attention to the high volume of military aircraft normally en route through the corridor.

Air navigation charts would, however, contain the activities for which R-6713 is now authorized. R-6713A, B and C would all be designated for joint use to contain the activities for which R-6713 is now authorized.

The Coast Guard is considering amending Title 33 of the Code of Federal Regulations to establish an additional security zone on the Thames River, west of the Naval Submarine Base, New London, Connecticut. This security zone is needed to safeguard U.S. Naval vessels from destruction, loss or injury from sabotage or other subversive acts, accidents or other causes of a similar nature.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Commander (mps), Third Coast Guard District, Governors Island, New York, N.Y. 10004. Each person submitting comments should include his name and address and give reasons for any recommended change in the proposed rulemaking. Copies of all submissions received will be available for examination by interested persons at the Office of the Commander, Third Coast Guard District.

The Commander, Third Coast Guard District, will forward any comments received before April 14, 1975, and his recommendations to the Commandant (G-W), U.S. Coast Guard who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in light of comments received.

In consideration of the foregoing, it is proposed to amend Part 127 of Title 33 of the Code of Federal Regulations by adding a new paragraph (a) (3) to § 127.305 to read as follows:


(a) * * *

(3) Security zone C. The waters of the Thames River, west of the Naval Submarine Base, New London, enclosed by a line beginning at a point on the shoreline at latitude 41°23'15.8" N., longitude 72°05'22" W.; thence to latitude 41°23'47.2" N., longitude 72°05'22" W.; thence to latitude 41°24'04" N., longitude 72°05'22" W.; thence to a point on the shoreline at latitude 41°24'04.2" N., longitude 72°05'22.9" W.; thence on the shoreline to latitude 41°25'36" N., longitude 72°05'42.2" W.; thence to latitude 41°25'36.8" N., longitude 72°05'42.7" W.; thence to latitude 41°25'42.7" W.; thence on the shoreline to latitude 41°25'42" N., longitude 72°05'42" W.; thence on the shoreline to latitude 41°25'42" N., longitude 72°05'38" W.; thence along the shoreline to the point of beginning.

(b) * * *

[FR Doc.75-6417 Filed 3-11-75; 8:54 am]

National Highway Traffic Safety Administration

[49 CFR Parts 571, 581]

Proposed Amendments to Bumper Requirements

The purpose of this notice is to propose and amend to Standard No. 215, Exterior Protection, 49 CFR 571.215, that would reduce the number of longitudinal pendulum impacts and temporarily suspend the effective date for the low-corner impact requirements. The notice also proposes implementation of damageability provisions under the Motor Vehicle Safety and Damage Standards.

The purpose of this notice is to propose and amend to Standard No. 215, Exterior Protection, 49 CFR 571.215, that would reduce the number of longitudinal pendulum impacts and temporarily suspend the effective date for the low-corner impact requirements. The notice also proposes implementation of damageability provisions under the Motor Vehicle Safety and Damage Standards Act to be effective September 1, 1976.

On January 3, 1976, the National Highway Traffic Safety Administration published a notice proposing a reduction in...
the pendulum and barrier impact speeds specified in Standard No. 215 and proposed in Part 581. Also included in this notice was a proposed reduction in the number of pendulum impacts and a revision in the damage criteria proposed for Part 581 (July 9, 1974, 39 FR 25237). 

The amount of interest manifested in the content of the January 2, 1975, proposal, due to the controversial nature of the proposed amendments, the NHTSA conducted a two-day public hearing (February 13 and 19, 1975) that provided a forum for the airing of all views on the subject.

Several vehicle manufacturers argued that the 3-mph bumpers were not advantageous to consumers, in that they cost more initially, added weight that increased fuel consumption, and actually increased the overall repair costs of the vehicles. These data and arguments were contradicted, however, by other interested persons, including representatives of virtually the entire automobile insurance industry. They stated that the collision loss figures for vehicles with the new bumpers showed other significant reductions, justifying premium discounts that had already been granted. Considerable evidence was presented that the heavy systems on some current vehicles were required as a result of unnecessary design choices by their manufacturers, which could and probably would be changed to create lighter systems in the near future.

The NHTSA has carefully examined all the evidence presented, including experience to date, and has reviewed its previous studies in light of this evidence. The agency has concluded that the 5-mph protection level (and the 3-mph corner impact level associated with it) should not be reduced, that for the present it best carries out the intent of Congress with respect to bumper protection. However, separate consideration of the use of available materials manufacturers can produce systems that are not unduly heavy and produce significant net benefits for consumers. This agency has also tentatively determined, without significantly lowering the protection level.

With a view to allowing a reduction in cost and weight of current production bumper systems, the NHTSA proposed in its January 2, 1975, notice to lower the number of required longitudinal pendulum impacts to three, front and rear. Ford Motor Company submitted to the docket a petition asking the agency to reduce the number of longitudinal pendulum impacts from the current six to two, front, and rear. Comments are specified in the preamble, and comments on the merits of this proposed change.

Standard 215 currently requires one corner impact, front and rear, at a height of 20 inches. The "low corner" requirement is effectively eliminated. The proposed requirements of Standard 215 are presently scheduled for implementation on September 1, 1975. Chrysler has brought to the NHTSA's attention the serious financial difficulties it is now experiencing. In a petition submitted October 17, 1974, Chrysler requested a delay in the application of the low corner pendulum impacts to vehicles with wheelbases exceeding 120 inches. The reason given necessary to bring its "full-sized" cars into compliance with the low corner requirement by September 1, 1975, would, according to Chrysler, add significantly to the firm's financial burdens. If, however, a delay is granted for application of the requirements to full-sized vehicles, Chrysler expects that compliance can be obtained without serious difficulty.

The NHTSA has carefully examined all the evidence presented, including experience to date, and has reviewed its previous studies in light of this evidence. The agency has concluded that the 3-mph protection level (and the 3-mph corner impact level associated with it) should not be reduced, that for the present it best carries out the intent of Congress with respect to bumper protection. However, separate consideration of the use of available materials manufacturers can produce systems that are not unduly heavy and produce significant net benefits for consumers. This agency has also tentatively determined, without significantly lowering the protection level.

With a view to allowing a reduction in cost and weight of current production bumper systems, the NHTSA proposed in its January 2, 1975, notice to lower the number of required longitudinal pendulum impacts to three, front and rear. Ford Motor Company submitted to the docket a petition asking the agency to reduce the number of longitudinal pendulum impacts from the current six to two, front, and rear. Comments are specified in the preamble, and comments on the merits of this proposed change.

Standard 215 currently requires one corner impact, front and rear, at a height of 20 inches. The "low corner"...
PROPOSED RULES

S3. Application. This standard applies to passenger motor vehicles other than multipurpose passenger vehicles.


"Bumper face bar" means any component of the bumper system that contacts the impact ridge of the pendulum test device.

S5. Requirements.

S5.1 Vehicles manufactured on or after September 1, 1979, shall meet the damage criteria of S5.1 through S5.3 when impacted by a pendulum-type test device in accordance with the procedures of S7.2 under the conditions of S6, at an impact speed of 3 mph, and when impacted by a pendulum-type test device in accordance with the procedures of S7.1 at 5 mph, followed by an alternative collision barrier that is perpendicular to the line of travel of the vehicle, while traveling longitudinally forward, then longitudinally rearward, under the conditions of S6, at 5 mph.

Alternative Proposals: That the effective date in S5.1 be September 1, 1977, or September 1, 1978.

S5.2 Vehicles manufactured on or after September 1, 1979, shall meet the damage criteria of S5.3.1 through S5.3.7, and S5.3.9 through S5.3.11, when impacted by a pendulum test device, except where such damage occurs to, the components and fasteners that directly attach the bumper face bar to the chassis frame.

S5.3 Protective criteria.

S5.3.1 Each lamp or reflective device except license plate lamps shall be free of cracks and shall comply with applicable visibility requirements of S4.3.1.1 of Standard No. 108 (§ 571.108 of this part).

The aim of each headlamp shall be adjustable to within the beam aim specifications by impact into a fixed, collision barrier that is perpendicular to the line of travel of the vehicle, while traveling longitudinally forward, then longitudinally rearward, under the conditions of S6, at 5 mph.

S5.3.2 The vehicle's hood, trunk, and doors shall operate in the normal manner.

S5.3.3 The vehicle's fuel and cooling systems shall have no leaks or constricted fluid passages and all sealing devices and caps shall operate in the normal manner.

S5.3.4 The vehicle's exhaust system shall have no leaks or obstructions.

S5.3.5 The vehicle's propulsion, suspension, steering, and braking systems shall remain in adjustment and shall operate in the normal manner.

S5.3.6 A pressure vessel used to absorb impact energy in an exterior protection system by the accumulation of gas pressure or hydraulic pressure shall not suffer loss of gas or fluid accompanied by separation of fragments from the vessel.

S5.3.7 The vehicle shall not touch the test device, except on the impact ridge shown in figures 1 and 2, with a force that exceeds 260 pounds when measured over any one square inch of the area of the surfaces of planes A and B of the test device.

b. 2,000 pounds total force on the combined surfaces of planes A and B of the test device.

S5.3.8 For vehicles manufactured from September 1, 1976 (or, in the alternative, September 1, 1977 or 1978) to September 1, 1979, the exterior surfaces shall have no separations of surface materials, paint, polymeric coatings, or other covering materials from the surface to which they are bonded, and no permanent deformation from the original contours 30 minutes after completion of each pendulum and barrier impact, except where such damage occurs to the bumper face bar, and the components and fasteners that directly attach the bumper face bar to the chassis frame.

S5.3.9 Except as provided in S5.3.8, there shall be no breakage or release of fasteners or joints.

S5.3.10 For vehicles manufactured on or after September 1, 1979, the exterior surfaces, except for the bumper face bar, with no permanent deformation of the surface materials, paint, polymeric coatings, or other materials from the surface to which they are bonded, and no permanent deviations from their original contours 30 minutes after completion of each pendulum and barrier impact.

S5.3.11 The bumper face bar shall have no permanent deviation greater than three-eighths of an inch from its original plane, or a lateral deviation at any height between 20 inches and 16 inches, in accordance with the requirements of S8.1 under the following conditions.

S5.6 Conditions. The vehicle shall meet the requirements of S8 under the following conditions.

S5.6.1 General.

S5.6.1.1 The vehicle is at unloaded vehicle weight.

S5.6.1.2 The tires are inflated to the vehicle's specified height.

S5.6.1.3 Tires are inflated to the vehicle manufacturer's recommended pressure for the specified loading condition.

S5.6.1.4 Brakes are disengaged and the transmission is in neutral.

S5.6.1.5 Trailer hitches are removed from the vehicle.

S5.6.2 Pendulum test conditions. The following conditions apply to the pendulum test procedures of S7.1 and S7.2.

S5.6.2.1 The test device consists of a block with one side contoured as specified in Figure 1 and Figure 2 with the impact ridge made of AISI 4130 steel selected to have a minimum yield strength of 52,000 psi, extending to 24 Rockwell "C". The impact ridge and the surfaces in planes A and B of the test device are finished with a surface roughness of 32 as specified by SAE Recommended Practice J449A, June 1969.

S5.6.2.2 With plane A vertical, the impact line shown in Figures 1 and 2 is horizontal at the same height as the test device's center of percussion.

S5.6.3 The effective impacting mass of the test device is equal to the mass of the tested vehicle.

S5.6.4 When impacted by the test device, the vehicle is at rest on a rigid concrete surface.

S5.6.5 Barrier Test Condition. At the onset of a barrier impact, the vehicle's engine is operating at idling speed in accordance with the requirements of S1.2.5 and the impact line is at the specified height. Vehicle systems that are not necessary to the movement of the vehicle are not operating during impact.

S7.1 Test Procedures.

S7.1.1 Longitudinal Impact Test Procedures.

S7.1.1.1 Impact the vehicle's front surface and its rear surface two times each with the impact line at any height between 20 inches and 16 inches, in accordance with the following procedure.

S7.1.2.2 For an impact at a height of 20 inches, place the test device shown in figure 1 so that plane A is vertical and the impact line is horizontal at the specified height.

S7.1.3 For impacts at a height between 20 inches and 16 inches, place the test device shown in figure 2 so that plane A is vertical and the impact line is horizontal at a height within the range.

S7.1.4 For each impact, position the test device so that the impact line is at least 2 inches apart in vertical direction from its position in any prior impact, unless the midpoint of the impact line is with respect to the vehicle is to be more than 12 inches apart laterally from its position in any prior impact.

S7.1.5 For each impact, align the vehicle so that it touches, but does not move, the test device, with the vehicle's longitudinal centerline perpendicular to the plane that includes plane A of the test device and with the test device inboard of the vehicle corner test positions specified in S7.1.2.

S7.1.6 Move the test device away from the vehicle, then release it to impact the vehicle.

S7.1.7. Perform the impacts at intervals of not less than 30 minutes.

S7.1.8. Corner impact test procedure.

S7.2.1 Impact a front corner and a rear corner of the vehicle once each with the impact line at a height of 20 inches and impact the other front corner and the other rear corner with the impact line at any height between 20 inches and 16 inches in accordance with the following procedure.

S7.2.2 For an impact at a height of 20 inches, place the test device shown in Figure 1 so that plane A is vertical and the impact line is horizontal at the specified height.

S7.2.3 For an impact at a height between 20 inches and 16 inches, place the test device shown in Figure 2 so that plane A is vertical and the impact line is horizontal at a height within the range.

S7.2.4 Align the vehicle so that a wheel corner touches, but does not move, the lateral center of the test device with
pursuant to the authority of sections discussed in the attached Explanatory Statement. This advance notice is issued pursuant to the authority of sections 204(a) and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 745, 788, 49 U.S.C. 1324, 1431.

Interested persons may participate in the rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Civil Aeronautics Board, Room 710, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C. upon receipt thereof.

By the Civil Aeronautics Board.

(SEAL)

PHYLIS T. KAYLOR, Acting Secretary.

EXPLANATORY STATEMENT

By this Advance notice of proposed rule making, the Board is inviting the views of interested persons on the desirability of prescribing minimum compensation to be paid to passengers in cases involving the mishandling of baggage. The general background of this proceeding is set forth in a contemporaneously issued Order to Show Cause concerning carrier baggage liability and need not be repeated here. Suffice it to say that mishandling of baggage and carrier practices with respect to settlement of baggage claims represent a major source of consumer complaints.

Unquestionably, the quality of carrier baggage-handling procedures is in part a function of the cost of such service in relation to the cost of claims for mishandled baggage. The higher the claimed cost per dollar of passenger revenue, the greater the incentive to minimize those costs through improvement of baggage-handling methods and facilities. The volume of complaints received by the Board indicates that the industry may not be fully satisfying its responsibilities for the safe carriage of passengers' baggage. In part this may be attributable to the fact that carriers do not assume liability for the full range of damages suffered when baggage is delayed or lost.

Among the types of injuries for which compensation is customarily provided are the frustration and delay resulting when baggage does not arrive on the flight on which it was checked. These damages are difficult to establish, as the nature of the service makes difficult the determination of damages, and the amounts involved normally do not warrant the time and expense of litigation on the part of the aggrieved passenger. For these reasons, it is virtually impossible for a passenger to obtain compensation for these types of damages. However, the Board believes that establishing and quantifying these damages in no way detracts from their very real nature. Furthermore, both the Aviation Consumer Action Project petition for rule making, and the Submission of the Office of the Consumer Advocate, which are discussed in more detail in the Show Cause Order, indicate that these types of damages are among the most frequent suffered by passengers.

Accordingly, we are considering a rule making to provide passengers additional compensation for delay in the receipt of or for loss of their baggage, or any piece thereof, and the complaints received by the Office of the Consumer Advocate (OCA) reports that problems associated with delays in the delivery of baggage are a major source of complaints in the baggage claim area.

We are aware that at present, station personnel of most carriers are authorized to provide compensation to passengers whose baggage has been misplaced reimbursement for incidental losses and the amounts involved normally do not warrant the time and expense of litigation on the part of the aggrieved passenger. However, the number of letters received suggests that present practices may not be adequate.
In the first place, absence of clearly defined standards in this area leaves open the possibility of discrimination between passengers on the basis of the degree to which they express their displeasure over their predicament. Secondly, the carriers' efforts to accommodate passengers whose baggage is delayed, we are not aware of any carrier whose practice is to reimburse passengers for the transportation costs and other consequential effects of the delay. In fact, as noted, the carriers' tariffs appear to effectively disclaim liability for these consequential damages.

Accordingly, we are tentatively of the view that the traveling public is entitled to compensation for the damages that inevitably result whenever baggage is delayed. One possible approach would be a rule that passengers would be compensated for those damages which are common to virtually all baggage delays, yet which would not otherwise be recovered.

We note in this regard that in the contemporaneous Show Cause Order, we have tentatively found that the disclaimer or limitation of damages is unjust and unreasonable, and have proposed instead that carriers be liable for such damages up to the monetary liability limit. The liquidated damages we are considering here would be in lieu of any right to recover for consequential damages. Passengers eligible for such compensation would include those whose baggage, or any piece thereof, was not available upon the conclusion of the flight on which it was checked. The amount of the compensation could either be a fixed sum or could vary on the basis of the fare paid. We have tentatively concluded that a regulation should apply to all trips on certificated carriers in interstate or overseas air transportation.

Obvious questions underlying the proposed regulation, and upon which the commentary is requested, are: (1) the nature of the damages; (2) the extent to which compensation should be provided; (3) the manner in which such compensation should be provided; (4) the standard for determining amount of damage; and (5) the standard for determining where liability should terminate. These questions will be discussed briefly in the following:

MINIMUM LIABILITY FOR LOST BAGGAGE

The ACAP petition indicates that another area of concern is the procedures and techniques followed by carriers in the settlement of claims for lost baggage. Among the settlement practices which have generated consumer complaints to the Board are the following: (1) requiring purchase receipts for lost items; (2) limiting recovery for loss to depreciated value; and (3) strict adherence to time limitations on filing claims. Without more data, we need some mechanism to protect themselves from fraudulent claims, and review of the complaints does not indicate that procedures improper in themselves are in use. However, the need to guard against fraudulent claims cannot justify overreaching by carriers to deny or arbitrarily reduce legitimate claims for loss. The Board's present position should not attempt to arbitrate between the passenger and the carrier as to the amount of recovery, or to regulate the methods used by carriers to determine claims for loss. The carrier, considering the bargaining position of the parties, and the fact that passengers whose loss was not substantial lack economic incentive to litigate their claims, it may be desirable to adopt a regulation establishing a minimum liability for loss of baggage to reduce abuse of the settlement process. Under this concept, any carrier which loses a passenger's baggage, or any piece thereof, automatically would be liable for a specified minimum dollar amount. Although we have not reached any conclusions as to the amount of such liability, one possible basis would be a reasonable proportion of the lower level of the carriers' claims experience. The claims data which we have directed the carriers to report in conjunction with our contemplated Show Cause on carrier baggage liability could provide a basis upon which to establish the amount of such liability. The establishment of a minimum liability would not preclude passenger whose baggage was worth more than the minimum from filing a claim for the additional loss up to the limit of the carrier's liability. However, acceptance of the minimum amount would be presumed lost for purposes of invoking the carriers' minimum liability.

In addition to removing minor loss claims from the current settlement process, the minimum liability concept should provide the authority to improve baggage-handling procedures. This after all is the primary means by which most consumer complaints can be eliminated.

[14 CFR Part 221] [EDR-382; Docket No. 27598]

CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Removal of Authority To File Tariffs Containing a Time Limit for Filing Baggage Liability Claims

MARCH 6, 1975.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments of Part 221 of its Economic Regulations (14 CFR Part 221) which would remove the authority to file tariffs imposing time limits on the filing of passenger claims for loss of, damage to, or delay of baggage. The purpose of the proposed amendments is explained in the attached Explanatory Statement, and the proposed amendment is set forth in the proposed rule. The amendment is proposed under the authority of sections 204(a), 403, and 1002 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758 (as amended), and 788, 49 U.S.C. 1324, 1373, and 1482.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20426. Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding, may do so through submission of comments in letter form to the Docket Section at the above indicated address, without the necessity of filing additional copies thereof. All relevant material in communications received after April 21, 1975, will be considered by the Board before taking final action on the proposed rules. Copies of such communications will be available for examination by interested parties at the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[Seal] PHILLIS T. KAYLOR, Acting Secretary.

Explanatory Statement

By this notice of proposed rule making, the Board proposes to amend Part 221 of its Economic Regulations (14 CFR Part 221) to remove the authority to file tariffs imposing time limits on the filing of claims for loss, damaged, or delayed baggage. The proposed amendment is part of a concerted effort by the Board to formulate just and reasonable rules to prevent, to the extent possible, improper baggage-handling practices and to insure proper settlement of passenger claims in the event that baggage is lost, damaged, or delayed.

Existing tariffs provide that actions arising from loss, damage, or delay of baggage are barred unless the carrier receives written notice of the claim within 45 days of the incident giving rise to liability. We tentatively conclude that such tariffs are unlawful in that they bar recovery on legitimate claims and do not appear to serve a useful purpose.

The vice of the time limit is its ability to trap passengers who are unaware of its existence, much less its precise requirements. For example, complaints to the Board's Office of the Consumer Advocate indicate that passengers who fill
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PROPOSED RULE

It is proposed to amend Part 221 of the Economic Regulations by adding the following paragraph (1) to § 221.38:

§ 221.38 Rules and regulations.

(1) Baggage liability rules. No provision of the Board's regulations issued under this part shall be construed to permit on and after the filing of any tariff rules stating any limitations on or condition relating to, the time period within which passengers must present written claims for loss of, damage to, or delay in delivering of baggage.

Federal Communications Commission

[47 CFR Part 73]

(Docket No. 19780, FCC 75-124)

COMBINATION ADVERTISING RATES AND OTHER JOINT SALES PRACTICES

First Report and Further Notice of Proposed Rule Making

1. The Commission has before it for consideration the notice of inquiry and notice of proposed rule making adopted July 16, 1973 (41 FCC 2d 951 (1973)) requesting other aspects of Commission policies concerning combination advertising rates and joint sales practices, and comments and reply comments filed in response thereto.1

The notice, which provided for the filing of comments by November 1, 1973 and reply comments by December 3, 1973, was published in the Federal Register on July 30, 1973 (38 FR 20276). By Order adopted November 1, 1973 (published in the Federal Register November 9, 1973, 38 FR 31018), the time for submitting comments was extended to December 3, 1973, and the time for reply comments was extended to January 3, 1974. Subsequently, the time for filing reply comments was again extended to January 21, 1974, by Order adopted December 19, 1973, which was published in the Federal Register on January 4, 1974 (39 FR 10777).

2. The basic policy concerning combination advertising rates was set forth in a Public Notice, 45 FCC 581, adopted January 20, 1963. The policy concerns combination advertising rates offered by two or more separately owned stations serving substantially the same area, and that among themselves, either directly or indirectly through a representative acting for all, combination rates are offered to advertisers who purchase time for the broadcast of advertising by all participating stations, raise serious questions under the policies underlying the anti-trust laws (15 U.S.C. 1 et seq.), conflict with established Commission policy, and are contrary to the public interest. In this policy statement the Commission stated that although it does not enforce the anti-trust laws as such, it has the authority and responsibility to take cognizance of the public policy considerations underlying such laws, that inherent in combination rate agreements is the element of price fixing by independent parties who should be competing with one another, and that such agreements, if found to be obviously contrary to the public interest. Further it stated that combination rate practices are in flagrant conflict with the basic policy of promoting "arms length competition" among broadcast stations and that:

We wish to make clear that our ruling is not designed solely to insure that the public, including advertising members of the public, which makes the field of broadcasting to be one of open and fair competition. The broadcast station in the area is also entitled to face broadcast competitors—not combinations. Otherwise, the station not participating in such combination rate arrangements might lose substantial revenues because of these improper arrangements—to the possible detriment of its overall operation and its service to the public in its area. [41 FCC 2d 951 (1973)].

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WBBF, Inc., 24 FCC 179 (1958), affirmed Federal Broadcasting Systems, Inc. v. Federal Communications Commission, 266 F. 2d 922 (1959), Cert. denied, 361 U.S. 822. In Midcontinent Broadcasting Company of Wisconsin, Inc., 11 RR 2d 1081 (1967), the Commission found that two competing television stations on the same television circuit serving different areas required national advertisers to buy time on both stations during or adjacent to periods when the stations were identicaly programmed. No forced combination rates were imposed on local or regional advertisers at any time, or on national advertisers when the stations were separately programmed. The Commission held:

... any policy which requires a time buyer to purchase time on a station in order to obtain time on another station is anti-competitive in nature and, as such, is contrary to the purposes of the 100-percent rate and is against the public interest. A multiple owner who is able to sell time on one of his stations because a buyer desires to purchase time on another enjoys an unfair advantage over competitors who either do not have such leverage or do not employ it.

In a subsequent case the Commission did not apply this policy to a situation involving a parent television station and its 100-percent satellite. The Commission stated that as a 100-percent satellite, the station... does nothing more than rebroadcast the programs of the parent station, including advertisements, and that as long as the station remains a 100-percent satellite, with no means of originating programs or advertising locally, time is sold, by the very nature of a 100-percent satellite operation, for both... markets. Midcontinent Broadcasting of Wisconsin, Inc., 12 FCC 2d 111, 113, 12 RR 2d 765, 766 (1969). A station that is primarily a satellite, as contrasted to a 100-percent satellite, has the capability for local origination and would not come under the exception set out in this case.

4. Regarding sales representatives, in Golden West Broadcasters, 16 FCC 2d 524 (1969), the Commission held that representation of a station by a licensee or sales representative owned wholly or partially by the licensee of a competing station in a common market area is a violation of longstanding Commission policy proscribing cross-interests by licensees in more than a single station in the same service in the same area. The Commission stated that such an arrangement gives the licensee-representative a large stake in the financial well-being of the station it represents and that this relationship necessarily militates against competition by the stations. The Commission further stated that the policy was based on its concern for potential impairment of competition in theannerly to find actual injury to competition, citing Shenandoah Life Insurance Company, 19 RR 1 (1959).

5. The Notice of Inquiry and Notice of Proposed Rule Making invited comments on the policies and also provided for submission of other pertinent information. In reply, a number of respondents opposed any Commission action or favored only limited changes in existing statements or Rules. Some favored terminal dates on the subject of the proceeding and believed that the Commission should consider on a case-by-case basis any problems which might arise under proposed rates and joint sales practices. A number of respondents requested that no action be taken without further notice of proposed rule making, and Central California Commission policy proscribing the practice of cross-selling rivals to obtain time on another station was based on its concern for potential impairment of competition, so that it was not necessary to find actual injury to competition, and that as long as the station remains a 100-percent satellite, its operation is not affected by the policy as set forth in Golden West, supra.

Thus, we are concerned that the adoption of rates which prohibit certain rate practices per se, will inevitably lead to the Commission to "rate setting.'

8. We have considered the comments opposing any Commission action or proposing only very limited Commission action. A number of the comments are related matters. Some of the concerns are, in our view, unjustified. For example, this proceeding is not concerned with rate setting. In fact, it is not within the regulatory jurisdiction of the Commission to set rates for broadcast licensees. FCC v. Sanders Brothers Radio Station, 309 U.S. 470, 60 S. Ct. 693 (1940). This proceeding is for the purpose of gathering information on the policies regarding combination advertising rates and other joint sales practices, some of which, as noted above in paragraphs 2 and 3, are contrary to the public interest and are contrary to the public interest. Although we do not enforce the anti-trust laws, we do take cognizance of the policies behind these laws in making public interest findings. See, for example, First National City Bank v. Roden & Associates, Inc., 12 FCC 2d 274 (1968); Uniform Policy on Violation of Laws, 16 FR 3187, 1 R. R. 91: National Broadcasting Company v. U. S., 319 U. S. 140, 223-224 (1943); U. S. v. St. Paul Fire & Marine Ins., 300 U. S. 248 (1939).

In our view, the policies concerning combination advertising rates and other joint sales practices, like any others, are appropriately the subject of inquiry with respect to their effect, and clarification or codification, where appropriate, will aid in guiding our staff and licensees. Accordingly, we reject the proposals that we take action.

7. We are not, however, proposing substantial changes in this area. We propose only the following at this time: (1) the issuance of a further notice of proposed rule making looking toward the adoption of a rule that would prohibit combination sales when the stations involved have an overlap of certain contours or when a station contour overlaps the service area of a satellite, as contrasted to a 100-percent satellite; (2) the setting aside of the limited approval of combination rates in the circumstances described in FM Group Sales, Incorporated v. FCC 1281 2 RR 2d 1110 (1964); and (3) the matter of cross-selling nationalism in the manner described in Golden West, supra. Additionally, we note that comments were received proposing a change in the policy regarding television stations operated as satellites, and that other comments were filed proposing that we set aside our policy as to combination rates so as to permit independently owned stations within the same market area to combine advertising rates. These proposals are outside the scope of this proceeding, and we draw no conclusions in regard thereto. We turn now to the comments received in response to our specific questions.

COMMENTS REGARDING DEFINITION OF THE PHRASE "SERVING SUBSTANTIALLY THE SAME AREA."

8. Our present policy prohibits combination rates between separately owned stations "serving substantially the same area." Because we had received many inquiries related to the meaning of this phrase, we sought comments in this proceeding as to how it should be defined. The comments filed have provided both support and opposition to virtually all possible yardsticks. Some of these must be rejected because of the difficulty of obtaining the necessary information, such as definitions based on "community identifications," or "community service." Other suggested geographic definitions, such as the Census Bureau's Standard Metropolitan Statistical Area, and the American Research Bureau's "Metro Area" or "Area of Dominant Influence." These have their merits in some situations, but become unwieldy in others. For example, if we used the Standard Metropolitan Statistical Area (SMSA), it would be necessary to use some other standard for markets with no defined SMSA. Pucher, SMSA's in most instances are based on counties, rather than the areas served by broadcast stations. Thus, if the SMSA were adopted to
define which stations "serve substantially the same area," a supplementary standard would be required for those stations outside the SMSA but serving areas within it.

9. The use of service contours has been proposed as a standard for determining the area served by broadcast stations. Such a standard has the advantage of being related to the technical facilities (height and power) of all broadcast stations, can be readily determined on the basis of existing Rules, and can be applied by the licensees, the Commission and other industry-related groups. Upon consideration of the various contours that might be used, we have tentatively concluded that the 3.15 mv/m contour for standard broadcast stations, the 3.15 mv/m contour for FM broadcast stations, and the contours provided as minimum field intensities over the principal community pursuant to Section 73.85 of the Rules for television broadcast stations would provide the best means for defining the phrase "serving substantially the same area." We believe that these contours would represent the same area and that revenues from substantially the same area will not engage in combination sales, while separately owned stations that are not serving substantial areas will be permitted to use joint sales practices, if they so choose. However, rather than adopt these contours as a standard set forth in a new policy statement or in the form of an amendment of the Rules at this time, we believe that it would serve the public interest if interested parties were afforded an opportunity for comment thereon. Therefore, we are making this proceeding a Further Notice of Proposed Rule Making. We propose the adoption of a new section of the Rules which is attached as an APPENDIX. Effective one year from the effective date of its adoption, the rule would prohibit the sale or offer of sale of broadcast time on a station owned by a licensee or permittee in combination with the sale or offer of sale of broadcast time on another station, owned by another licensee or permittee if there is an overlap of contours set forth therein. The proposal concerns any selling in combination whether with or without a combination rate and whether or not a discount is offered. The rule would be applicable to all separately owned standard, FM and television broadcast stations and also proposes the prohibition of such sales in combination with separately owned cable television systems. The proposed rule would prohibit combination sales between commonly owned television and aural stations if there is an overlap of contours. However, the rule would not apply to the sale of time on stations by a network provided the sale is of network commercial time adjacent to or within a program supplied by a network.

COMMENTS REGARDING USE OF COMBINATION RATES BY COMMONLY OWNED STATIONS IN THE SAME MARKET

10. As a part of this proceeding, comments have been requested as to the use of combination rates by commonly owned stations in the same market. Pursuant to Commission policy, combination rates may be used by commonly owned stations if the Commission determines that an advertiser, in order to buy time on one station, also must buy time on another of the licensee's stations and if the practice is not employed to advance unfairly any competitive advantages that flow from such combination sales, if the combination rates are less than the sum of the separate rates; also, if discounts were permitted, at what point discounts unfairly advance a competitive position, and whether there are any guidelines that could be used to make the determination.

11. The majority of respondents commenting in regard to this matter believed that the policy should be continued and that discounts should be permitted. Many favored the practice because it was a financial aid to FM stations and to some AM stations in smaller communities. Another reason given for continuing the practice was that there were selling and administrative savings in joint sales, and discounts were reflections of actual cost savings. However, many believed that discount practices unfairly advance a competitive position; one respondent believed that discounts should be permitted provided that the discounts were not so low as to be competitive advantages that flow from such combination sales practices that are permitted, it appears that the comments would be difficult to establish specific guidelines for determining whether any practice of combination sales practices that are permitted, it appears that it would be difficult to establish specific guidelines for determining whether any practice of combination sales, whether or not the practice is permissible if not employed to unfairly advance a competitive position. Accordingly, we do not propose to adopt guidelines in this area at this time. We shall, however, consider on a case-by-case basis any questions arising as to whether any practices of commonly owned stations in the same market unfairly advance a competitive position. We may also, if warranted, refer questions to the Federal Trade Commission or the Department of Justice.

COMMENTS REGARDING THE USE OF COMBINATION RATES BY COMMONLY OWNED STATIONS IN DIFFERENT MARKETS

13. Comments were sought as to the policy permitting commonly owned stations in different markets to use combination rates. The present policy is the extension of the policy permitting commonly Owned stations in the same market, i.e., the practice is permissible if not employed to unfairly advance a competitive position and if advertisers are not forced to purchase time on one station in order to purchase time on another. Parties were requested to state whether the policy should be continued and whether the practice should be prohibited if the combined rate was less than the sum of the separate rates; also if discounts were permitted, at what point discounts unfairly advance a competitive position, and what guidelines should be used in making that determination.

14. KTN-TV/KTIT Corporation comments that it offered discounts for combination sales of two of its stations in separate markets because of savings in coordination, sales handling, and it favored continuation of the practice. The Katz Agency, Inc., advocated continuation of the policy permitting combination rates for stations under common ownership in different markets. Southern
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Broadcasting Company and Metromedia, Inc., preferred continuation of the policy as long as sold separately, were not used. Greater Media, Inc., and Nassau Radio Corp. also favored continuation of the policy, provided discounts did not amount to tie-ins, reasoning that the stations were inherently indivisible from network sales.

15. KMSO-TV, Inc., Central California Communications Corp., Kansas State Network, Inc., and Wyneco Communications, Inc., argued that the stations, used together with satellites or semi-satellites serving sparsely populated areas, believe that their circumstances licenses should be permitted to use combination rates with stations in different markets. KMSO-TV, Inc., stated that fully 72 percent of its stations' combined revenue in 1972 was generated by network and national spot advertising, and that all of this advertising was sold in combination.

16. Station Representatives Association (SRA) pointed out that under present policy there was no prohibition against utilization of combination rates by stations in different markets, whether the stations are under common ownership or separate ownership, and states:

"By definition the stations utilizing the combination rates are not competitors since they serve different markets. The stations engaged in this practice do not enjoy unfair leverage for in most markets there is a large number of outlets serving different groups of potential customers, and in the various markets can coexist for sales purposes. Finally, it is important to note that networks both national and regional are classic cases of combination rates for stations located in different markets. Time on the affiliated stations is sold pursuant to a combination rate card at a figure which is not the sum of the affiliates' individual rates. There is no suggestion in the Notice that this practice should be abolished or revised and SRA does not so propose. However, there is no reason why sales representatives for the advertising dollar of the national accounts. It would not be consistent with the Commission's goal of promoting "a healthy, competitive economic environment for broadcast" to permit one segment of the industry to utilize a sales tool which is denied to a competitive force in the same market. Here, too, the Supreme Court's Times-Picayune case [footnote added] decision is instructive:

"The common core of the adjudicated unlawful tying arrangements is the forced purchase of a second distinct commodity with the desired purchase of a dominant "tying" product, resulting in economic harm and illegal restraint of trade. Here, however, two newspapers under single ownership at the same place, time, and terms sell identical but distinguishable commodities; no dominant "tying" product exists (in fact, since space in neither the morning nor evening paper can be bought alone, one may be viewed as "tying" the other); no leverage in one market excludes sellers in the second, because for present purposes the products are identical and the market the same." 345 U.S. at 614.

17. The parties filing comments did not mention any particular abuses or problems in the use of combination rates by commonly owned stations in different markets. Most respondents proposed continuation of the present policy, although many believed that continuation rates should not be used in an anti-competitive manner. However, the parties believed that it will be difficult to determine at what point discounts would be anti-competitive. Upon consideration of the entire matter, we believe that the public interest would be served by retaining our present policy, although we recognize that some anti-competitive practice may arise in the future through use of discounts or in some other manner. Therefore, we will consider on a case-by-case basis any information regarding anti-competitive practices.

COMMENTS REGARDING WHETHER THE PROHIBITION AGAINST FORCED COMBINATION RATES SHOULD BE APPLIED TO COMMONLY OWNED AM-FM STATIONS IN THE SAME MARKET DURING PERIODS WHEN SIMULCASTING

18. Station Representative Association (SRA) commented that the present policy there was no prohibition against utilization of combination rates by stations in different markets. It would not be consistent with the Commission's goal of promoting "a healthy, competitive economic environment for broadcast" to permit one segment of the industry to utilize a sales tool which is denied to a competitive force in the same market. Here, too, the Supreme Court's Times-Picayune case [footnote added] decision is instructive:

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19. Alan Torset Associates, Inc., commenting on forced combination rates during simulcasting stated that "in most markets with a multiplicity of stations, no advertiser is required to buy such time unless the cost is right; he has many alternates" and that in the radio field the operation of normal market forces will promote competition much more than rigid rules which ignore the diversity of differing facial situations. McClatchy Newspapers (McClatchy) commented that to require that AM and FM stations be offered separately to advertisers during simulcasting periods would, because of practical difficulties, lead to discontinuance of simulcasting. It offered as an example an AM station selling 18 minutes of commercial time in an hour simulcasting with an FM station selling no commercial time in the simulcast hour, and stated that during the airing of AM commercials the FM station would be silent and that even if some time were sold on the FM station the placement and duration of spots could not be certain, thereby defeating the purpose of simulcasting. McClatchy pointed out that the economies of joint operation, which still are essential for the operation of many FM stations, would be entirely lost, and that if the Commission wished to deal with simulcasting, it should do so by amendment of the Rules. Stauffer Publications filed similar comments. Heart O'Wisconsin Broadcasters, Inc., Footer Broadcasting Company, Inc., Taft Broadcasting Corporation and Greater Media, Inc., all believed that combination rates were necessary inasmuch as simulcasting. On the other hand, Century Broadcasting Corporation favored prohibiting forced combination rates during simulcasting in markets of less than one million on the ground that it was unfair from the standpoint of the independent FM station.

20. In requesting comments as to simulcasting, we asked whether the prohibition against utilization of combination rates during simulcasting, if and if applied, what additional costs could be anticipated. Also comments were requested as whether smaller markets should be exempt and no comment was made as to whether smaller markets should be exempt and no comment was made regarding anticipated additional costs. Most respondents opposed applying the prohibition and many suggested that the prohibition be done by rule making. Many argued that in simulcasting a unitary product was being offered and suggested that the Commission could change the present practice if it should be done by rule making.

21. We agree that if we are to deal with forced combination rates during simulcasting, we should do so through rule making which deals with the entire subject of independent programming by FM stations. At present, Section 73.242 of our Rules provides that licensees of FM stations in cities of over 100,000 population shall operate so as to devote
no more than 50 percent of the average FM broadcast week to programs dupli-
cated from an AM station owned by the
same licensee in the same local area. In
the notice of proposed rule making (Doc-
et No. 15084, FCC 62-48, 23 RR 1619) which resulted in adoption of § 73.242 we
stated:

At best, AM-FM program duplication has been regarded as a temporary expedient—
orignally, as a means of bringing about a changeover from AM to PM and, more re-
cently, as a stopgap measure to avoid the collapse of the PM service. It was our hope
that dual operators could utilize the eco-
nomies of scale, experience, and organization of staff, programming, and physical facilities to develop FM to a point of independent viability. We expected that the establishment of these AM-FM operations would act to spur FM receiver sales and would be a major force to create a market for future
independent operations.

We now feel that this interim policy con-
cerning FM has been of more limited value
than expected and, with the demand for FM facilities increasing rapidly, we believe it is
appropriate to consider a gradual change in our policy. Moreover, we have considerable doubt that AM-FM duplicators are a substantial force
acting to promote FM but is, to the con-
trary, a practice which, in many areas, will serve the public interest in carrying out
the now affected stations must carry.

The other question in this area was
whether a licensee or licensee owned sales organization which operates a sta-
tion in the area, should be precluded from representing another station in the
same service if the two stations do not compete for the same audience even though different tech-
niques or program formats are used; that the audience is not static and neither are formats, and all stations are representative of a sponsor's budget; and that relaxation of the policy for stations using different formats would lead to a situation virtually impossible to administer because of changing formats and lack of objective standards on which
to judge formats.

26. We do not believe that a licensee or licensee owned sales organization that
operates a station in the same market but prohibits a firm representing a firm representing a
licensee-owned sales organization that repre-

们 that the relationship necessarily mili-
tates against competition between the two stations. (16 FCC 2d at 921).

Golden West areas in the context of two
stations in the same service, and the case
ceded to the circumstances presented
there. However, we perceive no reason for
restricting a different number of stations in
different services but in the same mar-
ket. Separately owned stations are sup-
posed to compete at arm's length. Indeed,
the thrust of our policies as to joint sales
practices is to assure such competition.

It clearly runs counter to those policies
for a station to represent one of its com-
petitors in the same market. Accord-
ingly, we find that it will serve the public
interest to amplify the policy set out in
Golden West to include stations in the
same market in all broadcast services.

In defining the "same market," we pro-
posed in the Commission's Further No-
more than one market as set forth in this Further Notice of Proposed Rule
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in policy may call for change in represen-
tation of some stations. Therefore, we
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area. The other question was the impairment which the Commission's policy is
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doah Life Insurance Co., supra.

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whether a licensee or licensee owned sales organization which operates a sta-
tion in the area, should be precluded from representing another station in the
same service if the two stations do not compete for the same audience. In this
regard, SRA favored prohibiting dual representation for stations in the
same service even if the programming were different. SRA asserted that it is not
realistic to assume that stations in the same service do not compete for the same audience even though different tech-
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Order for amendment of the Rules as herein proposed.

COMMENTS REGARDING WHETHER A SALES REPRESENTATIVE SHOULD BE PERMITTED TO REPRESENT MORE STATIONS IN THE SAME MARKET

27. The vast majority of respondents favored permitting stations to enter into contracts with sales representatives, even though the sales representative may represent a larger number of other stations in the same market. The majority favored multiple representation regardless of whether the stations were in the same service or in different services, or whether the stations had different formats. However, Television Advertising Representatives, Inc., (TVAR) and Radio Advertising Representatives, Inc., (RAR), both subsidiaries of Westinghouse Broadcasting Company, favored favoring by multiple representation only if the stations were in different services, and Metromedia gave as the reason for their opposition that it believed that separately owned stations in the same service in the same area should compete at arm’s length. Metromedia considered AM stations and FM stations to be in different services. However, other respondents considered AM stations and FM stations to be in different services.

28. John Blair and Co. (Blair), believed that representation of two or more stations in the same market should be permitted if the stations were in different services and stated that although a television station had a sales representative, a single market radio station for business of a local advertiser, the two types of stations do not compete for national business because national advertisers allocate budgets by media. Television, a certain amount for radio, a certain amount for newspapers, etc. In reply comments, Blair stated that any policy or rules should not prohibit representation of two stations in the same market if the stations were in different services if the stations were in different services, and Metromedia gave as the reason for their opposition that it believed that separately owned stations in the same service in the same area should compete at arm’s length. Metromedia considered AM stations and FM stations to be in different services. However, other respondents considered AM stations and FM stations to be in different services.

Further, Eastman stated that more than 70 per cent of all national radio advertising dollars are spent in the top 50 markets and that for the rest of the United States and its hundreds upon hundreds of markets and radio stations, the flight is for a small piece of the remaining 30 per cent.

39. Station Representatives Association (SRA) agreed that the number of national firms or representatives was diminishing and stated:

A similar situation (although not quite as severe) obtains in the television area. Here there are approximately 22 effective firms of which 12 are controlled by the station licensees or networks. While the powerful VHF stations have no difficulty obtaining sales representation, the smaller stations particularly in the UHF band may have obvious difficulties. They have last choice of representatives and their circulation is often so restricted that it spoils the prospects for representation. The common representation of two or more independent stations in a market could alleviate this situation.

SRA argued in favor of sales representatives representing more than one station as follows:

So far as the sales representatives are concerned, they are not independent contractors. They are simply sales agents for the stations acting pursuant to the directions and instructions of the stations and entering into sales contracts with the stations and for their approval. In point of fact the representation in a market is generally an exclusive one for stations of that service. However, SRA urges that there should not be a hard and fast rule on the subject requiring exclusivity. First, common sales and advertising services and such arrangements are not in and of themselves inconsistent with the policies of the Federal Trade Commission. Second, Mills v. Federal Trade Commission, 296 F.2d 530, 541 (4th Cir. 1961). Antitrust considerations come into play only when the dual representation is part of an arrangement to fix prices between competitors—

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feature which is not present when each principal exercises independence in pricing, acceptance of orders, and similar matters. All of these safeguards are present in the field of sales representation by independent station representatives.

Secondly, mention should be made of the fact that dual representation of two or more stations is permitted by the Commission in instances in which independent ownership of stations is present. Thus in the radio field both ABC and Mutual Broadcasting System are permitted by the Commission to sell national time on two or more stations in the same market—either all AM or all FM or a combination of the two. Similarly time barterers do the same thing. In television, barter among independently owned stations has become more common. The rep network concept is essentially tied to the fact that the stations involved are situated in the same market and the sales representative or representatives act as a unit. Thus, the concept of rep networks is of particular relevance in the radio field since the stations involved are, in the majority of cases, in the same community. However, a sales representative may represent two or more stations in a given market, or more stations in the same market. And what is more, a time barterer controls the price at which the availabilities on many stations in a given market, those under separate as well as common ownership. A time buyer can deal with one time barterer for time on two, or more stations in the same market. And what is more, a time barterer controls the price at which the availabilities are sold on the competitive stations. No such control is present in the case of sales representatives.

31. In its comments McGavren-Guild-PCW Radio, Inc. (McGavren), proposed that the Commission consider "rep networks" which were described as follows:

The rep network concept has grown out of the necessity for rep firms to negotiate with a prospective advertiser or agency the purchase of broadcast time on a number of stations at one time, based upon the greater number of stations available according to market size, audience size and other factors. These group plans have, in the past several years, achieved a greater degree of sophistication, and have recently begun to be promoted by rep firms as "networks." They are not networks in the traditional sense of the word. Instead, as networking implies the simultaneous broadcast by two or more stations of programming which originates from a single source. The rep network concept is essentially the linking of a time sales rep of a number of stations in order to present to a prospective advertiser or agency an aggregate of audience and market characteristics against which the advertiser's advertising objectives are assessed, and within which the process of purchasing time on many individual stations throughout the country may be simplified.

McGavren also proposed that the Commission require the filing of all agreements with stations representing other stations and that such agreements be filed with the Federal Radio Commission. Cox Broadcasting Company (Cox) stated that in the field of national radio advertising the use of combination rates by separately owned stations serving different markets is the foundation for the so-called "nonwire network" and that this "joint sales practice unfairly limits competition through collective and secret pricing, to the detriment of individual stations." Cox believed that in order to curtail the practice, the Commission should prohibit stations in different markets from being sold in combination at a combined rate which is less than the sum of the published rates in the individual stations but Cox went on to point out that prohibition to "normal network operations." Bob Dore Associates, Inc., claim that such networks stifle competition since they offer discounts, and that this is unfair to stations not affiliated with rep networks.

32. In reply comments, Blair opposed regulation of "rep networks" and the filing of contracts. Blair stated that it has a radio network, that it is composed of independently owned stations in different markets and that advertising is sold on a joint basis. Flair stated further that it quotes a single rate for specified amounts of time on various stations with given audience characteristics frequencies, and stations, and it is the aggregate of individual rates, and that it acts solely as an agent and does not determine rates. Blair maintained that such matters were beyond the scope of the proceeding. Katz favored permitting stations in separate markets to combine to offer group plans.

33. SRA also requested that the Commission investigate the desirability of limiting the right of multiple owners with stations in major markets from acting as the sales representative for other stations not owned by them. TVAR and RAR opposed this, stating it was an unnecessary extension of the proceeding. Metromedia stated that although SRA described itself as an association of independent station representatives, persons with interests who combined interests in representatives had broadcast interests and that one representative was a licensee and another had stock interests in licensees.

As was stated earlier, the Commission policy regarding sales representation has been to prohibit representation of a station by a licensee or sales representative owned wholly or partially by a licensee. However, such representation is not supposed wholly or partially by the licensee of a station in a community may not represent another broadcast station in the same community subject to specified limitations, and we have recently begun to be promoted by rep firms as "networks." They are not networks in the traditional sense of the word. Instead, as networking implies the simultaneous broadcast by two or more stations of programming which originates from a single source. The rep network concept is essentially the linking of a time sales rep of a number of stations in order to present to a prospective advertiser or agency an aggregate of audience and market characteristics against which the advertiser's advertising objectives are assessed, and within which the process of purchasing time on many individual stations throughout the country may be simplified.

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20016, 46 FCC 2d 277 (1974), when we said:

In the last 10 years the number of independent FM stations doubled, average revenues per independent FM station have almost quadrupled and their total revenues have increased six-fold, a trend that independent FM stations have been making a profit has also climbed significantly.

Accordingly, upon review of the group sales plan as set forth in the FM Group Sales case, we conclude that such plan no longer serves the public interest, and that operation of any such plan, if still in existence, should be discontinued.

COMMENTS REGARDING WHETHER COMBINATION RATES BETWEEN CABLE TELEVISION SYSTEMS AND BROADCAST LICENSEES SHOULD BE CONSIDERED IN THE SAME MANNER AS COMBINATION RATES BETWEEN BROADCAST LICENSEES

38. Very little comment was received regarding combination rates between cable television systems and broadcast licensees. Southern Broadcasting Company believes that sales and broadcast stations would not attempt to combine rates, but if a practice should develop it should be prohibited. Station Representatives Association did not believe any specific regulations were required at this time because cable television is in its infancy and that the matter could be considered at a later time when the nature and extent of cable advertising became firmly established. However, Metromedia, Inc., stated in this regard:

As stated in the Notice, the Commission has specifically disapproved a rate package between a licensee and a commonly owned non-broadcast business. This specific disapproval should certainly extend to combination rates with cable systems. Such a policy would fully comport with the Commission's CARY cross-ownership rules.

