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National Advisory Council on Adult Education; to be held at Washington, D.C. (open), 6–12 and 6–13–75 ..... 21508; 5–16–75

National Advisory Council on Education Professions Development; to be held in Washington, D.C. (open), 6–11, 12, and 6–13–75.... 20972; 5–14–75

National Advisory Council on Extension and Continuing Education; to be held in San Francisco, Calif. (open), 6–13 and 6–14–75. 22018; 5–20–75

Health Resources Administration—

National Advisory Council on Regional Medical Programs; to be held in Rockville, Md. (open and closed), 6–12 and 6–13–75..... 19673; 5–6–75

National Advisory Public Health Training Council; to be held in Bethesda, Md. (open and closed), 6–12 and 6–13–75 ..... 19673; 5–6–75

National Institutes of Health—

Breast Cancer Epidemiology Committee, et al.; to be held in Bethesda, Md. (open), 6–13 thru 6–26–75 ..... 20973; 5–14–75

Cancer Control and Rehabilitation Advisory Committee; to be held in Bethesda, Md. (open), 6–10–75. 20973; 5–14–75

National Advisory Council on Aging; to be held at Bethesda, Md. (open and closed), 6–9 and 6–10–75. 18832; 4–30–75

National Cancer Advisory Board Subcommittee on Centers; to be held in Bethesda, Md. (open with restrictions), 6–15–75..... 22017; 5–20–75

National Eye Institute; to be held in Bethesda, Md. (open with restrictions), 6–9–75.. 18021; 4–24–75

National Institute of Allergy and Infectious Diseases; to be held at Bethesda, Md. (open), 6–12 and 6–13–75 ..... 18021; 4–24–75

Sickle Cell Disease Advisory Committee; to be held at Bethesda, Md. (open), 6–12 and 6–13–75. 18831; 4–30–75

INTERIOR DEPARTMENT

National Park Service—

North Atlantic Regional Advisory Committee; to be held at Boston, Mass. (open), 6–10–75.... 21501; 5–16–75

Voyageurs National Park Draft Master Plan; to be held in Minnesota (open), 6–10 through 6–14–75. 22156; 5–21–75

JUSTICE DEPARTMENT

Federal Bureau of Investigation—

National Crime Information Center Advisory Board; to be held at Kansas City, Mo. (open with restrictions), 6–11 and 6–12–75. 20677; 5–12–75

NATIONAL ADVISORY COUNCIL ON SUPPLEMENTARY CENTERS AND SERVICES

National Advisory Council on Supplementary Centers and Services; to be held at San Francisco, Calif. (open), 6–12 and 6–13–75.. 22324; 5–22–75

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Life Sciences Committee, to be held in Washington, D.C. (open), 6–10 and 6–11–75..... 19544; 5–5–75

NATIONAL COMMISSION FOR THE REVIEW OF FEDERAL AND STATE LAWS RELATING TO WIRETAPPING AND ELECTRONIC SURVEILLANCE

National Commission for the Review of Federal and State Laws Relating to Wiretapping and Electronic Surveillance; to be held at Washington, D.C. (open), 6–10 and 6–11–75. 19710; 5–6–75

NATIONAL CREDIT UNION ADMINISTRATION

National Credit Union Board; to be held in Washington, D.C. (open), 6–12 and 6–13–75..... 20989; 5–14–75

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Economics; to be held in Washington, D.C. (closed), 6–9 and 6–10–75..... 22324; 5–22–75

SECURITIES AND EXCHANGE COMMISSION

Advisory Committee on the Implementation of a Central Market System; to be held in Atlanta, Ga. (open), 6–19 and 6–20–75.. 18514; 4–28–75

SMALL BUSINESS ADMINISTRATION

Chicago District Advisory Council; to be held at Chicago, Ill. (open), 6–10–75. 20870; 5–13–75

San Diego District Advisory Council; to be held in San Diego, Calif. (open), 6–12–75..... 22048; 5–20–75

STATE DEPARTMENT

Advisory Panel on Music; to be held in Washington, D.C. (open), 6–11–75. 22274; 5–22–75

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

Working Group for Navigation System Accuracy; to be held in Oklahoma City, Okla. (open), 6–10 and 6–11–75..... 20337; 5–9–75

VETERANS ADMINISTRATION

Cooperative Studies Evaluation Committee; to be held in Washington, D.C. (open), 6–10 through 6–12–75. 20375; 5–9–75

Daily List of Public Laws

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.

rules and regulations

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

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

Title 24—Department of Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY

[Docket No. R75-318]

PART 82—REAL ESTATE SETTLEMENT PROCEDURES

Correction

In FR Doc. 75-13260 appearing at page 22448 in the issue for Thursday, May 22, 1975, make the following changes:

1. On page 22454 in the third column the signature should be "Carla A. Hills".

2. On page 22455 the form "L. Settlement Charges" should appear in place of the form "L. Settlement Charges" on page 22462. The form "L. Settlement Charges" now appearing on page 22462 should replace the form "L. Settlement Charges" now appearing on page 22455.

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 586]

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 39 FR 26186-93). A list of servicing companies is also available from the Federal Insurance Administration, HUD, 451 Seventh Street SW., 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 consruction 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 List of Eligible Communities.

* * * * *

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
Alabama	St. Clair	Moody, town of	May 21, 1975, emergency	May 31, 1974		
Do.	Geneva	Slocomb, town of	do.	May 24, 1974		
Arizona	Coconino	Williams, city of	do.	Apr. 5, 1974		
Arkansas	Poinsett	Marked Tree, city of	do.	Oct. 26, 1973		
Connecticut	New London	Colchester, town of	do.	Aug. 2, 1974		
Do.	do.	Colchester, borough of	do.			
Illinois	Franklin	Buckner, village of	do.	Mar. 22, 1974		
Do.	Will	Crete, village of	do.	Apr. 12, 1974		
Do.	Gallatin	Junction, village of	do.	Dec. 28, 1973		
Do.	Will	Plainfield, village of	do.	Nov. 29, 1974		
Maine	Knox	Camden, town of	do.	May 31, 1974		
Michigan	Kent	East Grand Rapids, city of	do.	May 17, 1974		
Missouri	Clay	Kearney, city of	do.	Mar. 22, 1974		
Nebraska	Otoe	Nebraska City, city of	do.			
New Jersey	Morris	Morris, township of	do.	May 31, 1974		
New York	Jefferson	Adams, village of	do.	Apr. 5, 1974		
Oregon	Columbia	Clatskanie, city of	do.	Dec. 7, 1973		
Texas	Polk	Livingston, city of	do.	Mar. 1, 1974		
Virginia	Middlesex	Urbanna, town of	do.			
Washington	Pierce	Fife, city of	do.	May 24, 1974		
West Virginia	McDowell	Keystone, city of	do.	May 17, 1974		
Do.	Mason	Mason, town of	do.	Nov. 15, 1974		
Do.	Hancock	New Cumberland, city of	do.	Mar. 29, 1974		
Do.	Wyoming	Unincorporated areas	do.	Jan. 17, 1975		
Wisconsin	Sauk	Reedsburg, city of	do.	Dec. 17, 1973		
Do.	Shawano	Tigerton, village of	do.	May 24, 1974		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: May 14, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-14136 Filed 6-3-75;8:45 am]

[Docket No. FI 591]

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 39 FR 26186–93). 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 the order to designate (1) the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program; (2) the effective date on which the community became ineligible for the sale of flood insurance because of its failure to submit land use and control measures as required pursuant to § 1909.24(a); or (3) the effective date of a community's formal reinstatement in the program pursuant to § 1909.24(b). 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 List of Eligible Communities.

* * * * *

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
Alabama	Bibb	Centreville, city of	May 28, 1975, emergency			
Do.	Cleburne	Heflin, city of	do.	Nov. 1, 1974		
Arkansas	St. Francis	Caldwell, town of	do.	do.		
Do.	Scott	Waldron, city of	do.	Apr. 5, 1974		
California	Solano	Benicia, city of	do.	Mar. 15, 1974		
Do.	Tulare	Lindsay, city of	do.	Mar. 1, 1974		
Do.	Sutter	Live Oak, city of	do.	June 7, 1974		
Do.	Tulare	Porterville, city of	Apr. 2, 1971, emergency. Dec. 31, 1971, suspended. May 23, 1975, Reinstated.	Apr. 12, 1974		
Colorado	Weld	Ault, town of	May 28, 1975, emergency	May 17, 1974		
Do.	Gunnison	Unincorporated areas	do.	Jan. 3, 1975		
Connecticut	New London	Stonington, town of	do.	Oct. 18, 1974		
Florida	Citrus	Crystal River, city of	do.			
Do.	Polk	Haines City, city of	do.	June 7, 1974		
Do.	Madison	Unincorporated areas	do.	Jan. 31, 1975		
Georgia	Brantley	Nahunta, city of	do.	May 17, 1974		
Idaho	Clark	Dubois, city of	do.	Dec. 27, 1974		
Do.	Kootenai	Spirit Lake, city of	do.	May 17, 1974		
Illinois	Kendall and Lasalle.	Millington, village of	do.	Dec. 28, 1973		
Iowa	Lyon	Rock Rapids, city of	do.	Mar. 29, 1974		
Kansas	do.	Unincorporated areas	do.			
Louisiana	St. Landry Parish.	Leonville, village of	do.			
Massachusetts	Plymouth	Middleborough, town of	do.	Nov. 1, 1974		
Minnesota	Carlton	Carlton, city of	do.	Nov. 9, 1973		
Mississippi	Rankin	Flowood, town of	do.			
Do.	Lauderdale	Unincorporated areas	do.			
New York	Otsego	Cooperstown, village of	do.	May 17, 1974		
Do.	Cattaraugus	Ellicottville, town of	do.	May 31, 1974		
Do.	Tompkins	Groton, town of	do.			
Do.	Ulster	Woodstock, town of	do.	May 31, 1974		
North Carolina	Halifax	Hobgood, town of	do.	June 14, 1974		
Do.	Surry	Mount Airy, town of	do.	June 28, 1974		
North Dakota	Rolette	Rolette, city of	do.	Mar. 8, 1974		
Do.	McIntosh	Wishek, city of	do.	June 28, 1974		
Ohio	Belmont	St. Clairsville, village of	do.	June 7, 1974		
Oklahoma	LeFlore	Heavener, city of	do.	May 24, 1974		
Oregon	Clackamas	Happy Valley, city of	do.	Dec. 20, 1974		
Pennsylvania	Crawford	Conneautville, borough of	do.	Aug. 2, 1974		
Do.	Bedford	Liberty, township of	do.	Jan. 3, 1975		
Do.	Montour	Mayberry, township of	do.	Dec. 6, 1974		
Do.	Cambria	Vintondale, borough of	do.	Dec. 28, 1973		
Do.	Carbon	Weatherly, borough of	do.	May 31, 1974		
South Dakota	Sanborn	Woonsocket, city of	do.	June 14, 1974		
Wisconsin	Washington	Unincorporated areas	do.			
Wyoming	Sublette	Big Piney, town of	do.	Jan. 24, 1975		
Do.	Sheridan	Dayton, town of	do.	Sept. 6, 1974		

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Alabama	Jefferson	Brookside, town of	May 29, 1975	Aug. 23, 1974		
Do	Macon	Unincorporated area	May 29, 1975, emergency			
Do	Henry	Newville, town of	do	Jan. 10, 1975		
Arizona	Gila	Hayden, town of	do			
Arkansas	Ashley	Crossett, city of	do			
Do	Clay	Peach Orchard, city of	do	Aug. 23, 1974		
California	Humboldt	Arcata, city of	do	June 28, 1974		
Do	Siskiyou	Dunsmuir, city of	do	May 24, 1974		
Do	San Benito	Hollister, city of	do	June 14, 1974		
Do	Stanislaus	Turlock, city of	do	May 24, 1974		
Do	Napa	Yountville, city of	do	Mar. 1, 1974 and Dec. 20, 1974		
Colorado	El Paso	Manitou Springs, city of	do	Mar. 29, 1974 and Feb. 21, 1975		
Connecticut	Tolland	Tolland, town of	do	Jan. 31, 1975		
Georgia	Tattnall	Glennville, city of	do	June 28, 1974		
Do	Jones	Gray, city of	do	do		
Do	Jenkins	Millen, city of	do	Apr. 12, 1974		
Do	Baker	Newton, city of	do	do		
Idaho	Blaine	Bellevue, city of	do	Dec. 23, 1973		
Do	Cassia	Unincorporated area	do			
Do	Idaho	Cottonwood, city of	do	May 17, 1974		
Do	Owyhee	Homedale, city of	do	Feb. 1, 1974		
Illinois	Fulton	Cuba, city of	do	Jan. 31, 1975		
Do	Cook	Elgin, city of	do	May 3, 1974		
Do	Rock Island	Hampton, village of	do	Mar. 1, 1974 and Feb. 14, 1975		
Iowa	Cherokee	Washta, town of	do	Aug. 30, 1974		
Do	Harrison	Woodbine, city of	do	June 28, 1974		
Kansas	Rush	Timken, city of	do	Jan. 31, 1975		
Do	Sedgwick	Valley Center, city of	do	June 28, 1974		
Kentucky	Trimble	Milton, city of	do	Mar. 15, 1974		
Maine	Aroostook	Oakfield, town of	do	Sept. 6, 1974		
Massachusetts	Worcester	Sutton, town of	do	Aug. 9, 1974		
Minnesota	Hennepin	Loretto, city of	do	Jan. 24, 1975		
Missouri	Shannon	Birch Tree, city of	do	Mar. 15, 1974		
Montana	Custer	Miles City, city of	do	Jan. 23, 1974		
Nebraska	Webster	Red Cloud, city of	do	Apr. 5, 1974		
New York	Franklin	Tupper Lake, village of	do	May 31, 1974		
North Carolina	Wayne	Unincorporated area	do	Dec. 27, 1974		
Tennessee	Union	Maynardville, city of	do	May 17, 1974		
Texas	Jack	Jacksboro, city of	do	June 7, 1974		
Utah	Juab	Nephi, city of	do			
West Virginia	Kanawha	East Bank, town of	do	Mar. 22, 1974		
Wisconsin	Iron	Unincorporated area	do	Feb. 14, 1975		
Do	Outagamie	Little Chute, village of	do	June 14, 1974		
Do	Dane	Waunakee, village of	do	Dec. 17, 1973		
Massachusetts	Norfolk	Holbrook, town of	July 31, 1970, emergency; Apr. 28, 1972, regular; June 30, 1975, suspended.	Apr. 28, 1972		
Do	Bristol	Swansea, town of	June 12, 1970, emergency; Aug. 6, 1971, regular; June 30, 1975, suspended.	June 20, 1970 and Aug. 7, 1971		
Do	do	Westport, town of	Aug. 7, 1970, emergency; July 16, 1971, regular; June 30, 1975, suspended.	July 16, 1971		
New Hampshire	Coos	Lancaster, town of	Nov. 12, 1971, emergency; Apr. 13, 1973, regular; June 30, 1975, suspended.	Apr. 13, 1973		
New Jersey	Ocean	Seaside Park, borough of	Dec. 11, 1970, emergency; Aug. 13, 1971, regular; June 30, 1975, suspended.	Aug. 17, 1971		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: May 22, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-14137 Filed 6-3-75;8:45 am]

[Docket No. FI-585]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The purpose of this notice is the identification of communities with areas of special flood/ or mudslide/ or erosion hazards in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128). The identification of such areas is to provide guidance so that communities may adopt appropriate flood plain management measures to minimize damage caused by flood losses and to guide future construction, where practicable, away from locations which are threatened by flood hazards.

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 flood hazards that is located within any community currently participating in the National Flood Insurance Program.

Effective 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 and construction in these areas unless the community has entered the program.

Effective July 1, 1975, even though no areas with special flood hazards in the community had previously been identi-

fied, the identification of special hazard areas within the community makes mandatory the purchase of insurance. Therefore, the effective date of identification shall be 30 days after the date of publication of this notice in the FEDERAL REGISTER, or the date which appears in this notice, whichever is later.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. Effective July 1, 1975, the six months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later.

Where several dates appear in the column set forth below marked Effective Date of Identification, the first date is the date of initial identification, and all other dates represent modification by additions or deletions to identified areas with special hazards.

Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Alabama	Clarke	Thomasville, city of.	H 010041 01 through H 0100041. 05	Alabama Development Office, Office of State Planning, State Office Bldg., 501 Dexter Ave., Montgomery, Ala. 36104. Alabama Insurance Department, Room 453, Administrative Bldg., Montgomery, Ala. 36104.	Mayor, City Hall, Thomasville, Ala. 36784.	Aug. 1, 1975.
Florida	Brevard	West Melborne, city of.	H 120335A 01 through H 120335A 03	Department of Community Affairs, 2571 East Center Circle East, Howard Bldg., Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Mayor, City Hall, 90 East Court St., West Melborne, Fla. 32901.	Mar. 8, 1974. Aug. 1, 1975.
Georgia	Columbia	Groveton, city of...	H 130365 01	Department of Natural Resources, Office of Planning and Research 270 Washington St. SW., Room 707, Atlanta, Ga. 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	Mayor, City Hall, Groveton, Ga. 30813.	Aug. 1, 1975.
Illinois	Mercer	Keithsburg, city of.	H 170508A 01 through H 170508A 02	Governor's Task Force on Flood Control, 300 North State St., P.P. Box 475, Room 1010, Chicago, Ill. 60610. Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. 62702.	City Clerk, Keithsburg, Ill. 61442.....	Feb. 15, 1974.
Do	Vermilion	Fithian, village of.	H 170664 01	do	Mayor, City Hall, Fithian, Ill. 61844..	Aug. 1, 1975.
Do	Williamson	Carterville, city of.	H 170716A 01	do	Mayor, City Hall, Carterville, Ill. 62918.	Feb. 15, 1974.
Do	Fulton	Liverpool, village of.	H 170762A 01	do	Building Inspector, Village Hall, Box 51, Liverpool, Ill. 61543.	Dec. 28, 1973. Aug. 1, 1975.
Indiana	Jackson	Crothersville, town of.	H 180978 01	Division of Water, Department of Natural Resources, 608 State Office Bldg., Indianapolis, Ind. 46204. Indiana Insurance Department, 509 State Office Bldg., Indianapolis, Ind. 46204.	Town Council, Town of Crothersville, Crothersville, Ind. 47229.	Do.
Kentucky	Boone	Union, town of....	H 210270 01	Division of Water, Kentucky Department of Natural Resources, Capitol Plaza Office Tower, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	Town Council, Town of Union, Union, Ky. 41091.	Do.
Do	Bracken	Foster, city of.....	H 210272 01	do	Mayor, City Hall, Foster, Ky. 41043..	Do.
Do	Campbell	Southgate, city of.	H 210276 01	do	Mayor, City Hall, Southgate, Ky. 41071.	Do.
Do	Pike	Phelps, city of....	H 210299 01 through H 210299 02	do	Mayor, City Hall, Phelps, Ky. 41553..	Do.
Michigan	Midland	Midland, city of....	H 260140A 01 through H 260140A 08	Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich. 48926. Michigan Insurance Bureau, 111 North Hosmer St., Lansing, Mich. 48913.	Office of Building Inspector, City Hall, 202 Ashman St., Midland, Mich. 48640.	May 3, 1974. Aug. 1, 1975.
Do	Muskegon	Montague, city of.	H 260160A 01	do	Building Inspector, City Hall, 4525 Dowling St., Montague, Mich. 49437.	June 14, 1974. Aug. 1, 1975.
Do	Wayne	Gibralter, city of...	H 260236A 01 through H 260236A 02	do	City Clerk, Municipal Bldg., 29450 Munro, Gibralter, Mich. 48173.	June 28, 1974. Aug. 1, 1975.
Do	Ottawa	Grand Haven, city of.	H 260269A 01 through H 260269A 03	do	Administrative Intern, City Hall, 519 Washington St., Grand Haven, Mich. 49417.	Do.
Do	Berrien	Berrien Springs, village of.	H 260330 01 through H 260330 03	do	President, Village Council, Village Hall, 123 West Ferry St., Berrien Springs, Mich. 49103.	Aug. 1, 1975.
Do	Lake	Pleasant Plains, township of.	H 260431 01 through H 260431 11	do	Chairman, Board of Supervisors, Township of Pleasant Plains, Pleasant Plains, Mich. (No ZIP).	Do.
Do	Missaukee	Holland, township of.	H 260462 01 through H 260462 12	do	Chairman, Board of Supervisors, Holland, Mich. (No Zip).	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Minnesota	Itaska	Squaw Lake, city of.	H 270208 01	Division of Waters, Soils, and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210 State Office Building, St. Paul, Minn. 55101.	Mayor, City of Squaw Lake, Squaw Lake, Minn. 56681.	Do. Do.
Do	Lincoln	Hendricks, city of.	H 270252A 01	do	Mayor, City Hall, Hendricks, Minn. 56136.	Mar. 29, 1974. Aug. 1, 1975.
Do	Wilken	Kent, city of	H 270523 01	do	Mayor, City Hall, Kent, Minn. 56553.	Do.
Do	Beltrami	Blackduck, city of.	H 270556 01	do	Mayor, City Hall, Blackduck, Minn. 56630.	Do.
Do	do	Turtle River, city of.	H 270606 01	do	Mayor, City Hall, Turtle River, Minn. (no ZIP).	Do.
Mississippi	Clarke	Stonewall, town of.	H 280035A 01	Mississippi Research and Development Center, P.O. Drawer 2470, Jackson, Miss. 39205. Mississippi Insurance Department, 910 Woolfolk Bldg., P.O. Box 79, Jackson, Miss. 39205.	Town Clerk, Town Hall, P.O. Box 117, Stonewall, Miss. 39363.	June 7, 1973. Aug. 1, 1975.
Do	Covington	Mount Olive, town of.	H 280048 01	do	Mayor, Town of Mount Olive, Mount Olive, Miss. 39119.	Aug. 1, 1975.
Do	do	Seminary, town of.	H 280049 01	do	Mayor, Seminary, Miss. 39479	Do.
Do	Jasper	Bay Springs, town of.	H 280087 01 through H 280087 03	do	Mayor, Bay Springs, Miss. 39422	Do.
Do	Simpson	Magee, city of	H 280158 01 through H 280158 02	do	Mayor, City Hall, Magee, Miss. 39111	Do.
Do	Smith	Taylorsville, town of.	H 280161 01 through H 280161 02	do	Mayor, Taylorsville, Miss. 39168	Do.
North Carolina	Iredell	Statesville, city of.	H 370135 01 through H 370435 06	Division of Community Assistance, Department of Natural and Economic Resources, P.O. Box 27687. North Carolina Insurance Department, P.O. Box 26387, Raleigh, N.C. 27611.	Statesville Planning Department, P.O. Box 1111, Statesville, N.C. 28677.	Do.
Ohio	Cuyahoga	Shaker Heights, city of.	H 390129 01 through H 390129 04	Ohio Department of Natural Resources, Flood Insurance Coor. Building, Fountain Sq., Columbus, Ohio 43224. Ohio Insurance Department, 447 East Broad St., Columbus, Ohio 43215.	Mayor, City Hall, 3400 Lee Rd., Shaker Heights, Ohio 44120.	Do.
Do	Lucas	Oregon, city of	H 390361 01 through H 390361 09	do	Safety Service Director, 5330 Seaman Rd., Oregon, Ohio 43616.	Do.
Do	Richland	Bellville, village of.	H 390604 01 through H 390604 02	do	Village Clerk, Village of Bellville, Bellville, Ohio 44813.	Do.
Do	do	Lexington, village of.	H 390618A 01 through H 390618A 02	do	Village Clerk, Village of Lexington, Lexington, Ohio (no ZIP).	Oct. 18, 1974. Aug. 1, 1975.
Do	Greene	Yellow Springs, village of.	H 390640A 01 through H 390640A 02	do	Village Manager, 316 Dayton Ave., Yellow Springs, Ohio 45387.	Oct. 18, 1974.
Do	Lawrence	Athalia, village of.	H 390698 01	do	Village Clerk, Village of Athalia, Athalia, Ohio (no Zip).	Aug. 1, 1975.
South Carolina	Chesterfield	Cheraw, town of	H 450050 01 through H 450050 02	South Carolina Water Resources Commission, P.O. Box 4515, Columbia, S.C. 29240. South Carolina Insurance Department, 2711 Middleburg St., Columbia, S.C. 29204.	Building Inspector, Town Hall, Market St., Cheraw, S.C. 29520.	Do.
West Virginia	Greenbriar	Renick, town of	H 540243A 01 through H 540243A 02	Office of Federal-State Relations, Division of Planning and Development, Capitol Bldg., Room 150, Charleston, W. Va. 25305. Insurance Commissioner, Building No 3, Room 643, 1800 Washington St., Charleston, W. Va. 25305.	Town Council, Town of Renick, Renick, W. Va. 24966.	Nov. 15, 1974. Aug. 1, 1975.
Wisconsin	Milwaukee	Glendale, city of	H 550275A 01 through H 550275A 03	Department of Natural Resources, P.O. Box 450, Madison, Wis. 53701. Wisconsin Insurance Department, 201 East Washington Ave., Madison, Wis. 53703.	Office of City Engineer, Municipal Bldg., 5902 North Milwaukee River Parkway, Glendale, Wis. 53209.	Dec. 17, 1973. Aug. 1, 1975.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: May 12, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-14138 Filed 6-3-75;8:45 am]

[Docket No. FI-578]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The purpose of this notice is the identification of communities with areas of special flood/or mudslide/or erosion hazards in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128). The identification of such areas is to provide guidance so that communities may adopt appropriate flood plain management measures to minimize damage caused by flood losses and to guide future construction, where practicable, away from locations which are threatened by flood hazards.

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 flood 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 hazard areas 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 and construction in these areas unless the community has entered the program and flood insurance has been purchased.

Prior to July 1, 1975, where a community is not participating in the National Flood Insurance Program as of the date of identification, the Federal Insurance Administrator finds that comment and public procedure are impracticable and unnecessary under the meaning of 5 U.S.C. § 553(b) and the use of delayed effective dates in identifying communities with areas of special hazard would be contrary to the public interest, since this identification is merely for the purpose of informing the public of the location of areas with special flood hazards and has no binding effect on the sale of insurance or the commencement of construction. Therefore, notice to the public is unnecessary, and contrary to the public interest.

After July 1, 1975, or where a community has been participating in the National Flood Insurance Program, even though no areas with special flood hazards in the community had previously been identified, the identification makes mandatory the purchase of insurance. Therefore, the effective date of identification will be 30 days after the date of publication in the FEDERAL REGISTER, or the effective date of the Flood Hazard Boundary Map, whichever is later.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that the community either is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin on the effective date of publication in the FEDERAL REGISTER where the community is not participating prior to July 1, 1975. After July 1, 1975, or where the community is participating in the program, the six months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later.

Where several dates appear in the column set forth below marked Effective Date of Identification, the first date is the date of initial identification, and all other dates represent modification by additions or deletions to identified areas with special hazards.

Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
*	*	*	*	*	*	*
Arizona	Cochise	Huachuca City, city of.	H 040016A 01 through H 040016 03	Arizona State Land Department, 1624 West Adams, Room 400, Phoenix, Ariz. 85007. Arizona Department of Insurance, P.O. Box 7008, 718 West Glenrosa, Phoenix, Ariz. 85011.	Mayor, City of Huachuca City, P.O. Box 4438, Huachuca City, Ariz. 85616.	Dec. 28, 1973. July 25, 1975.
Arkansas	Clay	Success, town of...	H 050289 01	Division of Soil and Water Resources, State Department of Commerce, 1920 West Capitol Ave., Little Rock, Ark. 72201. Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark. 72204.	Mayor, City of Success, Success, Ark. 72470.	July 25, 1975.
Do	Calhoun	Thornton, city of..	H 050292 01	do	Mayor, City of Thornton, Thornton, Ark. 71766.	Do.
Do	Washington	Tontitown, town of.	H 050293 01 through H 050293 02	do	Mayor, Tontitown, Ark. 72770	Do.
Do	Faulkner	Greenbriar, town of.	H 050328 01 through H 050328 02	do	Mayor, Greenbriar, Ark. 72058	Do.
Do	Franklin	Altus, city of	H 050381 01	do	Mayor, Altus, Ark. 72821	Do.
Do	Ouachita	Chidester, city of..	H 050400 01 through H 050400 02	do	Mayor, Chidester, Ark. 71726	Do.
California	Merced	Atwater, city of...	H 060189A 01 through H 060189A 03	Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012.	Mayor, City Hall, 750 Bellevue Rd., Atwater, Calif. 95301.	May 3, 1974. July 25, 1975.
Colorado	Summit	Silverthorne, town of.	H 080201 01	Colorado Water Conservation Board, Room 102, 1845 Sherman St., Denver, Colo. 80203. Colorado Water Conservation Board, Room 102, 1845 Sherman St., Denver, Colo. 80203.	Mayor, Town Hall, Silverthorne, Colo. 80498.	July 25, 1975.
Do	Garfield	Silt, town of	H 080223 01	do	Mayor, Town Hall, Silt, Colo. 81652	Do.
Do	do	New Castle, town of.	H 80256 01	do	Mayor, New Castle, Colo. 81647	Do.
Georgia	Chatham	Pooler, town of...	H 130261 01	Department of Natural Resources, Office of Planning and Research, 270 Washington St. SW., Room 707, Atlanta, Ga. 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	Mayor and Alderman, Rogers St., Pooler, Ga. 31322.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Illinois	Clay	Flora, city of	H 170043A 01	Governor's Task Force on Flood Control, 300 North State St., P.O. Box 475, Room 1010, Chicago, Ill. 60610. Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. 62702.	City Clerk, City of Flora, P.O. Box 249, Flora, Ill. 62839.	Mar. 1, 1974, July 25, 1975.
Do.	Logan	Lincoln, city of	H 170428A 01 through H 170428A 02	do	Mayor, City Hall, Lincoln, Ill. 62656	Mar. 8, 1974, July 25, 1975.
Do.	Lee	Sublette, village of.	H 170421 01	do	Mayor, Village Hall, Sublette, Ill. 61367.	July 25, 1975.
Do.	Woodford	Washburn, village of.	H 170728A 01	do	Village President, 101 South Adams St., Washburn, Ill. 61570.	May 24, 1974, July 25, 1975.
Indiana	Johnson	Franklin, city of	H 180114A 01 through H 180114A 02	Division of Water, Department of Natural Resources, 608 State Office Bldg., Indiana Insurance Department, 509 State Office Bldg., Indianapolis, Ind. 46204.	Franklin City Planning Commission, Franklin City Bldg., P.O. Box 216, Franklin, Ind. 46131.	Dec. 29, 1973, July 25, 1975.
Iowa	Buchanan and Fayette.	Fairbank, city of	H 190329 01	Iowa Natural Resources Council, James W. Grimes Bldg., Des Moines, Iowa 50319. Iowa Insurance Department, Lucas Stage Office Bldg., Des Moines, Iowa 50319.	Mayor, Fairbank, Iowa 50629	July 25, 1975.
Do.	Grundy	Dike, city of	H 190402 01	do	Mayor, Dike, Iowa 50624	Do.
Do.	Tama	Clutier, town of	H 190414 01	do	Mayor, Clutier, Iowa 52217	Do.
Do.	do	Gladbrook, city of.	H 190516 01	do	Mayor, Gladbrook, Iowa 50635	Do.
Do.	do	Dysart, city of	H 190560 01	do	Mayor, Dysart, Iowa 52224	Do.
Kansas	Johnson	DeSoto, city of	H 200161A 01	Division of Water Resources, State Department of Agriculture, State Office Bldg., Topeka, Kans. 66612. Kansas Insurance Department, 1st Floor, Statehouse, Topeka, Kans. 66612.	Mayor, City Hall, DeSoto, Kans. 66018.	Jan. 16, 1974, July 25, 1975.
Do.	Montgomery	Tyro, city of	H 200370 01	do	Mayor, Tyro, Kans. 67364	Do.
Do.	Republic	Cuba, city of	H 200400 01	do	Mayor, Cuba, Kans. 66940	Do.
Do.	Montgomery	Dearing, city of	H 200403 01	do	Mayor, Dearing, Kans. 67340	Do.
Do.	Cowley	Dexter, city of	H 200404 01	do	Mayor, Dexter, Kans. 67038	Do.
Do.	Reno	Buhler, city of	H 200472 01	do	Mayor, City of Buhler, Buhler, Kans. 67522.	Do.
Do.	do	South Hutchison, city of.	H 200530 01	do	Mayor, City Hall, City of South Hutchison, South Hutchison, Kans. (no ZIP).	Do.
Do.	Trego	Wakeeney, city of.	H 200553 01	do	Mayor, City Hall, Wakeeney, Kans. 67672.	Do.
Kentucky	Caldwell	Fredonia, town of.	H 210030 01	Division of Water, Kentucky Department of Natural Resources, Capitol Plaza Office Tower, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	Mayor, Town of Fredonia, Fredonia, Ky. 42411.	Do.
Do.	Marshall	Gilbertsville, city of.	H 210251 01	do	Mayor, City Hall, Gilbertsville, Ky. 42044.	Do.
Do.	Greenup	Wurtland, city of.	H 210285 01	do	Mayor, City Hall, Wurtland, Ky. 41144.	Do.
Do.	Muhlenberg	South Carrollton, city of.	H 210294 01	do	Mayor, City Hall, South Carrollton, Ky. 42374.	Do.
Do.	Jessamine	Wilmore, city of	H 210311 01	do	Office of Wilmore-Jessamine, County Planning Commission, City of Wilmore, Nicholasville, Ky. 40356.	Do.
Louisiana	Caddo	Hosston, village of.	H 220295 01	State Department of Public Works, P.O. Box 44155, Capitol Station, Baton Rouge, La. 70804. Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, La. 70804.	Village President, Hosston, La. 71043	Do.
Do.	Allen Parish	Elizabeth, village of.	H 220324 01	do	Village President, Elizabeth, La. 70638.	Do.
Do.	Sabine Parish	Florien, village of.	H 220326 01	do	Village President, Florien, La. 71429	Do.
Michigan	Huron	McKinley, township of.	H 260322 01 through H 260322 09	Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich. 48926. Michigan Insurance Bureau, 111 North Hosmer St., Lansing, Mich. 48913.	McKinley Township Board, McKinley Township Hall, Township of McKinley, Caseville Rd., Bay Port, Mich. 48720.	Do.
Do.	Bay	Monitor, township of.	H 260358 01 through H 260358 12	do	Township Supervisor, Township of Monitor, Monitor, Mich. (no Zip).	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Kalamazoo	Charleston, township of.	H 260426 01 through H 260426 11	do.	Township Supervisor, Township of Charleston, Charleston, Mich. (no Zip).	Do.
Do.	Ogemaw	Mills, township of.	H 260486 01 through H 260486 12	do.	Township Supervisor, Mills, Mich. (no Zip).	Do.
Do.	Saginaw	Buena Vista, township of.	H 260499 01 through H 260499 11	do.	Township Supervisor, Buena Vista, Mich. (no Zip).	Do.
Do.	do.	Kochville, township of.	H 260501 01 through H 260501 05	do.	Township Supervisor, Township of Kochville, Kochville, Mich. (no Zip).	Do.
Do.	St. Joseph	Constantine, village of.	H 260512 01	do.	Village President, Constantine, Mich. 49042.	Do.
Do.	Shiawassee	New Haven, township of.	H 260521 01 through H 260521 11	do.	Township Supervisors, Township of New Haven, New Haven, Mich. 48048.	Do.
Do.	Van Buren	Almena, township of	H 260528 01 through H 260528 02	do.	Township Supervisor, Almena, Mich. (no Zip).	Do.
Do.	do.	Pine Grove, township of.	H 260534 01 through H 260534 11	do.	Township Supervisor, Pine Grove, Mich. (no Zip).	Do.
Minnesota	Anoka	East Bethel city of.	H 270012 01 through H 270012 12	Division of Waters, Soils, and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210 State Office Bldg., St. Paul, Minn. 55101.	City Clerk, City of East Bethel, East Bethel, Minn. 55005.	Do.
Do.	Clay	Felton, city of	H 270081 01	do.	Mayor, Felton, Minn. 56536	Do.
Do.	Hennepin	Brooklyn Park, city of.	H 270152A 01 through H 270152A 09	do.	City Manager, 5800 85th Ave. North, Brooklyn Park, Minn. 55443.	Apr. 12, 1974. July 25, 1975.
Do.	do.	Edina, city of	H 270160A 01 through H 270160A 06	do.	City Engineer, City of Edina, 4801 West 50th St., Edin, Minn. 55424.	Feb. 1, 1974. July 25, 1975.
Do.	Koochiching	Big Falls, city of.	H 270234A 01 through H 270234 04	do.	Mayor, City Office, Big Falls, Minn. 56628.	Aug. 30, 1974.
Do.	Washington	Oakdale, city of.	H 270511A 01 through H 270511A 05	do.	City Administrator, City of Oakdale, 1584 Hadley Ave. North, St. Paul, Minn. 55119.	May 24, 1974.
Do.	Winona	Dakota, city of.	H 270526A 01	do.	Dakota Fire Department, Dakota, Minn. 55925.	Aug. 2, 1974. July 25, 1975.
Missouri	New Madrid	Gideon, city of.	H 290250A 01 through H 290250A 03	Department of Natural Resources, Division of Program and Policy Development, State of Missouri, 308 East High St., Jefferson, Mo. 65101. Division of Insurance, Post Office Box 690, Jefferson City, Mo. 65101.	Mayor, Gideon City Hall, Second St., Gideon, Mo. 63848.	Mar. 29, 1974.
Do.	Macon	New Cambria, city of.	H 290549 01	do.	Mayor, City Hall, New Cambria, Mo. 63558.	July 25, 1975.
Do.	Pemiscot	Cooter, village of.	H 290603 01	do.	Village President, Village of Cooter, Cooter, Mo. 63839.	Do.
Do.	Cooper	Pilot Grove, city of.	H 290678 01	do.	Mayor, Pilot Grove, Mo. 65276	Do.
Do.	De Kalb	Maysville, city of.	H 290686 01	do.	Mayor, Maysville, Mo. 64469	Do.
Do.	Holt	Mound City, city of.	H 290691 01 through H 290691 02	do.	Mayor, City of Mound City, Mound City, Mo. 64470.	Do.
Do.	Lafayette	Lexington, city of.	H 290707 01 through H 290707 02	do.	Mayor, Lexington, Mo. 64067	Do.
Montana	Beaverhead	Lima, town of.	H 300097 01	Montana Department of Natural Resources and Conservation, Water Resources Division, 32 South Ewing St., Helena, Mont. 59601. Montana Insurance Department, Capitol Building, Helena, Mont. 59601.	Mayor, City Hall, Lima, Mont. 59739.	Do.
Nebraska	Red Willow	Bartley, village of.	H 310248 01	Nebraska Natural Resources Commission, Terminal Building, 7th Floor, Lincoln, Nebr. 68508. Nebraska Insurance Department, 1335 L St., Lincoln, Nebr. 68509.	Village President, Bartley, Nebr. 69020.	Do.
Do.	Sherman	Litchfield, village of.	H 310295 01	do.	Village President, Litchfield, Nebr. 68852.	Do.
Do.	Boone	Petersburg, village of.	H 310308 01	do.	Village President, Petersburg, Nebr. 68652.	Do.
Do.	Lincoln	Wallace, village of.	H 310332 01	do.	Village President, Wallace, Nebr. 69169.	Do.
Do.	Custer	Ansley, village of.	H 310340 01	do.	Village President, Village Hall, Ansley, Nebr. 68814.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Furnas	Arapahoe, city of.	H 310341 01	do	Mayor, City Hall, Arapahoe, Nebr. 68922.	Do.
Do.	Washington	Fort Calhoun, city of.	H 310368 01 through H 310386 02	do	Mayor, City Hall, Fort Calhoun, Nebr. 68023.	Do.
Do.	Antelope and Madison.	Tilden, city of.	H 310401 01	do	Mayor, City of Tilden, City Hall, Tilden, Nebr. 68781.	Do.
New Jersey	Hudson	Jersey City, city of.	H 340223 01 through H 340223 10	Bureau of Water Control, Department of Environmental Protection, P.O. Box 1390, Trenton, N.J. 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Mayor, City of Jersey City, 280 Grove St., Jersey City, N.J. 07302.	Do.
New Mexico	Curry	Melrose, village of.	H 350115 01	State Engineer's Office, Bataan Memorial Bldg., Santa Fe, N. Mex. 87501. New Mexico Department of Insurance, P.O. Box 1269, Santa Fe, N. Mex. 87501.	Village President, Village Hall, Melrose, N. Mex. 88124.	Do.
New York	Lewis	Croghan, town of.	H 360362 01 through H 360362 13	New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201. New York State Insurance Department, 123 William St., New York, N.Y. 10038.	Town Board-Croghan, Town Clerk, Town of Croghan, Rural Delivery, Castorland, N.Y. 13620.	Do.
Do.	Steuben	Bath, village of.	H 360767A 01 through H 360767A 03	do	Village Attorney, Village of Bath, Bath, N.Y. 14810.	Jan. 16, 1974; July 25, 1975.
Do.	Hamilton	Long Lake, town of.	H 361406 01	do	Mayor, Town of Long Lake, Long Lake, N.Y. 12847.	July 25, 1975.
Do.	Suffolk	Old Field, village of.	H 361545 01 through H 361545 06	do	Village President, Village Hall, Old Field, N.Y. (no Zip).	Do.
North Carolina	Burke	Valdese, town of.	H 370298 01 through H 370298 02	Division of Community Assistance, Department of Natural and Economic Resources, P.O. Box 27687, Raleigh, N.C. 27611. North Carolina Insurance Department, P.O. Box 26387, Raleigh, N.C. 27611.	Mayor, Valdese, N.C. 28690.	Do.
Do.	Edgecombe	Princeville, town of.	H 370318 01	do	Mayor, Princeville, N.C. (no Zip).	Do.
Do.	Perquimans	Winfall, town of.	H 370345 01	do	Mayor, Municipal Bldg., Winfall, N.C. 27985.	Do.
Do.	Sampson	Autryville, town of.	H 370358 01	do	Mayor, Town Office Bldg., Autryville, N.C. 28318.	Do.
North Dakota	Walsh	Adams, city of.	H 380152 01	State Water Commission, State Office Bldg., 900 East Blvd., Bismarck, N. Dak. 58501. North Dakota Insurance Department, State Capitol, Bismarck, N. Dak. 58501.	Mayor, City Hall, Adams, N. Dak. 58210.	Do.
Do.	Divide	Fortuna, city of.	H 380171 01	do	Mayor, City Hall, Fortuna, N. Dak. 58844.	Do.
Do.	La Moure	Edgeley, city of.	H 380223 01	do	Mayor, City Hall, Edgeley, N. Dak. 58433.	Do.
Ohio	Adams	Rome, village of.	H 390003 01	Ohio Department of Natural Resources, Flood Insurance Coordinating Bldg., Fountain Sq., Columbus, Ohio 43224. Ohio Insurance Department, 447 East Broad St., Columbus, Ohio 43215.	Mayor, Village of Rome, Stout, Ohio 45684.	Do.
Do.	Athens	Amesville, village of.	H 390015 01	do	Mayor, Village of Amesville, Amesville, Ohio 45711.	Do.
Do.	Butler	Somerville, village of.	H 390046 01	do	Mayor, Somerville Village Council, Somerville, Ohio 45064.	Do.
Do.	Cuyahoga	Highland Heights, city of.	H 390110 01 through H 390110 02	do	Mayor, City Hall, 5827 Highland Rd., Highland Heights, Ohio 44124.	Do.
Do.	do	Mayfield Heights, city of.	H 390115 01 through H 390115 02	do	Mayor, 6154 Mayfield Rd., Mayfield Heights, Ohio 44124.	Do.
Do.	Lake	Wickliffe, city of.	H 390321 01 through H 390321 02	do	Mayor, City Hall, 28370 Ridge Rd., Wickliffe, Ohio 44092.	Do.
Do.	Miami	Piqua, city of.	H 390400A 01 through H 390400A 04	do	Mayor, City Bldg., Piqua, Ohio 45356.	Do.
Do.	Stark	Hartville, village of.	H 390514 01 through H 390514 02	do	Mayor, Village Hall, Hartville, Ohio 44632.	Do.
Do.	Richland	Butler, village of.	H 390605 01	do	Village Council, Butler, Ohio 44822.	Do.
Do.	Warren and Montgomery.	Carlisle, village of.	H 390606 01 through H 390606 02	do	Village Council, Carlisle, Ohio 45005.	Do.
Do.	Brown	Mount Orab, village of.	H 390621 01 through H 390621 02	do	Mayor, Village of Mount Orab, County Orab, Ohio 45154.	Do.
Do.	Wood	Northwood, village of.	H 390622 01 through H 390622 02	do	Mayor, Village Office, Northwood, Ohio 43619.	Do.
Do.	Madison	Plain City, village of.	H 390625 01 through H 390625 02	do	Village Council, Plain City, Ohio 43064.	Do.
Do.	Clinton	Sabina, village of.	H 390627 01 through H 390627 02	do	Mayor, City Bldg., Sabina, Ohio 45169.	Do.
Do.	Fulton	Swanton, village of.	H 390632 01 through H 390632 02	do	Village Council, Swanton, Ohio 43558.	Do

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do	Madison	West Jefferson, village of.	H 390638 01 through H 390638 02	do	Village Council, West Jefferson, Ohio 43162.	Do.
Do	Coshocton	West Lafayette, village of.	H 390681 01	do	Mayor, West Lafayette, Ohio 43845	Do.
Do	Fairfield	Amanda, village of.	H 390688 01	do	Mayor, Amanda, Ohio 43102	Do.
Do	Jefferson	Bergholz, village of.	H 390695 01	do	Village Council, Bergholz, Ohio 43908	Do.
Do	Summit	Boston Heights, village of.	H 390749 01 through H 390749 02	do	Mayor, Village Hall, Village of Boston Heights, Boston Heights, Ohio (no ZIP).	Do.
Oklahoma	Harper	Buffalo, town of	H 400351 01 through H 400351 02	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, Okla. 73112. Oklahoma Insurance Department, Room 408, Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	Mayor, Town of Buffalo, Buffalo, Okla. 73834.	Do.
Pennsylvania	Venango	Oil City, city of	H 420837A 01 through H 420837A 03	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	City Manager, City of Oil City, Oil City, Pa. 16301.	Nov. 30, 1973.
Do	McKean	Wetmore, township of.	H 421861 01 through H 421861 24	do	Chairman, Board of Supervisors, Township of Wetmore, Rural Delivery 2, Kane, Pa. 16735.	July 25, 1975.
Do	Lycoming	McNett, township of.	H 422597 01 through H 422597 12	do	Chairman, Board of Supervisors, Township of McNett, Rural Delivery Roaring Branch, Pa. 17765.	Do.
South Carolina	Anderson	Honea Path, town of.	H 450016 01 through H 450016 02	South Carolina Water Resources Commission, P.O. Box 4515, Columbia, S.C. 29241. South Carolina Insurance Department, 2711 Middleburg St., Columbia, S.C. 29204.	Mayor, Town Hall, Honea Path, S.C. 29654.	Do.
Do	Barnwell	Barnwell, city of	H 450023A 01 through H 450023A 04	do	City Administrator, City Hall, P.O. Box 362, Barnwell, S.C. 29812.	May 31, 1974. July 25, 1975.
Do	Clarendon	Summerton, town of.	H 450054A 01	do	Town Council, Summerton Town Hall, Main St., Summerton, S.C. 29148.	May 24, 1974. July 25, 1975.
Do	Marlboro	McColl, town of	H 450150 01	do	Mayor, McColl, S.C. 29570	July 25, 1975.
South Dakota	Roberts	New Effington, town of.	H 460127 01	State Planning Bureau, Office of Executive Management, State Capitol, Pierre, S. Dak. 57501. South Dakota Department of Insurance, Insurance Bldg., Pierre, S. Dak. 57501.	Mayor, New Effington, S.D	Do.
Do	Lake	Ramona, town of	H 460134 01	do	Mayor, Ramona, S. Dak. 57054	Do.
Do	Spink	Tulare, town of	H 460145 01	do	Mayor, Tulare, S. Dak. 57476	Do.
Do	Walworth	Selby, city of	H 460214 01	do	Mayor, Selby, S. Dak. 57472	Do.
Tennessee	Shelby	Arlington, town of.	H 470262 01 through H 470262 03	Tennessee State Planning Office, 660 Capitol Hill Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Mayor, Arlington, Tenn. 38002	Do.
Texas	Brazoria	Clute, city of	H 480068A 01 through H 480068A 03	Texas Water Development Board, P.O. Box 13087, Capitol Station, Austin, Tex. 78711. Texas Insurance Department, 1110 San Jocinto St., Austin, Tex. 78701.	City Manager, City of Clute, Clute, Tex. 77531.	May 10, 1974.
Do	Collin	Princeton, city of	H 480737 01	do	Mayor, Princeton, Tex. 75077	July 25, 1975.
Do	Cooke	Muenster, city of	H 480767 01	do	Mayor, Muenster, Tex. 76252	Do.
Do	Denton	Krum, city of	H 480779 01	do	Mayor, City of Krum, Krum, Tex. 76249.	Do.
Do	Fannin	Leonard, city of	H 480812 01	do	Mayor, City of Leonard, Leonard, Tex. 75452.	Do.
Do	Haskell	O'Brian, city of	H 480852 01	do	Mayor, O'Brian, Tex. 79539	Do.
Do	Navarro	Richland, town of	H 480958 01	do	Mayor, Richland, Tex. 76681	Do.
Do	Oldham	Adrian, city of	H 480960 01	do	Mayor, Adrian, Tex. 79001	Do.
Do	Collin	Lucas, town of	H 481110 01 through H 481110 04	do	Mayor, Lucas, Tex. (no Zip)	Do.
Utah	Summit	Francis, town of	H 490199 01	Department of Natural Resources, Division of Water Resources, State Capitol Bldg., Room 435, Salt Lake City, Utah 84114. Utah Insurance Department, 115 State Capitol, Salt Lake City, Utah 84114.	Mayor, Francis, Utah (no ZIP)	Do.
Do	Millard	Delta, city of	H 490206 01	do	Mayor, Delta, Utah 84624	Do.
Virginia	Lunenburg	Unincorporated areas.	H 510309 01 through H 510309 30	Bureau of Water Control Management, State Water Control Board, P.O. Box 11143, Richmond, Va. 23230. Virginia Insurance Department, 700 Blanton Bldg., P.O. Box 1157, Richmond, Va. 23209.	County Commissioners, County of Lunenburg, Lunenburg, Va. 23952.	Do.
Do	Amelia	Unincorporated areas.	H 510314 01 through H 510314 25	do	County Commissioners, County of Amelia, Amelia Courthouse, Va. 23002.	Do.
Washington	King	Black Diamond, town of.	H 530272 01	Department of Ecology, Olympia, Wash. 98501. Washington Insurances Department, Insurance Bldg., Olympia, Wash. 98501.	Mayor, Black Diamond, Wash. 98010	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
West Virginia	Nicholas	Unincorporated areas.	H 540146 01 through H 540146 45	Office of Federal-State Relations, Division of Planning and Development, Capitol Bldg., Room 150, Charleston, W. Va. 25305. Insurance Commissioner, Building No. 3, Room 643, 1800 Washington St., Charleston, W. Va. 25305.	County Commissioners, County of Nicholas, Summersville, W. Va. 26651.	Do.
Do	Preston	do	H 540160 01 through H 540160 38		County Commissioners, County of Preston, Kingwood, W. Va. 26537.	Do.
Do	Monroe	do	H 540278 01 through H 540278 34		County Commissioners, County of Monroe, Union, W. Va. 24983.	Do.
Wisconsin	Fond du Lac	Campbellsport, village of.	H 550133A 01	Department of Natural Resources, P.O. Box 450, Madison, Wis. 53701. Wisconsin Insurance Department, 201 East Washington Ave., Madison, Wis. 53703.	President, Village Hall, Campbellsport, Wis. 53010.	May 24, 1974.
Do	Polk	Luck, village of	H 550335A 01	do	Superintendent of Public Works, Village of Luck, Village Hall, Luck, Wis. 54853.	May 24, 1974. July 25, 1975.
Wyoming	Carbon	Sinclair, town of	H 560067 01	Wyoming Disaster and Civil Defense Agency, P.O. Box 1709, Cheyenne, Wyo. 82001. Department of Insurance, State of Wyoming, State Office Building, Cheyenne, Wyo. 82001.	Mayor, Sinclair, Wyo. 82334	July 25, 1975.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: May 5, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75–14139 Filed 6–3–75;8:45 am]

Title 40—Protection of the Environment

[FRL 382–1]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

PART 423—STEAM ELECTRIC POWER GENERATING POINT SOURCE CATEGORY

Corrections

Notice is hereby given that the Environmental Protection Agency (EPA) is correcting 40 CFR 423—Steam Electric Power Generating Point Source Category and a subsequent notice of miscellaneous amendments and corrections to this regulation. 40 CFR 423 was promulgated on October 8, 1974, pursuant to sections 301, 304 (b) and (c), and 306(b) and 307(c) of the Federal Water Pollution Control Act as amended 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92–500 (the Act). The notice of miscellaneous amendments and corrections appeared in FR Document 75–4362 on February 19, 1975.

The purpose of this notice is to correct errors in Subparts A through C of the regulation and two errors in the notice of miscellaneous amendments and corrections to this regulation. The corrections encompass typographical and editorial errors and do not involve any substantive or policy issues.

In FR Document 74–2333 appearing on pages 36186 through 36207 in the issue of October 8, 1974, make the following changes:

1. Paragraph 423.11(h), line 7, "wastes" is revised to "waste".

2. Paragraph 423.13(i), 3rd item in table "Phosphorous" is revised to "Phosphorus".

3. Paragraph 423.13(m) shall be revised to read as follows: The limitation of paragraph "1" of this section shall become effective on July 1, 1981.

4. Paragraph 423.15(i), 2nd list of items in table, "Phosphorous" is revised to "Phosphorus".

5. Paragraph 423.25(i), 2nd list of items in table, "Phosphorous" is revised to "Phosphorus".

6. Paragraph 423.33(i), lines 4 and 5, the phrase "low volume waste sources" is deleted and the phrase "cooling tower blowdown" is substituted.

In FR Document 75–4362 appearing on pages 7095 through 7096 in the issue of February 19, 1975, make the following changes:

1. Paragraph 423.22 [Amended], correction 20 shall be revised to read as follows:

(10) In the event that waste streams from various sources are combined for treatment or discharge, the quantity of each pollutant or pollutant property controlled in paragraphs (b) (1) through (9) of this section attributable to each controlled waste source shall not exceed the specified limitation for that waste source.

2. Paragraph 423.33 [Amended], correction 32, line 1, the paragraph heading "§ 423.33(b)" is deleted and "§ 423.33 (h)" is substituted.

Dated: May 28, 1975.

CHARLES L. ELKINS,
Acting Assistant Administrator for Water and Hazardous Materials.

[FR Doc.75–14522 Filed 6–3–75;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to show that two additional positions of Confidential Assistant to the Deputy Under Secretary for Congressional Relations are excepted under Schedule C.

Effective on June 4, 1975, § 213.3313 (c) (6) is amended as set out below.

§ 213.3313 Department of Agriculture.

* * * * *

(c) *Office of the Under Secretary.* * * *

(6) Five Confidential Assistants to the Deputy Under Secretary for Congressional Relations.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–58 Comp., p. 218)

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

[FR Doc.75–14611 Filed 6–3–75;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to show that one additional position of Congressional Liaison Officer is excepted under Schedule C.

Effective on June 4, 1975, § 213.3314(a) (9) is amended as set out below:

§ 213.3314 Department of Commerce.

(a) Office of the Secretary. * * *

(9) Three Congressional Liaison Officers.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

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

[FR Doc.75-14612 Filed 6-3-75;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show an organizational redesignation from: One Private Secretary to the Assistant Secretary of Defense (Systems Analysis) to one Private Secretary to the Assistant Secretary of Defense (Program Analysis and Evaluation).

Effective on June 4, 1975, § 213.3306 (a)(2) is amended as set out below:

§ 213.3306 Department of Defense.

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

(2) One Private Secretary to the Deputy Secretary of Defense and one Private Secretary to each of the following: the Director of Defense Research and Engineering; the Principal Deputy Director of Defense Research and Engineering; the Deputy Directors of Defense Research and Engineering (Tactical Warfare Programs), (Strategic systems), (Research and Technology); the Director, Advanced Research Project Agency; the Assistant Secretaries of Defense (Manpower and Reserve Affairs), (International Security Affairs), (Public Affairs), (Installations and Logistics), (Comptroller), (Program Analysis and Evaluation), (Intelligence), and (Legislative Affairs); the General Counsel; the Assistant to the Secretary of Defense (Atomic Energy); and the Military Assistants to the Secretary of Defense.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–58 Comp., p. 218)

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

[FR Doc.75-14613 Filed 6-3-75;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to show that one position of Staff Assistant to the Secretary is excepted under Schedule C.

Effective on June 4, 1975, § 213.3315(a) (1) is amended as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secertary.*

(1) Two Special Assistants, one Confidential Assistant, and one Staff Assistant to the Secretary of Labor.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–58 Comp., p. 218)

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

[FR Doc.75-14616 Filed 6-3-75;8:45 am]

Department of Transportation

PART 213—EXCEPTED SERVICE

Section 213.3394 is amended to show that one position of Special Assistant to the Under Secretary is no longer excepted under Schedule C. The following Schedule C positions are amended to reflect a change in the title of their superior from Under Secretary to Deputy Secretary: One Confidential Secretary, and Special Assistant, one Chauffeur, one Secretary to the Special Assistant, and one Staff Assistant.

Effective on June 4, 1975, §§ 213.3394 (a) (7), (11), (13), (41), and (43) are amended as set out below.

§ 213.3394 Department of Transportation.

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

(7) One Confidential Secretary to the Deputy Secretary.

* * * * *

(11) One Special Assistant to the Deputy Secretary.

* * * * *

(13) One Chauffeur to the Deputy Secretary.

* * * * *

(41) One Secretary to the Special Assistant to the Deputy Secretary.

* * * * *

(43) One Staff Assistant to the Deputy Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–58 Comp., p. 218)

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

[FR Doc.75-14619 Filed 6-3-75;8:45 am]

PART 213—EXCEPTED SERVICE

Executive Office of the President

Section 213.3303 is amended to show that one position of Private Secretary to the Chairman is revoked. This section is further amended to reflect the following title changes from: two Private Secretaries to the Chairman to two Secretaries to the Chairman.

Effective on June 4, 1975, § 213.3303(b) (1) is amended as set out below:

§ 213.3303 Executive Office of the President.

* * * * *

(b) *Council of Economic Advisers.*

(1) Two Secretaries to the Chairman and one to each of the other two Members.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–58 Comp., p. 218)

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

[FR Doc.75-14617 Filed 6-3-75;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Power Commission

Section 213.3329 is amended to show the revocation of one position of Technical Assistant to a Commissioner. Section 213.3329 is further amended to reflect a title change from two Technical Assistants to a Commissioner to two Assistants to the Chairman.

Effective on June 4, 1975, § 213.3329(f) is amended as set out below:

§ 213.3329 Federal Power Commission.

* * * * *

(f) Two Assistants to the Chairman and five Technical Assistants to the other three Commissioners.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–58 Comp., p. 218)

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

[FR Doc.75-14614 Filed 6-3-75;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Trade Commission

Section 213.3334 is amended to reflect the following title changes: from Director of Information to Director of Public Information and one Secretary to the Director of Information to one Secretary to the Director of Public Information.

Effective on June 4, 1975, § 213.3334 (b) and (c) are amended as set out below:

§ 213.3334 Federal Trade Commission.

* * * * *

(b) Director of Public Information.

(c) One Secretary to the Director of Public Information.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–58 Comp., p. 218)

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

[FR Doc.75-14615 Filed 6-3-75; 8:45 am]

PART 213—EXCEPTED SERVICE

Small Business Administration

Section 213.3332 is amended to show a change in title from Congressional and Public Affairs Officer to Special Assistant to the Assistant Administrator for Congressional and Public Affairs.

Effective on June 4, 1975, § 213.3332(o) is amended as set out below:

§ 213.3332 Small Business Administration.

* * * * *

(o) One Special Assistant to the Assistant Administrator for Congressional and Public Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–58 Comp., p. 218)

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

[FR Doc.75-14618 Filed 6-3-75;8:45 am]

PART 213—EXCEPTED SERVICE

Commodity Futures Trading Commission

Section 213.3379 is amended to show that two positions, General Counsel and Executive Director, are excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER, §§ 213.3379 (e) and (f) are added as set out below.

§ 213.3379 Commodity Futures Trading Commission.

* * * * *

(e) The General Counsel.
(f) The Executive Director.

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

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

[FR Doc.75-14790 Filed 6-3-75;9:58 am]

Title 9—Animals and Animal Products

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

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS: ORGANISMS AND VECTORS

PART 113—STANDARD REQUIREMENTS

Correction

Pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158), Part 113, Subchapter E, Chapter 1 of Title 9 of the Code of Federal Regulations is amended by correcting the spelling of the following words: "Post-challenge" in § 113.89(c)(4); "Multocida" in the introductory paragraph of § 113.101; "multocida" in § 113.102(c)(4); "recommended" in § 113.120(d); "virus-bearing" in the introductory paragraphs of § 113.126 and § 113.140; and "show" in § 113.145(c)(6); by correcting the reference to the number of controls from "four" to "two" in § 113.143(b)(5); and by changing "insidiosa" to "rhusiopathiae" in § 113.252(c)(2) to conform to § 113.252(c)(1).

On May 8, 1975, regulations published in the FEDERAL REGISTER (40 FR 20067) contained misprints in § 113.104 and § 113.252. As printed, § 113.104 (d)(4)(i), (ii), (iii), (iv), (v) and (5) could be considered deleted but were not intended to be deleted. Also the heading for § 113.252 appeared in italics. These errors are being corrected in this document.

Each word in the heading of § 113.89, § 113.101, § 113.102, § 113.104, § 113.126, § 113.140, § 113.143, § 113.145, and § 113.252 are to be capitalized.

1. The introductory portion of § 113.89 (c)(4) is amended to read:

§ 113.89 Leptospira Grippotyphosa Bacterin.

* * * * *

(c) * * *

(4) *Post-challenge period.* Observe the vaccinates and controls for 14 days post-challenge and record all deaths. If eight or more controls die of leptospirosis, the test is valid and the results shall be evaluated according to the following table: * * *

* * * * *

2. The introductory paragraph of § 113.101 is amended to read:

§ 113.101 General requirements for Pasteurella Multocida Bacterins, Avian Isolates.

Pasteurella Multocida Bacterin, Avian Isolates, shall be prepared with cultures of *Pasteurella multocida*, avian isolates, Type 1 or Type 3 or both (Little and Lyons Classification) which have been inactivated and are nontoxic; *Provided*, That, avian isolates other than Types 1 and 3 may be added if written into the filed Outline of Production for the product.

* * * * *

3. Section 113.102(c)(4) is amended to read:

§ 113.102 Pasteurella Multocida Bacterin, Avian Isolates, Type 1.

* * * * *

(c) * * *

(4) *Challenge.* Not less than 14 days after the second injection, each of 20 vaccinates, each of 20 positive controls, and each of 20 unvaccinated controls shall be challenged intramuscularly with a minimum of 250 colony-forming units of virulent *Pasteurella multocida*. Strain X–73, Type 1 (Little and Lyons Classification) and observed daily for a 14 day post-challenge period. Only dead birds shall be considered in evaluating the product.

5. § 113.120(d) is amended to read:

§ 113.120 General requirements for killed virus vaccines.

* * * * *

(d) *Safety Tests.* Final container samples of completed product from each serial shall be tested for safety in guinea pigs as prescribed in § 113.38 and for safety in mice as prescribed in § 113.33, *Provided*, That, vaccines recommended for use only in poultry are exempt from this requirement.

* * * * *

6. The introductory portion of § 113.126 is amended to read:

§ 113.126 Wart Vaccine, Killed Virus.

Wart Vaccine, Killed Virus, shall be prepared from virus-bearing epidermal tumors (warts) obtained from a bovine. Each serial shall meet the requirements prescribed in this section and any serial found unsatisfactory by a prescribed test shall not be released.

* * * * *

7. The introductory portion of § 113.140 is amended to read:

§ 113.140 Canine Hepatitis Vaccine.

Canine Hepatitis Vaccine shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used in preparing the production seed virus for vaccine production. All serials shall be prepared from the first through the fifth passage from the Master Seed Virus.

* * * * *

8. § 113.143(b)(5) is amended to read:

§ 113.143 Encephalomyelitis Vaccine, Venezuelan.

* * * * *

(b) * * *

(5) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only five vaccinates and two controls need to be used in the retest; *Provided*, That five of five vaccinates and the two controls shall meet the criteria in paragraph (b)(4) of this section.

* * * * *

9. § 113.145(c)(6) is amended to read:

§ 113.145 Bovine Rhinotracheitis Vaccine.

* * * * *

(c) * * *

(6) If less than 19 of the post-injection serum samples tested as prescribed in paragraph (c)(3) of this section show neutralization in all tubes of the 1:2 final serum dilution, or if more than one of the vaccinates show a temperature of 103.5° F or higher for 2 or more days, or if more than one of the vaccinates exhibit respiratory or other clinical signs of infectious bovine rhinotracheitis, or both, the Master Seed Virus is unsatisfactory.

* * * * *

10. § 113.252(c)(2) is amended to read:

§ 113.252 Erysipelothrix Rhusiopathiae Antiserum.

* * * * *

(c) * * *

(2) If less than eight of the 10 controls die from erysipelas within 7 days post-challenge, the test is invalid. All dead mice shall be examined to determine if the cause of death was *Erysipelothrix rhusiopathiae* infection.

* * * * *

(37 Stat. 832–833; 21 U.S.C. 151–158)

These amendments are administrative or editorial and the changes are corrective or conformative in nature and make no substantive changes in the affected regulations.

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

The foregoing amendments shall become effective upon issuance.

Done at Washington, D.C., this 30th day of May 1975.

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

[FR Doc.75-14557 Filed 6-3-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-SO-58; Amdt. 39-2228]

PART 39—AIRWORTHINESS DIRECTIVES

The Balloon Loft and the Balloon Works Hot Air Balloons

There have been failures of the "O" ring seal on the valve stem; instances of the valve seat washer becoming loose which caused valve malfunction and instances of the rollpin in the actuating handle falling out rendering the valve inoperable. Since this condition is likely to exist or develop in other valves of this type design, this airworthiness directive requires inspection, replacement and safetying of these items on Rego P/N 7553S series valves as used on The Balloon Loft and The Balloon Works hot air balloons.

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

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

The Balloon Loft and The Balloon Works hot air balloons:

Applies to Rego 7553S series throttle or trigger valves installed on all models of The Balloon Works and The Balloon Loft hot air balloons certificated in all categories.

Compliance required as indicated below after the effective date of this AD unless already accomplished.

To prevent failures of the "O" ring on the valve stem; valve seat washer loosening or valve actuating handle rollpin becoming dislodged, accomplish the following or an equivalent modification approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

Within the next 25 hours time in service, accomplish: Paragraph a, b, c and d. Paragraph "a" is to be accomplished thereafter at each 100 hours time in service or at each annual inspection, whichever comes first.

a. Remove the valve actuating lever rollpin P/N 7553S-8 from actuating lever. (Be careful to remove any burrs in the stem area around the rollpin hole before removing the valve stem P/N 7553S-1 from the bonnet P/N 7553-5.) Replace the "O" ring stem seal with a new Rego "O" ring P/N 1421-7. Lubricate the new "O" ring with a suitable lubricant before reassembly.

b. Check the torque of the valve seat retaining screw to 10 to 12 in-lbs in the loosening direction. If it turns, the screw must be removed, cleaned of lubricant and reinstalled using MIL-S 22473 high strength thread locking compound, such as two ton epoxy by Devcon or Loctite 271 or equivalent. Recheck torque after thread locking compound has cured.

CAUTION: Do not permit the thread locking compound to adhere to the rubber seating surface.

c. Reinstall valve actuating lever on the valve body with rollpin, P/N 7553S-8. Install a number six machine screw and stop nut or a $\frac{3}{32}$ inch stainless steel cotter pin or .040 inch diameter safety wire through the hole in the rollpin, holding the actuating handle to the valve body and secure.

d. Appropriate maintenance records must be kept in accordance with FAR 91.173.

This amendment becomes effective June 6, 1975.

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

Issued in East Point, Georgia, on May 23, 1975.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-14537 Filed 6-3-75;8:45 am]

[Airspace Docket No. 75-EA-20]

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

Alteration of Transition Area

On page 14780 of the FEDERAL REGISTER for April 2, 1975, the Federal Aviation Administration published a proposed rule which would alter the Parkersburg, W. Va., (40 FR 563) Transition Area.

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

A review of the proposed description indicates a failure to include the reciprocal bearing for the south-southwest extension from the outer marker. This correction is minor in nature and does not require notice and public procedure.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. July 24, 1975, except as follows:

Insert the figures and words "and a 020°" after the figure "200°" where they appear.

(Section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348], and section 6(c) of the Department of Transportation Act) [49 U.S.C. 1655(c)]

Issued in Jamaica, N.Y., on May 22, 1975.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.75-14538 Filed 6-3-75;8:45 am]

[Airspace Docket No. 74-NW-20]

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

Alteration of Control Zone

Correction

In FR Doc. 75-12866 appearing on page 21472 in the issue for Friday, May 16, 1975 in § 71.171 * * * Hillsboro, Oregon, in the ninth line change 0.5 to 9.5.

Title 15—Commerce and Foreign Trade

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

Export Regulations

I. *Watercraft exported as scrap. Export Administration Bulletin No. 133* of December 31, 1974 announced the discontinuance of short supply controls on ferrous scrap, effective January 1, 1975.

Paragraphs 370.10(f) (2) and (3) of the Export Administration Regulations are now revised to indicate that watercraft exported for purposes of scrapping, dismantling, dismembering, or destroying the hulls or hulks thereof, no longer require validated licenses for export to Country Groups Q, W, and Y.

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

1. Effective date of action: June 1, 1975. Accordingly, the *Export Administration Regulations* (15 CFR Part 370) are amended by revising § 370.10(f) (2) and (3) (i) to read as follows:

§ 370.10 Exports controlled by U.S. Government agencies other than Department of Commerce.

* * * * *

(f) *Watercraft.* * * *

* * * * *

(2) *Export Authorization by U.S. Maritime Administration and Office of Export Administration.* Watercraft (including vessels of war) exported for the purpose of scrapping, dismantling, dismembering, or destroying the hulls or hulks thereof, require export authorization from both the Office of Export Administration and the U.S. Maritime Administration if the vessel will be exported to Country Group S or Z (see Supplement No. 1 to Part 370 for country group designations).

(3) *Export Authorization by U.S. Maritime Administration Only.* (i) Watercraft described in (2) above, when exported to destinations other than those in Country Group S or Z, require export authorization from the U.S. Maritime Administration only.

* * * * *

II. *Obtaining Office of Export Administration forms.* For the purpose of consolidating the references within the *Export Administration Regulations* pertaining to the obtaining of various export transaction forms, a new § 370.12 is being added to inform the exporter where he may procure certain required forms and direct him to a Forms Supplement for facsimiles of the more commonly used forms.

2. Effective date of action: June 1, 1975.

Accordingly, the *Export Administration Regulations* (15 CFR Part 370) are amended by adding a new § 370.12 to read as follows:

§ 370.12 Where to obtain Export Administration forms.

Exporters may obtain the forms required to conduct their business in accordance with the *Export Administration Regulations* from all U.S. Department of Commerce District Offices (see list on page 1 under District Office Addresses) and from the Office of Export Administration (Room 1617M), U.S. Department of Commerce, Washington, D.C. 20230. In addition, for the convenience of foreign consignees and other foreign parties to U.S. export transactions, certain forms commonly used abroad may be obtained at U.S. Foreign Service posts. When forms are cited in the Regulations that are not available from the above sources, instructions for ordering these will be included in a footnote. The initial time a form is cited within each Part, the name of the form, the current form number, and any previous form numbers will be given. Thereafter, only the latest form number will be used when referring to this form, although previous versions will be accepted unless otherwise indicated. A Forms Supplement containing samples of the most commonly used export control forms is included as an addendum to the *Export Administration Regulations*.

PART 371—GENERAL LICENSES

Disposition of commodities temporarily exported under General License GTE. Section 374.2(g) of the *Export Administration Regulations* provides that, when authorization is needed to reexport or otherwise dispose of U.S.-origin commodities located abroad, an exporter may utilize as his authorization a valid export license for shipment of the same commodity to the same new consignee named on the license. When an exporter already holds such a license, this avoids the delay of submitting a new reexport request. When a temporary export has been made under General License *GTE*, however, there is no provision for use of an outstanding license, and a request to reexport or sell must be submitted in each instance. To conform the *GTE* procedure to that already existing for reexports, § 371.22(e) is amended to allow a U.S. exporter to utilize for such transactions an unused outstanding validated export license authorizing direct shipment of the same commodity from the United States to the same new ultimate consignee.

As required for other export transactions involving a validated export license and in accordance with § 374.2(g), the exporter must record shipping information on the reverse side of the license document. When recording reexport or other disposition of a commodity originally exported under the provisions of General License *GTE*, the exporter must record (1) in the space titled "Name of Exporting Carrier", (a) the manner of disposition of the commodity (e.g. sale, reexport), (b) the notation "*GTE*", and (c) the *GTE* validation number under which the original export was authorized, and (2) in the space titled "Port of Export or Post Office of Mailing", the name and location of the firm from which final disposition of the commodity was effected.

3. Effective date of action: June 1, 1975.

Accordingly, § 371.22(e) of the *Export Administration Regulations* (15 CFR Part 371) is revised to read as follows:

§ 371.22 General license GTE; temporary exports.

* * * * *

(e) *Request for authorization to sell or otherwise dispose of commodities abroad.* (1) *Use of Form DIB–699P or IA–1145.* If the U.S. exporter wishes to sell or otherwise dispose of the commodities abroad or extend the retention of the commodities abroad, except as permitted by this general license, he shall request authorization therefor by submitting Form IA–1145; Request to Dispose of Commodities or Technical Data Previously Exported, or a letter, to the Office of Export Administration (Room 1617M). (See § 374.3) Such request shall comply with any special provisions of the Export Administration Regulations covering exports directly from the United States to the proposed destination, and shall be accompanied by any documents that would be required in support of any application for export license for shipment of the same commodities directly from the United States to the proposed destination. The Office of Export Administration will advise the U.S. exporter of its action.

(2) *Use of validated license.* An outstanding validated export license may also be utilized to dispose of commodities covered by General License GTE provided that the license authorizes direct shipment from the United States of the same commodity to the same new ultimate consignee. The exporter must record the transaction on the reverse side of the license document in the same manner that other export transactions are recorded and in accordance with § 374.2(g), except:

(i) In the space titled "Name of Exporting Carrier" indicate the manner of disposing of the Commodity (sale, reexport, or other means); the notation "GTE"; and the GTE validation number that authorized the original export; and

(ii) In the space titled "Port of Export or Post Office of Mailing", enter the name and location of the firm from which final disposition of the commodity was effected.

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

Extension of technical data licenses. Technical data licenses are generally issued for a validity period of 24 months. This revision clarifies the technical data regulations by stating that such licenses may now be extended for an additional period not to exceed 24 months. The regulations are also revised to change the usual validity period for authorizations to reexport technical data or to export the product thereof, from 12 months to 24 months.

Effective date of action: June 1, 1975.

Accordingly, the *Export Administration Regulations* (15 CFR Part 372) amended by revising § 372.12(c) to read as follows:

§ 372.12 Special provisions for an amendment to extend the validity of a license.

* * * * *

(c) *Length of Extension.* Usually, only one extension will be granted for a license carrying a one-year validity period, and the length of the extension will be limited to six months from the original expiration date shown on the license. (See § 379.5(f)(2) for extensions of technical data licenses.)

* * * * *

Revision of Part 374—"Reexports". In order to further clarify the *Export Administration Regulations* with regard to reexports, Part 374, titled "Reexports" has been completely rewritten. This revision includes no substantive changes in reexport policy or procedures.

5. Effective date of action: June 1, 1975. Accordingly, Part 374 of the *Export Administration Regulations*, (15 CFR Part 374) is revised to read as follows:

PART 374—REEXPORTS

Sec.

374.1 Prohibited exports and reexports.
374.2 Permissive reexports.
374.3 How to request reexport authorization.
374.4 Notice to consignee.
374.5 Validity period.
374.6 Amendment of reexport request.
374.7 Retention of documents.
374.8 Revocation of authorization to reexport.
374.9 Effect on foreign laws.

Supplement No. 1—Instructions for Preparing Form DIB–699P or IA–1145, Request To Dispose of Commodities or Technical Data Previously Exported.

AUTHORITY: Sec. 4, 83 Stat. 842; (50 U.S.C. App. 2403); E.O. 1533, 35 FR 8799, 3 CFR, 1970 Comp., p. 134; E.O. 11683, 37 FR 17813, 3A CFR, 1972 Comp., p. 202.

§ 374.1 Prohibited exports and reexports.

Unless the reexport of a commodity previously exported from the United States has been specifically authorized in writing by the Office of Export Administration prior to its reexport, or is authorized under the permissive reexport provisions of § 374.2, or is otherwise authorized under any other provision of the Export Administration Regulations, no person in a foreign country (including Canada) or in the United States may:

(a) Reexport such commodity directly or indirectly, in whole or in part, from the authorized country(ies) of ultimate destination; or

(b) Export such commodity from the United States with the knowledge that it is to be reexported, directly or indirectly, in whole or in part, from the authorized country(ies) of ultimate destination.

§ 374.2 Permissive reexports.[1]

The following reexports of U.S.-origin commodities[2] may be made without obtaining prior written authorization from the Office of Export Administration:

(a) Reexports of any commodity that at the time of reexport:

(1) May be exported directly from the United States to the new country of destination under General License *G-DEST* or *GTE*,

(2) Are valued at an amount that does not exceed the *GLV* value on the Commodity Control List for the new country of destination,[3] or

(3) Could be exported under General License *SHIP STORES* or *PLANE STORES* if the same vessel or aircraft were departing from a U.S. port, except that the equipment and spare parts described in §§ 371.9(a)(2) and 371.10(a)(2) may not be included in such reexport;

(b) Reexports to a destination to which direct shipment from the United States is authorized under an unused outstanding validated export license. Such reexports shall be reported on the reverse side of the license document, in the same manner exports are reported, regardless of whether the license is partially or wholly used for reexport purposes. The spaces marked "Name of Exporting Carrier" and "Port of Export or Post Office of Mailing," however, shall be used to indicate that the commodity was reexported and to enter the name and location of the firm from which the commodity was reexported;

(c) Reexports of any commodity from Canada that, at the time of reexport, may be exported directly from the United States to the new country of destination under *any* general license;

(d) Reexports between Switzerland and Liechtenstein;

(e) Reexports between ultimate consignees as provided by the terms of: the Project License procedure (see § 373.2(g)), the Distribution License procedure (see § 373.3(i)), or the Time Limit License procedure (see § 373.6(e));

(f) Reexports to customers of a distributor as provided by the terms of the Foreign-Based Warehouse Procedure (see § 373.4(e)(2)(iii)(a));

(g) Reexports (return) to the United States of any commodity;[4] and

(h) Reexports from a foreign destination to Canada of any commodity if the commodity could be exported to Canada from the United States without a validated license.[4]

[1] See § 374.9 for effect on foreign laws.

[2] For reexport of technical data, see § 379.8.

[3] The permissive reexport provisions set forth above relating to the reexport of commodities within the established *GLV* dollar-value limits do not apply to exports, reexports, or distributions made under the Distribution License, Foreign-Based Warehouse, or Aircraft and Vessel Repair Station Procedures. (See §§ 373.3, 373.4, and 373.8.)

[4] If the reexporting party requests written authorization because the government of the country from which the reexport will take place requires formal U.S. Government approval, such authorization will generally be given.

§ 374.3 How to request reexport authorization.

(a) *Requests for Reexport Authorization for commodities not yet exported.* (1) *At time of license application.* If a U.S. exporter knows that a commodity that requires a validated license to be exported from the United States to a certain foreign destination will be reexported to a third destination requiring reexport authorization, such an authorization request shall be included on the license application. The application shall specify the country to which the reexport will be made. If it is stated on an individual export license application that the commodity to be exported is intended for distribution or resale in a country(ies) other than the named country of ultimate destination, authorization for such reexport will be granted or withheld by an appropriate statement on the face of the validated license, as follows:

(i) "Distribution or resale of the commodities listed above is permitted in (name of country of ultimate destination) and (name of other approved countries)," or

(ii) "Distribution or resale of the commodities listed above is permitted in the country of ultimate destination only."

Other methods for obtaining reexport authorization are set forth in the special licensing procedures (see Part 373).

(2) *Amendment prior to export.* If a U.S. exporter learns that a commodity that is (i) included on a license application still pending with the Office of Export Administration, or (ii) listed on a validated export license but not yet exported from the United States, is to be reexported from the country of destination shown on the application or license, he shall request such reexport authorization by submitting a Request for and Notice of Amendment Action, Form DIB–685P or IA–763, in accordance with the procedure described in § 372.11(h). In the "Amend license to read as follows" space on Form DIB–685P the applicant should state: "Add permission to reexport to (name of countries)."

(3) *Shipment to specified destinations.* If the reexport is to be made to any of the countries listed in § 373.3(c)(1), the name and address of the consignee in that country shall be included on the export license application or the amendment request, and the supporting documentation required by § 374.3(c) shall be provided.

(b) *Requests for reexport authorization for commodities previously exported.* (1) *Formal request.* If a commodity previously exported from the United States to a foreign destination is to be reexported from such destination and such reexport is prohibited by the provisions of § 374.1, either the U.S. exporter or the foreign firm intending to effect the reexport shall submit a Request to Dispose of Commodities or Technical Data Previously Exported, Form DIB–699P or IA–1145, to the Office of Export Administration. (See Supplement No. 1 to this Part 374 for instructions on completing the form.) If the reexport request is approved, the second copy of Form DIB–699P will be validated and returned to the applicant. If disapproved, the applicant will be advised of the reasons therefor.

(2) *Letter request.* If Form DIB–699P is not readily available, a letter may be submitted, subject titled "Reexport Request," setting forth the name and address of the applicant; general or validated license under which shipment was previously made from the United States; name and address of new ultimate consignee; original ultimate consignee; whether reexport, sale, or other disposition is requested; description of commodities, quantity, and dollar value; and end use by new ultimate consignee. The applicant shall certify that the above statements are true to the best of his knowledge and belief, and that, if authorization is granted, he will be strictly accountable for its use in accordance with the *Export Administration Regulations* and all terms and conditions specified on the authorization. If the request is approved, the Office of Export Administration will prepare the second copy of a Form DIB–699P, validate it, and forward it to the applicant. If disapproved, the applicant will be advised of the reasons therefor.

(3) *Shipment to specified destinations.* If a reexport is to be made to any of the countries listed in § 374.3(c)(1), the documentation required by § 374.3(c) shall also be submitted with Form DIB–699P or with the letter request.

(c) *Documentation Requirements.* No supporting documentation need be submitted with a request for reexport authorization except as required for certain special commodities under the provisions of Part 376, or when one of the following conditions applies:

(1) *Reexports to specified destinations.* The consignee/purchaser statement or other documentation from the new ultimate consignee that would be required by Part 375 if the reexport were a direct export from the United States to the new destination shall be submitted with the request for reexport authorization if the new destination is:

(i) Any destination in Country Group Q, S, W, Y, or Z (see Supplement No. 1 to Part 370 for the countries included in each country group); or

(ii) The following destinations in Country Group V:

Laos
Liechtenstein
Singapore
South Africa, Republic of
South-West Africa (Namibia)
Sweden
Switzerland
Yugoslavia

If the required document is a Yugoslav End-Use Certificate or a Swiss Blue Import Certificate and the same document must be furnished to the export control authorities of the country from which reexport will be made, the Office of Export Administration will accept a reproduced copy of the document being furnished to the country of reexport. If the required documentation cannot be obtained, waiver may be requested in accordance with the applicable provisions of the Export Administration Regulations. (See § 375.3(c) for waiver of a

Swiss Blue Import Certificate, and § 375.-4(c) for waiver of a Yugoslav End-Use Certificate.)

(2) *Temporary reexports.* If the transaction involves a temporary reexport for the purpose of demonstration, testing, exhibition, etc. to a destination listed above, the request for reexport authorization shall include a certification similar to that in § 372.8(c), suitably modified to describe the transaction and indicating the country to which the commodity will be returned. A consignee/purchaser statement or other documentation is not required.

(d) *Reexports from Switzerland and Liechtenstein.* If export from the United States was made, or will be made, to Switzerland or Liechtenstein under a validated export license, a request to reexport this commodity from Switzerland or Liechtenstein shall include the number and date of the Swiss Blue Import Certificate submitted in support of the license application to export the commodity from the United States. Upon approval of this reexport request, the U.S. will notify the Swiss government.

§ 374.4 Notice to consignee.

Where the Office of Export Administration has authorized a type of reexport described in § 374.3(c) or (d), the U.S. exporter shall advise his foreign consignee of the amount of reexport authorized and the name of the person or firm to whom the reexport has been authorized. In those cases where the Office of Export Administration has disapproved a reexport authorization request, in whole or in part, the exporter may wish to advise his foreign consignee of this rejection in advance of the notification he is required to include in the destination control statement on the bill of lading and commercial invoice (see § 386.6).

§ 374.5 Validity period.

(a) *Limitation on Validity Period.* Authorizations to reexport to Country Group Q, W, Y, or Z are generally restricted to a limited validity period. Authorizations to reexport commodities to these destinations, whether authorized on a validated export license or separately, expire on the last day of the twelfth month following the month in which the reexport is authorized, unless otherwise specified. The U.S. exporter shall, in connection with each such authorization, furnish written notification to the ultimate consignee of this limitation on the validity period of the reexport authorization. Reexport authorization to other destinations do not generally have a restricted validity period. (See § 379.8 for validity period of authorization to reexport technical data.)

(b) *Request for Extension of Validity Period.* A request for an extension of the validity period of any reexport authorization to a destination in Country Group Q, W, Y, or Z shall be submitted on a Request for and Notice of Amendment Action, Form DIB–685P or IA–763, or by letter, in accordance with the following:

(1) *Extension by form DIB–685P.* If the request for an extension of validity period of a previously approved reexport authorization is submitted on Form DIB–685P, enter the notation "DIB–699P" and the validation number and date of the original request for reexport authorization in Item 3 of Form DIB–685P instead of the license number as requested. In addition, use the notation "Extension of validity period of Form DIB–699P" in Item 12 of Form DIB–685P.

(i) *Letter request for extension.* (i) If Form DIB–685P is not readily available, the applicant may submit a request for the extension of the validity period of a previously approved reexport authorization in a letter, subject titled "Request for Extension of Reexport Authorization Validity Period," containing: (i) the name and address of the applicant; (ii) the name and address of the new ultimate consignee; (iii) the case number, the validation number, and the date of the original reexport request; and (iv) the countries involved in the proposed reexport transaction.

(ii) The documentation normally required to support certain reexport requests under the provisions of § 374.3(c) need not be resubmitted with a request for the extension of the validity period of a reexport authorization, provided the original documents are still valid and remain in the possession of the Office of Export Administration.

(iii) Requests for the extension of the validity period of a reexport authorization shall be submitted sufficiently in advance of the expiration date of the authorization to permit the Office of Export Administration to use regular mail for notification of approval before the expiration date. If unusual circumstances make it impossible to request an extension before the normal expiration date, such request will be considered if received within one month after the expiration date. Only one extension will normally be granted, and the length of this extension will be limited to six months from the original date of expiration of the reexport authorization.

§ 374.6 Amendment of reexport requests.

Reexport authorizations may be amended as necessary (see § 372.11) either by submission of Form DIB–685P or by letter in the same manner as that described in § 374.5(b), as appropriate, noting the facts necessitating amendment in Item 12 of Form DIB–685P or in the amending letter request. However, a reexport authorization of any type may *not* be amended to change the country of ultimate destination or the ultimate consignee. Such transactions would require a *new* request for reexport authorization.

§ 374.7 Retention of documents.

The document authorizing reexport shall be kept and made available for inspection in accordance with the provisions of § 387.11.

(For further recordkeeping requirements, see § 387.11.)

§ 374.8 Revocation of authorization to reexport.

All export licenses and other authorizations to reexport are subject to revision, suspension, or revocation without notice.

§ 374.9 Effect on foreign laws.

Reexport or distribution authority granted by the Office of Export Administration does not relieve any person from complying with foreign laws.

INSTRUCTIONS FOR PREPARING A "REQUEST TO DISPOSE OF COMMODITIES OR TECHNICAL DATA PREVIOUSLY EXPORTED," FORM DIB–699P OR 1A–1145

(Submit first four copies; retain last copy)

Item 1. Enter date the request is submitted.

Item 2. Applicant's reference number may be used for his convenience.

Item 3. Enter the name and address of applicant. The U.S. Postal Zip Code or Foreign Postal Routing Code must be included as it is an integral part of the address.

Item 4. If the commodities or technical data were previously exported under a validated license, show the license number and case number; if previously exported under a general license, show the general license symbol (e.g., *G–DEST, GLV,* etc.).

Item 5. Enter the name and address of the new ultimate consignee who is actually to receive the commodities or technical data for the end use stated in *Item 9.* A bank, freight forwarder, forwarding agent, or other intermediary is not acceptable.

Item 6. Enter the name and address of the original ultimate consignee to whom the commodities or technical data were originally exported.

Item 7. If the commodities or technical data are to be exported from the country in which located, place a checkmark in the "Reexport" box. If the commodities or technical data are to be resold in the countries in which located, place a checkmark in the "Sell" box. If other disposition is to be made, place a checkmark in the "Other" box and specify type of transaction.

Item 8(a). Show the quantity of each commodity, using units specified in the unit column of the Commodity Control List (§ 399.1). If dots (. . .) are set forth in the unit column, show the unit of quantity commonly used in the trade; if technical data, leave blank.

Item 8(b). Describe the commodities in terms that correspond with the commodity descriptions in the Commodity Control List. For technical data, see § 379.8.

Item 8(c). Enter the Export Control Commodity Number and Processing Number of each commodity; if technical data, leave blank.

Item 8(d). Give the value of each commodity in U.S. dollars and show the total value; if technical data, leave blank.

Item 9. Enter a complete and detailed statement of the intended end use of the commodities or technical data by the new ultimate consignee. This is an important factor in determining approval of the reexport request. The statement should include, for example, whether a product will be produced or manufactured, what services will be rendered, and the country(ies) where this will take place.

Item 10. Enter additional information pertinent to the transaction or required by the *Export Administration Regulations,* such as the names of parties of interest not disclosed elsewhere, an explanation of documents attached (if any), etc. If this request repre-

sents a transaction previously considered by the Office of Export Administration and returned without action or rejected, give prior case number and indicate prior action by the Office of Export Administration.

Item 11. REQUEST MUST BE MANUALLY SIGNED by applicant, or by an officer or duly authorized agent of the applicant. If signed by an agent of the applicant, the title of agent and name of his firm must be shown. (Rubber-stamped and other facsimile signatures are not acceptable.)

Country Designation Change: South-West Africa (Namibia).

The U.S. Bureau of the Census announced a separate country designation "South-West Africa (Namibia)," Schedule C Code 792, for export reporting purposes involving *U.S. Foreign Trade Statistics*. Previously, this destination was included in the following: "Republic of South Africa including South-West Africa (Namibia)," Schedule C Code 791.

This new country designation must be indicated on all applications for licenses to export or reexport to this destination, and on all other related shipping documents. The special policies affecting shipments to the Republic of South Africa are equally applicable to South-West Africa (Namibia).

PART 379—TECHNICAL DATA

6. Effective date of action: June 1, 1975. Accordingly, the *Export Administration Regulations* (15 CFR Part 379) is amended by revising the footnote to § 379.3(c)(2); § 379.8(c)(1) and adding § 379.5(f) as follows:

§ 379.3 General license GTDA; technical data available to all destinations.

* * * * *

[1] The term "early publication country" used in this sentence and in this context only refers to Belgium, Costa Rica, Denmark, Ecuador, Finland, France, Honduras, Iceland, Jamaica, Japan, Luxembourg, Netherlands, Nicaragua, Norway, Panama, Portugal, Sweden, Trinidad, Turkey, Republic of South Africa, South-West Africa (Namibia), Uruguay, Venezuela, and West Germany (Federal Republic of Germany).

* * * * *

§ 379.5 Validated license applications.

* * * * *

(f) Validity period and extensions. (1) Validated licenses covering exports of technical data will generally be issued for a validity period of 24 months.

(2) Such licenses may be extended for a period not to exceed 24 months in accordance with the regular procedures for extension of a validated license as set forth in § 372.12.

* * * * *

§ 379.8 Reexports of technical data and exports of the product manufactured abroad by use of U.S. technical data.

* * * * *

(c) Specific Authorization to Reexport.

(1) Submission of request for reexport authorization. Requests for specific authorization to reexport technical data or to export any product thereof, as applicable, shall be submitted on Form DIB–699P or Form IA–1145. Request To Dispose of Commodities or Technical Data Previously Exported, to the Office of Export Administration (Room 1617M), U.S. Department of Commerce, Washington, D.C. 20230. (See Supplement S–26 for facsimile of form and Supplement No. 1 to Part 374 for instructions on completing the form.) If Form DIB–699P or IA–1145 is not readily available, a request for specific authorization to reexport technical data or to export any product thereof, as applicable, may be submitted by letter. The letter shall bear the words "Technical Data Reexport Request" immediately below the heading or letterhead and contain all the information required by § 379.5(d). Authorization to reexport technical data or to export the product thereof, if granted, will generally be issued with a validity period of 24 months on Form DIB–699P or IA–1145, or by means of a letter from the Office of Export Administration. Any request for extension of the validity period shall be requested in accordance with § 374.5(b), and shall specify the period, not to exceed 24 months, for which additional validity is required.

* * * * *

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

7. Effective date of action: June 1, 1975. Accordingly, the *Export Administration Regulations* (15 CFR Part 385) is amended by revising § 385.4(a) as follows:

§ 385.4 Country Group V.

(a) Republic of South Africa and South-West Africa (Namibia). In conformity with the United Nations Security Council Resolution of 1963, the United States has imposed an embargo on shipments to the Republic of South Africa of arms, munitions, military equipment, and materials for their manufacture and maintenance. Accordingly, the prior approval of the Department of Commerce is required for the export or reexport to the Republic of South Africa and South-West Africa (Namibia) of commodities under its licensing jurisdiction in the general area of arms, munitions, military equipment and materials, and materials and machinery for their manufacture and maintenance, *even though* some commodities of this nature may be exported or reexported to other destinations in Country Group V under general license. The general policy is to deny applications or requests to export or reexport such commodities when there is a likelihood of military end-use. Otherwise, the policy is the same as for other nations in Country Group V.

* * * * *

PART 386—EXPORT CLEARANCE

Obsoleting Form IT–915, Notice of Retained Samples. The provisions in the *Export Administration Regulations*, indicating the procedural actions followed by Customs Offices when a sample is taken from a shipment for technical appraisal or analysis, have been revised to discontinue use of, and to obsolete Form IT–915, "Notice of Retained Samples." This change is being made in the interest of overall economy since the limited frequency of activity in this area does not justify printing, distributing, and stocking the form. In the future, if a sample is taken, notification will be given to the exporter and the ultimate consignee in an explanatory letter.

8. Effective date of action: June 1, 1975. Accordingly, § 386.8(b)(1)(iii)(*b*) of the *Export Administration Regulations* (15 CFR Part 386) is amended by revising § 386.8(b)(1)(iii)(*b*) to read as follows:

§ 386.8 Authority of U.S. Government officials in clearing shipments for export.

* * * * *

(b) *Types of actions that may be taken by custom offices.* * * *

* * * * *

(1) Examination of commodities. * * *

* * * * *

(iii) *Technical identification* * * *

* * * * *

(b) Notification to exporter and consignee. When a sample is taken, the exporter (or his agent) and the ultimate consignee will be notified by letter showing the port of export, date of sampling, export license number (if any), Shipper's Export Declaration number, quantity of sample taken, description of commodity, marks and packing case numbers, and manufacturer's number for the commodity. The original of the letter will be sent to the exporter or his agent, the duplicate will be placed in the container that had been opened, and the triplicate will be retained by the inspecting office.

* * * * *

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

[FR Doc.75-14565 Filed 5-30-75;2:00 pm]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 15—REPORTS—GENERAL PROVISIONS

PART 18—REPORTS BY TRADERS

Extension of Large-Trader Reporting Requirements to Newly Regulated Commodities

The Commodity Futures Trading Commission (Commission) is amending its rules to extend the large-trader reporting requirements to cover transactions and positions in those commodities over which it gained jurisdiction in the amendments to the Commodity Exchange Act (Act) which are known as the Commodity Futures Trading Commission Act of 1974 (CFTCA). The large-trader reporting system is an important part of the Commission's regulatory program. It serves as a basic tool for market surveillance in the detection and prevention of market congestion, price manip-

ulation and distortion. The authority given the Commission by the CFTCA to seek injunctions to prevent violations of the Act and the Commission rules and to direct contract markets to take action in emergency situations makes an adequate system of market surveillance more important than ever. For these reasons, the Commission believes it is necessary that the reporting requirements be extended to the newly regulated commodities as soon as possible.[1]

Section 15.02 of the rules is being amended to specify reporting forms for the newly regulated commodities. These forms are similar to those in use for the previously regulated commodities, and are available at all of the Commission's offices.

Section 15.03 of the rules is being amended to specify reporting levels for the newly regulated commodities. After reviewing the outstanding positions in these commodities on the various contract markets, the Commission determined that, initially, the 25 contract reporting level which had been established for most of the presently reportable commodities should be extended to all the new commodities except silver bullion. The reporting level for silver bullion is being set at 50 contracts because of the substantial open interest in that commodity. Even though the contract size in some commodities differs on the various contract markets,[2] the Commission believes that setting the reporting levels on the basis of numbers of contracts rather than on quantity will make reporting simpler because most trading records are kept in terms of contracts rather than quantity, and will provide better market surveillance information because, in general, the markets with smaller contract units have fewer open contracts. In addition, this system will make it easier for traders to keep track of reportable positions in those commodities that are traded on more than one contract market in various contract sizes. After the Commission gains some experience with these reporting levels, it may consider amending the reporting levels for specific commodities. Also, in an effort to further simplify the reporting system, the Commission is amending the reporting level for grain sorghums from 11,200,000 pounds to 25 contracts.[3]

Section 18.03 of the rules is being amended to identify the specific Commission office to which reports in the newly regulated commodities must be mailed in those situations where the reporting trader is not located in a city in which the Commission maintains an office.

The Commission is preparing a comprehensive revision of Parts 15, 16, 17, 18, 19 and 20 of the rules to make them consistent with the Act as amended by the CFTCA and to reflect certain interpretations of the rules which have been issued since the rules were last revised. These amendments will be published as soon as the revision is completed. The Commission believes, however, that with the amendments adopted herein, the reporting rules will be workable until such time as the comprehensive revision is completed.

Statutory Authority. As noted above, the large-trader reporting system is a valuable tool in the detection and prevention of market congestion and price manipulation and therefore plays an essential part in the Commission's regulatory program to protect market users and the public in general. In view of the importance, noted above, that the reporting requirements be extended to the newly regulated commodities as soon as possible, the Commission finds that the notice and public procedure specified in 5 U.S.C. 553(b) would be contrary to the public interest. However, the Commission recognizes that reporting persons must have notice of the new reporting requirements well in advance of their effective date.

In consideration of the foregoing, the Commission hereby amends Parts 15 and 18 in Chapter I of Title 17 of the Code of Federal Regulations effective July 7, 1975 as follows:

1. Section 15.02 is revised to read as follows:

§ 15.02 Reporting forms.

Forms on which to report may be obtained from any office of the Commission. Reporting forms are identified by number as to the commodity and class of person reporting. The initial digit or digits of the form number identify the commodity or commodities, and the two final digits or series identify the class of person reporting. All reports shall be prepared in accordance with instructions supplied with the applicable form. Forms to be used for the filing of reports are as follows:

Commodity	Futures commission merchants and foreign brokers (series 01 forms)	Traders who hold or control reportable positions (series 03 forms)	Merchants, processors and dealers (series 04 forms)
Grains (including soybeans)	201	203	204
Cotton	301	303	304
Butter	401	403	None
Eggs	501	503	504
Potatoes	601	603	604
Wool	801	803	None
Edible oil	1001	1003	None
Meal	1101	1103	None
Cattle	1201	1203	None
Cattle products	1301	1303	None
Hogs	1401	1403	None
Hog products	1401	1403	None
Frozen concentrated orange juice	1601	1603	None
Poultry	1701	1703	None
Petroleum and petroleum products	1801	1803	None
Lumber and lumber products	1901	1903	None
Metals	2001	2003	None
Coffee and sugar	2101	2103	None
Cocoa and rubber	2201	2203	None
Foreign currency	2301	2303	None
Silver coins	2401	2403	None
Not otherwise specified	2501	2503	None

2. Section 15.03 is revised to read as follows:

§ 15.03 Quantities fixed for reporting.

The quantities fixed for the purpose of reports filed under Parts 17, 18, and 19 of these regulations are as follows:

Commodity	Quantity
Wheat	200,000 bushels
Corn	200,000 bushels
Oats	200,000 bushels
Rye	200,000 bushels
Barley	200,000 bushels
Flaxseed	200,000 bushels
Soybeans	200,000 bushels
Cotton	5,000 bales
Silver bullion	50 contract units
All other commodities	25 contract units

3. Section 18.03 is revised to read as follows:

§ 18.03 Time and place of filing reports.

Unless otherwise specifically instructed by the Commission, if the reporting trader is located in a city in which the Commission maintains an office, reports shall be filed with such office not later

[1] Prior to the enactment of the CFTCA, Pub. L. 93-463, the large-trader reporting system had been applied to all the commodities included in the definition of "commodity" in section 2(a) of the Act. Section 201 of the CFTCA amended the definition of "commodity" to include all the commodities previously listed in section 2(a) of the Act, "and all other goods and articles, except onions as provided in Pub. Law 85-839, and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in * * *." As a result of this amendment, the Commission is now responsible for regulating 32 commodities not previously regulated.

[2] For example, gold bullion is traded on 5 different markets at the present time in the following contract sizes: International Monetary Market and Commodity Exchange, Inc., 100 troy ounces; Chicago Board of Trade, 3 kilograms (96.45 troy ounces); New York Mercantile Exchange and MidAmerica Commodity Exchange, 1 kilogram (32.151 troy ounces).

[3] The current reporting level of 11,200,000 pounds converts to 28 contracts on the Chicago Mercantile Exchange where grain sorghums are actively traded. Stating the reporting level for grain sorghums in pounds is no longer appropriate because trading records are now kept in terms of contract units of 400,000 pounds each.

than 9 a.m., local time, of the business day following the day covered by the report. If the reporting trader is located elsewhere, reports shall be transmitted by mail, postmarked not later than midnight of the day covered by the report, as follows:

(a) Reports with respect to transactions in the following commodities shall be mailed to the Commission office in Chicago, Illinois:

Grains—including wheat, corn, oats, rye, barley, flaxseed, grain sorghums, and soybeans.

Edible oils—including soybean oil, coconut oil, and palm oil.

Meal—including soybean meal.

Cattle—including live cattle, western cattle and feeder cattle.

Hogs and hog products—including live hogs, frozen pork bellies and frozen skinned hams.

Poultry and poultry products—including iced broilers and turkeys.

Lumber and lumber products—including plywood and lumber.

Butter and eggs—including nest run eggs, shell eggs and frozen eggs.

Foreign currencies—including British pounds, Canadian dollars, Deutschemarks, Dutch guilders, Japanese yen, Mexican pesos, Swiss francs, French francs, and Belgian francs.

(b) Reports with respect to transactions in the following commodities shall be mailed to the Commission office in New York, New York:

Cattle products—including frozen boneless beef.

Cotton, wool and frozen concentrated orange juice.

Petroleum and petroleum products—including crude oil, propane, home heating oil, and industrial fuel oil.

Cocoa and rubber.

Coffee and sugar.

Metals—including silver, gold, copper, palladium, platinum and mercury.

Silver coins—including U.S. silver coins and Canadian silver coins.

Potatoes—including Maine Round White and Idaho Russet Burbank potatoes.

(7 U.S.C. 61, 12a(5))

Issued May 29, 1975.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.75-14593 Filed 6-3-75;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

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

Foreign Language Requirements

Effective on publication of this final order, the Commissioner of Food and Drugs is permitting certain small individual packages of food served with meals to be labeled with the name of the food in one or more foreign languages, if the rest of the labeling in English complies with all legal requirements.

The Commissioner issued a proposal, published in the FEDERAL REGISTER of December 26, 1974 (39 FR 44667), to amend § 1.9 by revising paragraph (c) (2) and (3) to permit the name of the food in a foreign language(s) to appear on the label of certain food packages without causing other words, statements and information required by or under the authority of the Federal Food, Drug, and Cosmetic Act to appear on the label in the foreign language(s). These food packages are individual serving-size packages containing no more than 1½ ounces of food served with meals in restaurants, institutions, and passenger carriers and not intended for sale at retail.

Two comments were received. Although both endorsed the proposal, one comment suggested that "there may be instances in which it would be desirable for the consumer to know the flavor of the food involved, and in which the flavor is not, strictly speaking, included in the term 'name of the food.'" This comment suggested that the proposal be amended to allow the name of the flavor to appear on the label in the foreign language(s) without causing other information required by the act to appear thereon in the foreign language(s).

The Commissioner advises that the names of flavors are modifiers necessary to identify many foods and § 1.12 (21 CFR 1.12) sets forth the requirements for the use of flavor designations as part of the name of a food. Therefore, flavor designations required in the name of the food in accordance with § 1.12 are also required to be included in any foreign language designation of the name. Since no specific instances were identified wherein the flavor is not, strictly speaking, included in the term "name of the food," the Commissioner concludes that adequate reason has not been stated to justify amending the regulation as suggested by this comment.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 403, 701(a), 52 Stat. 1040–1042 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 1 is amended by revising § 1.9(c) (2) and (3) to read as follows:

§ 1.9 Food; labeling; prominence of required statements.

* * * * *

(c) * * *

(2) If the label contains any representation in a foreign language, all words, statements, and other information required by or under authority of the act to appear on the label shall appear thereon in the foreign language: *Provided, however,* That individual serving-size packages of foods containing no more than 1½ avoirdupois ounces or no more than 1½ fluid ounces served with meals in restaurants, institutions, and passenger carriers and not intended for sale at retail are exempt from the requirements of this paragraph (c)(2), if the only representation in the foreign language(s) is the name of the food.

(3) If any article of labeling (other than a label) contains any representation in a foreign langauge, all words, statements, and other information required by or under authority of the act to appear on the label or labeling shall appear on such article of labeling.

Effective date. This regulation shall be effective on June 4, 1975.

Dated: May 28, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-14544 Filed 6-3-75;8:45 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

Plasticizers in Polymeric Substances

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP 3B2918), filed by Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for safe use of di(C_7, C_9-alkyl) adipate as a plasticizer in the manufacture of articles intended to contract food.

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

1. In § 121.2511(b) a new item is alphabetically added to the list of substances, as follows:

§ 121.2511 Plasticizers in polymeric substances.

* * * * *

(b) List of substances:

Substances	Limitations
* * *	* * *
Di(C_7, C_9-alkyl) adipate, in which the C_7, C_9 alkyl groups are derived from linear alpha olefins by the oxo process.	For use only under the conditions listed below, and excluding use as a component of resinous and polymeric coatings described in § 121.2514: 1. At levels not to exceed 24 percent by weight of permitted vinyl chloride homo- and/or copolymers used in contact with nonfatty foods. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch. 2. At levels not to exceed 24 percent by weight of permitted vinyl chloride homo- and/or copolymers used in contact, under conditions of use F and G described in table 2 of § 121.2526(c), with fatty foods having a fat and oil content not exceeding a total of 40 percent by weight. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch. 3. At levels not exceeding 36 percent by weight of permitted vinyl chloride homo- and/or copolymers used in contact with nonfatty foods. The average thickness of such polymer in the form in which they contact food shall not exceed 0.002 inch. 4. At levels not exceeding 35 percent by weight of permitted vinyl chloride homo- and/or copolymers used in contact, under conditions of use F and G described in table 2 of § 121.2526(c) with fatty foods having a fat and oil content not exceeding a total of 40 percent by weight. The average thickness of such polymers in the form in which they contact food shall not exceed 0.002 inch.
* * *	* * *

* * * * *

2. In § 121.2520(c)(5) a new item is alphabetically added to the list of substances under "COMPONENTS OF ADHESIVES" as follows:

§ 121.2520 **Adhesives.**

* * * * *

(c) * * *

(5) * * *

COMPONENTS OF ADHESIVES

Substances	*Limitations*
* * *	* * *
Di(C_n, C_n-alkyl) adipate	
* * *	* * *

3. In § 121.2526(b)(2) a new item is alphabetically added as follows:

(b) * * *

(2) * * *

§ 121.2526 **Components of paper and paperboard in contact with aqueous and fatty foods.**

* * * * *

(b) * * *

(2) * * *

List of substances	*Limitations*
* * *	* * *
Di(C_n,C_n-alkyl) adipate	Complying with § 121.2511.
* * *	* * *

4. In § 121.2550(b)(5) a new item is alphabetically inserted in table 1 as follows:

§ 121.2550 **Closures with sealing gaskets for food containers.**

* * * * *

(b) * * *

(5) * * *

TABLE 1

List of substances	*Limitations (expressed as percent by weight of closure-sealing gasket composition)*
* * *	* * *
Di(C_n,C_n-alkyl) adipate	Complying with § 121.2511; except that, there is no limitation on polymer thickness.
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time on or before July 7, 1975 file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on June 4, 1975.

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

Dated: May 28, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-14545 Filed 6-3-75;8:45 am]

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

RESINOUS AND POLYMERIC COATINGS

The Food and Drug Administration is amending § 121.2514 *Resinous and polymeric coatings* (21 CFR 121.2514) to permit use of trimellitic anhydride as a cross-linking agent for epoxy resins to be used as components of coatings intended to contact food.

Notice was given by publication in the FEDERAL REGISTER of November 7, 1974 (39 FR 39487) and November 25, 1974 (39 FR 41194) that Food additive petitions (FAP 3B2862 and FAP 4B2993) had been filed by the Sherwin Williams Co., 10909 Cottage Grove Ave., Chicago, IL 60628, and Dewey and Almy Chemical Division, W. R. Grace and Co., 62 Whittemore Ave., Cambridge, MA 02140, proposing that § 121.2514 be amended to provide for safe use of trimellitic anhydride as a cross-linking agent for epoxy resins to be used as components of coatings intended to contact food.

The Commissioner of Food and Drugs, having evaluated the data in the food additive petitions and other relevant material concludes that § 121.2514 should be amended as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2514 is amended in paragraph (b)(3)(viii)(*b*) by alphabetically inserting in the list of substances a new item to read as follows:

§ 121.2514 **Resinous and polymeric coatings.**

* * * * *

(b) * * *

(3) * * *

(viii) * * *

(*b*) * * *

Trimellitic anhydride for use only as a cross-linking agent at a level not to exceed 15 percent by weight of the resin intended for use only in contact with food under conditions of use D, E, F, and G described in table 2 of paragraph (d) of this section.	

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before July 7, 1975 file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD. 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective June 4, 1975.

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

Dated: May 28, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-14542 Filed 6-3-75;8:45 am]

SUBCHAPTER G—COSMETICS

PART 701—COSMETIC LABELING

Designation of Ingredients on Package Labels; Correction

In FR Doc. 75-5330 appearing at page 8918 in the FEDERAL REGISTER of Monday, March 3, 1975: In the center column on page 8919, the paragraph reading "Paragraph (g) also provides for permitting the declaration of ingredients other than color additives * * *" should be deleted in its entirety.

Dated: May 28, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-14543 Filed 6-3-75;8:45 am]

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Placement of Chlordiazepoxide, Diazepam, Oxazepam, Clorazepate, Flurazepam and Clonazepam in Schedule IV

On January 22, 1975, the Administrator of the Drug Enforcement Administration issued a notice of proposed rulemaking to amend § 1308.14 of Title 21 of the Code of Federal Regulations (CFR) to include chloridazepoxide, diazepam, oxazepam, clorazepate, flurazepam and clonazepam in Schedule IV of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801-966). This notice was published in the FEDERAL REGISTER on January 27, 1975 (40 FR 4016-4017), and provided an opportunity for all interested persons to submit comments, objections and requests for a hearing on the matter no later than March 28, 1975.

The notice further provided that if objections submitted present reasonable grounds for the proposed rule not to be finalized, and if a hearing is requested, such would be held as soon as the matter could be heard before the Drug Enforcement Administration. The notice also stated that if all interested parties waive their opportunity to request or participate in a hearing, the Administrator may, without a hearing, issue his final order pursuant to 21 CFR 1308.48 after giving consideration to written comments submitted.

Numerous comments were received by the Hearing Clerk, Office of the Administrative Law Judge, Drug Enforcement Administration; however, none of them contained a request for a hearing in this matter, and no such requests have been submitted in any other fashion. Therefore, the Administrator of the Drug Enforcement Administration has determined that all interested persons are deemed to have waived their opportunity for a hearing in the matter, and a final order with respect to controlling the above substances shall be issued without a hearing, but shall be based upon a full consideration of all comments received in response to the January 27, 1975 notice of proposed rulemaking.

Among the comments received was a letter, dated March 26, 1975, from Dr. William E. Langeland, submitted in behalf of Wyeth Laboratories Inc., manufacturer of Serax (oxazepam). In the letter, Wyeth presented significant comments and objections to the notice of January 27, 1975, regarding oxazepam. These comments and objections are distinguished by their formality and substantiality from other comments received, and merit an open response by the Drug Enforcement Administration. The comments and objections raised by Wyeth may be summarized as follows:

1. The present evidence which indicates that the potential for abuse of oxazepam is equivalent to that of chlordiazepoxide (Librium) and diazepam (Valium), is not identified in either the November 25, 1974 letter from Dr. Charles C. Edwards, then Assistant Secretary for Health, Department of Health, Education, and Welfare (HEW), nor its enclosure, entitled Scheduling Recommendations for Benzodiazepines (hereinafter Recommendations).

2. As evidence of his contention that HEW does not identify "present evidence," Wyeth states that it can not reconcile the affirmative conclusions of HEW in the areas of tolerance, psychic and physical dependence of oxazepam, with the less-than-affirmative conclusions of Drs. Isbell and Chrusciel to which HEW refers in the tabulated chart contained in Recommendations.

3. Recommendations concludes that oxazepam has a potential for abuse equivalent to chlordiazepoxide and diazepam, and has a dependence liability which does not appear to differ from that of other benzodiazepines. Recommendations' conclusions are supported by an attached chart entitled Benzodiazepines, which displays "yes" in the categories of physical dependence, psychological dependence (human), and tolerance relative to chlordiazepoxide, diazepam and oxazepam. This same chart cites as a reference Isbell, H. and Chrusciel, T. L.: Dependence Liability of "Non-Narcotic" Drugs, page 46, 1970, yet this reference does not yield the same conclusions in the above categories as does Recommendations.