39. In accordance with the rules, cable television systems may originate programs and present advertising. Thus, the possibility exists for joint sales practices or combination rates between a commonly owned cable system and broadcast station in the same community. We believe that a separately owned broadcast station and cable television system in the same community should be engaging in "arms length competition" and that combination rate agreements or practices between such a system and a broadcast station are contrary to the public interest. Accordingly, the rules proposed herein by the further notice of proposed rule making include the combination rates between cable television systems and broadcast station which are commonly owned, or a television broadcast station and a standard broadcast station in which are commonly owned shall not sell or offer to sell broadcast time in combination, nor shall any licensee permit anyone acting on its behalf to sell or offer to sell broadcast time on such stations in combination, if there is overlap of the contours, as set forth in paragraph (a) of this section, for the stations involved.

(e) In case any questions arise concerning compliance with this section, the licensees involved shall have the burden of proving the non-existence of overlap of the contours herein specified.

(d) The licensee of each station shall exercise reasonable diligence to determine that independent contractors, agents or others representing the licensee do not offer to sell or effect transactions for the sale of the station's time which would be prohibited by this section if such sale or offer of sale were made directly by the licensee.

[47 CFR Part 73 ]

Table of Assignments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Cape May Court House, New Jersey, and Rehoboth Beach, Delaware). Docket No. 20374, RM-2347.

1. Petitioner. proposal and comments—Petitioner: Triplet Broadcasting Co., Inc. licensee of Stations WTOO (AM) and WOOG-FM (Channel 232A), Bellefontaine, Ohio; and WHTM-FM (Channel 210A), Upper Sandusky, Ohio.

Proposal: Assign Class B Channel 225 to Cape May Court House, New Jersey. This proposal would require substitution of Channel 225A for Channel 224A at Rehoboth Beach, Delaware. A construction permit for Channel 224A (WLRR) has been granted to Merlin Gollub (BPH-8338) conditioned on Gollub's acceptance of any modification requiring use of a channel other than Channel 224A as a result of whatever action the Commission may take on a petition for rule making filed in Docket No. 2347, the instant proceeding.

Comments: The instant proposal may be granted without affecting any assignments other than Channel 224A at Rehoboth Beach. The antenna location for the proposed Cape May Court House assignment must be 2 miles southeast of the community.

2. Location, population, present aural service, and propagation—Location: Cape May Court House, New Jersey, is located...
approximately 29 miles southwest of Atlantic City, and 39 miles east of Dover, Delaware. It is the seat of Cape May County. Rehoboth Beach, Delaware, is located in Sussex County, approximately 30 miles southeast of Cape May Court House, and 40 miles southeast of Dover.

**Population:** Cape May Court House 2,062; Cape May County 59,554; Rehoboth Beach, Delaware 2,568; Sussex County 95,856.

**Present Aural Service:** Cape May Court House has no local aural service. Cape May County originates two AM services (full-time Station WCMC, Wildwood, and daytime-only Station WLRB, Rehoboth Beach, Ocean City-Somers Point). There are four FM assignments in the county; Channel 264, Wildwood (WCMC-FM); Channel 292A, Ocean City (WSLT-FM); Channel 272A, Cape May (WCMX-FM); and Channel 232A, Avalon (applications pending).

Relative to Cape May Court House, Avalon is located 6.5 miles east-northeast; Ocean City, 39 miles northeast; Cape May, 12 miles south-southeast and Wildwood, 6.5 miles southeast.

3. **Preclusion considerations — Channels precluded:** No adjacent or co-channel assignment would result from the proposed assignment.

4. **Comments.** A Petitioner avers that a Class A station at Cape May Court House will offer an FM service to 46,000 persons during the “off-season” and 115,000 persons during the summer when there is a large influx of vacationers. Ordinarily, communities the size of Cape May Court House are assigned Class A channels with Class B assignments generally going to large, densely populated communities. Channel 232A can be assigned to Cape May Court House. The petitioner should indicate whether it is willing to construct and operate a Class A channel if it is assigned to Cape May Court House.

B. Petitioner avers that the proposed Class B station would serve 314,000 persons, respect to petitions for rule making which conflict with the proposal to amend § 73.202(b) of the Commission’s Rules, the FM Table of Assignments as follows:

<table>
<thead>
<tr>
<th>City</th>
<th>Channel No.</th>
<th>Present</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cape May Court House, N.J.</td>
<td>295</td>
<td>221</td>
<td>221</td>
</tr>
<tr>
<td>Rehoboth Beach, Del.</td>
<td>221</td>
<td>295</td>
<td>295</td>
</tr>
<tr>
<td>or alternatively</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cape May Court House, N.J.</td>
<td>289</td>
<td>221</td>
<td>221</td>
</tr>
</tbody>
</table>

7. **The Commission’s authority to institute rule making proceedings:** showings required; procedures; and filing requirements are stated below and are incorporated into this notice of proposed rule making.

8. **Interested parties may file comments:** on or before April 30, 1975, and reply comments on or before May 20, 1975.

9. **The Secretary is directed to send a copy of this Notice of Proposed Rule Making to Melvin Golub, permiitee of Station WLRB, Rehoboth Beach, Delaware.**


Released: March 6, 1975.

**FEDERAL COMMUNICATIONS COMMISSION.**

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

[Docket No. 20374, RM3247]

**FILING REQUIREMENTS.**

1. Pursuant to authority found in sections 4(i), 3(d)(1), 303(g) and (f), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b) (6) of the Commission’s rules, it is proposed to amend § 73.202(b) of the Commission’s rules and regulations, as set forth above in the notice of proposed rule making.

2. **Shoowings required.** Comments are invited on the proposal discussed above in the notice of proposed rule making. In initial comments, proponent(s) will be expected to answer whatever questions are presented in the notice. The proponent(s) of the proposed assignment(s) is expected to file comments even if only resubmits or incorporates by reference its former pleadings. It should also state its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. **Filing requirements.** The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With the exception of the rules for rule making which conflict with the proposal in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. It filed later than that, they will not be considered in connection with the decision in this docket.

4. **Comments and reply comments:** service. Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission’s rules and regulations, interested parties may file comments and reply comments on or before the dates set forth above in the notice of proposed rule making. Any person who files comments to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. **Number of copies.** In accordance with § 1.419 of the Commission’s rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. **Public inspection of filings.** All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission’s Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

**[FR Doc.75-6398 Filed 3-11-75;8:45 am]**

**FEDERAL REGISTER, Vol. 40, No. 49—Wednesday, March 12, 1975**

**TELEVISION BROADCAST STATIONS, GEORGIA**

**Table of Assignments.**

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Atlanta, Georgia), Docket No. 20375, RM-2383.

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration the petition for rule making filed by John Harttram, requesting the amendment of § 73.606(b) of the Commission’s Rules and Regulations, proposing the assignment of Channel 63 or any other available but unassigned UHF channel for Atlanta, Georgia.

2. Petitioner states that Atlanta (pop. 496,873) is the 18th ranking market in the United States. He also averrs that the Atlanta Urbanized Area consists of 1,172,778 persons compared to a 768,125 population in 1960; that growth in the Atlanta area has been substantial since 1960; and that expansion in population has been characterized by an 80 percent increase in non-agricultural employment and a 45 percent increase in manufacturing employment. The Atlanta area, we also yield, is now a center of commerce for the southeastern part of the United States as demonstrated by the fact that retail sales, bank deposits, the
value of construction and the annual number of private housing units have at least tripled since 1960.

3. Atlanta is currently assigned 6 commercial TV broadcast channels and 2 noncommercial channels. Service is presently provided by the following stations: WSB, Channel 2, an NBC affiliate; WAGA, Channel 5, a CBS affiliate; WXIA, Channel 11, an ABC affiliate; WTVG, Channel 17; and WHAF, Channel 46. A construction permit for Channel 46 is outstanding and an application for a covering license (BTC-1894) is pending. Two noncommercial educational TV broadcast channels are also assigned to Atlanta—Channel 30 and Channel 31 (WGTW). Therefore, petitioner concludes that the only available option for an additional television station in Atlanta is to amend the Table of Television Assignments to add a 7th commercial TV channel.

4. Recent Georgia assignments of educationally reserved channels were made in response to a petition from the Georgia State Board of Education pursuant to an overall state plan. Because of these assignments, few channels remain available for assignment to Atlanta. Petitioner has requested assignment to Atlanta of Channel 63 or any other available but unassigned UHF channel. The Commission's engineering staff has determined that the assignment of Channel 69 would create too great an amount of preclusion to the surrounding area and would not adversely affect any existing stations. Also, assignment of Channel 69 to Atlanta would permit the maximum flexibility with respect to future assignments of available channels to the area.

5. Petitioner states that it will apply for a construction permit if the channel requested is assigned and, if its application is granted, it will promptly construct a television broadcasting station facility.

6. In view of the foregoing, pursuant to authority found in Sec. 1.415 of the Commission's Rules and Regulations, it is proposed to amend § 97.303 (g) and (t) and § 307(b) of the Communications Act of 1934, as amended, and § 6.281(b) (6) of the Commission's Rules and Regulations, as follows:

7. Showings required. Comments are invited on the proposal discussed above. Petitioner is expected to file comments even if only one channel is concerned, in order to reference his former pleadings. He should reaffirm his present intention to apply for the channel if it is assigned, and, if authorized, to construct the station promptly, in order to file may lead to denial of the request.

8. Cut-off procedure. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments. (See § 1.420(b) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal in this Notice, they will be considered if filed before May 20, 1975. All submissions by parties to this proceeding in reply to the petition for rule making in this Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that date, they will not be considered and in connection with the decision in this docket.

9. Comments and reply comments. Pursuant to applicable procedures set out in initial comments, so that parties may file comments on or before April 30, 1975, and reply comments on or before May 20, 1975. All submissions by parties to this proceeding in reply to the petition for rule making in this Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that date, they will not be considered and in connection with the decision in this docket.

10. Number of copies. In accordance with the provisions of paragraph 1.419 of the Commission's Rules and Regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

11. Public inspection of filings. All filings made in this proceeding will be available for examination by interested parties only during regular business hours in the Commission's Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.


Released: March 6, 1975.

FEDERAL COMMUNICATIONS COMMISSION.

Section 1.415 the Commission's Rules and Regulations, Interested parties may file comments on or before April 30, 1975, and reply comments on or before May 20, 1975. All submissions by parties to this proceeding in reply to the petition for rule making in this Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that date, they will not be considered and in connection with the decision in this docket.

Comments and reply comments. Pursuant to applicable procedures set out in initial comments, so that parties may file comments on or before April 30, 1975, and reply comments on or before May 20, 1975. All submissions by parties to this proceeding in reply to the petition for rule making in this Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that date, they will not be considered and in connection with the decision in this docket.

This action is taken by the Chief, Classification Service, pursuant to authority delegated by § 0.288(a) of the Commission's rules.


Released: March 6, 1975.

FEDERAL COMMUNICATIONS COMMISSION.

Chief, Classification Service.

[47 CFR Parts 2, 91, 93, 95, 97]

[47 CFR Parts 2, 91, 93, 95, 97]

[47 CFR Part 76 ]

[47 CFR Part 76 ]

[47 CFR Part 76 ]

[47 CFR Part 76 ]

[47 CFR Part 76 ]

[47 CFR Part 76 ]

[47 CFR Part 76 ]

[47 CFR Part 76 ]

[47 CFR Part 76 ]

CLASS E CITIZENS RADIO SERVICE

Deferral of Action on Proposals

On June 6, 1973, the Commission adopted a notice of inquiry and notice of proposed rule making in Docket 19759 (38 FR 26942) looking toward the reallocation of the 324-325 MHz band to the Citizens Radio Service for the creation of a new Class E category station. The band 220-225 MHz is now allocated for shared use by stations in the Government Radiolocation Service and the Amateur Radio Service. The time for filing original and reply comments in this proceeding expired on October 19, 1973 and November 23, 1973, respectively.
PROPOSED RULES

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 270, 275]

[Release Nos. IA-439, EC-6000, File No. 4-149]

EXEMPLARY RULES FOR VARIABLE LIFE INSURANCE
Withdrawal of Proposed Amendments and Proposed Rescission of Rules

Notice is hereby given that the Securities and Exchange Commission has determined not to adopt, and, therefore, hereby withdraws proposed amendments to Rule 3c-4 (17 CFR 270.3c-4), and Rule 202-1 (17 CFR 270.202-1) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) ("Investment Company Act") and Rule 202-1 (17 CFR 270.202-1) ("Advisers Act") (hereinafter together referred to as the "Rules"). These Rules exempt issuers of certain variable life insurance contracts, and affiliated persons thereof, from the provisions of the Investment Company Act and the Advisers Act.

Further, notice is hereby given that the Securities and Exchange Commission ("Commission") has under consideration the rescission of Rule 3c-4 and Rule 202-1. While rescission of these Rules would result in the application of all provisions of the Investment Advisers Act to variable life insurance contracts, their issuers and related persons, the Commission announced its intention to propose a rule under section 6(c) (15 U.S.C. 80a-6(c)) of the Investment Company Act (Investment Company Act Rel. No. 892, Investment Advisers Act Rel. No. 446, February 27, 1975) which would, in effect, conditionally exempt certain variable life insurance separate accounts from section 7 (15 U.S.C. 80a-7) and other sections of the Investment Company Act and rules thereunder, while requiring full compliance with all other provisions of the Act and rules.

Rule 3c-4 defines the term "insurance company" as used in section 3(c)(3) (15 U.S.C 80a-3(c)(3)) of the Investment Company Act to include a separate account which would be employed as the funding medium for variable life insurance contracts. For this purpose, the Rule defines a variable life insurance contract to be any contract of insurance issued by an insurance company which so long as premiums are paid when due, provides a death benefit which varies to reflect the experience of a separate account established and maintained by such insurance company and which meets the four additional criteria specified in paragraph (b) of the Rule. Rule 202-1 rules from the definition of the term "investment adviser," set forth in section 202(a) (20) (15 U.S.C. 80a-2(a) (20)) of the Advisers Act, an insurance company, or any affiliated company, which is engaged in providing any advisory services performed are incidental to the conduct of the business of issuing any variable life insurance contract as defined in Rule 3c-4 under the Investment Company Act or any interest or participation in a separate account issued in connection with such contract.

The Commission was persuaded to adopt Rule 3c-4 for several reasons, the foremost of which was the Commission's recognition of the difficulties which would be encountered in reconciling the regulatory schemes of the Investment Company Act to the developing pattern of state insurance regulation. In adopting Rule 3c-4, the Commission stated that it is needed to avoid the development of a uniform state regulatory structure designed specifically to meet the requirements of variable life insurance and the needs of variable life insurance contractholders beyond the disclosure which the Securities Act would provide. Based on the representations made by the NAIC, and on the comments submitted by the National Association of Insurance Commissioners, the Commission believes that they are qualified to develop and administer the type of regulation particularly appropriate to the operation of variable life insurance separate accounts.

The Commission indicated it expected that these regulatory protections provided by the Investment Company Act would only duplicate regulations to be developed by the NAIC. Such regulations, the Commission believed, would provide the necessary protections to purchasers substantially equivalent to the relevant protections that would be available under the Investment Company Act. Finally, the Commission made clear that it would monitor the development of state law in this area to assure adequacy in providing these protections and, if in the future it appears that substantial deficiencies exist and are not likely to be remedied, the Commission will consider whether it is necessary or appropriate to modify or rescind Rule 3c-4.

Because of its concern that regulations be developed to provide adequate investor protections which would be substantially equivalent to relevant protections afforded by the Investment Company Act, and its intent that such regulations be adopted prior to the sale to the public of variable life insurance contracts, the Commission requested comments,


PROPOSED RULES

the Rules, and on the Model Variable Life Insurance Regulation adopted by the NAIC in December 1973. The Commission concluded that commentators should address themselves to whether the amendments should be adopted, whether the Model Regulation would provide protections substantially equivalent to relevant protections provided by the Advisers Act.8

Public hearings were held from March 25 to March 28, 1974 with respect to these amendments. In addition, the Commission received many written comments and wishes to thank those persons who responded to its notice of proposed amendments to the Rules and its request for comments with respect to the Model Variable Life Insurance Regulation. Particularly, the Commission recognizes the detailed and extremely helpful material supplied by the NAIC in response to specific questions presented by the Commission's staff.

Almost without exception, public response to the proposed amendments to the Rules was negative. Some commentators asserted that the amendments were inconsistent with the Commission's objectives in adopting the Rules in that the requirement of prior approval would not ensure that variable life insurance regulations, would be difficult, if not impossible, for the Commission to implement, and would result in extensive delay before contracts could be sold to the public.

Other commentators suggested that the amendments would not go far enough towards assuring that variable life insurance contract-holders have protections substantially equivalent to those afforded by section 17 (15 U.S.C. 80a-17) of the Investment Company Act relating to transactions with affiliates.

The proposed amendment to Rule 202-1 would have conditioned the exemption from the Advisers Act on a Commission determination that the laws, rules or regulations of each state in which variable life insurance contracts or interests are offered provide investor protections substantially equivalent to relevant protections provided by the Advisers Act.9

The amendment, if adopted, would have conditioned the availability of the exemption afforded by Rule 3c-4 upon a specific determination by the Commission that applicable state laws and regulations provide investor protections substantially equivalent to those provided by the Investment Company Act with respect to: (1) valuation of portfolio securities in a uniform manner; (2) annual reporting to contractholders of information similar in nature to the information that would be provided by a registered investment company to its shareholders through annual reports and proxy statements; (3) protections against unauthorized or improper changes in investment policies; (4) protection against excessive management fees, administrative fees and sales charges; and (5) provisions similar to those afforded by section 17 (15 U.S.C. 80a-17) of the Investment Company Act relating to transactions with affiliates.

The proposed amendment to Rule 202-1 would have conditioned the exemption from the Advisers Act on a Commission determination that 

- The Commission also invited comment on the appropriateness of including the following eleven additional areas of protection in the Rule, as well as any other areas that might be deemed relevant to purchasers of variable life insurance: (1) protection against unauthorized or improper changes in investment policies; (3) protections against expropriation of the separate account's assets to controlling persons or persons under common control with the separate account; (4) protection against breaches of fiduciary duty involving personal misconduct and against fraud and embezzlement; (6) provision for written advisory contracts; (7) provision for custodianship of cash and portfolio securities of the separate account who have committed certain personal misconduct and against larceny and embezzlement; and (8) protections similar to those afforded by section 17 (15 U.S.C. 80a-17) of the Investment Company Act relating to transactions with affiliates.

- Comments were requested as to the appropriateness of including in Rule 202-1 five specific areas of protection: (1) prohibitions against persons who have committed certain crimes or violations of the federal securities laws from acting as investment advisers of variable life insurance separate accounts or as associated persons of such advisers; (2) prohibitions against the payment of unfair or inequitable advisory fees; (3) provisions relating to the capacity of the separate account to invest in investment companies, insurance companies, broker-dealers, underwriters and investment advisers; (4) the availability of independent, certified public accountants; and (5) private rights of action with respect to such investor protection provisions for contractholders.

- The amendment, if adopted, would have conditioned the availability of the exemption afforded by Rule 3c-4 upon a specific determination by the Commission that applicable state laws and regulations provide investor protections substantially equivalent to relevant protections provided by the Advisers Act.9
Act") (15 U.S.C. 80a-1 et seq.) and Rule 202-1 (17 CFR 275.202-1) under the Investment Advisers Act of 1940 ("Advisers Act") (15 U.S.C. 80b-1 et seq.) (hereinafter collectively referred to as the "Rules") and has proposed to rescind such separate accounts, and investment advisers to such separate accounts, would, in the Commission's view, be required to register under the Investment Company Act and the Advisers Act and to comply with all sections of those Acts and the rules promulgated thereunder. The Commission has determined, however, to propose a rule under section 6(e) of the Investment Company Act (15 U.S.C. 80a-6(e)) relating to separate accounts of life insurance companies formed to fund certain variable life insurance contracts.

A variable life insurance contract is an insurance contract in which the death benefit, cash surrender value and other benefits vary to reflect the investment experience of a separate account maintained for the purpose of determining the status of variable life insurance contracts, issuers and related persons. The Commission recognized that state regulation of insurance is also applicable to variable life insurance, that the insurance and investment company regulatory schemes would be difficult to reconcile, and that insurance regulations under the Investment Company Act and Advisers Act, as though such policies were maintained by a life insurance company. However, if the separate account is established and maintained in accordance with relevant provisions of the Act designed to assure accountability of management to variable life contract holders.

In recognition of the unique insurance aspects of variable life insurance and the extensive insurance regulatory pattern to which the contracts, issuers and related persons will be subject, the Commission contemplates that a pattern of regulation will be developed under section 6(e) of the Investment Company Act. The Commission therefore intends shortly to publish for comment, a rule under this section which will designate the provisions of the Investment Company Act from which variable life insurance separate accounts will be exempt and the conditions upon which such exemptions may be granted.

Section 6(e) of the Investment Company Act provides that if, in connection with any rule, regulation or order under section 6 exempting any investment company provisions of the Investment Company Act, the Commission may modify to recognize the unique characteristics of variable life insurance while maintaining the basic investor protections afforded by the Act. The Commission intends to consider carefully all such ideas and suggestions in its formulation of a proposed rule under section 6(e).

The Commission believes that there are a number of other provisions of the Investment Company Act, the requirements of which could be conditionally modified or from which conditional exemptions could be granted. In order to provide a general opportunity for comments in this respect, the following is a tentative list of possible actions which the Commission will consider. It should be noted, however, that this list is not intended to be complete or final, and that provisions may be added or deleted.

1. Pursuant to the rule, a separate account established to fund certain variable life insurance contracts which would be formed in connection with the issuance of such policies may be exempt from the regulations of the Investment Company Act. The rule would provide that separate accounts formed to fund variable life insurance contracts may comply with every provision of the Investment Company Act as if they were registered open-end investment companies, except for certain specified sections of the Investment Company Act.

2. Partial exemption may be granted from section 9 (15 U.S.C. 80a-9) so that the restrictions of that Section shall be applicable only to officers, directors and employees of the life insurance company or the agent which will be directly involved in the management or administration of the separate account or in the sale of variable life insurance contracts which are formed by such account.

3. If accountability to contractholders is to be provided through a board of directors then an exemption from section 10(b)(2) (15 U.S.C. 80a-10(b)(2)) may
be appropriate to allow affiliated persons of the principal underwriter of the variable life insurance contracts (ordinarily the life insurance company or an affiliate thereof) to compromise up to sixty percent (60%) of the members of the board of directors of the separate account.

4. The rule may also require as a condition for the exemptions granted that no change in investment policy could be effected if such action is objected to as endangering the solvency of an Insurer by the insurance commissioner of the company's state of domicile.

5. Exemption from the provisions of section 14(a) (15 U.S.C. 80a-14(a)) with respect to an account's initial capital requirement may be provided to afford certain variable life insurance separate accounts similar exemption as that provided by Rule 14a-3 (17 CFR 270.14a-3) to certain variable annuity separate accounts.

6. Exemption from the requirements of section 15(a) (15 U.S.C. 80a-15(a)) could be provided similar in scope to that provided for variable annuities pursuant to Rule 15a-3 (17 CFR 270.15a-3). Whether the exemption from section 15(a) for variable life insurance is broader than that applicable to variable annuities will depend on the general determination made by the Commissioner as to how to implement the accountabilities provisions of the Act, specifically those relating to voting rights.

7. A limited exemption from the requirement of section 16(a) (15 U.S.C. 80a-16(a)) may be allowed to variable life insurance separate accounts to provide similar treatment to that provided by Rule 16a-1 (17 CFR 270.16a-1) for certain variable annuity separate accounts. Thus, persons serving as directors of a variable life insurance separate account would be exempt initially from the requirement of section 16(a) that such persons be elected by the policyholders at an annual meeting. Here, too, the scope of this exemption would depend on the eventual determination made with respect to voting requirements.

8. A narrow exemption from section 17(d) (15 U.S.C. 80a-17(d)) could be granted. Most life insurance companies currently invest some portion of their general funds in equity securities, and it is anticipated that many companies will establish a separate account that will qualify for exemption under a proposed rule. While the investment policies of the general and separate account may differ, there may be times when an insurance company will wish simultaneously to purchase or sell the same security on behalf of its general account and the general account of the insurance company.

9. The proposed rule may grant an exemption from the requirements of section 17(d) (15 U.S.C. 80a-17(d)) to allow securities held in a variable life insurance separate account to be held in the custody of the life insurer.

10. In order to effect any changes in the accountability provisions of the Act determined by the Commission to be appropriate, it may be necessary to provide exemptions from or modification of section 17(d) (15 U.S.C. 80a-17(d)) to allow similar treatment to that provided for variable annuities. The rule could provide for variable life insurance separate accounts similar exemption as that provided by Rule 16a-1 (17 CFR 270.16a-1) for variable annuities.

11. The rule could grant exemption from the requirements of section 19 (15 U.S.C. 80a-19) in recognition of the fact that variable life insurance separate accounts are a unique nature in which the term is used in this section.

12. In recognition of the fact that variable life insurance contracts will be offered and sold in separate account and the notice and reserve requirements of the Act, specifically those relating to voting rights.

13. The basic limitations on sales loads provided in section 27(e) (15 U.S.C. 80a-27(e)) will be applicable to variable life insurance. However, many of the terms and specified requirements found in this section must be defined or modified to be made applicable to variable life insurance. For example, compliance with sections 27(a) (15 U.S.C. 80a-27(a)) and 27(h) (15 U.S.C. 80a-27(h)) must be defined in terms of the maximum number of years over which the sales load must average not more than 9 percent. These charges which are not "sales loads" as defined in section 2(a) (35) (15 U.S.C. 80a-2(a) (35)) are to be treated as insurance or administrative charges must be clarified. It is also probable that exemptions now available for variable annuities will be similarly proposed for variable life contracts.

The 45-day redemption right contained in section 27(f) (15 U.S.C. 80a-27(f)) may be modified to conform to the comparable provision in the Model Variable Life Insurance Regulation through explicit notice of this right may be required. The rule also could clarify the applicability of the requirements of section 27(d) (15 U.S.C. 80a-27(d)) by defining portions of the Act which are not to be included for purposes of computation of the amount due upon redemption and the notice and reserve requirements of that section.

14. The rule could provide modifications of the requirements of section 30 (15 U.S.C. 80a-30) and section 31 (15 U.S.C. 80a-31) pertaining to periodic and other reports and accounts and records, in recognition of the applicable requirements of state insurance laws and the unique nature of variable life insurance.

15. The proposed rule may provide exemption from section 32(a) (15 U.S.C. 80a-32(a)) similar to present Rule 32a-2 (17 CFR 270.32a-2) with respect to the selection of independent public accountants for the separate account.

All interested persons are invited to submit their written views and comments on the provisions of the Investment Company Act for which exemptions for variable life insurance separate accounts would be necessary or appropriate and the manner in which such exemptions should be provided, including specific exemptions language. Comments should be submitted to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before 5:30 p.m., April 18, 1975. All communications in this regard should refer to File No. 87-54 and will be available for public inspection. After considering such comments, the Commission intends to propose a specific rule for further comment.

By the Commission.

Dated: February 27, 1975.

[Seal] GEORGE A. FITZSIMMONS, Secretary.

[F.R. Doc. 75-6415 Filed 3-11-75; 8:45 a.m]
DEPARTMENT OF STATE

GOVERNMENT ADVISORY COMMITTEE ON INTERNATIONAL BOOK AND LIBRARY PROGRAMS

Notice of Meeting

The Government Advisory Committee on International Book and Library Programs will meet in open session in Room 1408 in the Department of State, 2201 C Street, N.W., Washington, D.C. on April 10 and 11, 1975. The meeting will be held from 9 a.m. to 5 p.m. on April 10, and from 9 a.m. to 12 p.m. on April 11.

The Committee will discuss:
1. Final plans for the Nigeria Book Exhibit and Seminar.
2. The future role of the Committee, and 3. A report on American libraries abroad.

For purposes of fulfilling building security requirements, anyone wishing to attend the meeting must advise the Executive Secretary by telephone in advance of the meeting. Telephone: 632-2841.

Dated: February 24, 1975.

CAROL M. OWENS, Executive Secretary.

[FR Doc.75-6229 Filed 3-11-75; 8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

INDUSTRIAL PERSONNEL SECURITY CLEARANCES, SUPPLEMENTAL INSTRUCTIONS AND GUIDANCE

Issuance of supplemental instructions and guidance under subsection VILA, DoD Directive 5220.6 “Industrial Personnel Security Clearance Program” (39 FR 28521, 8/8/74) shall be issued under Subsection VILA. (§ 155.6(a)) as number publications entitled “Personnel Clearance Memorandum” and shall be published in the Federal Register (see § 155.11). Other memoranda of instruction or guidance issued before or after the amendment to subsection VILA (§ 155.6(a)) of October 6, 1970 providing for the publication of “Personnel Clearance Memorandum” and not otherwise reissued under the amended section, are without force or effect.

MAURICE W. ROCHE, Director, Correspondence and Directives, OASD (Comptroller).

MARCH 7, 1975.

[FR Doc.75-6228 Filed 3-11-75; 8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON THEATER NUCLEAR FORCES R&D REQUIREMENTS

Advisory Committee Meeting

The Defense Science Board Task Force on Theater Nuclear Forces R&D Requirements will meet in closed session on 31 March and 1 April 1975, at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of technology and systems applicable to theater nuclear forces and indicate promising solutions to the problem areas for possible implementation within the Department of Defense.

In accordance with Pub. L. 92-463, section 10, paragraph (d), it has been determined that Defense Science Board meeting concerns matter listed in section 552(b) of Title 5 of the United States Code, particularly subparagraph (d) thereof, and that public interest requires such meetings to 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).

MARCH 7, 1975.

[FR Doc.75-6237 Filed 3-11-75; 8:45 am]

Department of the Air Force

UNIFORM CODE OF MILITARY JUSTICE

Court-Martial Sentences

MARCH 3, 1975.

On February 18, 1975, the Secretary of the Air Force directed that effective with court-martial sentences adjudged on and after May 1, 1975, approval of a court-martial sentence which includes the elements set forth in Article 58a, subsection (a) (1), (2), and (3), will reduce an enlistment member of the Air Force in grade only if the approved sentence also includes an approved reduction and, in that case, the member will be reduced only to the grade provided for in the approved reduction. If the supervisory authority of the Judge Advocate General acts to eliminate the reduction from the sentence or to lessen the degree of reduction, such action will correspondingly eliminate or lessen the degree of the reduction under Article 58a. Except as provided above, the grade of enlisted members who have been convicted by court-martial will be as provided by the sentence of the court-martial and by applicable regulations. Suitable regulations will be issued to ensure that prisoners serving sentences to confinement while in grades above E-1 do not receive advantages and perquisites, other than pay and allowances, not provided for other prisoners.

STANLEY L. ROBERTS, Colonel, USAF, Chief, Legislative Division Office of The Judge Advocate General.

[FR Doc.75-6230 Filed 3-11-75; 8:45 am]

Department of the Army

JUNIOR SCIENCE AND HUMANITIES SYMPOSIAS ADVISORY COMMITTEE

Notice of Meeting

In accordance with Pub. L. 92-463, dated October 6, 1972, notice is given of a meeting of the Junior Science and Humanities Symposia (JSHS) Advisory Committee, as follows:

Date: 1 May 1975.
Time: 1000 hours.
Place: U.S. Military Academy, West Point, New York.

Agenda subjects will be as follows:

Introduction—Remarks—Dr. Marcus E. Hobbs, Chairman.
Introduction of MG George Sammet, Jr.—Colonel Lathrop Mittenhual.
Remarks—MG George Sammet, Jr.
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DEPARTMENT OF JUSTICE
Drug Enforcement Administration
CIBA-GEIGY CORP.
Importer of Controlled Substances; Application

By Notice dated January 13, 1975, and published in the Federal Register on January 17, 1975; (40 FR 2018), pharmaceuticals Division, Ciba-Geigy Corporation, 556 Morris Avenue, Summit, N.J. 07901, made application to the Drug Enforcement Administration to be registered as an Importer of Methylphenidate and Phenmetrazine, basic class controlled substances listed in Schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1301.43, the above firm is granted registration as a bulk manufacturer of Cocaine.

Dated: March 5, 1975.

JOHN R. BARTLES, Jr.,
Administrator.

[FR Doc.75-6456 Filed 3-11-75;8:45 am]

HALSEY DRUG CO.
Importer of Controlled Substance; Application

By Notice dated December 20, 1974, and published in the Federal Register on January 3, 1975; (40 FR 803-4) Halsey Drug Company, Inc., 1827 Pacific Street, Brooklyn, N.Y. 11233, made application to the Drug Enforcement Administration to be registered as an Importer of Codine, a basic class controlled substance listed in Schedule II.

No comments or objections having been received, and pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1311.42, the above firm is granted registration as an Importer of Codine.

Dated: March 5, 1975.

JOHN R. BARTLES, Jr.,
Administrator.

[FR Doc.75-6457 Filed 3-11-75;8:45 am]

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
JOSEPH P. CONGLETON, ET AL.
Endangered Species Petition

March 7, 1975.

The Department of the Interior has been petitioned by Joseph P. Congleton, Zigmunt J., Frank R., and Hiram G. Hill, Jr., to list the snail darter (Percina flavostoma) sp., from the Little Tennessee River, as an endangered species according to the procedures of section 4(f) (2) (B) (ii) of the Endangered Species Act of 1973. Notice is hereby given that the petitioners have presented substantial evidence, as required by section 4(f) (2) of the Act, to warrant a review of the situation and action is being initiated immediately on this matter.

FREDERICK WHITE, Jr.
Acting Director, Fish and Wildlife Service.

March 7, 1975.

[FR Doc.75-6420 Filed 3-11-75;8:45 am]

DEPARTMENT OF AGRICULTURE
Farmers Home Administration

Nevada Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Nevada:

Clark
Elko
Eureka

The Secretary has found that this need exists as a result of a natural disaster consisting of a blizzard January 10, 11, and 12, 1975.

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 Pub. L. 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 April 20, 1975, for physical losses and November 28, 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 rulemaking and invite public participation.

Done at Washington, D.C., this 6th day of March, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[Designation No. A163]

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:

Audubon
Calhoun
Carroll
Cass

The Secretary has found that this need exists as a result of a natural disaster consisting of a blizzard January 10, 11, and 12, 1975.

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 Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Mike O'Callaghan that such designation be made.

Applications for Emergency loans must be received by this Department no later than April 28, 1975, for physical losses and November 28, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for
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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 5th day of March, 1975.

FRANK B. ELLIOTT, Administrator, Farmers Home Administration.

[FR Doc.75-6462 Filed 3-11-75; 7:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. 5-441]

PRUDENTIAL LINES, INC.

Application

Notice is hereby given that Prudential Lines, Inc., has applied for operating differential subsidy to aid in the operation of the S.S. SANTA ANA, a MA Design C-4-Sessel, in the subsidized Line C, Trade Route No. 4, cargo vessel service under a renewed bareboat charter for one-year. The Operator provides or may provide service on Trade Route No. 4 between Atlantic ports and ports in the Venezuela-Netherlands West Indies-North Coast of Colombia range, with privileges of serving certain other Caribbean and Atlantic areas such as Guatemala, the Bahamas, Cuba, Jamaica, Haiti, Dominican Republic, Guadeloupe, Martinique, Caribbean ports in Central America from Panama to British Honduras, inclusive, and the port of Cristobal, Canal Zone. No change is proposed by Prudential Lines, Inc., in its operating differential subsidy contract Trade Route No. 4 sailing requirements from the present minimum of 44 and maximum of 52 per annum for the duration of the one-year charter.

Any person having an interest in the granting of such application and who would like to intervene by the Maritime Subsidy Board that the Service now provided by vessels of United States registry in such essential service is inadequate, and (2) whether in the accomplishment of the purpose and policy of the Act additional vessels should be operated therein.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.006 Operating-Differential Subsidies (ODS))

By Order of the Maritime Subsidy Board/Maritime Administration.

Dated: March 6, 1975.

JAMES S. DAWSON, JR., Secretary.

[FR Doc.75-6490 Filed 3-11-75; 7:45 am]

National Bureau of Standards

HOT-ROLLED RAIL STEEL BARS

Action on Proposed Withdrawal of Commercial Standard

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10 as revised; 35 FR 8349 dated March 20, 1970), notice is hereby given of the withdrawal of Commercial Standard CS 150-63, "Hot-Rolled Rail Steel Bars (Produced from Toe-Section Rails)."

It has been determined that this standard is no longer technically adequate and no longer used by the industry, and in view of the existence of an up-to-date standard identified as American Society for Testing and Materials A499-74, "Standard Specification for Hot-Rolled Rail Carbon Steel Bars and Shapes," revision of this Commercial Standard would serve no useful purpose. This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the Federal Register of January 3, 1975 (40 FR 618), to withdraw this standard.

The effective date for the withdrawal of this standard will be May 12, 1975. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

RICHARD W. ROBERTS, Director.

March 5, 1975.

[FR Doc.75-6856 Filed 3-11-75; 7:45 am]

National Oceanic and Atmospheric Administration

MRS. DIANNA WILSON ALLEN

Issuance of Permit for Marine Mammals

On May 20, 1974, notice was published in the Federal Register (39 FR 17784) that an application had been filed with the National Marine Fisheries Service by Mrs. Dianna Wilson Allen, subject to certain conditions set forth therein. The permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, in the Office of the Regional Director, National Marine Fisheries Service, Southwestern Region, 300 South Ferry Street, Terminal Island, California 90731, and in the Office of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 4540 Gandy Boulevard, St. Petersburg, Florida 33702.


JACK W. GEHRINGER, Acting Director, National Marine Fisheries Service.

[FR Doc.75-6384 Filed 3-11-75; 7:45 am]

HONG KONG JOCKEY CLUB (CHARITIES) LTD. AND LA GALOPERIE

Denial of Permit Applications

On April 10, 1974, notice was published in the Federal Register (39 FR 13014) that applications had been submitted to the National Marine Fisheries Service by The Hong Kong Jockey Club (Charities) Ltd., Ocean Park Limited, Prince's Building, Hong Kong and La Galoperie, Société a Responsabilité Limitée au Capital de 290,000 Fr, 59 Amor (Nord) France, for permits to take certain marine mammals for the purpose of public display. The Hong Kong Jockey Club requested to take ten (10) California sea lions (Zalophus californianus) and ten (10) Pacific harbor seals (Phoca vitulina richardi) and La Galoperie requested to take three (3) Atlantic bottlenose dolphins (Tursiops truncatus) and two (2) California sea lions (Zalophus californianus).

Notice is hereby given that the National Marine Fisheries Service (NMFS), after consultation with the Marine Mammal Commission and following due consideration of the record of a public hearing on these requests, has denied the above permit applications.

The denial of La Galoperie application was based on the absence of a mechanism which could verify the statements concerning the presence of a mechanism which could verify the statements concerning the
adequacy of its facilities set forth in the application as well as properly follow up on the Club's activities, to assure that it was complying with the conditions of a permit, if one were issued. Verification of statements and follow up is accomplished in the United States by recognized veterinarians of the National Marine Fisheries Service (NMFS). The NMFS has determined that, under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), its responsibilities with respect to the care and maintenance of animals in facilities outside the jurisdiction of the United States can be met only if there is independent evidence upon which to base a conclusion as to the reliability of statements concerning existing or planned facilities set forth in an application, as well as independent evidence that the government having jurisdiction over the facility has the appropriate laws and regulations to ensure compliance with permit conditions (and is willing to do so) and will provide to NMFS essential periodic reports.

Therefore, no application from a foreign facility for a permit to take marine mammals for export from the United States will be considered unless:

(a) it is referred to the Director, NMFS, through an appropriate agency of a foreign government;

(b) it includes, in addition to the information required by pertinent regulations (39 FR 14348, April 23, 1974),

i. a certification from such appropriate government agency verifying the information set forth in the application;

ii. a certification from such appropriate government agency that the laws and regulations of the government involved permit enforcement of the terms of the condition of the permit, and that the government will enforce such terms;

iii. a statement that the government concerned will afford comity to a NMFS decision to amend, suspend, or revoke a permit.

For purposes of obtaining certification from the appropriate government agency, a foreign facility may obtain a copy of the general conditions to a permit by writing to:


For purposes of this notice and the processing of all applications from a foreign facility for a permit, “appropriate government agency” means that agency or agencies of a foreign government which perform functions similar to the functions and activities performed by the NMFS.

The denial of the above applications are without prejudice. Either applicant may resubmit its application in accordance with the above guidelines. The above guidelines, in addition to those in 39 FR 14348, will be used as the basis for evaluating all applications for permits from foreign facilities.

Dated: March 6, 1975.

JACK W. Gehringer,
Acting Director.

[FR Doc. 75-6383 Filed 3-11-75; 8:45 am]

MARINE ATTRACTIONS, INC.
Issuance of Permit for Marine Mammals

On October 4, 1974, notice was published in the Federal Register (39 FR 35878) that an application had been filed with the National Marine Fisheries Service by Marine Attractions, Inc., Aquarium and Zoological Gardens, 6500 Beach Plaza Road, P.O. Box 6068, St. Petersburg Beach, Florida 33736, for a Public Display Permit to take twenty (20) Atlantic bottlenosed dolphins (Tursiops truncatus) for export from the United States.

Notice is hereby given that, on March 3, 1975, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above described action to Marine Attractions, Inc., subject to certain conditions set forth therein. The permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and in the Office of the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Jack W. Gehringer,
Acting Director,
National Marine Fisheries Service.

FEBRUARY 28, 1975.

[FR Doc. 75-6383 Filed 3-11-75; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of the Secretary
OFFICE OF ADMINISTRATION
Statement of Organization, Functions, and Delegations of Authority

Part I of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is hereby amended. The new chapter supersedes chapter IT 30 (38 FR 18404, June 22, 1973) and IT 300101 (38 FR 62623, September 19, 1973). It deletes the Operations Staff and transfers appropriate functions to a new Administrative Staff and separates the OS Federal Women’s Program Staff and the OS Spanish-Speaking Program Staff from the OS Equal Employment Opportunity Staff.

The Division of Safety Management, Division of Central Payroll, the Printing and Publications Management Staff, and the Minority Business Assistance Staff are transferred to other parts of the Office of the Assistant Secretary for Administration and Management. The new chapter reads as follows:

Sec. IT30.00 Mission. The Office of Administration is a component of the Office of the Assistant Secretary for Administration and Management and provides advice and services on matters having to do with administrative services and personnel operations and equal employment opportunity to departmental headquarters and the provision of department wide leadership in the areas of administrative services, emergency coordination, and data management.

Sec. IT30.10 Organization. The Office of Administration which is under a Director who reports to the Assistant Secretary for Administration and Management consists of the following components:

Office of the Director.
Division of Administrative Services.
Division of Emergency Coordination.
Division of Equal Employment Opportunity.
Division of OS Personnel.
Data Management Center.
Administrative Staff.
OS Equal Employment Opportunity Staff.
OS Federal Women’s Program Staff.
OS Spanish-Speaking Program Staff.
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Sec. IT34.20. Functions. A. OFFICE OF THE DIRECTOR. The Office of the Director provides leadership, policy guidance, and supervision of all activities, as well as coordinating long- and short-range planning to coordinate program and maintenance of the Department; services as liaison, messenger, telegraph, transportation, telecommunications, and other organizational elements; provides staff assistance and relief activities to assure full Department effectiveness.

B. Division of Administrative Services. The Division of Administrative Services is responsible for the development and provision of centralized, common, and general facilities/services and essential support functions for the Office of the Secretary and Departmental operating components at headquarters. The functions of the Division are as follows:

1. Printing and Storage and Distribution of the Department is designated as the Emergency Management and Visual Systems program of the Office of the Secretary through the operation of the Departmental printing plant and other organizational elements; provides offset, duplicating, photographic, collating, copy preparation, visual and addressograph services. Provides printing and visual systems advisory services and centralized procurement of the services from outside sources.

2. Supply Operations Branch plans and directs the provision of centralized purchasing and contracting services for administrative supplies, professional, technical and research requirements; administers program contracts sponsored by other organizations; shipping and receiving, and laboring services for department headquarters activities. Maintains personal property management accounts and administers the public storage and distribution program of the Office of the Secretary. Provides staff assistance and guidance to program management personnel on purchasing, contracting, and supply procedures.

3. Communications Branch plans and directs the communication management programs for the Office of the Secretary; has Department-wide responsibility for employee communications and mail management; provides OS centralized mail, messenger, telegraph, transportation, and legislative materials distribution services; administers the OS central file, records management and disposal, and forms management activities.

4. Department Library Branch plans and directs a program for library activities and services Department-wide; provides general reference, historical, bibliographic, subject area, and specialized materials services; provides staff assistance, guidance, and direction throughout the Department; services Department Library with the National Library of Congress and the Library of Congress.

C. Division of Emergency Coordination. The Division of Emergency Coordination is responsible for all emergency preparedness, planning, and operations activities. The head of the staff is designated as the Emergency Coordinator. The functions of the Division are as follows:

1. Participates in conferences or negotiations with representatives of Federal agencies, such as Department of Defense, Office of Management and Budget, and other governmental and non-governmental agencies, for the purpose of developing or implementing national mobilization and readiness measures, including related activities, natural disasters; maintains continuing liaison with Federal agencies (DOD, OES, etc.) and with private organizations (American National Red Cross, Salvation Army and other Department Directors, etc.) which have non-military defense assignments or interests; facilitates the day-to-day working relationships of HSW operating units with these agencies.


3. Keeps the Secretary and senior staff of the Department informed of major government-wide developments in readiness planning and of progress in developing and maintaining HSW readiness capability. Recommends additional steps and, when necessary, corrective action; develops and maintains an Executive Order implementing the OS headquarters. Plans and implements a Position Management Program. In classification surveys and daily operations, maintains continued analyses and appraisals of positions to determine the work that is organized and assigned among positions in the most efficient and economical manner to assure the related effective use of manpower resources.

3. Employee Relations Branch plans and administers programs in employee relations for the Office of the Secretary; represents the Division of OS Personnel in all personnel procedures; provides advice and guidance to operating officials and employees on employee benefits and services, grievances and appeals, disciplinary actions, awards, and related matters; represents the Division of OS Personnel to employees in the event of a national emergency; coordinates the Health Unit for program coordination; publishes employee newspaper.

4. Employee Training Branch designs programs that provide career training to all OS clerical, professional, management and high-level staff personnel; determines total OS training needs and develops annual training plan to service those needs; investigates feasibility of creating new types of training, as needed, and works with operating officials in planning and implementing training; presents full range of clerical, professional and management training opportunities to employee force to meet present and anticipated career; evaluates, revises and expands curriculum programs.

5. Employee Development Center is responsible for planning and administering the Office of the Secretary Upward Mobility Program in the areas of Job Reassignment and Transfer, Employee Counseling, Employee Training and Career Development.
6. Labor Relations Branch plans and administers programs in labor relations for the Office of the Secretary; conduct negotiations with employee organizations; provides advice and guidance to operating officials in dispute resolution and other labor relations functions.

E. Data Management Center. The Data Management Center provides for the Department upon request computer systems design, programming, and data processing services; operates an operational integrated data base to meet reporting requirements and maintenance of consolidated financial and related statistical reporting services. Department-wide on a fee-for-service basis. Its specific components and functions are:

1. Advanced Systems Research and Development Group analyzes new developments in the computer industry and designs and implements computer programs and information systems. Provides access to a comprehensive integrated financial data base to meet the Department's reporting requirements in the financial and related statistical reporting services. Establishes uniform data element classifications, terminologies and recommends policies to be used Department-wide in statistical and financial applications. establishes and directs implementation of a Department "Grant-in-Aid" Reporting System for Consolidated Activities of all operating agencies. Develops and implements a computerized data base to support services for submission, monitoring and display systems for management and statistical information and reports.

2. Management Information Systems Group develops, implements, and maintains Department-wide data processing systems. Provides access to comprehensive integrated financial data base to meet the Department's reporting requirements in the financial and related statistical reporting services. Establishes uniform data element classifications, terminologies and recommends policies to be used Department-wide in statistical and financial applications. establishes and directs implementation of a Department "Grant-in-Aid" Reporting System for Consolidated Activities of all operating agencies. Develops and implements a computerized data base to support services for submission, monitoring and display systems for management and statistical information and reports.

3. The Division of Data Processing acquires, organizes, and operates ADP equipment; develops and maintains teleprocessing support systems; provides support services for submission, monitoring, and quality control of recurring production programs; maintains computer output-out-put microfilm (COM) services, including processing, duplicating and editing; prepares proposals and monitors contracts for keypunching and machine services; develops an ADP technical library for computer center users.

4. The Division of Systems Planning analyzes, designs, and maintains automated data processing systems; provides programming services; prepares proposals and monitors contracts for systems analysis, design, and programming; implements policies and procedures related to systems analysis and programming operations.

F. Administrative Staff. The Administrative Staff assists the Director in the management of the Office by formulating recommendations for plans and policies related to administrative and fiscal activities and procedures. Its principal functions are:

1. Prepares internal manuals and directives as necessary; coordinates requests for personnel actions with the Division of Administration and other agencies; provides reviews of organizations, functions, and delegations of authority; conducts analyses of operations and management practices and procedures; develops and maintains the "OPMS" (Office of Personnel Management System) Utilization Program; prepares reports pertinent to the Office of Administration participation in the DHEW Management Assignment Program; develops personnel utilization standards and guidelines for management review of effectiveness of the Office of Administration operations.

2. Formulates budget estimates and oversees the preparation of the operating budget; is responsible for the effective execution of the budget; maintains or keeps in touch with those who maintain funds control and coordination of accounting and reporting; coordinates the budgetary policies and procedures with the Working Capital Fund in cooperation with the Assistant Controller; produces statistics to review management's post relative to budgetary policies adherence and budget pattern rules; maintains position control data; and develops and publishes periodic status of funds reports for organizational units and top management.

3. The Division of Systems Planning provides a liaison role for activities within OS involving the establishment and maintenance of a positive program of activities related to the status of women in the Office of the Secretary. Its major functions are:

1. Develops recommendations of policies and provides direction and guidance on activities related to the status of women employed by the Office of the Secretary.

2. Coordinates and issues guidelines providing technical advice in ensuring understanding and positive attitudes toward equal employment opportunities for women to OS managers and employees.

3. Coordinates and develops a liaison role for activities within OS involving the establishment and maintenance of a positive program of activities related to the status of women in the Office of the Secretary.

4. Analyzes the employment status of women in OS, and prepares reports evaluating the effectiveness of the OS Federal Women's Program, identifying problems, and recommending alternatives.

5. Is functionally accountable to the Director of the Federal Women's Program through the Department-level EEO staff.

I. OS Spanish-Speaking Program Staff. As a component of the total EEO program, the OS Spanish-Speaking Program staff performs a liaison and advocate role for activities within OS related to the recruitment of Spanish-Speaking employees and the establishment and maintenance of a positive program of activities in the Office of the Secretary.