4. The chart by HEW further displays "yes" in the categories of anti-metrazole, rotarod, anti-fighting and anti-maximal electro shock animal studies, for all the benzodiazepines, including oxazepam. It cites as a reference for these conclusions, The Benzodiazepines, eds. Garattini, Mussini, and Randall, page 32, 1973. However, it does not appear from page 32 of this source that oxazepam was studied for such characteristics.

5. Paragraphs (1), (4), (5) of the HEW document, Recommendations, state that actual abuse of oxazepam is low, and is less than that of chlordiazepoxide and diazepam. Recommendations cites thirty-three overdose reports within the past ten years. This exemplifies that, at most, there has been only isolated and non-therapeutic abuse of oxazepam.

6. HEW concludes in its November 25, 1974 letter and in Recommendations that the dependence syndrome for oxazepam does not appear to differ from that of other benzodiazepines, yet HEW has not documented, in its letter nor in Recommendations, the basis for its conclusion, except to report seven cases of physical dependence and one possible case of psychological dependence.

7. For its conclusion on psychological dependence, HEW relies upon the results of self-administration tests in monkeys using oxazepam. This methodology is not scientifically conclusive, since the subject animals may have been self-administering oxazepam for other than drug effects.

8. Contrary to Recommendations paragraph (2), page 6, wherein HEW states that chloridazepoxide, diazepam and clorazepate can all be metabolized in vivo to oxazepam, recent studies indicate oxazepam is not an active metabolite of those benzodiazepines. Greenblatt, et al., Pharmacokinetics in Clinical Medicine: Oxazepam versus Other Benzodiazepines (1975). This study further states that oxazepam has a relatively short half-life, and suggests little accumulation during chronic dosage, unlike the above-referenced benzodiazepines.

9. HEW apparently means, in its statement in Recommendations, paragraph (6), page 7, regarding oxazepam's risk to public health, that if there was abuse of oxazepam it would be like the abuse of chlordiazepoxide and diazepam. Since it is not, there is no present risk to the public health with oxazepam.

10. DEA has seen fit to propose oxazepam for control in Schedule IV only because of the compulsion to control chloridiazepoxide and diazepam.

11. As a legal matter, the statutory procedure required by section 201(b) of the Controlled Substances Act to be followed in drug control proceedings such as the present one, has not been complied with since DEA did not gather relevant data on oxazepam and did not formally request from the Secretary of HEW a scientific and medical evaluation and recommendation regarding oxazepam.

12. Fair and orderly decision-making steps were not followed in the case of oxazepam. These steps customarily include furnishing affected parties copies of DEA's initial date and formal request for an HEW evaluation and recommendation, so that all concerned could respond to preliminary positions taken by DEA regarding possible control.

13. The proposal to include oxazepam in Schedule IV is based upon a "class

action" approach taken by the Food and Drug Administration of HEW, without specific origins of authority for such approach in the Act, its legislative history, or regulations of DEA.

14. Present evidence of abuse of oxazepam is lacking, and therefore control of Serax at this time is unwarranted. DEA has the burden of proof in this regard, which it has failed to demonstrate in the notice of proposed rulemaking.

RESPONSE OF THE DRUG ENFORCEMENT ADMINISTRATION

DEA has fully considered the comments and objections submitted by Wyeth, as summarized above, and has undertaken a review of all sources of data and information which served as the basis for the notice of proposed rulemaking regarding oxazepam. As a result, the Administrator of DEA has made the following determinations, responsive to the Wyeth comments and objections summarized above.

"Present evidence" that the potential for abuse of oxazepam is equivalent to that of chlordiazepoxide and diazepam, which Wyeth asserts HEW failed to identify in its November 25, 1974 transmittal to DEA, actually consists of data contained in the New Drug Application for oxazepam (Serax), chlordiazepoxide (Librium) and diazepam (Valium), scientific and medical literature collected and reviewed by members of the FDA staff, material submitted by DEA to HEW on August 14, 1973, and to FDA on June 28, 1974, material submitted to FDA 1974 Controlled Substances Advisory Committee for their consideration by Wyeth Laboratories, Inc., Abbott Laboratories, and Hoffman-La Roche Inc., and discussions and data presented at meetings of the FDA 1974 Controlled Substances Advisory Committee on April 25–26, 1974, and on June 24–25, 1974.

Of this data, the scientific and medical literature reviewed by FDA Staff included numerous scientific articles [1-10] in addition to, and more current than, Isbell, H. and Chrusciel, T. L.: Dependence Liability of "Non-Narcotic" Drugs, p. 49, 1970. These articles served the additional purpose of providing the basis for HEW's affirmative conclusions in the areas of tolerance, psychic, and physical dependence which the Isbell-Chrusciel article addressed. Where the Isbell-Chrusciel article, published in 1970, tentatively and preliminarily concluded upon these characteristics of oxazepam, the above recent scientific literature has permitted HEW to affirmatively conclude that oxazepam has tolerance, psychic and physical dependence characteristics equivalent to that of other benzodiazepines.

In fact, Drs. Isbell and Chrusciel, in their 1970 article, recognized and anticipated that, in time, it may be established that oxazepam possesses tolerance, and psychic and physical dependence, equivalent to that of chlordiazepoxide and diazepam.

The chart in Recommendations provides further concern to Wyeth, which suggests that HEW does not identify the basis for its conclusions that oxazepam possesses anti-metrazole, rotarod, antifighting and anti-maximal electro shock properties, similar to chlordiazepoxide and diazepam. Wyeth suggests that the only reference for these conclusions, The Benzodiazepines, page 32, does not reveal any information regarding these properties of oxazepam. Regretably, the reference to page 32 of The Benzodiazepines is a typographical error, and should appear as p. 42. Actually, the pages dealing with these properties of oxazepam are pages 41–43. Moreover, Wyeth's own labeling for Serax states that "In mice, Serax asserts an anticonvulsant (anti-Metrazol) activity at fifty percent effective doses of about 0.6 mg. per kg. orally." [11]

Wyeth alleges that HEW has not provided the Administrator of DEA with data on actual abuse of oxazepam sufficient to warrant control, citing the thirty-three overdose reports and the seven cases of physical dependence referred to by HEW in page 6 of Recommendations as evidence of the paucity of actual abuse statistics, and as proof that there exists only isolated and occasional nontherapeutic abuse of oxazepam.

However, actual abuse, to the extent it exists, merely represents the fruition of a drugs' potential for abuse. Indeed, demonstrating either is sufficient to satisfy the control requirements of section 201(c)(1) of the Act that the Attorney General consider "(oxazepam's) actual or relative potential for abuse." The data referred to earlier demonstrates oxazepam's potential for abuse. The above thirty-three overdose reports and seven cases of dependence are some, but not all, of the evidence that oxazepam has also been the subject to actual abuse. In determining their significance, it must be noted that these reports are of the type which are required to be submitted by manufacturers of a drug for which an approved NDA has been issued. These reports are therefore based upon knowledge, coming to the manufacturer, from time to time, of adverse effects of their drugs, and are routinely submitted on an annual basis in fulfillment of a condition required under their NDA. The gathering and submission of this information by the drug manufacturer is not for the purpose of evaluating the drug for placement into a Schedule under the Act, although it may subsequently be evaluated for that purpose by HEW and DEA. These reports, generally required to be submitted annually for NDA purposes, were requested from Wyeth by the FDA earlier than when due, so that they could be submitted along with other relevant material to the FDA 1974 Controlled Substances Advisory Committee to assist it in determining the appropriate Schedule for oxazepam.

It must be emphasized that full consideration of actual abuse is the province of the Attorney General, pursuant to section 201(c) of the Act, rather than the Secretary of HEW. In pursuit of this, the Administrator of DEA, as the Attorney General's delegatee, and not the Secretary of HEW, has developed the practical capability of identifying actual abuse. Recognizing this, FDA requested the above adverse reaction and dependent reports from Wyeth, in its own attempt to determine initially whether there is further evidence of actual abuse of oxazepam. It is fair to assume that where the primary object of a reporting system is to determine abuse instances for drug control purposes, rather than to determine adverse reactions for NDA purposes, larger and more meaningful actual abuse statistics could be expected. Even then, case and survey reports would not provide a true indication of actual abuse, overdose of dependence, as has been demonstrated in a study regarding amphetamine by Kalant.[12] Evidence of this is in DEA's attempt to determine actual abuse of oxazepam for the period from July 1972 to December 1974. The published literature revealed seven cases. Unpublished reports, acquired by DEA through its own reporting network, have totalled 953 for the same period. Moreover, DEA laboratories have analyzed, from July 1970 through November 1974, 48 exhibits of oxazepam associated with 45 different law enforcement actions. A

[1] Margules, P. L. and Stein, L., "Increase of 'anti-anxiety' activity and tolerance of behavioral depression during chronic administration of oxazepam," Psychopharm. 13: 74–80 (1968).

[2] Gluckman, M. I. and Baxter, B. L., "Comparative effects of single and repeated dose administration of minor tranquilizers," Psychopharm Bull. 7: 26–27 (1971).

[3] Dzhagatspanyan, I. A., et al [Characteristic features of tolerance development to the benzodiazepine series of tranquilizers in terms of the muscle-relaxant and sedative effect] Farmakol. i toksik. 35: 421–425 (1972).

[4] Mader, R. and Schubert, H., [A case of oxazepam dependence] Wien. Med. Wschr. 122: 194–196 (1972).

[5] Wyeth Laboratories, Adverse reaction report #95.

[6] Hanna, S. M., "A case of oxazepam (Serenid D) dependence," Brit. J. Psychiat. 120: 443–445 (1972).

[7] Maslowski, J., [A case of early oxazepam addiction treated in the outpatient clinic], Psychiat. Pol. 6: 223–224 (1972).

[8] Swanson, D. W., Weddige, R. L., and Morse, R. M., "Abuse of Prescription Drugs," Mayo Clinic Proc. 48: 359–367 (1973).

[9] Quitkin, F. M. et al, "Phobic anxiety syndrome complicated by drug dependence and addiction." Arch. Gen. Psychiat. 27: 159–162 (1972).

[10] Selig, J. W., "A possible oxazepam abstinence syndrome," *J.A.M.A.* 198: 951–952 (1966).

[11] Physicians' Desk Reference, 29th ed., p. 1637 (1975).

[12] Kalant, Oriana J., The Amphetamines: Toxicity and Addiction, 2nd ed. (1972).

survey taken by DEA in August 1974, has revealed that samples of oxazepam were submitted to State and local police laboratories at least 101 times. In seven Federal cases, oxapezam was seized with such drugs as amphetamine, barbiturates, cocaine, heroin, LSD, marihuana, MDA and phencyclidine. Serax has been offered for sale, in large quantities, to an undercover Federal narcotics agent. New York, Ohio and Virginia have reported that Serax has achieved "street status" and sold illicitly for as much as two dollars per capsule.

Therefore, the statement by HEW in Recommendations that actual abuse of oxazepam has been reported, is substantiated.

Wyeth comments that HEW cites no evidence of a dependence syndrome with oxazepam, except for seven cases, and therefore, has no proof that oxazepam is equivalent to other benzodiazepines in producing dependence.

However, the labeling for Serax, Wyeth's brand of oxazepam states that withdrawal symptoms following abrupt discontinuance of excessive doses of Serax are similar to those seen with the barbiturates.[13] In 1966, it was reported [14] that chlordiazepoxide and diazepam produced withdrawal symptoms similar to those seen with the barbiturates. It can be concluded therefore, that oxazepam produces a withdrawal syndrome similar to that produced by other benzodiazepines. The American Medical Association has reached a similar conclusion.[15]

For its conclusion on psychological dependence, HEW relied in part upon the results of self-administration tests in monkeys but the bulk of the evidence was obtained from human case reports.[16-20] Although the animal methodology is not by itself conclusive, data obtained therefrom is certainly relevant to and supportive of the HEW conclusion.[21]

In the self-administration study referred to above, the animals did not self-administer saline when available. This clearly shows that the animals in the study self-administered the drugs for their effect, contrary to Wyeth's comment that ". . . the animal subject may be administering for reasons other than drug effect . . .",[22] and demonstrates the behavior reinforcing properties of oxazepam, as well as chlordiazepoxide, diazepam, clorazepate and flurazepam. This method has been accepted by the WHO Expert Committee on Drug Dependence [23] and is support for HEW's reliance on this manner of demonstrating psychic dependence of oxazepam.

Wyeth's comment that oxazepam is not an active metabolite of chlordiazepoxide, diazempam, clorazepate, is ill-founded, for the reference which they cite as authority for that comment [24] actually deals with the kinetics of drug distribution, not metabolism.

In fact, Wyeth has stated in contradiction to its own comments, that ". . . part of the activity of diazepam (Valium) may be due to its major metabolite oxazepam . . ." [25] Recent scientific literature and other scientific materials not only support this statement by Wyeth regarding diazepam,[26] but further indicate that chlordiazepoxide is metabolized to demoxepam [27] and then to oxazepam,[28] and that clorazepate is metabolized to oxazepam as well.[29] Therefore, Wyeth's comments regarding metabolism to oxazepam do not appear to be sufficient or persuasive in distinguishing oxazepam from other benzodiazepines in this regard.

Regarding Wyeth's comment that there is no present risk to the public health with oxazepam, the above clearly demonstrates that it has a potential for abuse, equivalent to that of other benzodiazepines, and that abuse may lead to physical or psychic dependence. Surely a drug possessing these characteristics poses some danger to the public health which could be diminished by imposing appropriate controls provided by the Act. The imposition of controls would be inappropriate only where a drug creates no danger to the public health.[30]

The decision to proposed Federal regulatory control of oxazepam in Schedule IV has been based upon the six categories of material set forth in the January 27, 1975 notice of proposed rulemaking, including the above-referenced information, and not from any "compulsion" to control Librium and Valium, as Wyeth suggests. This proposal was based upon the facts which identified oxazepam, individually as having met the requirements of sections 201 (b), (c), and 202 (b)(4) of the Act, so as to allow its inclusion in Schedule IV. Because oxazepam shares, with other benzodiazepines, characteristics which justify inclusion in Schedule IV, there is no reason not to issue a proposal to include them all in Schedule IV. This may constitute a "class action" for control, as Wyeth describes it, yet oxazepam, as with each member of the "class," has been individually evaluated and, as the above data clearly demonstrates, its individual characteristics rather than anything else warrants its inclusion in Schedule IV.

Wyeth comments that the HEW transmittal of November 25, 1974 concerning oxazepam was premature, and without legal authority, because it was not preceded by a DEA request that HEW recommend oxazepam for control, nor by DEA gathering necessary data relative to such a request. Wyeth specifically states that DEA did not provide the FDA 1974 Controlled Substances Advisory Committee with such data on oxazepam.

It is true, as Wyeth states, that before initiating proceedings to control a drug, which can be initiated only by the Attorney General (i.e., the Administrator of the Drug Enforcement Administration), DEA must gather the necessary data, and request HEW's evaluation and recommendation. Proceedings to control oxazepam were initiated on January 27, 1975 when the notice of proposed rulemaking was published in the FEDERAL REGISTER. 21 CFR 1308.02(e); 40 FR 4016–4017. Previous to this, by a letter dated June 28, 1974, and pursuant to a request from the FDA Drug Abuse Staff, DEA transmitted law enforcement data, drug abuse statistics and other material relative to oxazepam. FDA had already advised DEA that it was evaluating oxazepam for control, and in fact had convened its Controlled Substances Advisory Committee, which was considering making this recommendation. It was understood by DEA that this material was to be forwarded to this Committee to assist it in deciding whether to recommend to FDA that oxazepam be controlled under the Act.

Knowing that a control decision on oxazepam was the object of FDA's request for DEA drug abuse data, and, moreover, knowing that FDA and its Advisory Committee were soon to arrive at a control decision on oxazepam, DEA saw no useful purpose to be served by submitting, with this data, a formal request to the Secretary asking him to commence studying oxazepam with a view towards recommending schedule controls.

Under such circumstances, and especially in view of the fact that DEA gathered and transmitted necessary data on oxazepam before initiating the present proceedings, it would be exalting form over substance to render the proceedings to control oxazepam moot under the guise of statutory non-compliance.

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[13] PDR, op. cit., p. 1638.

[14] Essig, C. F., "Newer sedative drugs that can cause states of intoxication and dependence of barbiturate type," J.A.M.A. 196: 714–717 (1966).

[15] A.M.A. Drug Evaluations, 2nd ed. (1974) p. 318.

[16] Mader and Schubert, op. cit.

[17] Wyeth, op. cit.

[18] Hanna, op. cit.

[19] Maslowski, op. cit.

[20] Swanson, et al., op. cit.

[21] WHO Expert Committee on Drug Dependence, 16th Report (1969) p. 9.

[22] Letter from William E. Langeland, Ph.D., in behalf of Wyeth Laboratories, Inc., dated March 26, 1975, comprising Comments and Objections to Notice of Proposed Rulemaking published in the Federal Register on January 27, 1975. (40 F.R. 4016–4017).

[23] WHO, op. cit. p. 9.

[24] Greenblatt, et al, "Pharmacokinetics in Clinical Medicine: Oxazepam versus Other Benzodiazepines" (1975).

[25] Gluckman, M. I., "Pharmacology of oxazepam (Serax), a new anxiety agent," Current Therapeutic Research, 7: 721–740 (1965).

[26] Schwartz, M. A. et al, "Metabolism of diazepam in rat, dog, and man." J. Pharm. Exp. Therap. 149: 423–425 (1965).

[27] Koechlin, B. A. et al., "The Metabolic fate of C^{14}-labeled chlordiazepoxide in man, in the dog, and in the rat." J. Pharm. Exp. Therap. 148: 399–411 (1965).

[28] Schwartz, M. A. and Postma, E., "Metabolites of demoxepam a chlordiazepoxide metabolite, in man." J. Pharm. Sci. 61: 123–125 (1972).

[29] Material submitted by Abbott Laboratories to the FDA Controlled Substances Advisory Committee, July 14, 1974.

[30] H. Rep. No. 91–1444, 3 U.S. Code Congr. Admin. News 4603 (1970).

Requiring DEA's formal request would be, in this case, imposing a ritualistic observance of Section 201(b) of the Act, where the fundamental purpose of that Section, that of determining the existence of grounds for controlling a substance, has already been served. H. Rep. No. 91–1444, 3 U.S. Code Congr. Admin. News 4600, 1970.

Rather than requiring blind adherence to the terms of a statute where the observance of such terms has been rendered moot, much more can be accomplished for the sake of efficiency between regulatory agencies where they perform their statutory obligations within a framework of close working relationships, such as has occurred here with oxazepam, and previously, with evaluations and recommendations for the control of benzphetamine,[31] chlorophentermine,[32] clortermine,[33] diethylpropion,[34] mazindol,[35] prendimetrazine,[36] phentermine,[37] fenfluramine,[38] mebutamate,[39] and pemoline.[40]

Wyeth correctly points out that the Drug Enforcement Administration is the proponent for the issuance of the rule set out in the January 27, 1975 Notice, and as such bears the burden of proof at a hearing. 21 CFR 1308.46. Since no hearing has been requested by Wyeth or anyone else, there will be no opportunity for DEA to execute its burden of proof in an advocacy manner. In lieu of this, the above account has been provided in demonstrating the evidence which substantiates the evaluation and recommendation transmitted by the Secretary of the Department of Health, Education, and Welfare on November 25, 1974, and the rulemaking proposed by the Administrator of the Drug Enforcement Administration, that oxazepam be included in Schedule IV of the Controlled Substances Act.

Therefore, in view of the foregoing, and after consideration of all other comments received regarding the January 27, 1975 notice of proposed rulemaking, the Administrator of the Drug Enforcement Administration finds that:

1. Based on information now available, chlordiazepoxide, diazepam, oxazepam, clorazepate, flurazepam and clonazepam have a low potential for abuse relative to the drugs or other substances currently listed in Schedule III.

2. Chlordiazepoxide, diazepam, oxazepam, clorazepate, and flurazepam have a currently accepted medical use in treatment in the United States.

3. Clonazepam will, upon the approval of a New Drug Application by the FDA, have a currently accepted medical use in treatment in the United States.

4. Abuse of chlordiazepoxide, diazepam, oxazepam, clorazepate, flurazepam, and clonazepam may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

Therefore, under the authority vested in the Attorney General by section 201 (a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(a)), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator orders that, upon approval of the New Drug Application for clonazepam by FDA, Section 1308.14 of Title 21 of the Code of Federal Regulations (CFR) be amended to read:

§ 1308.14 Schedule IV.

* * * * *

(b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1)	Barbital	2145
(2)	Chloral betaine	2460
(3)	Chloral hydrate	2465
(4)	Chlordiazepoxide	2744
(5)	Clonazepam	2737
(6)	Clorazepate	2768
(7)	Diazepam	2765
(8)	Ethchlorvynol	2540
(9)	Ethinamate	2545
(10)	Flurazepam	2767
(11)	Mebutamate	2800
(12)	Meprobamate	2820
(13)	Methohexital	2264
(14)	Methylphenobarbital	2250
(15)	Oxazepam	2835
(16)	Paraldehyde	2585
(17)	Petrichloral	2591
(18)	Phenobarbital	2285

* * * * *

The issuing of a letter approving the New Drug Application of clonazepam, by FDA, has occured simultaneously with the issuing of this order, which is effective as follows:

EFFECTIVE DATES

1. *Registration.* Any person who manufactures, distributes, dispenses imports or exports, chlordiazepoxide, diazepam, oxazepam, clorazepate, flurazepam or clonazepam, or who proposes to engage in such activities, shall submit an application for registration to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations on or before July 2, 1975.

2. *Security.* Chlordiazepoxide, diazepam, oxazepam, chlorazepate, flurazepam and clonazepam must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72(b), 1301.73, 1301.74(a)–(f), 1301.75(b)–(c), and 1301.76 of Title 21 of the Code of Federal Regulations on or before August 1, 1975. In the event that this imposes special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time.

3. *Labeling and Packaging.* All labels on commercial containers of, and all labeling of Chlordiazepoxide, diazepam, oxazepam, clorazepate, flurazepam and clonazepam, packaged after December 1, 1975, shall comply with the requirements of §§ 1302.03–1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations. In the event this effective date imposes special hardships on any manufacturer, as defined in section 102(14) of the Controlled Substances Act (21 U.S.C. 802 (14)), the Drug Enforcement Administration will entertain any justified requests for an extension of time.

4. *Inventory.* Every registrant required to keep records who possesses any quantity of chlordiazepoxide, diazepam, oxazepam, clorazepate, flurazepam and clonazepam shall take an inventory pursuant to §§ 1304.11–1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of such substances on hand, on July 2, 1975.

5. *Records.* All registrants required to keep records pursuant to §§ 1304.21–1304.27 of Title 21 of the Code of Federal Regulations shall maintain such records on chlordiazepoxide, diazepam, oxazepam, cholazepate, flurazepam and clonazepam commencing on the date on which the inventory of such substances is taken.

6. *Prescriptions.* All prescriptions for products contining chlordiazepoxide, diazepam, oxazepam, clorazepate, flurazepam and clonazepam shall comply with §§ 1306.01–1306.06 and §§ 1306.21–1306.25 of Title 21 of the Code of Federal Regulations, beginning July 2, 1975. All prescriptions for products containing such substances issued before June 30, 1975 shall, if authorized for refilling, be limited to five refills, and shall not be refilled after December 30, 1975.

7. *Importation and exportation.* All importation and exportation of chlordiazepoxide, diazepam, oxazepam, clorazepate, flurazepam and clonazepam shall, on and after July 2, 1975, be required to be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

8. *Criminal liability.* Pursuant to Title 21 of the Code of Federal Regulations, Section 1308.49, the Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to chlordiazepoxide, diazepam, oxazepam, clorazepate, flurazepam and clonazepam not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act, conducted after July 2, 1975, shall be unlawful, expect that any person who is not now registered to handle these substances but who is entitled to registration under such Acts may continue to conduct normal business or professional practice with chlordiazepoxide, diazepam, oxazepam, clorazepate, flurazepam and clonazepam between the date on which this order is published and the date on which he obtains or is denied registration.

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[31] 38 FR 12119, May 9, 1973.
[32] 38 FR 12120–21, May 9, 1973.
[33] 38 FR 12121–23, May 9, 1973.
[34] 38 FR 12230–31, May 10, 1973.
[35] 38 FR 12124–26, May 9, 1973.
[36] 38 FR 12126–27, May 9, 1973.
[37] 38 FR 12127, May 9, 1973.
[38] 38 FR 12123–24, May 9, 1973.
[39] 39 FR 43408, December 13, 1974.
[40] 39 FR 39451, November 7, 1974.

9. *Other.* In all other respects, this order is effective on July 2, 1975.

Dated: May 29, 1975.

JOHN R. BARTELS, Jr.,
Administrator,
Drug Enforcement Administration.

[FR Doc.75-14632 Filed 6-2-75;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7358]

PART 11—TEMPORARY INCOME TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Notification of Interested Parties Regarding Qualification of Certain Retirement Plans

This document contains temporary income tax regulations under the Employee Retirement Income Security Act of 1974 (26 CFR Part 11) relating to the definition of "interested parties" and the requirement that they be given notice of the filing of a request for an advance determination as to the qualified status of a retirement plan.

Under section 3001(a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 995), before the Internal Revenue Service may issue an advance determination whether a pension, profit-sharing or stock bonus plan, a trust which is a part of such a plan, an annuity plan, or bond purchase plan described in sections 401(a), 403(a), or 405(a) of the Code is exempt from taxation, the applicant must provide the Internal Revenue Service with satisfactory evidence that such applicant has notified each employee qualifying as an interested party under the regulations prescribed under section 7476(b)(1) of the Code of the application for such determination.

Under section 7476(b)(2) of the Code, if the petitioner for a declaratory judgment concerning the qualified status of certain retirement plans was the applicant for an advance determination by the Internal Revenue Service of such status, the Tax Court may hold the filing of a pleading for such declaratory judgment to be premature unless the petitioner establishes to the satisfaction of the Tax Court that such petitioner has notified all interested parties of such application for an advance determination.

In general, the temporary regulations provide rules for determining which employees are interested parties, and rules for giving notice to them.

Adoption of amendments to the regulations. Based on the foregoing, the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 (26 CFR Part 11) are amended as follows:

There is inserted immediately before the end of Part 11 the following sections:

§ 11.7476-1 Interested parties.

(a) *In general.* Before the Internal Revenue Service may issue certain advance determinations as to the qualified status of certain retirement plans, the applicant must provide the Internal Revenue Service with satisfactory evidence that such applicant has notified each employee who qualifies as an interested party under regulations prescribed under section 7476(b)(1) of the Code of the application for such determination. See section 3001(a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 995). For the rules for giving notice to interested parties, see § 11.7476-2. Section 7476 provides a procedure for obtaining a declaratory judgment by the Tax Court with respect to the initial or continuing qualification under subchapter D of Chapter 1 of the Code of a retirement plan defined in section 7476(d) in the case of an actual controversy involving:

(1) A determination by the Internal Revenue Service with respect to the initial qualification or continuing qualification under such subchapter of such a plan, or

(2) A failure by the Internal Revenue Service to make a determination with respect to—

(i) Such initial qualification of such a plan, or

(ii) Such continuing qualification of such a plan, if the controversy arises from a plan amendment or plan termination.

Under section 7476(d) the term "retirement plan" means a pension, profit-sharing, or stock bonus plan described in section 401(a) or a trust which is part of such a plan, an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a). This procedure is available only to the employer, the plan administrator as defined in section 414(g), an employee who qualifies as an interested party as defined in this section, or the Pension Benefit Guaranty Corporation, where such person has an actual controversy involving a determination described in paragraph (a)(1) of this section, or failure to make a determination described in paragraph (a)(2) of this section. In the case of an application for such a determination, this procedure is available only if such determination or failure to make such determination is with respect to an application described in paragraph (b)(5) of this section. In the case of an application described in paragraph (b)(5) of this section, if a petitioner was the applicant for the determination, the Tax Court may hold, under section 7476(b)(2), the filing of a pleading for a declaratory judgment to be premature unless the petitioner establishes to the satisfaction of the Tax Court that such petitioner has caused all interested parties to be notified in accordance with this section and § 11.7476-2.

(b) *Interested parties.* Subject to the provisions of paragraph (b)(5) of this section—

(1) *Initial qualification and certain first applications.* In the case of an application for an advance determination with respect to—

(i) The initial qualification of a plan, or

(ii) Whether a plan amendment (other than an amendment described in paragraph (b)(3) of this section) affects the continuing qualification of a plan, if the application is the first application made to the Internal Revenue Service for a determination for a plan year to which section 410 applies to such plan, all present employees of the employer shall qualify as interested parties.

(2) *Plan amendments.* In the case of an application (other than an application referred to in paragraph (b)(1) or (b)(3) of this section) for an advance determination as to whether a plan amendment affects the continuing qualification of a plan, the following persons shall qualify as interested parties:

(i) All present employees of the employer eligible to participate under the plan,

(ii) If the plan amendment affects participation under the plan, all present employees of the employer, and

(iii) If the plan amendment affects the contributions for, or benefits to any former employee, all former employees who have a nonforfeitable right to an accrued benefit under the plan.

For the purpose of paragraph (b)(2)(ii) of this section, if qualification of the plan is dependent upon benefits under the plan integrating with those benefits provided under the Social Security Act or a similar program, and if such integration results in excluding any employee or could possibly result in any participant's benefit being reduced to zero and the amendment affects contributions to or the amount of benefits payable under the plan, then the amendment shall be considered to affect participation under the plan.

(3) *Plan terminations.* In the case of an application for an advance determination with respect to whether a plan termination affects the continuing qualification of such plan, all present and former employees covered under the plan and all beneficiaries of deceased former employees currently receiving benefits or entitled to receive future benefits under the plan, shall qualify as interested parties.

(4) *Exceptions.* Notwithstanding any other provision in this section—

(i) Employees who are not eligible to participate under the plan shall not be interested parties—

(A) In the case of a plan described in section 413(a) (relating to collectively bargained plans) which does not cover any employee who is an officer or shareholder or whose total annual rate of compensation ranks such employee among the one-third most highly compensated employees of the employer (but this standard shall not be used for purposes of determining which employees are highly compensated for purposes of subchapter D of Chapter 1 of the Code and the regulations thereunder); or

(B) In the case of a plan which does not exclude employees by virtue of age or length of service, and which clearly meets the eligibility standards of section 410(b)(1)(A).

(ii) The following persons shall not be interested parties—

(A) Employees covered by an agreement described in section 410(b)(2)(A) (relating to a collectively bargained agreement in which retirement benefits were the subject of good faith bargaining), who are not included in the plan;

(B) In the case of a trust established or maintained pursuant to an agreement described in section 410(b)(2)(B) (relating to a collectively bargained agreement between air pilots and one or more employers), employees not covered by such an agreement;

(C) Employees described in section 410(b)(2)(C) (relating to employees who are nonresident aliens and who received no earned income from the employer which constitutes income from sources within the United States) who are not eligible to benefit under the plan.

If the applicant fails to notify one or more employees on the belief that such employee or employees are within one of the classes described in paragraph (b)(4) of this section and it is later determined by the Internal Revenue Service that such employee or employees are not within any such classes and are interested parties, the application shall be returned to the applicant for failure to notify all interested parties.

(5) *Applicability.* This paragraph shall only apply in the case of an application made to the Internal Revenue Service requesting an advance determination that a retirement plan as defined in section 7476(d) and paragraph (a) of this section meets the requirements for qualification for a plan year or years to which section 410 applies to such plan. See paragraph (c)(4) and (5) of this section for special rules in respect of years to which section 410 applies.

(c) *Special rules.* For purposes of paragraph (b) of this section and § 11.7476–2—

(1) *Time of determination.* The status of an individual as a present employee or former employee shall be determined as of the date the application is made or the beginning of the first plan year to which the application relates, whichever, is earlier, except that if the beginning of the first plan year is the earlier, an individual is a present employee if such individual is employed after the beginning of such year and on or before the date the application is made.

(2) *Controlled groups, etc.* An individual shall be considered to be an employee of an employer if such employee is treated as that employer's employee under section 414 (b) or (c).

(3) *Employer.* The term "employer" includes all employers who maintain the plan with respect to which an application for an advance determination is made.

(4) *Years to which section 410 relates.* For purposes of paragraph (b)(5) of this section, section 410 shall be considered to apply to a plan year if an election has been made under section 1017 (d) of the Employee Retirement Income Security Act of 1974 to have section 410 apply to such plan year, whether or not the election is conditioned upon the issuance by the Commissioner of a favorable determination letter.

(5) *Government, church plans, etc.* In the case of an organization described in section 410(c)(1), section 410 will be considered to apply to a plan year of such organization for any plan year to which section 410(c)(2) applies to such plan.

§ 11.7476–2 Notice to interested parties.

(a) *In general.* Any person applying to a district director for a determination described in paragraph (b)(5) of § 11.7476–1 shall cause notice of the application to be given to all persons who qualify as interested parties under § 11.7476–1 with respect to the plan whether or not such application is received by the Internal Revenue Service before the date on which section 410 applies to the plan.

(b) *Nature of notice.* The notice required by this section shall be given in writing, shall contain the information and be given within the time required by the Commissioner, and shall be given in the following manner:

(1) *Present employees.* In the case of a present employee who is an interested party, notice shall be given in person, by mailing, or by posting. In addition, if any such employee is in a unit of employees covered by a collective bargaining agreement between employee representatives and one or more employers, notice shall be given in person or by mail to the collective bargaining representative of such employee.

(2) *Former employees or beneficiaries.* In the case of a former employee or beneficiary who is an interested party, notice shall be given in person or by mail to the last known address of such former employee or beneficiary.

(3) *Notice by posting.* Notice given by posting shall be made throughout the geographical area in which the interested parties ordinarily are employed by posting such notice (i) at those locations customarily used by the employer for notices to employees with regard to labor-management relations matters at worksites of employees, or (ii) if the plan is maintained pursuant to one or more collective bargaining agreements, at those locations customarily used by the employee representatives for posting notices with regard to labor-management relations matters, such as local union meeting places, or (iii) at a combination of such locations.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitations of subsection (d) of that section.

(Secs. 7476 and 7805 of the Internal Revenue Code of 1954 (88 Stat. 949 and 68A Stat. 917; (26 U.S.C. 7476 and 7805))

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: May 27, 1975.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.75–14507 Filed 5–30–75;8:45 am]

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 63—GRANT PROGRAMS ADMINISTERED BY THE OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

Correction

In FR Doc. 75–13922 appearing in the FEDERAL REGISTER of Thursday, May 29, 1975 at page 23295, the last line of the effective date paragraph in the third column should read "effective May 29, 1975".

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19142; FCC 75–90]

PART 1—PRACTICE AND PROCEDURE

Memorandum Opinion and Order

In the matter of petition of Action for Children's Television (ACT) for rulemaking looking toward the elimination of sponsorship and commercial content in children's programming and the establishment of a weekly 14-hour quota of children's television programs.

1. Pursuant to the Commission's Children's Television Report and Policy Statement, Docket No. 19142, issued October 31, 1974, in which we stated our intention to obtain "adequate information on broadcaster's advertising practices in programs designed for children," we adopt herein amendments to section IV–B of the broadcast license renewal form (FCC Form 303).[1]

2. In the Children's Television Report, we declined to adopt *per se* rules limiting commercial matter on programs designed for children, in view of the fact that "[t]he standards adopted by the [NAB

[1] In adopting this Order, we note our previous discussions of questions related to advertising practices in children's programming, in Final Report and Order in Docket No. 19153, "Renewal of Broadcast Licenses," 38 FR 28762, (paras. 164, 196) (October 3, 1973), and Memorandum Opinion and Order, "Formulation of Rules and Policies Relating to the Renewal of Broadcast Licenses", 38 FR 35398 (paras. 105–111) (December 12, 1973). In these Orders, we deferred, pending our resolution of the issues in Docket No. 19142, the matter of including in section IV–B of Form 303 questions concerning such advertising practices.

and INTV] are comparable to the standards which we would have considered adopting by rule in the absence of industry reform." (Report, para. 42). The amendments to Section IV–B of Form 303 should enable us to determine, on a case-by-case basis, whether commercial television licensees are meeting their public service responsibilities in this area, by compliance with the industry's reform standards. Moreover, with regard to the efficacy of industry self-regulation, we cautioned in the Children's Television Report that although we were not adopting rules at that time, we did not foreclose the possibility of further action if industry self-regulation were to prove ineffective or inadequate. These amendments should also enable us to obtain data which "will serve, in part, as a basis for determining whether self-regulation can be effective." (Report, para. 43).

3. Section IV–B of Form 303 is amended by revising existing question 6 and adding new questions 13 and 16. Question 6 is amended by substituting the words "programs * * * designed for children twelve years old and under" to replace the current wording "programs * * * primarily directed to children twelves years old and under." (emphasis added). New questions 13 and 16[2] concern past and proposed commercial practices of television licensees with respect to commercial matter in programs designed for children.[3]

New Question 13: Past Commercial Practices. List each one hour or ½ hour segment of programming designed for children twelve years old and under broadcast during the license period which contained commercial matter in excess of:

a. 12 minutes per hour or 6 minutes per half-hour on weekdays (Monday through Friday), or

b. 9½ minutes per hour or 4¾ minutes per half-hour on weekends (Saturday and Sunday).

For each programming segment so listed, indicate the length of the segment (i.e., one hour or ½ hour) and the amount of commercial matter contained therein.

New Question 16: Proposed Commercial Practices. A. What is the maximum amount of commercial matter per hour the applicant proposes to allow in programs broadcast on weekdays (Monday through Friday) which are designed for children twelve years old and under?

If the applicant proposes to permit this amount to exceed 12 minutes, state in Exhibit No. —— under what circumstances and how often this is expected to occur, and the limits that would then apply.

B. What is the maximum amount of commercial matter per hour the applicant proposes to allow in programs broadcast on weekends (Saturday and Sunday) which are are designed for children twelve years old and under?

If the applicant proposes to permit this amount to exceed 9½ minutes, state in Exhibit No. ——— under what circumstances and how often this is expected to occur, and the limits that would then apply.

NOTE: Unless otherwise indicated, it is assumed that proportional commercial time limits apply to ½ hour segments for the purpose of this question.

4. "Programs designed for children" include those programs originally produced and broadcast primarily for a child audience twelve years old and under. They do not include programs originally produced and broadcast for an adult audience which may subsequently be broadcast during hours when children constitute a sizable portion of the viewing audience. It has been our experience with the recently revised Section IV–B that some television licensees have responded to question 6 with information on programs which may be viewed by children, rather than programs designed particularly for them. The substituted language in question 6 of section IV–B gives effect to the policies adopted in the Children's Television Report (para. 15–18), wherein we recognized that children's needs are unique and that broadcasters have a special obligation to serve children by programming for their special needs. We have conformed the language in new questions 13 and 16 with new question 6. Our particular concern is the level of advertising in those programs designed for children. Questions 13 and 16 should enable us to evaluate claims of over commercialization in those programs.

5. In order to determine the level of compliance with the new NAB and INTV commercialization limits after January 1, 1976, the Commission must receive specific information from commercial television licensees on their commercial practices following that date. Therefore, renewal applicants will only be expected to supply the requested information in new question 13 for periods following January 1, 1976. Applicants should note in responding to question 16 any differences in commercial practices before and after January 1, 1976.

6. To insure that all commercial television licensees receive this information, a copy of this document will be sent to them immediately after the effective date of amended section IV–B of Form 303.

7. The authority for the adoption of the amendments contained herein is set forth in Sections 4(i), 303, 307, 308, 309, and 403 of the Communications Act of 1934, as amended. (47 U.S.C. 154(i), 303, 307, 308, 309, and 403).

8. *Accordingly it is ordered,* That section IV–B of Form 303 as approved by the General Accounting Office on May 19, 1975, is amended as set forth herein above.

(Secs. 4, 303, 307, 308, 309, 403, 48 Stat., as amended, 1066, 1082, 1083, 1084, 1085, 1094; 47 U.S.C. 154, 303, 307, 308, 309, 403.)

Adopted: January 22, 1975.

Released: May 29, 1975.

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

[FR Doc.75-14601 Filed 6-3-75;8:45 am]

[2] Existing questions 13 and 14 of Section IV–B will be renumbered as questions 14 and 15. Existing question 15 will be renumbered as question 17.

[3] The definition of "commercial matter" is contained in our rules, 37 CFR 73.670, Note 3, and in the instructions section of section IV–B of Form 303 (para. 9).

[FCC 75-607]

DOMESTIC PUBLIC RADIO SERVICES

Procedural Order

In the matter of amendment of Parts 1 and 21 of the Commission's rules and regulations relative to various procedural requirements for the Domestic Public Radio Services and other services.

1. The Commission has under consideration several minor changes to Parts 1 and 21 of the Commission's rules pertaining to the processing of applications and other requirements for the Domestic Public Radio Services (other than Maritime Mobile) which are designed to implement the use of a new form for application for construction permit in the microwave services (FCC Form 435). Inso much as these changes are minor and of procedural nature only and they will lead to greatly improved processing procedures, we do not believe that the prior notice provisions of section 553(d) of the Administrative Procedure and Judicial Review Act are applicable.[1]

2. The new FCC Form 435 is designed: (a) to be compatible with automatic data processing (ADP) procedures which are being implemented for the microwave services; and (b) to clearly provide for all necessary information required by the rules. Not only will this new form enable the Commission to expedite the processing and consideration of applications, but it will collect adequate technical information so as to enable us to establish a complete data base (which has become increasingly important as frequency congestion grows). The present construction permit application form (FCC Form 401), which is currently used for all Domestic Public Radio Services, will continue to be used for the Domestic Public Land Mobile and Rural Radio Services.[2] In connection with the implementation of the 435 form, we are providing for the filing of technical data on punched data cards. Although this is an optional feature, we encourage as many applicants as possible to do so, and we have adjusted the fee schedule down slightly for those who do.

3. Authority for the rule amendments specified in the attached appendix is contained in sections 4(i) and 303(r) of the Communications Act of 1934 as amended. For those reasons set forth in paragraph 1 above, the changes listed below are being adopted without prior notice.

4. *Accordingly, it is hereby ordered,* That Parts 1 and 21 of the Commission's rules and regulations are amended as set forth below effective August 1, 1975.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303))

Adopted: May 21, 1975.

Released: May 29, 1955.

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

[1] Form 435 has been approved by the General Accounting Office.

[2] It is anticipated that the 401 form will later be revised to update it and make it more compatible with ADP procedures.

Parts 1 and 21, Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 1.1113 [Amended]

1. In § 1.1113, the table in paragraph (c), Point-to-Point Microwave Radio Service, is amended by keying new footnote [16] to all categories of applications, except for renewal applications. New footnote [16] reads as follows:

2. Section 21.14(a) is revised to read as follows:

§ 21.14 Forms to be used.

(a) *Application for construction permit for base, auxiliary test and fixed stations.* A separate application for construction permit shall be submitted for each base, each auxiliary test, and each fixed station: *Provided, however,* That in the case of fixed stations to be installed at temporary locations, as set forth hereinafter in the applicable subparts of these rules, where the equipment utilized is of such design as to comprise a packaged unit which is ready for installation and use with only nominal construction, request may be made for waiver of the construction permit and for the immediate issuance of a license: *And provided further,* That an application for an auxiliary test station may be combined with that of the base station with which such auxiliary facility is to be associated when both are at the same location. Such applications shall be accompanied by the supplementary information set forth in § 21.15 as may be appropriate. Applications in the Domestic Public Land Mobile and Rural Radio Services shall be filed on FCC Form 401, and applications in the Point-to-Point Microwave Radio, Local Television Transmission, and Multipoint Distribution Services on FCC Form 435. Applicants filing on Form 435 are urged to file, where practical, the information on page 1 of that form on punched cards in accordance with the Commission publication *Punched Card Format for Common Carrier Microwave Applications.* (Copies of this publication may be obtained through the Common Carrier Bureau.)

* * * * *

[FR Doc.75-14599 Filed 6-3-75;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 4 to S.O. No. 1158]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of May, 1975.

Upon further consideration of Service Order No. 1158 (38 FR 30001; 39 FR 15130, 38381, and 40 FR 5161), and good cause appearing therefor:

It is ordered, That § 1033.1158 (Chicago and North Western Transportation Company authorized to operate over tracks of Union Pacific Railroad Company).

Service Order No. 1158 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 15, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14648 Filed 6-3-75;8:45 am]

[Amdt. No. 6 to S.O. No. No. 1102]

PART 1033—CAR SERVICE

Delaware and Hudson Railway Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of May, 1975.

Upon further consideration of Service Order No. 1102 (37 FR 13697, 28634; 38 FR 17843, 33086, 33302; and 39 FR 18655, 41853), and good cause appearing therefor:

It is ordered, That § 1033.1102 (Delaware and Hudson Railway Company and Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond, and John H. McArthur, trustees, authorized to assume joint supervisory control over railroad operations of Albany Port District Commission, Albany, New York)

Service Order No. 1102 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14650 Filed 6-3-75;8:45 am]

[Amdt. No. 3 to S. O. No. 1163]

PART 1033—CAR SERVICE

Missouri Pacific Railroad Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of May, 1975.

Upon further consideration of Service Order No. 1163 (38 FR 32259 and 39 FR 18280 and 41845), and good cause appearing therefor:

It is ordered, That § 1033.1163 (Missouri Pacific Railroad Company authorized to operate over tracks of Union Pacific Railroad Company)

Service Order No. 1163 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 31, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

[16] The application fee is reduced for each application in this category by $10 if it is filed with punched cards as provided for in § 21.14(a) of this chapter.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14649 Filed 6-3-75;8:45 am]

[Amdt. No. 5 to S.O. No. 1125]

PART 1033—CAR SERVICE

St. Louis-San Francisco Railway Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of May, 1975.

Upon further consideration of Service Order No. 125 (38 FR 6883, 19126, 33482, and 39 FR 18281, 44208), and good cause appearing therefor:

It is ordered, That § 1033.1125 (St. Louis-San Francisco Railway Company authorized to operate over tracks of the Kansas City Southern Railway Company)

Service Order No. 1125 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

Expiration date. The provisions of this order shall expire at 11:59 p.m., December 1, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 1, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10-17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17 (2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14646 Filed 6-3-75;8:45 am]

[Amdt. No. 3 to S.O. No. 1154]

PART 1033—CAR SERVICE

St. Louis-San Francisco Railway Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of May, 1975.

Upon further consideration of Service Order No. 1154 (38 FR 28292 and 39 FR 12009, 44208), and good cause appearing therefor:

It is ordered, That § 1033.1154 (St. Louis-San Francisco Railway Company authorized to operate over tracks of the Alabama Great Southern Railroad Company)

Service Order No. 1154 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 1, 1975, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 1, 1975.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10-17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17 (2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14647 Filed 6-3-75;8:45 am]

Title 7—Agriculture

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

[Avocado Reg. 17]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Quality and Maturity Requirements

Avocado Regulation 17 prescribes during the period June 9, 1975, through April 30, 1976, the following grade and maturity requirements for fresh avocados grown in South Florida: Avocados shipped to destinations outside the production area shall grade at least U.S. No. 3 and individual fruit of specified types of avocados must be at least the prescribed minimum weights or diameters by specified dates (as the maturity requirements). Avocados shipped to destinations within the production area are exempted from all grade requirements, if packed in containers other than those authorized for shipments outside such area, but such avocados must also meet maturity requirements. The requirements are issued in the interest of producers and consumers and are designed to help keep immature and defective fruit off the market. Immature avocados will not ripen satisfactorily and would be unacceptable in taste.

On May 20, 1975, notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 21980), regarding a proposed regulation to be made effective on June 9, 1975, pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. Such proposed regulation was recommended by the Avocado Administrative Committee established pursuant to the said marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The notice allowed interested persons until May 26, 1975, to submit written data, views, or arguments in connection with the proposed regulation. None were received.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Avocado Administrative Committee (established pursuant to the marketing agreement and order), and other available information, it is hereby found and determined that the regulation, as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

The regulation hereinafter set forth is based upon an appraisal of current and prospective crop and market conditions. Total 1975-76 season fresh shipments of Florida avocados is estimated at 900,000 bushels, as compared with fresh shipments of about 816,000 bushels in the 1974-75 season. The regulation is designed to permit the shipment of an ample proportion of the total supply of fruit to fresh markets of a quality and maturity which will be acceptable to consumers and in the interest of producers, consistent with the objectives of the act.

It is hereby further found that it is impracticable and contrary to the public interest to give further notice and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553), and good cause exists for making the provisions hereof effective as hereinafter set forth in that (1) shipments of the current crop of avocados are expected to begin on or about the effective date hereof, and this regulation should be applicable, insofar as practicable, to all such shipments in order to effectuate the declared policy of the act; (2) the recommendations upon which this regulation is based were developed by the committee at an open meeting on April 24, 1975, after due notice thereof, and all interested persons present were given an opportunity to express their views; (3) a notice of proposed regulation for Florida avocados was published in the FEDERAL REGISTER (40 FR 21980); (4) the regulation herein specified is the same as the proposed regulation.

Section 915.317 is added to read as follows:

§ 915.317 Avocado Regulation 17.

(a) *Order.* (1) During the period June 9, 1975, through April 30, 1976, no handler shall handle any avocados unless such avocados grade at least U.S. No. 3 grade: *Provided,* That avocados which fail to meet the requirements of such grade may be handled within the production area, if such avocados meet all other applicable requirements of this section and are handled in containers other than the containers prescribed in § 915.305, as amended (7 CFR Part 915), for the handling of avocados between the production area and any point outside thereof;

(2) On and after the effective time of this regulation, except as otherwise provided in paragraphs (a) (11) and (12) of this section, no avocados of the varieties listed in Column 1 of the following Table I shall be handled prior to the date listed for the respective variety in Column 2 of such table, and thereafter each such variety shall be handled only in conformance with paragraphs (a) (3), (4), (5), (6), (7), (8), (9), and (10) of this section.

TABLE I

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Koesel	June 9, 1975	15 oz, 3 5/16 in	June 23, 1975	13 oz, 3 1/16 in	July 21, 1975		
Fuchs	June 23, 1975	14 oz, 3 1/16 in	July 7, 1975	12 oz, 3 9/16 in	do	10 oz, 2 15/16 in	Aug. 11, 1975
K-5	June 30, 1975	18 oz, 3 5/16 in	July 14, 1975	14 oz, 3 3/16 in	July 28, 1975		
Dr. DuPuis No. 2	June 23, 1975	16 oz, 3 9/16 in	July 7, 1975	14 oz, 3 5/16 in	July 21, 1975		
Hardee	July 7, 1975	16 oz, 3 5/16 in	July 14, 1975	14 oz, 2 15/16 in	Aug. 4, 1975		
Pollock	do	18 oz, 3 1/16 in	July 21, 1975	16 oz, 3 7/16 in	do		
Simmonds	do	16 oz, 3 9/16 in	do	14 oz, 3 5/16 in	do		
Nadir	do	14 oz, 3 7/16 in	July 14, 1975	12 oz, 3 3/16 in	July 21, 1975	10 oz, 2 15/16 in	Aug. 4, 1975
Katherine	do	16 oz	July 21, 1975	14 oz	Aug. 4, 1975		
West Indian seedling.	do	18 oz	Aug. 4, 1975	16 oz	Sept. 8, 1975	14 oz	Oct. 6, 1975
Haile	do	20 oz	July 28, 1975	14 oz	Aug. 18, 1975		
Dawn	July 21, 1975	12 oz, 3 5/16 in	Aug. 4, 1975	10 oz, 3 9/16 in	do		
Peterson	July 28, 1975	14 oz, 3 5/16 in	Aug. 11, 1975	10 oz, 3 5/16 in	Aug. 25, 1975	8 oz, 2 15/16 in	Sept. 8, 1975
Gretchen	Aug. 4, 1975	14 oz	Aug. 18, 1975	12 oz	Sept. 1, 1975		
Trapp	Aug. 18, 1975	14 oz, 3 9/16 in	Sept. 1, 1975	12 oz, 3 5/16 in	Sept. 15, 1975		
Waldin	do	16 oz, 3 9/16 in	do	14 oz, 3 5/16 in	do	12 oz, 3 5/16 in	Sept. 29, 1975
Ruehle	July 21, 1975	18 oz, 3 13/16 in	July 28, 1975	16 oz, 3 9/16 in	Aug. 4, 1975	14 oz, 3 5/16 in	Sept. 1, 1975
Pinelli	Aug. 4, 1975	18 oz, 3 15/16 in	Aug. 18, 1975	16 oz, 3 9/16 in	Sept. 1, 1975		
Miguel	do	22 oz, 3 13/16 in	do	20 oz, 3 15/16 in	do	18 oz, 3 9/16 in	Sept. 15, 1975
Webb 2	July 21, 1975	18 oz	Aug. 4, 1975	16 oz	Aug. 18, 1975		
Nesbitt	Aug. 4, 1975	22 oz, 3 13/16 in	Aug. 18, 1975	18 oz, 3 9/16 in	Aug. 25, 1975	16 oz, 3 5/16 in	Do.
Beta	Aug. 18, 1975	18 oz	Aug. 25, 1975	16 oz	Sept. 15, 1975		
K-9	do	16 oz	Sept. 8, 1975				
Tower 2	do	14 oz	Sept. 1, 1975	12 oz	Sept. 29, 1975		
Shula	do	22 oz	Sept. 8, 1975				
Tonnage	Sept. 1, 1975	14 oz, 3 5/16 in	do	12 oz, 3 9/16 in	Sept. 15, 1975	10 oz, 2 15/16 in	Sept. 22, 1975
Fairchild	do	16 oz, 3 9/16 in	Sept. 15, 1975	14 oz, 3 5/16 in	Sept. 29, 1975	12 oz, 3 5/16 in	Oct. 6, 1975
Nirody	do	18 oz, 3 13/16 in	do	16 oz, 3 13/16 in	do		
Black Prince	Sept. 15, 1975	23 oz	Sept. 29, 1975	16 oz	Oct. 20, 1975		
Catalina	do	24 oz	Sept. 22, 1975	22 oz	Oct. 6, 1975		
Guatemalan Seedling.	Sept. 22, 1975	15 oz	Oct. 20, 1975	13 oz	Dec. 22, 1975		
Blair	Sept. 15, 1975	16 oz, 3 9/16 in	Sept. 29, 1975	14 oz	Oct. 20, 1975		
Collinson	Sept. 29, 1975	16 oz, 3 9/16 in	Oct. 27, 1975				
Chica	do	12 oz, 3 7/16 in	Oct. 13, 1975	10 oz, 3 5/16 in	Oct. 27, 1975		
Rue	do	30 oz, 4 5/16 in	Oct. 6, 1975	24 oz, 3 13/16 in	Oct. 20, 1975	18 oz, 3 9/16 in	Nov. 3, 1975
Booth 5	Oct. 6, 1975	16 oz, 3 13/16 in	Oct. 27, 1975				
Hickson	do	13 oz, 3 5/16 in	Oct. 20, 1975	12 oz, 3 3/16 in	Oct. 27, 1975		
Simpson	do	16 oz, 3 5/16 in	Oct. 27, 1975				
Vaca	do	16 oz, 3 9/16 in	do				
Sherman	do	16 oz	Oct. 20, 1975	14 oz	Nov. 3, 1975	10 oz	Nov. 24, 1975
Marcus	do	32 oz	Nov. 17, 1975				
Booth 10	Oct. 13, 1975	16 oz, 3 9/16 in	Nov. 10, 1975				
Booth 7	Sept. 29, 1975	18 oz, 3 13/16 in	Oct. 13, 1975	16 oz, 3 9/16 in	Oct. 27, 1975	14 oz, 3 5/16 in	Nov. 10, 1975
Avon	Oct. 13, 1975	15 oz, 3 13/16 in	Nov. 3, 1975				
Booth 11	do	16 oz, 3 13/16 in	do				
Leona	do	18 oz, 3 15/16 in	Oct. 27, 1975				
Winslowson	do	18 oz, 3 15/16 in	Nov. 3, 1975				
Nelson	do	14 oz, 3 5/16 in	Oct. 27, 1975	12 oz, 3 3/16 in	Nov. 10, 1975	10 oz, 3 1/16 in	Dec. 1, 1975
Hall	do	26 oz, 3 15/16 in	do	20 oz, 3 9/16 in	do		
Lula	Oct. 20, 1975	18 oz, 3 13/16 in	Nov. 3, 1975	14 oz, 3 5/16 in	Nov. 17, 1975		
Choquette	do	24 oz, 4 1/16 in	do	20 oz, 3 15/16 in	Nov. 24, 1975		
Monroe	Nov. 17, 1975	24 oz, 4 1/16 in	Dec. 1, 1975	20 oz, 3 13/16 in	Dec. 15, 1975		
Herman	Oct. 20, 1975	16 oz, 3 5/16 in	Nov. 3, 1975	14 oz, 3 5/16 in	Nov. 17, 1975		
Murphy	do	16 oz	do	14 oz	do	11 oz	Dec. 8, 1975.
Ajax (B-7-B)	Oct. 27, 1975	18 oz, 3 15/16 in	Nov. 17, 1975				
Booth 1	Nov. 24, 1975	16 oz, 3 13/16 in	Dec. 15, 1975				
Booth 3	Oct. 27, 1975	16 oz, 3 9/16 in	Nov. 17, 1975				
Taylor	do	14 oz, 3 5/16 in	Nov. 10, 1975	12 oz, 3 3/16 in	Nov. 24, 1975		
Dunedin	Nov. 10, 1975	16 oz, 3 9/16 in	Nov. 24, 1975	14 oz, 3 5/16 in	Dec. 8, 1975	10 oz, 3 1/16 in	Dec. 20, 1975.
Byars	Nov. 17, 1975	16 oz, 3 13/16 in	Dec. 8, 1975				
Linda	do	18 oz, 3 13/16 in	do				
Nabal	do	14 oz, 3 5/16 in	do				
Zio	Dec. 1, 1975	12 oz	Dec. 15, 1975	10 oz	Dec. 29, 1975		
Wagner	Dec. 8, 1975	12 oz, 3 5/16 in	Dec. 22, 1975	10 oz, 3 3/16 in	Jan. 5, 1976		
Maya	Dec. 29, 1975	13 oz	Jan. 12, 1976	11 oz	Jan. 26, 1976		
Brookslate	Jan. 12, 1976	14 oz	Jan. 26, 1976	12 oz	Feb. 9, 1976	10 oz	Feb. 23, 1976
Schmidt	Jan. 19, 1976						
Itzamna	Feb. 16, 1976						

(3) From the date listed for the respective variety in Column 2 of Table I to the date listed for the respective variety in Column 4 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 3 of such table or is of at least the diameter specified for such variety in said Column 3;

(4) From the date listed for the respective variety in Column 4 of Table I to the date listed for the respective variety in Column 6 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 5 of such table or is of at least the diameter specified for such variety in said Column 5;

(5) From the date listed for the respective variety in Column 6 of Table I to the date listed for the respective variety in Column 8 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 7 of such table or is of at least the diameter specified for such variety in said Column 7;

(6) No handler shall handle during the period June 16, 1975, through July 21, 1975, any Arue variety avocados unless the individual fruit in each lot of such avocados weighs at least 14 ounces, or is at least 3 5/16 inches in diameter;

(7) No handler shall handle (i) prior to August 25, 1975, any Lisa variety avocados, (ii) during the period August 25, 1975, through August 31, 1975, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, (iii) during the period September 1, 1975, through September 7, 1975, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at leasts 11 ounces, (iv) during the period September 8, 1975, through September 14, 1975, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 10 ounces, (v) during the period September 15, 1975, through September 22, 1975, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 9 ounces;

(8) No handler shall handle (i) prior to September 15, 1975, any Booth 8 variety avocados, (ii) during the period September 15, 1975, through October 5, 1975, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 16 ounces, or is at least 3 9/16 inches in diameter, or (iii) during the period October 6, 1975, through October 19, 1975, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 14 ounces, or is at least 3 9/16 inches in dameter, or (iv) during the period October 20, 1975, through November 2, 1975, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, or is at least 3 5/16 inches in diameter, or (v) during the period November 3, 1975, through November 17, 1975, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 10 ounces or is at least 3 1/16 inches in diameter.

(9) Except as otherwise provided in paragraphs (a) (11) and (12) of this section, varieties of the West Indian type of avocados not listed in Table I shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to July 7, 1975.

(ii) From July 7, 1975, through August 3, 1975, the individual fruit in each lot of such avocados shall weigh at least 18 ounces.

(iii) From August 4, 1975, through September 7, 1975, the individual fruit in each lot of such avocados shall weigh at least 16 ounces.

(iv) From September 8, 1975, through October 5, 1975, the individual fruit in each lot of such avocados shall weigh at least 14 ounces.

(10) Except as otherwise provided in paragraphs (a) (11) and (12) of this paragraph, varieties of avocados not covered by paragraphs (a) (2) through (9) hereof shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to September 22, 1975.

(ii) From September 22, 1975, through October 19, 1975, the individual fruit in each lot of such avocados shall weigh at least 15 ounces.

(iii) From October 20, 1975, through December 21, 1975, the individual fruit in each lot of such avocados shall weigh at least 13 ounces.

(11) Notwithstanding the provisions of paragraphs (a) (2) through (10) hereof regarding the minimum weight or diameter for individual fruit, up to 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified weight and be less than the minimum specified diameter: *Provided*, That such avocados weigh not more than two ounces less than the applicable specified weight for the particular variety as prescribed in Columns 3, 5, or 7 of Table I in (a) (2) of this section or in paragraphs (a) (6), (7), (8), (9), and (10). Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(12) The provisions of paragraphs (a) (2) through (11) of this section shall not apply to any variety, except the Linda variety, of avocados which, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color for that fruit when mature.

(b) Terms used in the amended marketing agreement and order, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; the term "diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit; and the terms "U.S. No. 3" shall have the same meaning as set forth in the United States Standards for Florida Avocados (7 CFR 51.3050–51.3069).

(c) The provisions of this regulation shall become effective June 9, 1975.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674)) Dated, May 30, 1975, to become effective June 9, 1975.

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

[FR Doc.75-14635 Filed 6-3-75;8:45 am]

[Avocado Reg. 23]

PART 944—FRUITS; IMPORT REGULATIONS

Avocados

Avocado Regulation 23 prescribes during the period June 9, 1975, through April 30, 1976, the same grade requirement for imported avocados as that applicable, pursuant to Order No. 915 (7 CFR Part 915), to avocados grown in South Florida. The maturity regulation applies the same minimum size or weight requirements to imported avocados of the Pollock, Catalina, and Trapp varieties as are applicable to Florida avocados of the same varieties. All other imported avocados are required to meet minimum size or weight requirements comparable to those for similar types grown in Florida as variations in characteristics make application of identical requirements impractical. This import regulation is effective pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

On May 19, 1975, notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 21735) inviting written comments on consideration that was being given to a proposed regulation, which would limit the importation of avocados into the United States, during the period June 9, 1975, through April 30, 1976, pursuant to Part 944—Fruits; Import Regulations (7 CFR Part 944). None were received.

It is hereby found that good cause exists for not postponing the effective time of the regulatory provisions of this regulation, as hereinafter set forth, beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such requirements mandatory; (b) such regulation imposes the same grade and comparable maturity requirements on imports of avocados as are being made applicable to the shipment of avocados grown in Florida under Avocado Regulation 17, which becomes effective June 9, 1975; (c) such domestic and import regulations should become effective at as near the same time as is reasonably practicable; (d) notice hereof in excess of three days, the minimum prescribed by said section 8e, is given with respect to this import regulation; and (e) such notice is hereby determined, under the circumstances, to be reasonable.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found that the grade, size, and maturity restrictions that are the same as or are comparable to those to be in effect pursuant to the said amended marketing order shall apply to avocados to be imported.

Section 944.15 is added to read as follows:

§ 944.15 Avocado Regulation 23.

(a) On and after the effective time of this section, the importation into the United States of any avocados is prohibited unless such avocados are inspected and meet the following requirements:

(1) All avocados imported during the period June 9, 1975, through April 30, 1976, shall grade not less than U.S. No. 3.

(2) Avocados of the Pollock variety shall not be imported (i) prior to July 7, 1975; (ii) from July 7, 1975, through July 20, 1975, unless the individual fruit in each lot of such avocados weighs at least 18 ounces or measures at least 3 11/16 inches in diameter; and (ii) from July 21, 1975, through August 4, 1975, unless the individual fruit in each lot of such avocados weighs at least 16 ounces or measures at least 3 7/16 in diameter.

(3) Avocados of the Catalina variety shall not be imported (i) prior to September 15, 1975; (ii) from September 15, 1975, through September 21, 1975, unless the individual fruit in each lot of such avocados weighs at least 24 ounces; and (iii) from September 22, 1975, through October 6, 1975, unless the individual fruit in each lot of such avocados weighs at least 22 ounces.

(4) Avocados of the Trapp variety shall not be imported (i) prior to August 18, 1975; (ii) from August 18, 1975, through August 31, 1975, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at least 3 9/16 inches in diameter; and (iii) from September 1, 1975, through September 15, 1975, unless the individual fruit in each lot of such avocados weighs at least 12 ounces or measures at least 3 7/16 inches in diameter.

(5) Avocados of any variety other than Pollock, Catalina, and Trapp varieties, of the West Indian varieties not listed elsewhere in this regulation, shall not be imported (i) prior to July 7, 1975; (ii) from July 7, 1975, through August 3, 1975, unless the individual fruit in each lot of such avocados weighs at least 18 ounces; (iii) from August 4, 1975, through September 7, 1975, unless the individual fruit in each lot of such avocados weighs at least 16 ounces; (iv) from September 8, 1975, through October 5, 1975, unless the individual fruit in each lot of such avocados weighs at least 14 ounces: *Provided*, That any lot of such avocados may be imported without regard to the date or minimum weight requirements of this paragraph if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(6) Avocados of any variety of the Guatemalan type, including hybrid type seedlings, unidentified Guatemalan and hybrid varieties, and Guatemalan and hybrid varieties not listed elsewhere in the regulation shall not be imported (i) prior to September 22, 1975; (ii) from September 22, 1975, through October 19, 1975, unless the individual fruit in each lot of such avocados weighs at least 15 ounces; and (iii) from October 20, 1975, through December 21, 1975, unless the individual fruit in each lot of such avocados weighs at least 13 ounces.

(7) Notwithstanding the provisions of subparagraphs (2) through (6) of this paragraph regarding the minimum weight or diameter for individual fruit, not to exceed 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified and be less than the specified diameter: *Provided*, That such avocados weigh not over 2 ounces less than the applicable specified weight for the particular variety specified in such subparagraphs. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports of avocados. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the avocados will be imported:

Ports	Office	Advance notice (in days)
All Texas points.	L. M. Denbo, 506 South Nebraska Ave., San Juan, Tex. 78589, Phone (512) 787-4091. or	1
	Charles E. Parragon, 724 East Overland, El Paso, Tex. 79901, Phone (915) 543-7722.	1
All New York points.	Carmine J. Cavallo, Room 28A Hunts Point Market, Bronx, N.Y. 10474, Phone (212) 991-7668 and 7669. or	1
	Charles D. Replek, 176 Niagara Frontier Food, Terminal—Room 8, Buffalo, N.Y. 14206, Phone (716) 824-1585.	1
All Arizona points.	B. O. Morgan, 225 Terrace Ave., Nogales, Ariz. 85621, Phone (602) 287-2992.	1
All Florida points.	Lloyd W. Boney, 1350 NW. 12th Ave.—Room 530, Miami, Fla. 33136, Phone (305) 324-6116. or	1
	J. T. Scruggs, 775 Warner Lane, Orlando, Fla. 32814, Phone (305) 894-9511. or	1
	Johnnie L. Corbitt, Unit 46—3335 North Edgewood Ave., Jacksonville, Fla. 32205, Phone (904) 354-5983.	1
All California points.	Daniel P. Thompson, 784 South Central Ave.—Room 266, Los Angeles, Calif. 90021, Phone (213) 622-8756.	3
All Louisiana points.	Jesse M. Anderson, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, La. 70113, Phone (504) 589-6741 and 6742.	1
All other points.	D. S. Matheson, F. & V. Division—AMS-USDA, Washington, D.C. 20250, Phone (202) 447-5870.	3

(c) Inspection certificates shall cover only the quantity of avocados that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any avocados to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement, if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(f) Notwithstanding any other provisions of this regulation, any importation of avocados which, in the aggregate, does not exceed 55 pounds may be imported without regard to the restrictions specified herein.

(g) It is hereby found that the application of the maturity restrictions being imposed, pursuant to Order No. 915 (7 CFR Part 915), upon avocados grown in South Florida to imported avocados, other than of the Pollock, Catalina, and Trapp varieties, is not practicable because of variations in characteristics between the domestic and imported avocados; and the maturity restrictions applicable to imported avocados other than of the Pollock, Catalina, and Trapp varieties are comparable to those imposed upon the domestic commodity. The quality restrictions for all imported avocados, and the maturity restrictions for imported avocados of the Pollock, Catalina, and Trapp varieties, are the same as those being imposed upon the domestic commodity.

(h) No provisions of this section shall supersede the restrictions or prohibitions on avocados under the Plant Quarantine Act of 1912.

(i) Nothing contained in this section shall be deemed to preclude any importer from reconditioning, prior to importation, any shipment of avocados for the purpose of making it eligible for importation.

(j) The terms relating to grade, as used herein, shall have the same meaning as when used in the United States Standards for Florida Avocados (7 CFR 51.3050–51.3069). "Diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit. "Importation"

means release from custody of the United States Bureau of Customs.

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

Dated, May 30, 1975, to become effective June 9, 1975.

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

[FR Doc.75–14636 Filed 6–3–75;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1, 301]

NOTIFICATION OF INTERESTED PARTIES

Qualification of Certain Retirement Plans

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 7, 1975. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, a person submitting written comments should not include therein material that he considers to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 7, 1975. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

This document contains proposed Income Tax Regulations (26 CFR Part 1) and proposed regulations on Procedure and Administration (26 CFR Part 301) relating to the definition of "interested parties" and the requirement that they be given notice of the filing of a request for an advance determination as to the qualified status of a retirement plan.

Under section 3001(a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 995), before the Internal Revenue Service may issue an advance determination whether a pension, profit-sharing or stock bonus plan, a trust which is a part of such a plan, an annuity plan, or bond purchase plan described in sections 401(a), 403(a), or 405(a) of the Code is exempt from taxation, the applicant must provide the Internal Revenue Service with satisfactory evidence that such applicant has notified each employee qualifying as an interested party under the regulations prescribed under section 7476(b)(1) of the Code of the application for such determination.

Under section 7476(b)(2) of the Code, if the petitioner for a declaratory judgment concerning the status of certain retirement plans was the applicant for an advance determination by the Internal Revenue Service of such status, the Tax Court may hold the filing of a pleading for such declaratory judgment to be premature unless the petitioner establishes to the satisfaction of the Tax Court that such petitioner has notified all interested parties of such application for an advance determination.

In general, the temporary regulations provide rules for determining which employees are interested parties, and rules for giving notice to them.

Proposed amendments to the regulations. The income tax regulations (26 CFR Part 1) and regulations on procedure and administration (26 CFR Part 301) are amended as follows:

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

1. The following sections are added immediately after § 1.6851–3:

THE TAX COURT

DECLARATORY JUDGMENTS RELATING TO QUALIFICATION OF CERTAIN RETIREMENT PLANS

§ 1.7476 Statutory provisions; declaratory judgments.

Sec. 7476. *Declaratory judgments*—(a) *Creation of remedy.* In a case of actual controversy involving—

(1) A determination by the Secretary or his delegate with respect to the initial qualification or continuing qualification of a retirement plan under subchapter D of chapter 1, or

(2) A failure by the Secretary or his delegate to make a determination with respect to

(A) Such initial qualification, or

(B) Such continuing qualification if the controversy arises from a plan amendment or plan termination,

upon the filing of an appropriate pleading, the United States Tax Court may make a declaration with respect to such initial qualification or continuing qualification. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

(b) *Limitations*—(1) *Petitioner.* A pleading may be filed under this section only by a petitioner who is the employer, the plan administrator, an employee who has qualified under regulations prescribed by the Secretary or his delegate as an interested party for purposes of pursuing administrative remedies within the Internal Revenue Service, or the Pension Benefit Guaranty Corporation.

(2) *Notice.* For purposes of this section, the filing of a pleading by any petitioner may be held by the Tax Court to be premature, unless the petitioner establishes to the satisfaction of the court that he has complied with the requirements prescribed by regulations of the Secretary or his delegate with respect to notice to other interested parties of the filing of the request for a determination referred to in subsection (a).

(3) *Exhaustion of administrative remedies.* The Tax Court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to him within the Internal Revenue Service. A petitioner shall not be deemed to have exhausted his administrative remedies with respect to a failure by the Secretary or his delegate to make a determination with respect to initial qualification or continuing qualification of a retirement plan before the expiration of 270 days after the request for such determination was made.

(4) *Plan put into effect.* No proceeding may be maintained under this section unless the plan (and, in the case of a controversy involving the continuing qualification of the plan because of an amendment to the plan, the amendment) with respect to which a decision of the Tax Court is sought has been put into effect before the filing of the pleading. A plan or amendment shall not be treated as not being in effect merely because under the plan the funds contributed to the plan may be refunded if the plan (or the plan as so amended) is found to be not qualified.

(5) *Time for bringing action.* If the Secretary or his delegate sends by certified or registered mail notice of his determination with respect to the qualification of the plan to the persons referred to in paragraph (1) (or, in the case of employees referred to in paragraph (1), to any individual designated under regulations prescribed by the Secretary or his delegate as a representative of such employee), no proceeding may be initiated under this section by any person unless the pleading is filed before the ninety-first day after the day after such notice is mailed to such person (or to his designated representative, in the case of an employee).

(c) *Commissioners.* The chief judge of the Tax Court may assign proceedings under this section to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to such proceeding, subject to such conditions and review as the court may by rule provide.

(d) *Retirement plan.* For purposes of this section, the term "retirement plan" means—

(1) A pension, profit-sharing, or stock bonus plan described in section 401(a) or a trust which is part of such a plan,

(2) An annuity plan described in section 403(a), or

(3) A bond purchase plan described in section 405(a).

(e) *Cross reference.* For provisions concerning intervention by Pension Benefit Guaranty Corporation and Secretary of Labor in actions brought under this section and right of Pension Benefit Guaranty Corporation to bring action, see section 3001(c) of subtitle A of title III of the Employee Retirement Income Security Act of 1974.

[Sec. 7476 as added by sec. 1041(a), Employee Retirement Income Security Act of 1974 (88 Stat. 949)]

§ 1.7476–1 Interested parties.

(a) *In general.* Before the Internal Revenue Service may issue certain advance determinations as to the qualified

status of certain retirement plans, the applicant must provide the Internal Revenue Service with satisfactory evidence that such applicant has notified each employee who qualifies as an interested party under regulations prescribed under section 7476(b)(1) of the Code of the application for such determination. See section 3001(a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 995). For the rules for giving notice to interested parties, see § 1.7476–2. Section 7476 provides a procedure for obtaining a declaratory judgment by the Tax Court with respect to the initial or continuing qualification under subchapter D of chapter 1 of the Code of a retirement plan defined in section 7476(d) in the case of an actual controversy involving:

(1) A determination by the Internal Revenue Service with respect to the initial qualification or continuing qualification under such subchapter of such a plan, or

(2) A failure by the Internal Revenue Service to make a determination with respect to—

(i) Such initial qualification of such a plan, or

(ii) Such continuing qualification of such a plan, if the controversy arises from a plan amendment or plan termination.

Under section 7476(d) the term "retirement plan" means a pension, profit-sharing, or stock bonus plan described in section 401(a) or a trust which is part of such a plan, an annuity plan described in section 403(a), or a bond purchase plan described in section 405(a). This procedure is available only to the employer, the plan administrator as defined in section 414(g), an employee who qualifies as an interested party as defined in this section, or the Pension Benefit Guaranty Corporation, where such person has an actual controversy involving a determination described in pargaraph (a)(1) of this section, or failure to make a determination described in paragraph (a)(2) of this section. In the case of an application for such a determination, this procedure is available only if such determination or failure to make such determination is with respect to an application described in paragraph (b)(5) of this section. In the case of an application described in paragraph (b)(5) of this section, if a petitioner was the applicant for the determination, the Tax Court may hold, under section 7476(b)(2), the filing of a pleading for a declaratory judgment to be premature unless the petitioner establishes to the satisfaction of the Tax Court that such petitioner has caused all interested parties to be notified in accordance with this section and § 1.7476–2.

(b) *Interested parties.* For purposes of section 7476(b)—

(1) *Initial qualification and certain first applications.* In the case of an application for an advance determination with respect to:

(i) The initial qualification of a plan, or

(ii) Whether a plan amendment (other than an amendment described in paragraph (b)(3) of this section) affects the continuing qualification of a plan, if the application is the first application made to the Internal Revenue Service for a determination for a plan year to which section 410 applies to such plan, all present employees of the employer shall qualify as interested parties.

(2) *Plan amendments.* In the case of an application (other than an application referred to in paragraph (b)(1) or (b)(3) of this section) for an advance determination as to whether a plan amendment affects the continuing qualification of a plan, the following persons shall qualify as interested parties:

(i) All present employees of the employer eligible to participate under the plan,

(ii) If the plan amendment affects participation under the plan, all present employees of the employer, and

(iii) If the plan amendment affects the contributions for, or benefits to any former employee, all former employees who have a nonforfeitable right to an accrued benefit under the plan.

For the purpose of paragraph (b)(2)(ii) of this section, if qualification of the plan is dependent upon benefits under the plan integrating with those benefits provided under the Social Security Act or a similar program, and if such integration results in excluding any employee or could possibly result in any participant's benefit being reduced to zero and the amendment affects contributions to or the amount of benefits payable under the plan, then the amendment shall be considered to affect participation under the plan.

(3) *Plan terminations.* In the case of an application for an advance determination with respect to whether a plan termination affects the continuing qualification of such plan, all present and former employees covered under the plan and all beneficiaries of deceased former employees currently receiving benefits or entitled to receive future benefits under the plan, shall qualify as interested parties.

(4) *Exceptions.* Notwithstanding any other provision in this section—

(i) Employees who are not eligible to participate under the plan shall not be interested parties—

(A) In the case of a plan described in section 413(a) (relating to collectively bargained plans) which does not cover any employee who is an officer or shareholder or whose total annual rate of compensation ranks such employee among the one-third most highly compensated employees of the employer (but this standard shall not be used for purposes of determining which employees are highly compensated for purposes of Subchapter D of chapter 1 of the Code and the regulations thereunder); or

(B) In the case of a plan which does not exclude employees by virtue of age or length of service, and which clearly meets the eligibility standards of section 410(b)(1)(A).

(ii) The following persons shall not be interested parties—

(A) Employees covered by an agreement described in section 410(b)(2)(A) (relating to a collectively bargained agreement in which retirement benefits were the subject of good faith bargaining), who are not included in the plan;

(B) In the case of a trust established or maintained pursuant to an agreement described in section 410(b)(2)(B) (relating to a collectively bargained agreement between air pilots and one or more employers), employees not covered by such an agreement;

(C) Employees described in section 410(b)(2)(C) (relating to employees who are nonresident aliens and who received no earned income from the employer which constitutes income from sources within the United States) who are not eligible to benefit under the plan. If the applicant fails to notify one or more employees on the belief that such employee or employees are within one of the classes described in paragraph (b)(4) of this section and it is later determined by the Internal Revenue Service that such employee or employees are not within any such classes and are interested parties, the application shall be returned to the applicant for failure to notify all interested parties.

(5) *Applicability.* This paragraph shall only apply in the case of an application made to the Internal Revenue Service requesting an advance determination that a retirement plan as defined in section 7476(d) and paragraph (a) of this section meets the requirements for qualification for a plan year or years to which section 410 applies to such plan. See paragraph (c)(4) and (5) of this section for special rules in respect of years to which section 410 applies.

(c) *Special rules.* For purposes of this section and § 1.7476–2—

(1) *Time of determination.* The status of an individual as a present employee or former employee shall be determined as of the date the application is made or the beginning of the first plan year to which the application relates, whichever is earlier, except that if the beginning of the first plan year is the earlier, an individual is a present employee if such individual is employed after the beginning of such year and on or before the date the application is made.

(2) *Controlled groups, etc.* An individual shall be considered to be an employee of an employer if such employee is treated as that employer's employee under section 414 (b) or (c).

(3) *Employer.* The term "employer" includes all employers who maintain the plan with respect to which an application for an advance determination is made.

(4) *Years to which section 410 relates.* For purposes of paragraph (b)(5) of this section, section 410 shall be considered to apply to a plan year if an election has been made under section 1017(d) of the Employee Retirement Income Security Act of 1974 to have section 410 apply to such plan year, whether or not the election is conditioned upon the issuance by the Commissioner of a favorable determination letter.

(5) *Government, church plans, etc.* In the case of an organization described in section 410(c)(1), section 410 will be considered to apply to a plan year of such

organization for any plan year to which section 410(c)(2) applies to such plan.

§ 1.7476–2 Notice to interested parties.

(a) *In general.* Any person applying to a district director for a determination described in paragraph (b)(5) of § 1.7476–1 shall cause notice of the application to be given to all persons who qualify as interested parties under § 1.7476–1 with respect to the plan whether or not such application is received by the Internal Revenue Service before the date on which section 410 applies to the plan.

(b) *Nature of notice.* The notice required by this section shall be given in writing, shall contain the information and be given within the time required by the Commissioner, and shall be given in the following manner:

(1) *Present employees.* In the case of a present employee who is an interested party, notice shall be given in person, by mailing, or by posting. In addition, if any such employee is in a unit of employees covered by a collective bargaining agreement between employee representatives and one or more employers, notice shall be given in person or by mail to the collective bargaining representative of such employee.

(2) *Former employees or beneficiaries.* In the case of a former employee or beneficiary who is an interested party, notice shall be given in person or by mail to the last known address of such former employee or beneficiary.

(3) *Notice by posting.* Notice given by posting shall be made through the geographical area in which the interested parties ordinarily are employed by posting such notice (i) at those locations customarily used by the employer for notices to employees with regard to labor-management relations matters at worksites of employees, or (ii) if the plan is maintained pursuant to one or more collective bargaining agreements, at those locations customarily used by the employee representatives for posting notices with regard to labor-management relations matters, such as local union meeting places, or (iii) at a combination of such locations.

PART 301—PROCEDURE AND ADMINISTRATION

2. The following sections are added immediately after § 301.7474:

DECLARATORY JUDGMENTS RELATING TO QUALIFICATION OF CERTAIN RETIREMENT PLANS

§ 301.7476 Statutory provisions; declaratory judgments.

Sec. 7476. *Declaratory judgments*—(a) *Creation of remedy.* In a case of actual controversy involving—

(1) A determination by the Secretary or his delegate with respect to the initial qualification or continuing qualification of a retirement plan under subchapter D of chapter 1, or

(2) A failure by the Secretary or his delegate to make a determination with respect to

(A) Such initial qualification, or

(B) Such continuing qualification if the controversy arises from a plan amendment or plan termination,

upon the filing of an appropriate pleading, the United States Tax Court may make a declaration with respect to such initial qualification or continuing qualification. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

(b) *Limitations*—(1) *Petitioner.* A pleading may be filed under this section only by a petitioner who is the employer, the plan administrator, an employee who has qualified under regulations prescribed by the Secretary or his delegate as an interested party for purposes of pursuing administrative remedies within the Internal Revenue Service, or the Pension Benefit Guaranty Corporation.

(2) *Notice.* For purposes of this section, the filing of a pleading by any petitioner may be held by the Tax Court to be premature, unless the petitioner establishes to the satisfaction of the court that he has complied with the requirements prescribed by regulations of the Secretary or his delegate with respect to notice to other interested parties of the filing of the request for a determination referred to in subsection (a).

(3) *Exhaustion of administrative remedies.* The Tax Court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to him within the Internal Revenue Service. A petitioner shall not be deemed to have exhausted his administrative remedies with respect to a failure by the Secretary or his delegate to make a determination with respect to initial qualification or continuing qualification of a retirement plan before the expiration of 270 days after the request for such determination was made.

(4) *Plan put into effect.* No proceeding may be maintained under this section unless the plan (and, in the case of a controversy involving the continuing qualification of the plan because of an amendment to the plan, the amendment) with respect to which a decision of the Tax Court is sought has been put into effect before the filing of the pleading. A plan or amendment shall not be treated as not being in effect merely because under the plan the funds contributed to the plan may be refunded if the plan (or the plan as so amended) is found to be not qualified.

(5) *Time for bringing action.* If the Secretary or his delegate sends by certified or registered mail notice of his determination with respect to the qualification of the plan to the persons referred to in paragraph (1) (or, in the case of employees referred to in paragraph (1), to any individual designated under regulations prescribed by the Secretary or his delegate as a representative of such employee), no proceeding may be initiated under this section by any person unless the pleading is filed before the ninety-first day after the day after such notice is mailed to such person (or to his designated representative, in the case of an employee).

(c) *Commissioners.* The chief judge of the Tax Court may assign proceedings under this section to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to such proceeding, subject to such conditions and review as the court may by rule provide.

(d) *Retirement plan.* For purposes of this section, the term "retirement plan" means—

(1) A pension, profit-sharing, or stock bonus plan described in section 401(a) or a trust which is part of such a plan,

(2) An annuity plan described in section 403(a), or

(3) A bond purchase plan described in section 405(a).

(e) *Cross reference.* For provisions concerning intervention by Pension Benefit Guaranty Corporation and Secretary of Labor in actions brought under this section and right of Pension Benefit Guaranty Corporation to bring action, see section 3001(c) of subtitle A of title III of the Employee Retirement Income Security Act of 1974.

[Sec. 7476 as added by sec. 1041(a), Employee Retirement Income Security Act 1974 (88 Stat. 949)]

§ 301.7476–1 Declaratory judgments.

See the regulations under section 7476 contained in Part 1 of this chapter (Income Tax Regulations) for provisions relating to declaratory judgments, for provisions relating to the qualification of an employee as an "interested party", and for a requirement that the applicant for an advance determination by the Internal Revenue Service of the qualification of certain retirement plans give notice of such application to interested parties.

[FR Doc.75-14508 Filed 6-3-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 51]

SUBPART—UNITED STATES STANDARDS FOR GRADES OF LETTUCE [1]

Proposed Rulemaking

Notice is hereby given that the United States Department of Agriculture is considering the revision of United States Standards for Grades of Lettuce (7 CFR 51.2510–51.2531). These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers and consumers. Official grading services are also provided under this act upon request of any financially interested party and upon payment of a fee to cover the cost of such services.

All persons who desire to submit written data, views or arguments for consideration in connection with the proposal should file the same, in duplicate, not later than August 31, 1975, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, where they will be available for public review during official hours of business (7 CFR 1.27(b)).

Statement of considerations leading to the proposed revision of the grade standards. The last major revision of the U.S. Standards for Grades of Lettuce became effective July 1961 and since that time there have been many changes in marketing practices. As a result of these changes, lettuce shippers of California and Arizona have requested that the standards be revised to eliminate net weight from the requirements of standard pack; increase the number of wrap-

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act or with applicable State laws and regulations.

per leaves permitted in the U.S. No. 1 grade and provide a trimming requirement for the U.S. No. 2 grade.

In response to the request, a study draft to consider revision of these standards was prepared in June 1974, with a period for comment ending December 31, 1974. The draft outlined the requested changes as well as those resulting from discussions with receivers and inspection service personnel.

In addition to distributing the study draft to all segments of the industry, Fruit and Vegetable Division personnel made a concerted effort to meet with wholesalers and retailers as well as with producers and other interested persons for the purpose of explaining and soliciting comment on the draft. Organizations met with are as follows:

Eastern Produce Council; Produce Trade Association, New York City; Philadelphia Terminal Market Association; Baltimore Wholesale Carlot Receivers; Atlanta Produce Association; Oswego and Orange County Vegetable Growers, New York State; Central California Lettuce Cooperative and the Grades Standards Committee of Produce Marketing Association.

Response from the grower—shipper segment of the industry generally recommended adoption of the changes proposed in the study draft. Most of the changes proposed were acceptable to lettuce wholesalers and retailers. However, they commented unfavorably on some of the changes as, in their opinion, they would only serve to "loosen" the requirements of the standards currently in use and would result in the consumer receiving a lower quality product.

After consideration of all comments and suggestions received from the study draft the changes proposed are as follows:

(1) In both the U.S. Fancy and U.S. No. 1 grades the requirement for reporting the percentages of hard and firm heads in connection with the grade would be eliminated. However, solidity would continue to be reported under the "Quality" heading on the inspection certificate.

(2) Provide a new 5 percent tolerance for soft heads which would be included in total tolerance for permanent defects in the U.S. Fancy and U.S. No. 1 grades.

(3) The U.S. Fancy grade would be retained; however, the precooling requirement contained in the grade would be deleted. In lieu of this, an optional precooling requirement section would be provided that may be used with all grades.

(4) Present definitions of "Fairly well trimmed" and "Closely trimmed" would be changed by deleting the requirement pertaining to excessively large and coarse wrapper leaves. With the development of new and improved varieties, large and coarse leaves have not been a problem. In addition, the number of wrapper leaves would be increased from 6 to 7 on heads defined as "Fairly well trimmed."

(5) A new trimming requirement "Reasonably trimmed" would be incorporated in the U.S. No. 2 grade. "Reasonably trimmed" would permit 12 wrapper leaves. At present there are no requirements for trimming in the U.S. No. 2 grade.

(6) "Overgrown" and "Ribby" definitions would be deleted. These terms are a carry over from the lettuce standard of July 1961. Due to new and improved varieties and modern harvesting practices these terms are no longer applicable.

(7) A visual aid sketch illustrating two new definitions "Cap Leaf" and "Crown" would be added to the standards. (See figure 1.)

(8) The U.S. Commercial grade would be deleted. This grade is seldom used as a trading grade and is regarded by certain segments of the industry as having confused rather than clarified the purchasing of lettuce. Also, elimination of this grade is consistent with the Department's efforts to respond to current demands for more uniform grade nomenclature than presently exists.

(9) New definitions of damage and serious damage by worms, insects and field freezing would be provided.

Among other changes are: The new format presents the requirements for a particular grade in a more understandable order; and, a classification of defects section which lists limitations for defects under injury, damage and serious damage headings. Specific measurements appearing in the standards in terms of inches and fractions thereof are accompanied by their metric equivalents. Some other minor changes are made in the interest of clarity.

It is proposed that Part 51 be revised to read as follows:

PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS[1] (INSPECTION, CERTIFICATION, AND STANDARDS)

Subpart—United States Standards for Grades of Lettuce

GRADES

Sec.
51.2510 U.S. Fancy.
51.2511 U.S. No. 1.
51.2512 U.S. No. 2.

TOLERANCES

51.2513 Tolerances.

APPLICATION OF TOLERANCES

51.2514 Application of tolerances.

PRECOOLING REQUIREMENTS

51.2515 Precooling requirements.

STANDARD PACK

51.2516 Standard pack.

SOLIDITY CLASSIFICATION

51.2517 Solidity classification.

DEFINITIONS

51.2518 Similar varietal characteristics.
51.2519 Fresh.
51.2520 Green.
51.2521 Burst.
51.2522 Doubles.
51.2523 Fairly well trimmed.
51.2524 Closely trimmed.
51.2525 Reasonably trimmed.
51.2526 Cap leaf.
51.2527 Crown.
51.2528 Injury.
51.2529 Damage.
51.2530 Serious damage.
51.2531 Permanent defects.
51.2532 Condition defects.
51.2533 Classification of defects.

AUTHORITY: Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended (7 U.S.C. 1622, 1624).

GRADES

§ 51.2510 U.S. Fancy.

"U.S. Fancy" consists of heads of lettuce which meet the following requirements:

(a) Basic requirements: (a) Similar varietal characteristics; (2) Fresh; (3) Green; (4) Not soft; (5) Not burst.

(b) Free from: (1) Decay; (2) Russet spotting; and (3) Doubles.

(c) Free from injury by: (1) Tipburn; (2) Downy mildew; (3) Field freezing; and (4) Discoloration.

(d) Not damaged by any other cause.

(e) Each head shall be fairly well trimmed unless specified as closely trimmed.

(f) For tolerances see § 51.2513.

§ 51.2511 U.S. No. 1.

"U.S. No. 1" consists of heads of lettuce which meet the following requirements:

(a) Basic requirements: (1) Similar varietal characteristics; (2) Fresh; (3) Green; (4) Not soft; (5) Not burst.

(b) Free from: (1) Decay; and (2) Doubles.

(c) Not damaged by any other cause.

(d) Each head shall be fairly well trimmed unless specified as closely trimmed.

(e) For tolerances see § 51.2513.

§ 51.2512 U.S. No. 2.

"U.S. No. 2" consists of heads of lettuce which meet the following requirements:

(a) Basic requirements: (1) Similar varietal characteristics; (2) Not burst.

(b) Free from decay.

(c) Not seriously damaged by any other cause.

(d) Unless otherwise specified each head shall be reasonably trimmed.

(e) For tolerances see § 51.2513.

TOLERANCES

§ 51.2513 Tolerances.

In order to allow for variations incident to proper grading and handling the following tolerances, by count, shall be permitted in any lot:

(a) U.S. Fancy—*(1) For defects at shipping point.*[2] Eight percent for heads of lettuce which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than 5 percent shall be allowed for soft heads: *And provided further,* That not more

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[2] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

than 4 percent shall be allowed for defects causing serious damage; including in this latter amount not more than 1 percent for heads which are affected by decay on any portion of the head exclusive of the wrapper leaves.

(2) *En route or at destination.* 12 percent for heads of lettuce which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for heads having permanent defects including therein not more than 5 percent for soft heads; or,

(ii) 6 percent for heads which are seriously damaged; including therein not more than 4 percent for heads seriously damaged by permanent defects and not more than 3 percent for heads which are affected by decay on any portion of the head exclusive of the wrapper leaves. (see § 51.2514)

(b) U.S. No. 1—(1) *For defects at shipping point.*[2] 8 percent for heads of lettuce which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than 5 percent shall be allowed for soft heads: *And provided further,* That not more than 4 percent shall be allowed for defects causing serious damage, including in this latter amount not more than 1 percent for heads which are affected by decay on any portion of the head exclusive of the wrapper leaves.

(2) *En route or at destination.* 12 percent for heads of lettuce which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for heads having permanent defects including therein not more than 5 percent for soft heads; or,

(ii) 6 percent for heads which are seriously damaged; including therein not more than 4 percent for heads seriously damaged by permanent defects and not more than 3 percent for heads which are affected by decay on any portion of the head exclusive of the wrapper leaves. (see § 51.2514)

(c) U.S. No. 2—(1) *For defects at shipping point,*[2] 8 percent for heads of lettuce which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than 3 percent shall be allowed for heads which are affected by decay on any portion of the head exclusive of the wrapper leaves.

(2) *En route or at destination.* 12 percent for heads of lettuce which fail to meet the requirements of this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) 8 percent for heads having permanent defects; or,

(ii) 5 percent for heads which are affected by decay on any portion of the head exclusive of the wrapper leaves. (see § 51.2514)

APPLICATION OF TOLERANCES

§ 51.2514 Application of tolerances.

(a) In order to meet the requirements of a specified grade the average percentage of defective specimens in the lot, based on sample inspection shall be within the tolerance specified, and the number of defective specimens in individual packages in the lot shall be within the limitations set forth in the following table:

TABLE I.—Maximum number of defective heads permitted in any package

Lot tolerance, percent	Total number of heads in package			
	24	18 or 20	30	Over 30
1	1	1	2	2
3	3	2	3	4
4	3	3	4	4
5	3	3	4	5
6	4	3	5	6
8	5	4	6	7
12	6	5	7	9

PRECOOLING REQUIREMENTS

§ 51.2515 Precooling requirements.

The following precooling requirements may be used in certifying lettuce in the producing area:

(a) Lettuce certified as meeting "Precooling Requirements" in the producing area shall have a core temperature of not more than 36° F (2.2° C) when placed in a refrigerated conveyance or storage.

(1) The temperature shall be taken near the center of the head with a thermometer which has previously been cooled to the approximate temperature of the lettuce.

STANDARD PACK

§ 51–2516 Standard pack.

(a) Heads of lettuce shall be fairly uniform in size, and fairly tightly to tightly packed but not excessively tightly packed in uniform layers in the container according to the approved and recognized methods; except that in standard fiberboard containers a "bridge" of 6 heads may be placed between the layers in a 2-½ dozen pack.

(1) Fairly uniform in size means that not more than 10 percent, by count, of heads in any container may vary appreciably in size from the standard size head for the count pack.

(i) The standard size head for a 2 dozen pack is that size head, having 4 wrapper leaves, which will pack tightly but not excessively tightly, 3 rows with 4 heads of uniform size in each row in a layer in a standard fiberboard container. Heads having lesser or greater numbers of wrapper leaves which can be packed as specified herein are considered equivalent in size to a standard size head with 4 wrapper leaves.

(2) Excessively tightly packed means that heads are packed so tightly as to cause distortion, or crushing of the heads or breaking of the midribs.

(b) When heads of lettuce are wrapped no head may have more than 1 wrapper leaf.

(1) Lettuce packed in standard fiberboard lettuce containers shall have a net weight of not less than 40 pounds (18 kg) and not more than 48 pounds (22 kg).

(c) In order to allow for variations incident to proper packing, not more than a total of 10 percent of the containers in any lot may fail to meet the requirements of standard pack.

SOLIDITY CLASSIFICATION

§ 51.2517 Solidity classification.

(a) Solidity of letture may be specified in connection with the grade in accordance with any of the following classifications:

(1) *Hard*—"Hard" means that the head is compact and solid. This term represents the highest degree of solidity.

(2) *Firm*—"Firm" means that the head is compact, but may yield slightly to moderate pressure.

(3) *Fairly firm*—"Fairly firm" means that although the head is not firm, it is not soft and spongy, and has good head formation.

(4) *Soft*—"Soft" means that the head is easily compressed or spongy.

DEFINITIONS

§ 51.2518 Similar varietal characteristics.

"Similar varietal characteristics" means that the heads in any container have the same characteristic leaf growth. For example, lettuce of the Iceberg and Big Boston types shall not be mixed.

§ 51.2519 Fresh.

"Fresh" means that the head as a whole has normal succulence and the wrapper leaves and the outermost head leaves are not more than slightly wilted.

§ 51.2520 Green.

"Green" means that one-half or more of the exterior surface of the head, exclusive of the wrapper leaves, has at least a light green color.[3]

§ 51.2521 Burst.

"Burst" means that the head is split or broken open.

§ 51.2522 Doubles.

"Doubles" means two heads on the same stem.

§ 51.2523 Fairly well trimmed.

"Fairly well trimmed" means that the butt is trimmed off closely below the point of attachment of the outer leaves, and that on a head of Iceberg type lettuce, wrapper leaves do not exceed 7 in number.

§ 51.2524 Closely trimmed.

"Closely trimmed" means that the butt is trimmed off closely below the point of attachment of the outer leaves, and that on a head of Iceberg type lettuce, wrapper leaves do not exceed 3 in number.

[2] Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

[3] The color referred to is illustrated by plate 5 GY 8/6 in the Munsell Book of Color. Individual plates of the above color may be purchased from the Munsell Color Co., 2441 North Calvert, Baltimore, Md. 21218.

§ 51.2525 Reasonably trimmed.

"Reasonably trimmed" means that the butt is trimmed off closely below the point of attachment of the outer leaves, and that on a head of Iceberg type lettuce, wrapper leaves do not exceed 12 in number.

§ 51.2526 Cap leaf.

"Cap leaf" is the first head leaf. This is the outermost leaf which fairly closely enfolds the compact portion of the head, some portion of which extends to the top of the crown. The tip of the leaf may be separated from the head provided that the separation does not extend more than 1¼ inches (31.8 mm) in height from the compact portion of the head. (See figure 1.)

(a) All leaves outside of the cap leaf are wrapper leaves.

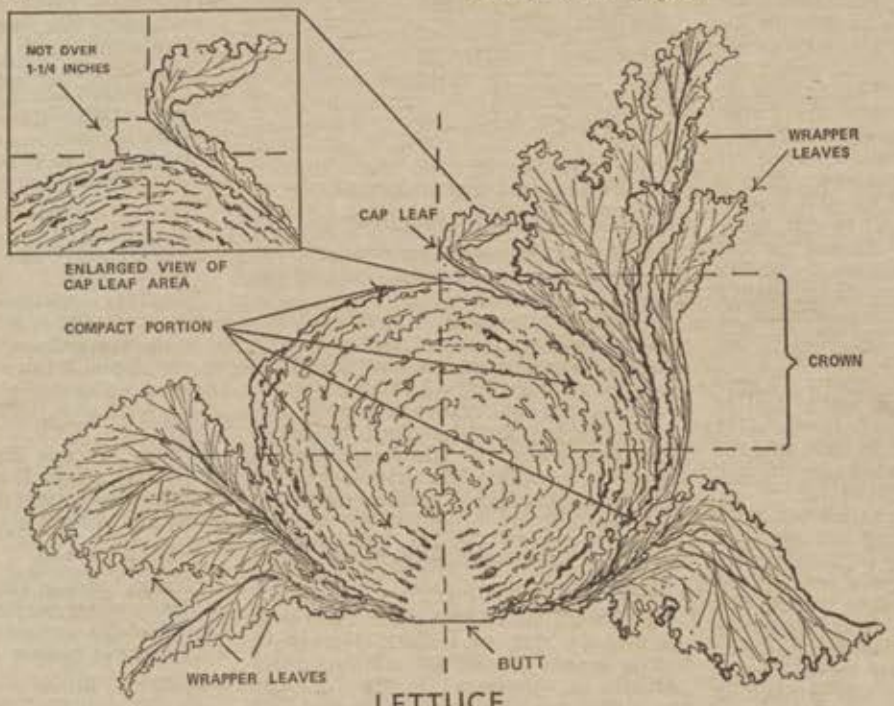
(b) On elongated or pointed heads the inner leaves that closely enfold the head three-fourths of their length are head leaves.

§ 51.2527 Crown.

"Crown" means the upper half of the head. (See figure 1.)

§ 51.2528 Injury.

"Injury" means any specific defect described in § 51.2533, Table II and III, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which noticeably detracts from the appearance, or the edible or marketing quality of the lettuce.



LETTUCE
(ICEBERG TYPE)
USDA-AMS-F&V-1973
FIGURE 1.

§ 51.2529 Damage.

"Damage" means any specific defect described in § 51.2532, Tables II and III, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the lettuce.

§ 51.2530 Serious damage.

"Serious damage" means any specific defect described in § 51.2532, Tables II and III, or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the lettuce.

§ 51.2531 Permanent defects.

"Permanent defects" means defects which are not subject to change during shipment or storage, including but not limited to soft, burst, open or poorly trimmed heads, seedstems or dirt.

§ 51.2532 Condition defects.

"Condition defects" means defects which are subject to change during shipment or storage, including but not limited to decay, tipburn, russet spotting, pink rib, rib discoloration, and freezing injury.

§ 51.2533 Classification of defects.

TABLE II.—AT SHIPPING POINT [1]

Defect	Injury	Damage	Serious damage
Tipburn	More than 2 spots of tipburn occurring anywhere in the compact portion of the head or the aggregate area of discernible tipburn, regardless of color, exceeds that of a rectangle 1-inch (25.4 mm) in length and ¼-inch (6.4 mm) in width.	Aggregate area of tipburn occurring anywhere in the compact portion of the head exceeds a rectangle 1-inch (25.4 mm) in length and ½-inch (12.7 mm) in width.	Aggregate area of tipburn occurring anywhere in the compact portion of the head exceeds that of a rectangle 3-inches (76.2 mm) in length and 1-inch (25.4 mm) in width.
Downy mildew	Occurring on any head or wrapper leaf.	Readily apparent on any head leaf; when mildew not accompanied by discoloration is readily apparent on more than 2 wrapper leaves, or discoloration associated with mildew is readily apparent on any wrapper leaf.	Materially detracting from the appearance or shipping quality of any head leaf; mildew not accompanied by discoloration is readily apparent on more than 3 wrapper leaves, or discoloration associated with mildew is readily apparent on more than 2 wrapper leaves.
Opening		In a hard or firm head when ¼ or more of the head is separated from the remainder, or any degree of opening in a fairly firm head.	
Seedstems		Excessively long, excessively curved, tough or fibrous. (see figs. 2 and 3).	Causing the head to split or when protruding through the outer head leaves.
Broken midribs		More than 2 head leaves have midribs broken in 2 due to abnormal growth.	More than 4 head leaves have midribs broken in 2 due to abnormal growth.
Russett spotting	Present in any degree	Present in any degree	Present in any degree.
Pink rib	Occurring on any head leaf	Ribs of more than 2 head leaves show areas of deep pink color more than 2-inches (50.8 mm) in length or when causing more than 2 head leaves to be excessively papery and tough.	Areas of deep pink color seriously detracts from the appearance or the edible quality of more than 2 head leaves.

LETTUCE SEEDSTEM



MAXIMUM EXTENT TO WHICH HEAD MAY BE AFFECTED BY SEEDSTEM IN U.S. NO. 1 GRADE

FIGURE 2.

LETTUCE SEEDSTEM



MAXIMUM EXTENT TO WHICH HEAD MAY BE AFFECTED BY SEEDSTEM IN U.S. NO. 1 GRADE

FIGURE 3.

TABLE II.—At Shipping Point [1]

Defect	Injury	Damage	Serious damage
Rib discoloration	Occurring on any head leaf	Aggregate length of brown or black spots on outer surface of any head leaf exceeds 1 inch (25.4 mm).	Seriously detracting from the appearance or the edible quality of more than 2 head leaves.
Dirt		Compact portion of the head is smeared with mud, or wrapper leaves are badly smeared with mud, or when the basal portion is caked with mud or dry dirt.	
Insects and worms		Compact portion of the head is infested, or the wrapper leaves are badly infested with insects or worms, or there is feeding injury on the compact portion of the head.	Compact portion of the head is infested, or the wrapper leaves are badly infested with insects or worms, or there is feeding injury on more than 2 head leaves.

TABLE II.—AT SHIPPING POINT [2]—Continued

Defect	Injury	Damage	Serious damage
Field Freezing	Any peeling, feathering or yellow or brown discoloration resulting from field freezing is readily apparent on any outer head leaf.	Peeling or feathering extends over more than ¾ the area of the crown on more than 2 head leaves or yellow or brown discoloration resulting from field freezing extends over more than ⅓ of the crown, or the wrapper leaves are seriously damaged by discoloration resulting from freezing.	
Discoloration (other than caused by freezing)	Any 1 of the following types or a combination of 2 or more types the seriousness of which exceeds the maximum allowed for any 1 type: (1) Yellow or brown discoloration from any cause affecting any portion of the leaf, or materially detracting from the appearance of the wrapper leaves. (2) Yellow or brown discoloration from any cause when readily apparent on the compact portion of the head. (3) Discoloration following bruising noticeably detracting from the appearance of more than 2 outer head leaves.	Any 1 of the following types or a combination of 2 or more types the seriousness of which exceeds the maximum allowed for any 1 type: (1) Yellow or brown, affecting any portion of the leaf, or seriously detracting from the appearance of the wrapper leaves. (2) Yellow or brown, materially detracting from the appearance of the head exclusive of the wrapper leaves. (3) Discoloration following bruising materially detracting from the appearance of more than 2 outer head leaves.	Any 1 of the following types, or a combination of 2 or more types the seriousness of which exceeds the maximum allowed for any 1 type: (1) Yellow or brown, affecting any portion of the leaf, or very seriously detracting from the appearance of the wrapper leaves. (2) Yellow or brown, seriously detracting from the appearance of the head leaves exclusive of the wrapper leaves. (3) Discoloration following bruising seriously detracting from the appearance of more than 2 outer head leaves.

TABLE III (EN ROUTE OR AT DESTINATION)

Defect	Injury	Damage	Serious damage
Tipburn	Aggregate area of tipburn of a light buff [4] or darker color exceeds that of a rectangle 1 inch (25.4 mm) in length and ¼ inch (6.4 mm) in width.	Aggregate area of tipburn of a light buff [4] or darker color occurring anywhere in the compact portion of the head exceeds a rectangle 1 inch (25.4 mm) in length and ½ inch (12.7 mm) in width.	Aggregate area of tipburn of a light buff [4] or darker color occurring anywhere in the compact portion of the head exceeds that of a rectangle 3 inches (78.2 mm) in length and 1 inch (25.4 mm) in width.
Downy mildew	Any that is readily apparent on any head leaf or discoloration associated with mildew is readily apparent on more than 2 wrapper leaves.	Materially detracting from the appearance of any head leaf or seriously detracting from the appearance of more than 2 wrapper leaves.	Materially detracting from the appearance of more than 2 head leaves or seriously detracting from the appearance of the wrapper leaves.
Pink rib	More than 2 head leaves having midribs showing noticeable areas of pink color as viewed on the outer surface of the leaf or when causing any head leaf to be excessively papery and tough.	See table II	See table II.
Russet spotting	Present in any degree	Present in any degree on more than 2 outer head leaves, or when the number, size, and color of the spots materially detracts from the appearance of any head leaf.	The number, size, and color of the spots seriously detracts from the appearance of 2 or more head leaves.
Rib discoloration	Any distinct brown or black spots of rib discoloration present on the outer surface of any head leaf.	See table II	See table II.

[4] The color referred to is illustrated by plate 10 Y R 8/4 in the Munsell Book of Color. Individual plates of the above color may be purchased from the Munsell Color Co., 2441 North Calvert St., Baltimore, Md. 21218.

NOTE.—For classification of the following defects refer to Table II: opening, seedstems, broken midrib, field freezing, discoloration, and dirt.

Dated: May 27, 1975.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.75-14210 Filed 6-3-75;8:45 am]

[7 CFR Part 916]

NECTARINES GROWN IN CALIFORNIA

Handling; Notice of Proposed Rulemaking

This notice invites written comment relative to a proposed amendment that would continue Nectarine Regulation 6 (§ 916.348; 40 FR 21693) through May 31, 1976. Said regulation will expire on July 12, 1975, unless extended. The regulation prescribes that shipments of California nectarines be at least U.S. No. 1 grade except that (1) a slightly smaller area of the surface of each fruit may be effected by fairly light colored, fairly smooth scars, (2) an additional tolerance is provided for individual fruit not well formed but not badly misshapen, and (3) a slightly larger area of the surface of each fruit of the Sun Free and Golden Grand varieties may be affected by fairly smooth or smooth russeting. The regulation also prescribes minimum sizes for 46 named varieties. The proposed extension of the effective period of Nectarine Regulation 6 is designed to maintain orderly marketing conditions and provide consumers with an ample supply of acceptable-quality fruit. Fresh shipments of California nectarines are expected to total 9,225,000 packages in 1975. The proposed amendment is consistent with the quality and size composition of the estimated crop of California nectarines.

The proposed amendment was submitted by the Nectarine Administrative Committee, established pursuant to the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916), which regulate the handling of nectarines grown in California. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments for consideration in connection with Nectarine Regulation 6, as published in the FEDERAL REGISTER on May 19, 1975 (40 FR 21693), or the proposed amendment published herein shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250 not later than June 25, 1975.

As proposed to be amended, subparagraphs (1), (2), (3), (4), (5), and (6) of paragraph (a) of § 916.348 Nectarine Regulation 6 will read as follows:

§ 916.348 Nectarine Regulation 6.

(a) *Order.* (1) During the period July 12, 1975, through May 31, 1976, no handler shall handle any package or container of any variety of nectarines unless such nectarines grade at least U.S. No. 1: *Provided,* That nectarines 2 inches in diameter or smaller, or 4 x 4 size or smaller, shall not have fairly light colored, fairly smooth scars which exceed the aggregate area of a circle ⅜ inch in diameter, and nectarines larger than 2 inches in diameter, or larger than 4 x 4 size, shall not have fairly light colored, fairly smooth scars which exceed an aggregate

area of a circle ½ inch in diameter: *Provided further*, That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen: *Provided further*, That not more than 25 percent of the surface of each fruit of the Sun Free and Golden Grand varieties may be affected by fairly smooth or smooth russetting.

(2) During the period July 12, 1975, through May 31, 1976, no handler shall handle any package or container of Mayred variety nectarines unless:

* * * * *

(3) During the period July 12, 1975, through May 31, 1976, no handler shall handle any package or container of Armking, Crimson Gold, Mayfair, or Zee Gold variety nectarines unless:

* * * * *

(4) During the period July 12, 1975, through May 31, 1976, no handler shall handle any package or container of June Belle, June Grand, May Grand, Red June, Spring Grand, or Sunbright variety nectarines unless:

* * * * *

(5) During the period July 12, 1975, through May 31, 1976, no handler shall handle any package or container of Early Sungrand, Grandandy, Independence, Moon Grand, Star Grand I, Star Grand II, Sun Flame, Summer Grand, Sun Grand, Rose, or Kent Grand variety nectarines unless:

* * * * *

(6) During the period July 12, 1975, through May 31, 1976, no handler shall handle any package or container of Autumn Grand, C'linton-Strawberry, Fantasia, Flamekist, Flavortop, Gold King, Granderli, Grand Prize, Harry Grand, Hi-Red, Late Le Grand, Le Grand, Niagara Grand, Red Grand, Regal Grand, Richards Grand, Royal Grand, September Grand, Sun Free, Fairlane, Grand Giant, Red Free, Bob Grand, or Tom Grand variety nectarines unless:

* * * * *

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

Dated: May 30, 1975.

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

[FR Doc.75–14637 Filed 6–3–75;8:45 am]

[7 CFR Part 1064]

MILK IN THE GREATER KANSAS CITY MARKETING AREA

Proposed Termination of Certain Provisions of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the termination of the Base-Excess Plan provisions of the order regulating the handling of milk in the Greater Kansas City marketing area, effective September 1, 1975, is being considered.

All persons who desire to submit written data, views, or arguments in connection with the proposed termination should file the same with the Hearing Clerk, Room 112–A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 on or before June 11, 1975. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be terminated are as follows:

§ 1064.32 [Amended]

1. In § 1064.32, *Other reports*, remove paragraphs (a) and (b) in their entirety.

§ 1064.60 [Amended]

2. Immediately preceding § 1064.60, in the centerhead "UNIFORM PRICES", remove the letter "S".

§ 1064.61 [Amended]

3. In 1064.61, *Computation of uniform price (including weighted average price and base and excess prices)*, remove the words "and base and excess prices" as they appear in the definitive heading of the section; and in paragraph (a)(6), the words "for the months of August through January shall be"; and paragraph (b) in its entirety.

§ 1064.62 [Amended]

4. In § 1064.62, *Announcement of uniform prices and butterfat differential*, remove the letter "s" as it appears in the word *prices* where such word appears both in the definitive section heading and in paragraph (b).

§ 1064.71 [Amended]

5. In § 1064.71, *Payments to the producer-settlement fund*, remove paragraph (b) in its entirety.

§ 1064.72 [Amended]

6. In § 1064.72, *Payments from the producer-settlement fund*, remove the references "or (b)(2)" and "or (b)(1)".

§ 1064.73 [Amended]

7. In § 1064.73, *Payments to producers and to cooperative associations*, remove the letter "s" in the word "prices" where such word appears in the text of paragraph (a) preceding the proviso; and in paragraph (d)(2), the words "applicable weighted average or".