More specifically:

1. Advises OS managers in implementing the Spanish-Speaking Program, providing guidance in recruitment, training, upward mobility and career counseling.

2. Maintains effective liaison with other HEW Spanish-Speaking Program Coordinators with Spanish-Speaking organizations, both Federal and private, for interchange of information related to agency needs, job opportunities, goals, and objectives of the Spanish-Speaking Program.

3. Counsels Spanish-Speaking employees in all areas related to their employment and represents the OS at meetings affecting Spanish employees. Acts as advisor on the Spanish-Speaking Program to the OS EEO Officer.

4. Develops and implements OS policy related to the recruitment, employment, upward mobility, and training of the Spanish-speaking and Spanish-surnamed employees.

5. Is functionally accountable to the Director of HEW Spanish-Surnamed Program through the Department-level EEO staff.


John Ottina, Assistant Secretary for Administration and Management.
OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

Statement of Organization, Functions, and Delegations of Authority

Part I of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare is amended to revise Section 1T Office of the Assistant Secretary for Administration and Management (38 FR 17521, July 2, 1973, as amended). The changes are intended to streamline the Immediate Office, reduce the number of officials reporting directly to the Assistant Secretary, and more effectively distribute certain activities of the Office of Administration. The revised Section 1T is as follows:

Sec. 1T.00 Mission. The Office of the Assistant Secretary for Administration and Management exercises the authority of the Secretary for the administrative and management functions (exclusive of financial management) of the Department. The Assistant Secretary for Administration and Management, as appropriate, serves as the principal advisor to the Secretary on matters of administrative management.

Sec. 1T.10 Organization. A. The Assistant Secretary for Administration and Management reports to the Secretary and supervises the following Offices:

Executive Staff.
Offices of Equal Employment Opportunity: REW Federal Women's Program Staff; REW Equal Employment Opportunity Staff; REW Spanish Speaking Program Staff.
Office of Management Planning and Technology.
Office of Administration.
Office of Personnel and Training.
Office of Facilities Engineering and Property Management.
Office of Grants and Procurement Management.
Office of Investigations and Security.

B. During the absence or inability of the Assistant Secretary for Administration and Management or in the event of a vacancy in that Office, the Deputy Assistant Secretary for Management Planning and Technology serves as Acting Assistant Secretary for Administration and Management. During the absence of both the Assistant Secretary and the aforementioned Deputy or in the event of vacancies in both Offices, one of the office heads, properly designated, will serve as Acting Assistant Secretary for Administration and Management.

Sec. 1T.20 Functions. The Office of the Assistant Secretary for Administration and Management performs for the Secretary the administrative management functions (exclusive of financial management) of the Department. In carrying out these responsibilities, the Office of the Assistant Secretary for Administration and Management performs the following functions:

A. The Executive Staff serves as the principal advisor to the Assistant Secretary in matters relating to his office, such as personnel, budget, correspondence and facilities; interfaces as directed with other elements of the Department; advises on matters of concern; and performs special assignments as requested.

B. The Offices of Equal Employment Opportunity serve as the principal advisors on matters relating to the status and treatment of Federal employees, including: the organization, and the management policies, procedures, and systems of the Department; contribute to the effective and efficient achievement of the Department's goals; develop policies and procedures, and establishes a process for effecting compliance with the National Environmental Policy Act of 1969; coordinates international activities of agencies and programs; and coordinates Department activities related to Fair Information Practice.

C. The Office of Management Planning and Technology serves as the Secretary's central office on planning, including: formulates and plans broad programs under which the personnel and training functions will be carried out throughout the Department; maintains comprehensive personnel policies and programs; and represents the Department on personnel and training matters with the Civil Service Commission, other Federal agencies, the Congress, and the public. Provides Department-wide central payroll services.

D. The Office of Facilities Engineering and Property Management provides architectural/engineering policy direction to the Office of Administration and manages the architectural/engineering program for the Department of Health, Education, and Welfare. Contracts for architectural and engineering services for the Department of Defense may be necessary in connection with the assignment, disposal, and utilization of surplus property; and provides Department-wide central payroll services.

E. The Office of Grants and Procurement Management provides department-wide central payroll services.

F. The Office of Facilities Engineering and Property Management provides architectural/engineering policy direction to the Office of Administration and manages the architectural/engineering program for the Department of Health, Education, and Welfare. Contracts for architectural and engineering services for the Department of Defense may be necessary in connection with the assignment, disposal, and utilization of surplus property; and provides Department-wide central payroll services.

G. The Office of Grants and Procurement Management provides staff support and technical assistance to the Office of the Secretary and manages the procurement, technical assistance, and grants functions of the Department; conducts comprehensive evaluations of all departmental procurements, technical assistance, and grants activities.

H. The Office of Investigations and Security serves as the Secretary's staff to conduct investigations and surveys and to ensure compliance with established requirements for management of programs and utilization of Federal assistance funds provided by the Department in accordance with applicable laws and regulations, and ensures that the security program provides for the internal security of the Department. (Sub-elements of the above-listed units are specified in subsections.)

Sec. 1T.30 Delegations of Authority. A. Except as specifically reserved to the Secretary or delegated or assigned to other officials of the Department not under the supervision of the Assistant Secretary for Administration and Management, the Assistant Secretary for Administration and Management is authorized to perform all administrative and management functions of the Secretary excluding financial management functions. In exercising this authority, the Assistant Secretary for Administration and Management may delegate any portion thereof and authorize further delegations.

B. The Assistant Secretary for Administration and Management is authorized to exercise the authority of the Secretary under 21 U.S.C. 3565 relating to directing the use of the Department seal.

The Office of the Assistant Secretary for Administration and Management.

Chapter 1T40 of Part I of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Office of the Secretary, Office of the Assistant Secretary for Administration and Management, is amended to reflect the addition of the Printing and Publications Management Staff and the Media Management Information Systems Staff to the Office of Management Planning, and the addition, as separate offices of the Office of International Affairs Management, the Office of Environmental Affairs, and the Fair Information Practice Staff. The amended statement reads as follows:

OFFICE OF MANAGEMENT PLANNING AND TECHNOLOGY

Statement of Organization, Functions, and Delegations of Authority

Chapter 1T40 of Part I of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Office of the Secretary, Office of the Assistant Secretary for Administration and Management, is amended to reflect the addition of the Printing and Publications Management Staff and the Media Management Information Systems Staff to the Office of Management Planning, and the addition, as separate offices of the Office of International Affairs Management, the Office of Environmental Affairs, and the Fair Information Practice Staff. The amended statement reads as follows:
NOTICES

SEC. 1T40.00 Mission. Under the direction of the Assistant Secretary for Administration, Management, and Technology, the Office of Management Planning and Technology serves as the Secretary's principal staff to ensure that the organization, management policies, procedures, and systems of the Department contribute to the efficient and effective achievement of the Department's goals. Specifically, the objectives of the organization are:
A. Provide the Department with a center for (a) the development of innovative and realistic management concepts (b) the development of measures to place the concepts into effect, (c) the technical expertise to implement the measures and to monitor their results, and (d) the determination of how successful the implemented measures are accomplishing the Department's goals.
B. Ensure the accountability of line and staff offices to the Secretary whereby individuals responsible for certain accomplishments are evaluated on their performance vis-a-vis their stated objectives.
C. Institutionalize good management principles (for example, management-by-objectives and the effective use of management information systems) in order that the principal operating components and OS offices can better accomplish their objectives.
D. Provide the Secretary and Under Secretary with means of effecting management control over the Department, enabling them to decentralize decisionmaking to the lowest practical levels of organization.
E. Recommend to the Secretary action for rationalizing the missions and functions and improving the organization of the headquarters regional and field offices.
F. Provide the Secretary with management information which enables him and his staff to ensure control over the Department and to take corrective actions before anticipated problems become actual or minor problems become major and demand overall management information system.
G. Identify organizational impediments to achieving the Department's objectives.
H. Provide for and control a clear distribution of authority throughout the Department and a comprehensive and integrated organizational manual which specifies this distribution.
I. Evaluate the management effectiveness of the principal operating components and offices of the Department in accordance with directives of the Office of Management and Budget and the Secretary's directions.

SEC. 1T40.10 Organization.—The Office of Management Planning and Technology is under the direction of the Deputy Assistant Secretary for Management Planning and Technology and consists of the following elements:

Office of the Director.
Division of Management Policy and Directives.
Office of Program Planning.
Division of Program Management Analysis.
Division of Organizational Analysis.
Division of Management Improvement.

Division of Management Policy and Directives.
Office of Environmental Affairs.
Office of International Affairs Management.
Office of Management and Budget.
Division of Management Sciences.
Division of Management Information Systems.
Division of Management Planning.
Division of Management Technology.
Division of Management Information Systems.
Division of Management Sciences.
Division of ADP and Telecommunications Resources.
Office of International Affairs Management.
Office of Environmental Affairs.
Corporation for Management Evaluation Teams.
Fair Information Practice Staff.

SEC. 1T40.20 Functions.—A. Office of the Director. 1. Directs and coordinates the activities of the Office of Management Planning and Technology.
2. Through the management and staff offices of ad hoc Management Evaluation Teams, optimizes the use of analytical staffs to accomplish complex, priority assignments and studies.

B. Office of Management Planning.
1. Serves as the principal element of the office with respect to: organizational planning, review, approval, and documentation; management development; industrial management techniques applicable to public sector; principal operating component management improvement program; and principal operating component staffing standards program. With respect to the foregoing: (a) develops and recommends Departmental policies, standards, systems, procedures, and program plans; (b) provides technical assistance to principal operating components in planning, executing, and evaluating principal operating component performance; (c) identifies problems and develops solutions relating to all phases of principal operating component management and operations.
2. Conducts special studies to: (a) resolve specific management problems and (b) identify problems and develop solutions relating to all phases of principal operating component management and operations.
3. Develops solutions to management problems using the systems approach to principal operating component management, including the use of various analytical and management techniques for problem solving and decision making.
4. Conducts technical studies using industrial, management engineering practices, operations research analyses, mathematical techniques, scheduling and control systems such as PERT, Critical Path Method, and other program control and evaluation techniques.
5. Using approved work measurement methods and staffing standards, or in the absence thereof, after developing necessary methods and standards, conducts studies to validate existing staffing standards and their relationships to manpower productivity and program output.
6. Develops and administers the principal operating component system for approval and documentation of organizational changes, function assignments, delegations of authority, and creation and dissolution of committees.
7. Develops, recommends, and evaluates principal operating component policies, standards, systems, procedures, and program plans with respect to principal operating component directives, records, reports, and other paperwork management programs.
8. Works closely with the Office of Management Technology staff to apply latest technological development to Department and principal operating component problems and programs involving records systems, file equipment and supplies, records and forms (including design, storage, and disposal), directives, correspondence, and staff manual distribution programs.
9. Publishes reports and forms catalogs, directives, and other similar reference documents.
10. Reviews and coordinates all public reporting and record keeping requirements with the Office of Management and Budget and other Government agencies under the provisions of 44 U.S.C. 3501 et seq.
11. Manages the DHEW directives system. Provides guidance to directives management officers, maintains classification and controls of DHEW directives and the master reference file.
12. Develops and promulgates plans, policies, and procedures in the management of Departmental and Publications Management Program encompassing all principal operating components and regions.
13. Advises top Departmental management on matters pertaining to management and direction of the Department's printing and publications program and provides leadership and direction to the principal operating component in planning, executing, and evaluating printing and reprographics programs.
14. Provides liaison for the Department with the Congressional Joint Committee on Printing, Government Printing Office, and other Government agencies, and private industry on printing and publications management matters.
15. Provides staff and technical assistance and policy direction in the analysis, design, development and operation of media information and communications management systems within the Office of the Secretary; coordinates and assists in the establishment of or in planning, executing, and evaluating such systems in a networking arrangement pertaining to HEW principal operating components and regions. When mutually beneficial, maintains coordination and liaison with other Federal agencies in the development and participation in interactive systems and networking proposals for Media Management Information Systems purposes.

Office of Management Technology.
1. Provides leadership, policy direction, and technical assistance in evaluating and applying management science to Departmental operations and evaluat-
2. Develops and enforces policies and standards for information systems throughout the Department.
3. Determines and enforces mathematical and statistical policies and standards for the Department.
4. Develops systems to ensure accountability measurement of Department managers.
5. Develops ADP and telecommunications policies, standards, systems, and procedures.

6. Develops long-range plans for future automatic data processing and Departmental telecommunications systems and resources.

7. Reviews existing ADP and Departmental telecommunications systems for performance against approved plans and for conformity with policy and standards.

8. Provides Departmental leadership to improve management evaluation and methodology by use of technological improvements.

9. Formulates specifications for equipment and resources against required performance.

10. Coordinates the integration of program and management data needs and automatic data processing systems across functional and organizational lines.

11. Coordinates ADP resource requirements with available or proposed funding and establishes priorities.

12. Develops measures of current program and management data needs and automatic data processing systems across functional and organizational lines.

13. Develops methodology based on the views of the International Affairs Management and the Assistant Secretary for Administration and Management for policy development and management aspects of the Department's international affairs and commitments. Maintains an overview of the international activities of the various principal operating components of the Department to ensure that these activities conform with overall Department policy. Represents the Department in discussions of international policy matters with representatives of executive departments and agencies, international organizations, and the private sector. At the request of the State Department, coordinates the nomination of Departmental personnel and public members to serve on official U.S. delegations or as participants in international conferences. Also facilitates nominations of candidates from the public and private sectors when required or desirable for positions with international agencies.

1. Provides a policy and program management overview to principal operating components of the Department concerning DHEW's international activities.

2. Provides a focus within the Department for cross-cutting international problems and considerations and a contact point for those outside the Department seeking information and cooperation on international matters.

3. Reviews proposed agency program and budget submissions to identify potential duplications of effort or conflict in international matters and most importantly, to foster the maximum use of projects and resulting information and data by all elements of the Department, as appropriate.

4. Represents the Department, when appropriate, in discussions of international policy matters with representatives of executive departments and agencies, international organizations, and the private sector. Reviews all formal agreements with other departments and agencies involving Department participation in international programs.

5. Coordinates the preparation of position papers and other materials by the principal operating components for inclusion in Department documentation at intergovernmental international organization meetings, conferences, and assemblies, and, as appropriate, drafts DHEW coordinated position papers.

6. Represents the Department, when appropriate, in discussions of international policy matters with representatives of executive departments and agencies, international organizations, and the private sector. Reviews all formal agreements with other departments and agencies involving Department participation in international programs.

7. Coordinates the preparation of position papers and other materials by the principal operating components for inclusion in Department documentation at intergovernmental international organization meetings, conferences, and assemblies, and, as appropriate, drafts DHEW coordinated position papers.

8. Coordinates the Department's participation in, and recommends courses of action with respect to, the activities of governmental and non-governmental international organizations. At the request of the Secretary, coordinates the nomination of Departmental personnel and public members to serve on official U.S. delegations or as participants in international conferences. Also facilitates nominations of candidates from the public and private sectors when required or desirable for positions with international agencies.

9. Provides the Secretary with a quick response capability for issues regarding management problems or issues where rapid action is necessary.

10. Provides leadership and direction to the Department's Fair Information Practice Program.

11. Develops Departmental policy regarding fair information practices, regulations, and implementation plans.

12. Provides DHEW's progress in all aspects of fair information practice and prepares reports and analyses.

13. Reviews and develops Department positions on all proposed legislation and regulations for conformance with sound fair information practice.

14. Provides technical assistance and advice concerning fair information practice to all principal operating components and OS offices and acts as staff to the Secretary for his Domestic Council Committee on the Right of Privacy responsibilities.

15. Plans for and monitors the implementation of fair information practice legislation such as the Family Educational Rights and Privacy Act of 1974.


JOHN O'TOOLE,
Assistant Secretary for Administration and Management.

[FR Doc. 75-6453 Filed 3-11-75; 8:45 am]

NOTICES

FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975

11625
OFFICE OF FACILITIES ENGINEERING AND PROPERTY MANAGEMENT

Statement of Organization, Functions, and Delegations of Authority

Part I of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare is amended to modify section 1T80, Office of Facilities Engineering and Property Management, OFEPFM (38 FR 3511, February 15, 1973, and 38 FR 3496, June 22, 1973, as amended). A new Office of Safety Management has been established. This was accomplished by transferring the functions and staff of the former Division of Safety Management from the Office of Administration, Assistant Secretary for Administration and Management, to OFEPFM. The functional statement of OFEPFM is modified as follows to reflect this change.

Add at the end of section 1T80.00 Mission a new statement: “...and provide Department-wide leadership in safety management...”

Add to section 1T80.10 Organization a new Office of Safety Management.

Add to section 1T80.20 Functions a new item as follows:

Office of Safety Management. The Office of Safety Management is responsible for the establishment and management of a comprehensive Department-wide Safety and Health Program which will provide a safe and healthful work environment for employees and the public served, and minimize losses as they relate to human resources, property, equipment, and material. This program encompasses the requirements of section 7902 of Title 5 of the U.S. Code and section 19(a) of the Occupational Safety and Health Act as implemented by Executive Order 11707 and Safety and Health Provisions for Federal Employees, Title 29, CFR, Part 1600. Specifically, the Office shall be responsible for:

1. Developing and promulgating plans, policies, and procedures in the management of the Department-wide Safety Program encompassing all agencies and regions.

2. Advising top management of the Department with respect to all matters pertaining to the Department-wide Safety and Health Program and providing technical assistance to the operating agencies, regional offices, and field installations in all areas of safety management.

3. Developing, coordinating and/or promulgating safety and health standards.

4. Conducting safety management surveys and evaluations to determine program implementation and management effectiveness.

5. Preparing and/or coordinating the Department’s position on proposed legislation, standards, and regulations relating to safety management.

6. Planning and administering a safety management information system.

7. Developing, coordinating, and monitoring safety education, training, and promotion activities throughout the Department.

8. Coordinating and monitoring research for development of new loss control methods and concepts.


10. Providing Department liaison with the National Safety Council, National Transportation Safety Board, and other outside organizations.


J O H N O T T I N A,
Assistant Secretary for Administration and Management.

[FR Doc. 75-4645 Filed 3-11-75; 8:45 am]

OFFICE OF PERSONNEL AND TRAINING

Statement of Organization, Functions, and Delegations of Authority

Part I of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is amended, to reflect the changes detailed herein. The changes are occasioned by the transfer to the OPT of the Personnel-Payroll Systems Integration Staff and the Division of Central Payroll. That part of Section 1T80 Office of Administration (38 FR 34753, December 18, 1973). The changes are occasioned by the transfer to the OPT of the Personnel-Payroll Systems Integration Staff and the Division of Central Payroll. That part of Section 1T80 Office of Administration (38 FR 34753, December 18, 1973) are superseded by the changes detailed herein. The changes are as follows:

Add to Section 1T80.00 Mission a new item as follows:

The Office of Personnel and Training serves as the Secretary’s staff for promoting effective personnel management and personnel administration in the Department. The OPT provides Department-wide leadership in the area of central payroll. The Office (1) advises and acts for the Secretary on personnel management and training matters affecting HEW employees; (2) formulates policies and plans broad programs under which the personnel and training functions will be carried out throughout the Department; (3) maintains cognizance of such policies and programs; and (4) represents the Department on personnel and training matters with the Congress, and other Federal agencies.

Add to Section 1T80.20 Functions a new paragraph 6 as follows:

6. Personnel-Payroll Systems Integration Staff. The Personnel-Payroll Systems Integration Staff is a special staff which has been established to (1) expand the OPT terminal system to capture the full range of field input for the DHEW Payroll, Personnel and Agency systems; (2) coordinate and implement as required, modifications to the Payroll or Personnel Systems generated by the terminal expansion; (3) ensure the terminal system provides direct communication with the central DHEW computer; (4) eventually assume full responsibility for terminal operation; (5) improve the performance and quality of both the Payroll and Personnel systems through eventual integration and reduction in data redundancy; and (6) define and implement the working environment and purposes of the system for Personnel offices using the expanded terminal system.

Renumber Section 1T90.20 Functions as follows:

Change numbers 6, 7, and 8 to numbers 7, 8, and 9 respectively.

Add to Section 1T90.20 Functions number 10 as follows:

10. Responsibilities of Central Payroll. The Division of Central Payroll provides a centralized payroll Department-wide, including active and retired Commissioned Officers, produces accounting reports data, provides internal controls for the Personnel Data System and reports to other Government agencies covering retirement and unemployment compensation. Functions inherent in this division are as follows:

1. Microfilms and controls all payroll source documents and their processing: responsible for mailing services.

2. Maintains all adjustments of salary and update history portions of the master record file, processes time and attendance reports and integrates the system data to the time and leave programs.

3. Responsible for the payment of active and retired Commissioned Officers, and the operation of a completely separate payroll system.

4. Establishes and maintains effective line of communication with agency liaison officers, timekeepers, financial and personnel officials to promote a more efficient payroll system.

Add to Section 1T90.10 Organization two new statements as follows:

The Office of Personnel and Training serves as the Secretary’s staff for promoting effective personnel management and personnel administration in the Department. The Office of Personnel and Training are as follows:

Executive Office.

Labor Relations Staff.

Upward Mobility Staff.

HEW Fellows Staff.

Personnel Assistance and Evaluation Staff.

Personnel-Payroll Systems Integration Staff.

Office of Personnel Management Information Systems.

Office of Executive Manpower and Career Development.

Office of Personnel Policy and Planning.

Division of Central Payroll.


J O H N O T T I N A,
Assistant Secretary for Administration and Management.

[FR Doc. 75-4645 Filed 3-11-75; 8:45 am]

FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975
Office of Education

BILINGUAL EDUCATION

Closing Date for Receipt of Applications

The Commissioner of Education hereby gives notice that pursuant to the authority contained in the Bilingual Education Act as amended (Title VII of the Elementary and Secondary Education Act of 1965, as amended by section 103 of the Education Amendments of 1974, Pub. L. 93-388, 84 Stat. 151, 20 U.S.C. 8800), applications for assistance are being accepted from local educational agencies, institutions of higher education, in combination with such agencies, and certain organizations of Indian tribes which operate schools for Indian children. Funds are available for grants to new applicants and renewals for the continuation of assistance under the Bilingual Education Act as amended. This notice covers the provision of assistance under the Act for the current fiscal year, except for the purposes of fellowships for persons preparing to become trainers of bilingual education teachers which will be the subject of a separate notice.

Applications must be received by the U.S. Office of Education Application Control Center on or before April 15, 1975. 

A. Applications sent by mail. An application sent by mail should be addressed as follows: U.S. Office of Education, Region 5, Bureau of School Systems, 400 Maryland Avenue, SW, Washington, D.C. 20202. Attention: 13.403. An application sent by mail will be considered to be received on time by the Application Control Center if:

1. The application was sent by registered or certified mail not later than April 10, 1975, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

2. The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education Application mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamps on the mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education).

B. Hand delivered applications. An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW, Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. Program Information and forms. Information and application forms may be obtained from the Division of Bilingual Education, Bureau of School Systems, Office of Education, Room 3000, 7th and D Streets SW, Washington, D.C. 20202.

D. Applicable regulations. The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a). Amendments to the regulations for Bilingual Education Programs (45 CFR Part 129), are published as a Notice of Proposed Rule Making in this issue of the Federal Register. Substantial changes in the current regulations in Part 123 with respect to conditions regarding awards of assistance; activities which may be assisted, priorities and criteria governing award decisions, post award requirements and other relevant matters are proposed in such notice.

Part 123, as altered by such amendments as republished in final form, will govern the operation of the program. (20 U.S.C. 8800)

(Catalog of Federal Domestic Assistance Number 13.510: Bilingual Education) 

Dated: March 5, 1975.

T. H. Bell,
U.S. Commissioner of Education.

[FR Doc. 75-6288 Filed 3-11-75; 8:45 am]

Food and Drug Administration

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 432983) has been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that 21 CFR 121.266(e) be amended to provide for the safe use of octadecyl 3,5-di-ter-butyl-4-hydroxyhydrocinnamate in relation to the antioxidant and/or stabilizers in olefinic basic copolymers complying with §121.266 (e), in contact with food.

The environmental impact analysis report and other relevant material have been made available for public review and comment. Pursuant to the terms of section 409 (b) (5) of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 432983) has been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that 21 CFR 121.266(e) be amended to provide for the safe use of octadecyl 3,5-di-ter-butyl-4-hydroxyhydrocinnamate in relation to the antioxidant and/or stabilizers in olefinic basic copolymers complying with §121.266 (e), in contact with food.

Dated: March 4, 1975.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc. 75-6380 Filed 3-11-75; 8:45 am]

SUBLINGUAL DRUG CONTAINING HYDROGENATED EROT ALKALOIDS

Follow-up Notice and Notice of Opportunity for Hearing; Correction

In FR Doc. 74-17886, appearing at page 25810 in the Federal Register for Tuesday, August 6, 1974, in the third column, the second sentence of the "INDICATIONS" section in paragraph B. 2. b. is corrected to read as follows: "Short term clinical studies have demonstrated modest improvement in levels of performance of self care and such symptoms as mood, depression, confusion, unsociability, and dizziness."

Dated: March 4, 1975.

J. Richard Crouse, Director, Bureau of Drugs.

DEPARTMENT OF TRANSPORTATION

Coast Guard

[75 079]

COAST GUARD ACADEMY ADVISORY COMMITTEE

Open Meeting

This is to give notice pursuant to Pub. L. 92-463, sec. 10(a), approved October 6, 1973, that the Coast Guard Academy Advisory Committee will hold their Spring Meeting at the U.S. Coast Guard Academy on 7-9 April 1975.

Members of the Committee and their positions are:

RADM William A. Brockett, USN (Ret).
Mr. James J. Henry, President, J. J. Henry Company, Inc.
Mr. Melvin R. Lohmann, Dean, College of Engineering, Oklahoma State University.
Mr. Luna I. Mishoe, President, Delaware State College.
Mr. James M. Palmer, President, Metropolitan State College.
RADM W. A. Jenkins, USCG, Executive Director, Superintendent, U.S. Coast Guard Academy.

Agenda items to be discussed at the various sessions are:

a. Review of Fall 1974 Advisory Committee recommendations.
b. Academic Program.
c. New England Association of Schools and Colleges accreditation and conditions.
d. Review of ECPCD accreditation and conditions.
e. Faculty (balance; quality; professional growth).
f. Rehabilitation and growth of McAllister Hall.
g. Communications.
h. General discussion with the Academic Council.
i. Programs, Personnel and Physical Plant.

The Coast Guard Academy Advisory Committee was established by Commandant, U.S. Coast Guard on April 16, 1937, to advise on the status of the curriculum and faculty of the Academy and to make recommendations as necessary. Public members of the Committee serve voluntarily with compensation for their travel and per diem. Interested persons may...
seek additional information by writing Commandant (G-PTE), U.S. Coast Guard, Washington, D.C. 20590 or by calling 202-426-1381.

Dated: March 6, 1975.

Hazardous Materials Regulations Board

SPECIAL PERMITS ISSUED

Pursuant to Docket No. HM-1, Rulemaking procedures of the Hazardous Materials Regulations Board, issued May 22, 1974 (39 FR 1777) 49 CFR 170, following is a list of new DOT Special Permits upon which Board action was completed during February 1975.

<table>
<thead>
<tr>
<th>Special permit No.</th>
<th>Issued to—Subject</th>
<th>Mode or means of transportation</th>
</tr>
</thead>
<tbody>
<tr>
<td>SP 6963</td>
<td>Ria Tide Delaware, Inc., Wilmington, Delaware, to ship Anhydrous hydrogen fluoride solid in a non-DOT specification tank truck complying with 180 standard delivery tank trucks</td>
<td>Cargo vessel, Motor vehicle</td>
</tr>
<tr>
<td>SP 6964</td>
<td>Union Carbide Corporation, Round Brook, N.J., to ship a class II poisonous solid in non-DOT Specification multi-wall reinforced bags, fabricated of polyethylene, having a volumetric capacity of approximately 20 cubic feet of contained load.</td>
<td>Cargo vessel, Motor vehicle</td>
</tr>
<tr>
<td>SP 6965</td>
<td>Thiokol Chemical Corp., Wasatch Division, Brigham City, Utah, to ship performic acid in non-DOT Specification flammable, nonflammable packaging material.</td>
<td>Cargo vessel, Motor vehicle</td>
</tr>
<tr>
<td>SP 6966</td>
<td>F. S. du Pont de Nemours &amp; Co., Inc., Wilmington, Delaware, to ship Nitrogen, wet in a 150 cubic foot capacity dewar drum complying with DOT Specification 6DM for making liquid nitrogen for use as an integral part of a transport incubator.</td>
<td>Cargo vessel, Motor vehicle</td>
</tr>
<tr>
<td>SP 6967</td>
<td>Department of Health and Social Services, State of Alaska, Juneau, Alaska, to ship, via passenger-carrying aircraft, Oxygen in a DOT 3AA cylinder integral to a transport incubator.</td>
<td>Cargo vessel, Motor vehicle</td>
</tr>
<tr>
<td>SP 6968</td>
<td>Phoenix Products, Inc., Santa Fe Springs, Calif., to ship Hexamethylendiisocyanate, solid, in a non-DOT Specification 31D 1/2 fiber drum overpacked in plywood pallet boxes.</td>
<td>Cargo vessel, Motor vehicle</td>
</tr>
<tr>
<td>SP 6969</td>
<td>Chem Service, Inc., West Chester, Pa., to ship Carcinogenic materials and certain other hazardous materials in inside steel boxes or cases overpacked in a strong outer cardboard or fiber board container.</td>
<td>Cargo vessel, Motor vehicle</td>
</tr>
<tr>
<td>SP 6970</td>
<td>Dow Chemical Company, Midland, Michigan, to ship various hazardous materials in DOT Specification 243 fiber drums bonded with hot asphalt adhesive.</td>
<td>Cargo vessel, Motor vehicle</td>
</tr>
<tr>
<td>SP 6971</td>
<td>Tareo, Inc., Chatsworth, Calif., to ship Ozone in steel cylinders made in compliance with DOT Specification 36 with certain exceptions.</td>
<td>Cargo vessel, Motor vehicle</td>
</tr>
<tr>
<td>SP 6972</td>
<td>E. I. du Pont de Nemours &amp; Co., Wilmington, Delaware, to ship Anhydrous hydrofluoric acid in a non-DOT Specification portable tank complying with ISO 1116, and fabricated of strong outside wooden or fiberboard packagings described as “Chemical Aircraft, Motor vehicle, Rail freight.”</td>
<td>Cargo-only aircraft, Motor vehicle, Railway freight</td>
</tr>
<tr>
<td>SP 6973</td>
<td>Allied Chemical Corp., Morristown, N.J., to ship limited shipments of a Class B poisonous gas in a DOT Specification 21C250 fiber drum except it is less than prescribed.</td>
<td>Cargo vessel, Motor vehicle</td>
</tr>
</tbody>
</table>

For 1975, Allegheny estimates a system operating profit of $11,177,000 as a result of a $16,401,000 operating profit forecast for ineligible operations combined with an expected operating loss of $3,284,000 from eligible services. After application of standard subsidy rates, net losses totaling $3,062,000, Allegheny forecasts a system operating profit of $14,179,000. The carrier also forecasts an overall system investment of $223,520,000 which was reduced to $181,960,000 after subsidy adjustments.

Allegheny attributes a significant portion of the estimated increase in the cost of operation to higher expenses for fuel and labor. For example, Allegheny estimates that a new contract to replace an agreement with a major fuel supplier which expired on January 1, 1975, will add $9.2 million to its costs for the year at the projected level of service. Labor costs are anticipated to increase approximately 4.5% in 1975 based on commitments to its organized employees. On the revenue side, full recognition was given in the estimates to the latest 4% fare increase approved by the Board effective November 15, 1974. However, the carrier did not attempt to forecast the impact of the Board’s decisions in Phases 4 and 9 of the Domestic Passengers-Fare Investigation (DPFI).

Although Allegheny claims that it is taking all prudent steps to minimize its need for subsidy, the carrier states that anticipated 1976 operating results represent a significant decline from the profit

ALAN I. ROBERTS, Secretary

CIVIL AERONAUTICS BOARD

[Order 75-3-15: Dockets Nos. 27368 and 25669]

ALLEGHENY AIRLINES INC.

Investigation of the Local Service Class Subsidy Rate

Adopted by the Civil Aeronautics Board at its 46th meeting, Washington, D.C., on the 6th day of March, 1975.

In the matter of petition of Allegheny Airlines, Inc. for establishment of subsidy mail rates pursuant to section 406 of the Federal Aviation Act of 1958, as amended.

By petition filed January 3, 1975, Allegheny Airlines, Inc. has requested the Board to establish a final subsidy rate of $4 million for the transportation of mail over its entire service for the annual period commencing January 3, 1975.

In support of its petition, Allegheny alleges that for the year commencing January 1, 1975, profits from subsidy-ineligible services will decline substantially because of the economic recession and continued inflation in costs, particularly of fuel and labor. This decline in profits from its subsidy-ineligible sector will, according to Allegheny, substantially reduce its ability to offset the losses from eligible operations. While earnings held through the third quarter of 1974, the fourth quarter reflected a significant decline. Net profits in October were only $186,000, and the company reported a loss of $3.6 million in November, which reduced net profits for the twelve months ended November 30, 1974 to $7,286,000. According to the carrier, the downturn in traffic commenced after subsidy rates were accelerated in November, when local traffic declined 9.5% from the level in November 1973.

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1 The Order to Show Cause, Order 74-6-42, adopted on June 7, 1974, which proposed subsidizable rates for Allegheny on and after July 1, 1974, noted that Allegheny’s subsidy-ineligible routes generated operating profits of $264,000 for the year ended March 31, 1974, which more than offset the operating loss on eligible services of $2.1 million. Order 74-7-6, July 17, 1974, made final the proposed subsidy-free rates.
level at the time its subsidy-free mail rate level was established. Allegheny has, however, estimated a return on adjusted investment before subsidy of 7.81% for the year ending December 31, 1975. This figure is less than the 12.50% rate of return recognized for subsidy-eligible services but only slightly less than the 9 percent minimum return recognized for subsidy-eligible services in Class Rate VII. Further, Allegheny has estimated a return on adjusted investment of 16.11% for the year ended September 30, 1974, which is more than seven points higher than the rate now in effect. Furthermore, preliminary reports filed by the carrier indicate a return on adjusted investment of 8.6% for calendar year 1974. These and the projected 7.81% return on investment for 1975 compare very favorably with the recent experience of other air carriers. In fact, a carrier able to achieve such rates of return during a period of recession might be considered fortunate.

The carrier's petition leaves the impression that Allegheny believes that subsidy is intended to guarantee a specific return on investment. There is nothing in either the legislative history of the Civil Aeronautics Act of 1938, on which the Federal Aviation Act of 1958 was based, to reveal any Congressional intent to guarantee a particular rate of profit for each and every year. Instead, the Board has established a policy which views earnings over an extended period of time to determine whether they are reasonable. In so doing, the Board has indicated that there are no guarantees that the rates permitted under fair and reasonable mail rates established pursuant to section 204 of the Act will be reasonable during every particular period of time in which the rates are in effect. In this regard, the Board stated in the Panagra case, at page 562: "The earnings may in a limited period be unreasonably low or unreasonably high; nevertheless, the rates may still be reasonable if the average earnings over a reasonably extended period reaches a fair level." This is consistent with the Court of Appeals decision that "the refusal of the Board to take a keyhole view of a carrier's financial results in many different aspects of rate-making as Allegheny suggests is to do our duty." 3

Although we make no attempt to thoroughly screen all of Allegheny's data, a preliminary analysis indicates that the carrier's forecasts of revenues and expenses are out of line in several important areas. For example, the carrier did not take into account the impact on passenger revenues of the Board's decisions in Phases 4 and 5 of the Domestic Passenger-Fare Investigation. We believe that, if these decisions, taken together, will have a significant favorable impact on Allegheny's revenues.

Also, Allegheny's projections of some expenses—particularly promotion and sales, and general and administrative—appear uncommonly high. Our examination of the carrier's recent experience indicates that the previous year's mail rate was in approximately the same range of the Board's official mail rates, and these particular cost items amounted to more than $2 million.

The carrier also asserts that its passenger and cargo handling costs will increase by four percent in 1975 as a result of seniority increases. In determining future-period mail rates, the Board has in the past disallowed prospective wage and salary increases based upon longevity, although, for past periods, such increases have been recognized. A disallowance of this increase alone would lower Allegheny's estimated traffic servicing expense by $1.3 million for the year ending December 31, 1975.

On the basis of the foregoing, we tentatively find and conclude that, on and after January 3, 1975, the fair and reasonable rates of compensation to be paid to Allegheny are for the transportation of mail over its entire system as constituted on or subsequent to January 3, 1975, the facilities used and useful therefor, and the services connected therewith, and the rates and charges as may be permitted to Allegheny Airlines, Inc., by the Postmaster General in effect on January 3, 1975, or thereafter established by the Board. Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302, it is ordered, That:

1. All interested persons, and particularly Allegheny Airlines, Inc., are directed to show cause why the Board should not adopt the foregoing findings and conclusions and fix, determine, and publish the mail rates specified above.

2. Further procedures herein shall be in accordance with the rules of practice, 14 CFR Part 302. The objection to the rates or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and, if notice is filed, written answers and supporting documents shall be filed within 30 days after the date of service of this order.

3. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days after the date of service of this order, or if any 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 order, and the Board may enter an order incorporating the findings and conclusions proposed herein and fixing and determining the rates herein specified.

4. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable rates herein shall be limited to those specifically raised by the objection and answer filed; and

5. This order shall be served upon Allegheny Airlines, Inc., and the Postmaster General.

This order will be published in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylos,
Acting Secretary.

FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975

NOTICES

1629

Applications for Amendments of Construction Incentive Subsidy Programs

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 6th day of March, 1975.

In the matter of applications of Allegheny Airlines, Inc., Hughes Airwest, Ozark Air Lines, Inc., and Southern Airways, Inc. for amendments of certificates pursuant to Subpart M of the Board's rules of practice.

In reviewing applications which are currently before the Board, it has come to our attention that the exhibit material in the above-referenced Subpart M applications is based on data several years old. In order to process these applications expeditiously and in light of the fact that more recent evidence is desirable. Consequently, we hereby request the above-referenced carriers to submit, within 45 days from the service date of this order, detailed revised exhibits based upon the latest available traffic and cost data. Updated responses, where appropriate, should be filed pursuant to the procedures of Subpart M.

Accordingly, it is ordered, That:

1. Allegheny Airlines, Inc. (Dockets 24088 and 24582), Hughes Airwest (Docket 23483), Ozark Air Lines, Inc. (Docket 24027), and Southern Airways, Inc. (Dockets 24025 and 24778), be and hereby are directed to submit, within 45 days from the service date of this order, detailed revised exhibits based upon the latest available traffic and cost data.

2. Such exhibits shall be filed within 45 days from the service date of this order.

3. Updated responses, where appropriate, shall be filed pursuant to the procedures established for these applications.

FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975

NOTICES

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NOTICES

In the Matter of Liability

AVIATION CONSUMER ACTION PROJECT

Domestic Baggage Liability Rules
Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of March, 1975.

In the matter of petition of aviation consumer action project, for issuance of

ordinance, and delay of passengers' baggage and personal belongings.

This order to show cause deals with the

tariff rules of certificated

government the acceptance of

delay in the delivery of baggage.

Prior to enactment of federal statutes regulating interstate transportation by

carriers, the liability of such

carriers was governed by common-law rules which had been developed to control the superior bargaining position of the carrier. In general, federal common-law rules permitted carriers to limit their liability by contract, subject to judicial review of the limitations. However, under regulatory statutes such as the Federal Aviation Act, a properly filed effective tariff constitutes the exclusive law governing the relationship between the carrier and the user. Thus the doctrine of primary jurisdiction, the courts generally defer to the Board in the determination of the reasonableness of the carriers' tariff rules.

The implication of this is apparent: the Board has a continuing obligation to

review the carriers' tariffs to assure the reasonableness of those rules.

The significant contours of the substantial baggage liability rules which are now on file were shaped in the Baggage Liability Rules Case, decided in 1968. That case put in issue the lawfulness of the then existing rules regarding the amount of liability assumed by the carriers, the handling of unusually valuable items, and the adequacy of notice

to the passenger regarding these rules. The proceeding was confined to interstate air transportation performed by the local service and trunkline carriers within the 48 contiguous states and the District of Columbia. Supplemental carriers, intra-Hawaiian and Alaskan carriers, and a few small passenger carriers were not included.

At the conclusion of that case, the standard limitation of liability on passenger baggage was raised to $500. The limits had ranged from $100 for certain local service carriers to a standard $250 for trunkline operators. Additionally, the Baggage case limited the practice of discarding liability for valuables in two respects: (1) items such as money, jewelry, silverware, etc., were covered up to the standard $500 when checked as baggage; and (2) the carriers were required to accept a declaration of excess value if the passenger retained control of the valuable items. The Board did not at that time find that passenger notice was inadequate, but noted that if it became necessary to adopt specific practices in the future, a rulemaking proceeding could be instituted. Subsequently, the Board did set minimum standards for the provision of notice.

Over eight years have now passed since our last detailed investigation of the carriers' baggage liability rules. During this interval, baggage-related problems have been a recurrent subject of passenger complaints received by the Board. In addition, the Aviation Consumer Action Project (ACAP) has proposed their elimination or modification. In many instances, the rules are clearly unreasonable, we have determined that incentive through proposals which are designed to insure adequate compensation for all damages resulting from failures in the system for handling and safeguarding of passenger baggage. We have no doubt that whatever curable problems exist, the fastest route to their solution is concern for the settling of passenger claims; (3) the need for re emphazized notice provisions; (4) the acquisition of consequential damages from damage computations; and (5) the need for reemphasized notice provisions. ACAP has also raised issues that are already being considered in separate proceedings before the Board, and to this extent the petition will be dismissed.

The proceeding that we are here initiating deals with a large portion of the 3665

problems presented. Specifically, the complaints have been focused within the scope of our actions here involve: (1) the standard $500 limitation on carrier liability; (2) a tariff rules disclosing liability for certain categories of baggage; (3) a carrier the furnishing of passenger baggage lost, damaged, or delayed.

A review of the ACAP petition and the complaint letters received indicates a

number of tariff problems and clearly require review. While specific problems will be dealt with below, passenger dissatisfaction generally appears to stem not only from the actual loss, delay, or damage to baggage, but also from the ambiguity apparent in the rules governing carrier liability, and the level of compensation ultimately received.

The allegations made in the ACAP petition and those contained in the complaint letters received by our staff have served as initial points of reference for review of existing tariff rules. This review has lead us to the conclusion that there is significant room for improvement in the rules which govern baggage acceptance and liability. Where existing rules are clearly unreasonable, we have determined that incentive through proposals which are designed to insure adequate compensation for all damages resulting from failures in the system for handling and safeguarding of passenger baggage. We have no doubt that whatever curable problems exist, the fastest route to their solution is concern for the settling of passenger claims; (3) the need for reemphasized notice provisions; (4) the acquisition of consequential damages from damage computations; and (5) the need for reemphasized notice provisions. ACAP has also raised issues that are already being considered in separate proceedings before the Board, and to this extent the petition will be dismissed.

In the first ten months of 1974, 2,189 complaints were received representing 20 percent of the total. During calendar year 1972, 1,850 complaints, and 18 percent of the total.

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* See ER-691, § 221.176, and subsequent amendments, 36 FR 17098.

Problems associated with baggage handling and claims compensation constitute one of the major sources of complaints received by the Board's Office of the Consumer Advocate. Statistical records of all complaints received show that baggage problems have been a recurring subject of passenger complaints related to baggage, and these complaints represented approximately 15 percent of the total received. The respective figures for 1973 were 8,050 complaints, and 14 percent of the total. In the first ten months of 1974, 2,186 complaints were received representing 29 percent of the total of complaints represented in C.A.B. Press Releases 73-10, 74-8, and 74-256.

As will be seen below, we have also initiated action in certain related areas. In particular, ACAP has raised issues which parallel those under consideration in Docket 24609, Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation, and Docket 26558, In the Matter of Liability Rules of Domestic Certificated Carriers Pursuant to Title 49, Section 403. The proceeding that we are here initiating deals with a large portion of the problems presented. Specifically, the complaints have been focused within the scope of our actions here involve: (1) the standard $500 limitation on carrier liability; (2) a tariff rules disclosing liability for certain categories of baggage; (3) a carrier the furnishing of passenger baggage lost, damaged, or delayed.

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number of tariff problems and clearly require review. While specific problems will be dealt with below, passenger dissatisfaction generally appears to stem not only from the actual loss, delay, or damage to baggage, but also from the ambiguity apparent in the rules governing carrier liability, and the level of compensation ultimately received.
The continued adequacy of the $500 limit

Exercising our responsibility for the review of tariff rules brings into question the validity of the standard $500 limit on ordinary baggage liability. As noted above, this limit was established in the Baggage Liability Rules Case. We held in that case that:

Baggage liability limits should be high enough to cover all but unusual or extraordinary cases. The publishing of baggage liability limits is permitted for the protection of carriers against extraordinary claims.

A review of the evidence of record in that proceeding led the Board to the conclusion that the $500 limit was then necessary to insure coverage of all but unusual cases. The record from which we drew these conclusions was compiled for the most part in early 1965. Given the inflationary trend of consumer prices during the period since the close of that investigation, a serious question is raised concerning capability of a $500 limit to satisfy "all but unusual or extraordinary cases." We are of the opinion that the $500 limit is no longer adequate.

We have also tentatively concluded that a more equitable baggage system may require that the air carriers stipulate to an automatic recovery of specified damages for baggage delay, and a minimum liability for lost baggage. These conclusions are incorporated in an advanced Notice of Proposed Rule Making also issued contemporaneously.

The continued adequacy of the $500 limit

The Carrier Liability Case, supra, at 167.

As indicated by the summary above, we have reached a similar conclusion with regard to the remaining proposals herein, and we would expect any comments filed by the carriers (as affected to address themselves to all proposals which carry the interest of the consumer. This conclusion should be assumed without the necessity of restatement in the remaining discussions.

The exclusion of consequential damages

Under the existing liability limitation rules there is no realistic provision for the payment of what may be termed consequential damages. We believe that the exclusion of this problem indicates that the industry’s failure to provide for such damages is unreasonable per se.

Consequential damages refer to a category of special damages arising out of contract and distinguished from general damages in that they result from unique circumstances which do not adhere to the general mass of contracts of the same character. For the purposes of this proceeding, the term is not nearly so limited. We intend by its use to refer to the variety of expenses and complications that may occur as a result of lost, damaged, or delayed baggage, including those which may be of a special nature. A simple example would suffice to make our intent clear. Suppose a vacationer on a golfing trip checks his golf bag as part of his baggage. Subsequently, the golf bag is lost and the vacationer must rent clubs and golf shoes. In our use of the term, the added expense of renting equipment could give rise to damages that will be a consequence of the airlines’ improper services. While compensation for the value of the bag is already provided, the existing tariff rules do not provide for the additional cost of renting equipment. Similar examples can hardly be readily apparent.

Rule 376, “Limitation of Liability,” is the rule that establishes the standard $500 limitation on liability, is drawn in a manner which effectively precludes the recovery of consequential damages. The rule states in pertinent part that:

The liability, if any, of all participating carriers for the loss of, damage to, or delay in the delivery of any personal property, including baggage * * * shall be limited to an amount equal to the value of such property, which shall not exceed the following amounts * * *.

By confining liability to the value of such property subject to the $500 limit or declared value, the industry has effectively prevented recovery of consequential damages for the mishandling of passenger baggage at least in cases where the baggage is not ultimately recovered. Even where the baggage is recovered, and a technical argument can be made that liability still exists up to the value of the property, it appears that carriers frequently deny consequential damages.

In our view of this matter, it is unreasonable for the carriers to be immune from liability for the whole complex of injuries which may occur as a result of the failure to connect a passenger and his baggage at the appropriate time and place. The present immunity extends to consequences that are certainly the normal and likely results of a temporary separation of the passenger and his baggage. In this category of consequences we would place the purchase of items which are needed for immediate use, the additional transportation expenses involved in bringing duplicates to the passenger, or loss of compensation where a business purpose is frustrated by baggage mishandling. Damages arising from these consequences, if not to be said to have been outside of the carrier’s expectations, are not the result of the carrier’s failure to provide or to make its service reasonably comparable.

As indicated by the summary above, we have reached a similar conclusion with regard to the remaining proposals herein, and we would expect any comments filed by the carriers (as affected to address themselves to all proposals which carry the interest of the consumer. This conclusion should be assumed without the necessity of restatement in the remaining discussions.

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The carrier will refuse to accept any property of conspicuous value or of extraordinary nature as to jeopardize its financial stability or to prejudice its ability to continue in business. On the contrary, he reasonably assumes only the normal, likely consequences of his failure, and specific notice to him of the existence of special circumstances are normally required before he would be held liable for special damages. This requirement for specific notice, as a practical matter, gives the contractor an opportunity to refuse to take the risk of misfortune or to arrange for a limit on the extent of his possible liability. Since the airline industry has unilaterally limited its exposure through the filing of tariffs, the basis for specific notice is not present. Without the distinguishing feature of specific notice, there are no important considerations which justify carrier immunity to damages for all injuries which are the consequence of its action.

Based on the foregoing, we have tentatively concluded that carrier rules which, in terms or effects, preclude compensation within the tariff limits for provable forms of consequential damage and which are reasonably understood by passengers should be given the opportunity to claim and be satisfied for all the reasonable consequences of improper baggage service within the proposed $750 limit. In addition, where a passenger reasonably expects that the delay or loss of his or her baggage will have consequences greater in value than the $750 limit, the excess valuation procedure should be available on the same terms as it would be were the value of the property itself at issue.

THE PROBLEM OF DISCLAIMED LIABILITY

Carrier rules regarding the "acceptability" of baggage for transportation, and certain practices surrounding the application of these rules, have become a principal cause of consumer concern. The heart of this dissatisfaction lies in the possibility that a carrier may transport certain items or packages, but attempt to disclaim liability for subsequent loss, damage, or delay on the grounds that the items were not properly sorted and were inherently unsuitable to air transportation.

Rule 340, "Acceptance of Baggage," the rule governing baggage acceptance for nearly all of the domestic system, starts with the general proposition that air carriers will accept as baggage such personal property as is necessary or appropriate for the wear, use, comfort, or convenience of the passenger for the purpose of his trip. This proposition is subject to the explicit condition that,

\[\text{Rule 340(B)(1)(b).} \]

The condition creates the implication that air carriers will screen incoming baggage to ascertain its suitability for transportation. This impression is apparently false, and the carriers allegedly have sought to preclude any claim that the failure to perform the obligation imposed by their own tariff. Thus, Rule 365, "Liability of Carrier," establishes a general disclaimer of liability for property which is not acceptable for transportation pursuant to Rule 340. Logically, it would be unnecessary for a carrier to disclaim liability for damage or loss to property that, according to its tariffs, it will refuse to transport. Indeed, a disclaimer of liability for baggage on the ground that a bag could not have withstood ordinary handling constitutes an implicit admission of a violation of the tariff rule that the carrier properly accepts such baggage in the first place.