§ 1064.74 [Amended]

8. In § 1064.74, *Butterfat differential*, remove the letter "s" in the words "uniform prices".

§ 1064.75 [Amended]

9. In § 1064.75(a), *Plant location adjustments for producers and on nonpool milk*, remove the phrase "and the uniform price for base milk pursuant to § 1064.61(b)".

§§ 1064.90, 1064.91, 1064.92, 1064.93 [Removed]

10. Sections 1064.90, 1064.91, 1064.92, and 1064.93 are removed in their entirety, and the centerheading "BASE-EXCESS PLAN" immediately preceding § 1064.90.

STATEMENT OF CONSIDERATION

The base and excess plan is a method of apportioning the total value of milk in the market among producers on the basis of their marketings of milk during a representative period. The plan is intended to encourage seasonal adjustment of production.

For milk delivered in February through July each year, producers are paid on daily bases computed from their milk deliveries during September through December of the preceding year. In the February–July period, if a producer delivers milk in excess of his base (excess milk), he is paid a lower price for this milk than for base milk. Such excess milk price results from assigning all producers' excess milk to the lower classes of use in the market before any excess milk is assigned to the higher valued Class I. The remaining class utilization determines the price of base milk. During non-base paying months (August through January) producers are paid a uniform price representing the marketwide value of milk utilization in all classes.

Termination of the base and excess plan on September 1, 1975, has been requested by Mid-America Dairymen, Inc., a cooperative association that represents a large proportion of producers on the Greater Kansas City market.

The petitioner claims that a large percentage of producers are finding that adjustment of production in relation to the base and excess plan presents very difficult herd management problems and that a substantial number of producers now oppose the continuation of the plan under the order.

The petitioner pointed out that current production problems relating to the operation of the plan are similar to problems experienced by producers in 1973 and 1974 which led to a temporary suspension of the plan for the months of February through July 1974, the base paying months.

Signed at Washington, D.C., on May 30, 1975.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.75–14638 Filed 6–3–75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 75–SO–53]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Paducah, Ky., control zone and transition area.

Interested persons may submit such written data, views or arguments as they

desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before July 7, 1975 will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Paducah control zone described in § 71.171 (40 FR 354) would be amended as follows:

All after "8.5 miles southwest" would be deleted and "of the RBN." would be substituted therefor.

The Paducah transition area described in § 71.181 (40 FR 441) would be amended as follows:

"* * * northeast of the VORTAC * * *" would be deleted and "* * * northeast of the VORTAC; within a 5.5-mile radius of Metropolis Airport, Metropolis, Ill. (latitude 37°11'09" N., long. 88°45'02" W.); within 3 miles each side of the 353° bearing from Metropolis RBN (lat. 37°11'03" N., long. 88° 11'03" W.), extending from the 5.5 mile radius area to 8.5 miles north of the RBN * * *" would be substituted therefor.

The proposed alteration of the control zone is required to revoke the extension predicated on the Cunningham VOR 045° radial as it is no longer required. The proposed alteration of the transition area is required to provide controlled airspace protection for IFR operations at Metropolis Airport. A prescribed instrument approach procedure to this airport, utilizing the Metropolis (private) Nondirectional Radio Beacon, is proposed in conjunction with the alteration of the transition area.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on May 23, 1975.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75-14539 Filed 6-3-75;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1952]

NORTH CAROLINA

Proposed Supplements to Approved Plan

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) (29 U.S.C. 667) for the review of changes and progress in the development and implementations of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On February 1, 1973, a notice was published in the FEDERAL REGISTER (38 FR 3041) of the approval of the North Carolina plan and adoption of Subpart I of Part 1952 containing the decision and describing the plan. By letters dated September 24, 1974, October 25, 1974, January 3, 1975, January 9, 1975, and January 29, 1975, from W. C. Creel, North Carolina Commissioner of Labor to Donald E. MacKenzie, Assistant Regional Director, Occupational Safety and Health Administration, the State of North Carolina submitted supplements to its plan involving developmental changes. Following regional review, the supplements were forwarded to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for his determination as to whether they should be approved. The supplements are described below.

2. *Description of the supplements.* (a) Regulations. In accordance with the commitment expressed in 29 CFR 1952.153(k), the State has promulgated the following administrative regulations essentially paralleling the like-numbered Federal regulations:

(1) North Carolina Department of Labor Regulation 1903, concerning inspections, citations, and proposed penalties.

(2) North Carolina Department of Labor Regulation 1904, concerning recording and reporting of occupational injuries and illnesses.

(b) Review Board. The North Carolina Occupational Safety and Health Review Board on January 3, 1974, and January 9, 1975 adopted rules numbered 1 through 109 governing its procedure in reviewing contested citations and penalties.

(c) Target Health Hazards. The State has selected 24 substances to be the subject of a concentrated target health hazard effort. The criteria for selection was (1) the number and severity of employee exposure in North Carolina; (2) the existence of standards; (3) the ability to adequately measure the level of exposure. North Carolina proposes the following target health hazards for fiscal year 1975: cotton dust, silica, toluene diisocyanate, benzene, carbon monoxide, mercury, lead, pesticides, vinyl chloride, asbestos, and fourteen (14) carcinogens.

(d) Public Employee program. Sections B and C of Part II of the State Plan prescribing the requirements for self-inspection programs in county and municipal governments and State agencies have been minimally revised to clarify wording and reflect changes in dates and titles and submitted by the State as plan changes. A status report on implementation of the North Carolina public employee program through September, 1974, is also provided.

(e) Organization. The organizational chart for the North Carolina Division of Occupational Safety and Health has been revised to reflect the addition of a third Area Supervisor.

(f) Agriculture. In accord with commitments contained in 29 CFR 1952.153 (q), coverage of agricultural workers by the North Carolina Department of Labor began on April 1, 1974. A plan change documenting this extension of coverage is proposed for inclusion in section S, Part II of the plan.

3. *Location of the plan and its supplements for inspection and copying.* A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Ave. NW., Washington, D.C. 20210; Regional Office, Occupational Safety and Health Administration, Suite 587, 1375 Peachtree Street NE, Atlanta, Georgia 30309; and the Office of the North Carolina Commissioner of Labor, 11 W. Edenton Street, Raleigh, North Carolina 27611.

4. *Public participation.* Interested persons are hereby given until July 7, 1975, in which to submit written data, views and arguments concerning whether the supplements should be approved. Such submissions are to be addressed to the Associate Assistant Secretary for Regional Programs at his address as set forth above where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplements by filing particularized written objections with respect thereto within the time allowed for comments with the Associate Assistant Secretary for Regional Programs. If in the opinion of the Assistant Secretary, substantial objections are filed which warrant further public discussion, a formal or informal hearing on the subjects and issues involved may be held.

The Assistant Secretary shall consider all relevant comments, arguments, and requests submitted in accordance with this notice and shall thereafter issue his decision as to approval or disapproval of the supplements, make appropriate amendments to Subpart I of Part 1952, and initiate further proceedings, if necessary.

Signed at Washington, D.C. this 28th day of May 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-14595 Filed 6-3-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 450]

[FRL 381-8]

EFFLUENT GUIDELINES AND STANDARDS

Pretreatment Standards for Oil and Grease; Extension of Comment Period and Notice of Availability

On April 22, 1975 the Environmental Protection Agency (EPA) published a

notice in the proposed rules section of the FEDERAL REGISTER that the EPA is currently considering certain pretreatment standards for oil and grease for all industrial categories, pursuant to sections 307(b) and (c) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. sections 1317 (b) and (c). The due date for comments provided in the notice was May 22, 1975.

EPA anticipated that the document entitled "Treatability of Oil and Grease," which contains information pertinent to the notice, would be available to the public throughout the comment period. Production difficulties have delayed the availability of this document. Copies of the document are now available and are being distributed to those parties who have submitted written requests to the Office of Public Affairs.

Accordingly the date for submission of comments is hereby extended July 7, 1975.

Date: May 28, 1975.

CHARLES L. ELKINS,
Acting Assistant Administrator for Water and Hazardous Materials.

[FR. Doc.75-14520 Filed 6-3-75; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 21 & 43]

[Docket No. 20490; FCC 75-599]

DOMESTIC PUBLIC RADIO SERVICES

Notice of Proposed Rule Making

In the matter of amendment of Parts 21 and 43 of the Commission's rules and regulations relative to various procedural requirements for the domestic public radio services.

1. Notice is hereby given of proposed rules to revise various requirements of Parts 21 and 43 of the Commission's rules pertaining to the processing of applications and other requirements for the Domestic Public Radio Services (other than Maritime Mobile). These proposed changes would implement the use of new application forms and procedures, clarify application requirements, and institute various other modifications designed to simplify and improve procedures. Although primarily procedural, these changes do involve some substantive matters. Consequently, they are being published as a proposed rule making with an opportunity to comment afforded. While we believe that most of these changes are self-explanatory and reflect current Commission practice and policy, we will briefly discuss some of the more important items.[1]

2. Initially we note that the proposed rules would reorganize some of the sections and separate the requirements for the microwave services from the mobile and rural radio services where there is a substantial difference in requirements for the various services. We believe this will facilitate clarity and understanding.[2] The sections most changed in a substantive way deal with the contents of applications (§§ 21.13–21.15), defective applications (§ 21.20), and permissive changes (§ 21.11). In these sections we have attempted to more explicitly state the various requirements for applications, not only in terms of contents but what type of omissions or defects will cause an application to be returned. For the most part these changes reflect current Commission policy. In the case of permissive changes (i.e. changes not requiring prior approval), we have attempted to broaden the category to allow a somewhat greater degree of freedom in making minor changes. However, in the case of the microwave services we will require that these changes be reported in an application filed after the fact. This will enable the Commission to issue an updated authorization and to keep its data base current.[3]

3. In this same general effort to permit minor facility changes with greater ease, we are also introducing a new section (§ 21.36) which will permit applications in the microwave services which propose only certain categories of minor changes to be approved within 21 days of filing. These changes are of a nature that are more important than the permissible changes allowed without prior authorization but are not important enough to require public notice or significant internal processing or coordination as is the case with regular applications.

4. Section 21.34 would be revised to more clearly reflect current policy with respect to expired construction permits and licenses. In essence it provides for a 30-day grace period. Also, §§ 21.207(c) and 21.208(a) would be modified to provide for some additional flexibility in making transmitter measurements for digital equipment and in keeping station records.

5. Three changes in the Point-to-Point Microwave Radio Service (Subpart I) worthy of comment are:

(a) The 50 percent non-affiliation requirements in §§ 21.700 and 21.709 would be expanded to include all television relay service, not just that rendered to CATV systems. Also, included would be language to prohibit a carrier from relaying closed circuit television signals of an affiliated entity. We believe that such changes are reasonable and would be consistent with our policy of insuring that common carrier service is rendered over facilities that are supposed to be dedicated primarily to public service.

(b) Section 21.709 would be amended to require the submission on a one time basis at the next renewal period of technical data on all authorized microwave stations. This information will enable the Commission to complete its data base swiftly and without excessive cost.

(c) Section 21.706 would be modified so as to preclude applicants from obtaining section 214 authorization in connection with radio applications. Due to the different requirements of section 214 and 309, it has become increasingly difficult to efficiently process these dual purpose applications. Therefore, separate applications would be required for the section 214 authority.

6. With respect to the Multipoint Distribution Service (MDS) we are proposing rule changes that would clearly exempt it from the requirement for prior state certification (§ 21.13)[4] and would require the carrier to provide interstate service upon demand (§ 21.903(b)). These changes are consistent with our recent decision in Midwest Corporation, et al., adopted May 21, 1975 (FCC 75-598. There we noted that MDS appears significantly different from traditional telephone exchange service because it is primarily a one-way television service which provides commercial and institutional customers with the simultaneous reception of specialized communications in accordance with their specific transmission, reception, and programming requirements. (See also, Report and Order in Docket No. 19493, 45 F.C.C. 2d 616, 623–24 (1974)). Noting that only two channels were available to meet both national and local group communication needs, we stated our concern with possible practices which may unreasonably discriminate against interstate or other group communications in which there is a strong federal interest. Since the focus of a state proceeding is the rendition of intrastate service, a state may be inclined to favor an existing carrier or new entity proposing to provide primarily or exclusively intrastate service to the exclusion of other carriers proposing substantial interstate service. Consequently, considering the limited radio spectrum and our own policy of allocating common carrier spectrum for the rendition of non-discriminatory service, we

[1] For the sake of completeness and clarity, the proposed rules contain several minor rule changes promulgated by our Order, FCC 75-607 (40 FR), in order to implement the use of a new form for application for construction permit in the microwave services (FCC Form 435). However, the proposed rules do not reflect other outstanding proposed rule makings for Part 21, e.g., Docket Nos. 19905 and 20368. When this proceeding is finalized, the text and numerical sequence of these rules will be adjusted for any other Part 21 rules which may have been adopted in the interim.

[2] Some thought was initially given to separating these services into different parts or subparts of the rules. However, we have decided against that approach at the present time because of the substantial effort that would be involved and the substantial commonality in requirements for these services in many areas.

[3] It should be noted that the different requirements of the microwave services in this regard are predicated on the use of ADP procedures. Similar procedures may be introduced in the future for the mobile and rural radio services as ADP procedures are instituted for those services.

[4] No change with respect to this policy in other radio services is contemplated in this proceeding.

believe that we should clarify our rules to require all MDS carriers to provide, upon reasonable request, interstate service with such appropriate interconnections as may be necessary. In addition to recognizing more explicitly the federal interest in the MDS service concept, this amendment, we believe, should help to resolve administrative ambiguities which have developed concerning our treatment of state certificates in that it would appear logical for the Commission to determine in the first instance MDS radio licensees without regard to state certificates. We wish to emphasize that we are not attempting to preempt any jurisdiction the states may have for certification and regulation of carriers providing intrastate service over MDS facilities.

7. Also, we are proposing the addition of a reporting requirement in Part 43 for actual costs of all facilities constructed pursuant to Commission authorization under Parts 25 or 63, or in the Point to Point Microwave radio service. This information will enable us to compare actual costs with estimated costs and will be helpful in analyzing costs for rate making purposes in various circumstances. We believe the semi-annual reporting basis will minimize any inconvenience of this requirement.

8. Authority for the rule amendments specified below is contained in sections 4 (i) and 303(r) of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on those proposed rule changes contained below on or before July 18, 1975, and reply comments on or before August 5, 1975. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken with respect to the proposals contained below. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

10. In accordance with the provisions of § 1.419 of the rules, an original and fourteen (14) copies of all comments, replies, pleadings, briefs or other documents shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted: May 21, 1975.

Released: May 29, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[*]

[SEAL] VINCENT J. MULLINS, *Secretary.*

It is proposed to amend Parts 21 and 43 of Chapter I, Title 47, of the Code of Federal Regulations as follows:

1. Subparts A and B of the Table of Contents to Part 21 are amended to read as follows:

[*] Commissioner Washburn absent.

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Subpart A—General

Sec.
21.0 Scope and authority.
21.1 [Reserved]
21.2 Definitions.

Subpart B—Applications and Licenses

GENERAL FILING REQUIREMENTS

Sec.
21.3 Station authorization required.
21.4 Eligibility for station license.
21.5 Formal and informal applications.
21.6 Filing of applications, fees, and number of copies.
21.7 [Reserved]
21.8 Standard application forms.
21.9 Special application requirements for the Domestic Public Land Mobile Radio and Rural Radio Services.
21.10 [Reserved]
21.11 Facility changes which do not require prior authorizations.
21.12 [Reserved]
21.13 General application requirements.
21.14 Technical content of applications.
21.15 Demonstration of financial qualifications.
21.16 [Reserved]
21.17 [Reserved]
21.18 [Reserved]
21.19 [Reserved]
21.20 Defective applications.
21.21 Inconsistent or conflicting applications.
21.22 Repetitious applications.
21.23 Amendment of applications.
21.24 Form of amendments to applications.
21.25 Application for temporary authorizations.

PROCESSING OF APPLICATIONS

21.26 Receipt of application.
21.27 Processing of applications.
21.28 Dismissal and return of applications.
21.29 Partial grants.
21.30 Grants without hearing.
21.31 Conditional grants.
21.32 Transfer and assignment of station authorization.
21.33 Period of construction.
21.34 Forfeiture of station authorizations.
21.35 License period.
21.36 Special procedures for minor facility modifications in the microwave services.

* * * * *

2. Section 21.0 is amended to read as follows:

§ 21.0 Scope and authority.

(a) The purpose of the rules and regulations in this part is to prescribe the manner in which portions of the radio spectrum may be made available for the use of radio for domestic communication common carrier operations which require transmitting facilities on land.

(b) The rules in this part are issued pursuant to the authority contained in titles II and III of the Communications Act of 1934, as amended, which vest authority in the Federal Communications Commission to regulate common carriers of interstate and foreign communications and to regulate radio transmissions and issue licenses for radio stations.

3. Section 21.1 *Definitions* is redesignated as § 21.2 and marked reserved.

§ 21.1 [Reserved]

4. The word "General", the first subtitle of Subpart B, is deleted.

5. Section 21.10 *Eligibility for station license* is redesignated as § 21.4.

6. Section 21.11 *Station authorization required* is redesignated as § 21.3 and is revised to read as follows:

§ 21.3 Station authorization required.

(a) No person shall use or operate in the Domestic Public Radio Services any apparatus for the transmission of energy or communications or signals by radio except under and in accordance with an authorization granted by the Federal Communications Commission.

(b) Except for mobile stations, and except when the Commission finds under the rules of this part that the public interest, convenience, or necessity would be served by waiver of this requirement, no radio license shall be issued for the operation of any station unless a permit for its construction has been granted by the Commission. No construction or modification of a station may be commenced without a construction permit, a modified construction permit, or other authority issued by the Commission for the exact construction or modification to be undertaken, except as may be specifically provided for in other sections of this part.

(c) Upon the completion of construction or continued construction of any station pursuant to the terms of a construction permit and upon the filing of an application for license or modification of license, the Commission shall issue a license or modified license to the lawful holder of the permit for the operation of the station, provided that no cause or circumstance arising or first coming to the knowledge of the Commission since the granting of the permit would, in the judgment of the Commission, make the operation of such station against the public interest.

(d) No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.

7. Section 21.12 is redesignated as § 21.5 and is revised to read as follows:

§ 21.5 Formal and informal applications.

(a) Except for an authorization under any of the proviso clauses of section 308(a) of the Communications Act of 1934 (47 U.S.C. 308(a)), the Commission may grant only upon written application received by it the following authorizations: construction permits; station licenses; modifications of construction permits or licenses; renewals of licenses; transfers and assignments of construction permits or station licenses, or any right thereunder.

(b) Except as may be otherwise permitted by this part, a separate written application shall be filed for each instrument of authorization requested. Applications may be:

(1) "Formal applications" or any request for authorization where the Commission has prescribed under § 21.8 of this part a standard form in order to assure that necessary information is supplied in a consistent manner by all persons; or

(2) "Informal applications" or any request for authorization in letter form where the Commission has not prescribed a standard form or such form is not clearly applicable.

(c) An informal application will be accepted for filing only if:

(1) A standard is not prescribed or clearly applicable to the authorization requested; and

(2) It is submitted in letter form, in duplicate, with a caption which indicates clearly the nature of the request, radio service involved, location of the station, and the application file number (if known); and

(3) It contains all the technical details and informational showings required by the rules, states clearly and completely the facts involved and authorization desired, and otherwise complies with § 2120 of this chapter.

8. Section 21.13 is redesignated as § 21.6 and amended to read as follows:

§ 21.6 Filing of applications, fees, and number of copies.

(a) Applications for radio station authorizations (whether formal or informal) shall be submitted for filing to: Federal Communications Commission, Washington, D.C. 20554.

(b) All correspondence or amendments concerning a submitted application shall contain a caption identifying the radio service, the name of the applicant, station location, and call sign or the Commission file number (if known) of the application involved and may be sent directly to the Common Carrier Bureau.

(c) Except as otherwise specified, all applications, amendments, and correspondence shall be submitted in duplicate, including any exhibits and attachments thereto.

(d) Each application shall be accompanied by the appropriate fee prescribed by, and submitted in accordance with, Subpart G of Part 1 of this chapter, and shall be signed as prescribed by § 1.743 of this chapter.

§ 21.7 [Reserved]

9. Section 21.7 is marked reserved.

10. Section 21.14 is redesignated as § 21.8 and amended to read as follows:

§ 21.8 Standard application forms.

(a) As prescribed by this section, standard formal application forms applicable to the Domestic Public Radio Services (other than Maritime Mobile) may be obtained from either: (1) Federal Communications Commission, Washington, D.C. 20554; or any of the Commission's field operations offices, the addresses of which are listed in § 0.121 of this chapter.

(b) Application for Construction or License Authorization in the Point-to-Point Microwave Radio, Local Television Transmission and Multipoint Distribution Services shall be filed on the forms specified below.

(1) *Authority to construct a new radio station, to modify an existing construction permit, or to change licensed facilities*—Except for facility changes for which FCC Form 436 is prescribed in pargaraph (b)(2) of this section, FCC Form 435 ("Application for New or Modified Common Carrier Microwave Radio Station Construction Permit Under Part 21") shall be submitted for each station involved prior to commencement of any proposed station construction or modification.

(2) *License to cover facilities constructed in accordance with Construction Permit*—FCC Form 436 ("Application for a New or Modified Common Carrier Microwave Radio Station License Under Part 21") shall be filed:

(i) Prior to the expiration date of the construction permit (see also § 21.34 (a)); and

(ii) Upon completion of construction or installation of a station in exact accordance with the terms and conditions set forth in the construction permit; and

(iii) Upon satisfactory completion of equipment tests in accordance with § 21.212(a).

(3) *Modification of license not requiring a prior construction permit*—Modification of a license may be effected without a prior construction permit by filing FCC Form 436 in the following circumstances:

(i) Prior to the expiration of a license, to request the following modifications of license in only the categories:

(A) The correction of erroneous information on a license;

(B) The deletion of licensed facilities;

(C) Changes in the terms or conditions of a license (e.g., changes in the obstruction marking and lighting requirements of an antenna supporting structure); or

(ii) The licensing of permissible changes under § 21.11(b) which do not require prior authorization.

(4) *Authorization of temporary fixed stations or block assignment of radio frequencies*—FCC Form 435, an application for construction permit, and FCC Form 436, an application for covering license, shall be submitted simultaneously for each mobile or fixed station to be installed and operated at various temporary locations within a specified area or for block assignment of radio frequencies as set forth hereinafter in the applicable subparts of these rules.

(c) Application for Construction Permit or Station License Authorization in Domestic Public Land Mobile Radio and Rural Radio Services shall be filed on the forms specified below (see also § 21.9).

(1) *Authority to construct a new base, auxiliary test and fixed stations, to modify an existing construction permit or to change licensed facilities*—Except for facility changes for which FCC Form 403 is prescribed in paragraph (c)(4), FCC Form 401 ("Application for New or Modified Common Carrier Radio Station Construction Permit Under Parts 21 and 25") shall be submitted for each station in the following categories of station construction or modification:

(i) Each base station.

(ii) Each auxiliary test station, unless the auxiliary test station is located at the same place as the base station in which case only one combined application need be filed. Such application need contain only that information set forth in §§ 21.13–21.17 as is appropriate.

(iii) Each fixed station. If the equipment utilized is of such design as to comprise a packaged unit which is ready for installation and use with only nominal construction, FCC Form 403 may be filed simultaneously with the 401 form for the immediate licensing of the proposed facilities.

(2) *License to cover facilities constructed in accordance with construction permit*—FCC Form 403 ("Application for Radio Station License or Modification Thereof Under Parts 21, 23, or 25") shall be filed:

(i) Prior to the expiration date of the construction permit (see also § 21.34 (a)); and

(ii) Upon completion of construction or installation of a station in exact accordance with the terms and conditions set forth in the construction permit; and

(iii) Upon satisfactory completion of equipment tests in accordance with § 21.212(a).

(3) *License for mobile station*—FCC Form 401 shall be filed for mobile station licenses (no construction permits are issued for mobile stations) subject to the following notations:

(i) Authority for a base station licensees to serve land mobile or airborne units to be licensed in the name of the carrier may be requested on the FCC Form 401 for the base station construction permit, except that additional mobile units for a licensed station may be applied for on FCC Form 403 as provided for in paragraph (c)(4). The information should clearly specify the maximum number of mobile units to be placed in operation within the license period.

(ii) Applications for a license for land mobile or airborne stations submitted by persons who propose to become subscribers to a common carrier service for public correspondence shall specify the maximum number of mobile units expected to be placed in operation within the ensuing license period. Such applications shall also be accompanied by the supplemental showing set forth in § 21.14(i)(2).

(4) *Modification of station license not requiring a construction permit*—prior to the expiration of a license, an FCC Form 403 may be filed to request authority to make only those categories of changes to an existing station as listed below: (i) Increase in number of mobile units; (ii) Change of control point (beyond the boundary of the city, borough, town, or community where the control

point is authorized); (iii) Additional control points; (iv) New dispatching agreement; (v) Authority to service vessels; (vi) Certain waiver requests, namely §§ 21.118(d)(2); 21.205(h)(3); 21.208(g)(2); (viii) Change in or additional emission; (ix) Request to delete or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(5) *Authorization of mobile units of Canadian Registry to operate in the United States*—FCC Form 410 shall be filed (copies of this form may also be obtained from the Director Telecommunications Regulation Branch, Department of Communications, Ottawa, Ontario, Canada).

(6) *Authorization to operate U.S. mobile units in Canada*—A mobile station with a valid license issued by the Commission may obtain authority to operate in Canada upon filing an application (Application for Registration for Radio Station Licensee of U.S.A.) with the Director Telecommunications Regulation Branch, Department of Communications, Ottawa, Ontario, Canada.

(d) *Miscellaneous forms shared by all Domestic Public Radio Services:*

(1) *Licensee qualifications*—FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be filed in duplicate:

(i) As required by other application forms; and

(ii) Annually by licensees or permittees no later than January 31 (for the end of the preceding calendar year) if service was offered at any time during that calendar year.

(2) *Additional time to construct*—FCC Form 701 ("Application for Additional Time to Construct Radio Station") shall be filed in duplicate by a permittee prior to the expiration date of each construction permit to be extended. (Form 701 need not be filed if a permittee has requested in FCC Form 401 or 435 additional time to construct incidental to a modification of construction permit.)

(3) *Renewal of station license*—Except for renewals of special temporary authorizations, FCC Form 405 ("Application for Renewal of Station License") must be filed in duplicate by the licensee between thirty (30) and sixty (60) days prior to the expiration date of the license sought to be renewed. Whenever a group of station licenses in the same radio service are to be renewed simultaneously, a single "blanket" application may be filed to cover the entire group, if the application identifies each station by call sign and station location and if two copies are provided for each station affected. (Note also any special renewal requirements under the rules for each radio service.)

(4) *Assignment of Permit or License*—FCC Form 702 ("Application for Consent to Assignment of Radio Station Construction Permit or License for Stations in Services Other Than Broadcasting"), shall be submitted to assign voluntarily (as by, for example, contract or other agreement) or involuntarily (as by, for example, death, bankruptcy, or legal disability) the station authorization. In the case of involuntary assignment (or transfer of control) the application should be filed within 10 days of the event causing the assignment (or transfer of control). In addition, FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be submitted by the proposed assignee unless said assignee has a current and substantially accurate report on file with the Commission. Upon consummation of an approved assignment, the Commission shall be notified by letter of the date thereof.

(5) *Partial Assignment of License or Permit.* (i) In the microwave services, authorization for assignment from one company to another of only a part or portions of the facilities (transmitters) authorized under an existing construction permit or license (as distinguished from an assignment of the facilities in their entirety), shall be granted upon an application by the assignee on FCC Form 435 or 436 as the situation requires, and by the assignor on FCC Form 436 for deletion of the assigned facilities, indicating concurrence in the request. Where the assigned facilities are to be incorporated into an existing license, the assignee shall only file an FCC Form 436. Where a new station is to be established, FCC Forms 435 and 436 shall be submitted. The assignment shall be consummated within 60 days from the date of authorization. In the event that consummation does not occur, FCC Form 436 shall be filed to return the assignor's authorization to its original condition.

(ii) In the Domestic Public Land Mobile Radio and Rural Radio Services, the same procedure as specified above shall apply except that FCC Forms 401 and 403 shall be used in lieu of FCC Forms 435 and 436.

(6) *Transfer of Control of Corporation Holding a Permit or License*—FCC Form 704 ("Application for Consent to Transfer of Control of Corporation Holding Common Carrier Radio Station Construction Permit or License"), shall be submitted in order to voluntarily or involuntarily transfer control (de jure or de facto) of a corporation holding any construction permits or licenses. In addition, FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be submitted by the proposed transferee unless said transferee has a current and substantial accurate report on file with the Commission. Upon consummation of an approved transfer, the Commission shall be notified by letter of the date thereof.

11. Add a new § 21.9 to read as follows:

§ 21.9 Special application requirements for the Domestic Public Land Mobile Radio and Rural Radio Services.

(a) All applicants for stations in the specified regional areas listed in paragraph (b) of this section must accompany FCC Form 401 with FCC Form 425 for the application to be considered complete.

(b) The following areas are considered specified Regional Areas:

(i) The Chicago Regional Area consists of the counties listed below:

ILLINOIS

1. Boone
2. Bureau
3. Carroll
4. Champaign
5. Christian
6. Clark
7. Coles
8. Cook
9. Cumberland
10. De Kalb
11. De Witt
12. Douglas
13. Du Page
14. Edgar
15. Ford
16. Fulton
17. Grundy
18. Henry
19. Iroquois
20. Jo Daviess
21. Kane
22. Kankakee
23. Kendall
24. Knox
25. Lake
26. La Salle
27. Lee
28. Livingston
29. Logan
30. Macon
31. Marshall
32. Mason
33. McHenry
34. McLean
35. Menard
36. Mercer
37. Moultrie
38. Ogle
39. Peoria
40. Platt
41. Putnam
42. Rock Island
43. Sangamon
44. Shelby
45. Stark
46. Stephenson
47. Tazewell
48. Vermilion
49. Warren
50. Whiteside
51. Will
52. Winnebago
53. Woodford

INDIANA

1. Adams
2. Allen
3. Benton
4. Blackford
5. Boone
6. Carroll
7. Cass
8. Clay
9. Clinton
10. De Kalb
11. Delaware
12. Elkhart
13. Fountain
14. Fulton
15. Grant
16. Hamilton
17. Hancock
18. Hendricks
19. Henry
20. Howard
21. Huntington
22. Jasper
23. Jay
24. Kosciusko
25. Lake
26. Lagrange
27. La Porte
28. Madison
29. Marion
30. Marshall
31. Miami
32. Montgomery
33. Morgan
34. Newton
35. Noble
36. Owen
37. Parke
38. Porter
39. Pulaski
40. Putnam
41. Randolph
42. St. Joseph
43. Starke
44. Steuben
45. Tippecanoe
46. Tipton
47. Vermillion
48. Vigo
49. Wabash
50. Warren
51. Wells
52. White
53. Whitley

IOWA

1. Cedar
2. Clinton
3. Dubuque
4. Jackson
5. Jones
6. Muscatine
7. Scott

MICHIGAN

1. Allegan
2. Barry
3. Berrien
4. Branch
5. Calhoun
6. Cass
7. Clinton
8. Eaton
9. Hillsdale
10. Ingham
11. Ionia
12. Jackson
13. Kalamazoo
14. Kent
15. Lake
16. Mason
17. Mecosta
18. Montcalm
19. Muskegon
20. Newaygo
21. Oceana
22. Ottawa
23. St. Joseph
24. Van Buren

OHIO

1. Defiance
2. Mercer
3. Paulding
4. Van Wert
5. Williams

WISCONSIN

1. Adams	18. Manitowoc
2. Brown	19. Marquette
3. Calumet	20. Milwaukee
4. Columbia	21. Outagamie
5. Dane	22. Ozaukee
6. Dodge	23. Racine
7. Door	24. Richland
8. Fond du Lac	25. Rock
9. Grant	26. Sauk
10. Green	27. Sheboygan
11. Green Lake	28. Walworth
12. Iowa	29. Washington
13. Jefferson	30. Waukesha
14. Juneau	31. Waupaca
15. Kenosha	32. Waushara
16. Kewaunee	33. Winnebago
17. Lafayette	

§ 21.10 [Reserved]

12. Section 21.10 is marked reserved.

13. A new § 21.11 is added to read as follows:

§ 21.11 Facility changes which do not require prior authorization.

(a) Equipment in an authorized radio station may be replaced without prior authorization or notification if the replacement ("new") equipment is identical (i.e. same manufacturer and model no.) with the replaced ("old") equipment. Certain other categories of changes may be made without prior approval pursuant to the following paragraphs of this section.

(b) Licensees and permitees of fixed stations in the Point to Point Microwave Radio, Local Television Transmission, or Multipoint Distribution Services may make the facility changes listed in paragraph (c) of this section without obtaining prior Commission authorization, provided that:

(1) frequency coordination pursuant to § 21.100(d) is completed if the change is of a nature that could have an impact on another user; and

(2) changes to facilities are reported by the submission of a modification of license application (FCC Form 436) within ten days after the change is made (or at the time a construction permit is covered in the case of changes to facilities under a construction permit).

(c) Modifications which may be made without prior authorization under paragraph (b) of this section are:

(1) Change transmitter or existing transmitter operating characteristics, provided that:

(i) If a transmitter is being replaced, the new transmitter is type-accepted for use under Part 21 and is installed without modification from the type-accepted configuration;

(ii) The type of modulation is not changed;

(iii) The frequency stability is equal to or better than the previously authorized frequency stability;

(iv) The necessary bandwidth and the output power do not exceed the previously authorized values.

(2) Change antenna (other than in a periscope antenna system), provided that:

(i) For the Point-to-Point Microwave Radio and Local Television Transmission Service, the new antenna conforms to the requirements of § 21.108 (Standard A for all antennas above 2500 MHz) and has essentially the same or better radiation characteristics than the previously authorized antenna;

(ii) For the Multipoint Distribution Service, the gain of the new antenna does not exceed that of the previously authorized antenna by more than 1 dB in any direction.

(iii) The overall height of the antenna structure is not increased as a result of the new antenna extending above the structure, except that the overall height may be increased provided the overall height (aboveground or building) is 20 feet or less after the change is made.

(3) Change the height of an antenna, provided that:

(i) The new height (measured at the center-of-radiation) is within ±5 feet of the previously authorized height;

(ii) The overall height of the antenna structure is not increased as a result of the antenna extending above the structure, except that the overall structure height may be increased provided the overall height (aboveground or building) is 20 feet or less after the change is made.

(4) Decrease the overall height of an antenna structure, provided that, where notice to the FAA of proposed construction was required by Part 17 of the Rules for the antenna structure at the previously authorized height, the applicant must notify the FAA of the height reduction. A copy of the FAA determination or acknowledgement for the reduced height should be submitted with the application for license or modification of license.

(5) Change the azimuth of radiation toward associated stations which have been authorized to change location.

(6) Change the transmission line and other devices between the transmitter and the antenna, provided that the effective radiated power of the station is not increased.

(d) Licensees and permittees in the Domestic Public Land Mobile Radio and Rural Radio Services may make the facility changes listed in paragraph (c) of this section without requesting prior Commission authority only if:

(1) No harmful interference is caused to the operation of other stations.

(2) The permittee or licensee notifies the Commission at Washington, D.C. 20554 and the Engineer-In-Charge of the radio district in which the station is located, of the changes made providing complete technical details including a computation of effective radiated power and all other pertinent information together with the certification of the person responsible for preparing the information. (See § 21.16(c) and § 21.121(c)). Such notification must be postmarked no later than one day after completion of the changes. All changes must also be indicated on the next application for renewal of license or in the next application for modification of license whichever is filed first. The notification shall include the following information:

(i) With respect to the replacement of a transmitter:

(A) Radio service and station call sign;

(B) Location and frequency of base station for which the transmitter is being replaced;

(C) Name of manufacturer and type number of transmitter installed, as it appears on the current type-accepted list;

(D) Rated output power of such transmitter;

(E) Identification of the transmitter being replaced (and where applicable, point(s) of communication) and the frequency on which such transmitter operates; and

(F) Date of replacement.

(ii) With respect to changes or replacement of other equipment excluding transmitter changes:

(A) Radio service and station call sign;

(B) Location and frequency of base station for which the equipment is being replaced; and

(C) Calculation of effective radiated power of previously authorized facilities and of the proposed new facilities including name of manufacturer and type number and insertion loss of each piece of new equipment.

(e) Modifications which may be made without prior authorization under paragraph (d) of this section are limited to:

(1) Antenna changes where:

(i) Antenna height changes or corrections do not vary more than 2 feet from the height authorized and do not increase the overall structure height;

(ii) Antenna directivity changes do not vary more than 1° from the values authorized; and

(iii) There is no increase in the effective radiated power in any direction.

(2) Control point changes where the control point remains within the boundary of the city, borough, town, or community of authorization, provided that any changes in the dispatching are reported to the Commission.

(3) Replacement of a transmitter where:

(i) The new transmitter appears on the Commission's current type-acceptance list for use under this Part 21 (see § 21.120) and is installed without modification;

(ii) Its type-accepted output power is equal to the authorized output power for the transmitter being replaced; and

(iii) It conforms to the frequency, class of station and emission specified in the current instrument of authorization and all other applicable rules and regulations.

(4) Change in antenna, transmission line, and other devices between the output of the transmitter and the input of the antenna where after such changes or additions the effective radiated power would not be increased nor would it be decreased by more than 1.5 dB below that specified in the application for which authorization was issued.

§ 21.12 [Reserved]

14. Section 21.12 is marked Reserved.

15. Section 21.15 is redesignated as § 21.13 and revised to read as follows:

§ 21.13 General application requirements.

(a) Each application for a construction permit or for consent to assignment or transfer of control shall:

(1) Disclose fully the real party (or parties) in interest, including (as required) a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant; and

(2) Demonstrate the applicant's legal, financial, technical and other qualifications to be a permittee or licensee; and

(3) Submit the information required by the Commission's Rules, requests, and application forms; and

(4) State specifically the reasons why a grant of the proposal would serve the public interest, convenience, and necessity; and

(5) Be maintained by the applicant substantially accurate and complete in all significant respects in accordance with the provisions of § 1.65 of this Chapter; and

(6) Shall show compliance with the special requirements applicable to each radio service and make all special showings that may be applicable (e.g. those required by §§ 21.100(d), 21.103, 21.501, 21.505, 21.506, 21.516, 21.608, 21.609, 21.700, 21.706, 21.900, etc.).

(b) Reference to exhibits already on file with the Commission can be made where the documents or information required to be filed as exhibits are already on file with the Commission. Questions on an application form calling for technical data or a "yes", "no" or other short answer shall be answered as appropriate and not cross-referenced to a previous filing. References to station files or applications should include call signs and file numbers, and references to docketed proceedings should include the title of the proceeding and the docket number. All information so referenced must be current and accurate as of the date of filing.

(c) In addition to the general application requirements of §§ 21.10 through 21.12 of this part, applicants shall submit any additional documents, exhibits or signed written statements of fact:

(1) As may be required by the other parts of the Commission's rules and the following subparts of Part 21, particularly Subpart C and those subparts applicable to the specific radio service involved; and

(2) As the Commission, at any time after the filing of an application and during the term of any authorization, may require from any applicant, permittee, or licensee to enable it to determine whether a radio authorization should be granted, denied, or revoked.

(d) Except when the Commission has declared explicitly to the contrary, an informational requirement does not in itself imply the processing treatment or decisional weight to be accorded the response.

(e) All applicants are required to indicate at the time their application is filed whether or not the application is a "major action" as defined by § 1.1305 of the Commission's rules. If answered affirmatively, the requisite environmental statement as prescribed in § 1.1311 of this chapter must be filed with the application.

(f) Where required by applicable local law, an applicant shall include a copy of the franchise or other authorization issued by appropriate regulatory authorities, except for applications filed in the Multipoint Distribution Service.

(g) If an individual applicant (or partner in the case of a partnership, or a full time employee in the case of a corporation) will not be in active participation in the day-to-day management and operation of proposed facilities, submit a statement containing the reasons therefor and disclosing the details of the proposed operation, including a showing of how control over the radio facilities will be retained by the applicant.

17. Add a new § 21.14 to read as follows:

§ 21.14 Technical content of applications.

Applications for construction permits shall contain all technical information required by the application form and any additional information necessary to fully describe the proposed construction and to show compliance with all technical requirements of the rules governing the radio service involved (see Subparts C, F, G, H, I, J and K as appropriate). The following paragraphs describe a number of general technical requirements.

(a) Applicants proposing a new station location (including receive only stations and passive repeaters) shall indicate whether the station site is owned. If it is not owned, its availability for the proposed radio station shall be demonstrated. Under ordinary circumstances this requirement will be considered satisfied if the site is under lease or under written option to buy or lease, or in the case of land under U.S. Government control, written confirmation of site availability from the appropriate Government agency has been received. Where any lease or agreement to use land limits or conditions in any way the applicant's access or use of the site to provide public service, a copy of the lease or agreement (which clearly indicates the limitations) shall be filed with the application.

(b) Applicants proposing to construct or modify a radio station on a site located on land under the jurisdiction of the U.S. Forest Service, U.S. Department of Agriculture, or the Bureau of Land Management, U.S. Department of the Interior, must supply the information and follow the procedure prescribed by § 1.70 of this chapter.

(c) Each application involving a new or modified antenna supporting structure or passive facility, the addition or removal of an antenna, or the repositioning of an authorized antenna must be accompanied by a vertical profile sketch of the total structure depicting its structural nature and clearly indicating the ground elevation (above mean sea level) at the structure site, the overall height of the structure aboveground (including obstruction lights when required, lightning rods, etc.) and, if mounted on a building, its overall height above the building. All antennas on the structure must be clearly identified and their heights aboveground (measured to the center of radiation) clearly indicated. In addition, the height to the upper tip of the antenna shall be indicated for those operating under 1000 MHz.

(d) Each application proposing a new antenna structure or modification of an existing one so as to change its overall height shall include a statement indicating whether or not FAA notification is required. If notification is required, the applicant should include with the application a copy of the FAA study regarding potential hazard to aviation. If the applicant has not received the FAA study, the application should include the name used in the FAA notification, the location of the FAA regional office involved and the date of the notification. (Complete information as to rules concerning the construction, marking and lighting of antenna structures is contained in Part 17 of this chapter. See also § 21.111 if the structure is used by more than one station.)

(e) An applicant proposing construction of one or more new stations or modification of existing stations where substantial changes in the operation or maintenance procedures are involved must submit a showing of the general maintenance procedures involved to insure the rendition of good public communications service. The showing should include but need not be limited to the following:

(1) Description of the technical personnel responsible for the day-to-day operation and maintenance of the facilities.

(2) Location and telephone number (if known) of the maintenance center for a point to point microwave system. In lieu of providing the location and telephone number of the maintenance on a case by case basis, a carrier may file a complete list for all operational stations with the Commission and the Engineer-In-Charge of the appropriate radio district on an annual basis or at more frequent intervals as necessary to keep the information current.

(3) A general description of the routine maintenance procedures to be followed and a description of the procedures to be followed for non-routine repair during outages. Include a description of the test equipment available.

(4) The manner in which technical personnel are made aware of a malfunction at any of the stations and the appropriate time required for them to reach any of the stations in the event of an emergency. If fault alarms are to be used, the items to be alarmed shall be specified as well as the location of the alarm center.

(5) Indicate whether maintenance personnel will be on duty for all hours of station operation. If not, submit information specifying the method for

identifying and correcting system malfunctions when maintenance personnel are not on duty.

(f) If the maintenance for one or more radio stations is to be accomplished by contractual arrangement with an entity unrelated to the applicant, the application shall contain a copy of the agreement or contract which shall clearly exhibit that:

(1) The maintenance is accomplished according to general instructions provided for by the applicant;

(2) The applicant retains effective control over the radio facilities and their operation; and

(3) The applicant assumes full responsibility for both the quality of service and for contractor compliance with the Commission's rules.

(g) Each application for construction permit for a developmental authorization shall be accompanied by pertinent supplemental information as required by § 21.405 in addition to such information as may be specifically required by this section.

(h) Each application in the Point-to-Point Microwave Radio, Local Television Transmission, Multipoint Distribution Services and Rural Radio Services which proposes to establish a new communication facility or make changes or corrections in the location of a fixed station already authorized shall be accompanied by a topographic map (a U.S. Geological Survey Quadrangle or map of comparable detail and accuracy) with the location of the proposed station accurately plotted and identified thereon. This map should not be cropped so as to delete pertinent border information and must be submitted in the same number of copies as the application it accompanies. (Map requirements for the Domestic Public Land Mobile Radio Service are specified in the application form.)

(i) In the Domestic Public Land Mobile Radio Service each application shall contain, as appropriate the following information:

(1) Each application for construction permit for base station which proposes to establish a new communication facility, make changes in area of coverage of a station already authorized, or install additional transmitters shall describe the antenna transmission line type, length and radio frequency power transmission losses, together with a description and power loss of all other devices in addition to the transmission line, between the output of the transmitter and the antenna radiating system expressed in decibels.

(2) An application for land or airborne mobile units to be licensed in the name of a person who is not the licensee of the base station with which the mobile units will be associated in the Domestic Public Land Mobile Radio Service shall be accompanied by the information indicated in § 21.13(a) and 21.13(c) together with an affirmative showing that:

(i) The mobile units for which authorization is sought are for the applicant's own use; and

(ii) Definite arrangements have been made for the requested number of mobile units to obtain communication service, upon the frequencies requested, through the base stations specifically identified in the application; and

(iii) Specific arrangements, the details of which should be set forth, have been made for installation, technical service and maintenance of the mobile units by licensed first- or second-class radio operators; and

(iv) The mobile units will be operated primarily in the area and/or areas through the base stations specifically identified in the application and more particularly detailed in subparagraph (2) of this paragraph.

18. Section 21.15 is revised to read as follows:

§ 21.15 Demonstration of financial qualifications.

(a) Each application for authority to construct a new station or substantially modify an existing station shall demonstrate the applicant's financial ability to meet the realistic and prudent:

(1) Estimated costs of proposed construction and other initial expenses; and

(2) Estimated operating expenses for a reasonable period of time, depending upon the nature of service proposed (a higher degree of uncertainty and risk, e.g. in the establishment of a new service, would require a longer period).

(b) Except as provided in paragraph (c), each application shall demonstrate an applicant's financial ability, as required under paragraph (a) of this section, by submitting both the following financial information and whatever other information or details the Commission may require:

(1) A current balance sheet within ninety (90) days of the date of the application and copies of any financial commitments (such as, for example, loan agreements and service contracts) in support of the proposed facilities; and

(2) Whenever the submissions of paragraph (b)(1) do not satisfy paragraph (a) of this section, the applicant shall submit additional information (e.g. a current income statement for the period of proposed construction plus an initial year of operation, a statement of projected revenues and expenses, a statement of projected sources and applications of funds, etc.) as is necessary to demonstrate financial ability.

(c) An applicant need not submit the financial information required by paragraph (b) of this section, if paragraph (a) of this section can be clearly satisfied by an exhibit demonstrating that the applicant has annual operating revenues in excess of $1 million and maintains as of the date of the application a credit rating equivalent to or better than either a Standard & Poor's Rating of "BBB" or a Moody's Bond Rating of "Baa."

(d) Each application for an assignment of a license (or permit), or for the transfer of control of a corporation holding a license (or permit), shall demonstrate the financial ability of the proposed assignee or transferee to acquire and operate the facilities by submitting adequate financial information under the guidelines specified in paragraphs (b) or (c) above.

(e) The following additional information shall be submitted on any form of intended credit arrangement or equity placement;

(1) The details of any loan or other form of credit arrangement intended to be utilized to finance the proposed construction, acquisition, or operation of the requested facilities including such information as the identity of the creditor (or creditors), letters of commitment, terms of the transaction, and a statement that paragraph (f) of this section is complied with; and

(2) The details of any sale or placement of any equity or other form of ownership interest.

(f) In addition to the disclosures required by paragraph (d) of this section, any loan or other credit arrangement providing for a chattel mortgage or secured interest in any proposed radio station facility must include a provision for a minimum of ten (10) days prior written notification to the licensee or permittee, and to the Commission, before any such equipment may be repossessed under default provision of the agreement.

§§ 21.16–21.19 [Reserved]

18. Sections 21.16, 21.17, 21.18, and 21.19 are deleted and marked reserved.

19. Section 21.20 is revised to read as follows:

§ 21.20 Defective applications.

(a) Unless the Commission shall otherwise permit, an application will be unacceptable for filing and will be returned to the applicant with a brief statement as to the omissions or discrepancies, if:

(1) The application is defective with respect to completeness of answers to questions, informational showings, execution, or other matters of a formal character; or

(2) The application does not substantially comply with the Commission's rules, regulations, or other requirements.

(b) Some examples of deficiencies that result in defective applications under paragraph (a) are:

(1) The application is not properly executed;

(2) The submitted filing fee is insufficient under § 1.1113 of this chapter;

(3) The application does not demonstrate how the proposed radio facilities will serve the public need or interest;

(4) The application does not demonstrate compliance with the special requirements applicable to the radio service involved (see § 21.13(a)(6));

(5) The application does not demonstrate the availability of the proposed site of a new facility;

(6) The application does not include an environmental showing required for a "major action" under § 1.1305 of this chapter;

(7) The application does not include U.S. Forest Service or Bureau of Land Management certification of site avail-

ability under § 1.70 of tthis chapter whenever a proposed nef or modified facility is to be located on land under the jurisdiction of these agencies;

(8) The application is filed after the "cut-off" date prescribed in § 21.30 of this part;

(9) The application proposes the use of a frequency not allocated to such use.

(10) In the Domestic Public Land Mobile Radio Service failure to provide specific answers to Items 1, 5, 7, 8, 10, 17, 18, 19, 20, or 26 of FCC Form 401 (answers by cross reference are not acceptable—see § 21.13(b)), or failure to propose type accepted equipment (except for developmental applications).

(c) Applications considered defective pursuant to paragraph (a) of this section may be accepted for filing if:

(1) The application is accompanied by a request which sets forth the reasons in support of a waiver of (or an exception to), in whole or in part, any specific rule, regulations, or requirement with which the application is in conflict; or

(2) The Commission, upon its own motion, waives (or allows an exception to), in whole or in part, any rule, regulation or requirement.

(d) If an applicant is requested by the Commission to file any documents or information not specifically required in the prescribed application form, a failure to comply with such request within a specified time period will be deemed to render the application defective and may subject it to dismissal.

20. Revise § 21.34 to read as follows:

§ 21.34 Forfeiture and termination of station authorization.

(a) A construction permit shall be automatically forfeited if the station is not ready for operation (as evidenced by the commencement of service tests as specified by § 21.212), or within such additional time as may be authorized by the Commission upon appropriate and timely filed application therefor. Where so forfeited, the Commission will consider a petition for reinstatement of a construction permit only where:

(1) It is filed within 30 days of the expiration of the construction permit;

(2) Good cause is shown for the failure to apply for an extension of the permit prior to its expiration date; and

(3) Where it is accompanied by an appropriate application for extension of time to construct or modification of construction permit.

(b) A license shall be automatically forfeited upon the expiration date specified therein unless prior thereto an application for renewal of such license has been filed with the Commission. An application for renewal filed after the expiration date of the license will be considered only if:

(1) It is filed within 30 days of such expiration date;

(2) An explanation of the failure to timely file a renewal application is submitted; and

(3) Procedures are established to insure timely filings in the future are set forth.

(c) A special temporary authorization shall automatically terminate upon the expiration date stated therein or upon failure of the carrier to comply with any special terms or conditions set forth therein. Operation may be extended beyond such termination date only upon specific authorization by the Commission.

21. A new § 21.36 is added to read as follows:

§ 21.36 Special procedures for minor facility modifications in the microwave services.

(a) Unless notified to the contrary by the Commission, as of the twenty-first day following the date of filing, an applicant may consider to be granted any application which meets the requirements of paragraph (b) of this section and proposes only the minor changes specified in paragraph (c) of this section.

(b) An application may be considered under the procedures of this section only if:

(1) It is in the Point to Point Microwave Radio, Local Television Transmission, or Multipoint Distribution Services; and

(2) It proposes only the modifications specified in paragraph (c); and

(3) The facilities to be modified are not located within thirty-five (35) miles of the Canadian border; and

(4) It is acceptable for filing, is not inconsistent with any of the Commission's rules, and does not involve a waiver request; and

(5) It specifically requests consideration pursuant to this section by the appropriate coding of FCC Form 435.

(c) The modifications which may be authorized under the procedures of this section are:

(1) Change transmitter, existing transmitter operating characteristics, or protection configuration of transmitters, provided that:

(i) If a transmitter is being replaced or added, the new transmitter is type-accepted for use under Part 21 and is installed without modification from the type-accepted configuration;

(ii) Any increase in output power is less than 3 dB over the previously authorized output power;

(iii) The necessary bandwidth is not increased by more than 10 percent of the previously authorized necessary bandwidth;

(iv) The type of modulation is not changed; and

(v) The frequency stability is equal to or better than the previously authorized frequency stability.

(2) Change an antenna or antenna system provided that the overall height of the antenna structure is not increased as a result of the antenna extending above the structure, except that such overall height may be increased provided that it is 20 feet or less after the change is made.

(3) Change the height of an antenna provided that the change does not result in an increase in the overall height of the antenna structure, except that such overall height may be increased provided that it is 20 feet or less after the change is made.

(4) Change the geographical coordinates of a transmit station, receive station or passive facility by 1 second of latitude, longitude or both, provided that, where notice to the FAA of proposed construction is required by Part 17 of the Rules for the antenna structure at the previously authorized coordinates (or will be required at the new location), the applicant must notify the FAA of the new coordinates. A copy of the FAA determination or acknowledgment for the new coordinates must be submitted with the application.

(d) Upon grant of an application under the procedure of this section and at such time that construction begins, the applicant must post a complete copy of said application at the station involved if construction is commenced prior to the receipt of the authorization. In such case, the posted copy of the application must contain the filing date of said application.

22. In § 21.108 modify the first two sentences of paragraph (c) to read as follows:

§ 21.108 Directional antennas.

* * * * *

(c) Fixed stations (other than temporary fixed) operating at 2,500 MHz or higher shall employ transmitting and receiving antennas meeting the appropriate performance Standard A indicated below, except that in areas not subjected to frequency congestion, antennas meeting performance Standard B may be used subject to the liability set forth in § 21.108(f). Additionally, the main lobe of each antenna operating below 5,000 MHz shall have minimum power gain of 36 dB over an isotrophic antenna; at or above 5,000 MHz the minimum gain shall be 38 dBi. * * *

23. Change the title of § 21.109 and modify paragraph (b) to read as follows:

§ 21.109 Antenna and antenna structures.

* * * * *

(b) No replacement or change of antenna or antenna structure shall be effected without prior authorization from the Commission except as provided for in § 21.11.

* * * * *

24. Change § 21.113 to read as follows:

§ 21.113 Quiet zones.

Quiet zones are those areas where it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to radio frequency interference. The areas involved and procedures required are as follows:

(a) In order to minimize possible harmful interference at the Nation Radio Astronomy Observatory site located at Green Bank, Pocahontas County, W. Va., and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, W. Va., any applicant for a station authorization other than mobile,

temporary base, or temporary fixed seeking a station license for a new station, a construction permit to construct a new station or to modify an existing station license in a manner which would change either the frequency, power, antenna height or directivity, or location of such a station within the area bounded by 39°15′ N. on the north, 78°30′ W. on the east, 37°30′ N. on the south, and 80°30′ W. on the west shall at the time of filing such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, Post Office Box No. 2, Green Bank, W. Va. 24944, in writing, of the technical particulars of the proposed station. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity if any, proposed frequency, type of emission, and power. In addition, the applicant shall indicate in his application to the Commission the date notification was made to the Observatory. After receipt of such applications, the Commission will allow a period of twenty (20) days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

(b) In order to minimize possible harmful interference at the Table Mountain Radio Receiving Zone of the Research Laboratories of the Department of Commerce located in Boulder County, Colorado, applicants for new or modified radio facilities in the vicinity of Boulder County, Colorado are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that field strengths at 40°07′50″ N. latitude, 105°14′40″ W. longitude, resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the following values:

	Field strength (millivolt per meter) in authorized bandwidth of service	Power flux density [1] (decibel watt per square meter) in authorized bandwidth of service
Below 540 kHz	10	−65.8
540 to 1000 kHz	20	−59.8
1.6 to 470 MHz	10	[2]−65.8
470 to 800 MHz	30	[2]−56.2
Above 800 MHz	1	[2]−85.8

[1] Equivalent values of power flux density are calculated assuming free-space characteristic impedance of 376.7=120 ohms.

[2] Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

(1) Advance consultation is recommended particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 1.5 statute miles;

(ii) Stations within 3 statute miles with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 10 statute miles with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Radio Receiving Zone;

(iv) Stations within 50 statute miles with 25 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, NOAA/OT/NBS, Time and Frequency Division, Boulder Laboratories, Boulder, Colo. 80302; telephone 303-499-1000, extension 3542 or 3294, in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the reference point in excess of the field strength specified herein.

25. Modify paragraph (d) of § 21.118 to read as follows:

§ 21.118 Transmitter construction and installation.

* * * * *

(d) Each base station in these services is required to have:

(1) At least one control point (see § 21.515); and

(2) A person on duty at the control point who is in charge of the station's operations during the normal rendition of service (see § 21.205). The location of an authorized control point may not be moved beyond the boundary of the city, borough, town or community without prior Commission approval. Any associated changes made in the dispatching arrangements should accompany the application for change in such cases.

26. Section 21.119 is amended to read:

§ 21.119 Limitation on use of transmitters for other services.