In our judgment, Rule 365, "Liability of Carrier," is unreasonable on its face. Through the filing of tariffs embodying this rule, the majority of the industry has disclaimed liability for loss, damage to, or delay in the delivery of fragile or perishable articles, or articles not suitable, or not suitably packed for air transportation, and the passenger has knowledge of the fragile or unsuitable nature of a passenger's baggage has no effect on the carrier's right to disclaim liability under this rule. Furthermore, an extreme version of the doctrine of assumption of risk has been created.

The rule does not define the terms "fragile" or "unsuitable," but passengers are required to bear the burden of any injury that may occur to these categories of baggage. Rarely would the passenger's knowledge of the inner workings of baggage transfer and holding systems be sufficient to allow intelligent judgment, and the carrier has knowledge of the baggage may be exposed, even if the passenger is fully apprised of the tariff provisions. Nonetheless, the carrier's immunity from liability is complete. There is not even the need for a determination that the injury resulted from the article's inherent nature as fragile or unsuitable rather than as result of some gross abuse. Furthermore, the rule disclaims liability not only for damage, but also absolves the carrier from responsibility where fragile or unsuitable articles are lost, stolen, or delayed. Obviously these types of injury have nothing to do with the fact that the baggage can be categorized as fragile or unsuitable. Essentially the same problems exist regarding the disclaimer associated with perishable articles. The disclaimer reaches all damage resulting from delay, whether the delay resulted from weather conditions or carrier negligence in misdirecting connecting baggage. Additionally, liability is disclaimed when the cause of injury is loss, theft, or partial destruction due to improper handling. Yet it is again obvious that the permissible nature of an article has nothing to do with injuries of these latter types.

Accordingly, we tentatively find that the existing circumstances present a sufficient basis for the conclusion that the existing provisions of Rule 365 are unreasonable per se. Considering the nature of this problem, it may well be that the only reasonable solution is that one that imposes on carriers responsibility for all items which they actually transport. However, there could exist serious drawbacks in this approach. Rather than prescribe a tentative rule at this time, we invite the comments of interested parties as to the best formulation of a replacement rule which meets the objection outlined above. Recognizing our obligations to the courts, the Congress, and the public, it is our present intent to prescribe a lawful rule at the close of this proceeding, after consideration of any comments which may be forthcoming.

THE PROVISION OF ADEQUATE NOTICE

The Board has several times previously considered the question of the provision of adequate notice to passengers regarding the existence of liability limits in the carriers' tariffs. In the Baggage Liability Rules Case, supra, the Board reviewed a number of alternatives and concluded that a flexible approach based on experimentation by individual carriers had the best possibility of providing adequate information to the passenger. But this judgment was conditioned by the reservation that a rule making would be unwarranted if it is later judged unsatisfactory. A rule making was instituted in 1976, partly because of separable problems regarding notice of liability limits in the foreign air transportation case. It appears that the practices of some carriers with respect to providing notice of domestic limits have not measured up to the standards the Board assumed the carriers would establish. As a result of that rule making, the Board promulgated the notice provisions which appear in § 221.176 of Part 221 of the Board's Economic regulations.

ACAP has once again raised the issue of the reasonable and adequate notice of the provisions of the tariff. It appears that the limitations contained in the tariff are not prima facie the considerations contained in the existing provisions of § 221.176, but rather in allegations that the carriers frequently fail to adhere to the provisions of the tariff.

Specifically, ACAP alleges that the carriers often fail to fully meet the requirement for the conspicuous posting of a sign containing the liability limits. The Board notes that it is possible for a sign to be placed in a conspicuous place and yet be difficult to read. The Board believes that the sign should be placed in the passenger's line of sight, where it may be read with ease.

\[\text{Rule 340(B)(1)(b).} \]

\[\text{Rule 365(A), ATP Rules Tariff C.A.B. No. 142.} \]

\[\text{Rule 340(A), ATP Rules Tariff C.A.B. No. 142.} \]

\[\text{Notice of proposed rule making, EDR-182, issued May 7, 1970, 35 FR 7513.} \]

\[\text{Section 221.176 requires, inter alia, that air carriers cause to be shown containing pertinent liability rules to be continuously and conspicuously displayed at points where tickets may be purchased.} \]
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Whether or not ACAP's allegations in this regard are generally correct, we do recognize that the rules in §221.176 have supplanted most other forms of passenger notice and have thus become the primary source of passenger knowledge about the limits that the carriers have put up. Full conformity with the spirit and letter of that section is thus essential to an equitable tariff system. We believe that this compliance is best insured by requiring that adequate notice be provided to passengers concerned with the rights to which §221.176 have not been complied with.23

INFORMATION SUBMISSION

In addition to the foregoing matters, the Board is also concerned that certain carrier practices regarding the settlement of baggage claims may also be unreasonable. ACAP alleges that a variety of tactics are used to induce passengers to accept less than the claimed value of their belongings. Included among these are the use of a depreciated value standard, and the requirement that claimants provide proof of purchase for articles on which a claim is made.

While these practices may not be uniformly unreasonable, their application in particular cases raises serious questions. For instance, proof of purchase may be unreasonable where a passenger has claimed the loss of expensive cameras, but it is absurd to require a passenger to prove the purchase of "knick-knacks," one T-shirt, and a pair of "women's hose."24 In order to consider the problems raised by the alleged abuse of these practices, we have determined that more concrete information should be made available. Specifically, we will require all certificated carriers to file with us a copy of all manuals, depreciation schedules, directives, and other managerial communications which the individual station personnel responsible for the handling of baggage claims. All such documents should be filed, whether directed to individual station personnel, central claims offices, or otherwise.

The Board also anticipates that carrier responses to a number of the proposals raised in the instant show cause order will focus upon the added cost to the traveling public of improved service and compensation. In order to insure an adequate factual record on this issue, we are directing the carriers to provide quantified estimates of the cost of existing and proposed programs. The particulars of this request are set out in the ordering paragraphs herein.

PROCEDURE

Notwithstanding that we are here concerned inter alia with determining the

1. All air carriers certificated to engage in interstate or overseas air transportation of persons and all other interested persons, are hereby directed to show cause why the Board should not make final its tentative findings and conclusions herein;

2. Objections filed pursuant to paragraph 1 shall set forth in detail any facts upon which the objection is based and shall contain any economic data or other material which it is desired that the Board officially notice. Such objections shall be filed within 45 days after the time of filing, and to include appropriate proof of service (Rule 3(e), 14 CFR 302.8(e)) with any filing.

3. The air carriers indicated in paragraph 1 shall set forth in detail any facts upon which the objection is based and shall contain any economic data or other material which it is desired that the Board officially notice. Such objections shall be filed within 45 days after the time of filing, and to include appropriate proof of service (Rule 3(e), 14 CFR 302.8(e)) with any filing.

FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975
NOTICES

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to the tentative conclusions based in
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tions needed for a proper under­
whole or part on the added cost of the
this order, the carriers indicated in
of baggage claims, and (3) such other
vided within 45 days from the serv­

ect in Docket 25788 be consolidated into
Investigation,
ceedings, in Docket 24869,
claims cost, including insurance and the
of their submissions;

s should explicitly set forth all
sources, procedures, and allocation
methods needed for a proper under­
standing of their submissions;

The petition for rule making filed by the Aviation Consumer Action Proj­
ct in Docket 23868, consolidated into the Domestic Baggage Liability Rules
vestigation, Docket 27589, except to the extent that the petition is addressed
to issues within the scope of the pro­
cedings, in Docket 24869, Baggage Al­
lowance Tariff Rules in Overseas and
Air Transportation, and Docket 26568, in the Matter of Liability Rates of

certified Carriers Pursuant to the Carriage of Live Animals in Baggage;
and

Except to the extent consolidated into the Domestic Baggage Liability
vestigation, Docket 27589, the petition for rule making filed by the
Aviation Consumer Action Project (Docket 23868) be and hereby is dis­

This order will be published in the

By the Civil Aeronautics Board.

[Seal]

PHYLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 75-9440 Filed 3-11-75; 8:45 am]

(Docket No. 25659)
FRONTIER AIRLINES, INC.
Investigation of the Local Service Class
Subsidy Rate; Class Rate VII

Adopted by the Civil Aeronautics Board at its 41st meeting, 1000 Connecticut Aven­

By this order the Board is (1) denying
the exception of Frontier Airlines, Inc. to Order 74-12-119, 1 (2) dismissing the ob­
jection of Frontier Airlines, Inc., to Order 74-12-120; and (3) making final the amended sub­
sidy rate contained in Order 74-12-120.

Frontier’s exception to Order 74-12-119 and its objection to Order 74-12-120 both
raise the issue of whether that portion of the proposals contained in the order that
includes the proposal to require adjustments to the subsidy for flight equipment de­
preciation (by aircraft type) in excess of amounts recognized for subsidy purposes.

Frontier argues that if regulatory de­
preciation standards established for commercial rates are to be used for subsidy
purposes, they should be applied to all aircraft types and not just those types
for which reported depreciation expense is greater than the regulatory standards.

Frontier states that it uses depreciation rates that are higher than regulatory levels
for some aircraft and lower for others, and, in the aggregate, its depre­
ciation for the 12 months ended September 30, 1974, is 19.7 percent. It argues that
the Board should use the lower of total book depreciation and standardized
rates. The Board, however, sees no com­
pelling reason why a subsidy rate should be set lower than the rate that Frontier uses in
its own accounting and that the Board believes is correct.

Frontier’s exception to said order is here­
by denied. In addition, Frontier’s objec­tion to Order 74-12-120 is hereby

Directed the carriers receiving subsidy under Class Rate VII be and hereby

It is ordered, That:

1. The exception of Frontier Airlines, Inc., to Order 74-12-119, be and hereby
is denied;

2. The objection of Frontier Airlines, Inc., to Order 74-12-120, be and hereby
is dismissed;

3. All findings and conclusions set forth in Order 74-12-120 are hereby reaffirmed
and made final;

4. This order shall be effective as of the date of service hereof; and

5. This order shall be served on all parties to this proceeding.

This order will be published in the

By the Civil Aeronautics Board.

[Seal]

PHYLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 75-9440 Filed 3-11-75; 8:45 am]

Czechoslovak-U.S. Scheduled Service

Czechoslovak-U.S. Scheduled Service; Class Rate VII

In the Matter of Liability Rules of
Frontier Airlines, Inc., to Order 74-12-120, dated December 30, 1974, the Board
in Section TV. C. of the Rate Formula set
thereof and the Board’s Procedural Reg­
ulations, 14 CFR, Part 303.

It is ordered, That:

1. The exception of Frontier Airlines, Inc., to Order 74-12-119, be and hereby
is denied;

2. The objection of Frontier Airlines, Inc., to Order 74-12-120, be and hereby
is dismissed;

3. All findings and conclusions set forth in Order 74-12-120 are hereby reaffirmed
and made final;

4. This order shall be effective as of the date of service hereof; and

5. This order shall be served on all parties to this proceeding.

This order will be published in the

By the Civil Aeronautics Board.

[Seal]

PHYLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 75-9440 Filed 3-11-75; 8:45 am]

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and
in particular sections 406 and 106 of the same, and in the Matter of Liability Rates of
Czechoslovakia to the United States.

It is ordered, That:

1. The exception of Frontier Airlines, Inc., to Order 74-12-119, be and hereby
is denied;

2. The objection of Frontier Airlines, Inc., to Order 74-12-120, be and hereby
is dismissed;

3. All findings and conclusions set forth in Order 74-12-120 are hereby reaffirmed
and made final;

4. This order shall be effective as of the date of service hereof; and

5. This order shall be served on all parties to this proceeding.

This order will be published in the

By the Civil Aeronautics Board.

[Seal]

PHYLIS T. KAYLOR,
Acting Secretary.

[FR Doc. 75-9440 Filed 3-11-75; 8:45 am]

FEDERAL REGISTER, VOL. 40, NO. 49— WEDNESDAY, MARCH 12, 1975
OFFICE OF THE CONSUMER ADVOCATE

Notice of Presentations

Notice is hereby given that presentations will be made by the Office of the Consumer Advocate, Civil Aeronautics Board to travel agents on April 2, 1975, and to airline customer relation directors and representatives of indirect air carriers on April 4, 1975, at the second floor conference room, Administration Building, Los Angeles Department of Airports, 1 World Way, Los Angeles, California 90009. Public interest groups are invited as observers.

Dated at Washington, D.C., March 5, 1975.
[SEAL]
Phyllis T. Kaylor,
Acting Secretary.
[FR Doc.75-6446 Filed 3-11-75;8:45 am]

CIVIL RIGHTS COMMISSION

MAINE STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. on April 11, 1975, at the Federal Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007. This meeting will be conducted pursuant to the rules and regulations of the Commission.

[SEAL]
Isaiah T. Creswell, Jr.,
Advisory Committee Management Officer.
[FR Doc.75-6429 Filed 3-11-75;8:45 am]

NEW YORK STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York State Advisory Committee (SAC) to this Commission will convene at 4 p.m., on April 3, 1975, at the Federal Plaza, New York, New York 10007. Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to discuss final plans for its conference on Minorities and Women. The two major foci will be employment and the image-making impact of the media.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

[SEAL]
Isaiah T. Creswell, Jr.,
Advisory Committee Management Officer.
[FR Doc.75-6428 Filed 3-11-75;8:45 am]

MONTANA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference of the Montana State Advisory Committee (SAC) to this Commission will convene at 8:00 a.m. on April 12, 1975, at the University of Montana School of Music-Auditorium.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mountain States Regional Office of the Commission, Room 216, Champa Street, Denver, Colorado 80202.

The purpose of this meeting is to focus on the media and its effects on minorities and women. The two major foci will be employment and the image-making impact of the media.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

[SEAL]
Isaiah T. Creswell, Jr.,
Advisory Committee Management Officer.
[FR Doc.75-6429 Filed 3-11-75;8:45 am]
NOTICES

VETERANS ADMINISTRATION

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Veterans Administration to fill by noncareer executive assignment in the excepted service the position of Deputy Director, National Cemetery System, Office of the Director.

UNITED STATES CIVIL SERVICE COMMISSION.

JAMES C. SPRY, Executive Assistant to the Commissioners.

[FR Doc.75-6438 Filed 3-11-75; 8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CORRELATION OF TEXTILE AND APPAREL CATEGORIES WITH THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED

Corrections

March 6, 1975.

On February 3, 1975, there was published in the Federal Register (40 FR 5010) a Correlation of the Tariff Schedules of the United States Annotated numbers arranged by the cotton, wool, and man-made fiber categories used by the United States in administering the textile trade agreements program. The following corrections are hereby incorporated into the Correlation:

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ALAN POLANSKY, Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.75-6311 Filed 3-11-75; 3:45 am]

COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MACAU

Entry or Withdrawal From Warehouse for Consumption

March 6, 1975.

On August 14, 1973, there was published in the Federal Register (38 FR 21962) a letter dated August 6, 1973 from the Chairman of the Committee for the Implementation of Textile Agreements, prohibiting entry into the United States for consumption and withdrawal of cotton, wool and man-made fiber textile products produced or manufactured in Macau.
from warehouse for consumption of cotton, wool and man-made fiber textile products, produced or manufactured in Macau and exported from Macau for which Macau had not issued a visa. One of the requirements is that each visa include the signature of an official authorized to issue visas. Macau has requested that Mrs. Olivia Maria dos Remedios Cesar and Dr. Armando Gil Lopes de Campos be authorized to issue visas replacing Dr. Lourenço Maria da Conceição, Dr. Joaquim Leonel Ferreira Marinho de Bastos, and Jose Silveira Machado.

Accordingly, there is published below a letter of March 6, 1975, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the directive of August 6, 1973, effective on March 12, 1975. Facsimiles of the signatures of the two newly-designated officials are filed as part of the original documents with the Office of the Federal Register. A complete list of officials currently authorized to issue visas for cotton, wool and man-made fiber textile products exported to the United States from Macau is enclosed with the letter to the Commissioner of Customs.

ALAN POLANSKY
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

COMMISSIONER FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS
COMMISSIONER OF CUSTOMS, Department of the Treasury, Washington, D.C. 20229

MARCH 8, 1975.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive of August 6, 1973 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, under certain specified conditions, entry into the United States of cotton and cotton products and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1-93, wool textile products in Categories 101-192, 198, and 201-202, and made-made fiber textile products in Categories 200-243, produced or manufactured in Macau for which Macau had not issued an appropriate visa. One of the requirements is that each visa include the signature of a Macau official authorized to issue visas.

Under the provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreements of December 22, 1972 between the Government of the United States and Portugal, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, the directive of August 6, 1973 is amended, effective from March 12, 1975, to authorize Mrs. Olivia Maria dos Remedios Cesar and Dr. Armando Gil Lopes de Campos to issue visas in place of Dr. Lourenço Maria da Conceição, Dr. Joaquim Leonel Ferreira Marinho de Bastos, and Jose Silveira Machado, who will no longer sign. A complete list of Macau officials currently authorized to issue visas is enclosed.

The action taken with respect to the Government of Portugal and with respect to imports of cotton, wool and man-made fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of the terms of these agreements, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ALAN POLANSKY,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

Macau Officials Currently Authorized to Issue Visas for Cotton, Wool and Man-Made Fiber Textile Products Exported to the United States:

Dr. Jose Correia Montenegro.
Dr. Armando Gil Lopes de Campos.
Mrs. Olivia Maria dos Remedios Cesar.

[FR Doc.75-6390 Filed 3-11-75; 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FR 343-3]

LAKE MICHIGAN COOLING WATER STUDIES PANEL

Meeting

Pursuant to Pub. L. 92-463, notice is given that a meeting of the Lake Michigan Cooling Water Studies Panel will be held at 9:30 a.m. on Tuesday, April 1, 1975 at the O'Hare International Airport, Chicago, Illinois.

The purpose of this meeting will be to discuss direction of the Panel, priorities, literature work, and studies regarding lake wide effects. There will be additional discussion of the final version of the Panel report.

The meeting will be open to the public. Any member of the public wishing to attend the meeting should contact the Chairman, Mr. Karl E. Bremer, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The telephone number is 312-923-1640.

Minutes of the meeting will be available for public inspection two weeks after the meeting at the EPA Region V Office.

FRANCES T. MAYO,
Regional Administrator, Region V.

[FR Doc.76-6405 Filed 3-11-76; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

AIRCRAFT RECEIVERS

Interference to Aeronautical Communications and Radionavigation

FEBRUARY 25, 1975.

The Commission has received reports and investigated several recent cases of interference to air-ground communications and radionavigation caused by interfering signals or by inadequate design characteristics of aircraft radio receivers.

Operation of the aircraft receivers in the vicinities of high power FM broadcast stations is the subject of this public notice.

The signals of FM stations may combine in several ways to produce undesired signals on other frequencies. The undesired signals are called "intermodulation products." Because FM broadcast frequencies and the most heavily used aeronautical frequencies are closely related, the intermodulation products are often on the aeronautical frequencies.

Intermodulation products are generally produced in one of three ways. First, if two strong broadcast stations (two FM stations or a FM and an AM station) are geographically close to each other, intermodulation products may be generated in the output of one or both of these transmitters of sufficient magnitude to cause interference to certain aeronautical frequencies. When internal products capable of causing interference are detected as a result of such a situation, the Commission will require that appropriate corrective action be taken by the station involved.

In the second case, many materials, particularly dissimilar metals that are touching, may act as mixers by detecting the FM signals and radiating the intermodulation products. Once the signal source is located its radiation can usually be stopped. In either of the above cases, pilots should report persistent interference to the Commission's Field Office or to the Federal Aviation Administration in order that sources of interference may be found and corrected.

In the third case, the source of interference may be in the aircraft receiver itself which ironically comes about because of one of the greatest advances in communications, solid state electronics. Along with their many advantages over earlier equipment, receivers using solid state devices may be the point at which FM signals are mixed unless the receivers are correctly designed. The Commission's information shows that susceptibility is much more prevalent in general aviation equipment as opposed to airline equipment.

Another design characteristic which may be troublesome is the tendency for the performance of aircraft receiving equipment to degrade in the presence of strong radio signals even though no interfering signal or intermodulation product is present on the aeronautical frequencies. Again, the tendency is probably inversely proportioned to equipment cost.

The Commission has no rules concerning the performance of aircraft receiving equipment; however, the Radio Technical Commission for Aeronautics (RTCA) has published a paper designated as DO-157 which contains recommendations concerning receiver rejection of unwanted signals. The Commission urges that purchasers ascertain that the radio receivers comply with the RTCA recommendations before purchasing.

FEDERAL COMMUNICATIONS COMMISSION,

[seal.]

VINCENT J. MULLINS,
Secretary.

[FR Doc.75-6405 Filed 3-11-76; 8:45 am]
NOTICES

The second question deals with importation of non-certificated receivers for test and evaluation, as proposed in the importation of RF devices, Docket No. 20194. The Commission said that importation for "test and evaluation" means "test and evaluation to determine compliance with FCC requirements." This interpretation does not make provision for "sales purposes" and importation for this purpose violates the marketing rules. These interpretations are an expression of the Commission's intent not to permit manufacturers to create a market for a product that may not be able to comply with its requirements and which could therefore not be legally used. The interpretation states that compliance with its requirements be demonstrated, by a grant of certification, prior to any offer for sale or any attempt to create a market for the equipment in question.

Pursuant to the provisions of §1.237 (b) (1) and 1.591 (b) of the Commission's rules, an application for reconsideration of this application must be filed no later than March 14, 1975. The attention of any party in interest desiring to file a pleading concerning this application, pursuant to section 309(d) (1) of the Communications Act of 1934, as amended, is directed to 1.580 (1) of the Commission's rules, the provisions governing the time of filing and other requirements relating to such pleadings.

Accepted: March 4, 1975.
Released: March 5, 1975.

By the Chief, Broadcast Bureau.

FEDERAL COMMUNICATIONS COMMISSION
[Seal]
VINCENT J. MULLINS,
Secretary.

[FR Doc. 75-6403 Filed 3-11-75; 8:48 am]

NON-CERTIFIED RECEIVERS

Trade Show Display or Sales Importation Prohibited

FEBRUARY 27, 1975.

In response to inquiries from the Electronics Industries Association (EIA), the Commission, through its office of General Counsel, has issued interpretations of two aspects of its Marketing Rules. These interpretations relate to trade show displays and importation of equipment that has not been authorized by the Commission.

Although the interpretations are addressed specifically to certification, they apply equally well to type approval and type acceptance.

In a letter to EIA, the Commission pointed out that the display of a receiver at atrade show constitutes an offer for sale and is prohibited if the receiver has not been certified. This interpretation applies whether the receiver is complete and in operating condition or whether the receiver is a dummy or mock-up package.

1 By an Order adopted under delegated authority, The Southern Media Coalition (Southern), on the basis of whose petition to deny the application had been designated for hearing, was granted an extension until December 2, 1974, to file an opposition to Storz's motion for leave to file a petition for reconsideration. It appears Southern never filed its opposition.

FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975
NOTICES

FEDERAL COMMUNICATIONS COMMISSION

[SEAL] VINCENzo J. MULLINS, Secretary.

FEDERAL MARITIME COMMISSION

CANAVERAL PORT AUTHORITY AND PORT EVERGALDES TOWING, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW, Room 10126; or may inspect the agreement at the offices of the parties at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 1, 1975.

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:

David C. Nolan, Esquire
Graham & James
One Maritime Plaza
San Francisco, California 94111.

Agreement No. 93-11, among the member lines of the above-named conference, extends the inland authority contained in the basic agreement and covering points in Continental Europe, the Republic of Ireland and the United Kingdom for an additional 18 months.

By Order of the Federal Maritime Commission.

Dated: March 7, 1975.

FRANCIS C. HURNEY, Secretary.

[FR Doc.75-6436 Filed 3-11-75; 8:45 am]

NORTH EUROPE-U.S. PACIFIC FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW, Room 10126, or may inspect the agreement at the offices of the parties at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 1, 1975.

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.

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David C. Nolan, Esquire
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By Order of the Federal Maritime Commission.

Dated: March 7, 1975.

FRANCIS C. HURNEY, Secretary.

[FR Doc.75-6436 Filed 3-11-75; 8:45 am]
NOTICES

SEA-LAND SERVICE, INC. AND PORT OF PORTLAND

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, 78 Stat. 763, 80 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 1012; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before April 1, 1975.

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 order or rule of 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:
Betty I. Crofoot, Esq.
Port of Portland
Box 3829
Portland, Oregon 97208.

Agreement No. T-3064, between Sea-Land Service, Inc. (Sea-Land) and the Port of Portland (Portland), provides for the two-year lease to Port of certain marine terminal facilities at Swan Island Industrial Park. As compensation Sea-Land will receive a percentage of revenues paid by Sea-Land to the Port of Portland in accordance with applicable tariffs with a minimum guarantee of $21,000 per year.

By Order of the Federal Maritime Commission.

Dated: March 7, 1975.

FRANCIS C. HURNEY, Secretary.

[PR Doc.75-6497 Filed 3-11-75; 8:45 am]

FEDERAL POWER COMMISSION

[Docket No. C175-509]

ATLANTIC RICHFIELD CO.

Application

MARCH 5, 1975.

Take notice that on February 20, 1975, Atlantic Richfield Company (Applicant), P.O. Box 2819, Dallas, Texas 75221, filed in Docket No. C175-509 an application pursuant to section (b) of the Natural Gas Act for permission and approval to abandon a sale of natural gas in interstate commerce in the Drinkard Field, Lea County, New Mexico, to Skelly Oil Company (Skelly), 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 proposes to abandon partially the sale of gas to Skelly from the subject acreage, which sale has been made pursuant to a percentage-type contract with Skelly. Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso). Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El paso).

Applicant states that it proposes to abandon partially the sale of gas to Skelly from the subject acreage, which sale has been made pursuant to a percentage-type contract with Skelly. Applicant states that as oil wells, the casinghead gas therefrom is dedicated to Skelly, and as gas-well gas is dedicated to El Paso Natural Gas Company (El Paso).

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 order or rule of 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:

[PR Doc.75-6497 Filed 3-11-75; 8:45 am]

[PR Doc.75-6393 Filed 3-11-75; 8:45 am]

CONSOLIDATED GAS SUPPLY CORP.

Extension of Procedural Dates

MARCH 5, 1975.

On February 28, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued September 16, 1974, as most recently modified by notice issued December 20, 1974, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, April 30, 1975.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, April 30, 1975.

KENNETH F. PLUMS, Secretary.

[PR Doc.75-6393 Filed 3-11-75; 8:45 am]

[PR Doc.75-6393 Filed 3-11-75; 8:45 am]

[PR Doc.75-6393 Filed 3-11-75; 8:45 am]

EAST TENNESSEE NATURAL GAS CO.

Revised PGA Rate Adjustment

MARCH 5, 1975.

Take notice that on February 28, 1975, East Tennessee Natural Gas Company (East Tennessee) tendered for filing proposed Sixth Revised Volume No. 1 of its FPC Gas Tariff to be effective on March 15, 1975, consisting of the following revised tariff sheets:

Second Substitute Eleventh Revised Sheet No. 4 and Alternate Second Substitute Eleventh Revised Sheet No. 4.

East Tennessee states that the sole purpose of these revised tariff sheets is to revise its FGA filing of February 12, 1975, in this docket. East Tennessee states that the previous filing reflected an increase of its supplier Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) in Docket No. RP74-13. On February 28, 1975, Tennessee revised its filing in that docket to reflect the effects of its FGA filing pursuant to Opinion Nos. 699-G and 699-H. Accordingly, East Tennessee states that it must revise its filing in this docket in order that its rates which become effective on March 15, 1975, reflect the total increase by Tennessee which will become effective on that date.
East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

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 March 21, 1975. 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; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMS, Secretary.

[FR Doc.75-6344 Filed 3-11-75; 8:45 am]

EL PASO NATURAL GAS CO.
Petition To Amend

MARCH 5, 1975.

Take notice that on February 14, 1975, Northwest Pipeline Corporation (Northwest), F.O. El Paso, Salt Lake City, Utah 84110, filed in Docket No. CP72-77 a petition to amend the order issued in said docket pursuant to section 7(c) of the Natural Gas Act so as to increase the authorized project cost from $467,911 to $615,224, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

The Commission by order dated November 8, 1972, in Docket No. CP72-77, authorized the installation of one 880 horsepower compressor at Northwest's Station No. 24 at an estimated cost of $467,911. The actual project cost of installing the compressor was $615,224, according to Northwest.

Northwest states that the total project cost has exceeded previous estimates as a result of increased costs in material, installation, and other costs primarily attributable to early winter weather conditions that forced the temporary shutdown of construction prior to completion. The additional increased costs associated with the shutdown were not previously anticipated according to Northwest.

Northwest further states that the total costs for installation of the Compressor Station No. 24 when taken together with the costs of the other projects constructed under the authorization issued in Docket No. CP72-77, did not exceed the total authorized limitation of $1,000,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 18, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a petition to amend in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Commission's rules of practice and procedure (18 CFR 157.10). All petitions filed with the Commission will be considered by it 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 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 of practice and procedure (18 CFR 1.8 or 1.10).

KENNETH F. PLUMS, Secretary.

[FR Doc.75-6344 Filed 3-11-75; 8:45 am]

KANSAS POWER AND LIGHT CO.
Filing of Renewal Contract

MARCH 5, 1975.

Take notice that on February 23, 1975, The Kansas Power and Light Company (KPL) tendered for filing a newly executed renewal contract dated February 20, 1975, with the City of St. Joseph, Kansas, for the sale of electric service to that community. Kansas states that this contract is identical in all material respects with the December 8, 1964, and designated KPL Rate Schedule FPC No. 48. The proposed effective date is February 15, 1975, and Kansas requests that the Commission waive the notice requirements as allowed in § 35.11 of its regulations. According to Kansas, the net billing for the twelve months succeeding the proposed change in agreements was $6,507.98. In addition, Kansas states that copies of the contract have been mailed to the City of St. Joseph and the State Corporation Commission of Kansas.

Any person desiring to hear or to protest said application 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) and the Commission's rules of practice and procedure (18 CFR 157.10). All such petitions or protests should be filed on or before March 19, 1975. 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. PLUMS, Secretary.

[FR Doc.75-6344 Filed 3-11-75; 8:45 am]

EL PASO ELECTRIC CO.
Application

MARCH 5, 1975.

Take notice that on February 21, 1975, El Paso Electric Company (Applicant),
filed an application pursuant to section 204 of the Federal Power Act and Commission regulations thereunder seeking authority to negotiate with underwriters regarding the proposed issuance and sale of 500,000 shares of Common Stock by negotiated underwriting. Applicant seeks permission to negotiate with underwriters regarding the terms upon which the securities might be issued in order to determine whether application for exemption from the competitive bidding requirement of the Commission's regulations should be filed.

Applicant is incorporated under the laws of the State of Texas with its principal business office at El Paso, Texas and is engaged in the electric utility business in the States of Texas and New Mexico.

The aggregate proceeds from the proposed financing will be used to repay outstanding short-term bank loans, which totaled $33,400,000 at the end of January 1975 and which are expected to total $33,650,000 at the time of the sale.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 21, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENTUCKY UTILITIES CO.

Application

March 5, 1975.

Take notice that on February 21, 1975, Kentucky Utilities Company (Applicant) filed an application pursuant to section 204 of the Federal Power Act, seeking authorization to acquire from Old Dominion Power Company (Old Dominion) from time to time during the year 1975, unsecured promissory notes at par of Old Dominion in amounts not to exceed $3,000,000 in the aggregate at any time unpaid and (b) in such additional amount, not to exceed $200,000 at any time outstanding, as may be loaned by the Applicant to Old Dominion on or after November 23, 1975, which is the maturity date of the note issued by Old Dominion to the Applicant in the principal amount of $300,000 due November 23, 1975. Old Dominion is the wholly owned subsidiary of the Applicant.

Applicant is incorporated under the laws of the State of Kentucky, with its principal business office at Lexington, Kentucky. Applicant is a public utility engaged in generating, purchasing, transmitting, distributing and selling electric energy in central, southeastern and western Kentucky. Applicant also serves about 23 counties in Tennessee.

Old Dominion is incorporated under the laws of the State of Virginia with its principal business office at Norton, Virginia and is engaged in purchasing, transmitting, distributing and selling electric energy in five counties in southwestern Virginia. Old Dominion is a wholly owned subsidiary of the Applicant.

The electric utility facilities of the Applicant and of Old Dominion are interconnected with those of certain other electric utilities under interconnection agreements on file with the Commission.

The proceeds from the issuance of the notes will be used by Old Dominion to finance the construction, completion, extension and improvement of its electric utility facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before March 21, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENTUCKY UTILITIES CO.

Application

March 5, 1975.

Take notice that on February 21, 1975, Midwestern Gas Transmission Company (Midwestern) tendered for filing Ninth Revised Sheet No. 5 to Third Revised Volume No. 1 to its FPC Gas Tariff.

Midwestern states that the sole purpose of the revised tariff sheet, proposed to be effective April 1, 1975, is to increase in its Southern System rates resulting from an increase filed by its supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee). Tennessee’s increase was based solely on increased purchased gas costs resulting from the new national rates for producers in accord with Opinion Nos. 699-G and 699-H.

Because several of its customers have requested an April 1, 1975, effective date for this PGA adjustment, Midwestern states that Ninth Revised Sheet No. 5 is proposed to be effective only in the event the Commission permits Midwestern to collect carrying charges on the amounts it is deferring as reflected in the Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account. Ninth Revised Sheet No. 5 reflects a total increase of 17.23 cents per Mcf in the commodity rates of Midwestern's Southern System Rate Schedules, consisting of the Current Purchased Gas Cost Rate Adjustment and the Surcharge.

In the event the Commission does not permit Midwestern to collect carrying charges on the amounts deferred for March, 1975, Midwestern also tenders for filing Alternate Ninth Revised Sheet No. 5. The revised tariff sheet reflects only the current Purchased Gas Cost Rate Adjustment of 13.88 cents per Mcf in the commodity rate of Midwestern's Southern System Rate Schedules. Midwestern requests waiver of §§ 1.2 and 1.3 of Article XVII of its FPC Gas Tariff in order to make the revised tariff sheet effective on March 1, 1975. Midwestern
Applicant declares that there are no facilities required to implement the subject sale. Applicant points out that a condition for the implementation of the subject proposal is that none of the gas purchased by the parties involved shall be transported, used, and consumed wholly within Wyoming. Applicant states that without this condition, Northern Gas and Northern Utilities, both intrastate companies, would not have agreed to the proposals contained herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1975, 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 and 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 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.

Take further notice that, pursuant to Opinion No. 699-H which states that the proposed effective date is March 1, 1975, 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 and 1.10). All such petitions or protests should be filed on or before March 21, 1975. 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 to a proceeding or to participate as a party in any hearing therein must file a petition to intervene or a protest in accordance with the Commission's rules and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission have been mailed to all of its jurisdictions. Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1975, 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 and 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 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.

Any persons desiring to be heard or to make any protest with reference to said application should on or before March 17, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's rules and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission have been mailed to all of its jurisdictions. Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1975, 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 and 1.10). All such petitions or protests should be filed on or before March 21, 1975. 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 to a proceeding or to participate as a party in any hearing therein must file a petition to intervene or a protest in accordance with the Commission's rules.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1975, 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 and 1.10). All such petitions or protests should be filed on or before March 21, 1975. 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 to a proceeding or to participate as a party in any hearing therein must file a petition to intervene or a protest 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.

Any persons desiring to be heard or to make any protest with reference to said application should on or before March 17, 1975, 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 and 1.10). All such petitions or protests should be filed on or before March 21, 1975. 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 to a proceeding or to participate as a party in any hearing therein must file a petition to intervene or a protest in accordance with the Commission's rules and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission have been mailed to all of its jurisdictions. Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1975, 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 and 1.10). All such petitions or protests should be filed on or before March 21, 1975. 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 to a proceeding or to participate as a party in any hearing therein must file a petition to intervene or a protest in accordance with the Commission's rules.

Any persons desiring to be heard or to make any protest with reference to said application should on or before March 17, 1975, 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 and 1.10). All such petitions or protests should be filed on or before March 21, 1975. 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 to a proceeding or to participate as a party in any hearing therein must file a petition to intervene or a protest in accordance with the Commission's rules.
event such waiver is not granted. Section 154.38(d) (3) provides that, except as permitted by §§154.38(d) (4) and (5) and 154.52, no automatic adjustment provision shall be permitted in a natural gas company tariff. PGT's tariff is a cost-of-service tariff pursuant to §154.52 of the regulations.

This filing is similar to PGT's filing of June 27, 1973. In that filing, PGT sought to include an advance payment in its rate base as well as to include a provision for tracking advance payments by including such provisions in the tariff sheets. In our order issued in Docket No. RP72-116, on July 31, 1973, we rejected such a provision for PGT and since we have subsequently refused to provide for such provisions for all pipelines, we should again reject PGT's proposed policy as to advances to producers in the Dominion of Canada. We shall in no circumstances permit advance payments on a case-by-case basis. Accordingly, we shall also deny PGT's request for waiver of §154.38(d)(5) of our regulations and the hearing requested by PGT if such waiver is denied.

With regard to any filing by PGT which seeks approval of any advances payments on a case-by-case basis, we believe it appropriate to restate our policy as to advances to producers in the Dominion of Canada. We shall in no circumstances permit advance payments to Canadian producers to be included in PGT's rate base. Our refusal to permit advances to Canadian producers is necessary to insure that the United States consumer will receive any benefits which may be derived from the inclusion of any advance payments in PGT's rate base.

The Commission finds: It is necessary and appropriate in the public interest and to assure the enforcement of the Natural Gas Act that PGT's proposed tariff sheets be rejected and that its request for waiver and hearing be denied.

The Commission orders: (A) PGT's proposed tariff sheets are hereby rejected.

(B) PGT's request for waiver and hearing is hereby denied.

(C) This rejection is without prejudice to PGT's right to seek rate base treatment of advance payments on a case-by-case basis, as hereinafter described.

(D) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

[SEAL]

KENNETH P. PLUMB, Secretary.

[FR Doc.75-6356 Filed 3-11-75; 8:45 am]

[Docket Nos. E-7718; E-8435]

PENNSYLVANIA ELECTRIC CO.

Extension of Procedural Dates

MARCH 4, 1975.

On February 24, 1975, Pennsylvania Electric Company (Panelec) filed a motion to suspend the procedural dates fixed by order issued November 11, 1974, as most recently modified by notice issued February 3, 1975, in the above-designated matter, pending Commission action on Panelec's filing of February 12, 1975.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Company Rebuttal, April 29, 1975.

Hearing, May 13, 1975, (10 a.m. ed.t.).

KENNETH P. PLUMB, Secretary.

[FR Doc.75-6351 Filed 3-11-75; 8:45 am]

[Docket No. RP72-133; PGA 75-1]

UNITED GAS PIPE LINE CO.

Order Granting Late Interventions

MARCH 5, 1975.

On December 18, 1974, the United Gas Pipe Line Company (United) tendered for filing a Substitute Twentieth Revised Sheet No. 4. United's filing was noticed by the Commission on December 27, 1974, with protests, notices of intervention and the hearing requested by PGT if such waiver is denied.

It is necessary and appropriate in the public interest and to assure the enforcement of the Natural Gas Act that PGT's proposed tariff sheets be rejected and that its request for waiver and hearing be denied.

The Commission finds: It is desirable and in the public interest to allow the above-named petitioner to intervene.

The Commission orders: (A) The above-named petitioner is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; Provided, however, that participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the Notice of Intervention; and Provided, further, That the admission of such intervenor shall not be construed as recognition by the Commission that he might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules here-tofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

[SEAL]

KENNETH P. PLUMB, Secretary.

[FR Doc.75—6352 Filed 3-11-75; 8:45 am]

[Docket No. RP72-60]

UNITED GAS PIPE LINE CO.

Order Accepting for Filing and Permitting Rate Change To Become Effective Subject to Refund

MARCH 5, 1975.

On February 3, 1975, United Gas Pipe Line Company (United) tendered for filing proposed changes1 to its FPC Gas Tariff. Original Volume No. 2, which would have the effect of increasing its rate for transporting gas for Louisiana Power & Light Company (LP&L) from the presently effective rate of 11.80c/Mcf. Based on the calendar year 1974, this increase amounts to $193,428 annually.

LP&L receives transportation service from United under United's Rate Schedule X-30 which provides for the transportation of gas from Antioch Field, Claiborne Parish, Louisiana, to LP&L's steam electric generating plant at Sterlington, Louisiana. The present provisions of that rate schedule, the term of which extends to January 1, 1976, provide for: an extension of the agreement's term to January 1, 1976, and from year-to-year thereafter; a change in the basis for measuring the volumes of gas transported in the minimum annual volume of 1,000,000 Mcf (both still maintaining the $25,000 minimum annual bill); and the redefinition, clarification and general updating of the force and effect of the contract. United also proposes to add a new provision which requires the payment of a price equal to United's average jurisdictional transmission cost of service in the rate zone in which the transportation service is rendered, that cost being initially determined on the basis of any new rate filing which United may file with this Commission. The tariff sheets reflect an effective date of January 1, 1975.

The filing was noticed on February 19, 1975, with protests, notices of intervention and petitions to intervene due on or before February 28, 1975. No comments were filed in response to this notice.

We note that United's proposed rate of 11.80c/Mcf is equal to the rate which...
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United has proposed to charge in Docket No. RP74-83 for transportation service in its Northern Zone and which is presently being collected subject to refund. As the proposed terms of United's agreement provide that the transportation rate to LP&L will be that charged in the Northern Zone, and since the current Northern Zone rate is now pending resolution of the issues in the consolidated dockets RP74-20 and RP74-83, we shall accept United's proposed tariff sheets for filing and make them subject to refund and subject to the ultimate disposition of the proceedings in the aforementioned dockets.

We further note that although United's proposed tariff sheets reflect a January 1, 1975 effective date, United has not requested waiver of the thirty day notice requirements of our Regulations nor has it alleged any facts which would constitute good cause for doing so. Accordingly, we shall accept United's tariff sheets for filing to be effective March 6, 1975, thirty days after the filing date.

The Commission finds: Good cause exists to accept United's proposed tariff sheets, filed February 3, 1975, for filing to become effective March 6, 1975, subject to refund and subject to the disposition of the proceedings in Docket Nos. RP74-20 and RP74-83.

The Commission orders: (A) United's proposed tariff sheets, filed February 3, 1975, are hereby accepted for filing to become effective March 6, 1975, subject to refund and subject to the disposition of the proceedings in Docket Nos. RP74-20 and RP74-83.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Chapter D), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Chapter D), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

The proposed rate increases of Koch Development Corporation which exceed the applicable area ceiling rate are hereby accepted for filing to become effective March 6, 1975, subject to refund and subject to the disposition of the proceedings in Docket Nos. RP74-20 and RP74-83.

The Commission finds: Good cause exists to accept the proposed rate increases, filed February 3, 1975, for filing to become effective March 6, 1975, subject to refund and subject to the disposition of the proceedings in Docket Nos. RP74-20 and RP74-83.

The Commission orders: (A) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975]
NOTICES

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

NOTICE OF COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of Pub. L. 92-463, effective January 5, 1973, notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, April 5, 1975
Thursday, April 10, 1975
Thursday, April 17, 1975
Thursday, April 24, 1975

The meetings will convene at 10 a.m. and will be held in Room SA061, Civil Service Commission Building, 1900 E Street, NW, Washington, D.C.

The committee’s primary responsibility is to study the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At these scheduled meetings, the committee will consider proposed plans for implementation of Pub. L. 92-362, which law establishes pay systems for Federal prevailing rate employees.

The meetings will be closed to the public on the basis of a determination under section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and of U.S.C., section 552(b)(2), that the closing is necessary in order to provide members with the opportunity to advance proposals and counter-proposals in meaningful debate on issues related solely to the Federal Wage System with the view toward ultimately formulating advisory policy recommendations for the consideration of the Civil Service Commission.

However, members of the public who wish to do so, are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the committee’s attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Federal Prevailing Rate Advisory Committee, Room 5451, 1900 E Street, NW, Washington, D.C. 20415.

DAVID T. ROADLEY,
Chairman, Federal Prevailing Rate Advisory Committee.
MARCH 7, 1975.

FEDERAL RESERVE SYSTEM

AMERICAN BANCSHARES, INC.

Order Approving Formation of Bank Holding Company

American Bancshares, Inc., Tulsa, Oklahoma, has applied for the Board’s approval under section 3(a) (1) of the Federal Bank Holding Company Act (12 U.S.C. 1842(a) (1)) for formation of a bank holding company through the acquisition of 84.9 per cent or more of the voting shares of American Bank of Oklahoma, Pryor Creek, Oklahoma ("Bank").

Notice of the application, affording an 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 has expired, and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a non-operating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank (deposits of $15.9 million) and is the smaller of two banks in Pryor Creek, Oklahoma. applicant intends to compete for small loan business in eastern Oklahoma about 30 miles northeast of Tulsa. Bank is the second largest of five banks in the relevant banking market (approximated by Mayes County) and controls 28 per cent of the total commercial bank deposits therein. Upon acquisition of Bank, Applicant would control the 119th largest bank in Oklahoma with .19 per cent of total deposits in the market, 19 per cent of total deposits in the market.

The purpose of the proposed transaction is to effect a transfer of the ownership of Bank from individuals to a corporation owned by the same individuals, consumption of the proposal herein would not eliminate existing or potential competition, nor have an adverse effect on other area banks.

The principals of Applicant are also principals in two other registered one-bank holding companies, Bostates Investment Company and Quatro Corporation, both of Tulsa, Oklahoma, which control, respectively, Boulder Bank and Trust Company, Tulsa, Oklahoma, and Sand Springs State Bank, Sand Springs, Oklahoma. Each of these banks competes in the Tulsa banking market. Since these banks are located in a banking market separate and distinct from that of Bank and in view of the common ownership, as well as other facts of record, it appears that no significant existing competition would be eliminated, nor potential competition foreclosed, as a result of the commissioing of this proposal. Accordingly, it is concluded that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, which will depend upon those of Bank, are considered to be satisfactory. Applicant proposes to service the debt incurred as a result of the consummation of this proposal over a 12-year period through dividends of Bank. In light of the past earnings of Bank and its anticipated growth, the projected earnings

1 All banking data are as of June 30, 1974.

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of Bank appear to provide Applicant with the necessary financial flexibility to meet its annual debt servicing requirements while maintaining an adequate capital position for Bank. Therefore, considering relations to banking factors are consistent with approval of the application. Although consummation of the proposal would effect no changes in the banking services offered by Bank, the considerations relating to the convenience and needs of the community to be served are consistent with approval. It has been determined that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective March 2, 1975.

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

[NR Doc. 75-6233 Filed 3-11-75 3:45 am]

FIDELITY AMERICAN BANKSHARES, INC.

Order Approving Entry De Novo in Insurance Agency Activities

Fidelity American Bankshares, Inc., Lynchnburg, Virginia, a bank holding company within the meaning of the Bank Holding Company Act of 1956, has proposed under section 4(c)(8) of the Act and § 225.4(b) (1) of the Board's Regulations Y, to engage de novo in the sale of credit life, credit accident and health, and mortgage redemption insurance through a wholly-owned subsidiary, Fidelity American Insurance Agency, Inc., in Lynchburg, Virginia, and 30 other communities in the State at offices where Applicant or its lending subsidiaries are located. Such activities have been determined by the Board to be closely related to banking (12 CFR 222.4 (a)(1)).

Notice of the proposal, affording opportunity for interested persons to present comments and views was fully published in accordance with § 225.4(b) (1) of the Board's Regulation Y. Numerous objections to the application were received, whereinupon Applicant has modified its original request by deleting the sale of property insurance. Subsequently, all the objections were withdrawn with the exception of that filed by the Lynchburg Association of Life Underwriters ("Protestant").

The Federal Reserve Bank of Richmond determined that Protestant's comments were not of such nature as to warrant advising Applicant not to consummate the proposed proposal. It was advised, however, that it could seek Board review of this decision in accordance with the provisions of § 265.3 of the Board's rules regarding delegation of authority (12 CFR 265.3). Therefore, Protestant petitioned the Board for such a review. In accordance with the procedures set forth in § 255.3, review by the Board was authorized and Applicant was notified that the Board was determining the proposal to be approved. It has been determined by the Board, and its findings and decision are set forth hereinafter.

Applicant controls 18 banks with aggregate deposits in commercial banks in Virginia. Applicant's nonbanking subsidiaries include a mortgage company, a leasing company, an investment advisory firm, and a consumer finance company.

Protestant's opposition to Applicant's proposal is based principally on a concern that approval of the application would result in competition that would make it impossible for Applicant to purchase credit life, credit accident and health, or mortgage redemption insurance at a price lower than that charged by a competitor. The ability of a borrower to pay for these services with a single premium is likely to result in a considerable savings in time as well as eliminate the inconvenience of combing the loan installments and insurance premiums in a single payment. In the Board's view, the dangers of tying in this case are not substantial and should not bar Applicant's sale of insurance in local Virginia markets. Moreover, there is no evidence in the record indicating that engaging in these activities would result in any undue concentration of resources, unfair competition, conflicts of interests, or other adverse effects on the public interest.

Based on the foregoing and other considerations reflected in the record, the Board has determined that the balance of the banking public interest is served by approving Applicant's application. Therefore, Applicant's application is approved for the reasons summarized above.

By order of the Board of Governors, effective February 26, 1975.

[SEAL] GRIFFITH L. GARWOOD, Assistant Secretary of the Board.

[NR Doc. 75-6283 Filed 3-11-75 7:46 am]

HELMERICH & PAYNE, INC.

Order Approving Acquisition of Shares of Bank Holding Company

Helmerich & Payne, Inc., Tulsa, Oklahoma, a registered bank holding company owning or controlling 23.15 per cent of Utica National Bank & Trust Company, Tulsa, Oklahoma ("Bank") has applied for the Board's approval under section 4(c)(7) of the Bank Holding Company Act ("Act") (12 U.S.C. 1843(c)(7)) to acquire an additional 1.86 per cent of the voting capital stock of the Bank. In its application, the applicant stated that it is a drilling contractor and that its interest in the Bank is to secure an additional source of funds for its business. It is the Board's view that the public interest would be served by approving the application.

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1 See Board Order of January 26, 1974, granting permission to Fidelity American Bankshares, Inc., to engage de novo in the sale of credit life, credit accident and health, and mortgage redemption insurance (1974 Federal Reserve Bulletin 393).

2 All banking data are as of June 30, 1974.
exchange the interest it holds in Bank for 22.2 per cent of the voting shares of Utica Bankshares Corporation, Tulsa, Oklahoma ("Utica").

Notice of the application, affording opportunity for interested persons to submit comments and views has been duly published (40 FR 840 (1974)). The time for filing comments and views has expired, and the Board has considered the application and all comments received. The effective date of this Order has been set at March 1, 1975. The declaration commits Applicant to sell all shares of Utica's voting stock to Bank if the Board's approval under § 4(c) (8) of the Act is not received within 45 days after the date of the Board's action. The date of the Board's approval under § 4(c) (8) of the Act which declaration was accepted on January 27, 1975. The declaration commits Applicant to sell all shares of Utica's voting stock to Bank if the Board's approval under § 4(c) (8) of the Act has not been received within 45 days after the date of the Board's action.

Applicant presently owns or controls 25.15 per cent of Bank ($165.6 million of deposits). Shareholders of Bank have informed Utica to effectuate a corporate reorganization that includes the acquisition of Allstates. In connection with the corporate reorganization, Applicant proposes to change its direct ownership of shares of Bank to indirect ownership of shares of Bank through ownership of shares of Utica.

In that the proposed acquisition of voting shares of Utica is simply a reorganization of the type allowed under § 4(c) (8) of the Act, the acquisition would have no effect on banking competition. Banking factors and considerations relating to the convenience and needs of the community to be served are satisfactorily and consistent with approval of the application. It is the Board's judgment that the proposed transaction would be consistent with 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 to exchange shares of Bank for shares of Utica shall not be made (a) before the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City, pursuant to delegated authority.

Applicant simultaneously applied for the Board's approval under § 4(c) (8) of the Act (12 U.S.C. 1842(c) (8)) and § 225.4(b) (2) of the Board's Regulation Y, to engage indirectly in nonbanking activities through Allstates Capital Corporation, Tulsa, Oklahoma, and its subsidiaries ("Allstates"). Subsequently, Applicant filed an irrevocable declaration under section 4(c) (12) of the Act which declaration was accepted on January 27, 1975. The declaration commits Applicant to terminate its bank holding company status by January 1, 1981. Pursuant to § 225.4(c) of the Board's Regulation Y, a company that has filed such a declaration may make an acquisition of a going concern 45 days after the company has informed its Reserve Bank of such an acquisition, unless notified to the contrary within that time. Accordingly, the Board has not acted upon the section 4(c) (8) application, and Applicant may acquire shares of Allstates 45 days from the date the section 4(c) (12) irrevocable declaration was filed unless notified to the contrary by the Federal Reserve Bank of Kansas City.

By order of the Board of Governors, effective March 3, 1975.

[SEAL] THOMAS E. ALLISON, Secretary of the Board.

[FR Doc.75-3324 Filed 3-11-75; 8:45 am]

UTICA BANKSHARES CORP.
Order Approving Formation of Bank Holding Company and Acquisition of Company Engaged in Nonbanking Activities

Utica Bankshares Corporation, Tulsa, Oklahoma, has applied for the Board's approval under § 4(c) (8) of the Act (12 U.S.C. 1842(c) (8)) and § 225.4(b) (2) of the Board's Regulation Y, for permission to acquire 100 per cent of the voting shares of Allstates Capital Corporation ("Allstates"), Tulsa, Oklahoma, and thereby to engage indirectly in nonbanking activities through Allstates Mortgage Corporation ("Mortgage"), and Allstates International Finance Corporation ("International"), all located in Tulsa, Oklahoma. Applicant proposes further to receive (1) making or acquiring loans for its own account or for the account of others, (2) equipment leasing where leases represent functional equivalents of extended credit, (3) servicing loans and other extensions of credit, and (4) acting as financial or investment adviser to the extent of providing portfolio advice to persons and providing financial advice to State and local governments.

The financial and managerial resources of Bank and Allstates, are considered satisfactory and consistent with approval of the application. The transaction to exchange the interest it holds in Bank for 22.2 per cent of the voting shares of Utica shall not be made (a) before 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 Federal Reserve Bank of Kansas City, pursuant to delegated authority.

Notice of the application, affording opportunity for interested persons to submit comments and views has been duly published (40 FR 841). The time for filing comments and views has expired, and the Board has considered the application and all comments received. The effective date of this Order has been set at March 1, 1975. The declaration commits Applicant to sell all shares of Utica's voting stock to Bank if the Board's approval under § 4(c) (8) of the Act is not received within 45 days after the date of the Board's action. The date of the Board's approval under § 4(c) (8) of the Act which declaration was accepted on January 27, 1975. The declaration commits Applicant to sell all shares of Utica's voting stock to Bank if the Board's approval under § 4(c) (8) of the Act has not been received within 45 days after the date of the Board's action.

Applicant proposes to change its direct ownership of shares of Bank to indirect ownership of shares of Bank through ownership of shares of Utica. The same conclusion applies with respect to considerations relating to the convenience and needs of the community to be served. It is the Board's judgment that consummation of the holding company formation would be consistent with the public interest, and that the application to acquire Bank should be approved.

Allstates' (consolidated assets of $755,700 as of December 31, 1973) activities will be limited to the provision of administrative and financial services to its wholly-owned subsidiaries, Allstates Financial Corporation and Allstates Mortgage Corporation ("Mortgage"), and Allstates International Finance Corporation ("International"), all located in Tulsa, Oklahoma. Applicant proposes further to receive (1) making or acquiring loans for its own account or for the account of others, (2) equipment leasing where leases represent functional equivalents of extended credit, (3) servicing loans and other extensions of credit, and (4) acting as financial or investment adviser to the extent of providing portfolio advice to persons and providing financial advice to State and local governments.

The financial and managerial resources of Bank and Allstates, are considered satisfactory and consistent with approval of the application. The transaction to exchange the interest it holds in Bank for 22.2 per cent of the voting shares of Utica shall not be made (a) before 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 Federal Reserve Bank of Kansas City, pursuant to delegated authority.

Notice of the application, affording opportunity for interested persons to submit comments and views has been duly published (40 FR 841). The time for filing comments and views has expired, and the Board has considered the application and all comments received. The effective date of this Order has been set at March 1, 1975. The declaration commits Applicant to sell all shares of Utica's voting stock to Bank if the Board's approval under § 4(c) (8) of the Act is not received within 45 days after the date of the Board's action. The date of the Board's approval under § 4(c) (8) of the Act which declaration was accepted on January 27, 1975. The declaration commits Applicant to sell all shares of Utica's voting stock to Bank if the Board's approval under § 4(c) (8) of the Act has not been received within 45 days after the date of the Board's action.

Applicant is a newly-created corporation organized for the purpose of becoming a bank holding company through the acquisition of Bank, and acquiring Allstates. Bank (deposit of $105.6 million) is the fifth largest of 31 banks in the relevant banking market (approximated by Tulsa County) and holds approximately 5.3 per cent of total deposits held by commercial banks in that market. Bank is the ninth largest bank in Oklahoma holding approximately 5.3 per cent of total deposits held by commercial banks located in the State.

Inasmuch as the proposed formation of a bank holding company merely represents a corporate reorganization, the operation of Bank would not eliminate any significant actual or probable future competition, increase the concentration of banking resources, or have an adverse effect on competition within the banking market. Accordingly, the Board concludes that competitive considerations are consistent with approval of the application to acquire Bank.

The financial and managerial resources and future prospects of Applicant, which are dependent upon those of Bank and Allstates, are considered satisfactory and consistent with approval of the application. The same conclusion applies with respect to considerations relating to the convenience and needs of the community to be served. It is the Board's judgment that consummation of the holding company formation would be consistent with the public interest, and that the application to acquire Bank should be approved.

Allstates' (consolidated assets of $755,700 as of December 31, 1973) activities will be limited to the provision of administrative and financial services to its wholly-owned subsidiaries, Allstates Financial Corporation and Allstates Mortgage Corporation ("Mortgage"), and Allstates International Finance Corporation ("International"), all located in Tulsa, Oklahoma. Applicant proposes further to receive (1) making or acquiring loans for its own account or for the account of others, (2) equipment leasing where leases represent functional equivalents of extended credit, (3) servicing loans and other extensions of credit, and (4) acting as financial or investment adviser to the extent of providing portfolio advice to persons and providing financial advice to State and local governments.

The financial and managerial resources of Bank and Allstates, are considered satisfactory and consistent with approval of the application. The transaction to exchange the interest it holds in Bank for 22.2 per cent of the voting shares of Utica shall not be made (a) before 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 Federal Reserve Bank of Kansas City, pursuant to delegated authority.

Notice of the application, affording opportunity for interested persons to submit comments and views has been duly published (40 FR 841). The time for filing comments and views has expired, and the Board has considered the application and all comments received. The effective date of this Order has been set at March 1, 1975. The declaration commits Applicant to sell all shares of Utica's voting stock to Bank if the Board's approval under § 4(c) (8) of the Act is not received within 45 days after the date of the Board's action. The date of the Board's approval under § 4(c) (8) of the Act which declaration was accepted on January 27, 1975. The declaration commits Applicant to sell all shares of Utica's voting stock to Bank if the Board's approval under § 4(c) (8) of the Act has not been received within 45 days after the date of the Board's action.
The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on March 6, 1975. See 44 U.S.C. 3512 (g) and (d). The purpose of publishing this list in the Federal Register is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed SEC forms are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments must be received on or before March 31, 1975, and should be addressed to Mr. Monte Cardfield, Jr., Director, Office of Special Programs, United States General Accounting Office, 425 1 Street, NW, Washington, D.C. 20548.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 302-376-5425.

SECURITIES AND EXCHANGE COMMISSION
Request for review and clearance of an extension (no change) of Form R-4a, “Private Noninsured Pension Plans.” The questionnaire is voluntary and is used quarterly by the Securities and Exchange Commission to collect from banks acting as managers of pension plans, corporations, unions and multi-employer groups as sponsors of pension plans, information for its annual survey of pension funds. The form requests information on common stock acquisitions and dispositions, and a statement of assets. The respondent burden is estimated to be 3 hours per response. The sample will consist of approximately 500 respondents.

Request for review and clearance of an extension (no change) of Form R-5, “Property and Liability Insurance Companies.” The quarterly questionnaire is voluntary and is used by the Securities and Exchange Commission to collect from property and liability insurance companies, information for its annual survey of pension funds. The form requests information on common stock acquisitions and dispositions, and a statement of assets. The respondent burden is estimated to be 3 hours per response. The sample will consist of approximately 120 respondents.

GENERAL ACCOUNTING OFFICE
SECURITIES AND EXCHANGE COMMISSION
Receipt of Regulatory Reports Review Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on March 6, 1975. See 44 U.S.C. 3512 (g) and (d). The purpose of publishing this list in the Federal Register is to inform the public of such receipt.

Voting for this action: Chairman Burns and Governors Mitchell, Boucher, Holland, Wallich and Collwell. Absent and not voting: Governor Sheehan.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 302-376-5425.
NOTICES

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewer division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (X) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

New Forms

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE


DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research, Repair and Maintenance Problems of Elderly Homeowners, single-time, elderly homeowners in seven areas of county, Community and Veterans Affairs Division, 935-3352.

Housing Production and Mortgage Credit Set- tlement Cost Evaluation Survey, single-time, mortgages in 12 counties throughout the United States, Community and Veterans Affairs Division, 935-8932.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management:

Special Land Use Application and Permit (Short Form), 2920-3, on occasion, individuals, Lowry, R. L., 395-3772.

Special Recreation Use Application and Permit (Short Form), 2920-4, single-time, individuals, Lowry, R. L., 395-3772.

PHILIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-6330 Filed 3-11-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-409]

DAIRYLAND POWER COOPERATIVE

Consideration of Proposed Modification to Facility Irradiated Fuel Storage Pool

The Nuclear Regulatory Commission (the Commission) is considering approval of a modification to the irradiated fuel storage pool of the La Crosse Boiling Water Reactor (the facility) operated under Provisional Operating License No. DPR-45 issued to Dairyland Power Cooperative (the licensee). The facility is located in Vernon County, Wisconsin, and is currently authorized to operate at 165 MwT.

The proposed modification to the irradiated fuel element storage pool would provide for additional storage racks for irradiated fuel and shrouds in accordance with the licensee's proposed date December 12, 1974.

Prior to approval of the proposed modification, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The modification to the irradiated fuel element storage pool will not be approved until the Commission has reviewed the safety aspects and has concluded that approval of the modification will not be inconsistent with the common defense or to the health and safety of the public.

By April 11, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the approval of the modification to the subject facility irradiated fuel element storage pool. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth with particularity the petitioner's interest in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed action. Such petition may be filed in the form of a petition for leave to intervene with respect to the approval of the modification, and the provisions of this notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docking and Service Section, by the above date.

By April 11, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment, and the Commission's rules and regulations. A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth with particularity the petitioner's interest in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied. All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petition.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the proceeding; in such case, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the licensee's proposed date December 12, 1974, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601. The Commission's approval and the Safety Evaluation, when issued, may be inspected at the above locations, and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 5th day of March 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEHMAN,
Chief, Operating Reactors Branch No. 2, Division of Reactor Licensing.

[FR Doc.75-6330 Filed 3-11-75;8:45 am]

CAROLINA POWER & LIGHT CO.

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-23 issued to Carolina Power & Light Company (the licensee) for operation of the H. B. Robinson Unit 2 located in Darlington County, Hartsville, South Carolina.

The amendment would revise the provisions in the Technical Specifications relating to the requirements for spent fuel handling, in accordance with the licensee's application for amendment, dated October 16, 1974.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By April 11, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment, the licensee's application for amendment, dated October 16, 1974.

A petition for leave to intervene must set forth with particularity the petitioner's interest in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied. All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petition.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the proceeding; in such case, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the licensee's proposed date December 12, 1974, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601. The Commission's approval and the Safety Evaluation, when issued, may be inspected at the above locations, and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 5th day of March 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEHMAN,
Chief, Operating Reactors Branch No. 2, Division of Reactor Licensing.

[FR Doc.75-6330 Filed 3-11-75;8:45 am]
The Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses. Petitions stating contentions relating to several Limiting Safety System Setpoints and Engineered Safety System Setpoints in order to avoid abnormal occurrence reports which the licensees maintain to maintain safety significance, in accordance with the licensee's application for amendments dated January 31, 1975.

Prior to issuance of the proposed amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By April 11, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene. The Commission will be considered to determine whether appropriate order issued regarding the disposition of the petitions.

The public is invited to attend. Limited appearance statements will not be accepted at the proceeding.

It is so ordered.

Dated at Bethesda, Maryland this 6th day of March, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors
Branch No. 3, Division of Reactor Licensing.

[FR Doc.75-6335 Filed 3-11-75;8:45 am]

Dockets Nos. STN 50-516, 50-517

LONG ISLAND LIGHTING CO. (JAMESPORT NUCLEAR POWER STATION, UNITS 1 AND 2)

Order Relative to Prehearing Conference

Take notice, there will be a prehearing conference at the Holiday Inn, Exit 72, Long Island Expressway, Riverhead, Long Island, New York on March 26, 1975, commencing at 9:30 a.m. (local time).

In the Board's Order subsequent to the prehearing conference on December 19, 1974, the Board expressed its concern over delay in ruling on all contentions of each party. The Board has determined that it will proceed as originally announced—that Intervenor will be invited to amplify on contentions not previously admitted and the Board will expect the Appellant and Staff to respond. The Board will invite parties at the commencement of the proceeding to submit any proposed stipulations but will not grant additional time for further negotiations.

The public is invited to attend. Limited appearance statements will not be accepted at the proceeding.

It is so ordered.

Dated at Bethesda, Maryland this 8th day of March, 1973.

THE ATOMIC SAFETY AND LICENSING BOARD,
ELIZABETH S. BOWERS, Chairman.

[FR Doc.75-6335 Filed 3-11-75;8:45 am]

Docket No. 50-171

PHILADELPHIA ELECTRIC CO.

Proposed Issuance of Amendment to Provisional Operating License

The Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Provisional Operating License No. DPR-12 issued to the Philadelphia Electric Company (the licensee) for the Peach Bottom Atomic Power Station Unit 1 located in York County, Pennsylvania.
The Peach Bottom Atomic Power Station was shut down on October 31, 1974 and decommissioning is to be accomplished by the Philadelphia Electric Company. After the fuel has been removed from the reactor and placed in storage, the proposed amendment to the license will be presented to the Philadelphia Electric Company to provide for the decommission of the decommissioned facility. The Technical Specifications would also be revised to be consistent with the possession only status of the facility.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By April 11, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of an amendment to the subject facility license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, the reasons for such interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this Federal Register notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Eugene J. Bradley, the attorney for the applicant.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board, as applicable. No petition will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

To the extent that mass hearings are held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the Application for amendment dated August 29, 1974, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Martin Memorial Library, 159 S. Market Street, York, Pennsylvania 17401.

Chairman of the Atomic Safety and Licensing Board shall cause the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 4th day of March 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAH, Chief, Operating Reactors Branch No. 3, Division of Reactor Licensing.

SECRETS AND EXCHANGE COMMISSION

March 4, 1975.

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, 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 exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors,

Therefore, pursuant to sections 19(a) (4) and 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from March 5, 1975 through March 14, 1975.

By the Commission.

GEORGE A. FITZSIMMONS, Secretary.

BBI, INC.

Suspension of Trading

SECURITIES AND EXCHANGE COMMISSION

File No. 500-1

March 4, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAH, Chief, Operating Reactors Branch No. 3, Division of Reactor Licensing.

[FR Doc. 75-6327 Filed 3-11-75; 8:45 am]

BBI, INC.

Suspension of Trading

The common stock of BBI, Inc., being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, 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 exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors,

Therefore, pursuant to sections 19(a) (4) and 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from March 5, 1975 through March 14, 1975.

By the Commission.

GEORGE A. FITZSIMMONS, Secretary.

[FR Doc. 75-6327 Filed 3-11-75; 8:45 am]

CENTRAL AND SOUTH WEST CORP.

Order Authorizing Solicitation of Stockholders' Proxies

March 6, 1975.

In the matter of Central and South West Corporation, P.O. Box 1631, Wilmington, Delaware, 19899, (70-5623).

Notice is hereby given that Central and South West Corporation ("Central"), a registered holding company, has filed a declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6, 7, and 12 of the Act and Rule 82 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Central proposes to amend its Certificate of Incorporation ("charter") to increase its authorized common stock from 51,500,000 shares to 56,500,000 shares, par value 0.001 per share. The corporation currently has 51,417,892 shares of its common stock issued and outstanding. It is stated that Central's Board of Directors believes it will be necessary that Central sell additional shares within the next two years to help finance planned construction expenditures of Central's subsidiaries while maintaining proper capital ratios. Construction expenditures by Central's subsidiaries are estimated at approximately $893,800,000 for 1975-1977.

The proposed charter amendment is to be submitted to Central's stockholders at the annual meeting to be held on April 17, 1975. Approval of the charter amendment requires the affirmative vote of the holders of a majority of the shares of common stock outstanding. Central proposes to solicit proxies from its common shareholders to obtain the requisite approval of the proposed charter amendment, to elect directors, to approve the amendment of Central's charter to the extent necessary to act upon any other matters which may properly come before the annual meeting.

Fees and expenses to be paid by Central in connection with the proposed transaction will be expensed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person, may, not later than April 4, 1975, request in writing that a hearing be held on such matter stating the nature of the hearing desired, the questions to be raised, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended, or as it may be further amended, may be permitted to become effective as provided by Rule 62 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 106 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

FEDERAL REGISTER, VOL. 40, NO. 49— WEDNESDAY, MARCH 12, 1975
NOTICES

notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes the solicitation of proxies from Central's common stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered that the declaration regarding the proposed solicitation of proxies of Central's common stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FEDERAL REGISTER, VOL 40, NO. 49— WEDNESDAY, MARCH 12, 1973]

CENTURY MEDICAL INC.
Suspension of Trading
MARCH 5, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Century Medical 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 required in the public interest and for the protection of investors;

Then, 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 required in the public interest and for the protection of investors;

It therefore appears that at December 31, 1974, the balance sheet of Central, while it showed total assets of $347,733, including $339,046 of real property, plant and equipment and leasehold improvements at cost net of depreciation in the amount of $970,333, representing Central's investment in Biotechnics, a corporation engaged in the business of obtaining and marketing human blood plasma. It therefore appears that at such time Central was engaged in the business of owning real property.

In January, 1971, Central acquired, through the purchase of the common stock of Biotechnics, a corporation engaged in the business of obtaining and marketing human blood plasma. It therefore appears that at such time Central was engaged in the business of owning real property.

By the Commission.

[FR Doc.75-6410 Filed 3-11-75; 8:45 am]

GEORGE A. FITZSIMMONS,
Secretary.

[CENTURY MEDICAL INC.
Suspension of Trading
MARCH 5, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Century Medical 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 required in the public interest and for the protection of investors;

Then, 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 required in the public interest and for the protection of investors;

It therefore appears that at December 31, 1974, the balance sheet of Central, while it showed total assets of $347,733, including $339,046 of real property, plant and equipment and leasehold improvements at cost net of depreciation in the amount of $970,333, representing Central's investment in Biotechnics, a corporation engaged in the business of obtaining and marketing human blood plasma. It therefore appears that at such time Central was engaged in the business of owning real property.

In January, 1971, Central acquired, through the purchase of the common stock of Biotechnics, a corporation engaged in the business of obtaining and marketing human blood plasma. It therefore appears that at such time Central was engaged in the business of owning real property.

By the Commission.

[FR Doc.75-6410 Filed 3-11-75; 8:45 am]

GEORGE A. FITZSIMMONS,
Secretary.

FILING AND ORDER FOR CONSOLIDATED HEARING ON APPLICATIONS
MARCH 5, 1975.

In the matter of Crescent General Corporation, 5510 Abrams Road, Suite 126, Dallas, Texas 75214, (812-3182) (812-3448).

Notice is hereby given that Crescent General Corporation, a corporation engaged in the business of owning real property, has filed an application on March 30, 1975, and amendments thereto on March 29, 1975, and April 9, 1975 (File No. 812-3182) (1) pursuant to section 3(b) (2) of the Investment Company Act of 1940 ("Act") for an order declaring that Crescent is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities, either directly or through majority-owned subsidiaries or through controlled companies conducting similar types of businesses, or (2) in the alternative, pursuant to section 6(e) of the Act, for an order exempting Crescent from all provisions of the Act. Crescent has filed an application on April 16, 1975, and an amendment thereto on June 15, 1975 (File No. 812-3448), pursuant to section 17(b) of the Act for an order exempting from all provisions of the Act certain transactions described in an agreement dated March 26, 1973, as amended (the "Agreement") between Crescent and two individuals, Dr. Theodore Holstein and Mr. Clyde Sdeen, each of whom holds common stock of Crescent. All interested persons are referred to the applications, as amended, on file with the Commission for a statement of the representations therein, a summary of which follows:

Background of Applications. Crescent...
the term “investment company” does not include any issuer whom the Commission upon application 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 through majority-owned subsidiaries or through controlled companies conducting similar types of businesses.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt 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.

Applicability of sections 17(a) and (b) and Effect of Proposal on Crescent. By order dated December 21, 1973 (Investment Company Act Release No. 8149), the Commission granted to Crescent a temporary exemption from the provisions of Section 7 of the Act until such time as the Board of Directors of Crescent would file with the Commission an application, described hereinabove, for an order of the Commission pursuant to section 3(b) (2) of the Act. Such order had the effect, among others, of subjecting Crescent, in their relations and transactions with Crescent, with certain specified exceptions, to all provisions of the Act including sections 17(a) and 17(b) of the Act, and, as a result thereof, as though Crescent were a registered investment company.

If the proposal described below should be consummated, Crescent would, among other things, dispose of all of its present holdings of investment securities, eliminate a substantial portion of its debt obligations, and acquire 100% of the common stock of Biotechnics.

Application pursuant to section 17(b) of the Act. The application contains the following representations with respect to the request for an order pursuant to section 17(b) of the Act.

1. Holstein will, concurrently with the consummation of the transaction described in item 2 below, cause to be delivered to the Commission a copy of all of the outstanding capital stock of Biotechnics, which he purchased for $50,000, for a price of $218,241 plus an amount equal to Biotechnics’ accrued net income, before tax, (as certified by specified accountants for Holstein) for the period after April 30, 1973, to the date the transaction is consummated. Such price is to be paid as follows: $50,000 in cash at the time of closing, and $166,241 plus the amount of accrued net income before taxes of Biotechnics computed for the period and in the manner noted by a promissory note bearing interest from the date of closing at the rate of 9% per annum.

2. Skeen will purchase from Crescent and will sell to Skeen 131,665 shares of Crescent common stock for consideration consisting of a cash payment of $200,000 by Skeen and the assumption by Skeen of specified liabilities of Crescent aggregating $2,061,000 at a price of $1 a share. Under that agreement, Skeen and Ringer agreed to purchase from Holstein and Ms. Teresa A. Goldie a total of 1,910,000 shares of the outstanding common stock of Crescent over a period of years. Pursuant to that agreement, Skeen and Ringer obtained proxies to vote such shares of Crescent stock while the shares remained subject to said agreement. In December, 1973, Skeen and Ringer assigned to Magnus their right to acquire from Holstein and Goldie 240,000 shares of Crescent common stock and Magnus purchased such shares from Holstein and Goldie. Skeen owns, controls or holds with power to vote 1,460,500 shares (approximately 60%) of Crescent’s outstanding common stock. Of such number of shares, Skeen owns 96,500 shares and has received proxies from Holstein and Goldie to vote 1,370,000 shares. Holstein owns 1,446,570 shares (approximately 59%) of Crescent’s outstanding common stock, including 1,301,920 shares which Skeen has the power to vote pursuant to proxies received from Holstein. Skeen is chairman of Crescent’s board of directors as well as chief executive officer and a director of Crescent. As a result of the foregoing, Holstein and Skeen are each an affiliated person of Crescent as defined in section 2(a)(3) of the Act.

3. The closing is conditioned upon the accomplishment of certain action by Crescent and Skeen, including obtaining (1) the written consent of various specified persons to the assumption by Skeen of certain Crescent obligations which total $2,038,025 at October 18, 1972 (and which are included in the figures of $2,061,000 referred to in the preamble thereto), and (2) the release of Crescent from such obligations.

The closing is also subject to the condition that a meeting of the board of directors of Crescent shall be held to reconstitute such board of directors so as to consist of Holstein plus two of his nominees and Skeen plus one of his nominees.

4. If the closing will, at or prior to the closing, cause to be satisfied certain obligations of Crescent to its trade creditors totaling about $38,000 and an obligation of Crescent in the amount of about $17,000 arising out of certain litigation. In addition Skeen agrees to pay for any defense of Crescent necessitated by reason of any future contingent liabilities arising out of action after January 19, 1971, and prior to the closing.

5. The agreement of January 15, 1971, referred to hereinabove, is amended so as to postpone the date for the sale by Holstein and the purchase by Skeen of 285,000 shares of Magnus common stock; and at the closing such agreement is to be further amended so as to provide for (1) postponing the other dates on which Holstein is to sell and Skeen is to purchase, (2) increasing the specified amounts of Crescent’s outstanding common stock, (2) the revocation of the proxy heretofore given to Skeen by Holstein to vote shares of Crescent’s outstanding stock which are owned by Holstein, (3) the granting by Skeen to Holstein of an option for a specified period to repurchase any shares of Crescent’s common stock which Skeen purchases or has purchased from Holstein under these agreements at a price of 150% of the price paid by Skeen, and (4) obligating Skeen, so long as the foregoing option prevails, to vote all of his holdings of Crescent’s outstanding stock so as to allow Holstein to maintain control of Crescent’s board of directors.

6. Crescent, Holstein and Skeen each agree to release and hold each other harmless from and against all claims which each may have against each other except as to the obligations contained in the Agreement.

Statutory Standards—section 17(b). Section 17(a) of the Act prohibits all persons who are affiliated persons of a registered investment company from acquiring the control of any registered investment company; and section 17(b) of the Act, may grant an exemption from such control. If an exemption is sought pursuant to section 17(b) of the Act, the Commission may conditionally or unconditionally exempt 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.
NOTICES

11655

[File No. 500-1]
LIFE SCIENCES, INC.

Suspension of Trading

MARCH 5, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Life Sciences, 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 11 a.m. (e.s.t.) on March 5, 1975, through midnight (e.s.t.) on March 14, 1975.

By the Commission.

[Seal] GEORGE A. FITZSIMMONS, Secretary.

[FR Doc.75-6409 Filed 3-11-75;8:45 am]

NEW ENGLAND ELECTRIC SYSTEM

Proposed Issue and Sale of Common Stock

MARCH 3, 1975.

In the matter of New England Electric System, 20 Turnpike Road, Westborough, Massachusetts 01581 (70-5626).

Notice is hereby given that New England Electric System, 20 Turnpike Road, Westborough, Massachusetts 01581 (70-5626), a registered holding system, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

NEES proposes to issue and sell for cash before April 30, 1975, up to 2,500,000 shares of its common stock, par value $1 per share (the "Additional Common Stock"), in a negotiated public underwriting through a group of underwriters represented by The First Boston Corporation, E. F. Hutton & Company, Inc., Kidder, Peabody Co., Inc., and Paine, Webber, Jackson & Curtis, Inc.

On November 7, 1974 (Holding Company Act Release No. 18646), this Commission announced a temporary suspension of the competitive bidding requirements of Rule 50 under the Act insofar as those requirements apply to sales of common stock. This suspension is effective, under certain conditions, until April 30, 1975. NEES contemplates selling its stock during this period, and thus the sale will be exempt from the competitive bidding requirements.

The proceeds from the sale of the Additional Common Stock will be used by NEES for the payment of short-term indebtedness, incurred to make investments in NEES's subsidiaries or for additional investments in NEES's subsidiaries...
through loans to such subsidiaries, purchases of additional shares of their capital stock or capital contributions.

The fees and expenses to be paid by NEES are estimated at $150,000, including service fees, at cost, of New England Power Service Company, a wholly-owned subsidiary of NEES of $30,000. The fees of counsel and charges for the work performed by the successful bidders, will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 31, 1975, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission orders 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 person being served, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be 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 an extension of such time as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing for 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.75-6413 Filed 3-11-75;8:45 am]

NOTICES

NORTHEAST UTILITIES, ET AL.

Proposed Services by Service Company to Non-Associate


In the matter of Northeast Utilities Service Company, Northeast Utilities, et al., P.O. Box 770, Hartford, Connecticut 06110 (37-65).

Notice is hereby given that Northeast Utilities ("Northeast"), a registered holding company, together with its subsidiary companies including Northeast Utilities Service Company "Service Company"), have jointly filed with this Commission a post-effective amendment No. 7 to their joint application-declaration, as hereinafter amended, reserving the organization and conduct of business of Service Company designating section 13(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 88 promulgated thereunder as applicable to the transaction proposed in said post-effective amendment. Persons referred to the amendment for a statement of the proposed transaction which is summarized below.

Service Company proposes to enter into a contract with the City of Westfield, Massachusetts, Gas and Electric Light Department ("Westfield G&E"), whereby Service Company would perform engineering and related services to design and construct for Westfield G&E a bulk substation at Buck Pond Road, Westfield, Massachusetts. It is stated that the Buck Pond substation, which will be similar to another substation located in Westfield previously owned by Western Massachusetts Electric Company ("WMECO"), an associate company, and sold to Westfield G&E in 1972; that WMECO's service area as adjacent to that of WMECO, and its system is interconnected with WMECO's; that performance of the proposed services by Service Company will assure the compatibility of the Buck Pond substation with the interconnecting WMECO facilities; and that the proposed contract will promote the more efficient use of Service Company's personnel and resources without additional cost to its associate system companies.

It is expected that the engineering and design work will commence immediately and that construction of the Buck Pond substation will be completed by the end of June 1, 1977. The total cost to Westfield G&E for the proposed services by Service Company is estimated at $1,250,000. Under the contract, Service Company would bill Westfield G&E monthly for services performed and those expected to be performed in the current month, in amounts intended to reimburse Service Company for its direct costs together with an additional amount representing overhead and profit. It is stated that in view of such monthly billings, no borrowing of funds by Service Company in connection with services performed under the contract will be necessitated.

Fees and expenses of the proposed transaction are estimated not to exceed $1,000. It is stated that no State or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 24, 1975, 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, as amended by said post-effective amendment, or as it may be further amended, which he desires to controvert, or he may request that he be notified if the Commission orders 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 person being served, 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 so amended or as it may be further 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 an extension of such time as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing for 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.

GEORGE A. FITZSIMMONS, Secretary.

[FR Doc.75-6413 Filed 3-11-75;8:45 am]

UTAH POWER AND LIGHT CO.

Proposed Issue and Sale of Common Stock to Shareholders


In the matter of Utah Power & Light Company, P.O. Box 399, Salt Lake City, Utah 84110 (70-527).

Notice is hereby given that Utah Power & Light Company ("Utah"), an electric utility company and a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 8(a) and 7 of the Act as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated January 8, 1973 (Holdings Company Act Release No. 17847) Utah was authorized to issue and sell 200,000 shares of its common stock, $12.50 par value ("stock"), to its common stockholders pursuant to a Dividend Reinvestment and Stock Purchase Plan ("Plan"). Under the plan a holder of Utah common stock may elect to have his dividends automatically invested in additional common stock of Utah.
Utah now proposes to offer to shareholders who are or who become participants an additional 200,000 shares of its authorized but unissued common stock under the terms and conditions set forth in the following subsection. The proposed offering is necessary to meet the requirements of plan participants resulting from the expected April 1, 1976, dividend payment and dividend payments subsequent thereto. In the event all 200,000 shares are not sold by Utah within 12 months from the effective date of the order in this proceeding, Utah proposes to file an amendment seeking authority to continue the plan with respect to any unsold shares. All 40,000 shares originally offered under the plan have been sold. Utah states that it does not now propose to amend or supplement the plan in any way.

The plan is administered by Zions First National Bank of Salt Lake City, Utah, a commercial banking institution, the "Trustee" appointed by Utah's board of directors. The plan will be supplied by the Trustee for the participant's account. The price of the shares to be issued by Utah to the Trustee is determined by the closing price of Utah's common stock on the New York Stock Exchange on each dividend payment date. The shares purchased by the Trustee are held for the exclusive benefit of the participants in the Plan.

A participant may at any time withdraw full shares in his account under the plan without terminating his participation in the plan. Fractional share interests will be paid in cash, based on the closing market price on the day the withdrawal or termination request is received by Utah. A participating stockholder must affirmitively terminate his enrollment to end his participation and he may do so at any time.

Investment of dividends held under the plan will not be made until a period of two weeks has elapsed following the dividend payment date. The Trustee will not vote any shares held by it under the plan. Participants receive a single proxy with respect to full shares which they own of record or under the plan.

Pursuant to authority vested in me by the Small Business Act, 73 Stat. 334, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, the following authority is hereby delegated to the Associate Administrator for Operations together with further authority to delegate, amend, modify, or revoke any authority delegated to field positions hereinafter set forth:

Pairc.

The policies, rules, procedures and other requirements, as well as citations to the statutes, governing the programs for which this delegation of authority is being issued, are contained in various parts of the Regulations of the Small Business Administration. Pursuant to authority vested in me by the Small Business Act, 73 Stat. 334, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, the following authority is hereby delegated to the Associate Administrator for Operations together with further authority to delegate, amend, modify, or revoke any authority delegated to field positions hereinafter set forth:

[Notice of Delegation of Authority No. 30 (Revision 15) reads as follows:

Pursuant to authority vested in me by the Small Business Act, 73 Stat. 334, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, the following authority is hereby delegated to the Associate Administrator for Operations together with further authority to delegate, amend, modify, or revoke any authority delegated to field positions hereinafter set forth:

Preface

The policies, rules, procedures and other requirements, as well as citations to the statutes, governing the programs for which this delegation of authority is being issued, are contained in various parts of the Regulations of the Small Business Administration. Pursuant to authority vested in me by the Small Business Act, 73 Stat. 334, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, the following authority is hereby delegated to the Associate Administrator for Operations together with further authority to delegate, amend, modify, or revoke any authority delegated to field positions hereinafter set forth:

Section A—Loan Approval Authority

1. Business and Handicapped Assistance Loans (Small Business Act [SBA]). To approve or decline sections 7(a) business loans and 7(h) handicapped assistance loans not exceeding the following amounts (SBA share):

- Approved
- Declined
- Regional Director
- Assistant Regional Director
- Director
- Assistant Director
- Chief, Financing Division, D/O
- Branch Manager

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NOTICES

2. Economic Opportunity Loans (EOL) (SBAct). To approve or decline section 7(i) economic opportunity loans not exceeding the following amounts (SBA share):

<table>
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<tr>
<td>a. Regional Director</td>
<td>$50,000</td>
</tr>
<tr>
<td>b. Assistant Regional Director for F&amp;I</td>
<td>$50,000</td>
</tr>
<tr>
<td>c. District Director</td>
<td>$50,000</td>
</tr>
<tr>
<td>d. Assistant District Director for F&amp;I</td>
<td>$50,000</td>
</tr>
<tr>
<td>e. Chief, Financing Division, D/O</td>
<td>$50,000</td>
</tr>
<tr>
<td>f. Supervisory Loan Specialist, Financing Division, D/O</td>
<td>$50,000</td>
</tr>
<tr>
<td>g. Branch Manager</td>
<td>$50,000</td>
</tr>
</tbody>
</table>

3. Product Disaster and Economic Injury Disaster Loans (SBAct). To decline section 7(b)(4) product disaster and section 7(b)(2) economic injury disaster loans in connection with "natural disaster" declarations made by the Secretary of Agriculture in any amount and to approve such loans up to the following amounts (SBA share):

<table>
<thead>
<tr>
<th>Approve</th>
<th>Decline</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Direct and Immediate Participation Loans:</td>
<td></td>
</tr>
<tr>
<td>(1) Regional Director</td>
<td>$500,000</td>
</tr>
<tr>
<td>(2) Assistant Regional Director for F&amp;I</td>
<td>$500,000</td>
</tr>
<tr>
<td>(3) District Director</td>
<td>$500,000</td>
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<tr>
<td>(4) Assistant District Director for F&amp;I</td>
<td>$500,000</td>
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<tr>
<td>(5) Chief, Financing Division, D/O</td>
<td>$500,000</td>
</tr>
<tr>
<td>(6) Supervisory Loan Specialist, Financing Division, D/O</td>
<td>$500,000</td>
</tr>
<tr>
<td>(7) Branch Manager</td>
<td>$500,000</td>
</tr>
<tr>
<td>b. Guaranty Loans (in addition to direct and immediate participation authority):</td>
<td></td>
</tr>
<tr>
<td>(1) Regional Director</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>(2) Assistant Regional Director for F&amp;I</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>(3) District Director</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>(4) Assistant District Director for F&amp;I</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>(5) Chief, Financing Division, D/O</td>
<td>$500,000</td>
</tr>
<tr>
<td>(6) Supervisory Loan Specialist, Financing Division, D/O</td>
<td>$500,000</td>
</tr>
<tr>
<td>(7) Branch Manager</td>
<td>$500,000</td>
</tr>
</tbody>
</table>

4. Sections 7(b)(3), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8) and 7(g) Loans (SBAct): To decline section 7(b)(3) displaced business loans, 7(b)(5) regulatory disaster loans (including coal mine health and safety, consumer protection—meat, eggs, poultry—and occupational safety and health, etc.), 7(b)(6) strategic arms limitation economic injury loans, 7(b)(7) base closing economic injury loans, 7(b)(8) emergency energy shortage economic injury loans, and 7(g) water pollution loans in any amount and to approve such loans up to the following amounts (SBA share):

<table>
<thead>
<tr>
<th>Approve</th>
<th>Decline</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Direct and Immediate Participation Loans:</td>
<td></td>
</tr>
<tr>
<td>(1) Regional Director</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>(2) Assistant Regional Director for F&amp;I</td>
<td>$1,000,000</td>
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<tr>
<td>(3) District Director</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>(4) Assistant District Director for F&amp;I</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>(5) Chief, Financing Division, D/O</td>
<td>$500,000</td>
</tr>
</tbody>
</table>

5. Service Charges. To approve service charges by participating lenders not to exceed two (2) percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing:

<table>
<thead>
<tr>
<th>Approve</th>
<th>Decline</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Regional Director</td>
<td>$200,000</td>
</tr>
<tr>
<td>b. Assistant Regional Director for F&amp;I</td>
<td>$200,000</td>
</tr>
<tr>
<td>c. District Director</td>
<td>$200,000</td>
</tr>
<tr>
<td>d. Assistant District Director for F&amp;I</td>
<td>$200,000</td>
</tr>
<tr>
<td>e. Branch Manager</td>
<td>$200,000</td>
</tr>
<tr>
<td>f. Supervisory Loan Specialist, Financing Division, D/O</td>
<td>$200,000</td>
</tr>
<tr>
<td>g. Loan Specialist, Financing Division, D/O</td>
<td>$200,000</td>
</tr>
</tbody>
</table>

3. Direct and Immediate Participation Economic Injury Disaster Loans

FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975
(SB Act). To decline direct and immediate participation section 7(b)(2) economic injury disaster loans (in connection with a physical disaster declaration by the Administrator, or a "major disaster" declaration by the President) in any amount to and approve such loans, not exceeding the following amounts (SBA share):

- Regional Director: $500,000
- Assistant Regional Director for F&E: $1,000,000
- District Director: $500,000
- Assistant District Director for F&E: $500,000
- Disaster Branch Manager: $300,000
- Supervisory Loan Specialist: $200,000
- Supervisory Loan Specialist, D/O: $200,000
- Assistant Regional Director for F&E: $350,000
- Assistant Regional Director for Administration: $750,000
- District Director: $750,000
- Assistant District Director for F&E: $750,000
- Chief, CED Division, D/O: $750,000
- Chief, Financing Division, D/O: $750,000

SECTION B—ADMINISTRATIVE AUTHORITY

1. Section 501 State Development Company Loans. To approve or decline section 501 state development company loans not exceeding the following amounts (SBA share):

- Regional Director: Unlimited
- Assistant Regional Director for F&E: $750,000
- District Director: $750,000
- Assistant District Director for F&E: $750,000
- Chief, CED Division, D/O: $750,000
- Chief, Financing Division, D/O: $750,000

2. Section 502 Local Development Company Loans (SB Act). To approve or decline section 502 local development company loans not exceeding the following amounts (SBA share) for each small business concern being assisted, within the project cost limitations shown below:

- Regional Director: $1,000,000
- Assistant Regional Director for F&E: $500,000
- District Director: $500,000
- Assistant District Director for F&E: $500,000
- Chief, CED Division, D/O: $500,000
- Chief, Financing Division, D/O: $500,000
- Senior Surety Bond Specialist, San Francisco District Office: $500,000

2. Commitment Letters. To modify commitment letters:

- Regional Director
- Assistant Regional Director for F&E
- Regional Counsel
- District Director
- Assistant District Director for F&E
NOTICES

1. Chief, CED Division, D/O
2. District Counsel

SECTION D—SURETY GUARANTEE
1. To guarantee sureties against portion of loans resulting from the breach of bid, payment, or performance bonds on contracts, not to exceed $500,000.
   a. Regional Director
   b. Assistant Regional Director for F&I
   c. Surety Bond Guarantee Officer, R/O
   d. District Director, Region IV District Offices only
   e. Chief, CED Division, San Francisco, New York, and all Region IV District Offices only
   f. Surety Bond Guarantee Officer, San Francisco, New York and all Region IV District Offices only.

SECTION E—EDA LOAN AUTHORITY
1. EDA Loan Disbursement Authority. To disburse EDA loans, as directed by EDA:
   a. Regional Director
   b. Assistant Regional Director for F&I
   c. Regional Counsel
   d. District Director
   e. Assistant District Director for F&I
   f. Chief, CED Division, D/O
   g. District Counsel

PART IV—PORTFOLIO MANAGEMENT (PM) PROGRAM

SECTION A—PORTFOLIO MANAGEMENT, SERVICING, COLLECTION, AND LIQUIDATION AUTHORITY
1. To take all necessary action in connection with the administration, servicing, collection, and liquidation of all EDA loans (and EDA loans in liquidation when and as authorized by EDA) and lease guarantees, exclusive of matters in litigation, and to do and perform, and to asseverate and performance of, all and every act and thing requisite and proper to effectuate these granted powers.

EXCEPT:
   a. To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereof;
   b. To deny liability of the Small Business Administration under the terms of a participation or guaranty agreement (including lease guarantees);
   c. To initiate suit for recovery from a participating institution under any alleged violation of a participation or guaranty;
   d. To authorize the liquidation of a loan (except Disaster Home Loans) or to cancel authority to liquidate;
   e. To accept a lump sum settlement or to purchase property under the lease guaranty:
      (1) Branch Manager (limited servicing branches)
      (2) Chief, Portfolio Management Division, D/O
      (3) Supervisory Loan Specialist, Portfolio Management Division, D/O
      (4) Other Portfolio Management Authority.
   f. To take only the following actions on loans in a current status:
      (1) Approve editorial modifications in loan adjustments;
      (2) Extend amortization periods on loans partially undisbursed;
      (3) Release of cash surrender value or dividends to pay premiums due on assigned policy;
      (4) Extension of initial principal payment dates or adjustment of interest payment dates;
      (5) Release of equipment or hazard insurance checks where the total value being released does not exceed $500.
         (a) Loan Specialist, Portfolio Management Division, D/O
         (b) Loan Specialist, Portfolio Management Division, B/O

PART V—CLAIMS REVIEW COMMITTEE

SECTION A—AUTHORITY TO COMPROMISE CLAIMS
1. District Claims Review Committee. This committee shall consist of the Portfolio Management (PM) Chief (or Supervisory PM Officer), serving as chairman, the Finance Division Chief (or the Supervisory Finance Division Officer) and the District Counsel or those officially acting in their behalf. In those district offices not having any one of these positions, the committee shall consist of the Assistant District Director for Finance and Investment, acting as chairman, the Assistant District Director for Management Assistance and District Counsel or those officially acting in their behalf. Claims not in excess of $25,000 (excluding interest) upon unanimous vote of the Committee.

2. Regional Claims Review Committee. This committee shall consist of Assistant Regional Director for Finance and Investment (Chief, Regional Assistant Regional Director for Management Assistance, and Regional Counsel. Authority is delegated to take final action on compromise proposals of indebtedness owed to the Agency as follows:
   a. Claims not in excess of $25,000 (excluding interest) upon majority vote of the Committee.
   b. Claims in excess of $25,000 but not exceeding $100,000 (excluding interest) upon unanimous vote of the Committee.

PART VI—PROCUREMENT ASSISTANCE PROGRAM (PA)

SECTION A—CERTIFICATE OF COMPETENCY APPROVAL AUTHORITY
1. With the exception of re-referred cases, to approve applications for Certificates of Competency up to but not exceeding $250,000 bid value received from small business concerns located within the geographical jurisdiction:
   a. Regional Director
   b. Assistant Regional Director for Procurement Assistance
2. To deny an applicant for a Certificate of Competency when an adverse determination as to capacity or credit is concurred in:
   a. Regional Director
   b. Assistant Regional Director for Procurement Assistance

SECTION B—SECTION 5(b) CONTRACTING AUTHORITY (SBACT)
1. To enter into contracts such as, but not limited to, supplies, services, construction, and concession on behalf of the Small Business Administration with the U.S. Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration, and agreeing to the terms and conditions of such contracts:
   a. Regional Director
   b. Assistant Regional Director for Procurement Assistance

SECTION B—SECTION 5(b) CONTRACTING AUTHORITY (SBACT)
2. To enter into contracts such as, but not limited to, supplies, services, construction, and concession on behalf of the Small Business Administration with the U.S. Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration, and agreeing to the terms and conditions of such contracts:
   a. Regional Director
   b. Assistant Regional Director for Procurement Assistance

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PART VII—MANAGEMENT ASSISTANCE PROGRAM

SECTION A—CALL CONTRACTS AUTHORITY

1. Administration and Management of Call Contracts. To take all necessary actions in connection with the administration and management of contracts executed by the Assistant Administrator for Management Assistance under the authority granted in Section 7(i) of the Small Business Act, as amended, (former Section 406 of the Economic Opportunity Act of 1964) except changes, amendments, or termination of the contract.

a. Regional Director
b. Assistant Regional Director for Management Assistance
c. District Director
d. Assistant District Director for Management Assistance

PART VIII—LEGAL SERVICES

SECTION A—AUTHORITY TO CONDUCT LITIGATION ACTIVITIES

1. To conduct all litigation activities, including SBIC and Economic Development Administration matters, as assigned, and to take all action necessary in connection with matters in litigation; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers.

EXCEPT:

a. To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon;
b. To deny liability of the Small Business Administration under the terms of a participation or guaranty agreement (including lease guarantees); or
c. To authorize a suit for recovery from a participating institution under any alleged violation of a participation or guaranty agreement; or
d. To accept a lump sum settlement or to purchase property under the lease guarantee:
   (1) Regional Director
   (2) Regional Counsel
   (3) Attorney, Regional Office
   (4) District Counsel
   (5) Attorney, District Office
   (6) Branch Counsel

SECTION B—LOAN CLOSING AUTHORITY

1. To close and disburse approved SBIC loans and to close EDA loans, as authorized:

a. Regional Director
b. Regional Counsel
c. Attorney, Regional Office
d. District Counsel
e. Attorney, District Office
f. Branch Counsel

2. To approve, when requested, in advance of disbursements, confirmed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization:

a. Regional Director
b. Regional Counsel
c. Attorney, Regional Office
d. District Counsel
e. Attorney, District Office
f. Branch Counsel

3. To approve or disapprove fees charged by borrowers’ counsel:

a. Regional Director
b. Regional Counsel
c. Attorney, Regional Office
d. District Counsel
e. Attorney, District Office
f. Branch Counsel

PART IX—ELIGIBILITY AND SIZE DETERMINATIONS

SECTION A—ELIGIBILITY DETERMINATIONS

1. Eligibility Determination Authority. In accordance with Small Business Administration standards and policies, to determine eligibility of applicants for assistance under any program of the Agency, EXCEPT the SBIC program.

a. Regional Director
b. All officials having the authority and assigned responsibility to take final action on the assistance requested.

SECTION B—SIZE DETERMINATIONS

1. Size Determination Authority. In accordance with Small Business Administration Small Size Standards Regulations, to make initial size determinations of applicants for assistance under any program of the Agency.

a. Regional Director
b. All officials having the authority and assigned responsibility to take final action on the assistance requested, EXCEPT the SBIC program.