Transmitters licensed for operation in services governed by this part may not be concurrently licensed or used for non-common carrier communications purposes. However, mobile units may be concurrently licensed or used for non-common carrier communication purposes provided that the transmitter is type-accepted for use in each service.

§ 21.121 [Reserved]

27. Section 21.121 is deleted and marked reserved.

28. Modify paragraph (c) of § 21.207 to read as follows:

§ 21.207 Transmitter measurements.

* * * * *

(c) The permittee or licensee of each station shall employ a suitable procedure to determine that the modulation characteristics of each transmitter, and the signal radiated therefrom, conform to the terms of the instrument of station authorization and to the applicable rules of this part. For transmitters employing digital modulation techniques, certain parameters established by the manufacturer may be checked in lieu of directly checking the modulation characteristics of the transmitter and the signal radiated therefrom, *Provided*, That such parameters will provide an accurate indication of any significant variation in either the modulated signal characteristics or the radiated signal. These determinations shall be made, and the results thereof entered in the technical log of the station in accordance with the following: * * *

* * * * *

29. Modify paragraph (a) of § 21.208 to read as follows:

§ 21.208 Station records.

(a) Station records shall be kept in an orderly manner, and in such detail that the data required is readily available. Key letters, abbreviations or symbols may be used if proper meaning or explanation is set forth in the record. These records should be kept at the station itself or at the station's control point, or in lieu thereof, for stations in the Point to Point Microwave Service they may be kept (in whole or part) at the alarm center or maintenance center provided a note is displayed adjacent to, or on, the station license specifying the address at which the station records are kept.

* * * * *

30. Modify § 21.303 by adding the following sentences to paragraphs (b) and (c), and add a new paragraph (d) as follows:

§ 21.303 Discontinuance, reduction or impairment of service.

* * * * *

(b) * * * If service is being discontinued in part, submit an application for modification of license rather than the license.

(c) * * * If service is being discontinued in part, submit an application for modification of license rather than the license.

(d) If any radio channel of communications goes unused for public service for any other reason than those listed above for a period of six months, the license shall be promptly submitted for cancellation (or an application for modification filed if appropriate) unless the Commission shall authorize otherwise upon specific request.

31. Section 21.501(f) is redesignated § 21.501(f)(1) and a new § 21.501(f)(2) is added to read:

§ 21.501 Frequencies.

* * * * *

(f) * * *

(2) Each application requesting authority to establish operations on frequencies in the 72–76 MHz band shall be accompanied by:

(i) A showing that the applicant agrees to eliminate any harmful interference which may be caused by his operation to television reception on either channel 4 or 5, and if said interference cannot be eliminated within 90 days of the time the matter is first brought to his attention by the Commission, operation of the interfering fixed station will be immediately discontinued.

(ii) In cases where it is proposed to locate a 72–76 MHz fixed station less than 80, but more than 10, miles from the site of a television transmitter operating on either channel 4 or 5, or from the post office of a community in which such channels are assigned but not in operation, a showing shall be made as to the number of family dwelling units (as defined by the U.S. Bureau of Census) located within a circle centered at the location of the proposed fixed station (family dwelling units 70 or more miles distant from the television station antenna site are not to be counted) the radius of which shall be determined by use of charts entitled, "Chart for Determining Radius From Fixed Station in 72–76 MHz Band to Interference Contour Along Which 10 Percent of Service from Adjacent Channel Television Station Would Be Destroyed" (Charts for television channels 4 and 5 are set forth in § 21.103).

(iii) In cases where more than 100 family dwelling units are contained within the circle (determined according to subparagraph (2) of this paragraph), the number of dwelling units therein shall be stated and a factual showing made that:

(A) The proposed site is the only suitable location.

(B) It is not feasible, technically or otherwise, to use other available frequencies.

(C) The applicant has a definite plan, which should be disclosed, to control any interference that might develop to television reception from his operations.

(D) The applicant is financially able and agrees to make such adjustments in the television receivers affected as may be necessary to eliminate interference caused by his operations.

* * * * *

32. Modify § 21.700 to read as follows:

§ 21.700 Eligibility.

Authorizations for stations in this service will be issued to existing and proposed communication common carriers. Applications will be granted only in cases where it is shown that (a) the applicant is legally, financially, technically, and otherwise qualified to render the proposed service, (b) there are frequencies available to enable the applicant to render a satisfactory service, and (c) the public interest, convenience or necessity would be served by a grant thereof. In addition, applications for stations to be used to relay television signals must include a showing that at least 50 percent of the customers (or points of service) on the microwave system involved, including those served through any interconnecting carrier(s), receiving applicant's service are unrelated and unaffiliated with the applicant, and that the proposed usage by such customers, in terms of hours of use and channels delivered, constitutes at least 50 percent of the usage of the applicant's microwave system. Moreover, applications proposing the relay of closed circuit television signals, shall contain a showing that the entity originating or controlling such signals is unrelated to the applicant. Applications which do not contain the showing required by this section will be returned as unacceptable for filing.

33. Modify § 21.706, paragraphs (a) and (b), to read as follows:

§ 21.706 Supplementary showing required with applications.

(a) Each application for initial installation or a radio station in this service, or for installation of equipment to provide additional service, or for authority to communicate with new points, shall be accompanied by a statement showing how the proposed construction, etc., will serve the public interest, convenience and necessity. Such statement must include information concerning:

(1) The nature and type of services to be rendered (e.g. telephone/telegraph, private line voice/data, television transmission, etc.)

(2) The cities or communities to be served including the number of circuits to be established. Where multiple cities are to be served, specify by diagram or other appropriate means the circuit cross section between service points.

(3) Projected future circuit growth anticipated between service points and indicate the source of such projections.

(4) Where the construction of radio facilities is dependent upon the specific requirements of one or several customers of a limited class (e.g. those desiring television signals), the need for facilities should be supported by an order for service from each such customer.

(b) Where specific information required by paragraph (a) of this section has been submitted in connection with applications filed under Part 63 of this chapter, duplicate information in support of applications submitted pursuant to this part is not required provided appropriate references are made therein. The information submitted in connection with paragraph (a) shall not be considered to replace any requirement to acquire authority for channelizing pursuant to section 214 of the Communications Act.

* * * * *

34. Modify paragraph (a) of § 21.709 and add a new paragraph (d) to read as follows:

§ 21.709 Renewal of station licenses.

(a) An application for renewal of a license of a station in the Domestic Public Point-to-Point Microwave Radio Service used to relay television signals must include a showing that at least 50 percent of the customers (or points of service) on the microwave system involved, including those served through any interconnecting carrier(s), receiving applicant's service are unrelated and unaffiliated with the applicant, and that the usage by such customers, in terms of hours of use and channels delivered, constitutes at least 50 percent of the usage of applicant's microwave system. Applications which do not contain the showing required by this section will be returned as unacceptable for filing.

* * * * *

(d) Each applicant for renewal of license for a term commencing between January 1, 1976 and January 1, 1981 shall submit with the application all of the technical parameters of the station (as licensed) listed on page 1 of FCC Form 435. If the same information has previously been submitted for the station on a Form 435, this requirement will be waived. Applicants are urged to file this information on punched cards in accordance with the Commission publication *Punched Card Format for Common Carrier Microwave Applications.* (Copies of this publication may be obtained through the Common Carrier Bureau.)

35. Modify § 21.903(b) to read as follows:

§ 21.903 Purpose and permissible service.

* * * * *

(b) Unless otherwise directed or conditioned in the applicable instrument of authorization, Multipoint Distribution Service stations may render any kind of communications service consistent with the Commission's Rules and the legally applicable tariff of the carrier, provided that all of the following conditions are met:

(1) The carrier is not substantially involved in the production of, the writing of, or the influencing of the content of any information to be transmitted over the facilities;

(2) The carrier does not render service to any entity who is affiliated with or related to the carrier whenever the total hours of service rendered to related subscribers exceeds the total hours of service rendered to unrelated subscribers within any calendar month;

(3) The carrier controls the operation of all receiving facilities (including any

equipment necessary to convert the signal to a standard television channel but excluding the television receiver);

(4) The carrier's tariff provides for the rendition of interstate service, upon reasonable demand therefor, including as necessary interconnection of the station's facilities with interstate lines of communications; and

(5) The carrier's tariff allows the subscriber the option of owning the receiving equipment (except for the decoder) so long as:

(i) The customer provides the type of equipment as specified in the tariff;

(ii) Such equipment is in suitable condition for rendition of satisfactory service; and

(iii) Such equipment is installed, maintained, and operated pursuant to the carrier's instructions and control.

36. Add new § 43.35 to read as follows:

§ 43.35 Cost reports for facilities constructed under Commission authorization.

All carriers which constructed facilities authorized by the Commission under Parts 25 or 63, or in the Point-to-Point Microwave Radio Service (Part 21) shall file a report each year no later than March 31 (for the preceding July through December period) and September 30 (for the preceding January through June period) containing the actual costs for all such facilities completed (i.e. put into service or made ready for service) during those periods. This cost data shall be identified by the authorization file No. and shall be in the same detail as required for estimated costs in the application for authorization. In the event that some but not all facilities authorized (in a single authorization or set of authorizations) were completed during the reporting period, identify the portion of the project that was completed which the cost figures reflect.

[FR Doc.75-14600 Filed 6-3-75;8:45 am]

[47 CFR Part 73]

[Docket No. 20422; RM-2395, RM-2471, RM-2421, RM-2503, RM-2457]

FM BROADCAST STATIONS

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b), table of assignments, FM broadcast stations. (Fort Walton Beach, Crestview and Destin, Florida).

1. On April 1, 1975, the Commission adopted a notice of proposed rule making in the above-entitled proceeding. Publication was made in the FEDERAL REGISTER on April 21, 1975, 40 Fed. Reg. 17598. The dates for filing comments and reply comments are May 27 and June 16, 1975, respectively.

2. On May 19, 1975, Dr. John Mathowski, by his attorneys, filed a request for an extension of time in which to file comments and reply comments to and including June 23 and July 8, 1975, respectively. Counsel states that his client desires to make a compelling showing that the FM channel should be allocated to Destin and not Crestview. He adds that the death of the Consulting Engineer has greatly delayed the preparation of such a showing, therefore, the additional time is necessary.

3. We are of the view that the public interest would be served by extending the time in this proceeding. *Accordingly, it is ordered*, That the dates for filing comments and reply comments are extended to and including June 23 and July 8, 1975, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and §§ 0.281 and 1.46 of the Commission's rules.

Adopted: May 23, 1975.

Released: May 29, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-14602 Filed 6-3-75;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 154]

[Docket No. RM75-19]

END USE RATE SCHEDULE

Further Extension of Time

MAY 30, 1975.

On May 28, 1975, Natural Gas Pipeline Company of America filed a motion to extend the time for filing comments to the proposed rulemaking issued February 20, 1975 (40 FR 8571, February 28, 1975) in the above-designated matter. The time for comments was extended by notice issued April 24, 1975 (40 FR 19661, May 6, 1975).

Upon consideration, notice is hereby given that the time for filing comments in the above rulemaking is extended to and including June 9, 1975, and the time for filing responding comments is extended to and including July 2, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14524 Filed 6-3-75;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 447]

DISCLOSURE REGULATIONS CONCERNING RETAIL PRICES FOR PRESCRIPTION DRUGS

Proposed Trade Regulation Rules

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, (15 U.S.C. 41, et seq.), the provisions of Part 1, Subpart B of the Commission's procedures and rules of practice (16 CFR 1.7, et seq.), and section 553 of Subchapter II, Chapter 5, title 5, U.S. Code (Administrative Procedure), has initiated a proceeding for the promulgation of two trade regulation rules concerning the disclosure of retail prices for prescription drugs.

Accordingly, the Commission proposes the following trade regulation rules and would amend Subchapter D, Trade Regulation Rules, Chapter 1 of 16 CFR by adding a new Part 447 as follows:

Sec.
447.1 Coverage
447.2 Rule I
447.3 Rule II
447.4 Definitions
447.5 Declaration of Commission intent

AUTHORITY: 38 Stat. 717, as amended (15 U.S.C. 41, et seq.).

§ 447.1 Coverage.

These trade regulation rules apply to acts or practices in or affecting commerce and to all persons, partnerships and corporations, as hereafter defined, over which the Federal Trade Commission has jurisdiction under the Federal Trade Commission Act.

§ 447.2 Rule I.

It is an unfair act or practice for any person, partnership, or corporation directly or indirectly to prohibit, hinder, or restrict, or attempt to prohibit, hinder, or restrict, the disclosure by any retail seller of accurate price information regarding prescription drugs, whether such disclosure is made by means of advertisements in print media, broadcast media, or in any other way.

§ 447.3 Rule II.

(a) It is an unfair act or practice for any retail seller to fail to disclose adequate price information regarding prescription drugs to potential purchasers.

(b) Adequate price information is not disclosed and the requirements of this section are violated if the retail seller:

(1) Changes, restricts, burdens, makes or fails to make any disclosure of accurate price information by print media, broadcast media, telephone, leaflets, mailings, or in any other way, because of or in connection with any law, rule, regulation or code of conduct of any nonfederal legislative, executive, regulatory or licensing entity or any other entity or person whatsoever, including but not limited to professional associations; *Provided, however*, That it is not a violation of this section for a retail seller to make disclosures because of an exempt price disclosure requirement.

(2) Advertises the price of a prescription drug without also disclosing in such advertisement each item listed in the definition of "price information".

§ 447.4 Definitions.

As used in this part:

(a) "Person, partnership or corporation" means any party, other than a State, over which the Federal Trade Commission has jurisdiction, and may include in appropriate circumstances, but is not limited to, individuals, groups, organizations, and professional societies.

(b) "Price information" means:

(1) The regular price at which a retail seller intends to sell an identified prescription drug to anyone with a valid prescription, unless otherwise specified; together with, in an easily understandable manner, whatever information is re-

quired to be disclosed by the Food and Drug Administration pursuant to its regulations pertaining to reminder advertisements or labeling and whatever information is required to be disclosed pursuant to this part; or

(2) General comparative, discount or other price claims whether or not identifying any particular prescription drug; *Provided*, That any requirements of subparagraph (1) are satisfied.

No additional information need be disclosed in conjunction with or in reference to any price claims.

[Alternative paragraph (b) "Price information":

(b) "Price information" means:

(1) The regular price at which a retail seller intends to sell an identified prescription drug to anyone with a valid prescription, unless otherwise specified; together with, in an easily understandable manner, whatever information is required to be disclosed by this part, and

(i) The proprietary (brand) name, if any;

(ii) The established (generic) name, if any;

(iii) The established name and quantity of each active ingredient, unless the drug has more than three active ingredients other than aspirin, phenacetin and caffeine;

(iv) The quantity and dosage associated with the disclosed price;

(v) The name of the packer, manufacturer or distributor if no proprietary name exists;

(vi) Optionally, package or dosage form trade names; or

(2) General comparative, discount or other price claims whether or not identifying any particular prescription drug; *Provided*, That any requirements of paragraph (b) (1) are satisfied.

No additional information need be disclosed in conjunction with or in reference to any price claims. Any representation concerning the safety, effectiveness, or use of a prescription drug is outside the purview of this part.]

(c) "Prescription drug" means a drug which may be dispensed only upon a written or oral prescription of a practitioner licensed by law to administer such drugs, except that drugs classified as Schedule I under the Controlled Substances Act, 21 U.S.C. 812 (1970) (i.e., those drugs therein declared to have no currently accepted medical use in treatment in the United States) shall not be considered prescription drugs.

(d) "Retail seller" means any person, partnership, or corporation which transfers and sells to consumers any prescription drug without assuming control over and responsibility for its administration. Mere advice or instructions regarding administration shall not constitute control or establish responsibility for purposes of this definition.

(e) "Except price disclosure requirement" means a non-federal legal requirement upon a retail seller to disclose prices of identified prescription drugs by means of a poster or placard designed to remain on or within the premises of the retail seller, by means of a leaflet designed to be removed from the premises and available to all potential purchasers with or without prescriptions and/or by means of a telephone; *Provided*, That the poster or leaflet explicitly indicates by such language as "Our Prices" that disclosed prices are uniquely those of the retail seller; and *Provided further*, That the legal requirement is wholly independent of and is not conditioned upon any disclosures made pursuant to this part.

§ 447.5 Declaration of Commission intent.

(a) It is the purpose of this part, subject only to the requirements of federal statutes and regulations, to allow disclosure of accurate prescription drug price information by retail sellers to prospective purchasers and to eliminate restraints, burdens or controls imposed by non-federal law and by private, state and local governmental action on such disclosure by any means of communication, including but not limited to advertising (other than exempt price disclosure requirements). It is the intent of the Commission that this part shall preempt all non-federal laws, ordinances or regulations that are repugnant to this part, that would in any way frustrate the purpose of this part, that would in any way prevent or burden any disclosures of accurate prescription drug price information by retail sellers to potential purchasers, or that would impose standards for prescription drug price disclosures by retail sellers to potential purchasers (other than exempt price disclosure requirements), except that if such law is coextensive with and word-for-word identical to any provisions of this part, notwithstanding that differences in jurisdictional provisions are permissible, such law, and the proper enforcement thereof, shall not be affected by this part, and shall have concurrent application with this part.

(b) The Commission intends this part to be as self-enforcing as possible. To that end it is the Commission's intent that this part may be used, among other ways, as a defense to any proceeding of any kind which may be brought or threatened to be brought against any retail seller who truthfully advertises or otherwise discloses, according to this part, price information of prescription drugs which he may offer for sale, or as the basis for declaratory, injunctive or other relief against the threatening or bringing of any such proceeding.

(c) In this part, the rules, requirements and declarations of intent and their application are each separate and severable.

STATEMENT OF REASON FOR THE PROPOSED RULES

It is the Commission's purpose, in issuing this statement, to set forth its reason for proposing these rules with sufficient particularity to allow informed comment. The precise format of such statements may vary from rule to rule depending on the complexity of the issues involved. In this proceeding, we have determined that comment by the public will be facilitated by presenting (1) a statement describing the basic factual and legal premises upon which the Commission has determined to propose the rule, and (2) a series of questions designed to draw to the public's attention matters which the Commission deems particularly pertinent and on which comment is especially solicited.

The Commission emphasizes that neither the statement of factual and legal premises nor the questions should be interpreted as designating disputed issues of specific fact. Such designations shall be made by the Commission or its duly authorized presiding official pursuant to the Commission's procedures and rules of practice.

STATEMENT

The Commission has reason to believe that:

a. The availability of price information for prescription drugs is inadequate to enable consumers to use price in a rational manner as a consideration in making purchase decisions;

b. The inadequate availability of retail price information for prescription drugs prevents or hinders price competition among retail pharmacies;

c. The inadequate availability of retail price information for prescription drugs causes consumers to spend substantially more each year for prescription drugs than they would spend if adequate information existed;

d. Since the inadequate availability of price information for prescription drugs is largely dependent upon or caused by various State and local laws and regulations, pharmacy association codes of ethics, and a variety of other restraints, unless the Commission takes action consumers may continue to face the burdens associated with inadequate price information throughout the United States; and

e. The lack of price information is not vital for any state interest in the public health, safety, and welfare, and the alleged justifications for non-disclosure of price information, such as the alleged possibilities that increased price disclosures may (1) lead to drug abuse, (2) lessen the effectiveness of monitoring by pharmacists to prevent drug interactions, (3) demean the profession of pharmacy, and (4) lead to the dispensing of stale or adulterated drugs, are without significant merit and are outweighed by the probable benefits to consumers from more price information.

For the purposes of this trade regulation rule proceeding, the Commission is proceeding upon the theory that nondisclosure of prescription drug prices is unfair if it creates substantial harm (i.e., its economic and social utility to the public is substantially less than its economic and social disutility) and it offends public policy by being basically contrary to clear national policy and not vital to achieve important State policy goals. In light of the foregoing, the Commission has reason to believe that:

f. Those who privately restrain the disclosure of price information of prescription drugs are engaged in unfair activities within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45); and

g. The widespread failure by pharmacies adequately to disclose retail price information for prescription drugs, whether or not due to private or official restraints, is unfair within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

The Commission determined it has reason to believe the above statements on the basis of information compiled by Commission staff during a comprehensive industrywide investigation of the various issues involved with retail price disclosures of prescription drugs. In the course of the investigation the Commission staff has received extensive documentary evidence bearing upon the issues. It has obtained position papers related to the issues from numerous consumer groups, pharmacy associations and other interested persons. In addition, the staff has evaluated pertinent State statutes and judicial rulings, interviewed many persons with an interest or expertise in the matter, and examined the findings of many studies which bear upon the issues. The Commission has not adopted any findings or conclusions of the staff. All findings in this proceeding shall be based solely on matter in the rulemaking record.

QUESTIONS

Interested persons are urged to consider carefully these questions. Although certain proposals were drafted in specific language, the Commission retains its authority to promulgate final rules which differ in ways suggested by the following questions.

(CONSUMER BENEFITS)

1. Do consumers currently know enough about prescription drug prices to shop wisely?

2. Would additional price information help consumers to shop more wisely for their prescription drugs? To what extent do price considerations play a role in the purchasing decisions made by consumers of prescription drugs?

3. Would more information about prescription drug prices lower prices by increasing competition? If so, by what magnitude; if not, why not?

(AFFIRMATIVE REQUIREMENTS)

4. In what ways could the proposed rules be changed to be of greater assistance to consumers? Is there a need for the government to require special techniques of price disclosure? Please explain in detail.

5. Should pharmacists be required to disclose the price of any prescription drug upon an in-store or telephone request for such information? If such a requirement is created, should it matter whether the requesting person has a prescription or otherwise presents identification? If pharmacists are required to disclose prices over the telephone, should there be a limit on the number of prices per call which they must disclose? If yes, what should be the limit?

6. Should pharmacists be required to display conspicuously in their pharmacies a message that prescription drug prices may vary substantially among pharmacies and that consumers should compare prices to take advantage of the lowest available prices consistent with their service desires? If so, should such a disclosure be in the form of a card or placard near the prescription department, in a store window or elsewhere? Precisely what message should be on such a placard?

7. Should pharmacists be required to display conspicuously in any of their advertisements that indicate or imply the existence of a prescription department, a message that prescription drug prices may vary substantially among pharmacies and that consumers should compare prices to take advantage of the lowest available prices consistent with their service desires? If so, should such a requirement be reduced or suspended for certain advertisements, such as those with less than a certain number of square inches in print space or seconds in broadcast duration? Should such a message be required even in advertisements which imply the existence of a prescription dispensing service solely by mention of a pharmacy's name? Precisely what message should be required in advertisements? If pharmacists are required to disclose prices over the telephone, should the message also include that fact?

(PRICE INFORMATION)

8. Is each item listed in the alternative definition of price information necessary and sufficient for consumer price shopping? If not, what should be deleted, modified or added? Should any price advertisement inviting consumers to order prescription drugs by mail include information describing the classes or types of drugs that are not dispensed by the seller, the maximum period of time elapsing between the seller's receipt of a prescription order and the actual mailing of dispensed drugs to the consumer, and the advice that consumers should inquire of their prescriber whether it is advisable to delay receipt of the drug to allow for mail delivery?

(RESTRAINTS AGAINST PRICE DISCLOSURES)

9. To what extent and in what ways, if any, have local, State or national pharmaceutical associations influenced or prevented pharmacies from disclosing prescription drug prices? Include specific examples.

10. To what extent and in what ways, if any, have State boards of pharmacy used or abused their discretion in enforcing pharmacy laws or regulations involving price disclosures? Include specific examples.

11. To what extent and in what ways, if any, have individual pharmacists agreed among themselves not to advertise or otherwise disclose prices of prescription drugs? Include specific examples.

12. To what extent and in what ways, if any, have individual pharmacists been uncooperative in supplying price information over the telephone or in person?

(POSSIBLE JUSTIFICATIONS FOR PRICE DISCLOSURE RESTRICTIONS)

13. To what extent would any public health, safety, welfare or economic problems be created or exacerbated by the proposed rules? Are there any alternatives available to a State for dealing with such problems? Please be specific.

14. Should price disclosures as contemplated by Rule II, § 447.3(b)(1) and definitions § 447.4(b)–(c) be forbidden as to all drugs classified as "controlled substances" by Federal statute (21 U.S.C. 812)? If so, why?

15. What costs or other impact to pharmacies, and especially those which are small businesses, would result from implementation of the proposed rules, and how could such costs be minimized?

(LEGAL AND POLICY CONSIDERATIONS)

16. Would implementation of the proposed rules go beyond the statutory authority of the Federal Trade Commission? Please be specific.

17. Should private restraints against the disclosure of prescription drug prices, as well as the widespread nondisclosure of such prices, whether or not caused by State laws, be considered unfair under section 5 of the Federal Trade Commission Act (15 U.S.C. 45)?

18. Should the Federal Trade Commission be considered to have the authority to preempt State laws?

19. What standards should the Federal Trade Commission apply when its action will result in the preemption of State laws and regulations?

20. Should States or cities be permitted to require price posters, take-home leaflets and telephone disclosures as contemplated by Rule II, § 447.3(b)(1) and definition § 447.4 (e)? Should States or cities be permitted to require more than that in the way of price disclosures?

21. If all official restraints against price disclosures were removed as being constitutionally invalid so as to render unnecessary proposed Rule II, § 447.3(b)(1), would there still be sufficient consumer interest in proposed Rule I, § 447.2, and in possible affirmative disclosure requirements to warrant their independent promulgation?

INVITATION TO PROPOSE ISSUES OF SPECIFIC FACT FOR CONSIDERATION IN PUBLIC HEARINGS

All interested persons are hereby given notice of opportunity to propose any disputed issues of specific fact, in contrast to legislative fact, which are material and necessary to resolve. The Commission, or its duly authorized presiding official, shall, after reviewing submissions hereunder, identify any such issues in a Notice which will be published in the Federal Register. Such issues shall be considered in accordance with section

202(c) of Pub. L. 93–637, and rules promulgated thereunder. Proposals shall be accepted until August 4, 1975, by the Special Assistant Director for Rulemaking, Federal Trade Commission, Washington, D.C. 20580. A proposal should be identified as a "Proposal Identifying Issues of Specific Fact—Prescription Drug Price Disclosures," and furnished, when feasible and not burdensome, in five copies. The times and places of public hearings will be set forth in a Notice which will be published in the FEDERAL REGISTER.

INVITATION TO COMMENT ON THE PROPOSED RULE

All interested persons are hereby notified that they may also submit to the Special Assistant Director for Rulemaking, Federal Trade Commission, Washington, D.C. 20580, data, views or arguments on any issue of fact, law or policy which may have some bearing upon the proposed rule. Written comments, other than proposals identifying issues of specific fact, will be accepted until ten days before commencement of public hearings, but at least until August 4, 1975. To assure prompt consideration of a comment, it should be identified as a "Prescription Drug Price Comment," and furnished, when feasible and not burdensome, in five copies.

Issued: May 22, 1975.

By direction of the Commission.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-14387 Filed 6-3-75;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1974 Rev., Supp. No. 14]

UNIGARD MUTUAL INSURANCE COMPANY; SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to the Unigard Mutual Insurance Company, Seattle, Washington, under sections 6 to 13 of title 6 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated, effective May 31, 1975.

The company was last listed as an acceptable surety on Federal bonds at 39 FR 26369, July 18, 1974.

Bond-approving officers of the Government should, in instances where such action is necessary, secure new bonds in lieu of bonds executed by Unigard Mutual Insurance Company.

Dated: May 27, 1975.

JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.75-14553 Filed 6-3-75;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE

Meeting

Pursuant to the provisions of section 10, Pub. L. 92-463, effective January 5, 1975, notice is hereby given that a meeting of the National Committee for Employer Support of the Guard and Reserve Executive Committee will be held on June 12, 1975, in Room 5C1040, The Pentagon, Washington, DC.

The purpose of the meeting is to develop greater activity by members of the National Advisory Council in the solicitation of employer support of the Guard and Reserve.

A transcript of the meeting will be available to anyone desiring information about the meeting.

Additional information concerning these meetings may be obtained by contacting the Assistant to the National Chairman, National Committee for Employer Support of the Guard and Reserve, Room 3A29, 400 Army Navy Drive, Arlington, Virginia 22202, (202) 697-6902.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

MAY 30, 1975.

[FR Doc.75-14631 Filed 6-3-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 11159]

OREGON

Proposed Withdrawal and Reservation of Lands; Correction

MAY 28, 1975.

1. In FR Doc. 75-12569 appearing on page 20831 of the issue for Tuesday, May 13, 1975, the following change should be made in the land description:

WILLAMETTE MERIDIAN

T. 18 S., R. 9 E.,
Sec. 18, lots 1, 2, 3, and 4, E½, W½W½, extending strip withdrawn in Cascade Lakes Road Zone by PLO 2751 dated August 13, 1962;

should read:

T. 18 S., R. 9 E.,
Sec. 18, lots 1, 2, 3, and 4, E½, E½W½, excepting strip withdrawn in Cascade Lakes Road Zone by PLO 2751 dated August 13, 1962.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-14576 Filed 6-3-75;8:45 am]

Office of Hearings and Appeals

[Docket No. M 75-113]

BETHLEHEM MINES CORP.

Petition for Modification of Application Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Bethlehem Mines Corporation has filed a petition to modify the application of 30 CFR 75.802 to its Mine No. 73, Cambria County, Pennsylvania.

30 CFR 75.802 provides, in pertinent part, as follows:

[H]igh voltage circuits extending underground and supplying portable, mobile, or stationary high voltage equipment shall contain either a direct or a derived neutral which shall be grounded through a suitable resistor at the source transformers . . .

In support of its petition, Petitioner states:

1. Mine No. 73 receives electric power from transformers located approximately a mile away from the mine. This electric power travels from the transformers to the mine by means of a three-phase, three-wire transmission line.

2. A zig-zag transformer for the derived neutral is located at the mine entrance, as is an approved resistor. The grounding circuit originates at the grounded side of the grounding resistor. The circuit extends along with the power conductors and serves as a grounding conductor for the frames of all underground high voltage equipment supplied power from that circuit.

3. Petitioner submits that the grounding system presently in use at Mine No. 73 complies with § 75.802 in respect to the applicable provisions of that standard, and at all times guarantees no less than the same measure of protection afforded the underground miners by the applicable provisions of such standard.

4. In the grounding system in use at Mine No. 73, the three-wire connection from the source transformers to the circuit breaker, the zig-zag transformer for the derived neutral, and the resistor, are extended approximately a mile to the mine entrance instead of "at" the source transformers. However, Petitioner submits that this difference does not affect the function of the underground circuit in question in use at Mine No. 73, and Petitioner further submits the system presently in use guarantees the same measure of protection underground as the derived neutral grounding system described in the applicable provisions of § 75.802, for the following reasons:

(a) The derived neutral grounding system described in § 75.802, as interpreted by MESA, prescribes a zig-zag transformer in the immediate vicinity of the source transformers. While the system in use at Mine No. 73 does not have the zig-zag transformer for the derived neutral wired to the source transformers in the immediate vicinity of the source transformers, the fact still remains that the zig-zag transformer for the derived neutral is wired to the source transformers.

(b) Despite the fact that the zig-zag transformer for the derived neutral is located approximately a mile from the source transformers, in terms of schematics the underground circuitry is still indistinguishable from the derived neutral grounding system described in the applicable provisions of § 75.802.

(c) The grounding system presently in use underground at Mine No. 73 will function in exactly the same manner as the derived neutral grounding system prescribed in safety standard 75.802 as interpreted by MESA. For example, any ground fault at any point in the circuit under consideration will proceed through the resistor, as would be the case if a ground fault occurred in the derived neutral grounding system prescribed in the applicable provisions of standard 75.802, as interpreted by MESA.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 7, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

MAY 23, 1975.

[FR Doc.75-14578 Filed 6-3-75;8:45 am]

[Docket No. M 75-105]

ISLAND CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Island Creek Coal Company has filed a petition to modify the application of 30 CFR 75.701-4 to its Bird No. 2 and Bird No. 3 Mines, Tire Hill, Pennsylvania.

30 CFR 75.701-4 provides:

Where grounding wires are used to ground metallic sheaths, armors, conduits, frames, casings and other metallic enclosures, such grounding wires will be approved if:

(a) The cross-sectional area (size) of the grounding wire is at least one-half the cross-sectional area (size) of the power conductor where the power conductor used is No. 6 A.W.G., or larger.

(b) Where the power conductor used is less than No. 6 A.W.G., the cross-sectional area (size) of the grounding wire is equal to the cross-sectional area (size) of the power conductor.

(1) Petitioner requests approval of an alternate grounding system which includes the following:

(A) A No. 4 A.W.G. grounding wire approximately one-quarter the cross-sectional area of the power conductor. MCM 500 cables suspended individually and separately from the grounding wire.

(B) A delta wye secondary 600 volt A.C. transformer.

(C) A neutral ground in the mine feeder circuit through a 346 volt resistor with a capacity of 15 amperes. The center tap of the transformer is connected through a 15 ampere capacity, 23-ohm ribbon type grounding resistor which is tied to a neutral ground bed that meggers to −10 ohms or less.

(D) Two electrical current transformers of equal ratio paralleled in polarity to operate a ground type relay on any unbalanced load of .5 amperes in any feeder leg.

(E) A number 4 A.W.G. neutral ground wire which has an electrical current carrying capacity of at least 140 amperes.

(F) To monitor the grounding circuit, a 24 volt monitoring circuit which is an Ohio Brass, Resistance Ground Monitoring System, and which complies with 30 CFR 75.902.

(2) The alternate method will at all times guarantee no less than the same measure of protection afforded the miners at the subject mines by the subject mandatory standard for the following reasons:

(A) The proposed electrical system will limit any ground current flow to a maximum of 15 amperes because the grounding resistor will limit any ground circuit to 15 amperes and the main transformer itself cuts out when an additional .5 amperes are present.

(B) The ground trip relay in each of the electrical current transformers operates a ground trip relay on any unbalanced load of .5 amperes in any feeder leg. In case of a ground fault, it will show up as a single phase condition in the main leg in which the fault occurs. This condition will cause an instantaneous trip when the current is .5 amperes, excepting for the fraction of a second time delay set on the time delay in the circuit.

(C) Any break in either of the ground or monitoring circuits will cause the feeder circuit breaker to open within 3 ohms as engineered and provided by Ohio Brass Monitoring System.

(D) The 3 500 MCM bundled and wrapped with No. 4 A.W.G. copperweld ground wire would prevent development of any fatigue, and will increase mechanical stress.

(E) The proposed electrical system with various modifications has been in effect in the subject mines since 1962. No accidents have occurred in the subject mines from that date.

(F) The foregoing electrical system is in accordance with existing State laws and regulations.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before July 7, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

MAY 23, 1975.

[FR Doc.75-14579 Filed 6-3-75;8:45 am]

Office of the Secretary

GARY E. ADAMS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 25, 1975.

Dated: April 25, 1975.

GARY E. ADAMS.

[FR Doc.75-14580 Filed 6-3-75;8:45 am]

WILLIAM A DAVIS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 29, 1975.

Dated: April 29, 1975.

WILLIAM A. DAVIS.

[FR Doc.75-14581 Filed 6-3-75;8:45 am]

JOHN F. ENGLISH

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of May 7, 1975.

Dated: May 7, 1975.

JOHN F. ENGLISH.

[FR Doc.75-14582 Filed 6-3-75;8:45 am]

EDWARD GLASS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 28, 1975.

Dated: April 28, 1975.

EDWARD GLASS.

[FR Doc.75-14583 Filed 6-3-75;8:45 am]

DONALD B. GREGG

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 14, 1975.

Dated: April 28, 1975.

DONALD B. GREGG.

[FR Doc.75-14584 Filed 6-3-75;8:45 am]

EVAN W. JAMES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of May 12, 1975.

Dated: May 12, 1975.

EVAN W. JAMES.

[FR Doc.75-14585 Filed 6-3-75;8:45 am]

MARTIN T. QUIGLEY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of Wednesday.

Dated: April 30, 1975.

M. T. QUIGLEY.

[FR Doc.75-14586 Filed 6-3-75;8:45 am]

NICHOLAS A. RICCI

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 28, 1975.

Dated: April 28, 1975.

N. RICCI.

[FR Doc.75-14587 Filed 6-3-75;8:45 am]

JOHN ROLFING

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950 as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of April 29, 1975.

Dated: April 29, 1975.

JOHN A. ROLFING, Jr.

[FR Doc.75-14588 Filed 6-3-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A230]

GEORGIA

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in Miller County, Georgia, as a result of a natural disaster consisting of excessive rainfall, flooding and tornadoes April 20, 1975.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor George Busbee that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 21, 1975, for physical losses and February 24, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 28th day of May, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-14558 Filed 6-3-75;8:45 am]

[Notice of Designation Number A232]

SOUTH DAKOTA

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in South Dakota:

Edmunds Marshall
Kingsbury

The Secretary has found that this need exists as a result of a natural disaster consisting of drought May 15, 1974, to March 5, 1975, hailstorm July 1, 1974, and frost September 1 to 4, 1974, in Edmunds County, drought June 1 through October 31, 1974, and freeze September 3 and 4, 1974, in Kingsbury County and drought June 15 through December 11 1974, in Marshall County.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Richard F. Kneip that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 21, 1975, for physical losses and February 24, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 28th day of May, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-14559 Filed 6-3-75;8:45 am]

[Notice of Designation Number A231]

WISCONSIN

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in Douglas County, Wisconsin, as a result of a natural disaster consisting of excessive rainfall April 1 through May 31, 1974, drought July 1 through 31, 1974, and frosts September 1, 2 and 23, 1974.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Patrick J. Lucey that such designation be made.

Applications for Emergency loans must be received by this Department no later than July 21, 1975, for physical losses and February 24, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this desig-

nation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 28th day of May, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-14560 Filed 6-3-75;8:45 am]

Forest Service

BIG MOUNTAIN SKI RESORT MASTER PLAN

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the proposed Master Plan of The Big Mountain Ski Resort, Report Number USDA-FS-DES (Adm) R1-75-8.

The environmental statement concerns a proposed master plan for a two-phase, ten to fifteen-year development program for The Big Mountain Ski Resort that will include expansion of ski lift and related facilities on the Flathead National Forest, Flathead County, Montana. It will also include expansion of ski lift and related facilities on private land adjacent to national forest land.

The draft environmental statement was filed with CEQ on May 28, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW
Washington, DC 20250

USDA, Forest Service
Region 1—Northern Region
200 East Broadway
Missoula, Montana 59801

USDA, Forest Service
Flathead National Forest
290 North Main
Kalispell, Montana 59901

USDA, Forest Service
Tally Lake Ranger Station
Whitefish, Montana 59937

A limited number of single copies are available upon request to Edsel L. Corpe, Forest Supervisor, Flathead National Forest, 290 North Main, Kalispell, Montana 59901.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Edsel L. Corpe, Forest Supervisor, Flathead National Forest, 290 North Main, Kalispell, Montana 59901. Comments must be received by July 28, 1975 in order to be considered in the preparation of the final environmental statement.

KEITH M. THOMPSON,
Acting Regional Forester,
Northern Region, Forest Service.

MAY 28, 1975.

[FR Doc.75-14575 Filed 6-3-75;8:45 am]

REVISED TIMBER MANAGEMENT PLAN FOR THE SAN JUAN NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Timber Management Plan for the San Juan National Forest. The Forest Service report number is USDA-FS-R2-DES(Adm) FY-75-08.

The proposed action is the implementation of a revised timber management plan for the San Juan National Forest for the ten-year period of 1975-1984. It provides for the management of resources on certain lands of the National Forest through the silvicultural treatment of 102,000 acres of forested land with options for treating additional lands if Federal funds are appropriated for road construction.

This draft environment statement was transmitted to CEQ on May 28, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
So. Agriculture Bldg., Room 3230
12th St. & Independence Ave., SW
Washington, D.C. 20250

USDA, Forest Service
11177 West 8th Avenue
P.O. Box 25127
Denver, Colorado 80225

USDA, Forest Service
San Juan National Forest
P.O. Box 341
Durango, Colorado 81201

A limited number of single copies are available upon request to W. J. Lucas, Regional Forester, USDA Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colorado 80225.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to W. J. Lucas, Regional Forester, USDA Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colorado 80225. Comments must be received by July 28, 1975, in order to be considered in the preparation of the final environmental statement.

CLAYTON B. PIERCE,
Director, Multiple Use and Environmental Quality Coordination.

MAY 28, 1975.

[FR Doc.75-14523 Filed 6-3-75;8:45 am]

Rural Electrification Administration

CHUGACH ELECTRIC ASSOCIATION, INC.

Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a loan application from Chugach Electric Association, Inc., Box 3518, Anchorage, Alaska 99501. The statement covers approxmiately 20 miles of 230 kV transmission line from the existing 230 kV Teeland Substation to the Reed Substation of the Alaska Power Administration.

Additional information may be secured on request, submitted to Mr. David H. Askegaard, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Impact Statement have been sent to various Federal, State and local agencies, as outlined in the Council on Environmental Quality Guidelines. The Draft Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C., Room 4310, or at the borrower's address indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Askegaard at the address given above. Comments must be received on or before August 4, 1975 to be considered in connection with the proposed action.

Final REA action will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 28th day of May, 1975.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.75-14561 Filed 6-3-75;8:45 am]

COMMONWEALTH TELEPHONE CO., DALLAS, PENN.

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in the proposed REA Bulletin 320-22, "Guarantee of Loans for Telephone Facilities," dated February 4, 1975, published in proposed form in the FEDERAL REGISTER, September 16, 1974 (Vol. 39, No. 180, pages 33228-33229) notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $13,052,000 to Commonwealth Telephone Company, Dallas, Pennsylvania. The loan funds will be used to finance the construction of facilities to extend telephone service to new subscribers, and improve telephone service for existing subscribers.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information and details of the proposed project from Mr. William J. Umphred, President, Commonwealth Telephone Company, 100 Lake Street, Dallas, Pennsylvania 18612.

To assure consideration, proposals must be submitted on or before July 7, 1975 to Mr. William J. Umphred. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Commonwealth Telephone Company and REA deem appropriate. Prospective lenders are advised that financing for this project is available from the Federal Financing Bank under a standing loan commitment agreement with the Rural Electrification Administration.

Copies of the proposed REA Bulletin 320-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 29th day of May, 1975.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.75-14639 Filed 6-3-75;8:45 am]

Soil Conservation Service

DUNLAP CREEK WATERSHED, PENNSYLVANIA

Availability of Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8 (b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Dunlap Creek Watershed Project, Fayette County, Pennsylvania.

The environmental assessment of this Federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Benny Martin, State Conservationist, Soil Conservation Service, USDA, Box 985, Federal Square Station, Harrisburg, Pennsylvania 17108, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection, flood prevention and recreation. A part of the remaining planned works of improvement, as described in the negative declaration, include conservation land treatment supplemented by installation of recreation facilities on 28 acres of a 170 acre park.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA
Box 985, Federal Square Station
Harrisburg, Pennsylvania 17108

Requests for the negative declaration should be sent to the above address.

No administrative action on implementation of the proposal will be taken until June 19, 1975.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: May 28, 1975.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-14572 Filed 6-3-75;8:45 am]

EAST UPPER MAPLE RIVER WATERSHED PROJECT, MICHIGAN

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650[7 (e)] of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft revised environmental impact statement for the East Upper Maple River Watershed Project, Clinton, Gratiot, and Shiawassee Counties, Michigan, USDA-SCS-EIS-WS-(ADM)-75-3-(D)-MI.

The environmental impact statement concerns a plan for watershed protection, flood prevention, improved drainage on agricultural land, recreation development and fish and wildlife development. Planned works of improvement include conservation land treatment on 31,865 acres, 43.9 miles of multiple-purpose channel, 2.0 miles of channel suction dredging, 1.1 miles of floodway, 11.7 miles of flood control levee, 10.6 miles of multiple-purpose collection channels next to the levees, and two pumping stations. Also planned are one single-purpose floodwater retarding dam, one recreational development with basic facilities and one fish and wildlife development with a water resource improvement and access facilities. The 47 miles of channel work, dredging and floodway are all previously modified channels including 4.3 miles with intermittent flow and 42.7 miles with perennial flow. The works will provide flood protection and drainage to 23,500 acres of primarily agricultural land. Facilities will be developed to provide an estimated 1,016,930 annual recreation visits. There will be 591 acres of land which will be managed for fish and wildlife habitat.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823.

Copies of the draft revised environmental impact statement have been sent for comment to various federal, state and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823.

Comments must be received on or before July 23, 1975, in order to be considered in the preparation of the final environmental impact statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Date: May 27, 1975.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-14574 Filed 6-3-75;8:45 am]

PIERCE CREEK NO. 2 WATERSHED, IOWA

Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Pierce Creek No. 2 Watershed Proj-

ect, Page and Montgomery Counties, Iowa, USDA-SCS-EIS-WS-(ADM)-75-1-(F)-IA.

The EIS concerns a plan for watershed protection and flood prevention. The planned works of improvement provide for conservation land treatment and nine grade stabilization structures.

The final EIS has been filed with the Council on Environmental Quality.

A limited supply is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, 823 Federal Building, Des Moines, Iowa 50309.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Date: May 23, 1975.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-14573 Filed 6-3-75;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

STATEMENT OF INTEREST AND INTENT

Notice of Plans for Project

MAY 29, 1975.

On page 18480 of the FEDERAL REGISTER of Monday, April 28, 1975, a Statement of Interest and Intent was published by the National Marine Fisheries Service relative to consumer and trade education and the promotion of inspected fishery products.

To provide additional time for interested parties to respond, the time for receipt of written views, recommendations, and comments is extended from May 30, 1975, to July 30, 1975.

PRESTON SMITH,
Acting Director, National Marine Fisheries Service.

[FR Doc.75-14564 Filed 6-3-75;8:45 am]

Office of the Secretary

COMMERCE TECHNICAL ADVISORY BOARD

Notice of Expanded Agenda

This is to announce that the meeting of the Commerce Technical Advisory Board which was scheduled to meet on June 26, 1975, from 8:30 a.m. to 12 noon, will extend its meeting until 5 p.m. A new item:

Discussion of possible industrial complications and economic effects on Pub. L. 92-500 (Best available Requirements) Water Control Act

will be added to the agenda. The meeting was announced on page 21060 of the May 15, 1975 issue of the FEDERAL REGISTER (Volume 40, No. 95). The meeting announced on the same page of the FEDERAL REGISTER for June 25, 1975, will be held as scheduled.

Dated: May 29, 1975.

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology, U.S. Department of Commerce.

[FR Doc. 75-14554 Filed 6-3-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 4H3006]

LONZA, INC.

Notice of 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 4H3006) has been filed by Lonza, Inc., Fair Lawn, NJ 47410, proposing that § 121.2547 *Sanitizing solutions* (21 CFR 121.2547) be amended to provide for the safe use of aqueous solutions containing di-*n*-alkyl(C_8-C_{10}) dimethyl ammonium chlorides and isopropyl alcohol as sanitizing solutions for food-processing equipment and utensils.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20852, during working hours, Monday through Friday.

Dated: May 27, 1975.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.75-14547 Filed 6-3-75;8:45 am]

Office of the Assistant Secretary for Health

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL TECHNICAL SUBCOMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting:

Name. National Professional Standards Review Council Technical Subcommittee.

Date and time. June 30, 1975 (1 p.m. to 5 p.m.), July 1, 1975 (9 a.m. to 5 p.m.).

Place. Basic Science Building, School of Medicine, Gillman Drive, Matthews Campus, University of California at San Diego, La Jolla, California.

Purpose of meeting. The Technical Subcommittee was established to assist the National Professional Standards Review Council in the areas of data and information systems, evaluation of PSROs, and medical care norms, standards, and criteria. The Council was established to advise the Secretary of Health, Education, and Welfare on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and confrom to appropriate professional standards for the provision of quality health care. The Subcommittee's agenda will include discussion of issues relevant to the evaluation of PSROs.

Meeting of the Subcommittee is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Subcommittee before, during, or after the meeting. To the extent that time permits, the Subcommittee Chairman may allow public presentation of oral statements at the meeting.

All communications regarding this Subcommittee should be addressed to John R. Farrell, M.D., Director, Office of Professional Relations, Office of Professional Standards Review, Room 16A-16, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.

Dated: May 28, 1975.

HENRY E. SIMMONS,
Executive Secretary, National Professional Standards Review Council.

[FR Doc.75-14625 Filed 6-3-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-75-369]

PEACE RIVER ESTATES SUBDIVISION SECTION I AND SECTION III

Hearing

In the matter of Peace River Estates Subdivision Section I and Section III, OILSR No. 0-1722-09-508, Doc. 75-28.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) notice is hereby given that:

1. American International Land Corporation, Richard Rundle, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued April 8, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of

Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Peace River Estates Subdivision Section I and Section III, located in De Soto County, Florida, contain untrue statements of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received April 25, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on June 20, 1975, at 2:00 p.m.

5. The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before June 13, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

Dated: May 28, 1975.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-14624 Filed 6-3-75;8:45 am]

[Docket No. D-75-331]

DEPUTY AREA OFFICE DIRECTOR, ET AL., BOSTON AREA OFFICE REGION I

Designation To Serve as Acting Area Office Director

The officials appointed to the following listed positions are hereby designated to serve as Acting Area Office Director, Boston Region I, during the absence of the Area Office Director, with all the powers, functions, and duties redelegated or assigned to the Area Office Director: Provided, That no official is authorized to serve as Acting Area Office Director unless all other officials whose titles precede his in this designation are unable to act by reason of absence or vacancy in the position:

1. Deputy Area Office Director.
2. Area Counsel.
3. Director, Housing Management Division.
4. Director, Housing Production and Mortgage Credit Division.
5. Director, Community Planning and Development Division.

Effective as of the 14th day of March, 1975.

WILLIAM H. HERNANDEZ, JR.,
Area Office Director,
Boston Area Office, Region I.

[FR Doc.75-14562 Filed 6-3-75;8:45 am]

Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner

[Docket No. N-75-311]

REAL ESTATE SETTLEMENT COSTS

Special Information Booklet

Correction

In FR Doc. 75-13261 appearing at page 22459 in the issue for Thursday, May 22, 1975, the form "L. Settlement Charges" now appearing on page 22462 should be moved to page 22455 and replaced by the form "L. Settlement Charges" from page 22455.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 14626]

ELIMINATION OF VFR FLIGHT PLAN SERVICE

Proposed Change in Policy

Correction

In FR Doc. 75-13901, appearing in the FEDERAL REGISTER of Thursday, May 29, 1975 at page 23358, the closing date for comments which appears in the 8th line from the bottom in the third column should read "July 28, 1975".

[Docket No. 14322; Notice No. 75-9A]

OPERATIONS REVIEW PROGRAM

Compilation of Proposals, Availability and Invitation To Submit Comments

On February 26, 1975, the Federal Aviation Administration issued a policy statement announcing the expansion of its biennial regulatory review policy and the establishment of the Operations Review Program. This effort is aimed at taking into acount the significant changes in the operating environment in which airmen, air agencies and aircraft operators function by updating the Federal Aviation Regulations which apply to them. Simultaneously, the FAA issued Notice 75-9 inviting interested persons to submit proposals for consideration during the First Biennial Operations Review (1975-1976) to amend: (1) maintenance rules; (2) airmen certification rules; (3) selected air traffic and general operating rules; (4) rules for the certification and operations of air carriers, air travel clubs and operators for compensation or hire; and (5) rules for schools and other certificated agencies.

As stated in Notice 75-9, the FAA has prepared a compilation of proposals after reviewing and evaluating each proposal received from interested persons. This compilation also contains FAA proposals for consideration during the First Biennial Operations Review. The FAA hereby announces the availability of this compilation. A copy of it is being sent to each person who submitted a proposal in response to Notice 75-9. Until the supply is exhausted, a copy of the compilation also will be sent to any person who requests a copy.

Interested persons, both foreign and domestic, are invited to submit whatever written data, views, or arguments they may wish concerning proposals included in the compilation. Comments relating to any significant environmental, economic or inflationary impact that might result from any of the proposals in this compilation may also be submitted. All comments should be submitted in duplicate as soon as possible to the Federal Aviation Administration, Flight Standards Service, Attention: Operations Review Program, AFS-78, 800 Independence Avenue, SW., Washington, D.C. 20591. To receive proper consideration, comments must be received not later than 5 p.m., e.d.t., August 1, 1975. All comments received will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested persons.

As stated in Notice 75-9, a copy of which is appended to the compilation, not all proposals included in the compilation of proposals will automatically be included in the agenda for the First Biennial Operations Review Conference. The disposition of proposals in this regard will depend, in large measure, on the comments received. In this connection, it should be noted that there are approximately 1,000 proposals in the compilation. In consideration of the large volume of material involved, interested persons are urged to follow the guidelines for comments recommended in the preface of the compilation.

The proposals and related justifications included in the compilation should be viewed as working proposals for further consideration. They may not represent the full or final position of the identified proponent. The proponent may withdraw a proposal at any time during the Operations Review before it is included in a Notice of Proposed Rule Making. The comments made on the proposals in this compilation and the additional discussion at the First Biennial Operations Review Confernece will form the basis on which FAA will make a final determination of which items will be included in the Notices of Proposed Rule Making, the last of which is scheduled for issuance by May 30, 1976.

Nearly all of the proposals contained in this compilation were received by the deadline established in Notice 75-9 of 5 p.m., e.d.t., April 15, 1975. The FAA also has included proposals received after that deadline to the extent this did not cause undue expense or delay

in publishing this compilation by May 30, 1975. In this connection, it should be noted that it may not be possible to give consideration, in the development of the agenda for the First Biennial Operations Review Conference, to late comments received in response to this Notice.

It should be noted that the FAA may elect to undertake rulemaking procedures, separate from the Operations Review, on issues pertaining to proposals contained in the compilation of proposals, or included in the agenda for the First Biennial Operations Review Conference. In such cases, the pertinent proposals may be removed from further consideration during the Operations Review.

(Sec. 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on May 29, 1975.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.75-14594 Filed 6-3-75;8:45 am]

Office of the Secretary

CITIZENS' ADVISORY COMMITTEE ON TRANSPORTATION QUALITY

Meeting

The Citizens' Advisory Committee on Transportation Quality of the Department of Transportation will meet at 9 a.m. Monday and Tuesday, June 23-24, 1975, in Room 2230, 400 7th Street SW., Washington, D.C.

The Citizens' Advisory Committee on Transportation Quality recommends transportation initiatives to the Secretary of Transportation, and assesses transportation policies from the consumer's viewpoint.

The agenda for the two-day meeting will include a discussion of strategies for consumer participation in transportation energy conservation.

The meeting is open to the public. Those wishing to attend or obtain additional information should contact Joseph DelVecchio, Executive Director, Citizens' Advisory Committee on Transportation Quality, Office of the Secretary of Transportation, TES-40, 400 7th Street, SW, Washington, D.C. 20590, telephone (202) 426-4283.

This notice is given pursuant to section 10 of the Federal Advisory Committee Act (Pub. L. 92-463).

Issued in Washington, D.C. on May 29, 1975.

BENJAMIN O. DAVIS, Jr.,
Assistant Secretary for Environment, Safety, and Consumer Affairs.

[FR Doc.75-14571 Filed 6-3-75;8:45 am]

ACTION

NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following Council meeting:

Name. National Voluntary Service Advisory Council.

Date. June 26 and 27, 1975.

Place. ACTION, 806 Connecticut Avenue NW., Washington, D.C., Room 522.

Time. 9:00 a.m.

Purpose of the meeting: To discuss the work of each of the Council's committees and to continue preparations for the Annual Report of the Advisory Council.

Meeting of the Advisory Council is open to the public. Public attendance depending on available space, may be limited to those persons who have notified the Advisory Council Executive Officer in writing at least five days prior to the meeting, of their intention to attend the meeting.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council Executive Officer may allow public presentation of oral statements at the meeting.

All communications regarding this Advisory Council should be addressed to Ms. Elizabeth Allemang, Advisory Council Executive Officer, 806 Connecticut Avenue NW., Washington, D.C. 20525.

ELIZABETH L. ALLEMANG,
Office of the Director
Staff Assistant.

[FR Doc.75-14540 Filed 6-3-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 27158; Order 75-5-100]

AEROPERU

Notification and Order Disapproving Schedules

In FR Doc. 14014, in the FEDERAL REGISTER of Thursday, May 29, 1975, on page 23359, the heading should read as set forth above.

[Docket Nos. 27810 and 22859; Order 75-5-95]

AMERICAN AIRLINES, INC.

Domestic Air Freight Rate Investigation; Order of Suspension

In FR Doc. 75-14015, in the issue of Thursday, May 29, 1975, on page 23360, the heading should read as set forth above.

CIVIL SERVICE COMMISSION

NATIONAL PROGRAM GRANTS

Notice of Requests for Proposals

The U.S. Civil Service Commission is now accepting proposals from eligible applicants for National IPA program grants to be made for Fiscal Year 1976 (commencing July 1, 1975) pursuant to section 506(a) of the Intergovernmental Personnel Act (IPA). The Commission is interested in programs which address on a nationwide basis significant training needs of State and local governments and particularly of their elected and key appointed officials. Grant funds available for competitive award to initiate new efforts in Fiscal Year 1976 are expected to be extremely limited. The deadline for receipt of official application is October 6, 1975. The Commission intends to award national grants early in the Fiscal Year, consistent with its appropriations for Fiscal Year 1976. All interested parties should contact: U.S. Civil Service Commission, Bureau of Intergovernmental Personnel Programs, Office of Grants Administration, 1900 E Street, NW., Washington, D.C. 20415, (202) 632-6274. This notice pertains only to the award of Fiscal Year 1976 IPA grant funds for National programs. For information about IPA grant funds for specific State and local governments and combinations thereof, contact the appropriate Regional Office of the U.S. Civil Service Commission.

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

[FR Doc.75-14620 Filed 6-3-75;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PAKISTAN

Entry or Withdrawal From Warehouse for Consumption

MAY 30, 1975.