PART X—ADMINISTRATIVE

SECTION A—AUTHORITY TO PURCHASE, RENT, OR CONTRACT FOR EQUIPMENT, SERVICES, AND SUPPLIES

1. Purchase Reproductions of Loan Documents. To purchase reproductions of loan documents, chargeable to the revolving fund requested by U.S. Attorneys in foreclosure cases:

a. Regional Director
b. Assistant Regional Director for Administration
c. District Director
d. Branch Manager
2. Office Supplies and Equipment. To purchase office supplies and rent regular office equipment and furnishings; contract for repair and maintenance of office equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in section 397(a) and (b) of that chapter:

a. Regional Director
b. Assistant Regional Director for Administration
c. District Director
d. Branch Manager
3. Rental of Motor Vehicles. To rent motor vehicles when not furnished by this Administration:

a. Regional Director
b. Assistant Regional Director for Administration
c. District Director
d. Branch Manager
4. Rental of Conference Space. To rent temporarily SBA conference space located within the respective geographical jurisdiction:

a. Regional Director
5. Use of Seal of the Small Business Administration. To certify true copies of any records, or other documents on file with the Small Business Administration; to certify extracts from such material; to certify the nonexistence of records on file; and to cause the Seal of the Small Business Administration to be affixed to all such certification:

a. Regional Director
b. District Director
c. Branch Manager

PART XI—REDELEGATION AUTHORITY

SECTION A—REDELEGATION

1. The Associate Administrator for Operations may amend, modify, or revoke specific authorities delegated to field positions within the limitations of this document.

2. The Administrator shall approve delegations expanding the scope of any delegation herein.

3. The authority delegated herein may be exercised by an SBA employee designated as acting in a position designated herein.

Effective Date: March 14, 1975.

THOMAS S. KLEFFE, Administrator.

[PR Doc.75-6304 Filed 3-11-75; 8:45 am]

FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975
NOTICES

INTERSTATE COMMERCE COMMISSION

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

March 7, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing accidents, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination rules (49 C.F.R. 1555(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before March 24, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 2733 (Sub-No. E1), filed May 12, 1974. Applicant: AAA TRUCKING CORP, 3630 Quaker Bridge Rd., Trenon, N.J. 08619. Applicant's representative: George Zigich (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, those injurious or contaminating to other lading, clay products, paper products, and other products, and undeliverable and refused clay products and refractory products); (1) between points in Nassau & Suffolk Counties, N.Y., on the one hand, and, on the other, points in New York, N.Y., the New York commercial zone, as defined in New York, N.Y., Commercial Zone, I M.C.C. 965, points in Hudson, Essex, and Union Counties, N.J., points in Bergen and Passaic Counties, N.J., on and east of U.S. Highway 202, and points in Middlesex County, N.J., on and north of New Jersey Highway 18 (New York, N.Y.); (2) between points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, Baltimore, Md., Washington, D.C., points in Orange, Rockland, and Westchester Counties, N.Y., points in that part of New York County, N.Y., on and west of Queens County, N.J., extending along U.S. Route 1, the Delaware River and along the Delaware River near Penns Grove, N.J., and extending along an unnumbered highway to junction U.S. Highway 130.

Thence along U.S. Highway 130 to Bridgeport, N.J., thence along Alternate U.S. Highway 130 to junction U.S. Highway 130, thence along U.S. Highway 130 to junction New Jersey Highway 33 and thence along New Jersey Highway 33 to the Atlantic Ocean at Ocean Grove, N.J., points in that part of Delaware and north of that part of New Jersey lying at the Maryland-Delaware State line and extending along U.S. Highway 40 to junction Delaware Highway 7, thence along Delaware Highway 7 to the Delaware River, and points in Pennsylvania, east of the Susquehanna River, from the Pennsylvania-Maryland State line to junction U.S. Highway 11 at Pittston, Pa., thence on and east of U.S. Highway 11 to Scranton, Pa., and thence on, west, and south of U.S. Highway 611 from Scranton, Pa., to the Pennsylvania-New Jersey State line (New York, N.Y.).

No. MC 21170 (Sub-No. E74), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushi (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Glassware and closures for glass containers, used in the shipping of butter and eggs, from Pittsburgh, Pa., to the above-described territory. The purpose of this filing is to eliminate the gateway of Marshalltown, Iowa.

No. MC 21170 (Sub-No. E75), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushi (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Empty cartons and containers, used in the shipping of butter and eggs, from Pittsburgh, Pa., to Fargo, N.Dak. The purpose of this filing is to eliminate the gateway of Marshalltown, Iowa.

No. MC 21170 (Sub-No. E76), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohushi (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Empty cartons and containers, used in the shipping of butter and eggs, from Pittsburgh, Pa., to Fargo, N.Dak. The purpose of this filing is to eliminate the gateway of Marshalltown, Iowa.

No. MC 29739 (Sub-No. E8), filed June 3, 1974. Applicant: CROUCH-BROTHERS, INC., P.O. Box 1059, St. Joseph, Mo. 64506. Applicant's representative: Sheldon Silverman, 1812 T.H St. NW, Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Glass containers, used in the shipping of butter and eggs, from points in Illinois, Iowa, and Missouri (except points in Newton, McDonal, Barry, Stone, Taney, Christian, Osack, Havell, Oregon, Ripley, Butler, New Madrid, Dunklin, and Peavey Counties, Mo.), to points in Oklahoma (except points in Ottawa, Craig, and Delaware Counties). The purpose of this filing is to eliminate the gateway of Marshalltown, Iowa.

No. MC 61856 (Sub-No. E14), filed May 20, 1974. Applicant: HERMAN BROS., INC., P.O. Box 180, Hesper, Nebr. 68035. Applicant's representative: J. Raymond Chesney, (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Glass containers, used in the shipping of butter and eggs, from Pittsburgh, Pa., to the above-described territory. The purpose of this filing is to eliminate the gateway of Marshalltown, Iowa.
NOTICES

FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975

11663

regular routes, transporting: Petroleum products, as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 (except those requiring heat in transit), in bulk, in tank vehicles, from Falls City, Nebr., to points in that part of Minnesota on and west of U.S. Highway 29 to Lake Superior. The purpose of this filing is to eliminate the gateway of Falls City, Nebr.

No. MC 61396 (Sub-No. E18), filed May 14, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products, as defined in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, in bulk, in tank vehicles, from Tarkio, Mo., and points in Iowa on and west of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 169 to the Iowa-Nebraska State line. The purpose of this filing is to eliminate the gateway of Tarkio, Mo.

No. MC 61396 (Sub-No. E19), filed May 14, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum and petroleum products, as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, in bulk, in tank vehicles, from the Kane Pipeline Terminal at or near Fairmont, Minn., Nebr., to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateway of Fairmont, Minn., Nebr., and points in Iowa within ten miles of Council Bluffs; and (2) Norfolk, Nebr.

No. MC 61396 (Sub-No. E20), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products, as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, in bulk, in tank vehicles, from Norfolk, Nebr., to points in Missouri within 15 miles of Sugar Creek, Mo., and points in Missouri on and west of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 169 to the Iowa-Missouri State line. The purpose of this filing is to eliminate the gateway of Norfolk, Nebr.

No. MC 61396 (Sub-No. E21), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum and petroleum products, as defined in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, in bulk, in tank vehicles, from the Kane Pipeline Terminal at or near Fairmont, Minn., Nebr., to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateway of Fairmont, Minn., Nebr., and points in Iowa on and west of a line beginning at the Iowa-Missouri State line, thence along U.S. Highway 169 to the Iowa-Missouri State line. The purpose of this filing is to eliminate the gateway of Norfolk, Nebr.

No. MC 61396 (Sub-No. E22), filed May 10, 1974. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum products, as described in Appendix XIII to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, in bulk, in tank vehicles, from Norfolk, Nebr., to points in South Dakota within five miles of Tarkio, Mo., and points in Iowa within ten miles of Council Bluffs; and (2) Norfolk, Nebr.
May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Anhydrous ammonia, in bulk, in tank vehicles, from points in that part of Iowa on and east of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 63 to the Iowa-Missouri State line, to points in Kansas and Nebraska, in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of the plant site of Green Valley Chemical Corp., at or near Creston, Iowa.

No. MC 61396 (Sub-No. E39), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquefied petroleum gas, in tank vehicles, from points in Iowa to points in that part of South Dakota on, west, and north of a line beginning at the South Dakota-Iowa State line, thence along U.S. Highway 16 to junction U.S. Highway 281, thence along U.S. Highway 281 to the South Dakota-Nebraska State line. The purpose of this filing is to eliminate the gateway of the site of the terminal outlet of Farmland Industries, Inc., at or near Council Bluffs, Iowa.

No. MC 61396 (Sub-No. E33), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquefied petroleum gas, in bulk, in tank vehicles, from points in that part of Iowa on and west of a line beginning at the Iowa-Minnesota State line, thence along U.S. Highway 63 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Iowa-Missouri State line, thence along the Iowa-Minnesota State line to point of origin, to points in Missouri. The purpose of this filing is to eliminate the gateway of the site of the pipeline terminal of Hydrocarbon Transportation, Inc., at or near Des Moines, Iowa.

No. MC 61396 (Sub-No. E33), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum-based dry fertilizer, in bulk, from points in that part of Iowa on and east of a line beginning at the Minnesota-North Dakota State line, thence along U.S. Highway 63 to the Iowa-Missouri State line, to points in Kansas and Nebraska, in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of the site of W. R. Grace and Co., located at or near Henry, Ill., to points in Kansas, Nebraska, North Dakota, South Dakota, and Oklahoma. The purpose of this filing is to eliminate the gateway of the plant site of Gulf Central Pipeline Co., located at or near Algonia and Iowa Falls, Iowa.

No. MC 61396 (Sub-No. E48), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dry fertilizer and dry fertilizer materials, in bulk, in tank vehicles, from all points in the Lower Peninsula of Michigan, and points in Ohio (except Cincinnati). The purpose of this filing is to eliminate the gateway of Dubuque, Mason City, Carroll, and Waterloo, Iowa.

No. MC 61396 (Sub-No. E48), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum-based dry fertilizer, dry fertilizer materials, dry urea, and dry ammonium nitrate, from points in Iowa, to points in the Lower Peninsula of Michigan, and points in Ohio (except Cincinnati). The purpose of this filing is to eliminate the gateway of Clinton, Iowa.

No. MC 61396 (Sub-No. E43), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum-based dry fertilizer, in bulk, in tank vehicles, from points in Iowa to points in that part of the Lower Peninsula of Michigan, and points in Ohio (except Cincinnati). The purpose of this filing is to eliminate the gateway of Dubuque, Mason City, Carroll, and Waterloo, Iowa.

No. MC 61396 (Sub-No. E43), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum-based dry fertilizer, in bulk, in tank vehicles, from all points in the Lower Peninsula of Michigan, and points in Ohio (except Cincinnati). The purpose of this filing is to eliminate the gateway of Dubuque, Mason City, Carroll, and Waterloo, Iowa.

No. MC 61396 (Sub-No. E50), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum-based dry fertilizer, in bulk, in tank vehicles, from all points in the Lower Peninsula of Michigan, and points in Ohio (except Cincinnati). The purpose of this filing is to eliminate the gateway of Dubuque, Mason City, Carroll, and Waterloo, Iowa.

No. MC 61396 (Sub-No. E50), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 189, Omaha, Nebr. 68105. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum-based dry fertilizer, in bulk, in tank vehicles, from all points in the Lower Peninsula of Michigan, and points in Ohio (except Cincinnati). The purpose of this filing is to eliminate the gateway of Dubuque, Mason City, Carroll, and Waterloo, Iowa.

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eliminate the gateways of (1) Omaha, Nebr.; and (2) points in that part of Iowa on and west of a line beginning at the Iowa-Minnesota State line, along U.S. Highway 169 to the Iowa-Missouri State line.

No. MC 61396 (Sub-No. E51), filed May 10, 1974. Applicant: HERMAN BROS. INC., P.O. Box 169, Omaha, Nebraska 68103. Applicant's representative: J. Raymond Chesney (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquefied gases, in tanks, from the site of the pipeline terminal of Hydrocarbon Transportation, Inc., at or near Rockford, Ill., to points in Nebraska. The purpose of this filing is to eliminate the gateways of (1) Dubuque, Clinton, and Jackson Counties, Iowa; (2) Council Bluffs, Iowa, and points in Iowa within ten miles of Council Bluffs.

No. MC 61592 (Sub-No. E83), filed July 5, 1974. Applicant: JENKINS TRUCK LINE, INC., 152 Wabash Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Building board (plywood or paneling with artificially imposed wood grain on plastic film coating), from Pevely, Mo., to points in Indiana on and north of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 30 to junction U.S. Highway 421, thence along U.S. Highway 421 to Junction U.S. Highway 6, thence along U.S. Highway 9 to the Indiana-Ohio State line. The purpose of this filing is to eliminate the gateway of Beards town, Ill.

No. MC 61692 (Sub-No. E112) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER, June 19, 1974. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: Bob Jenkins (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Agricultural and garden tractors and agricultural implements, from points in Wisconsin south of U.S. Highway 10 to points in Nebraska and points in South Dakota on and south of South Dakota Highway 34. The purpose of this filing is to eliminate the gateway of Ida Grove, Iowa. The purpose of this correction is to correct the "E" number.

No. MC 78238 (Sub-No. E14), filed September 12, 1974. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Maloy (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Pig iron, in dump vehicles (except materials restricted against the transportation of which, because of size or weight, require the use of special equipment or handling 'except boats'), in bulk, in tank vessels, from points in Jackson and Washington Counties, Ohio, and except ferro alloys, in containers, from the plant site of the Union Carbide and Carbon Company, at or near Ashtabula, Ohio; (a) from points in Ohio to points in Connecticut, Maine, Maryland, Massachusetts, New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden and Burlington Counties, N.J.), and Rhode Island; (b) from points in that part of West Virginia on and north of the Ohio River, to points in Pennsylvania, New Jersey, Delaware, and parts of the District of Columbia, including the stringing and picking up thereof, and (c) points in Ohio (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden and Burlington Counties, N.J.), and Rhode Island; (b) from points in that part of West Virginia in which because of size or weight, require the use of special equipment or handling except boats), in bulk, in tank vessels, from the site of the pipeline terminal of Hydrocarbon Transportation, Inc., at or near Rockford, Ill., to points in Nebraska. The purpose of this filing is to eliminate the gateways of (1) Dubuque, Clinton, and Jackson Counties, Iowa; (2) Council Bluffs, Iowa, and points in Iowa within ten miles of Council Bluffs.

No. MC 82539 (Sub-No. E71), filed May 30, 1974. Applicant: C & H TRANSPORTATION, 2010 W. Commerce St., P.O. Box 5674, Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodity, that is therefor when moving in connection therewith; and (2) Self-propelled articles, each weighing 15,000 pounds or more, which may be included in heavy machinery, parts, tools, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); between points in Kansas, on the one hand, and, on the other, points in Ada, Canyon, Gen, Payette, Washington, Adams, Idaho, Nez Perce, Clearwater, Latah, Benehurn, Shoshone, Koltina, Bonner, Lemhi, Clark, and Fremont Counties, Idaho (points in Nebraska, Oregon, and that part of Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.) *; (3) Commodities, the transportation of which, because of size or weight require the use of special equipment or handling (except boats), and the stringing or picking up of pipe in connection with main line trunk pipelines), between points in Texas, on the one hand, and the other, points in Ada, Canyon, Gen, Payette, Washington, Adams, Idaho, Nez Perce, Clearwater, Latah, Benehurn, Shoshone, Koltina, Bonner, Lemhi, Clark, and Fremont Counties, Idaho (points in Colorado, Oregon, and that part of Montana on and west of a line extending north and south through Dupuyer and Butte, Mont.) *; (4) Commodities, the transportation of which, because of size or weight require special equipment, between points in Iowa, on the one hand, and, on the other, points in Louisiana (points in Kansas, Missouri, and Nebraska) (points in Denver, Colorado, within 50 miles of Nashville) *; (5) Commodities, the transportation of which, because of size or weight, require the use of special equipment, and parts therefor which are carried by motor vehicle, over irregular routes, transporting: (a) Self-propelled articles, each weighing 15,000 pounds or more, and related machinery, parts, tools, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); between points in Missouri, on the one hand, and, on the other, points in that part of Tennessee on and west of U.S. Highway 13 (points in Kansas and Nashville, Tenn., and points in Tennessee within 50 miles of Nashville) *; (7) Commodities, the transportation of which, because of size or weight, require the use of special equipment (except boats), and related machinery, parts, tools, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); between points in Tennessee on and west of U.S. Highway 13 (points in Kansas and Nashville, Tenn., and points in Tennessee within 50 miles of Nashville) *; (8) Self-propelled articles, each weighing 15,000 pounds or more, and related machinery, parts, tools, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); between points in Tennessee on and west of U.S. Highway 13 (points in Kansas and Nashville, Tenn., and points in Tennessee within 50 miles of Nashville) *; (9) Self-propelled articles, each weighing 15,000 pounds or more, and related machinery, parts, tools, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); between points in Tennessee on and west of U.S. Highway 13 (points in Kansas and Nashville, Tenn., and points in Tennessee within 50 miles of Nashville) *.
more, which may be included in heavy machinery, and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); between points in Montana, on the one hand, and, on the other, points in Washington on and west of a line extending north and south through Dupuyer and Butte, Mont. *; (9) Commodities, the transportation of which because of size or weight require the use of special equipment, and (10) Self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); between points in Nebraska, on the one hand, and, on the other, points in Oklahoma and adjoining parts of such commodities when moving in connection therewith, and (11) Self-propelled articles, each weighing 15,000 pounds or more, which may be included in heavy machinery, and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); between points in New Mexico, on the one hand, and, on the other, points in Washington (points in Colorado) *; (12) Such commodities, as require special handling or rigging because of size or weight (except boats), and (13) Self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); between points in New Mexico, on the one hand, and, on the other, points in Washington (points in Colorado) *; (14) Self-propelled articles, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); between points in New Mexico, on the one hand, and, on the other, points in Utah and Wyoming (Wichita, Kansas, points in Colorado and New Mexico) *.

Restrictions

The operations authorized in (1), (4), (10), and (11) above are subject to the following restrictions: (a) Carrier shall not transport (1) any shipment which originates at St. Louis or Kansas City, Mo., and which is destined to any points in Montana, Kansas, or Iowa, or (2) any shipment which originates at any points in Missouri, Kansas, or Iowa, and which is destined to St. Louis and Kansas City, Mo. (b) Carrier shall not transport any cast iron, steel, or wrought iron pressure pipes and fittings and accessories therefor when moving with such pipe, from Council Bluffs, Iowa. (c) Carrier shall not engage in the stringing or picking up of pipe along main or trunk pipeline rights of way, other than in the transportation, stringing or picking up of pipe (1) in connection with the transportation of gas and oil in lines, and (2) in connection with the operation, repair, and maintenance of pipeline lines. The operations authorized in (1) above are subject to the condition that carrier's service on traffic originating at, or destined to, points in Illinois and Iowa, by reason of carrier's operations authorized in this certificate, shall be limited to movements (1) of machinery, equipment, tools, parts, and supplies moving in connection with, the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and the products and by-products, and (2) of related contractors' equipment, materials, and supplies when their transportation is incidental to the transportation by carrier of commodities which because of size or weight require the use of special equipment.

The operations authorized in (2), (6), and (10) above are restricted against the transportation of any shipment which require the use of special equipment, and (11) such commodities as require special handling or rigging because of size or weight require special equipment: (1) Where points are transported on trailers); between points in New Mexico, on the one hand, and, on the other, points in Washington (points in Colorado) *; (2) Between points in Indiana, on the one hand, and, on the other, points in Illinois and Iowa; (3) Between points in Arkansas on U.S. Highway 61 and extending along Ohio Highway 14 to Deersfield, thence along Ohio Highway 14 to Salem, thence along Ohio Highway 45 to West Point, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line. (4) Between points in that part of New York on and north of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 64 to Hoosick, thence along U.S. Highway 15 to junction New York 44; along U.S. Highway 13 to Buffalo, thence along U.S. Highway 219 to the New York-Pennsylvania State line, and extending along Ohio Highway 14 to Deersfield, thence along Ohio Highway 14 to Salem, thence along Ohio Highway 45 to West Point, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line. (5) Between points in that part of New York on and north of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 64 to Hoosick, thence along U.S. Highway 15 to junction New York 44; along U.S. Highway 13 to Buffalo, thence along U.S. Highway 219 to the New York-Pennsylvania State line, and extending along Ohio Highway 14 to Deersfield, thence along Ohio Highway 14 to Salem, thence along Ohio Highway 45 to West Point, thence along U.S. Highway 30 to the Ohio-Pennsylvania State line.
Virginia Highway 3, thence along West Virginia Highway 3 to junction unmumbered highway at Petkus, thence along unmumbered highway to junction U.S. Highway 30, thence along U.S. Highway 30 to junction with U.S. Highway 30 Highway, thence along U.S. Highway 30 to junction with U.S. Highway 21, thence across U.S. Highway 21 to junction West Virginia Highway 61, thence along West Virginia Highway 61 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction unmumbered highway at Danescape, thence along unmumbered highway to junction West Virginia Highway 60 at Meadow Bridge, thence along West Virginia Highway 60 to junction U.S. Highway 60 to the Virginia-West Virginia State line. The purpose of this filing is to eliminate the gateways of Clarion, Pa., and points within 40 miles thereof.

No. MC 102528 (Sub-No. E1), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: Kon­rab A. Smith (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, as defined by the Commission, between points in Florida, on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 107107 (Sub-No. E2), filed June 4, 1974. Applicant: ALTERNAM TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Frozen fresh meat, from Southbоро and Boston, Mass., to points in Texas (Florida)*; (2) jams and jellies, in vehicles equipped with mechanical refrigeration from Spencer, Mass., to points in Wayne, Chatham, Lowndes, Ware and Glynn Counties, Ga. (Jacksonville, Fla.); (3) cheese, from Boston and Brockton, Mass., to New Orleans, La. (Florida)*; (4) candy, from Providence, R.I., to points in Alabama, Louisiana, and the Gulf of Mexico and on and south of U.S. Highway 80 (Pensacola and Tallahassee, Fla.)*; (5) pie and pastry fillings, and soda fountain preparations and extracts, from Providence, R.I., to points in Wayne, Lowndes, Ware and Glynn Counties, Ga. (Jacksonville, Ga.)*; (6) frozen foods, useful or used in the manufacture of ice cream, bakery products, unfrozen, prepared horse radish and ketchup and radish cocktail sauce in vehicles equipped with mechanical refrigeration, from Baltimore, Md., to points in Wayne, Ware, Lowndes and Glynn Counties, Ga. (Jacksonville, Fla.)*; and (7) fresh 21 at Point in Emporia, No. Smithfield and Timberville, Va., to points in Texas (Florida)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 107107 (Sub-No. E3), filed June 4, 1974. Applicant: ALTERNAM TRANSPORT LINES, INC., P.O. Box 425, Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Frozen fresh meat, from points in New York on and east of New York High­way 32 and those points in Georgia on and south of U.S. Highway 80 and the Atlantic Ocean, and extending along the State line to points in Wisconsin located in and east of Florence, Marl­nette, Oconto, Outagamie, Winnebago, Fond du Lac, Dodge, Jefferson, and Walworth Counties to points in that part of Wisconsin located in and east of Xuma, Yavapai, Gila, Graham, and Greenlee Counties, and to points in that part of California located in and east of San Luis Obispo and Kern, and San Bernardino Counties, in that in part of Wisconsin located in and south of Pepin, Eau Claire, Chippewa, Taylor, Lincoln, Langlade, Oconto, and Manitowoc Counties to points in Idaho; (3) from points in that part of Wisconsin located in, east
and south of Green, Dane, Dodge, Washington, and Ozaeeke Counties to points in that part of Monona located in and south of Flathead, Powell, Jefferson, Broadwater, Memphor, Wheatland, Golden Valley, Musseelshe, Rosebud, Custer, and Fallon Counties; (4) from points in Washington to points in Idaho, Montana, California, Oregon, and Washington; (5) from the District of Columbia to points in Iowa and Missouri; (6) from the District of Columbia to points in Kansas and Oklahoma; (7) from points in the District of Columbia to points in Louisin and Missouri; (8) from the District of Columbia to points in Michigan and Wisconsin; (9) from the District of Columbia to points in Ohio; (10) from the District of Columbia to points in Nebraska; and (11) from the District of Columbia to points in Texas. The purpose of this filing is to eliminate the gateways of (1) points in Ohio; (2) points in Wisconsin; (3) points in Illinois; and (4) points in Indiana.

No. MC 107295 (Sub-No. E21), filed May 14, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: Prefabricated buildings, complete, knocked down, or in sections, and when transported in connection with the transportation of such buildings, component parts thereof, and equipment and materials incidental to the erection and completion of such buildings; (1) from points in Kansas to points in Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; (2) from points in Kansas to points in Tennessee; and (3) from the District of Columbia to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; (4) from the District of Columbia to points in Iowa and Missouri; (5) from the District of Columbia to points in Kansas and Oklahoma; (6) from the District of Columbia to points in Louisiana and Mississippi; (7) from points in the District of Columbia to points in Nebraska; and (8) from the District of Columbia to points in Texas. The purpose of this filing is to eliminate the gateways of (1) points in Ohio; (2) points in Wisconsin; (3) points in Illinois; and (4) points in Indiana.

No. MC 107295 (Sub-No. E34), filed May 14, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Prefabricated buildings, complete, knocked down, or in sections, and when transported in connection with the transportation of such buildings, component parts thereof, and equipment and materials incidental to the erection and completion of such buildings; (1) points in Ohio; (2) points in Ohio; (3) points in Ohio; (4) points in Ohio; (5) points in Ohio; (6) points in Ohio; (7) points in Ohio and Vermont; (8) points in Ohio; (9) points in Ohio; (10) points in Ohio and Illinois; (11) points in Ohio and Illinois; and (12) points in Ohio and Illinois.

No. MC 107295 (Sub-No. E71), filed May 14, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Composition and other material, building materials, and prefabricated buildings or houses, complete, knocked down, or in sections, and when transported in connection with the transportation of such buildings, component parts thereof, and equipment and materials incidental to the erection and completion of such buildings; (1) from points in California, Arizona, Nevada, New Mexico, Texas, Kansas, Utah, and Oklahoma; (2) from Suffolk, Va., to points in Colorado; (3) from points in Nebraska; (4) from points in Wisconsin to points in North Carolina; (5) from points in Nebraska to points in Wisconsin; and (6) from points in Wisconsin to points in Ohio.

No. MC 107295 (Sub-No. E73), filed May 14, 1974. Applicant: PRE-FAB TRANSIT COMPANY, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Prefabricated buildings, complete, knocked down, or in sections, and when transported in connection with the transportation of such buildings, component parts thereof, and equipment and materials incidental to the erection and completion of such buildings; (1) from points in Nebraska to points in Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina; (2) from points in Nebraska to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont; (3) from points in Nebraska to points in Iowa, Missouri, Kentucky, Michigan, and Ohio; (4) from points in Nebraska to points in Colorado; (5) from points in Nebraska to points in North Carolina; (6) from points in Nebraska to points in Montana, South Dakota, and North Dakota; (7) from points in Florida to points in Michigan; (8) from points in Florida to points in Missouri; (9) from points in Florida to points in Montana, South Dakota, and North Dakota; (10) from points in Wisconsin to points in Nebras- ka; and (11) from points in Wisconsin to points in Missouri.
Texas, and Howells Counties. The purpose of this filing is to eliminate the gateways of (1) Pine Bluff, Ark., (2) points in Illinois and Terre Haute, Ind., (3) and (4) points in Louisiana, Mississippi and Alabama; (5) points in Ohio and Illinois, (6) points in Illinois, and (7) points in Illinois.

No. MC 107295 (Sub-No. E189), filed May 13, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Buildings, complete, knocked down, or in sections, including all component parts, materials, supplies, and fixtures, and when shipped with other property, the erection, construction, and completion thereof, (1) from points in Ohio to points in Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, South Dakota, Utah, and Wyoming; (2) from points in Ohio to Kansas and Oklahoma; (3) from points in Ohio to points in Louisiana, Mississippi, and Texas; (4) from points in Ohio to points in Minnesota; (5) from points in Ohio to points in Nebraska. The purpose of this filing is to eliminate the gateway of (1) points in Wapello County, Iowa, (2) points in Illinois, (3) points in Arkansas, (4) points in Illinois, and (5) points in Illinois.

No. MC 107296 (Sub-No. E188), filed May 14, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Insulation material, materials, (1) to points in that part of Alabama in and south of Sumter, Hale, Perry, Dallas, Autauga, Elmore, Macon, and Russell Counties; (2) from Sedalia, Mo., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Virginia, and the District of Columbia; (3) from Sedalia, Mo., to points in North Carolina and to points in that part of Louisiana in and east of Terrebonne, St. James, Ascension, Livingston, and St. Helena Counties; (4) from Sedalia, Mo., to points in that part of Nebraska in, west, and north of Knox, Antelope, Wheeler, Garfield, Loun, Blaine, Thomas, Hooker, Grant, Garden, Morrill, and Scotts Bluff Counties and to points in North Dakota and South Dakota; (5) from Sedalia, Mo., to points in West Virginia. The purpose of this filing is to eliminate the gateways of (1) Camden, Ark.; (2) the plant site and railroad facilities of the S.R.R. and SC Gulf Va Co., located at or near Columbus, Ohio; (3) points in Henry County, Tenn.; (4) Fort Dodge, Iowa; and (5) Franklin, Ohio.

No. MC 107295 (Sub-No. E182), filed May 13, 1974. Applicant: PRE-FAB TRANSIT COMPANY, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Pulpboard, from the facilities of National Gypsum Company, located at or near Rotan, Tex., (1) to points in Illinois and Iowa; (2) to points in that part of Louisiana in and south of Beauregard, Allen, Evangeline, St. Landry, Pointe Coupee, West Feliciana, East Feliciana, St. Helena, Tangipahoa, and Washington Counties; (3) to points in Sub-Bay 13 of Mississippi in and east of Marion, Jefferson Davis, Simpson, Scott, Leake, Attala, Montgomery, Grenada, Yalobusha, Lafayette, and Marshall Counties. The purpose of this filing is to eliminate the gateways of (1) Hamlin, Tex., (2) San Antonio, Tex., and (3) Livingston, Ala.

No. MC 107295 (Sub-No. E184), filed May 14, 1974. Applicant: PRE-FAB TRANSIT COMPANY, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Buildings, complete, knocked down, or in sections, including all component parts, materials, supplies, and fixtures, and when shipped with other property, the erection, construction, and completion thereof, (1) from points in Ohio to points in Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, South Dakota, Utah, and Wyoming; (2) from points in Ohio to Kansas and Oklahoma; (3) from points in Ohio to points in Louisiana, Mississippi, and Texas; (4) from points in Ohio to points in Minnesota; (5) from points in Ohio to points in Nebraska. The purpose of this filing is to eliminate the gateway of (1) points in Wapello County, Iowa, (2) points in Illinois, (3) points in Arkansas, (4) points in Illinois, and (5) points in Illinois.

No. MC 107403 (Sub-No. E531), filed May 29, 1974. Applicant: MATLIAK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid chemicals (except liquefied petroleum gases) in bulk, in tank vehicles, from the facilities of Allied Chemical at Baton Rouge, La., and Dow Chemical at or near Plaquemine, La., to points in Michigan (except those west of a line beginning at the Indiana-Michigan State line and extending along U.S. Highway 127 to junction Michigan Highway 89, thence along Michigan Highway 89 to Lake Michigan). The purpose of this filing is to eliminate the gateways of Ashland, Ky., South Point and Ivanov, Ohio.

No. MC 107822 (Sub-No. E1), filed June 3, 1974. Applicant: R. A. FOWLER, RFD 1 Woodbinr Eldora, Cape May, N.J. 08204. Applicant's representative: Mike Cotten, P.O. Box 1148, Austin, Tex. 78767. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Machinery, materials, supplies and equipment, incidental to, or used in the construction, development, operation and maintenance of facilities for the discovery, development and production of natural gas and petroleum, between points in Texas, and on or between the other points in Mississippi. The purpose of this filing is to eliminate the gateways of points in Mississippi.

No. MC 112367 (Sub-No. E68), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Whiskey, in bulk, in tank vehicles, from Tennessee, Ohio, and Lawrenceburg, Ind., on the one hand, and, on the other hand, Tullahoma, Tenn., to Stamford, Conn., and Providence, R.I. The purpose of this filing is to eliminate the gateway of Tullahoma, Ky.

No. MC 112367 (Sub-No. E50) filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Whiskey, in bulk, in tank vehicles, between Cincinnati, Ohio, and Lawrenceburg, Ind., on the one hand, and, on the other hand, Tullahoma, Tenn. The purpose of this filing is to eliminate the gateway of Louisville, Ky.

No. MC 112367 (Sub-No. E70), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Fluorine, dry, in bulk, from Cave in Rock, Ill., and points within 10 miles thereof, to points in North Carolina, South Carolina, and Georgia. The purpose of this filing is to eliminate the gateway of Robertson County, Tex.
TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquefied petroleum gases and natural gasoline, in bulk, in tank vehicles, from plant site of Columbia Hydrocarbon Corporation, at or near Siloam, Ky., to points in Alabama, Florida, North Carolina, Louisiana, Minnesota, and Mississippi. The purpose of this filing is to eliminate the gateway of the refineries at or near Lesch, Ky.

No. MC 112617 (Sub-No. E73), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquefied petroleum gases, natural gas liquids, in bulk, in tank vehicles, from the plant site of the United States Steel Corporation at or near Haverhill (Scioto County), Ohio, to points in New Hampshire, New Jersey, New York, Ohio, Pennsylvania, and West Virginia. The purpose of this filing is to eliminate the gateway of Calvert City, Ky.

No. MC 112617 (Sub-No. E80), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Trichloroethane, in bulk, in tank vehicles, from Seymour, Ind., and Freeman Field, near Seymour, Ind., to points in Alabama, Georgia, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of Doe Run, Ky.

No. MC 112617 (Sub-No. E81), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Trichloroethane, in bulk, in tank vehicles, from Seymour, Ind., and Freeman Field, near Seymour, Ind., to points in Illinois and Missouri located in the St. Louis, Mo.-East St. Louis, Ill., commercial zone. The purpose of this filing is to eliminate the gateway of Henderson, Ky.

No. MC 112617 (Sub-No. E83), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquefied petroleum gases, natural gas liquids, in bulk, in tank vehicles, from points in Marshall County, Ky., to points in Pennsylvania. The purpose of this filing is to eliminate the gateway of Doe Run, Ky.

No. MC 112617 (Sub-No. E75), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Acetone, monofluorobutylene, dichlorodifluoromethane, monochlorodifluoromethane, dichlorotrifluorochloroethane, and mixtures thereof, in bulk, in tank vehicles, from points in New Mexico, and Utah. The purpose of this filing is to eliminate the gateway of Calvert City, Ky.

No. MC 112617 (Sub-No. E79), filed May 11, 1974. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Paints, stains, and varnishes, paint materials, and plastics, in bulk, in tank vehicles, from Circleville, Ohio, to points in Louisiana, Texas, Colorado, New Mexico, Utah, and Wyoming. The purpose of this filing is to eliminate the gateway of Circleville, Ohio.
NOTICES

FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975

No. MC 112617 (Sub-No. E109), filed May 11, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 S. Pulaski Rd., Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) Asbestos scrap, asphalt, automotive body panels, asphalt flooring blocks, fiberboard, and pulpboard (unrefined asbestos, asbestos wall boards, bituminized burlap, tin roofing caps, carpet tying cement, in packages), metal clamps, metal clips, cotton cloth (saturated with asbestos), roof paper (asphaltic roofing felts, asbestos), felt paper insulating material, asbestos millboard, mineral wool, high temperature bonding mortar or cement (in packages), nails, asbestos packing, asphaltum, coal tar, asphalt, and coal tar paint, roofing paper, paving joints, cement pipe containing asbestos fiber, roofing pitch, asphalt paving planks, asbestos ridge rails, roofing, asbestos sheathing, shingles, sheetings, sharts, asbestos pipe insulation, building slabs, tin strips, roofing tar, asphalt floor tile, and wood preservatives, restricted against the transportation of the above commodities in bulk, from Chicago, Ill., and points in its commercial zone to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, points in Maryland, and points in West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways of North Judson, Ind., and Sunbury, Pa.

No. MC 112617 (Sub-No. E109), filed May 11, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 S. Pulaski Rd., Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (B) Asphalt, wallboard, fiberboard, pulpboard, and strawboard, tin roofing caps, roofing cement, metal clamps, roof coatings, roofing felt, building or roofing felts, asbestos or felt paper insulating material, nails, asphaltum, and coal tar paint, building and roofing paper, roofing pitch, composition or prefabricated roofing, asbestos shingling, tin strips, and roofing tar, restricted against the transportation of the above commodities in bulk, from Chicago, Ill., and points in its commercial zone to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, Delaware, points in Maryland, and points in West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateways of North Judson, Ind., and Sunbury, Pa.
Thence along the Indiana-Michigan State line to point of beginning, to points in Connecticut, Massachusetts, Rhode Island, and New Jersey, Philadelphia, Pa., and those points in New York on and north and east of U.S. Highway 81; (d) from points in Morgan, Johnson, Shelby, Hendricks, Marion, Hancock, Boone, Hamilton, and Madison Counties, Ind., to points in that part of New York on and north and east of a line beginning at Lake Ontario and extending along New York Highway 13 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 2, thence along New York Highway 17 to Junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 23, thence along New York Highway 23 to junction New York Highway 308, thence along U.S. Highway 308 to junction New York Highway 199, thence along New York Highway 199 to the New York-Connecticut State line, thence along Connecticut line and extending along Connecticut Highway 2 to junction Connecticut Highway 66, thence along Connecticut Highway 66 to junction Connecticut Highway 16, thence along Connecticut Highway 16 to junction Connecti­cut Highway 2 to Watch Hill Point, Conn., and all points in Massachusetts and Rhode Island; (e) from those points in Indiana on and west of a line beginning at Lake Michigan on and extending along Indiana Highway 39 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Indiana Highway 119, thence along Indiana Highway 119 to junction Indiana Highway 39, thence along Indiana Highway 39 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Indiana Highway 39, thence along Indiana Highway 39 to junction Illinois-Indiana State line, thence along the Illinois-Indiana State line, thence along Lake Michigan to the Michigan-Indiana State line to point of beginning to that part of Pennsylvania on and south and west of U.S. Highway 219; (f) From points in that part of Indiana on and west of a line beginning at the Indiana- Illinois State line extending east along Lake Michigan to the Michigan-Indiana State line to the Michigan-Indiana-Ohio State line, thence along the Indiana-Ohio State line to junction U.S. Highway 224, thence along U.S. Highway 224 to the junction Indiana Highway 5, thence along Indiana Highway 5 to junction Indiana Highway 114, thence along Indiana Highway 114 to junction Indiana Highway 11 from which thence along Interstate Highway 70 to the Illinois-Indiana State line, thence along the Illinois-Indiana State line to point of beginning at St. Louis, Mo.; (g) from points in Indiana on and north of a line beginning at the Illinois-Indiana State line and extending along Indiana Highway 35 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Indiana Highway 35, thence along Indiana Highway 26 to the Indiana-Ohio State line, to Ottawa, Kans., and St. Joseph, Mo. The purpose of this filing is to eliminate the gateways of Gary, Ind., and Cleveland, Ohio.

No. MC 114019 (Sub-No. E301), filed May 20, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 S. Pulaski Rd., Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen fish, from Boothbay Harbor, Portland, and Rockland, Maine, to points in North Dakota, South Dakota, Minnesota, Arkansas, Bowling Green, Ky., and Nashville, Tenn. The purpose of this filing is to eliminate the gateways of Chicago, Ill., Muscatine, Iowa, Louisville, Ky., and Darica, Wisc.

No. MC 114010 (Sub-No. E302), filed May 22, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 S. Pulaski Rd., Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 509 and 766 (except hides and commodities in bulk), from West Richfield, Ohio, to points in Maine, New Hampshire, Vermont, and those in Virginia. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa.

By the Commission.

[SEAL] ROBERT L. OSWALD, Secretary.

[FR Doc.75-6479 Filed 3-11-75; 8:45 am]

[Notice No. 718]

ASSIGNMENT OF HEARINGS

MARCH 7, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appearing below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned and not yet assigned.

The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 61440 Sub 133, Lee Way Motor Freight, Inc., now assigned March 10, 1975, Kansas City, Mo., is cancelled and transferred to Modified Procedure.

[SEAL] ROBERT L. OSWALD, Secretary.

[FR Doc.75-6469 Filed 3-11-75; 8:45 am]

[Ex Parte No. 241, Rule 19, 9th Rev.

Exemption 91]

ATLANTA & WEST POINT RAILROAD CO.

ET AL.

Exemption Under Mandatory Car Service Rules

It appearing, that the United States railroads own numerous plain 50-ft. boxcars: that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipment to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the United States railroads, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain 50-ft. boxcars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 304, issued by W. J. Trestise, or successive issues thereof, having mechanical designations XM, and bearing all reporting marks assigned to the United States railroads,
shall be exempt from the provisions of Car Service Rules 1(a), 2(a) and 2(b). (See Exception)

Exception. This exemption shall not apply to 30-ft. boxcars owned by the railroads named below:

- Atlanta and West Point Railroad Company, Reporting Marks: AWP.
- Bangor and Aroostook Railroad Company, Reporting Marks: B&V.
- Boston and Maine Corporation (Robert W. Meserve and Benjamin H. Lacy, Trustees), Reporting Marks: BM-B&M.
- Burlington Northern Inc. Reporting Marks: BN-CBQ-ON-NP-SIS.
- Central Vermont Railway, Inc. Reporting Marks: CV-CVC.
- Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Reporting Marks: MILW.
- Delaware and Hudson Railway Company, Reporting Marks: DH.
- Duluth, Winnipeg and Pacific Railway, Reporting Marks: DWP.
- Erie Lackawanna Railway Company (Thomas F. Patton and Ralph S. Tyler, Jr., Trustees), Reporting Marks: DL-LK-EL-KRIE.
- Illinois Central Gulf Railroad Company, Reporting Marks: IC-CG-CO-CGCC.
- The Kansas City Southern Railway Company, Reporting Marks: KCS-JA.
- Lehigh Valley Railroad Company (Robert C. Heremas, Trustees), Reporting Marks: LV.
- Maine Central Railroad Company, Reporting Marks: MEC.
- Norfolk and Western Railway Company, Reporting Marks: NW-NKP-WAB.
- St. Louis Southwestern Railway Company, Reporting Marks: SSW.
- Southern Pacific Transportation Company, Reporting Marks: SP.
- The Texas Masonic Railway Company, Reporting Marks: TM.
- The Western Pacific Railroad Company, Reporting Marks: WP.
- The Western Railway of Alabama, Reporting Marks: WA.

Effective March 6, 1975, and continuing in effect until further order of this Commission.


INTERSTATE COMMERCE COMMISSION

[Seal]

R. D. Pfahler, Agent.

[FR Doc.75-6471 Filed 3-11-75; 8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 7, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before March 27, 1975.

AGGREGATE-OF-INMEDIATE

FSA No. 32945—Lime to El Paso, Texas. Filed by Southwestern Freight Bureau, Agent (No. B-516), for interested rail carriers. Rates on lime, in bulk, in 200-lb. per bag, are subject to the application, from Clifton, Texas to El Paso, Texas.

Grounds for relief—Maintenance of depressed rates published to meet interstate competition without use of such rates as instruments in constructing combination rates.


By the Commission.

[Seal]

Robert L. Oswald, Secretary.

[FR Doc.75-6472 Filed 3-11-75; 8:45 am]

FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

MARCH 7, 1975.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent approval for authority to operate in intrastate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the Federal Register, issue of April 13, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent protests to the granting of an application, and any other proceedings, any subsequent protests to the granting of an application, any subsequent protests to the granting of an application, or foreign commerce authority sought.

HEARING: Hearing assigned for May 7, 1975, at 10:30 a.m. in Room 701, Owen Building, 1321 Lady Street, Columbia, S.C. 29201. Requests for procedural information should be addressed to the Interstate Commerce Commission.

TEXAS Docket No. 29347, filed February 16, 1975. Applicant: PHILIP R. BERNSTEIN, doing business as BERNSTEIN TRUCKING CO., 2101 Epps Street, Fort Worth, Tex. 76104. Applicant's representative: Claxton Bion, 1108 Continental Building, Fort Worth, Tex. 76102. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of owner's and non-owner's property by rail and using specialized equipment for such transportation, including but not limited to such transportation of property on flatcars.

HEARING: Hearing assigned for March 13, 1975, at 10:30 a.m. in Room 701, Owen Building, 1321 Lady Street, Columbia, S.C. 29201. Requests for procedural information should be addressed to the Interstate Commerce Commission.

South Carolina Docket No. 17,382, filed December 14, 1974. Applicant: PHILIP R. BERNSTEIN'S SERVICE, INC., P.O. Box 5844, Wallalla, S.C. 29691. Applicant's representative: Pettit, Ross and Siouemore, Short Street, P.O. Box 89, Wallalla, S.C. 29691. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Commodities in general (except any commodities or products in bulk in tank trucks; Classes A and B explosives and Classes A and C and D Poisons as defined under explosives and other dangerous articles in American Trucking Association, Inc., Agent, Tariff No. 10, MF-ICC No. 11, FSCSC No. 11, S.C. 29691, and household goods and related articles, as defined in Motor Truck Rate Bureau, Agent, Household Goods Tariff No. 3-C, SC-PSC-MF No. 768-Supplement 1, applicable thereunto): Between points and places in Oconee County and between points and places in Oconee County and points and places in South Carolina. Intrastate, interstate and foreign commerce authority sought.

HEARING: Hearing assigned for May 7, 1975, at 10:30 a.m. in Room 701, Owen Building, 1321 Lady Street, Columbia, S.C. 29201, and should not be directed to the Interstate Commerce Commission.
The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

**MOTOR CARRIERS OF PROPERTY**

No. MC-5909 (Deviation No. 1), ARROW FREIGHT LINES, INC., P.O. Box 1655, Cheektowaga, N.Y., filed February 10, 1975. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Lincoln, Neb., over Interstate Highway 80 to Omaha, Nebr., and return over the same route for operating convenience only. The notice indicates that the deviation route is necessary to avoid the gateway of Montana.

No. MC-107478 (Deviation No. 3), OLD DOMINION FREIGHT LINE, P.O. Box 1189, High Point, N.C., filed February 24, 1975. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Danville, Va., over U.S. Highway 360 to Richmond, Va., and return over the same route for operating convenience only. The notice indicates that the deviation route is necessary to avoid the gateway of Montana.

No. MC-114301 (Sub-No. 88), filed February 4, 1975. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, Md. 21921. Applicant's representative: Chester A. Zylblut. The notice indicates that the deviation route is necessary to avoid the gateway of Montana.

**NOTICES**

**MOTOR CARRIER APPLICATIONS FOR TACKING AND GATEWAY ELIMINATION IN FINANCE PROCEEDINGS**

March 10, 1975.

The following notices are supplemental materials to the Section 5(2) finance applications listed below wherein each applicant requests (1) to tack certain existing approval to another proposed deviation route, and (2) to concurrently eliminate the gateway in order to provide the described direct service. Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

Protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register Notice. Failure to file a protest will be construed as a waiver of opposition and participation in the noticed portion of the finance proceeding.

A protest should comply with section 247(d) of the Commission's General Rules of Practice. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative or agent if no representative is named.

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1024.4(e)(12)) but such protests shall not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

No. MC-124692 (Sub-No. 144), filed February 4, 1975. Applicant: SAMMONS TRUCKING & TRANSPORTING, INC., 178 Paseo de Pio, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gage City Building, Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) iron and steel articles, (1) from points in Oregon and Washington, to the Henderson Mine and Mill Site, Sylvania, Inc. (A.M.EX.), near Parshall, Col., and the East and West Ports of the Strait Creek Tunnel in Colorado. The purpose of this filing is to eliminate the gateway of Salt Lake City, Utah.

No. MC-124693 (Sub-No. 145), filed February 4, 1975. Applicant: DELAWARE EXPRESS CO., Elkton, Md. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) iron and steel articles, (1) from the plantsite and storage facilities of Paper Calhoun Company in New Haven Counties, Conn., Maryland, New Jersey (except Manville), Nassau, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, N.Y., and New York, N.Y., to points in Chicago, Illinois, and to the plantsite of Artic Roofing at Edgemont, Del. This application is a gateway elimination request filed pursuant to the Commission's Policy Statement in Ex Parte No. 55 Sub-No. 8 noticed in the Federal Register, issued on December 9, 1974, and directly related to MC-F-11834 published in the Federal Register of April 11, 1975.

No. MC-107478 (Deviation No. 3), filed February 24, 1975. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, Md. 21921. Applicant's representative: Chesluk B. Baker, Jr. The notice indicates that the deviation route is necessary to avoid the gateway of Montana.

No. MC-114301 (Sub-No. 88), filed February 4, 1975. Applicant: DELAWARE EXPRESS CO., P.O. Box 97, Elkton, Md. 21921. Applicant's representative: Chesluk B. Baker, Jr. The notice indicates that the deviation route is necessary to avoid the gateway of Montana.

No. MC-12444 (Sub-No. 143), filed February 4, 1975. Applicant: DELAWARE EXPRESS CO., Elkton, Md. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) oilfield commodities, (1) from the plantsite and storage facilities of Paper Calhoun Company in New Haven Counties, Conn., Maryland, New Jersey (except Manville), Nassau, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, N.Y., and New York, N.Y., to points in Chicago, Illinois, and to the plantsite of Artic Roofing at Edgemont, Del. This application is a gateway elimination request filed pursuant to the Commission's Policy Statement in Ex Parte No. 55 Sub-No. 8 noticed in the Federal Register, issued on December 9, 1974, and directly related to MC-F-11834 published in the Federal Register of April 11, 1975.

No. MC-124692 (Sub-No. 144), filed February 4, 1975. Applicant: SAMMONS TRUCKING & TRANSPORTING, INC., 178 Paseo de Pio, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gage City Building, Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) iron and steel articles, (1) from points in Oregon and Washington, to the Henderson Mine and Mill Site, Sylvania, Inc. (A.M.EX.), near Parshall, Col., and the East and West Ports of the Strait Creek Tunnel in Colorado. The purpose of this filing is to eliminate the gateway of Salt Lake City, Utah.

No. MC-124693 (Sub-No. 145), filed February 4, 1975. Applicant: DELAWARE EXPRESS CO., Elkton, Md. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) iron and steel articles, (1) from the plantsite and storage facilities of Paper Calhoun Company in New Haven Counties, Conn., Maryland, New Jersey (except Manville), Nassau, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, N.Y., and New York, N.Y., to points in Chicago, Illinois, and to the plantsite of Artic Roofing at Edgemont, Del. This application is a gateway elimination request filed pursuant to the Commission's Policy Statement in Ex Parte No. 55 Sub-No. 8 noticed in the Federal Register, issued on December 9, 1974, and directly related to MC-F-11834 published in the Federal Register of April 11, 1975.
at Superior, Wis., to points in Oregon and Washington, restricted in parts A (4), A(5), and A(6) against transportation of commodities which because of size or weight require the use of special equipment. The purpose of this filing is to eliminate the gateway of Montana.