On June 27, 1974, there was published in the FEDERAL REGISTER (39 FR 23301) a letter dated June 24, 1974 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, establishing levels of restraint applicable to certain specified categories of cotton textiles and cotton textile products produced or manufactured in Pakistan and exported to the United States during the twelve-month period beginning on July 1, 1974. These levels of restraint were established to implement certain provisions of the Bilateral Cotton Textile Agreement of May 6, 1970, as amended, between the Governments of the United States and Pakistan.

On May 6, 1975, in furtherance of the objectives of, and under the terms of, the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, the Governments of the United States and Pakistan concluded a new comprehensive bilateral cotton textile agreement concerning exports of cotton textiles and cotton textile

products from Pakistan to the United States over a period of three and one-half years beginning on July 1, 1974 and extending through December 31, 1977. Among the provisions of the new agreement are those establishing an aggregate limit for the 64 categories; group limits for Categories 1–27 and 28–64; and within the aggregate and group limits, specific limits on Categories 9/10, 18/19 and part of 26 (printcloth, 22/23, parts of 26 (barkcloth and duck), 31 (other than shop towels), and 41/42 for the eighteen-month period beginning on July 1, 1974 and extending through December 31, 1975.

Accordingly, there is published below a letter of May 30, 1975 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs canceling the letter of June 24, 1974 and directing that for the eighteen-month period beginning July 1, 1974 and extending through December 31, 1975 entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 9/10, 18/19 and part of 26 (printcloth), 22/23, parts of 26 (barkcloth and duck), 31 (other than shop towels), and 41/42 be limited to the designated levels. The levels set forth below have not been adjusted to reflect any entries after June 30, 1974. However, entries in Category 31 (other than shop towels), which was not previously subject to a specific level of restraint, have amounted to 11,363,869 pieces during the period July 1, 1974 through March 31, 1975. A further adjustment in the level of restraint for this category during the period April 1 through June 3, 1975, will be transmitted to the Commissioner of Customs when the data are available.

This letter and the actions pursuant thereto are not designed to implement all of the provisions of the new bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Effective date: June 4, 1975.

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

MAY 30, 1975.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: This directive cancels and supersedes the directive issued to you on June 24, 1974 by the Chairman of the Committee for the Implementation of Textile Agreements, which directed you to prohibit entry of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in Pakistan and exported to the United States during the twelve-month period beginning on July 1, 1974, in excess of the designated levels of restraint.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton Textile Agreement of May 6, 1975 between the Governments of the United States and Pakistan, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on June 4, 1975, and for the eighteen-month period beginning on July 1, 1974 and extending through December 31, 1975, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 9/10, 18/19 and part of 26 (printcloth), and 22/23, parts of 26 (barkcloth and duck), 31 (other than shop towels), and 41/42, in excess of the following levels of restraint:

Category		Eighteen-month level of restraint [1]
9/10	square yards	70,953,840
18/19/26 (printcloth) [2]	do	31,535,040
22/23	square yards	7,883,760
26 (barkcloth) [3]	do	11,825,640
26 (duck) [4]	do	16,752,990
31 (other than shop towels) [5]	pieces	18,420,000
41/42	dozen	1,339,571

[1] The levels of restraint have not been adjusted to reflect any entries made after June 30, 1974.

[2] In Category 26 the T.S.U.S.A. Numbers for printcloth are:

320...34	326...34
321...34	327...34
322...34	328...34

[3] In Category 26 the T.S.U.S.A. Numbers for barkcloth are:

320...88	326...88	320...92	326...92
321...88	327...88	321...92	327...92
322...88	328...88	322...92	328...92
323...88	329...88	323...92	329...92
324...88	330...88	324...92	330...92
325...88	331...88	325...92	331...92

[4] In Category 26 the T.S.U.S.A. Numbers for duck fabric are:

320...01 through 04, 06, 08
321...01 through 04, 06, 08
322...01 through 04, 06, 08
326...01 through 04, 06, 08
327...01 through 04, 06, 08
328...01 through 04, 06, 08

[5] All T.S.U.S.A. Numbers in Category 31 except T.S.U.S.A. Number 366.2740.

In carrying out this directive, entries of cotton textile products in Categories 9/10, 18/19/26 (printcloth), 22/23, parts of 26 (barkcloth and duck), and 41/42, produced or manufactured in Pakistan and exported to the United States prior to July 1, 1974, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period July 1, 1973 through June 30, 1974. In the event that the levels of restraint established for the twelve-month period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

Cotton textile products in Category 31 (other than shop towels), produced or manufactured in Pakistan and exported to the United States before July 1, 1974 shall not be subject to this directive. Entries in Category 31 (other than shop towels) have amounted to 11,363,869 pieces during the period July 1, 1974, through March 31, 1975. A further adjustment to account for the period April 1, 1975 through June 3, 1975 will be provided when the data are available.

Cotton textile products in Category 31 (other than shop towels) which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of May 6, 1975 between the Governments of the United States and Pakistan which provide, in part, that: 1) within the aggregate and group limits of the agreement, specific levels of restraint in Categories 1–27 may be exceeded by 10 percent and in Categories 28–64, by 7 percent; 2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and 3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textiles and cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.75-14569 Filed 6-3-75;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

TELEVISION RECEIVERS

Acceptance of Offer To Develop Safety Standard; Summary of Terms of Acceptance

By notice in the FEDERAL REGISTER of February 28, 1975 (40 FR 8592) the Consumer Product Safety Commission began a proceeding under section 7 of the Consumer Product Safety Act (15 U.S.C. 2056) for the development of a consumer product safety standard or standards applicable to the hazards associated with television receivers, namely, fire, shock, implosion, and external mechanical failure. The notice invited any person to submit to the Commission, on or before March 31, 1975, either one or more existing standards as a proposed consumer product safety standard, or to offer to develop one or more consumer product safety standards to reduce or eliminate unreasonable risks of injury due to the enumerated hazards.

In response to the February 28 FEDERAL REGISTER notice, the Commission received two offers to develop a recommended standard applicable to television receivers. The purpose of this notice is to announce that the Commission has

accepted the offer of Underwriters' Laboratories (UL), 207 East Ohio Street, Chicago, Illinois 60611, to develop a recommended consumer product safety standard applicable to television receivers. The Commission has determined that UL (1) is technically competent, (2) is likely to develop an appropriate standard within the 150 day period proposed in the offer, and (3) will comply with regulations applicable to standards development which were issued by the Commission pursuant to section 7 of the Consumer Product Safety Act (16 CFR 1105; 39 FR 16206).

Method of development. UL intends to develop the standards with the help of a Technical Advisory Group consisting of trade and non-trade association members representing the television industry. Additionally, this group will include an expert in electrical inspection, engineers from testing laboratories and technically-oriented as well as use-oriented consumers. Also, participating in the standards development will be a Consumer Product Safety Standard Committee (CPSSC) including technically-oriented and use-oriented representatives of ultimate consumers and consumer groups, manufacturers, retailers, representatives of insurance interests, inspection authorities, TV servicemen, safety experts, fire marshals, utilities, and testing companies.

Initially, the UL Standard Project Manager will form a small ad hoc group, including consumer representatives, from the CPSSC to review all available information and documents referenced in the February 28, 1975, FEDERAL REGISTER notice. This ad hoc group will then present a plan of action to the full CPSSC for consideration.

Subsequently, the CPSSC membership will be divided into a number of subcommittees which will deal with specific areas of hazards and which will evaluate and consider specific solutions. The recommendations of these subcommittees will be coordinated by the Standard Project Manager and the Technical Advisory Group (TAG), and result in preparation of the first draft of the proposed mandatory standard for television receivers. UL will circulate this draft to all members of the TAG and the CPSSC, all public participants, UL's Consumer Advisory Council and UL's Electrical and Casualty Engineering Councils. Each of the corresponding participants will be asked to comment on the proposed draft in writing. Following the receipt and analysis of the comments, the Standard Project Manager, working with the TAG, will prepare a second draft of the proposed standard, and submit it to the CPSSC for review.

If the changes in the first draft are substantial, the second draft will be submitted for written comment to the participants mentioned above. After receiving the additional comments, the Standard Project Manager will prepare the final draft of the television receiver standard and submit it to the members of the CPSSC for letter ballot. In submitting the final standard to the Commission, UL will transmit records of the CPSSC ballot including minority opinions.

Participation by consumers and other interested persons. In accordance with the Commission's regulations and the terms of UL's offer, all persons are invited to participate in the standard development process. In order to ensure representative participation, UL will include consumer in the TAG, CPSSC, the ad hoc group and on all subcommittees.

Offer acceptance agreement. UL has agreed to develop a recommended standard applicable to television receivers in accordance with the terms of the February 28, 1975, Notice of Proceedings (40 FR 8592), the Commission's regulations for developing Consumer Product Safety Standards (16 CFR 1105; 39 FR 16206) and the terms of a formal agreement between UL and the Commission which is presently in preparation. After the agreement is signed, it will be available for inspection in the Office of the Secretary, Room 1025, 1750 K Street, NW., Washington, D.C.

The Commission has agreed to contribute $54,895 toward the cost of developing the recommended standard. These funds will be used to defray miscellaneous expenses including travel and per diem costs as specified in (1) UL's offer of March 31, 1975, (2) letter from UL to Stan Parent, Executive Director, dated May 12, 1975, and (3) in the formal acceptance agreement.

The Consumer Product Safety Act specifies in section 7(b) (15 U.S.C. 2056 (b)) that the period in which a recommended standard is to be developed shall end 150 days after publication in the FEDERAL REGISTER of a notice inviting any person to submit an offer to develop a proposed standard which in this case is July 28, 1975. The Commission, however, in accepting UL's offer, specified that UL shall have a period of 150 days beginning May 19, 1975, in which to develop a standard, with this period to end on October 16, 1975.

The Commission finds that the additional period is appropriate due to the complex nature of the television receiver problem. The extended development period will ensure the opportunity for adequate participation by all interested parties, and provide the offeror with sufficient opportunity to examine the available accident data and to evaluate all comments on the drafts of the standard. The Commission may, by notice in the FEDERAL REGISTER, extend the period of development if it finds for good cause that a different period of time is appropriate.

Copies of UL's offer, and UL's letter of May 12, 1975, are available for inspection in the Office of the Secretary, Room 1025, 1750 K Street, NW., Washington, D.C.

All persons interested in participating in the development of the standard applicable to television receivers should contact Mr. S. D. Hoffman, Standard Project Manager, Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, Illinois 60611, telephone (312) 642-6969.

Dated: May 30, 1975.

SHELDON D. BUTTS,
Acting Secretary, Consumer Product Safeyt Commission.

[FR Doc.75-14628 Filed 6-3-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 382-7]

MUNICIPAL WASTE TREATMENT GRANTS

Notice of Public Hearings; Correction

In the FEDERAL REGISTER, Vol. 40, No. 86, May 2, 1975, page 19236, there appeared an announcement by the Environmental Protection Agency of a series of four public hearings to discuss several issues relating to municipal waste treatment grants. EPA wishes to correct the impression that these meetings are "legislative hearings" or that EPA is seeking to assume legislative prerogatives that are vested in the Congress by the Constitution. These hearings are for the purpose of receiving public comment, views and information on the issues described in the May 2, 1975, announcement and discussed in more detail in the FEDERAL REGISTER of May 28, 1975.

For four of these issues, the Administration is contemplating the submission of proposals to the Congress to amend the Federal Water Pollution Control Act. The information derived from the hearings will provide EPA with a better understanding of each of these four issues. Should these hearings result in specific suggestions for legislation to be formally submitted to the Congress, EPA would have in its possession the views of interested parties and data on the potential impact of such proposals, including data for the draft environmental impact statements that would have to accompany such proposals.

For the fifth issue, "delegating a greater portion of the management of the construction grants program to the States," EPA has endorsed H.R. 2175 and H.R. 6991. In this regard, these hearings will give EPA a better understanding of the capacity of the States to accept greater delegation and will provide views and information concerning the administrative procedures that might be used to accomplish more timely delegations. The hearings will also explore any problems that might be involved in this effort.

CHARLES L. ELKINS,
Acting Assistant Administrator for Water and Hazardous Materials.

MAY 30, 1975.

[FR Doc.75-14651 Filed 6-3-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 755]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

MAY 27, 1975.

Pursuant to sections 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to §§ 21.27 of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21577-CD-TC-(3)-75 Cincinnati Radiotelephone Systems, Inc. Consent to Transfer of Control from Cyril and Arthur Howes, TRANSFEROR to Roger A. Montgomery, TRANSFEREE. Stations: KLF476, KQK710 & KUC928, Cincinnati, Ohio.

21578-CD-P-75 Metrotec, Inc. (NEW) C. P. for a new station to operate on 35.22 MHz. to be located at 3930 Sunset Boulevard, Youngstown, Ohio.

21579-CD-P-75 B. P. Radio, Inc. (KWH318) C. P. for additional facilities to operate on 152.18 MHz at Loc. #2: On SW corner Route 104E and Townline Road near Oswego, New York.

21580-CD-P-(2)-75 Metro Fone Communications, Inc. (KRS655) C. P. for additional facilities to operate on 158.70 MHz. at Loc. #3: 6 E. 25th Street, Minneapolis, Minnesota; same facilities at Loc. #4: 1821 University Avenue, St. Paul, Minnesota.

21581-CD-P-75 Autofone, Inc. (KUO573) C. P. for additional facilities to operate on 454.125 MHz. at Loc. #2: Hwy. 29 East, 0.8 miles from junction Hwy. 199, 2.2 miles East of Dublin, Georgia.

21582-CD-P-75 Porta-Phone, Inc. (NEW) C. P. for a new station to operate on 454.025 MHz. to be located East of US 319, 1.5 mi. NE of Thomasville, Georgia.

21583-CD-P-75 Porta-Phone, Inc. (NEW) C. P. for a new one-way station to operate on 158.70 MHz. to be located East of US 319, 1.5 mi. NE of Thomasville, Georgia.

21584-CD-P-75 Airsignal International of Pittsburgh, Pennsylvania, Inc. (KGA805) C. P. for additional facilities to operate on 35.22 MHz. at Loc. #5: 582 RD #2, 3 mi. SW of Aliquippa, Pennsylvania.

21585-CD-P-75 Howard Hicks d/b/a Florida Radio Phone (KIG845) C. P. to change antenna system, replace transmitter and relocate facilities operating on 152.21 MHz. to be located at 100 S.E. 3rd Avenue, Ft. Lauderdale, Florida.

Major Amendment

6386-C2-P-73 Springfield Radio Communications, Inc., Springfield, Oregon (NEW) Amend to change transmitting antenna site to Williamette Heights Park, Springfield, Oregon. All other particulars to remain the same as reported on PN #639, dated March 12, 1973.

20383-CD-P-75 Massachusetts-Connecticut Mobile Telephone Co. (KQZ747) Amend to include the addition of control station to operate on 72.38 MHz. at antenna location #11, 14 Haynes Street, Hartford, Connecticut. All other particulars remain as reported on PN #720, dated September 23, 1974.

Correction

21307-CD-P-75 South Central Bell Telephone Co. (KIA960) Correct entry to read: C.P. for additional facilities to operate on 454.375 & 454.525 MHz. at Loc. #2: 1500 Beacon Parkway, east, Birmingham, Alabama.

Informatives

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding Ex Parte presentations by reasons of potential electrical interference.

158.70 MHz:

Massachusetts-Connecticut Mobile Telephone Company, KQZ747 (Loc. No. 10), Northampton, Mass., 20383-CD-P-75.

DPRS, Inc. trading as ZIPCALL, KSV955 (Loc. No. 7), Paxton, Mass., 20016-CD-P-75.

Airsignal International, Inc., KIJ358, Sarasota, Florida, 20204-CD-P-(4)-7.

Peacock Radio Service, KIY511, St. Petersburg, Fla., 20375-CD-P-(2)-7.

Airsignal International, Inc., KIJ358, Sarasota, Florida, 20204-CD-P-(4)-7.

Answerite Professional Tel. Service, (New), Tampa, Florida, 21648-C2-P-(4)-7.

RURAL RADIO

60341-CR-P-75 RCA Alaska Communications, Inc. (WGF78) C.P. for additional interoffice facilities to operate on 152.60 MHz and 454.55 MHz. to be located Approximately 8 miles NNE from Kenai, Alaska.

POINT-TO-POINT MICROWAVE RADIO-SERVICE

3953-CF-ML-75 American Telephone and Telegraph Company (KPF23) 10.5 Miles East of Rupert, Idaho, Lat. 42 37 00 N. -Long. 113 25 25 W. Mod. of License to change polarity from Horizontal to Vertical on frequencies 3710 3790 and 4110, and from Vertical to Horizontal on 3730 3810 3890 3970 4050 and 4130 MHz toward American Falls, Idaho on azimuth 60 degrees/56 minutes.

3954-CF-ML-75 Same (KPF24) 6.5 Miles West of American Falls, Idaho. Lat. 42 47 19 N. -Long. 113 00 06 W. Mod. of License to change polarity from Horizontal to Vertical on frequencies 3750 3830 4070 and 4150, and from Vertical to Horizontal on 3770 3850 3930 4010 4090 and 4170 MHz toward Rupert, Idaho on azimuth 241 degrees/13 minutes.

4123-CF-ML-75 Wisconsin Telephone Company (KSP43) 3.3 Miles SW of Parrish, Wisconsin. Lat. 45 24 04 N. -Long. 89 28 55 W. Mod. of License to change coordinates to read as stated above.

4119-CF-R-75 Southern Bell Telephone and Telegraph Company (KJA75) Location: Temporary fixed locations in Florida, Georgia, North Carolina and South Carolina. Application for Renewal of Radio Station License (Developmental) expiring June 14, 1975. TERM: June 14, 1975 to June 14, 1976.

4124-CF-P-75 Navajo Communications Company, Inc. (WKR78) Gibson, 6 Miles NNE of Gallup, New Mexico. Lat. 35 36 17 N. -Long. 108 40 48 W. C.P. to add antenn.. and frequency 2178.4V MHz toward a new point of communication at Tohatchi, New Mexico on azimuth 346 degrees/10 minutes.

4125-CF-P-75 Same (NEW) 0.55 Km SE of Tohatchi, New Mexico. Lat. 35 50 56 N. Long 108 45 14 W. C.P. for a new station on frequency 2128.4V MHz toward Gibson, New Mexico on azimuth 166 degrees/07 minutes.

2788-CF-ML-75 New York Telephone Company (KEK93) 2.4 Miles NW of Colton, New York. Lat. 44 33 50 N. -Long. 74 59 10 W. Mod. of License to change polarity from Vertical to Horizontal on frequency 6315.9 MHz toward Potsdam, New York on azimuth 359 degrees/16 minutes.

2787-CF-ML-75 Same (KEE88) 73 Market Street, Potsdam, New York. Lat. 44 40 20 N. -Long. 74 59 17 W. Mod. of License to change polarity from Vertical to Horizontal on frequency 6063.8 MHz toward Colton, New York on azimuth 179 degrees/16 minutes.

3230-CF-P/ML-75 RCA Alaska Communications, Inc. (WAH427) Fort Wainwright, Bldg. 1555, north post area of Ft. Wainwright, 2 Miles East of Fairbanks, Alaska. Lat. 64 50 28 N. -Long. 147 36 13 W. C.P. and Mod. of License to change frequency 2162.4H MHz to 2117.2H MHz toward Fairbanks, Alaska on azimuth 264 degrees/14 minutes.

3231-CF-P/ML-75 Same (WGF58) 200 East Gaffney Road, Fairbanks, Alaska. Lat. 64 50 12 N. -Long. 147 42 22 W. C.P. and Mod. of License to change frequency 2117.2H MHz to 2167.2H MHz toward Ft. Wainwright, Alaska on azimuth 84 degrees/08 minutes.

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[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

4097–CF–ML–75 American Telephone and Telegraph Company (KSA49) 3.5 Miles NNE of Lee, Illinois. Lat. 41 50 40 N. -Long. 88 55 22 W. Mod. of License to change coordinates to read as shown above; change distance and azimuth of transmission paths toward the following points of communication: Dixon, Ill.—273° 47'; Newark, Ill.—134° 42'; Winnebago, Ill.—333° 40'; Norway, Ill.—149° 39'; Plato Center, Ill.—61° 45'; and Sublette, Ill.—235° 02'.

4098–CF–MP–75 Same (WAH621) 2.75 Miles SE of Dixon, Illinois. Lat. 41 52 23 N. L.ng. 89 32 04 W. Mod. of Permit to change antenna system, alarm center location and transmission path data toward the following points of communication: Lee, Ill.—93° 23'; and Chadwick, Ill.—294° 39'.

4099–CF–MP–75 Same (WAH620) 2.0 Miles SW of Chadwick, Illinois. Lat. 42 00 12 N. -Long. 89 55 01 W. Mod. of Permit to change antenna system and co-ordinates to read as above; change alarm center location and transmission path data toward the following points of communications: Dixon, Ill.—114° 23'; and Elizabeth, Ill.—322° 35'.

4100–CF–MP–75 Same (WAH619) 7.3 Miles SE of Elizabeth, Illinois. Lat. 42 13 32 N. -Long. 90 08 45 W. Mod. of Permit to change antenna system and co-ordinates to read as above; change transmission path data toward Chadwick to read 142° 26'; change frequencies 10735H 10895H and 10975H to 11325V 11485V and 11645V MHz toward Hanover, Illinois on azimuth 30^ degrees/17 minutes; change alarm center location and replace transmitters.

4101–CF–MP–75 Same (WAH618) 6.7 Miles NNW of Hanover, Illinois. Lat. 42 19 02 N. -Long. 90 21 28 W. Mod. of Permit to change antenna system, and frequencies 11425H 11585H and 11665H MHz to 10715V 10875V and 11035V MHz toward Elizabeth, Illinois on azimuth 120 degrees/08 minutes; change alarm center location and replace transmitters.

4117–CF–P–75 The Mountain States Telephone and Telegraph Company (NEW) 103 North Spruce Street, Townsend, Montana. Lat. 46 19 13 N. -Long. 111 31 06 W. C.P. for a new station on frequency 2162.0H MHz toward Winston, Montana on azimuth 329 degrees/07 minutes.

4118–CF–P–75 Same (WIV59) 4 Miles NW of Winston, Montana. Lat. 46 31 52 N. Long. 111 42 04 W. C.P. to add antenna and frequency 2112.0H MHz toward a new point of communication at Townsend, Montana on azimuth 148 degrees/59 minutes.

4116–CF–P–75 Navajo Communication Co., Inc. (WHB56) Deza Bluff, 3.5 Miles NW of Tohatchi, New Mexico. Lat. 35 54 30 N. -Long. 108 46 22 W. C.P. to add antenna and frequency 6286.2V MHz toward a new point of communication at Newcomb, New Mexico on azimuth 08 degrees/31 minutes.

4120–CF–P–75 Same (NEW) On Hwy. 666, 1.3 Km South of Newcomb, New Mexico. Lat. 36 16 24 N. -Long. 108 42 19 W. C.P. for a new station on frequency 6034.2V MHz toward Deza Bluff, New Mexico on azimuth 188 degrees/33 minutes.

3084–CF–P–75 Eastern Microwave, Inc. (WQR73) Pittsburgh, Pennsylvania. Lat. 40°26'46" N. -Long. 79°57'51" W. C.P. to power split frequencies 11665.0H MHz and 11345.0H MHz toward new points of communication located in Etna and West Homestead, Pennsylvania, on azimuths 12°52' and 139°26', respectively.

3110–CF–P–75 Same. (WQR74) Bethel Park, Pennsylvania. Lat. 40°17'36" N. -Long. 80° 03'05" W. C.P. to power split frequencies 10735.0H MHz and 10895.0H MHz toward new points of communication at Connelsville and Dormont, Pennsylvania, on azimuths 130°58' and 04°46', respectively.

3111–CF–P–75 Same. (WDD82) Bell Point, Pennsylvania. Lat. 40°32'03" N. -Long. 79° 31'59" W. C.P. to power frequencies 10735.0H MHz and 10895.0H MHz toward new points of communication at Blairsville, Latrobe and Universal, Pennsylvania, on azimuths 106°18', 161°21', and 253°21', respectively; power split frequencies 10735. 0V MHz and 10895.0V MHz toward new points of communication at Greensbur and North Versaillee, Pennsylvania, on azimuths 186°44' and 237°51', respectively.

3112–CF–P–75 Same. (WQR72) Hookstown, Pennsylvania. Lat. 40°34'37" N. -Long. 80° 27'24" W. C.P. to power frequencies 10975. 0H MHz and 11135.0H MHz toward new points of communication at Coraopolis and West View, Pennsylvania on azimuths 106° 43' and 102°59', respectively.

2942–CF–P–75 Same. (WPX31) Attica, New York. Lat. 42°50'12" N. -Long. 78°12'20" W. C.P. to change antenna location on frequency 6049.0H MHz toward Springwater, New York, on azimuth 115°57'.

3086–CF–P–75 Pacific Telatronics, Inc. Vollmer Peak, California. Lat. 37°52'58" N. -Long. 122°13'11" W. C.P. for a new station on 6286.2V MHz and 6404.8V MHz toward Sacramento, California, on azimuth 35°37'. (Note: Waiver of 21.701(i) requested by Pacific Telatronics, Inc.)

3989–CF–P–75. Mid-Kansas, Inc. (KBC59) St. Marys, Kansas. C.P. to change transmitting equipment and increase output power on existing frequencies.

3990–CF–P–75 Same. (KBC61) Abilene, Kansas. Lat. 38°57'32" N. -Long. 97°12'18" W. C.P. to change transmitting equipment and increase output power on existing frequencies.

3991–CF–P–75 Same. (KTQ45) Council Grove, Kansas. Lat. 38°40'20" N. -Long. 96°28' 06" W. C.P. to change transmitting equipment and increase output power on existing frequencies.

3992–CF–MP–75 Same. (KAR81) Concordia, Kansas. Lat. 39°34'30" N. -Long. 97°42'00" W. C.P. to change transmitting equipment and increase output power on existing frequencies.

3993–CF–P–75 Mid-Kansas, Inc. (KAK36) Clay Center, Kansas. Lat. 39°23'30" N. -Long. 97°06'45" W. C.P. to change transmitting equipment and increase output power on existing frequencies.

3994–CF–P–75 Same. (KBI91) Lawrence, Kansas. Lat. 38°59'47" N. -Long. 95°23'11" W. C.P. to change transmitting equipment and increase output power on existing frequencies.

4082–CF–P–75 Tower Communications Systems Corporation. (WQR58) Ironton, Ohio. Lat. 38°32'51" N. -Long. 82°40'48" W. C.P. to add new point of communication at Ashland, Kentucky on frequency 11385.0H MHz.

3492–CF–MP–75 Eastern Microwave, Inc. (WQP99) Quaker Hill, New York. Lat. 43° 20'36" N. -Long. 75°25'36" W. C.P. to change transmitting equipment and increase output power on existing frequencies.

3495–CF–P–75 United Video, Inc. (New) Bartlesville, Oklahoma. Lat. 36°45'40" N. -Long. 95°57'06" W. C.P. for a new station on frequency 5945.2H MHz toward Avant, Oklahoma, on azimuth 195°17'.

4066–CF–P–75 Eastern Microwave, Inc. (KEA64) Cherry Valley, New York. Lat. 42°46'31" N. -Long. 74°40'56" W. C.P. to change frequency to 6137.9V MHz toward Amsterdam, New York, on azimuth 62°39'. (Note: Waiver of 21.701(i) requested by Eastern Microwave, Inc.)

4046–CF–P–75 American Television & Communications Corporation. (New) Greensboro, North Carolina. Lat. 36°03'47" N. -Long. 79°49'21" W. C.P. for a new station on 6330.7V MHz toward Ossippe, N.C., on azimuth 71°32'.

4047–CF–P–75 Same. (New) Ossipee, North Carolina. Lat. 36°08'37" N. -Long. 79°31' 25" W. C.P. for a new station on 5945.2V MHz, 6004.5V MHz and 6063.8V MHz toward Efland, N.C., on azimuth 112°42.

4048–CF–P–75 Same. (New) Efland, N.C. Lat. 36°02'26" N. -Long. 79°13'17" W. C.P. for a new station on 6241.7V MHz, 6301.0V MHz and 6360.3V MHz toward Durham, N.C., on azimuth 105°21'.

4049–CF–P–75 Same. (New) Durham, North Carolina. Lat. 35°57'43" N. -Long. 78°52' 17" W. C.P. for a new station on 5989.7V MHz, 6049.0V MHz and 6108.3V MHz toward Raleigh, North Carolina, on azimuth 128°11'.

4050–CF–P–75 Same. (New) Raleigh, North Carolina. Lat. 35°48'12" N. -Long. 78°37' 27" W. C.P. for a new station on 6212.0V MHz, 6271.4V MHz and 6330.7V MHz toward Selma, North Carolina, on azimuth 119°29'.

4051–CF–P–75 Same. (New) Selma, North Carolina. Lat. 35°38'41" N. -Long. 78°16' 54" W. C.P. for a new station on 6960.0H MHz, 6019.3H MHz and 6078.6H MHz toward Goldsboro, N.C., on azimuth 134°19'. (Note: Waiver of 21.701(i) requested by American Television & Communications, Corporation.)

4063–CF–P–75 Eastern Microwave, Inc. (KYZ74) Highland Lakes, New Jersey. Lt. 41°10'01" N., Long. 74°30'12" W. C.P. to change frequency to 6301.0V MHz toward High Knob and Sussex, New York, on azimuths 286°02' and 305°34', respectively.

4064–CF–P–75 Same. (WQP99) Quaker Hill, New York. Lat. 43°20'36" N., Long. 75°-25'36" W. C.P. to change frequency to 11055.0H MHz toward Oneida, New York, on azimuth 212°30'.

4083–CF–P–75 Microwave Transmission Corporation. (WQR42) Tacoma, Washington. Lat. 47°14'32" N., Long. 122°27'57" W. C.P. to relocate station to the foregoing coordinates.

Corrections

To delete entry in Public Notice dated May 12, 1975, File Number 3498–CF–P–75, New England Telephone and Telegraph Company (KCR87) Rockland, Maine that was entered in error.

Major Amendments

2261–CF–P–75 General Telephone Company of the Northwest, Inc. (KPJ99) 1109 Midway Blvd., Oak Harbor, Washington. Lat. 48°17'32" N., Long. 122°38'35" W. Amend to change antenna system, change frequency to 10815.0V MHz toward Camano, Washington, and add transmitter. All other particulars to remain as reported on Public Notice No. 739 dated February 3, 1975.

2262–CF–P–75 Same (KPJ97) 2.0 Miles ENE of Camano Island, Washington. Lat. 48°-11'21" N., Long. 122°29'38" W. Amend to change antenna system, change frequency to 11345.0V MHz, and add transmitter. All other particulars to remain as reported on Public Notice No. 739 dated February 3, 1975.

2756–C1–P–74 MCI Telecommunications Corporation (WLJ41) 55 Water Street, New York, New York. Change applicant's name from MCI New York West, Inc. to MCI Telecommunications Corporation. Change frequencies and power output on azimuth 285 degrees 36 minutes toward Newark, New Jersey to 11305H, 11385H, 11625H and 5.0 Watts, respectively.

2757–C1–P–74 MCI Telecommunications Corportation (WLJ40) 1801 Raymond Blvd., Newark, New Jersey. Change applicant's name from MCI New York West, Inc. to MCI Telecommunications Corporation. change frequencies and power output on azimuth toward New York, New York

(WLJ41) to 10735V, 10695V, 11135V MHz and 5.0 watts, respectively.

2758–C1–P–74 MCI Telecommunications Corporation (WLJ42) 1301 Avenue of the Americas, New York, New York. Change applicant's name from MCI New York West, Inc. to MCI Telecommunications Corporation.

All other particulars are the same as those reported on Public Notice dated January 21, 1974.

5446–C1–P–71 CML Satellite Corporation (New) C.P. for a new station at Castro Peak, California. Change frequencies and point of communications from 11425 and 11665 MHz toward Topanga, California to 11645V and 11325V MHz on azimuth 94 degrees 56 minutes toward Saddle Peak, California.

5447–C1–P–71 Same (New) C.P. for a new station at Topanga, California. Change station location, frequencies, and point of communication to Saddle Peak, California. Lat. 34°04'34'' N., Long. 118°39'27'' W. Frequencies 10795V & 10875V MHz on azimuth 275 degrees 00 minutes toward Castro Peak, California and frequencies 10955V & 11115V MHz on azimuth 94 degrees 07 minutes toward Los Angeles, California.

5448–C1–P–71 Same (New) C.P. for a new station at Los Angeles, California. Change azimuth and point of communications from Topanga, California to on azimuth 274 degrees 20 minutes toward Saddle Peak, California. All other particulars remain same as reported on Public Notice dated April 12, 1971 and April 9, 1973.

MULTIPOINT DISTRIBUTION SERVICE

Corrections

It appears that the following application may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, reasons of potential electrical interference, to provide video service to Urbana, Illinois.

The following was erroneously omitted from Public Notice date 5–19–75.

50087–CM–P–75, Microband Corporation of America, Champaign, Illinois.

3464–C5–P–73, American Television & Communications Corporation, Urbana, Illinois.

Major Amendment

2237–C5–P–72 Microband Corporation of America amended to change applicant to "Microband United Corporation" and to correct coordinates to Lat. 33°45'15'' N.—Long. 84°23'25'' W. No change in station adress of a Peachtree Street, NE., Atlanta, Georgia. All other particulars remain the same as reported by Public Notice dated October 26, 1971.

Informative

The portion of the above amendment to "change applicant" reflects a joint venture by Microband Corporation of America and United Video, Inc. to resolve mutually exclusive applications in Atlanta, Georgia. Upon grant of the above application, it is requested that the remaining application (3826–C5–P–72) in Atlanta, Georgia be dismissed. This does not affect the application's status under the "cut-off" rule. (See Notice of Proposed Rule Making in Docket 19905 (44 FCC 2D–556).

[FR Doc.75–14606 Filed 6–3–75;8:45 am]

[Docket Nos. 20252, 20253, File Nos. BP–19550, BP–19595; FCC 75R–201]

JULIE P. MINER AND ALBERT L. CRAIN

Memorandum Opinion and Order Enlarging Issues

In re applications of Julie P. Miner (KDXU), St. George, Utah, Albert L. Crain, St. George, Utah, for construction permits.

1. This proceeding involves the mutually exclusive applications of Julie P. Miner (KDXU) (Miner) and Albert L. Crain (Crain) for an authorization to construct a new standard broadcast station at St. George, Utah.[1] By Order, 39 FR 45075, published December 30, 1974 these applications were designated for consolidated hearing on various issues. Presently before the Review Board is a petition to enlarge issues, filed January 14, 1975, by Crain, seeking the addition of Suburban, financial, and Rule 1.526 issues against Miner.[2]

SUBURBAN ISSUE

2. In support of his request for the addition of a Suburban issue, Crain first points out that Miner has failed to show the communities and areas that would constitute the proposed gain area should the requested change in facilities be granted. As a result, Crain argues, it is impossible to determine whether Miner has complied with Question and Answer 8 of the Commission's Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 21 RR 2d 1507 (1971), which mandates applicants for a major change in facilities to ascertain the needs of the proposed gain area. Further, Crain alleges that Miner has failed to indicate a single contact with anyone residing outside the present service area of Station KDXU. The Broadcast Bureau supports the addition of this issue unless Miner supplies a satisfactory explanation in her responsive pleading.

3. Miner, in opposition, contends that she is not required to complete an ascertainment of the gain area since it will not encompass any "major" community as defined by Question and Answer 6 of the Primer. Moreover, Miner argues that she has consulted with leaders of the larger communities in the gain area and that her ascertainment efforts are in compliance with the Primer.

4. The Review Board will add the requested Suburban issue. Contrary to the position apparently advanced by Miner, an applicant for a change in facilities proposing an increase in coverage area of more than 50 percent is required to determine the needs of the proposed gain area. Primer, Questions and Answers 1 (b), 8. Question and Answer 6 of the Primer permits an applicant to show why it chooses not to serve a major community that falls within its service contours and to exclude from its ascertainment major cities more than 75 miles from the transmitter site. However, the Board is unable to determine whether these exceptions are applicable. Thus, on the basis of the information in Miner's application, we cannot determine the precise location of the proposed gain area, Miner's ascertainment efforts, if any, in the proposed gain area, or the programming proposed to meet the needs of this area. Therefore we are compelled to add the requested Suburban issue.[3]

FINANCIAL ISSUE

5. Miner amended her financial proposal subsequent to the filing of the instant petition to enlarge issues. As a result of the acceptance of this amendment,[4] many of Crain's allegations, most notably those concerning cost estimates,[5] have been answered. However, Crain's allegations relating to the availability of funds retain their vitality and will therefore be considered. According to her amended financial plan, Miner expects to meet total first year costs of $199,459 by reliance on letters of credit issued by the Bank of Holladay in the amount of $60,000, and Dixie State Bank in the amount of $50,000, estimated revenues of $205,000, profits form existing operations of $30,000, and existing capital of $32,000. Miner bases her estimate of $205,000 first year revenues on the likely increase in revenue resulting from the higher power and frequency change proposed, revenue growth over the last three years of operation of Station KDXU, and the rapid population growth of the St. George area.

6. In support of its request for a financial issue, Crain alleges that Miner's amended proposal is deficient on the grounds that the bank loan commitments are defective, that estimated revenues are not sufficiently supported, and that the source and basis of valuation of existing capital is not demonstrated. Specifically, Crain alleges that the bank commitments do not include the terms of repayment and the interest rates. Further, petitioner asserts, the Bank of Holladay letter requires that the loan be secured by two complete strangers to the Miner application and neither their consent to this arrangement nor their capacity to provide such security is demonstrated. With respect to estimated revenues, Crain, assuming equal income per month based on Station KDXU revenues for the first 11 months of 1974, projects total 1974 revenues of $137,976.88. Crain alleges that Miner has not shown the basis for her projected increase of approximately $67,000 in revenues other than speculation that they will increase with the proposed increase in power. Crain also alleges that the amended financial proposal fails to detail the source of existing capital or

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[1] Miner, the licensee of Station KDXU, a Class IV station operating on 1450 kHz, seeks a change in facilities to a Class II–A station on 890 kHz.

[2] Also before the Board are the following related pleadings: (a) supplement to petition, filed January 21, 1975, by Crain; (b) Broadcast Bureau's comments, filed February 19, 1975; (c) opposition, filed February 19, 1975, by Miner; and (d) reply, filed February 28, 1975, by Crain.

[3] See generally Meredith Colon Johnson, 41 FCC 2d 512, 27 RR 2d 1279 (1973).

[4] This amendment was accepted by the Presiding Judge by Order, FCC 75M–505, released March 17, 1975.

[5] Crain's reply allegation that provisions for increased power, tax, insurance, and transmission line costs are improperly omitted in the amended proposal is insufficiently supported and, furthermore, his contention that the amended proposal raises a question as to whether $3,945 in monitoring and test equipment is on hand, as claimed, is based purely on surmise and speculation. Therefore, these arguments are rejected.

the basis of valuation and liquidity of securities and other assets listed on Miner's consolidated balance sheet. Finally, Crain asserts that the after-tax income from Miner's existing operations has not been established.

7. The Review Board will not add an availability of funds issue. While the Bank of Holladay commitment cannot be relied upon since neither the agreement by which the guarantors are obligated nor their net worth is reported,[6] the Bank of Dixie commitment appears to be firm and, although it does not include all terms of the loan, it can be relied upon.[7] Miner can also reasonably rely on the established revenue base of Station KDXU, which would produce approximately $138,000 in revenues based upon 1974 figures. However, the projected increase in revenues of over $65,000 is not supported and will therefore be disregarded. See Ultravision Broadcasting Co., 1 FCC 2d 544, 5 RR 2d 343 (1965). Similarly, $32,000 in claimed existing capital must be largely discounted since approximately $30,000 of that amount consists of accounts receivable whose liquidity and currency have not been established. See FCC Form 301, Section III, paragraph 4 (b). However, estimated gross profits in excess of $50,000 from Miner's other stations can be considered since they are supported by appropriate profit and loss statements. In our view, it is not unreasonable for the applicant to assume that $30,000 after tax profit would therefore be available from these operations. This amount together with projected revenues and the Dixie State Bank loan total $218,000 in available funds to meet estimated first year costs of $199,459. For these reasons, addition of an availability of funds issue is not warranted.

PUBLIC INSPECTION FILE ISSUE

8. In support of the request for addition of a Rule 1.526 issue, Crain submits a sworn affidavit in which he avers that certain portions of Station KDXU's renewal application were incorporated by reference into Miner's current application and were not made available when requested during an inspection of the public file at Miner's office on or about January 13, 1974.[8] Opposing the addition of this issue, Miner submits affidavits from Julie P. Miner and L. John Miner averring, inter alia, that all information required to be in the public file was available, and that every request for information made by Crain during his visit was complied with. Moreover, Miner cites the lack of specificity in Crain's affidavit, which, she states, requires denial of this issue. In its comments, the Broadcast Bureau argues that if the issue is added, it should be added on a comparative basis only.

9. The Board will add the requested issue. Rule 1.526(a)(1) clearly states that all documents incorporated by reference in the application must be placed in the public file. The conflicting allegations contained in the affidavits filed by the parties cannot be resolved on the basis of the pleadings. In this circumstance, we are of the view that an evidentiary inquiry is warranted.[9] However, since there is no indication that the allegedly missing information is significant, that the alleged violation was intentional or that any prejudices to the parties or the public was caused, we will add the issue on a comparative basis only.[10]

10. *Accordingly, it is ordered*, That the petition to enlarge issues, filed January 14, 1975, by Albert L. Crain, is granted to the extent indicated herein, and is denied in all other respects; and

11. *It is further ordered*, That the issues in this proceeding are enlarged by the addition of the following issues:

(a) To determine the efforts made by Julie P. Miner to ascertain the needs and interests of the gain area to be served and the means by which she proposes to meet those needs and interests; and

(b) To determine whether Julie P. Miner has complied with Section 1.526 of the Commission's rules, and, if not, the effect thereof on her comparative qualifications to be a Commission licensee.

12. *It is further ordered*, That the burdens of proceeding and proof under issue (a) added herein shall be on Julie P. Miner.

Adopted: May 20, 1975.

Released: June 2, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.75-14604 Filed 6-3-75;8:45 am]

[Docket Nos. 20268, 20269, 20270; File Nos. BPH-8250, BPH-8405, BPH-9036; FCC 75R-194]

TOWN AND COUNTRY RADIO, INC., ET AL.

Memorandum Opinion and Order Enlarging Issues

In re applications of Town and Country Radio, Inc., Suffolk, Virginia; John Laurino, Gordon L. Hood and Vernon S. Lee, d/b/a Voice of the People, Suffolk, Virginia; Tidewater Sounds, Inc., Suffolk, Virginia, for construction permits.

1. The above-captioned mutually exclusive applications for authorization to construct a new FM broadcast station at Suffolk, Virginia, were designated for hearing by Order of the Chief of the Broadcast Bureau, acting pursuant to delegated authority, 40 FR 2472, published January 13, 1975. As a result of the inadvertent omission of the standard comparative issue and the ultimate issue from the Order as released, a Correction was published on January 14, 1975 (40 FR 2613). Now before the Review Board is a petition to enlarge issues, filed January 29, 1975, by John Laurino, Gordon L. Hood and Vernon S. Lee, d/b/a Voice of the People (Voice) requesting the addition of financial qualifications, Rule 1.65, and Suburban issues against Tidewater Sounds, Inc. (Tidewater) and an equal employment opportunity issue against Town and Country Radio, Inc. (T&C).[1][2]

ISSUES REQUESTED AGAINST TIDEWATER

A. FINANCIAL QUALIFICATIONS AND RULE 1.65 ISSUES

2. In support of its request for a financial qualifications issue against Tidewater, Voice first refers to Tidewater's petition for leave to amend, filed January 14, 1975,[3] in which Tidewater seeks to substitute a $300,000 loan from the Bank of Virginia for a $300,000 loan from Michael T. Hall, a 50 percent stockholder. Voice contends that the circumstances surrounding Tidewater's acquisition and proposed reliance upon the

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[6] See Parkell Broadcasting, Inc., — FCC 2d ___, 32 RR 2d 812 (1975); Greenfield Broadcasting Corp., 32 FCC 2d 135 (1971).

[7] In a statement in its amendment, the applicant provides the omitted rate of interest and terms of repayment. Although these terms are not contained in the bank letter itself, they appear to be reasonable and, in the absence of any specific challenge to their validity, the Board will accept the applicant's statement.

[8] The affidavit recites, in pertinent part "... I observed that a number of the exhibits referred to their renewal application. When these exhibits were requested they were not presented, but some reference was made to their being in Washington, D.C. Several Sections exhibits were not available to me for inspection."

[9] *Cf.* Jimmie H. Howell, 46 FCC 2d 1150, 30 RR 2d 365 (1974).

[10] See Tri-County Stereo, Inc., 50 FCC 2d 170, 32 RR 2d 304 (1974); Edward G. Atsinger, III, 29 FCC 2d 443, 21 RR 2d 1939 (1971).

[1] Also before the Board are: (a) request for official notice, filed February 3, 1975, by Voice; (b) motion to strike and opposition to petition to enlarge issues, filed February 12, 1975, by Tidewater; (c) errata to (b), filed February 18, 1975, by Tidewater; (d) opposition to petition to enlarge issues, filed February 19, 1975, by T&C; (e) comments on petition to enlarge issues, filed February 19, 1975, by the Broadcast Bureau; (f) opposition to motion to strike, filed February 21, 1975, by the Broadcast Bureau; (g) reply to (b), filed February 21, 1975, by T&C; (h) opposition to motion to strike, filed February 24, 1975, by Voice; and (i) reply to (b) and (d), filed February 25, 1975, by Voice.

[2] In a previously released Memorandum Opinion and Order in this proceeding, FCC 75R-150, released April 9, 1975, the Board denied Tidewater's motion to strike in connection with our disposition of a petition to enlarge filed by T&C. The reasons for our denial are set forth in the earlier document, and need not be repeated here.

[3] By Memorandum Opinion and Order, FCC 75M-192, released January 30, 1975, the Presiding Judge granted Tidewater's petition to amend its financial proposal. The Board will grant Voice's request for official notice of the Judge's acceptance of this amendment. We note also that by Order, FCC 75M-601, released April 1, 1975, the Judge accepted a further amendment, filed March 18, 1975, to the financial portion of Tidewater's application. The March amendment contains a letter from the Executive Vice President of the Bank of Virginia extending the loan commitment to Tidewater to July 27, 1975.

bank loan raise questions justifying an inquiry into Tidewater's reasons for substituting the bank loan for Hall's loan. First, Voice alleges that Hall has failed to disclose financial information concerning his real estate investment and construction enterprises which may have affected his ability to make a loan to the applicant. Next, Voice claims that the terms of the bank loan are significantly less advantageous to Tidewater. Specifically, Voice points out that Hall proposed to lend Tidewater up to $300,000 at 7½ percent interest, payable in 120 monthly principal and interest payments commencing 14 months after the initial take-down, with security for the loan consisting of a pledge of Tidewater's stock, 50 percent of which is held by Hall and 50 percent by Mark S. Fowler. On the other hand, Voice notes, the Bank of Virginia, in its letter of September 27, 1974, proposes to lend Tidewater $300,000 at an interest rate of prime plus two percent per annum, payable interest only for the first year, principal and interest payable through the sixtieth month with the balance due in the fifth year. Petitioner continues that the bank also requires Tidewater's note to be personally endorsed by both Fowler and Hall and requires Hall's endorsement to be secured by "his personal assets satisfactory to the bank and pledged as collateral." Voice further argues that there is no way to determine whether the bank would find Hall's unencumbered personal assets to be satisfactory since the bank letter indicates that Hall's December 31, 1973 financial statement showed satisfactory unencumbered personal assets, but this financial statement is not contained in the proposed amendment and is dated five months prior to Hall's May 20, 1974 balance sheet submitted in Tidewater's application. In addition, serious questions regarding compliance with Rule 1.65 are raised, according to Voice, because Tidewater did not disclose financial information concerning Hall's business interests and because Tidewater "advised the Bank on October 14, 1974 of its acceptance" of the loan terms, but did not "determine" to rely upon the loan until January 2, 1975, and did not file its amendment until January 14, 1975.

3. Tidewater responds that Hall's ability to lend funds has not been impaired at any time and, in support, attaches an affidavit from Hall, dated February 11, 1975. Tidewater also notes that its petition for leave to amend has been granted by the Presiding Judge. While Tidewater concedes that the terms of the bank loan are somewhat less advantageous than those offered by Hall, it maintains that the bank's terms are reasonable, nevertheless, and it contends that the use of institutional funds instead of personal funds was preferred in this venture because this results in a lesser reduction in Hall's personal liquidity. With regard to the requested Rule 1.65 issue, Tidewater asserts that although it advised the bank on October 14, 1974 of its acceptance of the terms of the commitment in order to keep the commitment alive, it did not definitively determine to rely upon the bank commitment until January 2, 1975 because it wished to explore the possibility of obtaining financing at other institutions. Thus, Tidewater argues that it did not violate Rule 1.65.[4]

4. The Board concurs with the judgment of the Broadcast Bureau that the requested issues should be denied. First, petitioner's allegations regarding Hall's business activities and their impact on his originally proposed loan are highly speculative and, therefore, fail to meet the requirements of Rule 1.229(c). In fact, Hall's financial statement of May 20, 1974, submitted with Tidewater's application, reveals that he was fully able to meet the terms of his loan commitment to the applicant.[5] Next, the Board perceives no reason for inquiring into the circumstances leading to Tidewater's decision to seek a bank loan. Tidewater's explanation for its decision appears to be reasonable and petitioner's contentions are supported only by conjecture. Nor is there any valid reason for questioning the availability of the bank loan commitment. As the Bureau has observed, the September 27, 1974 bank letter provides reasonable assurance of a loan commitment, and it is our general policy not to question the availability of a loan commitment when the bank's letter expresses a firm agreement to extend credit to an applicant. See, e.g. Commercial Radio Institute, Inc., 48 FCC 2d 323, 31 RR 2d 12 (1974). While we do not agree that Tidewater's delay in amending its application until January 14, 1975 to reflect the substitution of the bank loan for Hall's loan constitutes a violation of Rule 1.65, the Board is of the view that even if it were, the violation would not be sufficiently serious to warrant an evidentiary inquiry. In this connection, we note that the amendment was voluntarily filed prior to the filing of this petition to enlarge issues. Moreover, there is no indication that Tidewater has attempted to mislead or conceal facts from the Commission, and it further appears that Tidewater had little or nothing to gain by concealing the existence of the bank loan commitment. See Auburn Publishing Company, 34 FCC 2d 134, 24 RR 2d 29 (1972), and Harvit Broadcasting Corporation, 32 FCC 2d 656, 23 RR 2d 328 (1971). In light of the above factors, the Board will not add the requested financial qualifications and Rule 1.65 issues.

B. Suburban Issue

5. Voice next alleges that Tidewater has failed to adequately ascertain the community problems of the area it proposes to serve. In particular, Voice states that Tidewater's ascertainment study rests on the results of interviews with 53 community leaders (45 from Suffolk and 8 from areas outside the community of license),[6] which, according to Voice, is an inadequate sampling for a service area containing 1,188,400 persons. Voice also asserts that Tidewater's 42 general public survey contacts constitute an inadequate sample of only 0.1 percent of the total population. Moreover, Voice claims that the sampling technique used by Tidewater in its general public survey does not assure randomness because in its second set of 21 telephone interviews, Tidewater selected the tenth name on every other page of the Suffolk directory. It is Voice's view that the randomness is thereby slanted in favor of those persons with names in the first portion of the alphabet. In addition, Voice maintains that Tidewater's contacts with a number of the significant groups in Suffolk are deficient. Thus, Voice contends that Tidewater has failed to contact a representative of the "youth-students" group; that it has described the Blacks it interviewed by occupation only and has not indicated the extent to which its interviewees are community leaders; and that its contacts with leaders identified with agricultural, women's, labor, civic-service-charitable, and elderly groups are insufficient. In its comments, the Broadcast Bureau observes that 25 of the 46 persons listed as Suffolk community leaders by Tidewater should not have been so classified because Tidewater failed to show that the interviewee was a leader of that group or organization of which he was a member or that he should be considered a leader of some other portion of the community, citing St. Cross Broadcasting, Inc., 39 FCC 2d 1067, 26 RR 2d 1311 (1973). The Bureau adds that the remaining community leaders do not represent an adequate cross-section of the community because there are no leaders from the youth-students or elderly groups and the Black community has not been sufficiently represented. Consequently, the Bureau supports the addition of a Suburban issue.

6. Tidewater opposes addition of the requested issue and submits, with its opposition, a copy of an amendment to its ascertainment showing, filed February 12, 1975,[7] containing 38 additional interviews with members of the general public, employing a random telephone

[4] In its reply, Voice, for the first time, alleges that no evidence has been submitted by Tidewater showing Hall's willingness to pledge his personal assets as collateral, as the loan commitment requires. The Board will disregard this additional allegation. A petitioner may not introduce new factual allegations in its reply pleading where the information was readily available and could have been included in the original petition to enlarge issues. See Rules 1.45 and 1.294(c). See also Industrial Business Corporation, 40 FCC 2d 69, 26 RR 2d 1447 (1973).

[5] Hall's May 20, 1974 balance sheet shows liquid assets of $345,700 consisting of: cash on hand and in banks, $341,700; cash value of life insurance, $2,500; and readily marketable securities, $1,500. After Hall's liabilities of $9,000 are subtracted, his net liquid assets of $336,700 indicate that he possessed more than sufficient funds to meet his $300,000 commitment to Tidewater.

[6] Tidewater actually interviewed 54 leaders (46 from Suffolk and 8 from surrounding communities).

[7] The Presiding Judge accepted Tidewater's amendment by Memorandum Opinion and Order, FCC 75M-400, released March 3, 1975.

method, and 19 additional interviews with community leaders. According to Tidewater, the combination of its previous survey efforts coupled with the additional surveys contained in the amendment sufficiently satisfies the requirements of the Primer.[8]

7. The Board will add a Suburban issue. Examination of Tidewater's application, as amended, raises substantial questions as to the adequacy of the applicant's Suburban showing. We do not have to decide whether Tidewater has interviewed a sufficient number of community leaders because its leader survey appears to be substantively inadequate. A major deficiency in Tidewater's Suburban showing is the applicant's apparent failure to sufficiently survey leaders of the Black community which comprises 54.1 percent of the population of Suffolk. While Tidewater has included a number of interviews with Blacks in its application and its February 12, 1975 amendment, the Blacks are identified as student leaders or leaders of other groups such as education or labor and not as leaders of the sizable Black community in Suffolk. Furthermore, while Tidewater has interviewed members of the NAACP, indicating that such Black organizations do exist in Suffolk, there are no interviews with any present leaders of the NAACP. Moreover, only minimal contacts were made with persons who could be considered leaders of the elderly, civic-service-charitable, and women's groups. See Total Radio, Inc., 49 FCC 2d 1405, 32 RR 2d 148 (1974), and Jerry Lawrence, 48 FCC 2d 373, 31 RR 2d 59 (1974). Finally, it is the Board's view that a substantial question exists as to whether Tidewater's programming proposal satisfies the broadcast format guidelines set forth in Q. and A. 29 of the Primer. Tidewater identifies 38 significant needs and interests in its application and, in the February 12, 1975 amendment, identifies an additional 75 significant needs. Yet, Tidewater's proposed programming is designed to meet the bulk of the ascertained needs through one half-hour in length program broadcast twice a week entitled "Viewpoint". In describing "Viewpoint", the applicant states that "[t]he purpose of this program will be to educate, inform and motivate the general public with respect to each and every one of the significant needs and problems facing the City of Suffolk area." This vague and generalized statement appears to be insufficient in light of the Primer's requirements. See Southeast Arkansas Radio, Inc., 47 FCC 2d 835, 30 RR 2d 769 (1974), and Middle Georgia Broadcasting Co., 30 FCC 2d 796, 22 RR 2d 524 (1971). In sum, sufficient questions exist regarding Tidewater's showing to convince the Board that an issue is necessary to determine the efforts undertaken by Tidewater to ascertain the needs of its specified community and whether it proposes programming designed to meet those needs.[9]

EQUAL EMPLOYMENT OPPORTUNITY ISSUE REQUESTED AGAINST T&C

8. Voice alleges that serious questions are raised as to whether T&C will operate its proposed facility in a manner consistent with Section 73.301 of the Commission's Rules [10] in light of the past employment practices at seven other broadcast stations in which Vernon H. Baker, 75 percent owner of T&C, holds ownership interests.[11] In support of its request, Voice attaches the Annual Employment Reports (FCC Form 395), 1971–1974, of broadcast stations wholly or partly owned by Vernon H. Baker. Voice points to the fact that the employment reports reveal an absence of employment of any full-time minority persons at any of these stations while the minority population statistics for the communities involved range from 12.5 percent to 52.7 percent.[12] Contending that the conduct of the Baker stations shows a failure to afford equal opportunities in employment, and noting that the Black population in Suffolk is substantial, Voice urges that an issue be added inquiring into T&C's proposed equal employment policy and its ability to carry out such a policy in an effective manner. The Broadcast Bureau, in its comments, notes that the Baker stations have employed a few minority persons in part-time positions and that the equal employment opportunity programs filed for each station appear to comport with the Commission's requirements. Notwithstanding these facts, however, and the lack of specific allegations as to instances of discrimination, the Bureau supports the addition of the requested issue, absent a clear and convincing explanation as to the reason for the lack of any full-time minority personnel.