(7) From East Alton, Ill., to points in Oregon and Washington. The purpose of this filing is to eliminate the gateway of Provo, Utah.

(8) From Parsons, Kan., and Jefferson City, Springfield, and Sedalia, Mo., to points in Oregon and Washington, restricted in parts A(1)(b), A(7) and A(8) against transportation of commodities which because of size or weight require the use of special equipment and offfield and pipeline commodities as defined in Motor Carrier Certificate of Eligibility, 74 M.C.C. 459. The purpose of this filing is to eliminate the gateway of Montana.

(9) Buildings, complete, knocked down, or in sections (except commodities as require the use of special equipment), from the plant site of Capp-Homes, Inc., at Des Moines, Iowa, to points in Oregon and Washington. The purpose of this filing is to eliminate the gateway of Montana.

(D) Magnesium ingots, from points in Oregon and Washington, to points in Alabama, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Washington, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateway of Utah.

(E) Building materials as defined by the Commission in Appendix VI to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 279, from Minneapolis and Duluth, Minn., and Chicago, Ill., to points in Oregon and Washington, restricted in parts A(1)(b), A(7) and A(8) against transportation of commodities the transportation of which because of size or weight require the use of special equipment or iron and steel articles, as described in Appendix V to the report of the Commission in Ex Parte No. 45, Descriptions in Motor Carrier Certificates, 62 M.C.C. 208. The purpose of this filing is to eliminate the gateway of Montana.

This application is a gateway elimination request filed pursuant to the Commission's Policy Statement in Ex Parte No. 55 (Sub-No. 8) noticed in the FEDERAL REGISTER issue of December 9, 1974, and is directly related to MC-F-12346 published in the FEDERAL REGISTER of November 6, 1974.

No. MC 106451 (Sub-No. 12), filed February 7, 1975. Applicant: COOK MOTOR LINES, INC., P.O. Box 370, Akron, Ohio 44305. Applicant's representation: E. Stephen Heisley, Box 5388, High Point, N.C. 27262. Authority sought to operate as a common carrier, by motor vehicle, between points in Oregon and Washington, as described in Appendix V to the Commission's Policy Statement in Ex Parte No. 55, filed December 9, 1974.

No. MC 16513 (Sub-No. 7), filed February 21, 1975. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 819 Union Avenue, Pennsauken, N.J. 08110. Applicant's representative: L. C. Major, Jr., Suite 400, Overlook Office Bldg., 6121 Lincoln Road, Alexandria, Va. 22312. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, Commodities in bulk, and those requiring special equipment), between points in that part of Ohio lying east of U.S. Highway 60 which is along a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway 40 to Zanesville, Ohio, thence along Ohio Highway 16 to Coshocton, Ohio, thence along Ohio Highway 76 to Wooster, Ohio, thence along Ohio Highway 3 to Medina, Ohio, thence along Ohio Highway 18 to Mallett Corner, Ohio, thence along Ohio Highway 282 to Lake County, Ohio, thence along the Ohio-Pennsylvania boundary and Akron and points in the commercial zones thereof as described by the Commission, on the one hand, and, on the other, those points in West Virginia and Ohio which are on both sides of U.S. Highway 68 which are within 30 miles of Charleston), including points on the indicated portions of the highways specified, and between the plant site of the Ohio Body Company at Akron (except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, Commodities in bulk, and those requiring special equipment), and the points in Oklahoma, Texas, Colorado, Wyoming, and Montana.

By the Commission.

[SEAL] ROBERT L. OSWALT, Secretary.

[FR Doc.75-6477 Filed 3-11-75;8:45 am]

NOTICES 11675

[Notice 19]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

March 7, 1975.

The following publications include motor carrier, water carrier, broker, freight forwarder and rail proceedings indexed as follows: (1) grants of authority requiring republiation prior to certification; (2) notices of filing for modification of existing authorities; (3) new operating rights' applications; (4) notices of filing directly related to and processed on a consolidated record with finance applications filed under sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of sections 5(2) and 210a(b) finance appli

Protests to the granting of the requested authority must be filed with the Commission on or before April 11, 1975.

Federal Register, Vol. 40, No. 49—Wednesday, March 12, 1975
(unless otherwise specified). Failure seasonally to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest should comply with section 247(d) or section 240(c) as appropriate of the Commission’s General Rules of Practice which require, among other things, that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant’s interest in the proceeding (including a copy of the specific portions of its application or testimony on which protestant believes to be in conflict with that sought in the application, and a detailed description of the method—whether by joinder, interline, or other means—by which protestant would use such authorities), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest (except for petitions and Finance Dockets under Regulations 15 or 22.27 original and six (6) copies of the protest) shall be filed with the Commission, and a copy shall be served concurrently upon applicant’s or petitioner’s representative, or applicant or petitioner if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) or section 240(c) (4) of the applicable section, and shall include the certification required therein.

MC 124111 (Sub-No. 23) (Corrected republication), filed September 17, 1973, and published in the Federal Register Issue of January 10, 1974 and February 20, 1975, and republished this issue. Applicant: BECKER & SONS, INC., P.O. Box 1050, El Dorado, Kans. 67042. Applicant’s representative: T. M. Brown, 600 Leininger Building, Oklahoma City, Okla. 73134. An order of the Commission, Interstate Commerce Board Number 3, dated January 22, 1975, and served February 5, 1975, finds and concludes in part that the present and future public convenience and necessity require operation, by motor common carriers for the purpose of transporting, over regular routes, commodities in bulk, and lumber products, and unfabricated metal, gypsum and gypsum products (except in bulk), paint and paint products (except in bulk), paper, paper bags, and gypsum board paper, between the plant and warehouse sites of United States Gypsum Company, at Staten Island, N.Y., and at or near Ravenna, Ohio, by motor common carriers, by motor common or contract carriers, over combined U.S. Highway 31-W and Tennessee Highway 109 and return over the same route; and (7) between junction Interstate Highway 49 and 65, at Nashville, Tenn., and junction Interstate Highway 65 and delivered to U.S. Highway 31-W and Tennessee Highway 109 at intermediate points, but serving junction Interstate Highway 63 and combined U.S. Highway 31-W and Tennessee Highway 109 for the purpose of joinder only; From junction Interstate Highway 40 and 65 at Nashville over Interstate Highway 65 to junction Interstate Highway 63, thence over Interstate Highway 65 to junction Kentucky Highway 70, and return over the same route;

MC 121499 (Sub-No. 2) (Notice of filing of petition to remove restrictions (a)), issued February 8, 1971, authorizes transportation, over regular routes, of lumber products, and unfabricated metals, gypsum and gypsum products (except in bulk), paint and paint products (except in bulk), paper, paper bags, and gypsum board paper, between the plant and warehouse sites of United States Gypsum Company, at Staten Island, N.Y., and at or near Ravenna, Ohio, by motor common or contract carriers, over combined U.S. Highway 31-W and Tennessee Highway 109 and return over the same route; and (7) between junction Interstate Highway 49 and 65, at Nashville, Tenn., and junction Interstate Highway 65 and delivered to U.S. Highway 31-W and Tennessee Highway 109 at intermediate points, but serving junction Interstate Highway 63 and combined U.S. Highway 31-W and Tennessee Highway 109 for the purpose of joinder only; From junction Interstate Highway 40 and 65 at Nashville over Interstate Highway 65 to junction Interstate Highway 63, thence over Interstate Highway 65 to junction Kentucky Highway 70, and return over the same route;
Fredericksburg, West Point, Richmond, and Norfolk, and points in their respective commercial zones as defined by the Commission, points in Northumberland, Lancaster, Westmoreland, and Richmond Counties, Virginia; the metropolitan area of King George County, Va. on and east of U.S. Highway 301, West Virginia, and the District of Columbia. Restriction: The operations authorized herein are restricted to the transportation of freight originating at or destined to the plant and warehouse sites of United States Gypsum Company, at Staten Island, N.Y., or at or near Stony Point, N.Y., (except that no transportation is authorized from the plant site of the Kaiser Gypsum Company at Delanceo, N.J., to the plant and warehouse sites of the United States Gypsum Company at Staten Island, or at or near Stony Point, N.Y.). By the instant petition, petitioner seeks to delete the Staten Island, N.Y., plant and warehouse sites from the areas of authorization listed in the petition, add Mt. Prospect, Ill., as a service point in the St. Louis, Mo.-East St. Louis, Ill.-Chicago, and Peoria, Ill.-Overland Park, Kan., under a continuing contract or contracts with Venture Stores, Inc., a direct consignee of Venture Stores Co., of St. Ann, Mo., restricted against the transportation of shipments between points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission and points in St. Clair County, Ill., subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions, and restrictions in the future as it may find necessary in order to assure that carrier's operations shall conform to the provisions of Section 219 of the Act. By the instant petition, petitioner seeks to add Mt. Prospect, Ill., as a service point in the above territorial description. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the Federal Register.

Applications Under Sections 5 and 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 C.F.R. 1.240.)

Motor Carriers of Property

No. MC-F-12444. Authority sought for control and merger by REICH TRUCKING & TRANSPORTATION CO., INC., 819 Union Avenue, Pennsauken, New Jersey 08110, of the operating rights and property of DIAL MOTOR LINES INC., 901 Woodbine Avenue, Cornwells Heights, Pennsylvania 19026, and for acquisition by EHM Rental Co., Inc., also of Pennsauken, New Jersey 08110, of control of such rights and property through the transaction. Applicants' attorneys: John P. Tynan, 65-12 Carll's Path and Lake Ave., Deer Park, N.Y. 11729, and Martin J. Rosen, 110 Montgomery St., San Francisco, Calif. 94104. Operating rights sought to be transferred: General commodities, with the usual exceptions, as a common carrier over regular routes, between Boston, Mass., and various off-route points, between points in Massachusetts, between Dover, N.H., and Hartford, Conn.; Nelon-Dover, N.H.; and Havenhill, Mass., between points in Massachusetts, between Seabrook, N.H., and Providence, R.I., between Taunton, Mass., and Providence, serving all intermediate points. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12447. Authority sought for purchase by TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Business 1-44, Joplin, Mo. 64801, of a portion of the operating rights of POZZI BROS. TRANSPORTATION, INC., Box 776, 705 W. Meeker St., Kent, Wash. 98031. Application for purchase by Alternate: Max G. Morgan, Suite 223, 2121 W. First St., Pasadena, Calif. 91103. Operating rights sought to be transferred: General commodities, with the usual exceptions, as a common carrier over regular routes, between Trenton, N.J., and various points in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12448. Authority sought for purchase by PINTER BROS. INC., Carl's Path and Lake Ave., Deer Park, N.Y. 11729, of a portion of the operating rights of WESTCHESTER MOTOR LINES INC., 35 Edgemere Rd., New Haven, Conn. 06512, and for acquisition by JOSPEH A PINTER, 271 Plymouth Ave., Brightwaters, N.Y. 11718, of control of such rights through the purchase. Application for purchase by Alternate: John P. Tynan, 65-12 Carll's Path and Lake Ave., Deer Park, N.Y. 11729, and William J. Meuser, 46 Cherry St., Milford, Conn. 06460. Operating rights sought to be transferred: General commodities, with the usual exceptions, as a common carrier over irregular routes, between points in Westchester County, N.Y. (except points within the New York, N.Y., commercial zone), on the one hand, and, on the other, points in New Hampshire, Rhode Island, Connecticut, and New York; clothing and athletic goods, between Lawrence, Mass., on the one hand, and, on the other, points in New Hampshire, Rhode Island, Connecticut, and New York; textile mills supplier, between Andover, N.H., Lowell, Mass., and New Haven, Conn.; and, on the other, Franklinton, N.H., Peabody, R.I., and Rockville, Conn. Vendee is authorized to operate as a common carrier in Arizona, Arkansas, California, Connecticut, Illinois, Indiana, Iowa, Kansas, Louisiana, Massachusetts, Minnesota, Mississippi, Missouri, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Washington, and Wisconsin. Application has been filed for temporary authority under section 210a(b).
No. MC-F-12450. Authority sought for purchase by ROBCO TRANSPORTATION, INC., 188 Rimmon Rd., Woodbridge, CT 06526, of a portion of the operating rights of DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, AL 35201, and for acquisition by HARVEY JONES, also of Springfield, Mass., of a portion of such operating rights through the purchase. Applicants' attorney: Kim D. Mann, 702 World Center Bldg., 918 18th St. NW, Washington, DC 20006. Operating rights sought to be transferred: Milk food products (except in bulk, and except frozen foods), plastic articles, rubber articles, and drugs, as a common carrier over irregular routes, from Altavista, Va., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, West Virginia, Wisconsin, and Wyoming, with restriction. Vendee is authorized to operate as a common carrier in North Dakota, South Dakota, Minnesota, Wisconsin, Michigan, Illinois, Nebraska, Iowa, Virginia, Colorado, Pennsylvania, Massachusetts, New York, Indiana, West Virginia, Maine, Maryland, and Jersey, Connecticut, Rhode Island, Vermont, New Hampshire, Kansas, Oklahoma, Texas, Arkansas, Missouri, North Carolina, Tennessee, and the District of Columbia, Utah, Colorado, Minnesota, North Dakota, New Mexico, South Dakota, Massachusetts, New York, North Carolina, Virginia, West Virginia, South Carolina, Tennessee, Texas, Mississippi, Illinois, Indiana, Nebraska, Iowa, Louisiana, Alabama, Florida, Ohio, Kentucky, Michigan, Wisconsin, Maryland, Pennsylvania, and a described area around Atlanta, to points in the United States except Hawaii, Alaska, Washington, Oregon, California, Arizona, Utah, Idaho, Nevada, and Illinois; dump truck bodies and dump truck bodies from Milwaukee, Wis., to Quincy, Ill.; and time spreader bodies, as a contract carrier over irregular routes, from the plant site of Adams and Doyle located at Quincy, III., to points in the United States except points in Alaska and Hawaii; wagon bodies, partially set up, from Quincy, Ill., to points in Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Nebraska, North Dakota, Ohio, South Dakota, Tennessee, Wisconsin, and Thebes, and North Dakota, Minnesota, Wisconsin, and, on and east of U.S. Highway 63, between Quincy, HI., to points in Illinois (except between Quincy, Ill., and the one hand, and, on the other, points in Missouri, Kansas, Minnesota, Michigan, Minnesota, Wisconsin, and on and south of Iowa Highway 92 and on and east of U.S. Highway 63, between Quincy, HI., to points in Illinois (except between Quincy, Ill., and the one hand, and, on the other, points in Missouri, Kansas, Minnesota, Michigan, Wisconsin, and on and south of Iowa Highway 92). Application has not been filed for temporary authority under section 210a(b) of the Act.

No. MC-F-12451. Authority sought for control by WILLIAM M. AND BARBARA R. GULLY, non-carriers, 25 Payson Heights, 2nd R.D., Quincy, IL 62301, of C. L. CONNORS, INC., 702 World Center Bldg., 918 18th St. NW, Washington, DC 20006, Expressway, Quincy, IL 62301. Applicants' attorney: Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, MO 64105. Operating rights sought to be controlled: Coal and road construction materials, in bulk, in dump vehicles, as a common carrier over irregular routes, between Quincy, III., on the one hand, and, on the other, points in Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Wisconsin; ground limestone, in bulk, in dump vehicles, from Quincy, Ill., to points in Illinois, Iowa, and Missouri; road materials (except cement), in bulk, in dump vehicles, between points in that part of Iowa on and south of Illinois Highway 92 and on and east of U.S. Highway 63, between Quincy, HI., to points in Illinois (except between Quincy, Ill., and the one hand, and, on the other, points in Missouri, Kansas, Minnesota, Michigan, Minnesota, Wisconsin, and on and south of Iowa Highway 92); and on and east of U.S. Highway 63, between Quincy, HI., to points in Illinois (except between Quincy, Ill., and the one hand, and, on the other, points in Missouri, Kansas, Minnesota, Michigan, Minnesota, Wisconsin, and on and south of Iowa Highway 92). Application has been filed for temporary authority under section 210a(b).

No. MC-F-12452. Authority sought for purchase by PETRIZZELLO TRANSPORT, INC., 188 Rimmon Rd., Woodbridge, CT 06526, of a portion of the operating rights of BENTON'S HARTFORD EXPRESS, INC., 1 Cooper Lane, Stafford Springs, CT 06076, and for acquisition by JOAN PETRIZZELLO, both of Woodbridge, CT 06525, of control of such rights through the purchase. Applicants' attorney: Thomas W. Meredith, 702 World Center Bldg., 918 18th St. NW, Washington, DC 20006. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC 57348 (Sub-No. 1), covering the transportation of general commodities, as a common carrier in interstate commerce, within the State of Connecticut. Vendee is authorized to operate as a common carrier in New Jersey, New York, and Connecticut. Application has been filed for temporary authority under section 210a(b) of the Act.
NOTES

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NOTES

London, Conn., and Orient Point, N.Y.
[Image 0x-0 to 594x780]

By the Commission.

[SEAL] ROBERT L. OSWALD, Secretary.

[FEDERAL REGISTER, VOL 40, NO. 49—WEDNESDAY, MARCH 12, 1975]

Motor Carrier Board Transfer Proceedings

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 211, 312(b), and 316(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1122), appear below:

(Note 248)

Each application, except as otherwise specifically noted, filed after March 27, 1975, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings.

Pursuant to section 17(b) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

Finance Docket No. 27646. By order entered February 23, 1975, the Motor Carrier Board approved the transfer to Cross-Sound Ferry Services, Inc., New London, Conn., of a portion of shipper: The Ironsides Company, 270

The following are notices of filings of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of the application.

No. MC-PC-75678. By order of February 25, 1975, the Motor Carrier Board approved the transfer to The Tri-State Transfer Authority, Huntington, W. Va., of the operating rights in Certificates Nos. MC 50008 and MC 50009 (Sub-No. 10), issued December 12, 1955, and April 16, 1967, respectively, to Ohio Valley Bus Company, a corporation, Huntington, W. Va., authorizing the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Ashland, Ky., and Huntington, W. Va., and between other specified pairs of points in Ohio, West Virginia, and Kentucky, serving all intermediate points. Richard J. Bolan, P.O. Box 2165, Huntington, W. Va. 25722, Attorney for applicants.

[SEAL] ROBERT L. OSWALD, Secretary.

[FEDERAL REGISTER, VOL 40, NO. 49—WEDNESDAY, MARCH 12, 1975]

Motor Carrier Board Transfer Proceedings

[Image 0x-0 to 594x780]

By order of February 23, 1975, the Motor Carrier Board approved the transfer to Cross-Sound Ferry Services, Inc., New London, Conn., of a portion of shipping is permitted by the shipper: The Ironsides Company, 270

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[SEAL] ROBERT L. OSWALD, Secretary.

[FEDERAL REGISTER, VOL 40, NO. 49—WEDNESDAY, MARCH 12, 1975]

Motor Carrier Board Transfer Proceedings

[Image 0x-0 to 594x780]

By order of February 23, 1975, the Motor Carrier Board approved the transfer to Cross-Sound Ferry Services, Inc., New London, Conn., of a portion of

No. MC-FC-75678. By order of February 27, 1975, the Motor Carrier Board approved the transfer to the Long Island, Conn., and Orient Point, N.Y.

The following are notices of filings of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of the application.

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[SEAL] ROBERT L. OSWALD, Secretary.

[FEDERAL REGISTER, VOL 40, NO. 49—WEDNESDAY, MARCH 12, 1975]

Motor Carrier Board Transfer Proceedings

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[SEAL] ROBERT L. OSWALD, Secretary.

[FEDERAL REGISTER, VOL 40, NO. 49—WEDNESDAY, MARCH 12, 1975]

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No. MC-FC-75678. By order of February 27, 1975, the Motor Carrier Board approved the transfer to the Long Island, Conn., and Orient Point, N.Y.

The following are notices of filings of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of the application.

No. MC-PC-75678. By order of February 25, 1975, the Motor Carrier Board approved the transfer to The Tri-State Transfer Authority, Huntington, W. Va., of the operating rights in Certificates Nos. MC 50008 and MC 50009 (Sub-No. 10), issued December 12, 1955, and April 16, 1967, respectively, to Ohio Valley Bus Company, a corporation, Huntington, W. Va., authorizing the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Ashland, Ky., and Huntington, W. Va., and between other specified pairs of points in Ohio, West Virginia, and Kentucky, serving all intermediate points. Richard J. Bolan, P.O. Box 2165, Huntington, W. Va. 25722, Attorney for applicants.

[SEAL] ROBERT L. OSWALD, Secretary.
NOTICES


No. MC 95920 (Sub-No. 37TA), filed February 28, 1975. Applicant: SANTRY TRUCKING COMPANY, 11552 SW Pacific Highway, Portland, Oreg. 97223. Applicant's representative: George R. LaBissoniere, P.O. Box 88988, Tukwila Branch, Seattle, Wash. 98188. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Malt beverages from Olympia, Wash., to points in Missouri; and supplies, materials, and equipment used in the manufacture of malt beverages, from points in Missouri to Olympia, Wash., under a continuing contract or contracts with Olympia Brewing Company of Olympia, Wash., for 180 days. Supporting shipper: Olympia Brewing Company, P.O. Box 947, Olympia, Wash. 98507. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.


No. MC 110525 (Sub-No. 1117TA), filed February 27, 1975. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Chemicals, in bulk, in tank vehicles, from the facilities of Nalco Chemical Company at or near Garyville, La., to all points in the United States, except Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: Nalco Chemical Company, 2901 Butterfield Road, Oak Brook, Ill. 60521. Send protests to: Patrick E. Quinn, District Supervisor, Federal Bldg., Room 3328, 600 Arch St., Philadelphia, Pa. 19106.

No. MC 111397 (Sub-No. 122TA), filed February 26, 1975. Applicant: DAVIS TRANSPORT, INC., 645 South Fourth Street, Paducah, Ky. 42001. Applicant's representative: H. J. Melon, Jr., P.O. Box 1407, Avondale Station, Paducah, Ky. 42001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Grains, flour, and bulk, in pneumatic trailers, from the plantsite of Ashland Chemical Company, at or near Mansford, W. Va., to the plantsite of International Harvester Company, Indianapolis, Ind., for 180 days. Supporting shipper: Ashland Chemical Company, 5300 Paul G. Blazer Memorial Parkway, Dublin, Ohio 43017. Send protests to: Floyd A. Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 435 Federal Office Bldg., 167 North Main St., Memphis, Tenn. 38103.

No. MC 111729 (Sub-No. 516TA), filed February 27, 1975. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, New Brunswick, N.J. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Proofs, cuts, copy, artwork, and advertising material; (a) between Willard, Ohio, and Cleveland, Ohio; (b) between Newark, N.J., and New York, N.Y.; (c) Daily telephone ad- denda and listings, between Willard, Ohio, on the one hand, and, on the other, Elkhart, Ind., South Bend, Ind., and other points in Michigan; (3) Proofs, cuts, copy, artwork, and advertising material; (a) between Willard, Ohio, and Cleveland, Ohio; (b) between Newark, N.J., and New York, N.Y., for 180 days. Supporting shippers: R. R. Donelley & Sons Company, 1145 Conwell Ave., Willard, Ohio 44890. Send protests to: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.


No. MC 115014 (Sub-No. 70TA), filed February 28, 1975. Applicant: OLIVEY TRUCKING COMPANY, INC., P.O. Box 53, Winchester, Ky. 40391. Applicant's representative: Louis J. Amato, P.O. Box 636, Bowling Green, Ky. 42101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Coal, in bulk, in points in Breathitt, Clay, Laurel, Morgan, and Wolfe Counties, Ky., to Jeffersonville, Ind., for 180 days. Supporting shipper: W. W. Sexton, General Sup't, Fossil Energy Corp., 310 East Liberty, Louisville, Ky. 40202. Send protests to: R. W. Schmelter, District Supervisor, Interstate Commerce Commission, 320 Federal Bldg., 1500 West Main St., Lexington, Ky. 40505.
NOTICES

No. MC 117708 (Sub-No. 39 TA) (Correction), filed January 30, 1975, published in the Federal Register, issue of February 12, 1975, and republished this issue. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., No. Highway 68 E., De Rocher, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., 15th and New York Ave. NW., Washington, D.C. 20505. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Materials and supplies used in the manufacture of excavators (except those the transportation of which, by reason of size or weight, require special equipment, except commodities in bulk), from points in Michigan, Illinois, Indiana, and Wisconsin to Winona, Minn., for 180 days. Supporting shipper: Warner & Swasey Company, Winona, Minn. 55901. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 414 Federal Bldg. & U.S. Court House, 110 S. 4th St., Milwaukee, Wis., 53201. Nore.—The purpose of this republication is to correct the sub number which was published in error in the previous publication.


No. MC 119988 (Sub-No. 77TA), filed February 18, 1975. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1884, Lublin, Tex. 75901. Applicant's representative: Hugh T. Matthew, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Wood pulp (except in bulk), from the plant site of Temple-Eastex, Inc. In Jasper County, Tex., to Gulf Coast Paper Company, 2001 Chestnut, Houston, Calveston, Texas City, Orange, Freeport, Corpus Christi, and Brownsville, Tex., restricted to traffic having a subsequent movement by water, for 180 days. Supporting shippers: Donald W. Richardson, P.O. Box 269, London, Ky. 40741. Send protests to: John Mensing, District Supervisor, Interstate Commerce Commission, 515 Rusk, Room 8610, Federal Bldg., Houston, Tex. 77002.

No. MC 120813 (Sub-No. 2TA), filed February 26, 1975. Applicant: HUCKABEE HOUND, INC., P.O. Box 357, Cayce, S.C. 29033. Applicant's representative: Robert W. Keyes (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities restricted to shipments having prior or subsequent movement by rail, between Cayce, S.C., and Winnie, Texas, for forwarding shipper: Airtemp Division, Chrysler Corporation, 1819 Kuntz Road, Dayton, Ohio 45404. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Bldg., 1400 Pickens St., Columbia, S.C. 29201.

No. MC 124211 (Sub-No. 257TA) (Correction), filed February 12, 1975. Published in the Federal Register issue of February 25, 1975, and republished as corrected this issue. Applicant: TRUCK LINE, INC., P.O. Box 988, Downriver Station, Omaha, Neb. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Motorcycles, recreational vehicles and machines, accessories and parts, and (2) equipment, materials and supplies used in the manufacture, distribution, or sale of the commodities named in (1) above, between Lincoln, Nebr., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Kawasaki Motors Corp., U.S.A., 1068 McGaw Ave., Santa Ana, Calif. 92705. Send protests to: Carroll Russell, District Supervisor, Suite 620, Union Pacific Plaza, 110 North 14th St., Omaha, Nebr. 68102.

Nore.—The purpose of this republication is to add the territorial description which was omitted in the previous publication.

No. MC 12438 (Sub-No. 17TA), filed February 27, 1975. Applicant: STAR LINE TRUCKING CORPORATION, 18489 W. Lincoln Ave, New Berlin, Wis. 53151. Applicant's representative: S. F. Schreiter, 161 West Wisconsin Ave., Phoenix, Ariz. 85025. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lime, in bulk, in dump vehicles, from points in Dodge County, Wis., to Gary, and East Chicago, Ind., for 180 days. Western Lime and Cement Company, 125 E. Wells St., Milwaukee, Wis. 53202. Send protests to: John E. Ryden, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 125 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 125243 (Sub-No. 5TA), filed February 27, 1975. Applicant: A. R. K. INC., doing business as ARK VAN SERVICE, INC., Van Meter Road, Winchester, Ky. 40391. Applicant's representative: Frank M. Catlett, 703-706 McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Cheese, from Rochester, Minn., to points in the United States, for 180 days. Supporting shipper: Milwaukee Cheese Company, 3300 North Lasher, Chicago, Ill. 60618. Send protests to: R. W. Schneider, District Supervisor, Interstate Commerce Commission, 222 Daka Haus Bldg., 1500 West Main St., Lexington, Ky. 40505.

No. MC 133703 (Sub-No. 57A), filed February 28, 1975. Applicant: WISCONSIN CHEESE SERVICE, INC., 770 Springdale Road, Waukesha, Wis. 53187. Applicant's representative: Frank M. Copeland, 600 Main St., Madison, Wis. 53703. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Cheese, from Rochester, Minn., to points in the United States, for 180 days. Supporting shipper: Milwaukee Cheese Company, 3300 North Lasher, Chicago, Ill. 60618. Send protests to: John E. Ryden, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 125 West Wells St., Room 807, Milwaukee, Wis. 53203.

Note.—The purpose of this republication is to show the docket number as MC 134922 (Sub-No. 113TA), in lieu of MC 134922 (Sub-No. 113TA) which was in error.

No. MC 135097 (Sub-No. 49TA), filed February 25, 1975. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, Nebr. 68127. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68551. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Outdoor furniture, in cartons, from North Little Rock, Ark., to points in California, for 180 days. Supporting shipper: Cargill, Inc., Nutrena Feed Division, 802 Century Bldg., 36 S. Penn, Indianapolis, Ind. 46204. Applicant's representative: S. L. Wittner (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Floor covering, floor tile and materials, equipment and supplies necessary for the installation thereof, from Libertyville and Kankakee, Ill., to points in Oklahoma, under a continuing contract with William Volker & Company, for 180 days. Supporting shipper: William Volker & Company, P.O. Box 429, Burlingame, Calif. 94010. Send protests to: Carroll Russell, District Supervisor, Suite 620 Union Pacific Plaza, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 135423 (Sub-No. 5TA), filed February 24, 1975. Applicant: FRANKLIN LINEN COMPANY, 4615 South Miami, Ind. 46150. Applicant's representative: Robert W. Loser, II, 1909 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Feed mixing salt, from Manistee and St. Louis, Mo., to Rushville, Ind.; (2) animal feed, dry, in bags, from Slinger, Wis., to Rushville, Ind.; (3) dog food, in bags, from Muscatine, Iowa, to Rushville, Ind.; (4) calcium chloride flakes, in bags, from Evingham, Ill., to Rushville, Ind.; (5) soybean meal and corn gluten feed, from Decatur, Ill., to Rushville, Ind. Restriction: The operations authorized hereinafter are limited to a transportation service to be performed under a continuing service contract, or contracts with Cargill, Inc., Nutrena Feed Division, of Minneapolis, Minn., for 180 days. Supporting shipper: Cargill, Inc., Nutrena Feed Division, 7228 Galloway, Indianapolis, Ind. 46250. Send protests to: James W. Habermehl, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 802 Century Bldg., 36 S. Penn St., Indianapolis, Ind. 46204.


No. MC 138057 (Sub-No. 1TA), filed February 24, 1975. Applicant: C & F TRANSPORT, INC., 2211 Cashen Ave., Elkhart, Ind. 46514. Applicant's representative: James W. H. Hunt, doing business as HUNT TRANSPORT, INC., P.O. Box 200, Lowell, Ark. 72745. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Pallets, boxes, skids, lumber and wood products, in hydraulic dump trailers, for the installation thereof, from Libertyville and Kankakee, Ill., to points in the state of Illinois and the Chicago Commercial zone, for 180 days. Supporting shipper: Shipshewana Pallet Co., Inc., Lagrange County, Ind., to, points in the state of Illinois and the Chicago Commercial zone, for 180 days. Supporting shipper: Shipshewana Pallet Co., Inc., R.R. 1, Shipshewana, Ind. 46565. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 245 W. Warrne St., Room 294, Fort Wayne, Ind. 46901.

No. MC 140549 (Sub-No. 1TA), filed February 25, 1975. Applicant: MELLO TRUCK LINES, INC., 745 Carey Street, Hanford, Calif. 93230. Applicant's representative: Gilbert W. Howe, 701 N. E. Street, Hanford, Calif. 93239. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Feed formulas, from Stockton, Calif., to Klamath Falls, Ore.; (2) Fish feed, from Western Consumers Industries, Inc., 705 West Weber Avenue, P.O. Box 1968, Delta Station, Stockton, Calif. 95201. Send protests to: Walter W. Strabocsch, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708, Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.


Note.—The purpose of this republication is to add the two territorial descriptions described above to applicant's request for authority, and to correct the notice remains as previously published.


No. MC 140683 (Sub-No. 1TA), filed February 27, 1975. Applicant: FRANKS & SON, INC., Route 1, Box 108A, Big Cabin, Okla. 74333. Applicant's representative: James E. Frasier, Mezzanine Office Bldg., 700 West Capitol, Little Rock, Ark. 72201. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Wooden products, such as tongue depressors, cervical scrapers, toothpicks, ice cream spoons and wood turning; also clothes pins, plastic eating utensils, sporting goods, such as sleds, etc.; (1) from Strong, Maine, to Milwaukee, Wis.; (2) from Strong, Maine to Los Angeles, Calif., for partial unloading in Milwaukee, Wis.; (3) from Wilton, Maine to Dallas, Tex., with stop in transit for partial unloading in Dallas, Tex.; (4) from Wilton, Maine to Seattle, Wash.; also to Seattle, Wash., with stop in transit for partial unloading at Denver, Colo., or at Billings, Mont.; (5) from Wilton, Maine to Los Angeles, Calif.; also to Los Angeles, Calif., with stop in transit for partial unloading in Phoenix, Ariz.; (6) from Wilton, Maine to San Francisco, Calif.; (7) from Skowhegan, Maine to Los Angeles and Oakland, Calif., and Seattle, Wash., for 180 days. Supporting shippers: Strong Woods Products Inc., Strong, Maine 04933, Solon Mfg. Co., Inc., Solon, Maine 04974, and Eric E. Frank, Strong, Maine. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240, Old Post Office Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 140664 (Sub-No. 1TA), filed February 26, 1975. Applicant: OLIVER & OLIVER, INC., P.O. Box 83, Campton, Ky. 41301. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101.
No. MC 140655 (Sub-No. 1 TA), filed February 27, 1975. Applicant: EARL J. RUCKDASCHEL, doing business as EARL J. RUCKDASCHEL TRUCKING, 265 East Greene St., Postville, Iowa 52165. Applicant's representative: Caryl E. Munson, 469 Fischer Bldg., Dubuque, Iowa 52001. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Investigation and equipment used in the installation of same, from, at, or near Postville, Iowa, to points in Illinois, located on and north and south of U.S. Highway 66 and on and north of U.S. Highway 24, Minnesota, and Wisconsin; and (2) scrap paper, from points in Illinois, located on and west of U.S. Highway 66 and on and north of U.S. Highway 24, Minnesota, and Wisconsin, to, at, or near Postville, Iowa, for 90 days. Supporting shipper: Iowa Excel Corporation, P.O. Box 642, Postville, Iowa 52165. Send protests to: Hancock, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 140667 (Sub-No. 3 TA), filed February 25, 1975. Applicant: JOYCE E. HAYNES TRUCKING, INC., 221 Davidson, Independence, Mo. 64056. Applicant's representative: Warren H. Sapp, 406 Fischer Bldg., Dubuque, Iowa 52001. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) So-called 'waste' materials, from Rio, Wis., Atkin's and Harby, Ark., Terre Haute, Ind., Lancaster, Wooster and Cleveland, Ohio, Caney, Kans., Dadas and Nacogdoches, Tex., Tulsa, Oklahoma City and Enfalsa, Okla., Des Moines, Clinton and Davenport, Iowa, and points in Illinois and Missouri to the warehouse and plant facilities of Shawnee Evans Company, located at or near Lenexa, Kans., and (2) from the warehouse and plant facilities of Shawnee Evans Company, located at or near Lenexa, Kans., for 180 days. Supporting shipper: Shawnee Evans Company, 13917 West 101st St., Lenexa, Kans. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Bldg., 911 Walnut St., Kansas City, Mo. 64110.
**NOTICES**

**TEMPORARY AUTHORITY TERMINATION**

The temporary authorities granted in the dockets listed below have expired as a result of final either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

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**NOTICE 29**

[FEDERAL REGISTER, VOL. 40, NO. 49—WEDNESDAY, MARCH 12, 1975]
PROPOSED RULES

ASSISTANCE FOR STRENGTHENING INSTRUCTION

Agencies. The statute provides for the educational centers and services, Title II (except for educational materials), so much of Title III of the Act as amended, 88 Stat. 535-544 (20 U.S.C. 1801-1862), added by section 801 of ESEA applicable to Title IV. That section 134.1 Scope of part.

1. Section 134.1 is revised by adding a new paragraph (c-1), to read as follows: § 134.1 Scope of part.

(c-1) Part C of Title IV of the Elementary and Secondary Education Act of 1965 (Title 45 of the Code of Federal Regulations) is incorporated into this part. This part applies to the Federal government, supplementary educational services, and welfare programs, which subgrants are made by the State to local educational agencies. The statute provides for the participation of children from non-profit private schools, and for children in public libraries and learning resources; educational innovation and support (or lack of a need), for regulations, and for the consolidation of certain educational programs into parts two, B and C. Part B consists of the programs authorized by Title II of the ESEA (school library resources, textbooks, and other instructional materials). Part C consists of the programs authorized by Title III of the ESEA as relates to testing, counseling, and guidance, and Title III (except for Section 365 thereof) of the National Defense Education Act (1958) (financial assistance for strengthening instruction in academic subjects). Part C consists of the programs authorized by Title III (except for programs of testing, counseling, and guidance). Title V of the ESEA (strengthening State and local educational agencies), section 808 of the ESEA (dropout prevention projects), and section 806 of the ESEA (demonstration projects to improve school nutrition and health services for children of low-income families). State educational agencies are required to submit an annual program plan under which subgrants are made by the State to local educational agencies. The statute provides for the participation of children from non-profit private schools, and for children in private schools, and for children in the District of Columbia and Puerto Rico. Section 402 of ESEA does not make provision for allotments to the District of Columbia and Puerto Rico. A technical amendment has been submitted by the Department to Congress which would make the definition of "State" in section 401 of ESEA applicable to Title IV. That definition of "State" includes the District of Columbia and Puerto Rico. Section 134.2 of the regulations tentatively defines "State" to include the District of Columbia and Puerto Rico on the assumption that the technical amendment will be enacted.

In order to facilitate comments, explanations of the sections of the proposed rules are set out below. "Comment" sections following substantive sections have been used as a format in lieu of a lengthy preamble for ease of reading and to highlight the substance of the proposed rules.
The term includes such an individual (a) whether he or she left school during or between regular school terms, (b) whether he or she left school before or after reaching the compulsory school attendance age, and (c) where applicable, whether or not he or she completed a minimum required amount of school work.

(20 U.S.C. 1831(a) (4))

"Children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such terms does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental disadvantage.

(20 U.S.C. 1803(a) (8) (B))

"Construction" means: (a) the erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; (b) the acquisition of existing structures not owned by the local educational agency making application for assistance under section 431(a) (1) of the Act; (c) the remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (d) a combination of any two or more of the foregoing.

(20 U.S.C. 1831(a) (1))

"Cultural and educational resources" includes: "State educational agencies, local educational agencies, private nonprofit elementary and secondary schools, institutions of higher education, public and nonprofit agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources."

(20 U.S.C. 1832)

"Handicapped children" means those children who are mentally retarded, hard of hearing, deaf, speech impaired, visually impaired, seriously emotionally disturbed, crippled, or otherwise health impaired, and who by reason thereof require special education and related services.

(20 U.S.C. 1803(a) (8) (B))

"Local educational agency" means a public board of education or other public authorities authorized by a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(20 U.S.C. 1803(a) (8))

"Minor remodeling" (notwithstanding the definition set forth in § 190.1 of this chapter) means minor alterations which are (a) made in a previously completed building used or to be used as a laboratory or classroom for instruction in academic subjects, and (b) needed to make effective use of equipment in providing instruction in such subjects. The term does not include building construction, structural alterations to buildings, or building maintenance, repair, or renovation.

(20 U.S.C. 1821(a) (2))

"Outlying Areas" means each of the following: Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1802(a))

"School library resources" means books, periodicals, documents, audiovisual materials, and related library materials which are suitable for use by elementary or secondary school children and teachers and which with reasonable care and use may be expected to last more than one year. The term does not include furniture or equipment.

(20 U.S.C. 1821(a) (1))

"State," except as used in § 134.14, means the several States in the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1802(a))

"State board of education" means the State board of education or other agency or officer primarily responsible for State supervision of public elementary and secondary schools.

(20 U.S.C. 1803(a) (1))

"Teacher" includes guidance counselors, school librarians, and supervisory staff, as well as instructional staff.

(20 U.S.C. 1821(a))

"Textbook" means a book, reusable workbook, or manual, whether bound or in looseleaf form, intended for use as a principal source of study materials for a given class or group of students, a copy of which is expected to be available for the individual use of each student in such class or group.

(20 U.S.C. 1821(a) (1))

Comment. The definition of "school library resources" is derived from section 203(a) (2) (A) or (B) of the Elementary and Secondary Education Act and existing administrative practice under that program. The definition currently appearing in the Title II regulations (45 CFR 117.1(1)((1))) has been simplified, but it is not intended to make any substantive change in the types of library resources and instructional materials which may be purchased under Part 134 of this part (section 203(a) (1)) from the types of library resources and instructional materials which currently may be purchased under Title II.

§ 134.3 General provisions regulations.

Subpart B—Annual Program Plans

GENERAL

§ 134.10 Submission.

(a) "Any State which desires to receive funds under Title IV of the Act shall "submit to the Commissioner" an annual program plan "in such detail as the Commissioner deems necessary."

(20 U.S.C. 1232c(b) (1) (A) (1); 1803(a))

(b) The annual program plan shall contain the provisions set forth in this subpart and section 434(b) (1) (B) (ii) of the General Education Provisions Act, as amended.

(20 U.S.C. 1232c(b) (1) (B) (ii); 1803(a))

Comment. Section 434(b) of the General Education Provisions Act (added by Section 511 of Pub. L. 93-380, enacted August 21, 1974) provides for the submission by each State of (1) a general application containing five assurances, and (2) an annual program plan for each Office of Education program under which funds are provided to local educational agencies through, or under the supervision of, the State educational agency. The final regulations governing submission of these documents will be published in the Federal Register as amendments to the Office of Education General Provisions Regulations (45 CFR Part 100b), which applies to the State-
Comment. Section 403(b)(4) of the Act requires the Commissioner to assure that funds sufficient for the functions of the State advisory council "are made available to each such council from funds available for administration of the annual program plan." The information asked for in § 134.12(d) is designed to serve this purpose, and is deemed to be the type of "detail" which the Commissioner is authorized to require in the annual program plan, which shall be "in such detail as the Commissioner deems necessary." (20 U.S.C. 1803(a)(3); 1906(a))

§ 134.13 Participation of children and teachers in private schools.

(a) The annual program plan shall provide "assurances that the requirements of section 406 of the Act "relating to the participation of pupils and teachers in private nonprofit elementary and secondary schools" will be met, or shall certify that "such requirements cannot legally be met in such State."

(20 U.S.C. 1803(a)(3); 1906(a))

(b) A certification that a State cannot legally meet the requirements of section 406 of the Act shall be made by the State attorney general or other appropriate legal officer.

(20 U.S.C. 1803(a)(3))

§ 134.14 Distribution of funds to local educational agencies.

(a) The annual program plan shall provide "assurances that:

(1) funds which the State educational "agency receives from appropriations made under section 491(a) "of the Act "will be distributed among local educational agencies according to the enrollment in public and nonpublic schools within the school districts of such agencies, except that substantial funds will be provided (a) local educational agencies whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure (excluding pupil transportation and other noneducational services) will be met, or shall certify that "such requirements cannot legally be met in such State." (section 403(a) of the Act.)

(20 U.S.C. 1803(a))

(b) The annual program plan shall include a detailed description of activities planned for the purpose of strengthening local educational agencies under section 431(a)(3) of the Act. This description shall include: (1) measurable objectives, (2) the specific activities planned to achieve each such objective, (3) the amount of funds allocated to each such objective, and (4) with respect to each such objective, an indication whether the State educational agency intends to contract for services or equipment.

(20 U.S.C. 1803(a))

(c) The annual program plan shall include a detailed description of activities planned for the purpose of strengthening local educational agencies under section 431(a)(3) of the Act. This description shall include: (1) measurable objectives, (2) the specific activities planned to achieve each such objective, (3) the amount of funds allocated to each such objective, and (4) with respect to each such objective, an indication whether the State educational agency intends to contract for services or equipment.

(20 U.S.C. 1803(a))

(d) The annual program plan shall include (1) a detailed description of the activities to be carried out by the State advisory council and (2) the amount of funds which will be provided for each such activity "from funds available for administration of the annual program plan."

(20 U.S.C. 1803(a), (b)(4))

§ 134.15 Part B funds; discretion of local educational agencies.

The annual program plan shall provide "that each local educational agency will be given complete discretion (subject to the provisions of section 406 of the Act) in determining how the funds it receives from appropriations made under section 401(a) " of the Act "will be divided among the various programs described in section 421 of the Act except that in the first year in which appropriations are made pursuant to Part B" of Title IV of the Act "each local educational agency will be given complete discretion with respect to 80 per centum of the funds appropriated for that part attributable to that local educational agency."

(20 U.S.C. 1803(a)(5))

§ 134.16 Evaluation, dissemination, and adoption of promising practices.

(a) The annual program plan shall provide "for the adoption of effective programs (1) for an evaluation by the State advisory council of the quality and effectiveness of the effects of the programs and projects assisted under the annual program plan, (2) for the appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects, and (3) for the adoption, where appropriate, of promising educational practices developed through promising programs supported under part C" of Title IV of the Act.

(20 U.S.C. 1803(a)(6))

(b) The annual program plan shall include a description of and calendar for each of the activities set forth in paragraph (a) of this section.

(20 U.S.C. 1803(a))

§ 134.17 Single application from a local educational agency.

The annual program plan shall provide "that local educational agencies applying for funds under part C of Title IV of the Act "shall be required to submit only one application for such funds for any one fiscal year."

(20 U.S.C. 1803(a))

§ 134.18 Use of funds.

The annual program plan shall provide that:

(a) (1) "of the funds the State receives under Section 401 of the Act for the first fiscal year for which such funds are available," the State educational agency will use for administration of the annual program plan "plan not to exceed which ever is greater: (i) $ per centum of the amount so received ($50,000 in the case of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 431(a)(3) " of the Act or (ii) the amount
be noted that the statute provides that in cases of this example, the 5 percent figure is the $1 million for Part B plus 5 percent of the amount available for strengthening State and local educational agencies. In the present example, this would be 5 percent of the $150,000 in this example, which is $7,500.

In the example, therefore, of the $1 million allotted for Part B, $500,000 is available for administration and the remaining $500,000 is available for program purposes, and of that amount at least $127,500 is for programs for the handicapped.

§ 134.19 Use and access by handicapped persons.

The annual program plan shall provide "satisfactory assurance that the aggregate amount to be expended by the State for the education of children with specific learning disabilities and handicapped children, and"

(c) not more than the greater of (1) 15 percent of the amount which such State desires to receive of the amount available of the $1 million for Part B and an allotment of $1 million for Part C, or (2) the amount available by appropriation to such State in the fiscal year ending June 30, 1973, for purposes covered by section 401(b) of the Act, or (3) the amount available by appropriation to such State in the fiscal year ending June 30, 1973, for purposes covered by section 401(b) of the Act; shall be used for special programs or projects for the education of children with specific learning disabilities and handicapped children, and"}

§ 134.20 Commingling of funds.

The annual program plan shall set forth policies and procedures which give satisfactory assurance that Federal funds made available under Title IV of the Act for any fiscal year will not be commingled with State funds.

(20 U.S.C. 1803(a)(10))

§ 134.21 Maintenance of expenditures from non-Federal sources.

The annual program plan shall be

"satisfactory assurance that the aggregate amount to be expended by the State for the education of children with specific learning disabilities and handicapped children, and"

The State may use for the purpose of strengthening State and local educational agencies and

(20 U.S.C. 1803(a)(11))

REQUIREMENTS RELATING TO CERTAIN ANNUAL PROGRAM PLAN PROVISIONS

§ 134.37 Application by a local educational agency.

(a) The application by a local educational agency under § 134.17 shall be submitted to the State educational agency in accordance with such instructions and forms as the State educational agency may prescribe, consistent with the requirements of Title IV of the Act, this part, and Parts 134a and 134b of this chapter.

(b) The submission of a single application by § 134.37 shall not preclude the State educational agency from making separate subgrants under Parts B and C of Title IV of the Act to the local educational agency.


§ 134.38 State administrative funds in fiscal year 1976.

(a) Funds provided under § 134.18(a) for administration of the annual program plan shall be used only for the administration of the State's annual program plan under Title IV of the Act.

(b) Funds for State administration in fiscal year 1976 of Titles II and III of the Elementary and Secondary Education Act of 1965 and Title III-A of the National Defense Education Act of 1958 may be drawn from the respective allotments for such programs under section 401(c)(1) and (2) of the Act, subject to any applicable limitations on State administrative funds set forth in such Acts.

(20 U.S.C. 1601; 1803(a)(8))

§ 134.41 Data relating to maintenance of expenditures from non-Federal sources.

The State educational agency shall collect and maintain data to verify compliance with the provision set forth in § 134.21, and make such data available to the Commissioner on request.

(20 U.S.C. 1803(a)(11))

Subpart C—State Advisory Council

§ 134.50 Establishment.

"Any State which desires to receive grants under" Title IV of the Act "shall establish an advisory council as provided in" section 403(b) of the Act.

(20 U.S.C. 1803(a))

§ 134.51 Membership.

(a) The membership of the State advisory council shall include at least one person "representative of each of the following:

(1) public elementary and secondary schools;
(2) private elementary and secondary schools;
(3) Institutions of higher education;
(4) fields of professional competence in dealing with children needing special education because of physical or mental handicaps;
(5) fields of professional competence in dealing with children needing special education because of specific learning disabilities;
(6) fields of professional competence in dealing with children needing special education because of severe educational disadvantage;
(7) fields of professional competence in dealing with children needing special education because of limited English-speaking ability;
(8) fields of professional competence in dealing with children needing special education because of gifted or talented; and
(9) fields of professional competence in guidance and counseling.

(b) The membership of the State advisory council shall also include such other persons as may be necessary to make such council "broadly representative of the cultural and educational re-
§ 134.52 Certification and qualification of members.

(a) The certification required under section 403(b)(2) of the Act shall include the name of each person who is to serve on the State advisory council (including the name and address of the Chairman), the cultural or educational resources of the State which each person represents, and a statement that the persons appointed are qualified to represent those resources.

(20 U.S.C. 1805(b)(1))

(b) The State shall maintain on file, and furnish to the Commissioner at his request, the qualifications of the persons appointed to the State advisory council.

(20 U.S.C. 1805(b)(1) (A))

§ 134.53 Advisory functions.

The State advisory council shall "advise the State educational agency on the preparation of, and policy matters arising in the administration of, the annual program plan, including the development of criteria for the distribution of funds and the approval of applications for assistance under Title IV of the Act.

(20 U.S.C. 1805(b)(1) (B))

Comment. This section replaces the statutory language of section 403(b)(1)(B) of the Act. The State advisory council is required to advise on each of the matters set forth in that section: preparation of the annual program plan and policy matters arising in the administration of the annual program plan. The council shall advise regarding the development of criteria for the distribution of funds and shall advise regarding the approval of applications under Title IV of the Act.

§ 134.54 Notification of acceptance of certification.

The Commissioner will provide written notification to the State educational agency and the Secretary of the State advisory council when the certification under Section 403(b)(2) of the Act has been accepted.

(20 U.S.C. 1803(b) (2), (3))

§ 134.55 Evaluation of programs and projects.

(a) The State advisory council shall "evaluate all programs and projects assisted under Title IV of the Act at least annually.

(b) Evaluations by the State advisory council shall include the scope and quality of programs and projects for children enrolled in public elementary and secondary schools, and private nonprofit elementary and secondary schools, and evaluate the extent to which the objectives which were set forth pursuant to § 134.12(b) were met.

(20 U.S.C. 1803(b)(1) (B); 1806(a))

§ 134.56 Report to the Commissioner.

The State advisory council shall "prepare at least annually and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner.

(20 U.S.C. 1805(b)(1) (D))

§ 134.70 Annual program plans.

(a) Any Outlying Area which desires to receive funds under Title IV of the Act shall submit an annual program plan which meets the requirements of Subpart B of this part, except §§ 134.14, 134.15, and 134.17.

(b) The Department of the Interior may apply for funds under section 402(a)(1) of the Act by submitting an annual program plan (to provide programs authorized by Title IV of the Act to "children and teachers in elementary and secondary schools operated" by it "for Indian children") which meets the substance of the requirements of §§ 134.12(a), 134.14(a) (2) and (3), (b), 134.16(a), and 134.18(b) and 134.19, and section 434(b) (1)(B) (ii) of the General Education Provisions Act, as amended.

(c) The Department of Defense may apply for funds under section 402(a)(1) of the Act by submitting an annual program plan (to provide programs authorized by Title IV of the Act to "children and teachers in" its "overseas dependent schools") which meets the substance of the requirements of §§ 134.12(a), 134.16(a) (2) and (3), 134.18(b) and 134.19, and section 434(b) (1)(B) (ii) of the General Education Provisions Act, as amended.

(20 U.S.C. 1802(a)(1))

Comment. Neither the Department of the Interior nor the Department of Defense may use the funds received for Part C programs for activities authorized by section 411(a) (3) of the Act.

§ 134.71 Application procedures.

(a) The Departments of Defense and Interior and the Outlying Areas may designate administrative units to submit applications for funds under Title IV of the Act.

(b) Applications under paragraph (a) of this section shall be submitted to the appropriate Department or Outlying Area in accordance with such instructions and forms as it may prescribe.

(c) Each application under paragraph (a) of this section shall include a description of the purposes for which such funds will be used.

(20 U.S.C. 1809(a)(1))

§ 134.72 Single application.

Administrative units designated under § 134.71(a) shall be required to submit only one application for funds under Title IV of the Act for any one fiscal year.

(20 U.S.C. 1809(a)(1))

§ 134.73 Distribution of funds on the basis of educational needs.

The Departments of Defense and Interior and each Outlying Area, receiving funds under Title IV of the Act, shall use a substantial amount of such funds to provide assistance, equipment, and materials, and equipment to schools attended by children having the greatest educational needs for those services, materials, and equipment.

(20 U.S.C. 1802(a)(1))

§ 134.74 Apportionment of funds.

(a) Funds appropriated under section 402(a)(1) of the Act will be apportioned among the Outlying Areas and the Departments of Defense and Interior on the basis of the number of children enrolled in the schools of such Outlying Areas and Departments.

(b) The amount of funds of an Outlying Area, or Department under paragraph (a) of this section which the Commissioner determines will not be required for any fiscal year will be reapportioned to the other Outlying Areas and Departments in proportion to their original apportionments for that year.

(20 U.S.C. 1802(a)(1))

§ 134.80 Allowable costs.

Allowability of costs under Title IV of the Act is governed by Subpart G of Part 100b of this chapter.

(20 U.S.C. 1823(a)(2))

§ 134.81 Standards for selection of personal property.

The State educational agency shall develop standards which may be used by local educational agencies in acquiring expendable and non-expendable personal property (as defined in § 100.1 of this chapter) of appropriate quality and in appropriate quantities.

(20 U.S.C. 443(a)(4); 823(a)(2)(B)(1); 1893 (a)(5); 1821(b); 1831(b))

Comment. This section is not intended to limit the complete discretion of local educational agencies (set forth in section 403(a)(5) of the Act) in determining how the funds it receives from appropriations made under Part B of Title IV of the Act will be divided among the various programs described in section 421 of the Act.

§ 134.82 Charges for use.

No charge shall be levied against children or school personnel for the ordinary use of expendable and nonexpendable personal property acquired under Title IV of the Act.

(20 U.S.C. 1801)

§ 134.89 Scope of subpart.

(a) For the purposes of this subpart, "local educational agency" means any "local educational agency which is a recipient of funds under" Title IV of the Act "or which serves the area in which a program or project assisted under Title IV of the Act is located.

(b) For the purposes of this subpart, "private school children" means "children who are enrolled in private non-
§ 134.90 Benefits.

(a) The local educational agency "shall provide for the benefit of" private school children "secular, neutral, and nonideological services, materials, and equipment" authorized under Title IV of the Act, "including the repair, minor remodeling, or construction of public school facilities as may be necessary for their provision" (consistent with §§ 134.98 and 134.99).

(b) If the local educational agency determines that it is not "feasible or necessary" to locate the "services, materials, and equipment" referenced in paragraph (a) of this section "in one or more" private schools, the local educational agency "shall provide such other arrangements as will assure equitable participation of" private school children "in the purposes and benefits of" Title IV of the Act.

(20 U.S.C. 1806(a))

§ 134.91 Number of private school children to be served.

The number of private school children to receive benefits under Title IV of the Act shall be determined by the local educational agency on a basis comparable to that used in determining the number of children served by public schools to receive such benefits.

(20 U.S.C. 1806(a))

§ 134.92 Expenditures.

Subject to § 134.93, the average expenditure per child for private school children who receive benefits under Title IV of the Act shall be "equal" to the average expenditure per child for children enrolled in public schools who receive such benefits.

(20 U.S.C. 1806(b))

§ 134.93 Criteria for adjustment of expenditures.

(a) The local educational agency shall adjust its average expenditure per private school child if (1) the needs of private school children with respect to benefits under Title IV of the Act differ from such needs of children enrolled in public schools, and (2) the average actual cost per child of such benefits to meet the needs of private school children is lesser or greater than the actual cost per child of such benefits to meet the needs of public school children.

(b) Any such adjustments shall be designed to assure the "equitable participation of" private school "children in the purposes and benefits of" Title IV of the Act.

(20 U.S.C. 1806(a), (b))

§ 134.94 Concentration of programs or projects.

In addition to the requirements set forth in §§ 134.92 and 134.93, "when funds available to a local educational agency under Title IV of the Act "are used to concentrate programs or projects on a particular group, attendance area, or grade or age level," private school children "who are included within the group, attendance area, or grade or age level selected for such concentration shall be assured equitable participation in the purposes and benefits of such programs or projects."

(20 U.S.C. 1806(b))

§ 134.95 Consultation with private school officials.

The local educational agency shall consult with "appropriate private school officials" with respect to all matters including planning, relating to the requirements of this subpart prior to making any determinations or decisions affecting such matters.

(20 U.S.C. 1806(a), (b))

§ 134.96 Separate compliance for Parts B and C.

(a) Matters relating to assistance under Part C of Title IV of the Act shall have no bearing on a determination of whether a State or local educational agency is in compliance with section 406 of the Act or this subpart with respect to assistance under Part B of Title IV of the Act.

(b) Matters relating to assistance under Part B of Title IV of the Act shall have no bearing on a determination of whether a State or local educational agency is in compliance with section 406 of the Act or this subpart with respect to assistance under Part C of Title IV of the Act.

(20 U.S.C. 1801(a), (b))

§ 134.97 Information in the project application.

Each application submitted to the State educational agency shall (a) describe how the local educational agency will fulfill the requirements of §§ 134.90-134.95 (inclusive) and (b) contain information indicating: (1) the number of private school children in the school district of the local educational agency; (2) the number of private school children to be served by the project and the basis on which such children were selected; (3) the manner in which and the extent to which "appropriate private school officials" were consulted; (4) the places at which and the times during which private school children will be served; (5) the differences, if any, in the kind and extent of services to be provided public and private school children and the reasons for such differences; and (6) the adjustments (if any) by which the local educational agency has made under §§ 134.92 and 134.93, and the basis on which such adjustments were made.

(20 U.S.C. 1806(a), (b))

§ 134.98 Control by public agency.

"The control of funds provided under Title IV of the Act "and title to materials, equipment, and property required, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in" Title IV of the Act. "And a public agency shall administer such funds and property."

(20 U.S.C. 1806(c) (1))

§ 134.99 Limitations on personnel providing services.

"The provision of services pursuant to this subpart "shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of any of the following: (1) private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under Title IV of the Act "shall not be commingled with State or local funds."

(20 U.S.C. 1806(c) (2))

§ 134.100 Private schools not to benefit.

(a) Use of funds under Title IV of the Act shall not inure to the benefit of any private school.

(b) Personal property acquired under Title IV of the Act shall not become a part of the permanent structure of any private school and must be capable of being installed and removed without requiring remodeling of the premises.

(20 U.S.C. 1806(c); Lemon v. Kurtzman, 403 U.S. 602 (1971))

§ 134.101 Avoidance of separate classes.

Any project to be carried out in public facilities which involves joint participation by children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid the separation of participating children by school enrollment or religious affiliation.

(20 U.S.C. 1806(s))

§ 134.102 Complaint procedure.

(a) Any organization or individual may file a written complaint with the State educational agency setting forth: (1) an allegation that, with respect to a program or project under Title IV of the Act being conducted or approved by the State educational agency, and (2) the facts on which such allegation is based. (b) The State educational agency shall, within sixty days from the receipt of the complaint, file a report with the Commissioner, with a copy to the com-
The State educational agency shall not make any subgrant under Part B or Part C of Title IV of the Act which does not meet the requirements of section 406 of the Act and this subpart. The Commissioner may waive such requirements.

(b) The State educational agency shall promptly notify the Commissioner when approval of any application is being delegated under paragraph (b) of this section, and shall, in addition to the certification provided under §134.13(a), provide the Commissioner with a written interpretation of the applicable law, prepared by the State attorney general or other appropriate State legal officer.

The provisions applicable to Title I of the Elementary and Secondary Education Act which were enacted in the same law as Title IV—Pub. L. 93-380. This subpart are subject to the requirements relating to notice, opportunity for hearing, and final review set forth in section 406(g) (1) of the Act.

Sec.
134a.1 Scope.
134a.2 Authorized activities.
134a.3 Distribution of resources.
134a.4 Administrative costs of local educational agencies.
134a.5 Allowable costs.
134a.10 Consideration of the needs of occupationally educationally handicapped children.
134a.11 Distribution and control.
134a.20 Expansion or improvement of services.

Comment: Under section 406(d) of the Act, the Commissioner may (but is not required to) waive the requirement of section 406 where a State is prohibited by law from providing for the participation of private school children under Title IV. Section 406(e) (which, applies to situations where a State or local educational agency has "substantially failed" to provide for such participation, does not authorize the Commissioner to waive the requirement of section 406. Therefore, in those cases in which no waiver is granted, and there is substantial failure, the local educational agency would lose its Title IV funds for the affected Part.

This statutory language is in contrast with the prohibition.

Sec.
134a.2 Authorized activities.
§ 134a.2 Authorized activities.

Each State may receive a grant under this part (pursuant to the annual program plan approved under section 403 of the Act): (a) "for the acquisition of school library resources, textbooks, and other printed and published instructional materials used by children and teachers in public and private elementary and secondary schools; (b) for the acquisition of instructional equipment (including laboratory and other special equipment including audio-visual materials and equipment suitable for use in providing education in academic subjects) for use by children and teachers in elementary and secondary schools designed (i) to advise students of courses of study best suited to their ability, aptitude, and skills, (ii) to advise students with respect to their decisions as to the type of educational programs they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, and (iii) to encourage students to complete their secondary school education, take the necessary courses for admission to postsecondary institutions suitable for their occupational or academic needs, and enter such institutions, and such programs may include short-term programs for persons engaged in guidance and counseling in elementary and secondary schools, and (c) for a program of testing students in the elementary and secondary schools.

§ 134a.3 Distribution of resources.

(a) Local educational agencies receiving funds under § 134a.3 (d) shall use such funds (taking into account the requirements of § 406 of the Act) to provide services, materials, and equipment under Part B of Title IV of the Act (1) to schools attended by such children (subject to § 134b.20 (B) and (2) for the benefit of such children.

(b) Local educational agencies receiving funds under § 134a.3 (d) of this chapter (except subdivision (ii) thereof) may concentrate the services, materials, and equipment provided under Part B of Title IV of the Act in one or more schools according to the educational needs of the children attending such schools (taking into account the requirements of Section 406 of the Act).

§ 134a.4 Administrative costs of local educational agencies.

No administrative costs, except those properly incurred by the State educational agency, shall be allowable under Part B of Title IV of the Act, either on a direct cost or on an indirect cost basis.

§ 134a.5 Allowable costs.

(a) For the purposes of this part, "acquisition," as defined in § 100.1 of this chapter, shall include the costs of processing and installation.

(b) Expenditures for equipment under this part may include (1) the cost of raw or processed materials or components to be made into finished products, and (2) the cost of making and assembling the equipment.

Subpart B—School Library Resources, Textbooks, and Other Instructional Materials.

§ 134a.10 Consideration of the needs of occupational education.

The State educational agency shall develop specific criteria to be used by local educational agencies in acquiring school library resources, textbooks, and other instructional materials under section 421 (a) (1) of the Act so as to give consideration to the needs for instruction, orientation, and guidance and counseling in occupational education. Such consideration shall be on a basis equal with the consideration given to meeting other educational needs.

§ 134a.11 Distribution and control.

The costs of administration of the annual program plan with respect to Part B of Title IV of the Act may include the distribution and control by a local educational agency of school library resources, textbooks, and other instructional materials under section 421 (a) (1) of the Act so as to give consideration to the needs for instruction, orientation, and guidance and counseling in occupational education. Such consideration shall be on a basis equal with the consideration given to meeting other educational needs.

Subpart C—Instructional Equipment and Minor Remodeling.

§ 134a.20 Expansion or improvement of services.

The State educational agency may use funds it receives for administration of Part B of Title IV of the Act for expansion or improvement of supervisory or related services in public elementary and secondary schools in the fields of academic subjects, as well as other authorized activities.
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food services to children from low-income families when the resources for such services available to the applicant from other sources are inadequate to meet the needs of such children and families and health programs designed to train professional and other school personnel to provide nutrition and health services in a manner which meets the needs of children from low-income families for such services, and (4) the evaluation of projects assisted with respect to their effectiveness in improving school nutrition and health services for such children;

(c) for strengthening the leadership resources of State and local educational agencies, and for assisting those agencies in the establishment and improvement of programs to identify and meet educational needs of States and of local school districts;

(d) for making arrangements with local educational agencies for the carrying out by such agencies, in schools which (1) are located in urban or rural areas, (2) have a high percentage of children from low-income families, and (3) have a high percentage of such children who do not complete their secondary school education, of demonstration projects in involving the use of innovative methods, systems, materials, or programs which show promise of reducing the number of such children and that do not complete their secondary school education."

(20 U.S.C. 1831(a))

Comment. Section 134b.2 repeats the statutory language in section 431(a) of the Act. With respect to § 134b.2(a), which refers to "schools * * * located in urban or rural areas," neither the Act nor its legislative history suggests what type or types of area should be excluded from this phrase (if any). It is the interpretation of the Commissioner that there is no type of area that would be excluded as not falling within the meaning of the terms "urban" or "rural areas."

Subpart B—Supplementary Centers and Services

§ 134b.10 Activities.

Activities under § 134b.2(a) may only include:

(a) planning for and taking other steps leading to the development of programs or projects designed to provide supplementary educational activities and services described in paragraphs (b) and (c) of this section, including pilot projects designed to test the effectiveness of plans so developed;

(b) the establishment or expansion of exemplary and innovative educational programs for the purpose of stimulating the adoption of new educational programs (including those described in § 134b.30) in urban (including urban areas for handicapped children) in the schools of the State; and

(c) the establishment, maintenance, operation, and expansion of programs or projects designed to provide, or which acquire necessary equipment, designed to enrich the programs of local elementary and secondary schools and to offer a diverse range of educational experience to persons of varying talents and needs by providing, especially through new and improved approaches, supplementary educational services and activities, such as:

(1) remedial instruction, and school health, physical education, recreation, psychological, social work, and other services designed to enable and encourage persons to enter, remain in, or reenter educational programs, including the provision of special educational programs for handicapped children and for children who are in institutions when schools are not regularly in session;

(2) comprehensive academic services and where appropriate, vocational guidance and counseling, for continuing adult education;

(3) programs designed to encourage the development in elementary and secondary schools of occupational information and counseling, or cooperating in educational programs on an equal footing with traditional academic education;

(4) specialized instruction and equipment to solve instructional problems in studying advanced scientific subjects, foreign languages, and other academic subjects which are not taught in the local schools or which can be provided more effectively only by schools for young persons who are handicapped or of preschool age;

(5) making available modern educational equipment and specially qualified personnel, including artists and musicians, to provide programs or projects which show promise of reducing the number of such children and that do not complete their secondary school education."

(20 U.S.C. 1831(a))

Subpart C—Health and Nutrition

§ 134b.20 Health and nutrition projects.

A demonstration project under section 431(a) (2) of the Act may be administered by a private educational organization only if:

(a) such organization meets the requirements of § 134.99 of this chapter, and (b) such organization administers the project under a contract with a local educational agency.

(20 U.S.C. 1806(e); 1801(a) (2); 1800 (a) (4) (B), (A), (B) (A))
PROPOSED RULES

§ 134b.31 Interstate transfer of funds.

One or more State educational agencies may, consistent with State law, transfer grant funds to another State agency or combine grant funds from several State educational agencies for the joint support of the cost of carrying out one or more programs or activities which may be conducted pursuant to the provisions of section 431(a) (3) of the Act, including experimental projects for developing State leadership and the establishment of special services which hold promise of making a substantial contribution to the State educational agencies of all or several States. Such funds shall be administered by the receiving State on behalf of all of the participating States.

(20 U.S.C. 1831(b); 862(b)(2))

LOCAL EDUCATIONAL AGENCIES

§ 134b.40 Local educational agency activities.

(a) Funds available under § 134b.2(c) may be used to stimulate and assist local educational agencies in strengthening the leadership resources of their districts, and to assist those agencies in the establishment and improvement of programs to identify and meet the educational needs of their districts.

(20 U.S.C. 1831(b); 866(a))

(b) Activities authorized under paragraph (a) of this section may include:

(1) Educational planning on a district basis, including the identification of educational problems, issues, and needs in the district and the evaluation on a periodic or continuing basis of educational programs in the district;

(2) Providing support or services for the comprehensive and compatible recording, collecting, processing, analyzing, interpreting, storing, retrieving, and reporting of educational data including the use of automated data systems;

(3) Programs for conducting, sponsoring, or cooperating in educational research and demonstration programs and projects such as (i) establishing and maintaining curriculum research and innovation centers to assist in locating and evaluating curriculum research findings, (ii) discovering and testing new educational ideas (including new uses of printed and audiovisual media) and more effective educational practices, and putting into use those which show promise of success, and (iii) studying ways to improve the legal and organizational structure for education, and the management and administration of education in the district of such agency;

(4) Programs to improve the quality of teacher preparation, including student-teaching arrangements, in cooperation with institutions of higher education and State educational agencies;

(5) Programs and other activities specifically designed to encourage the full and adequate utilization and acceptance of auxiliary personnel (such as instructional assistants and teacher aides) in elementary and secondary schools on a permanent basis;

(6) Providing such agencies and the schools of such agencies with consultative and technical assistance and services relating to academic subjects and to particular aspects of education such as the education of the handicapped, the gifted and talented, and the disadvantaged, vocational education, school building design and utilization, school social work, the utilization of modern instructional materials and equipment, transportation, educational administrative procedures, and school health, physical education, and recreation;

(7) Training programs for the officials of such agencies; and

(8) Carrying out any such activities or programs, where appropriate, in cooperation with other local educational agencies.

(20 U.S.C. 1831(b); 866(b))

COMPREHENSIVE PLANNING AND EVALUATION

§ 134b.50 Comprehensive educational planning and evaluation activities.

(a) Funds available under § 134b.2(c) may be used for activities by State and local educational agencies in order to assist and stimulate them to enhance their capability to make effective progress, through comprehensive and continuing planning and evaluation, toward the achievement of opportunities for high-quality education for all segments of the population.

(20 U.S.C. 1831(b); 867(a))

(b) Funds available to local educational agencies under paragraph (a) of this section may be used for demonstration projects to plan, develop, test, and improve planning and evaluation systems and techniques consistent with, and to further the purposes of, paragraph (a) of this section.

(20 U.S.C. 1831(b); 867(a)(3)(b))

[F.R. Doc. 75-6102 Filed 3-11-75; 8:45 a.m.]
ENVIRONMENTAL PROTECTION AGENCY

CERTIFICATION OF PESTICIDE APPLICATORS

State Plans for Certification of Commercial and Private Applicators
RULES AND REGULATIONS

Title 40—Protection of Environment
CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY
[FRL 340-6]

PART 171—CERTIFICATION OF PESTICIDE APPLICATORS

Submission and Approval of State Plans for Certification of Commercial and Private Applicators of Restricted Use Pesticides

On January 13, 1975, notices was published in the Federal Register (40 FR 3528) proposing regulations for State plans for the certification of commercial and private applicators; for a plan to qualify certain Federal employees; and for plans for the certification of applicators on Indian reservations not subject to State jurisdiction. The following regulations are designed to ensure that the State and Indian plans for the certification of applicators and the Government Agency Plan (GAP) to qualify certain Federal applicators for certification satisfy all the requirements of Section 4(a)(1) of the amended Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (88 Stat. 973), and the standards for the certification of applicators of restricted use pesticides (40 CFR 170 et seq.), which were published on October 9, 1974, in the Federal Register (39 FR 36446).

STATUTORY AUTHORITY

Section 4(a)(2) of the Act provides that:

If any State at any time, desires to certify applicators of pesticides, the Governer of such State, by a plan submitted to the Administrator, shall approve such plan, subject to State jurisdiction. The following regulations are designed to ensure that the State and Indian plans for the certification of applicators and the Government Agency Plan (GAP) to qualify certain Federal applicators for certification satisfy all the requirements of Section 4(a)(1) of the amended Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (88 Stat. 973), and the standards for the certification of applicators of restricted use pesticides (40 CFR 170 et seq.), which were published on October 9, 1974, in the Federal Register (39 FR 36446).

GENERAL COMMENTS

Guidelines/Regulations. A few State lead agency officials expressed regret that the proposed regulations and amendments to the FIFRA, which was published on September 30, 1974, in the Federal Register (39 FR 36446), were issued as proposed regulations rather than proposed guidelines, as had been considered earlier. Apparently these expressing this view believe that issuance of these regulations will allow greater flexibility in their application, than would be the case if the rules were issued as regulations. It should be understood that the extent to which rules are flexible or prescriptive is controlled not by how they are defined, but rather by the language of the provisions themselves. Essentially, use of prescriptive language (i.e., "shall", "must", "indicates prescription") while use of permissive language (i.e., "should", "may") indicates flexibility. This set of regulations contains provisions of both varieties. However, the Agency cautions that these regulations reflect its best judgment regarding the extent to which rules are flexible or prescriptive.

Private Applicator Certification. Comments from certain organizations expressed concern that the proposed regulations would have an adverse impact on the ability of private applicators to produce an abundance of healthful food and fiber at a reasonable cost to consumers. There was special concern about the possibility of great numbers of farmers being required to demonstrate their competency by passing a complicated written examination. It should be noted that the present regulations do not address such questions as the type of system to be used in certifying applicators or the standards to be applied in determining the competence of applicators. These subjects were dealt with in earlier rulemakings pursuant to section 4(a)(1) of the amended FIFRA, which requires the Agency "to prescribe standards for the certification of applicators of pesticides." That rulemaking was completed on October 9, 1974, resulted in the promulgation of 40 CFR 171.1-5. The present regulations incorporate these standards and make them elements of State plans. In adopting this approach, the Agency is following the mandate of the amended FIFRA that the applicant certification programs described in the State plans must utilize procedures and standards for certification similar to the procedures and standards of the applicator certification standards promulgated by the Agency pursuant to section 4(a)(1) of the amended FIFRA.

The Agency is fully aware of the need to develop an effective State program in a manner that is reasonable and which causes minimum disruption to the agricultural community. At the same time, the Agency must assure that the State programs adhere fully to the mandates of the amended FIFRA to protect man and the environment from excess exposure to pesticides. It is essential to understand that the implementation of the FIFRA certification program, as it is implemented, will be beneficial and not detrimental to farmers and the nation in ensuring an abundance of food, feed and fiber for the future, as well as the present. Certification, for example, will allow the use of pesticides by competent individuals with the product being used, as well as the environment. Misuse of pesticides not only threatens life and the environment, but results in damage to crops and may well keep the very products being used from entering the market because of damage and illegal pesticide residues.

The Agency believes that most farmers who are currently using pesticides in a proper fashion will experience little difficulty in meeting the certification standards (40 CFR 171.1-5). For example, § 171.5 which established procedures for certifying private applicators, provides that farmers may be certified by a written or oral testing procedure, or such other equivalent system as may be approved as part of a State plan. EPA is currently working with State officials and others to develop acceptable "equivalent" systems. States may also wish to submit, if necessary, procedures for interim certification with specific plans for upgrading on a specific time schedule. Some States have indicated that it may be necessary to take this route. Such procedures could allow for a step-by-step implementation which will lessen the impact on both the farmers and the State agencies during the first years of implementing the certification program. It
should be recognized, however, that these in the private industry in the long run be more costly and troublesome. Nevertheless, the Agency is making every effort to allow States flexibility in developing certification programs that meet their overall purposes and within the limits of the intent and purpose of Section 4 of the amended FIFRA.

Enforcement Provisions. Commenters were receiving the position that the Agency has no authority to include any enforcement provisions as elements of an enforceable State plan. Apparently, it is the view of these commenters that Congress intended that State programs under Section 4(a)(2) of the Act be full, well-rounded, and meaningful regulatory programs with enforcement elements that would require the supplementation by this Agency. Moreover, it is apparent that the enforcement elements set out in these regulations (e.g., provisions for denial, suspension, revocation, criminal or civil penalties, record keeping, and right-of-entry) are reasonable and necessary for the administration of an applicator certification program while achieving the purpose and the intent of the Act.

Changing Technology and Continuing Competency. Pest control companies and associations expressed objection to \( \text{§} \) 1711(a)(2) which requires provision to ensure that certified applicators continue to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly. These commenters questioned EPA's authority to include these provisions as an element of an enforceable State plan, and voiced the objection to the preamble discussion of "special examination or periodic reexaminations" as optional approaches to meet the needs of changing technology. The concern was that these approaches would "mislead" State officials into thinking they were requirements, notwithstanding the fact that the preamble discussion indicated that other options, including a continuing training program, may be preferable.

The Agency regards as clear its legal authority to require as an element of a State plan some provision to ensure that certified applicators continue to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

In the discussion of optional approaches in the preamble to the proposed regulations, the Agency was following its policy of providing States with as much flexibility as possible in implementing Section 4 of the amended FIFRA. The Agency regrets industry's expressed concern that the preamble discussions were mistaken by State officials and others as constituting requirements. However, EPA felt an obligation to surface the various optional approaches in the preamble in order to invite a wide range of comments and reactions to assist in making a final decision.

The purpose of certification under FIFRA is designed to provide a continuing mechanism whereby the country can now and in the future avail itself of a broad-equipment-of-no-one approach. The assumption must be that new types of pesticides, new methods of application, and new precautionary procedures will evolve. It is essential for the maintenance of pesticide quality, in terms of effective use and safety to man and his environment, that applicators continue to keep abreast of their profession and of changing technology. Because of the numerous categories of pesticide applicators, flexibility, both in terms of approach and content of training programs, is needed in planning and implementing this provision of the plan.

The preamble statement that continuing training programs may well be preferable to reexamination. Properly conducted training programs concurred with and supported the general conclusion that the Agency may be an effective method of assuring that applicators continue to meet these requirements. There are a number of approaches that a State may adopt. Some of these are expected to suffice for all situations. Between now and October 1976, great emphasis will be placed on training programs. Although the extent and intensity of these programs may vary, a high level, in some cases it may evolve into well-conceived programs of continuing education. Proper State coordination at this time will help assure that this occurs. There are also a number of options open for meeting the needs of changing technology. These include commercial and other private training programs, ongoing programs of the State Cooperative Extension Service, correspondence courses, and other identified training programs. It is anticipated that industry will take an active part in providing programs consistent with changing technology. This approach would distribute much of the cost of such training activities to private industry rather than placing the burden upon State governments. In addition, trade associations and certain commercial organizations now offer training programs which could be utilized by commercial applicators who do not have in-house training programs. Although National insecticide training programs would need to be approved by the State and would be subject to State monitoring.

Government Agency Plan (GAP). The Federal Work Group on Pest Management (FWGPM), as well as some individual Federal agencies, objected to parts of the preamble discussion on \( \text{§} \) 1711.9 which refers to Federal applicator qualifications under the Government Agency Plan (GAP). While stressing that the objection is not to the regulations themselves nor to the idea of Federal employees presenting their documentation to the State agency, the FWGPM indicated specific objection to the preamble statement that "the Federal form issued to these employees will provide an opportunity for States that have requirements in addition to the GAP to specify other qualifications needed to apply restricted use pesticides in that State. The form would also permit the appropriate State official to indicate acceptance of the applicant's qualifications, thus authorizing the applicant to use restricted use pesticides within the State."

Some members of the FWGPM believe that this is an administrative procedure with which Federal agencies are not obliged to comply, according to Executive Order 11752.

This and many other comments concern the GAP under the amended FIFRA. The GAP is a mechanism for certification of applicators. This is not the case. Instead, Federal agency employees who satisfy GAP requirements have demonstrated their qualifications to use restricted use pesticides. The Agency wants to make it clear that they are not, however, certified, and hence are not authorized to use or supervise the use of restricted use pesticides until a State with an approved State plan accepts them on the basis of the GAP acceptance alone, or GAP acceptance plus State-imposed requirements. Thus, in requiring compliance with its State plan, the State, as the entity authorized to certify applicators pursuant to Section 4 of the amended FIFRA, is implementing the Federal law. For these and other reasons, EPA has concluded that State acceptance of the GAP form (when GAP acceptance alone does not meet all State requirements) constitutes a "substantive" rather than an "administrative" requirement. Further, Executive Order 11752 is accepted by the Federal agencies.

Some pest control companies and an industry association objected to any special provision for Federal employees, i.e., the GAP. The major concern expressed was that some Federal facilities may use the GAP as an instrument for excluding private industry certified applicators from contracting for pest control service on Federal installations. Although EPA would not attempt to tell another Federal agency that it cannot impose its own higher standards upon any applicators operating on Federal facilities, the Agency wants to make it clear that the GAP was not designed to encourage the build-up of a large cadre of Federal employee certified applicators or to inhibit or prevent private industry applicators from servicing Federal facilities. The GAP was established to accommodate the special needs of certain Federal...
eral employees, primarily those Federal employees who many be called upon to move frequently or on short notice to distant localities to conduct special pest control programs and who are found in some cases those Federal employees who apply restricted use pesticides only at Federal facilities. As indicated in the preamble, there is no requirement (and no real or implied pressure from EPA) that Federal agencies utilize the GAP. The appropriateness of GAP for any given situation should be the determining factor.

EPA will continue to work with Federal agencies to resolve remaining differences. This effort, however, should not influence the preparation of State plans and should not, therefore, delay the promulgation of these regulations.

Mandatory Accident Reporting. The preamble to the proposed regulations specifically invited comments on the desirability of including mandatory accident reporting by commercial applicators as an element of those emergency approval programs that are included in the amended FIFRA. Such information is useful in a variety of ways. For example, data indicating that a pesticide has or may have adverse effects in actual use alerts the Agency to investigate thoroughly the efficacy and environmental behavior of the product. On the other hand, if information gathered through laboratory research indicates that a pesticide should be suspended or cancelled, reliable data reflecting that the pesticide had not caused problems in use might persuade the Agency that suspension or cancellation was unjustified.

However, a number of States have commented that it would be extremely difficult for them to implement an accident reporting system as a State plan requirement. EPA accepts this view, and has decided not to include provisions for a mandatory accident reporting system as a State plan requirement at this time. However, the Agency intends to continue to pursue accident reporting mechanisms for the gathering of pesticide use data. Part of this inquiry will involve an evaluation of the adequacy of the Agency's voluntary Pesticide Enforcement Reporting System (PERS). PERS was revised in recent weeks and the Agency is currently seeking the active support of other Federal Agencies, State organizations, and the private sector in order to make it work effectively. In addition, there is a possibility that a few States may institute mandatory accident reporting programs on their own initia-
State have authority to suspend or revoke certification in the event that a certified applicator is convicted or is subject to a final order imposing a civil penalty pursuant to section 14 of the amended FIFRA. The decision whether to initiate suspension procedures will be based on the evidence presented in all cases and remain a matter of the State's discretion. In the view of the Agency, this subsection is necessary to ensure effective coordination between Federal and State enforcement of the amended Act.

Section 171.7(b) (1) (ii) (C). The Agency viewed with merit the objections raised on the inclusion of the word “surveillance.” The term has been deleted; it has essentially the same intended meaning as “observation” and, therefore, was redundant. Additionally, EPA has inserted the term “sampling” in order to assure compliance with the law, that effective enforcement often hinges on the critical need for accurate monitoring of pesticide use. The Agency recognizes that record keeping places some burden on commercial applicators. However, such burdens are justified by the great need for records on the use of restricted-use pesticides in order to manage an effective and meaningful regulatory program. As for the Agency’s authority to require record keeping by commercial applicators, it is clear that Congress authorized the exemption from such a requirement, although it expressly prohibited the Agency from requiring record keeping by certified private applicators. It is the Agency’s feeling that the two year requirement for record keeping is a reasonable provision but that the additional year would be unnecessary. In cases involving litigation, record keeping would be protected for a longer period, if necessary, by court orders or other methods. Thus, the two-year requirement is retained in the final regulations.

A few State officials, in commenting further on this provision, requested the addition of alternate procedures for State officials to obtain access to required records. The proposal required that the records be available to State officials at reasonable times, at the commercial applicator’s establishment where they are maintained. The comments suggested that a procedure be included in the regulations requiring submission of the records to the State Agency upon request. The Agency has concluded that the interests of FIFRA, as amended, are served if the records are accessible to the appropriate State officials. The Agency believed that the precise procedure to be used can be left to the State’s discretion. The language of the section has been redrafted to achieve this objective.

Section 171.7(c). Several State officials questioned the need for this section which requires the State to supply information concerning the staffing of its program. Pursuant to section 4(a) (2) (B) of the amended FIFRA, the Administrator must determine that the State has given satisfactory assurances that the State agency has qualified personnel necessary to carry out the plan. Section 171.7(b) (2) is designed to provide the information necessary to allow the Administrator to make the determination required of him in the Act. In addition, the information required of the States can be used by the State Agency to have a better grasp on what funds are necessary to carry out the plan.

Section 171.7(d). Several State officials expressed concern over the requirement that they give assurances that the State would devote adequate funds to administer the plan. This requirement comes directly from section 4(a) (2) (C) of the amended FIFRA. As stated in the Federal Register, the decision to fund the Agency’s program from both State and Federal sources to give the Administrator a basis upon which to make the finding that the statute requires him to make in this area.

Section 171.7(e). Several State officials expressed concern that this section would be utilized to burden States with numerous requests for non-essential information. Additionally, the criticism of the requirement that reports shall be submitted “from time to time” to meet “specific needs” has been deleted. The Agency is well aware that excessive and unnecessary reporting requirements are burdensome and could impede the development of an effective certification program. However, as mandated by law, EPA must prepare a report under section 4(a) (2) (D) of the amended FIFRA. EPA assures the State that its authority under this provision of the Act will be used only by request, and that requests for information will be made with sufficient lead time so as to not to interfere unduly with the States’ other responsibilities.

Section 171.7(f) (1). Comments from several State officials expressed concern about the purpose of including provisions requiring reports on enforcement aspects of a State plan. The Agency’s position is that such information is valuable in evaluating the effectiveness of a certification program, and could assist in isolating problem areas. Moreover, in order for these purposes to be served, it is necessary to have information concerning a broad range of enforcement activities such as investigations, monitoring, information concerning administrative and judicial proceedings, and other activities reporting the effective administration of a certification program. The proposed § 171.7(f) (1) (II) required only on enforcement “actions,” which would not encompass all relevant information. Accordingly, this section has been revised. In order to broaden the scope of reportable information, §§ 171.7(d) (1) (III) and 171.7(d) (3) (v) have been revised to place emphasis on the use of restricted use pesticides, rather than on certified applicator conduct.

Section 171.7(f) (2). This section brought objections from several commenters. State officials objected to the idea of indicating how they would certify applicators to competency standards not now in existence. In addition, they indicated that § 171.7(e) (1) was the logical place to indicate any new State competency standards. The Agency accepts these views and has omitted this section from the final regulations. If EPA establishes any special standards pursuant to the reserve § 171.7(f) (1), or revises State plan requirements in any other respect, States will be given adequate time to make appropriate amendments to their State plans.

Section 171.7(f) (4) (iii). The lead paragraph in this subsection has been changed to reflect the fact that some private applicators may have been certified by procedures “equivalent” to examination that are determined to be acceptable by the Administrator. (New § 171.7(e) (3) (iii))

Section 171.7(g) (5). State lead agency officials questioned how they would be able to indicate whether or not they accept Federal employees qualified under GAP. Specifically, they asked certification requirements or to describe any additional requirements they may impose on GAP qualified employees until they have had an opportunity to study the final, approved GAP. This issue, of course, basically involves timing. States which move ahead quickly with the development of their plans and submit them prior to approval of the GAP would rightfully hesitate to indicate their acceptance of a program still in the developmental stage. A subparagraph has been added to clarify this situation. (New § 171.7 (e) (4) (i))

Section 171.7(g) (6). This section was changed by deleting “arrangements a State has made” and substituting “cooperative agreements a State has made with any Indian Governing Body.” These minor changes were made, because a section would conform with changes which have been made in § 171.11, and which are fully discussed in that portion of the preamble. (New § 171.7(e) (6)).
Section 171.7(e)(7). A number of States commented the Agency for providing a place for States to indicate any arrangements they have with other States. On the other hand, several State agencies misinterpreted this provision and commented that its purpose was to encourage "the development of State programs for reciprocity." The Agency reiterates the position it took in the proposed regulations that such provisions are not required but that there is sufficient similarity (among State programs) to warrant it, States are encouraged to develop programs for reciprocity. Development, now or in the future, of such programs will ease the certification burden on interstate farming operations and commercial businesses involving pesticide applications across State lines. To further the goal of reciprocity, and in response to comments received from Indian groups, this section (New § 171.7(e)(5)) has been revised to permit reciprocal arrangements between a State and an Indian Reservation or other Indian entity for certification of applicators pursuant to § 171.10.

Section 171.7(e)(7)(ii). The word "examined" was deleted, and the phrase "determine the proposed plan's compliance" was substituted to reflect the fact that some private applicators may have been certified by procedures "equivalent" to examination. (New § 171.7(e)(5)(ii)).

Section 171.10. A State with a large number of Indian reservations and the United States Department of the Interior are responsible for providing that these regulations are effective immediately, as they do not result to anyone if these regulations are effective over a period of time. The Agency notes that the final regulations may severely prejudice the efforts of some States with legislative arrangements they have with other States. On the other hand, several States commented the Agency for "requiring" that such lead agencies be required to have State certification programs or develop their own plans and programs. It was pointed out that the State involved should have a voice in the matters since it would have to pay for the certification program and would also need the proper authority for enforcement purposes. This section has been revised to indicate that the concurrence of the State (by way of a cooperative agreement) would be required in the event that the Indian Governing Body of an Indian Reservation not subject to State jurisdiction desires to utilize a State certification program to certify Indian applicators. EPA emphasizes that the development of State plans should not be delayed because the cooperative agreements have not been completed. The latter can be submitted as amendments to the State plan at a later date.

Section 171.10(b) has been modified to substitute the language "where the State has assumed jurisdiction under other Federal laws," for the language "subject to the jurisdiction of a State." This change brings this regulation into conformity with the treatment of this subject in regulations issued by EPA in other substantive areas (see 40 CFR 52.21 (c) (3) (v)).

Some State officials also objected to §171.10(d) (New §171.10(c)), which states that an exempt State is entitled to apply restricted use pesticides on Indian Reservations, subject to the concurrence of the State (by way of a cooperative agreement) would be required in the event that the Indian Governing Body of an Indian Reservation not subject to State jurisdiction desires to utilize a State certification program to certify Indian applicators. EPA emphasizes that the development of State plans should not be delayed because the cooperative agreements have not been completed. The latter can be submitted as amendments to the State plan at a later date.

Section 171.10(b) has been modified to substitute the language "where the State has assumed jurisdiction under other Federal laws," for the language "subject to the jurisdiction of a State." This change brings this regulation into conformity with the treatment of this subject in regulations issued by EPA in other substantive areas (see 40 CFR 52.21 (c) (3) (v)).

Some State officials also objected to §171.10(d) (New §171.10(c)), which states that a State which has entered into reciprocal arrangements between a State and an Indian Reservation, or other Indian entity, must provide for the certification of applicators pursuant to §171.10.

Effect of Date

Pursuant to section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the effective date of a regulation must be at least 30 days after its publication, unless the Agency finds "good cause" for specifying an earlier date. The Agency finds that in this case there is good cause for providing that these regulations are effective immediately upon publication. Any delay in the effectiveness of the regulations may severely prejudice the efforts of some States with legislative arrangements in these areas...
(ii) In those States where any requisite legal authorities are pending enactment (and/or promulgation, the Governor (or Chief Executive) may request that a State plan be approved contingent upon the laws and regulations of such authorities. Plans approved on a contingency basis will be subject to such reasonable terms and conditions, concerning the duration of the contingency approval and other matters, as the Administrator may impose. During the period of the contingency approval, the State will have an approved certification program and may proceed to certify applicants, who will then be permitted to use or supervise the use of pesticides classified for restricted use under FIFRA, as amended.

(iii) The State plan should indicate by citations to specific laws (whether enacted or pending enactment) and/or regulations (whether promulgated or pending promulgation) that the State has legal authorities as follows:

(A) An unexpired list of the acts which constitute grounds for denying, suspending, and revoking certification of applicators, and for assessing criminal and/or civil penalties. Such grounds shall be at a minimum, misuse of a pesticide and falsification of any records required to be maintained by the certified applicator.

(B) Provisions for reviewing an applicator's certification to determine whether suspension or revocation of the certification is appropriate in the event of criminal conviction under section 14(b) of the amended FIFRA, a final order imposing civil penalty under section 14 (a) of the amended FIFRA, or conclusion of a State enforcement action.

(C) Provisions for right-of-entry by consent or warrant by appropriate State officials at reasonable times for sampling, inspection, and observation purposes.

(D) Provisions making it unlawful for persons other than certified applicators or persons working under their direct supervision to use restricted use pesticides.

(E) Provisions requiring certified commercial applicators to keep and maintain for the period of at least two years routine operational records containing information on kinds, amounts, uses, dates, and places of application of restricted use pesticides; and for ensuring that such records will be available to appropriate State officials.

(F) Satisfactory assurances that the lead agency and any cooperating organizations have qualified personnel necessary to carry out the plan will be demonstrated by including the numbers, job titles and job functions of persons so employed.

(G) Satisfactory assurances that the State will devote adequate funds to the administration of the plan.

(H) Provisions for and evidence of the plans necessary to carry out the plan in a manner and containing information that the Administrator may from time to time require, including:

(i) An annual report to be submitted by the lead agency, at a time to be specified by the State, to include the following information:

(1) Total number of applicators, private and commercial, by category, currently certified; and number of applicators, private and commercial, by category, certified during the last reporting period.

(2) Any changes in commercial applicator subcategories.

(3) A summary of enforcement activities related to use of restricted use pesticides during the last reporting period.

(4) Any significant proposed changes in required standards of competency.

(v) Proposed changes in plans and procedures for enforcement activities related to use of restricted use pesticides for the next reporting period.

(vi) Any other proposed changes from the State plan that would significantly affect the function of the certification program.

(2) Other reports as may be required by the Administrator shall be submitted from time to time to meet specific needs.

(e) Contains satisfactory assurances that the State has plans for the certification of applicators in the event the State fails to conform to those standards prescribed by the Administrator under §§ 171.1-171.6. Such assurances should consist of:

(i) A detailed discussion of the State's plan for certifying applicators and a discussion of any special situations, problems, and needs together with an explanation of how the State intends to handle them. The State plan should include the following elements as a minimum:

(ii) For commercial applicators:

(A) A list and description of categories and subcategories to be used in the State, such categories to be consistent with those defined in § 171.3.

(B) An estimate of the number of commercial applicators by category expected to be certified by the State.

(C) The standards of competency elaborated by the State. These shall conform and be at least equal to those prescribed in § 171.4, and the points covered in the appropriate specific standards set forth in § 171.4(c). (D) For each category and subcategory listed under § 171.7(e)(1)(i)(A), either submission of examinations or a description of the types and contents of examinations (e.g., multiple choice, true-false) and submission of sample examination questions; and a description of any performance testing used to determine competency of applicators.

(ii) For private applicators:

(A) A statement that the State accepts Federal employees qualified under the Government Agency Plan (GAP) as fully meeting the requirements for certification by that State; or a description of any additional requirements these employees must meet to apply restricted use pesticides in that State. Any such additional requirements shall be consistent with and shall not exceed standards established for other comparable applicators in that State.

(i) Until such time as the GAP has been fully developed and approved by EPA, this statement (§ 171.7(e)(4)) is not needed. However, after final approval of the GAP, the State should forward such a statement for inclusion in its State plan.

(5) A description of any cooperative agreements a State has made with any Indian Governing Body to certify or assist in the certification of applicators not subject to State jurisdiction.

(6) A description of any arrangements that a State has made or plans to make relating to reciprocity with other States or jurisdictions for the acceptance of certified applicators from those States or jurisdictions. However, those arrangements should meet these conditions:

(i) The State according reciprocity should provide for issuance of an appropriate document verifying certification based upon the certifying document provided by the other States or jurisdictions.

(ii) The State according reciprocity should have enforcement procedures that
cover out-of-State applicators determined to be competent and certified within the State or jurisdiction.

(iii) The detailed State or jurisdiction standards of competency, for each category identified in the reciprocity arrangement should be sufficiently comparable to justify waiving an additional determination of competency by the State granting reciprocity.

(f) In responding to the preceding requirements, a State may describe in its State plan other regulatory activities implemented under State laws or regulations which will contribute to the desired control of the use of restricted use pesticides by certified applicators. Such other regulatory activities, if described, will be considered by the Administrator in evaluating whether or not a State's certified applicator program satisfies the requirements of §171.7 (a) through (e).

§171.8 Maintenance of State plans.

(a) Any State certification program approved under §171.7 shall be maintained in accordance with the State plan approved under §171.8. The plan shall include:

(1) Provisions to ensure that certified applicators comply with standards for the use of restricted use pesticides and carry out their responsibility to provide adequate supervision of uncertified applicators.

(2) Provisions to ensure that certified applicators continue to meet the requirements of changing technology and to assure a continuing level of competency and ability to use pesticides safely and properly.

(b) An approved State plan and the certification program carried out under such plan may not be substantially modified without the prior approval of the Administrator. A proposed change may be submitted for approval at any time but all applicable requirements prescribed by these Regulations must be satisfied for the modification to be eligible for approval by the Administrator.

(c) Whenever the Administrator determines that a State is not administering the certification program in accordance with the State plan approved under §171.7, he shall so notify the State and provide for a hearing at the request of the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of the plan.

§171.9 Submission and approval of government agency plan.

This section is included to provide for certain Federal employees including those whose duties may require them to use or supervise the use of restricted use pesticides in a number of States.

(a) Sections 171.1 through 171.8 will, with the necessary changes, apply to the Government Agency Plan (GAP) for determining and attesting to the competency of Federal employees to use or supervise the use of restricted use pesticides.

(b) Federal employees qualified under the GAP shall:

(1) Be prepared to present the Federal form issued to them attesting to their competency to appropriate State officials.

(2) Fulfill any additional requirements prescribed under §171.7(b)(1) (iii) (A) - (E).

(c) The employing Federal agency shall ensure that certified employees using or supervising the use of restricted use pesticides within a Federal facility are subject to the same or equivalent provisions prescribed under §171.7(b)(1) (iii) (A) - (E).

§171.10 Certification of Applicants on Indian Reservations.

This section applies to applicators on Indian Reservations.

(a) On Indian Reservations 1 not subject to State jurisdiction the appropriate Indian Governing Body 2 may choose to utilize the State certification program, with the concurrence of the State, or develop its own plan for certifying private and commercial applicators to use or supervise the use of restricted use pesticides.

(1) If the Indian Governing Body decides to utilize the State certification program, it should enter into a cooperative agreement with the State. This agreement should include matters concerning funding and proper authority for enforcement purposes. Such agreement and any amendments thereto shall be incorporated in the State plan, and forwarded to the Administrator for approval or disapproval.

(2) If the Indian Governing Body decides to develop its own certification plan, it shall be based on either Federal standards (§§171.1 through 171.9) or State standards for certification which have been accepted by EPA. Such a plan shall be submitted through the United States Department of the Interior to the EPA Administrator for approval.

(b) On Indian Reservations where the State has assumed jurisdiction under other Federal laws, anyone using or supervising the use of restricted use pesticides shall be certified under the appropriate State certification plan.

(c) Non-Indians applying restricted use pesticides on Indian Reservations not subject to State jurisdiction shall be certified either under a State certification plan accepted by the Indian Governing Body or under the Indian Reservation certification plan.

(d) Nothing in this section is intended either to confer or deny jurisdiction to the States over Indian Reservations not already conferred or denied under other laws or treaties.

[F.R Doc. 75-6105 Filed 3-11-75; 8:45 am]

1 The term"Indian Reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

2 The term "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.
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CODE OF FEDERAL REGULATIONS

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Title 7—Agriculture (Parts 46-51) $4.10
Title 7—Agriculture (Parts 945-980) 2.30
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United States Government Printing Office,
Washington, D.C. 20402