9. In opposition, T&C asserts that the licensees and stations in which Baker has an interest have not engaged in discrimination. According to T&C, Stations WESR and WESR-FM, Tasley, Virginia, are located in a very small community and there have been few employment openings since the EEO program was instituted. T&C remarks that the staff does include one part-time Black woman and that although there have been no employment openings during the past year, the licensee has consulted an area official of the NAACP in order to line up minority employees to meet future needs. With regard to Stations WJIC and WNNN (FM), Salem and Canton, New Jersey, T&C states that during the past four years, "there have been at different times three Black part-time employees, although these are not reflected in the annual employment reports." T&C further comments that the staffs of WGIC and WBZI (FM), Xenia, Ohio, have been extremely stable over recent years. During 1974, T&C indicates, one regular part-time Black announcer, who has been employed by the licensee off and on for several years, was retained for AM and FM operations. A second part-time Black announcer was temporarily laid off, T&C states, when WGIC's hours of operation were curtailed during the winter, but, T&C adds, he will be offered re-employment when the broadcast day lengthens.

10. The Board will add the requested issue. While there is no legal requirement that the employment of the members of any minority group equal the proportion of that group's numbers in the population (see Hubbard Broadcasting, Inc., 48 FCC 2d 517, 31 RR 2d 144 (1974)), a fair question may be raised requiring Commission inquiry if a licensee has employed a very low percentage of minority group employees or has

[8] Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 21 RR 2d 1507 (1971).

[9] However, we agree with the Broadcast Bureau that Tidewater's methodology in conducting its telephone survey of the general public complies with Q. and A. 13 of the Primer.

[10] Section 73.301 of the rules states that "[e]qual opportunity in employment shall be afforded by all licensees or permittees of commercially or noncommercially operated standard, FM, television or international broadcast stations * * *" and requires each station to "establish, maintain and carry out, a positive continuing program of specific practices designed to assure equal opportunity in every aspect of station employment policy and

[11] Vernon Baker's interests in other broadcast stations are as follows:

Licensee	Call letters	Interest	Population of city	Minority percentage
Accomack-Northampton Broadcasting Co., Inc.	WESR, WESR-FM, Tasley, Va.	Pres., 60 percent owner		
Baker Broadcasters, Inc.	WGIC WBZI(FM), Xenia, Ohio.	Pres., 75 percent owner	25,373	12.5
Jersey Information Center, Inc.	WJIC, Salem, N.J.; WNNN(FM) Canton, N.J.	Pres., 95 percent owner	7,648	30.4

With respect to the Tasley, Virginia stations, Voice lists the population figure for Accomack County, Virginia, which is 29,004 of which 37.6 percent are Black. The licensee, however, reported the population of Tasley to be less than 500 in its last renewal application. Baker is also President and 100 percent owner of Tidewater Radio, Inc., whose Station WEOO, Smithfield, Virginia, began operation in December, 1974 and has not been required to file employment reports to date.

[12] The 52.7 percent figure, however, applies to the minority population of Smithfield, Virginia. As noted, supra n. 11, the Smithfield station has only recently commenced operation and no statistics are available as to its employment of minorities.

relegated all minority group employees to lower paying or menial positions and has failed to take sufficient affirmative action to remedy the situation. See Hubbard Broadcasting, Inc., supra, and Columbia Broadcasting System, Inc., 46 FCC 2d 903, 30 RR 2d 133 (1974). As shown above, the annual employment reports of the Baker-owned stations reveal that none of the stations presently employ or have employed during the four years in question any Blacks or other minority group persons in any full-time positions and that only a small number of Blacks are presently employed or have been employed part-time. In view of the employment practices of these stations in communities with significant Black populations and the substantial Black population of Suffolk (54.1%), we believe a substantial question is raised as to whether T&C will comply with the Commission's EEO requirements as set forth in Rule 73.301 with regard to its proposed Suffolk station.

11. *Accordingly, it is ordered*, That the request for official notice, filed February 3, 1975, by Voice of the People, IS GRANTED; and

12. *It is further ordered*, That the petition to enlarge issues, filed January 29, 1975, by Voice of the People, IS GRANTED to the extent indicated herein, and IS DENIED in all other respects; and

13. *It is further ordered*, That the issues in this proceeding ARE ENLARGED to include the following issues:

(a) To determine the efforts made by Tidewater Sounds, Inc. to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(b) To determine whether Town and Country Radio, Inc., will operate its proposed facility in a manner consistent with Rule 73.301 concerning equal opportunities in employment.

(c) To determine, in light of the evidence adduced pursuant to issue (b), whether Town and Country Radio, Inc., has the requisite qualifications to be a Commission licensee; and

14. *It is further ordered*, That the burden of proceeding with the introduction of evidence and the burden of proof under issue (a) added herein shall be on Tidewater Sounds, Inc. and that the burden of proceeding and the burden of proof under issues (b) and (c) added herein shall be on Town and Country Radio, Inc.

Adopted: May 20, 1975.

Released: June 2, 1975.

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

[FR Doc.75-14605 Filed 6-3-75;8:45 am]

VEGAS INSTANT PAGE AND AIRSIGNAL OF NEVADA, INC.

[Docket Nos. 20320, 20321; File No. 4304-C2-P-71, 6261-C2-P-71]

Memorandum Opinion and Order Enlarging Issues

In re applications of Vegas Instant Page, Las Vegas, Nevada; Airsignal of Nevada, Inc., Las Vegas, Nevada.

1. By Memorandum Opinion and Order, 40 FCC 2d 1161 (1975) the Commission designated for hearing the mutually exclusive applications of Vegas Instant Page (VIP) and Airsignal of Nevada, Inc. (Airsignal). VIP is presently providing "tone-plus-voice" paging on 152.24 MHz, a guardband channel, and "tone-only" paging on the 35.58 MHz channel. Airsignal provides one-way paging on a secondary basis on its 152.03 and 152.06 MHz two-way channels. In this proceeding, VIP is seeking a license for the sole remaining guardband channel in Las Vegas, 158.70 MHz, in order to operate its "tone-only" paging service on that frequency rather than on 35.58 MHz. Airsignal is also seeking that channel and would transfer its present secondary one-way paging from its two-way channels to the guardband channel. Presently before the Review Board is a motion to enlarge issues, filed February 4, 1975, by Airsignal,[1] seeking the addition of competitive guardband policy, misrepresentation and strike issues against VIP.[2]

COMPETITIVE GUARDBAND POLICY ISSUE

2. This requested issue against VIP is premised on the assertion that certain Commission and court cases[3] represent a "policy" favoring competitive guardband allocations and service within communities.[4] Specifically, Airsignal contends that it is contrary to the public interest for all available guardband channels in a community to be allocated to one carrier while a second carrier is forced to compete on a less desirable frequency.[5] Airsignal contends that an issue should be specified under which this policy can be applied in this proceeding, and further urges that the issue should be treated as a disqualifying issue.

3. Both the Common Carrier Bureau (Bureau) and VIP oppose the requested issue. The Bureau argues that there is no clear-cut general Commission policy favoring competitive guardband assignments. In this regard, the Bureau distinguishes the Mobile Radio and Pattersonville cases, supra, arguing that both of those cases, unlike the instant one, involved one applicant seeking both available guardband channels in one application and a second applicant seeking only one of the two channels. Thus, the Bureau maintains, the Commission was able to make partial grants of the double applications without doing violence to the parties' Ashbacker rights; i.e., right to a comparative hearing. Moreover, the Bureau asserts that the ATS case does not support Airsignal's position since there the licensee of a guardband frequency was permitted, not precluded, from seeking the sole remaining guardband channel in a comparative hearing with two other applicants. In its opposition, VIP also argues that the cases cited by Airsignal are factually distinguishable from the instant case. VIP further asserts that the holding in FCC v. RCA Communications, Inc., 346 U.S. 86 (1953), is dispositive, since it allegedly prohibits the Commission from making encouragement of competition the single or controlling factor in satisfying the public interest standard under the Act. In reply, Airsignal terms as tenuous the distinction of whether both available guardband channels are applied for at one time or seriatum; in any event, Airsignal notes, VIP applied for its second channel before it had instituted service on its first channel.

4. The Review Board is of the view that the Commission's recent decision in Airsignal International of Pittsburgh, Pennsylvania, Inc., FCC 75-342, 40 Fed. Reg. 16715, published April 14, 1975, is

[1] Also before the Board are the following related pleadings: (1) erratum to motion to enlarge, filed February 13, 1975, by Airsignal; (2) opposition, filed February 18, 1975, by Chief, Common Carrier Bureau; (3) opposition, filed February 18, 1975, by VIP; and (4) reply to oppositions, filed March 31, 1975, by Airsignal.

[2] On April 22, 1975, Airsignal submitted a statement of facts to the Board in which it requested that the Board defer action on its motion until such time as the Presiding Judge ruled on an Airsignal-VIP joint petition for approval of agreement. This request has been mooted by Memorandum Opinion and Order, FCC 75M-814, released May 2, 1975, in which the Presiding Judge denied the petition.

[3] Mobile Radio Communications, Inc., 29 FCC 2d 62, 21 RR 2d 921 (1971); Pattersonville Telephone Company, 34 FCC 2d 258, 23 RR 2d 1208 (1972), affirmed sub nom. Capital Telephone Company, Inc. v. FCC, .. U.S. App. D.C. .., 498 F. 2d 734, 30 RR 2d 455 (1974); ATS Mobile Telephone, Inc., 35 FCC 2d 443, 24 RR 2d 515 (1972).

[4] On February 12, 1975, Airsignal requested, in essence, that the Presiding Judge certify to the Commission the question of whether there is such a policy. By Memorandum Opinion and Order, FCC 75M-662, released April 9, 1975, the Presiding Judge denied the request stating, inter alia, that he could not make the required findings that substantial doubt exists on established policy or that the facts were undisputed so that a hearing need not be held.

[5] We note that while it has been recognized that paging service in the 35 MHz band is inferior to service on a guardband channel in terms of building penetration and signal quality, low band operation is superior in terms of area coverage. Cf. Airsignal International, Inc., 46 FCC 2d 1, 9, 29 RR 2d 1303, 1313 (1974).

controlling. There, the Commission rejected a similar argument, based upon the Mobile Radio and Pattersonville cases, that a grant of the sole remaining guardband channel to the licensee of a guardband channel, rather than to a competing applicant, would defeat the policy of fostering competition in the DPLMR service. The Commission noted that the factual setting of the cited cases permitted it to make partial grants to the applicants seeking both channels and, in addition, grants to the qualified applicants seeking only one channel without violating the parties' Ashbacker rights. However, the Commission then concluded that a proir grant to one applicant of one of two available guardband frequencies does not preclude that licensee from filing a subsequent application for the remaining frequency. 40 Fed. Reg. at 16716.[7] In light of the holding in the Airsignal of Pittsburgh case, the requested issue will be denied.

MISREPRESENTATION/LACK OF CANDOR ISSUE

5. Airsignal next requests an issue to inquire into possible misrepresentation or lack of candor by VIP in connection with a pending application filed by VIP on September 16, 1974, for an automatic two-way station at Las Vegas to operate on 454.025, 454.050 and 454.125 MHz, File No. 20390-CD-P-(3)-75. In support of the requested issue, Airsignal alleges that the Nevada Public Service Commission (PSC) compliance order, dated May 15, 1974 in case CPC 710, Sub 1, submitted by VIP in support of its three-channel application before this Commission, was based upon a PSC opinion which found a need for merely one two-way channel. Petitioner also contends that the opinion states that VIP had abandoned its original three-channel proposal before the PSC in favor of a one-channel proposal. Airsignal concludes that in failing to submit the PSC opinion with the compliance order in support of its application, and/or in failing to advise the Commission of the "decisional basis" of that order—the need for only one two-way channel—VIP's action, if intentional, amounts to misrepresentation or lack of candor, requiring disqualification in the instant case. If it is found that VIP's actions were not intentional, Airsignal urges, VIP should be assessed a comparative demerit.

6. VIP opposes the request, arguing that § 21.15(c)(4)[8] of the Rules, under which the PSC compliance order was submitted, imposes no affirmative duty on an applicant to include both the order and underlying opinion, and, in effect, that the Rules leaves to the applicant's discretion what "franchise or other authorization" to file. VIP further notes that in the public interest statement filed in connection with its two-way application, it merely stated that the PSC "had recognized" a need for additional two-way service in the Las Vegas area. In reply, Airsignal argues that § 21.15(c)(4) of the rules does not give an applicant "unfettered discretion" as to what portion of an acquired franchise to file. The Bureau also opposes the issue arguing that since the PSC order relates to an application not in issue in the present case, the requested issue is irrelevant and should be denied.

7. The Board will add an issue to determine whether VIP was lacking in candor or misrepresented the "decisional basis" of the Nevada PSC authorization when it submitted the compliance order in support of its three channel two-way application. While we recognize that the alleged misrepresentation occurred in connection with another proceeding, we disagree with the Bureau that the action of VIP is "irrelevant" to the instant proceeding since, if the allegation is correct, VIP's qualifications to be a licensee of this Commission are put into question. Cf. Jimmie H. Howell, —— FCC 2d ——, 30 RR 2d 406, 412 (1974); Fidelity Broadcasting Corporation, 27 FCC 2d 52, 54, 20 RR 2d 1176, 1180 (1971). In our view, a submission describing the finding by the appropriate authority of a need for the specific type and scope of service applied for before this Commission, is implicit in the requirement that a "franchise or other authorization" shall be submitted with and in support of a DPLMRS application. This is particularly true here when the submission by VIP of only the order,[9] instead of the order and underlying opinion, could be misleading since it gives the erroneous impression that a need for the service being proposed by VIP has been found. We agree that VIP has failed to advance a satisfactory explanation as to why this information was withheld. Therefore, a substantial question has been raised as to whether VIP has attempted to mislead the Commission as to the "decisional basis" underlying the PSC compliance order in File No. 20390-CD-P-(3)-75, and whether that conduct bears on VIP's qualifications in the instant proceeding.

STRIKE ISSUE

8. Airsignal's final request is for a strike issue against VIP. In light of VIP's alleged excess channel capacity at the time it filed the instant application, Airsignal asserts that VIP's application for the sole remaining guardband frequency, rather than based upon an actual need justification, is designed to delay competitive guardband service in Las Vegas. In the Board's opinion, Airsignal has failed to raise a "substantial and material issue of fact" as to whether VIP's application was intended to "frustrate or impede" Airsignal's application since the petitioner has made no specific allegations regarding VIP's conduct which would warrant the addition of the issue. As recently held by the Commission, "the mere assumption" that an application is "motivated by invidious designs" is insufficient grounds for addition of a strike issue. Airsignal International of Pittsburgh, Pennsylvania, Inc., supra, (40 FR 16715). Therefore, the requested issue will be denied.

9. *Accordingly, it is ordered*, That the motion to enlarge issues, filed February 4, 1975 by Airsignal of Nevada, Inc., is granted to the extent indicated herein, and is denied in all other respects; and

10. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issue:

To determine whether Vegas Instant Page's non-disclosure to this Commission in File No. 20390-CD-P-(3)-75 that its two-way authorization from the Nevada Public Service Commission was based upon a single UHF channel proposal to that Commission when it relied upon that authorization to justify its application before this Commission for three UHF channels constitutes an intentional misrepresentation or lack of candor warranting its disqualification to be a licensee of this Commission.

11. *It is further ordered*, That the burden of proceeding with the introduction of evidence under the issue added herein shall be on Airsignal of Nevada, Inc., and the burden of proof shall be on Vegas Instant Page.

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

[FR Doc.75-14603 Filed 6-3-75;8:45 am]

FCC FORM 301, NOVEMBER 1974 EDITION

Applicants for AM Construction Permits; Correction

MAY 27, 1975.

An error has been found in the November 1974 edition of FCC Form 301 which will affect applicants for AM construction permits. Section V-A, page 1, paragraph 9 which reads "Frequency monitor" should be changed to read "Modulation monitor."

The error will be corrected when the form is reprinted. However, to correct for the error in the November 1974 edition, it is requested that each applicant take the following steps to ensure that the Commission receives all necessary information to process its application:

1. Cross out "Frequency monitor." The use of a frequency monitor is no longer required by the Commission.

2. Type or print the words "Modulation monitor" as in the example below. It is requested that this step be taken so that it will be clear that the information you insert

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[7] Ashbacker Radio Corp. v FCC, 326 U.S. 327 (1946).

[7] As noted by the Commission in that case, however, it is contemplating a rulemaking proceeding to consider possible changes in its present policy regarding guardband frequency allocations.

[8] Section 21.15(c)(4) provides, in pertinent part, that where required by local law, a certified copy of "the franchise or other authorization issued by appropriate regulatory authorities" must accompany a DPLMRS application.

[9] In its public interest statement submitted as Exhibit 7 of its two-way application, VIP states:

The Public Service Commission of Nevada has recognized a need for additional (DPLMR) service in the Las Vegas, Nevada area and has issued a compliance order for Vegas Instant Page to proceed toward establishing a portable two-way radio service.

pertains to your *modulation* monitor, not your frequency monitor.

3. Insert "Make" and "Type No." of your modulation monitor in the spaces provided.

For example:

Modulation monitor	
Make	Type No.

Your cooperation is appreciated, and will expedite the processing of your applications.

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

[FR Doc.75-14607 Filed 6-3-75;8:45 am]

FEDERAL MARITIME COMMISSION

AMERICAN WEST AFRICAN FREIGHT CONFERENCE

Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 813a).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, on or before June 24, 1975. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the petition, (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of a Petition to Extend the Expiry Date of an Approved Dual Rate Contract System Filed by:

John K. Cunningham, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.

The American West African Freight Conference has filed, pursuant to section 14b of the Shipping Act, 1916, a petition, denominated as No. 7680 DR (Second DR Westbound), requesting that the term of its second presently approved exclusive patronage (dual rate) contract system westbound be extended indefinitely. Approval of the contract is presently scheduled to expire July 13, 1975. The contract is applicable to metal ingots, latex, logs and lumber, rubber in packages and tapioca flour moving in the trade from West African ports (south of the southerly border of Rio de Oro, Spanish Sahara and north of the northerly border of Southwest Africa) including the Atlantic Islands of the Azores, Madeira, Canary and Cape Verde, also the islands of Fernando Po, Principe and Sao Tome in the Gulf of Guinea to U.S. Atlantic and Gulf ports and Canadian Atlantic and St. Lawrence River ports not west of Montreal.

By Order of the Federal Maritime Commission.

Dated: May 30, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-14627 Filed 6-3-75;8:45 am]

KAMBARA KISEN CO., LTD.

Order of Revocation

Certificate of financial responsibility for indemnification of passengers for nonperformance of transportation No. P-130 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C-1,128.

Whereas, Kambara Kisen Co., Ltd., (Kambara building, 2-9, Ichibancho, Chiyoda-Ku, Tokyo, Japan) has ceased to operate the passenger vessel TROPICAL RAINBOW to and from United States ports.

It is ordered, That Certificate (Performance) No. P-130 and Certificate (Casualty) No. C-1,128 issued to Kambara Kisen Co., Ltd. covering the TROPICAL RAINBOW, be and are hereby revoked effective May 28, 1975.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served on the certificant.

By the Commission May 28, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-14626 Filed 6-3-75;8:45 am]

WEST COAST OF ITALY, SICILIAN AND ADRIATIC PORTS/NORTH ATLANTIC RANGE CONFERENCE (WINAC)

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW, Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before June 16, 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:

Stanley O. Sher, Esquire, Billig, Sher & Jones, P.C., Suite 300, 1126 Sixteenth Street NW., Washington, D.C. 20036.

Agreement No. 2846-25 among the members of the above-named Conference is an application for a forty-five (45) day extension of the period of approval of the Conference's inland authority from its present expiration date of June 30, 1975, through August 15, 1975.

By Order of the Federal Maritime Commission.

Dated: June 2, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-14746 Filed 6-3-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP74-82, RP74-81]

COLUMBIA GAS TRANSMISSION CORP. AND COLUMBIA GULF TRANSMISSION CO.

Order Granting Untimely Petition To Intervene

MAY 28, 1975.

On April 22, 1975, the Miami Valley Power Project (Miami) filed out of time a petition to intervene in the above-captioned proceeding. Miami states that it did not seek timely intervention in this proceeding because it did not exist as an entity until March 26, 1975.

In support of its petition, Miami states that it is an organization of consumers who are residential users of gas and electric services of Dayton Power and Light Company (Dayton P&L). Dayton P&L, the petition asserts, is a distributee of gas of Columbia Gas Transmission Corporation.

Having reviewed the subject petition, we believe that Miami's participation in this proceeding will be in the public interest.

The Commission finds. It is desirable and in the public interest to permit the Miami Valley Power Project to intervene in this proceeding.

The Commission orders. (A) Miami Valley Power Project 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 petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-14525 Filed 6-3-75;8:45 am]

[Docket No. E-9294]

DETROIT EDISON CO.

Order Granting Interventions

MAY 28, 1975.

On February 28, 1975, the Detroit Edison Company (Edison) tendered for filing proposed changes in its FPC Wholesale Electric Rate Schedule Nos. 2, 4, 5, 6, 14, and 18.

Notice of Edison's filing was issued by the Commission on March 11, 1975, with protests and petitions to intervene due on or before March 21, 1975.

An untimely petition to intervene was filed by the Village of Clinton, Michigan. Having reviewed the above petitions to intervene, we believe that the petitioners have sufficient interest in the proceedings to warrant interventions.

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 petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that they 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 heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-14526 Filed 6-3-75;8:45 am]

[Docket No. RP75-42-2]

EL PASO NATURAL GAS CO.

Postponement of Hearing

MAY 28, 1975.

El Paso Natural Gas Company (Community Public Service Company and City of Lordsburg, New Mexico).

On May 27, 1975, Staff Counsel filed a motion to postpone the hearing date fixed by order issued April 25, 1975, 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 hearing date in the above matter is postponed until June 25, 1975, at 10 a.m. (e.d.t.).

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-14527 Filed 6-3-75;8:45 am]

[Docket No. CP70-231]

McCULLOCH INTERSTATE GAS CORP.

Notice of Petition To Amend

MAY 28, 1975.

Take notice that on April 28, 1975, McCulloch Interstate Gas Corporation (Petitioner), 10880 Wilshire Boulevard, Los Angeles, California 90024, filed in Docket No. CP70-231 a petition to amend the order issued pursuant to section 7(c) of the Natural Gas Act on June 19, 1970 (43 FPC 909), as amended November 6, 1970 (44 FPC 1364), in the subject docket authorizing Petitioner to transport natural gas to sell to Colorado Interstate Gas Corporation (CIG) and to construct and operate certain natural gas facilities, by authorizing additional and higher horsepower compression facilities, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

By order issued June 19, 1970, as amended November 6, 1970, Petitioner was authorized to construct, acquire, and operate proposed facilities in order to make certain deliveries of up to 80,000 Mcf of gas per day to CIG for resale. In its actual construction Petitioner states that it determined to install, (a) 1,500 h.p. of compressor facilities at Gas Draw Junction, Campbell County, Wyoming, instead of the authorized 1,000 h.p. compressor facilities at Kitty Junction, Wyoming; (b) 4,500 h.p. of compressor facilities at Hilight Station in Campbell County instead of the authorized 4,000 h.p. compressor facilities; and (c) 250 h.p. of compressor facilities at Jamison Prong in Campbell County in addition to the authorized 11,000 feet of 4-inch pipeline.

Petitioner explains that at the time of installation of the required facilities to connect the Gas Draw Field and the Hilight Field Petitioner was able to procure used facilities at approximately the same cost, to accomplish the same results, but of higher horsepower rating than those new facilities authorized at Kitty Junction and Hilight Station. Petitioner further explains that at the time of construction of the authorized connection of the Jamison Prong Field it was determined that a 250 H.P. field compressor would have to be installed on Petitioner's 4-inch connecting line, at an additional cost of $35,000, in order to produce and deliver the volumes of gas available from the Jamison Prong Field into Petitioner's transmission line. Petitioner states that based upon the small size of the 4-inch connecting line and its comparatively short length (11,000 feet) Petitioner considered that the 250 h.p. compressor plant was a producing and gathering facility, and, therefore, its installation was not subject to the Commission's jurisdiction. Nevertheless, Petitioner requests an amendment to its existing certificate authority to include the 250 h.p. field compressor as an authorized facility.

Petitioner states that the cost of the additional facilities proposed herein, $35,000, will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 18, 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 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-14528 Filed 6-3-75;8:45 am]

[Rate Schedule Nos. 212, et al.]

MOBIL OIL CORP., ET AL.

Notice of Rate Change Filings Pursuant to Commission's Opinion No. 639 or 699-H

MAY 28, 1975.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable area new gas or national ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 639, issued Decem-

ber 12, 1972, and in Opinion No. 699–H, issued December 4, 1974.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filing should on or before June 13, 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 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

Filing date	Producer	Rate schedule No.	Buyer	Area
May 15, 1975...	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	212	Montana-Dakota Co.	Utilities Rocky Mountain.
May 19, 1975...	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	200	....do.....	Do.

[FR Doc.75–14529 Filed 6–3–75;8:45 am]

[Docket Nos. CP75–16, CP75–81, CP75–104]

NATURAL GAS PIPELINE CO. OF AMERICA, ET AL.

Notice Reconvening Public Informal Conference

MAY 28, 1975.

Take notice that on May 22, 1975, a public informal conference was convened,[1] with respect to the applications filed in Docket Nos. CP75–16, CP75–81, and CP75–104, to explore the possibility and feasibility of construction of, inter alia, a single project with appropriate transmission arrangements made for the other applicants.

At this meeting preliminary technical presentations of the proposed pipeline projects were made for purposes of discussion by representatives of Amtex Offshore Pipeline Company in Docket No. CP75–104 and Texas Offshore Pipeline System, Inc. in Docket No. CP75–81. The information and discussion generated by these presentations prompted the recess of the conference to enable all three of the Applicants to engage in a meaningful and cooperative analysis of the technical data developed to date, which may lead to a possible proposal for multi-utilization of existing and/or new facilities to be constructed. For this purpose the primary parties have scheduled a separate meeting of their technical personnel to be held in Houston, Texas, on June 2, 1975. It is anticipated that this meeting will enable the Applicant's to come forward with additional substantive information for the discussion of a possible alternative, joint approach to the three projects now contemplated.

In order to facilitate the cooperative effort currently being undertaken, the public informal conference will reconvene at 10:00 a.m. on June 12, 1975, in room 5200 at the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–14530 Filed 6–3–75;8:45 am]

[1] Notice of the public informal conference was published in the FEDERAL REGISTER on May 13, 1975 (40 FR 20860).

[Docket Nos. RP73–108 (AP 75–1)]

PANHANDLE EASTERN PIPE LINE CO.

Advancement of Hearing Date

MAY 28, 1975.

On May 21, 1975, Panhandle Eastern Pipeline Company filed a motion to advance hearing date fixed by order issued January 31, 1975, as most recently modified by notice issued March 19, 1975, in the above-designated matter. The motion states that Michigan Gas Storage Company has been notified and has no objection. On May 21, 1975, Staff Counsel filed a response in support of the motion.

Upon consideration, notice is hereby given that the hearing date in the above matter is rescheduled for June 19, 1975, at 9:30 a.m. (e.d.t.). All other procedural dates are cancelled.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–14531 Filed 6–3–75;8:45 am]

[Project No. 199]

SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

Application for Use of Project Lands and Waters

MAY 28, 1975.

Public notice is hereby given that on May 19, 1975, an application was filed for approval of use of project lands and waters under the Federal Power Act (16 U.S.C. 791a–825r) by South Carolina Public Service Authority (SCPSA) (Correspondence to Mr. William J. Madden, Jr., Debevoise and Liberman, 806 15th Street, N.W., Washington, D.C. 20005) for the Santee-Cooper Project No. 199 located on the Santee and Cooper Rivers in Berkeley, Calhoun, Clarendon, Orangeburg, and Sumter Counties, South Carolina. The proposed use would be located in Orangeburg County, South Carolina, about 4,500 feet north of the Eutaw Springs Subdivision.

SCPSA is requesting Commission approval to grant permission to South Carolina Wildlife and Marine Resources Department (Department) to construct dikes to develop a 10-acre waterfowl feeding impoundment on project lands adjacent to Lake Marion, one of the project reservoirs. Water for the impoundment will be obtained from Lake Marion through an intake facility to be built by the Department.

The impoundment will be located on lands which the Department has previously leased from SCPSA for game management purposes. This area will be planted with preferred waterfowl food plants and flooded in the fall to a depth of approximately 15 inches to provide feeding areas for resident and wintering migratory waterfowl thus increasing the attractiveness of the area to these species. Water would be removed from the lake at a rate of 500 g.p.m. by means of a 100-foot long, 6-inch diameter intake line connected to a pump. The flooding would take from 7 to 14 days. The impounded area would be drained into Lake Marion through an 18-inch metal pipe during early spring.

Any person desiring to be heard or to make protest with reference to said application should on or before June 24, 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 a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by section 308 and 309 of the Federal Power Act (16 U.S.C. 825g, 825h) and the Commission's rules of practice and procedure, specifically § 1.32(b) (18 CFR 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of § 1.32(b) be used. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–14532 Filed 6–3–75;8:45 am]

[Docket No. RP 73–49, PGA75–5]

SOUTH GEORGIA NATURAL GAS CO.

Revision to Tariff

MAY 28, 1975.

Take notice that on May 19, 1975, South Georgia Natural Gas Company

(South Georgia) tendered for filing as part of Original Volume No. 1 to its FPC Gas Tariff the following revised tariff sheets:

Twelfth Revised Sheet No. 3A
Thirty-Seventh Revised Sheet No. 5
Thirty-Sixth Revised Sheet No. 6
Twenty-Eighth Revised Sheet No. 9
Twenty-Seventh Revised Sheet No. 11
Thirty-First Revised Sheet No. 12B

South Georgia states that the above sheets represent a rate change under its PGA Clause, such clause approved to become effective April 14, 1973, by Commission Order in FPC Docket No. RP73-49 issued April 13, 1973. The Company further states that it proposes to decrease its rates $1,132,979 for the purpose of tracking a rate decrease filing made by Southern Natural Gas Company (Southern), on May 16, 1975. The instant filing will decrease South Georgia's cost of gas $1,736,213 annually, of which amount $1,133,799 is applicable to jurisdictional customers, according to South Georgia. An effective date of July 1, 1975 is requested.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, 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 June 13, 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. PLUMB,
Secretary.

[FR Doc.75-14534 Filed 6-3-75;8:45 am]

[Docket Nos. RP72-133 PGA 75-3]

UNITED GAS PIPE LINE CO.

Filing of Revised Tariff Sheet

MAY 28, 1975.

Take notice that on May 16, 1975, United Gas Pipe Line Company (United) tendered for filing twenty-fifth revised sheet No. 4 to its FPC Gas Tariff, First Revised Volume No. 1. United States that this tariff sheet and supporting information are being filed 45 days before the effective date of July 1, 1975 pursuant to section 19 of United's tariff and are in compliance with the provisions of Order Nos. 452 and 452-A.

United states that copies of the revised tariff sheet and supporting data are being mailed to its jurisdictional customers and interested state 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, N.E., 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 June 16, 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-14535 Filed 6-3-75;8:45 am]

INTERNATIONAL TRADE COMMISSION

INVESTIGATION PROCEEDINGS

On April 3, 1975, the amendments made by section 341(a) of the Trade Act of 1974 (88 Stat. 2053) with respect to section 337 of the Tariff Act of 1930, as previously amended (46 Stat. 703, 60 Stat. 1352, 72 Stat. 679; 19 U.S.C. 1337), became effective. The Commission was at that time conducting a number of proceedings under section 337.

The provisions of this notice are made under the authority of section 335 of the Tariff Act of 1930 (72 Stat. 680; 19 U.S.C. 1335).

The prior pending proceedings before the Commission with the docket numbers and titles indicated in Column 1 in the list below will be conducted as investigations of the Commission under section 337 of the Tariff Act of 1930, as amended (88 Stat. 2053), with the docket numbers and titles indicated in Column 2 in the list below. Proceedings will be conducted under the provisions of the Trade Act of 1974 and the provisions of the Administrative Procedure Act (5 U.S.C. 551 et seq.).

Column 1			Column 2	
Prior pending proceedings			Section 337 as amended, proceedings	
	Docket No.	Title	Docket No.	Title
1.	337-31	Electronic Pianos.	1. 337-TA*-1	Electronic Pianos.
2.	337-34	Convertible Game Tables and Components Thereof.	2. 337-TA-2	Convertible Game Tables and Components Thereof.
3.	337-36	Doxycycline.	3. 337-TA-3	Doxycycline.
4.	337-38	Expanded, Unsintered Polytetrafluoroethy[illegible]ne in Tape Form.	4. 337-TA-4	Expanded, Unsintered Polytetrafluoroethylene in Tape Form.
5.	337-39	Chain Door Locks.	5. 337-TA-5	Chain Door Locks.
6.	337-41	Eye Testing Instruments Incorporating Refractive Principles.	6. 337-TA-6	Eye Testing Instruments Incorporating Refractive Principles;
7.	337-L-65	Certain Electronic Audio and Related Equipment.	7. 337-TA-7	Certain Electronic Audio and Related Equipment.
8.	337-L-68	Piezoelectric Ceramic 10.7 MHz Electric Wave Filters.	8. 337-TA-8	Piezoelectric Ceramic 10.7 MHz Electric Wave Filters.
9.	337-L-73	Certain Hydraulic Tappets, II.	9. 337-TA-9	Certain Hydraulic Tappets, II.
10.	337-L-74	Certain Ultra-Microtome Freezing Attachments.	10. 337-TA-10	Certain Ultra-Microtome Freezing Attachments.
11.	337-L-75	Certain Electronic Printing Calculators.	11. 337-TA-11	Certain Electronic Printing Calculators.
12.	337-L-76	Certain Components of Automatic Tobacco Leaf Graders.	12. 337-TA-12	Certain Components of Automatic Tobacco Leaf Graders.
13.	337-L-77	Liquid Propane Heaters.	13. 337-TA-13	Liquid Propane Heaters.
14.	337-L-78	Certain High Fidelity Audio and Related Equipment.	14. 337-TA-14	Certain High Fidelity Audio and Related Equipment.
15.	337-L-79	Overlapping Digital Movements.	15. 337-TA-15	Overlapping Digital Movements.
16.	337-L-80	Certain Angolan Robusta Coffee.	16. 337-TA-16	Certain Angolan Robusta Coffee.

* "TA" represents "Trade Act of 1974."

All documents, evidence, and other submissions received by the Commission with respect to any prior pending proceeding listed in Column 1 above (or received during the course of the preliminary inquiry with respect to a pending investigation listed in items 1–6 in such Column) shall be considered by the Commission to have been received during the course of the corresponding investigation listed in Column 2 above.

All submissions, requests, and other correspondence to the Commission with regard to a particular investigation listed in Column 2 above should be addressed to the Secretary of the Commission.

Rules for the conduct of proceedings under section 337 will be published at a later date.

By order of the Commission.

Issued: May 29, 1975.

KENNETH R. MASON,
Secretary.

[FR Doc.75-14541 Filed 6-3-75;8:45 am]

MARINE MAMMAL COMMISSION

MARINE MAMMAL COMMISSION AND COMMITTEE OF SCIENTIFIC ADVISORS ON MARINE MAMMALS

Notice of Meetings

Notice is hereby given that the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals will meet on July 10–12, 1975 in Portland, Maine. Notice of the specific location, time, and agenda items of the meeting will be published in the near future.

The purpose of this notice is to invite the suggestions of interested persons concerning issues and subjects to be considered at the meetings. Suggestions should be submitted, in writing, to the Marine Mammal Commission, 1625 Eye Street, NW., Washington, D.C. 20006 by June 27, 1975.

JOHN R. TWISS, Jr.,
Executive Director,
Marine Mammal Commission.

MAY 30, 1975.

[FR Doc.75-14570 Filed 6-3-75;8:45 am]

NATIONAL ENDOWMENT FOR THE ARTS

DANCE TOURING PROGRAM FISCAL YEAR 77

Guidelines for State Agencies

The following are guidelines for State Arts Agency grants made under the Dance Touring Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

Notice is hereby given that the deadline date for this program is: October 1, 1975.

Interested persons should contact Joe Krakora, Director, Dance Program, National Endowment for the Arts, Washington, D.C. 20506, (202) 634-6383 for further information and application forms. Only the Dance Program office may distribute application forms.

Signed at Washington, D.C. on May 28, 1975.

FANNIE TAYLOR,
Director, Program Information.

INTRODUCTION

A Coordinated Residency Touring Program (CRTP) for dance companies was initiated in Fiscal Year 1968 as a pilot project. At that time four companies toured to eight communities in two states for a total of eight weeks. Since then the Program has grown with 74 companies touring in 52 states and jurisdictions for a total of 360 weeks during Fiscal Year 1975.

The CRTP, with the assistance of the State Arts Agencies, has fostered new sponsors for dance residencies, developed new audiences for American dance, and assisted those communities with a history of dance programs in presenting more of our nation's dance companies.

Integral to the Program since its inception have been the State Arts Agencies, without whose close involvement and active participation the Program could not have achieved its current success. In Fiscal Year 1975, State Arts Agencies, or their delegated organizations assumed primary administrative responsibility for the Program. The name was changed to the "Dance Touring Program."

State Arts Agencies are encouraged to assist their local sponsors in coordinating the three basic elements which contribute to a successful residency:

(1) detailed advance work which will prepare the community for the residency so that it may take full advantage of the activities offered.

(2) broad involvement of the community in the activities offered during the residency.

(3) taking advantage of the "residual" benefits of the engagement.

In order to allow each local sponsor the flexibility to tailor each residency to its own needs and resources, and to use its own criteria in selecting the dance companies it wishes to engage, there is no longer a listing of companies based on qualitative review. Rather, any company meeting the quantitative criteria described in the Guidelines for Dance Companies, and meeting the qualitative judgments of the sponsor, may receive assistance. Sponsors, in other words, are given the responsibility for engaging companies on the basis of the sponsor's qualitative selection.

PURPOSE

The primary purpose of the Dance Touring Program is to provide professional dance residencies to the largest possible number of Americans. Through residency engagements and imaginative planning on the part of State Arts Agencies, sponsors, and companies, it is expected the following objectives will be achieved:

(1) To develop new audiences for dance, and to expand the public's awareness and appreciation of dance.

(2) To improve touring practices for both sponsors and companies.

It is hoped the State Arts Agencies will include the Dance Touring Program in the state's total plan for assistance to dance. Collaborative planning between the Dance Touring Program and other components of each state's program will greatly increase the effectiveness of all efforts.

PROCEDURES

ADMINISTRATIVE RESPONSIBILITIES

Outlined below are the basic procedures for the Dance Touring Program, followed by the instructions for making application to the National Endowment for the Arts for funds.

Each State Arts Agency is given the option of administering the Dance Touring Program itself, or delegating another organization to administer it for the state. If the SAA chooses to delegate another organization, there are several routes it might take:

(1) It might select a willing state-wide organization capable of administering the Program within its state.

(2) It might join with several other neighboring states and delegate a single organization which would be willing and able to administer the Program for the several states involved. This is particularly advantageous in areas where there is to date little dance touring activity in any single state.

(3) It might, along with other member states, delegate an existing multi-state organization willing and able to assume this responsibility.

In order to facilitate the Program, it is essential that each State Arts Agency notify the National Endowment for the Arts who will be responsible for administering the Dance Touring Program for the state (both the organization and individual in charge, with address and phone number) and for the designated organization to express its willingness to accept the responsibility in writing, by: October 1, 1975.

The National Endowment for the Arts will be happy to answer any questions concerning the selection of an administrative organization. Please feel free to write or call:

Dance Touring Coordinator
National Endowment for the Arts
Washington, D.C. 20506
(202) 634-6383

For the purposes of clarity, the term "State Arts Agency" (or "SAA") will be used when referring to "the State Arts Agency or its delegated administrative organization" for the remainder of these Guidelines. In general, the administrative organization should assume all responsibilities. If an individual State Arts Agency wishes to delegate only a portion of the responsibilities listed below, arrangements can be made with the Office of Dance Programs at the Endowment.

The State Arts Agency will be responsible for the following:

(1) Announcing and promoting the Dance Touring Program within its state or region. The Endowment will also send out an announcement of the Program nationally, and will inform the SAA which sponsors in their area have received Guidelines.

(2) Assisting sponsors within their state or region with carrying out the sponsor's part of the program—selecting the companies, contracting the companies, preparing the schedule of community activities, et cetera.

(3) Receiving and reviewing company-sponsor contracts, and determining whether they meet the requirements of the Guidelines.

(4) Maintaining a master schedule of Dance Touring Program engagements in its state or region.

(5) Receiving and distributing the Endowment funds to each local sponsor promptly.

(6) Establishing and implementing evaluation procedures in accordance with the information requested by the Endowment.

(7) Where necessary, making application to the Endowment for assistance in planning

and carrying out the Program, receiving these funds and administering them.

(8) Making application to the Endowment for the fee support funds for engagements taking place within the state or region, receiving these funds, and passing them on to the sponsors.

(9) Making final statistical and evaluative reports to the Endowment as requested in the grant letter. These reports will include only pertinent information, and are not expected to demand tremendous energies from the State Arts Agencies.

(10) All other financial management requirements as outlined in the "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments" which appears as Attachment A of these Guidelines.

The Endowment will maintain direct contact with the State Arts Agencies in order to facilitate communications. However, there are other organizations and people who may be of assistance. In addition to the regional coordinators working throughout the country, there are evolving regional organizations, some particularly related to dance, and others concerned with a broad spectrum of activities. It is to the State Arts Agency's advantage to keep in close contact with these individuals and organizations since they can provide invaluable assistance with the Program. The Endowment can help you contact these people.

WHO MAY BE A SPONSOR

Given the purposes of the Program, it is expected that sponsors will be community-oriented organizations or individuals with the capability of relating the activities of the companies in residence to the community visited. Examples of sponsors who have participated in the past include colleges and universities, community arts councils, community service organizations, parks and recreation departments, fraternal organizations, local dance companies or associations, orchestras, private and public schools and school systems, community arts centers, museums, theaters, etcetera. Frequently a group of organizations will cooperate in sponsoring dance companies under this Program. Cooperative sponsorship permits greater impact in the community and a sharing of the financial obligations. Generally, sponsors are nonprofit, tax-exempt organizations.

It is hoped that in the future the State Arts Agencies will take an active part in finding and developing new sponsorship for touring attractions in their region, as well as provide assistance to current sponsors.

WHAT IS A RESIDENCY?

Residencies are a minimum of one-half week (2½ working days) in length. Residencies may be lengthened by one-day increments, with a one-week residency equalling 5½ working days. It is expected that the company and the sponsor will involve broad segments of the community during the residency. Each company is unique in the services it offers to sponsors. Therefore, there are no set rules or regulations as to what activities a residency should include. The sponsor and company are expected to arrive at an agreeable residency schedule which will best serve the needs of the community and the purposes of the Program.

The Program is designed to aid in touring engagements. A touring engagement is one which requires that the company remain overnight at the place of the residency rather than returning home each night. (The quoted touring engagement fees are based on figures which include lodging and transportation expenses.) Therefore, residencies taking place within the immediate area of the company's home base are not eligible for support under this Program.

Except in extreme circumstances sponsors are expected to engage at least two companies for a minimum of one-half week each, or in some cases one company for a minimum of one week during Fiscal Year 1977. There are several reasons this is required. Given the great wealth and variety of American dance, communities are encouraged to experience at least two different companies which will bring the community some of the variety American dance offers or, in some cases, at least one company representing one artistic point of view in depth. Further, it is the strong feeling of the Endowment that a community should have the opportunity and the time to become involved in several activities in order to gain a better knowledge and appreciation of the dance. This is essential to audience development. Single "one shot" exposure inhibits the community in gaining a full appreciation of dance as a rich and varied art form.

The State Arts Agencies can be of great assistance to local sponsors by making them aware of the benefits of complying with these requirements, and by getting more than one sponsor together in a community so that individual financial and operational resources can be pooled to permit compliance.

In extenuating circumstances, the State Arts Agency can grant a waiver of the minimum residency requirement (i.e. two one-half week residences or one full-week residency). The request for this waiver must be made in writing by the local sponsor, and the decision of the SAA must be conveyed to the sponsor in writing. A copy of these letters should be attached to the SAA's copy of the sponsor's contract for future reference.

When reviewing requests for waivers, the SAA should take into account the following:

(1) The over-all financial resources of the sponsor.

(2) The history of performing arts presentations in the community. Generally a community with a history of sponsorship in other forms can be expected to assume the minimum residency requirement.

(3) The appropriateness of the sponsor's choice of companies. These are many companies available with a great variety of fee structures. Sponsors should not be encouraged to engage companies which will tax their resources unduly. Communities have found it far more successful to keep their first residences well within their resources, and to engage a variety of companies, rather than only one or two financially and technically demanding companies. As experience is gained and audiences are built, sponsors will find that they will quickly be able to assume sponsorship of these larger companies.

(4) Population. Obviously, very small and isolated communities face special problems.

(5) Other local conditions. Since the State Arts Agency is located in the immediate area of the sponsor, it will have personal knowledge of the local sponsor's situation.

If, after reviewing the waiver request, the SAA deems it absolutely essential a waiver be granted, it should be made clear to the sponsor that this is exceptional. Waivers should be permitted for first-year sponsors only.

The importance of granting this waiver as rarely as possible cannot be stressed enough. There is substantial evidence from the seven-year history of the Program that enforcement of the minimum residency requirement is essential to the success of the Program in each community. Only when a sponsor is committed to the presentation of dance in his community will the involvement necessary for successful and effective residencies readily be available.

ENDOWMENT FEE SUPPORT

The National Endowment, through direct grants to the State Arts Agencies, will provide sponsors of professional dance company residencies with one-third (33⅓%) of the company's quoted minimum weekly, half-weekly or additional daily fee. The Endowment funds will be made available through the sponsor's State Arts Agency with this organization making final payment to the sponsor.

From past experience, the Endowment has found that no formal application from the sponsor for the Endowment portion of the funding is required. Upon receipt of a contract (see "Contracts," page 8) the State Arts Agency may allocate the funds necessary for the residency on a first-come, first-served basis. However, some SAAs may wish to institute a more formal application procedure if they feel it is necessary. Sponsors should be notified when all funds have been allocated. It is impossible to set a firm date for this occurrence, but in the past all funds have been allocated by late spring. The SAA should keep sponsors informed as funds become limited. Sponsors have been urged to confirm the availability of funds with their State Arts Agency before entering into a final contract with the companies.

Residencies taking place in the summer of 1976 (after July 1) will be included in the Fiscal Year 1977 Program. HOWEVER, because of Congressional appropriation procedures, payment for these engagements may be delayed. Therefore, both the company and the local sponsor should plan to defer receipt of Endowment funds until late summer 1976. After that time sponsors may expect to receive the Endowment portion of the company fee from the SAA close to the time of the engagement.

COMPANIES AVAILABLE FOR TOURING UNDER THE PROGRAM

The application procedures for dance companies wishing to participate in the Program, and the review criteria to be applied to each company, are given in detail in the enclosed Guidelines for Dance Companies. State Arts Agencies are asked to read these Guidelines carefully.

THE DIRECTORY OF DANCE COMPANIES

All companies meeting the quantitative criteria will be included in a Directory of Dance Companies to be available from the Endowment in December. Companies not in the Directory are not eligible for participation in the FY 1977 Program. This Directory will provide potential sponsors with pertinent factual information about each company extracted from the Company Information Questionnaire. The Directory is intended only as an initial aid to sponsors, and cannot provide all the information needed by a sponsor to make final company selections. It includes only factual information and in no way implies any qualitative selections. Sponsors are advised to contact all companies in which they are interested in order to obtain more detailed information. It is the responsibility of the company to communicate directly with interested sponsors and to provide them with detailed information when requested.

Note: The administration of the touring engagements for the American Ballet Theatre, the City Center Joffrey Ballet and the New York City Ballet will continue to be handled directly by the Dance Program office of the Endowment. Because of the size and complexity of these few companies their touring activity requires somewhat different administrative and funding mechanisms. These companies are clearly marked in the Directory of Dance Companies and sponsors wish-

ing to engage them should contact the Endowment directly.

SPONSOR SELECTION OF COMPANIES

Sponsors are expected to develop and apply their own qualitative criteria in selecting companies. Such criteria should take into account the artistic quality, experience, style, size, repertory, and managerial stability of the company. Further, sponsors should seek to match the talents, resources, and available services of the companies with the needs and resources of the community.

The Director will include lists of previous and current tour engagements for each company, and a listing of engagements taking place under the current FY 1976 Dance Touring Program. Sponsors should be encouraged to see companies in which they are interested whenever possible and to speak with sponsors who have previously engaged the company in order to make the most informed choices. State Arts Agencies can be of great help to sponsors in guiding them through the necessary evaluative steps, but should in no way participate in the final selection of companies. This qualitative decision is the full responsibility of the sponsor. The success of each residency is dependent upon the sponsor's careful selection.

CONTRACTS

Both sponsors and companies are advised in detail in the Guidelines for Sponsors and the Guidelines for Dance Companies on the contracting procedure to follow. It is in the area of contracting that many potential problems can be solved in advance. State Arts Agencies should aid sponsors, especially those new to sponsoring tour engagements, with the contracting procedures, making sure that all necessary items are included, and all questions answered. Please refer to the "Contracting the Company" section of the Guidelines for Sponsors.

Although sponsors are strongly urged to sign a formal contract, it is possible for the State Arts Agency to accept the following alternative agreements for the purpose of allocating fee support funds:

(1) A letter of agreement including all necessary items listed below.

(2) A "first priority" letter or contract including all necessary items listed below. (If a sponsor is unable to execute either a formal contract or letter of agreement because of a delay in budget approval or other internal funding problem which prevents commitment of funds to the engagement, the SAA can accept a letter or contract from the local sponsor which includes a clause certifying that, whether or not the sponsor's total budget is approved, the first monies received will be used for the engagements under the Dance Touring Program. The Endowment can provide a sample "first priority" agreement.)

If either a letter of agreement or first priority letter is used instead of a formal contract, sponsors should be strongly advised to obtain a formal contract as soon as possible. State Arts Agencies should be sure that letters of agreement and first priority letters contain all the necessary information listed as No. 3, page 10.

It is the company's responsibility to provide a copy of all signed agreements to the appropriate State Arts Agency for the purpose of allocating the Endowment for support funds. Before confirming the availability of funds, the SAA should check the contract carefully to insure it is executed properly, and is in compliance with the Program Guidelines. Items which should be checked include:

(1) The Company's Fee. This fee must be at least equal to the minimum fee quoted in the Directory. It is possible for the company to negotiate a fee higher than this minimum, and/or to include arrangements to share net income with the sponsor over and above a set figure. In no case, however, can the guaranteed fee quoted in contract be less than the one appearing in the Directory. (State Arts Agencies should note that many companies quote several different minimum fees depending on the geographic region, length of stay, size of company, live or taped music and other variables. The SAA is advised to check carefully to be sure the fee in the contract is the appropriate one.)

(2) Residency Length. The duration of each residency must be two and one-half working days or longer. Residencies may be increased by one-day increments. The following applies to residency lengths and the corresponding fee:

(a) One week equals five and one-half working days.

(b) One-half week equals two and one-half working days.

(c) Residencies may be lengthened by additional full working days.

(d) The company's minimum weekly fee is quoted in the Directory of Dance Companies.

(e) The company's minimum half-week fee is equal to exactly one-half its minimum weekly fee.

(f) The company's minimum additional daily fee is equal to exactly one-fifth its minimum weekly fee.

(g) The company's subsequent week fee for residencies taking place in the same community is quoted in the Directory of Dance Companies. (Some companies offer weekly fee reductions for residencies in excess of one week, while other do not.)

(3) Information Required on All Contracts. All contracts should include all the following information:

(a) Name, address and phone number of the company.

(b) Name, address and phone number of the person actually in charge of scheduling the details of the residency for the company.

(c) Name, address and phone number of the sponsor.

(d) Name, address and phone number of the person actually in charge of scheduling the details of the residency for the sponsor.

(e) Fee for the engagement.

(f) Specified dates and place of the engagement including beginning and ending times.

(g) Name and address of the local sponsor (person or agency) to whom checks should be made payable for the Endowment share of the company fee.

(h) Signatures of both parties (sponsor and company).

FLOW OF ENDOWMENT FEE SUPPORT FUNDS

Each State Arts Agency will make application for the fee support funds required in its state or region. (The application procedures are given on page 13.) Upon review of these applications and the awarding of the grant, the SAA will be notified. The SAA then requests the funds, receives them and distributes them directly to the local sponsors in the state or region. The sponsor is responsible for paying the total contracted fee to the company. State Arts Agencies should not make payments directly to the companies.

EVALUATIONS AND FINAL REPORTS

As part of the final reporting procedures, the SAA is asked to assemble statistical and evaluative information for FY 1977 including:

(1) The schedule of activities offered during each residency.

(2) Attendance at each activity, and a general description of the make-up of the participants (i.e. dance students, community residents, et cetera).

(3) Admission charge for each activity.

(4) The over-all budget for the residency, including total expenses and sources of income.

(5) A general description and evaluation of the successes and failures of the residency.

(6) Any suggestions or recommendations for improving the Program and better achieving the goals outlined for the Program.

Sponsor should be reminded to assemble this information so that it will be available to the State Arts Agency when requested.

It is suggested that State Arts Agencies develop a simple form which can be circulated to local sponsors in order to collect this information. If the SAA would like other additional information for its own records, feel free to include additional questions. However, the Endowment would like to urge that the evaluation procedures be kept relatively uncomplicated so as not to burden the local sponsors unnecessarily.

The information collected should be submitted with the final report for the Endowment grant.

GUIDELINES FOR SPONSORS AND COMPANIES

Accompanying these Guidelines for State Arts Agencies are the *Guidelines for Dance Companies*. The *Guidelines for Sponsors* and the *Directory of Dance Companies* will be sent in December 1975. These are what each of the sponsors or companies will receive, and from which they will be working. Although there is some duplication of material, there is substantial information that is not included in these *Guidelines for State Arts Agencies*. Please read the Company and Sponsor Guidelines carefully.

THE BICENTENNIAL

The Endowment recognizes that the arts will play an important role in the celebration of our country's bicentennial. The National Council on the Arts believes that efforts to make America's cultural resources available to all citizens, through programs such as touring, is an appropriate thrust for the bicentennial era. Therefore, if engagements taking place under this Program are planned to be related to the Bicentennial, the sponsor should supply the SAA with a brief description of this relationship, and the SAA should make this relationship known to the Endowment.

PLANNING SCHEDULE

May 1975. Dance Touring Program Guidelines for companies for FY 1977.

June 1975. Dance Touring Program Guidelines available for SAA for FY 1977.

August 1, 1975. Postmark deadline for companies wishing to be included in the FY 1977 Directory of Dance Companies.

October 1, 1975. Deadline for SAA's to notify Endowment who will be administering the Program for their state.

December 1975. Guidelines for Sponsors and Directory of Dance Companies available.

December 1975–March 1976. Peak period for tour engagement booking activities. Sponsors indicate their interest in participating in the Program to their State Arts Agency.

January–April 1976. Agreements between sponsor and company should be finalized, with a copy of the signed agreement going to the sponsor's State Arts Agency.

March 1, 1976. Deadline for SAA applications to the Endowment for FY 1977 fee support funds.

Early Spring 1976. Allocated fee support funds usually begin to become limited. SAA's should notify sponsors of this. The Program closes when all available funds have been committed.

July 1, 1976. FY 1977 Program begins (i.e. actual engagements).

Late Summer 1976. Endowment fee support funds released to State Arts Agencies.

APPLICATION PROCEDURES

The National Endowment for the Arts will continue to offer support under the Dance Touring Program for partial costs of dance company fees. Fee Support funds will be provided to the local sponsors via their State Arts Agency to be used toward the touring company's engagement fee.

WHO MAKES APPLICATION?

In all cases, applications should come from an individual State Arts Agency or a properly delegated administrative organiztion. Applications should come from the organization that is assuming full responsibility for administering the project. If the applicant is an agency of the state or local government it should use the short form OMB No. 80–R0185. If the application is coming from another nonprofit, tax-exempt organization not a government agency, it should use the NEA's Project Grant Application, NEA–3 (rev.).

FEE SUPPORT

Applications for the Endowment fee support for residencies taking place in FY 1977 must be postmarked no later than: March 1, 1976.

Since very few engagements will be confirmed by this date, an estimated amount of funds needed for engagements anticipated should be requested. This estimate should be based on the confirmed engagements known to that date, the tentative engagements known to that date, and an estimate of anticipated engagements based on past years' activity within the state. The figure requested may not exceed one-third of the total contracted fees anticipated, and should represent Endowment assistance based on 33⅓% of each company's weekly, half-weekly, or additional daily fee.

Once the Endowment is in receipt of all applications for fee support (March 1, 1976), the requests will be reviewed on the basis of the total funds anticipated to be available for the total national Program, and the State Arts Agencies will be given a tentative planning figure. State Arts Agencies should realize that the final commitments made, as funds become limited, must be carefully checked through the Endowment so that the Program is not over-committed.

REQUESTING CASH PAYMENTS

The Endowment is well aware that there have been some substantial problems in the past with disbursement of funds on time in this Program. One part of the problem has been in the area of the Cash Request itself.

As you know, funds may not be requested more than 90 days in advance of the time they are needed. Often this has been interpreted to mean that funds cannot be requested from the Endowment more than 90 days in advance of the residency of a dance company. A more realistic interpretation is that funds may be requested 90 days in advance of the date the SAA needs to receive the funds, process them, get cash in hand to local sponsors, allow time for the local sponsor to process the same and get cash in hand to the dance company. Consequently, if it takes six weeks of processing to get the money from the hands of the SAA to the dance company's, the SAA should request cash of the Endowment as much as 4½ months in advance of the residency (6 weeks plus 90 days).

Please try to keep close track of this necessary timetable to insure that, once the SAA has received the grant award, each dance company will receive the Endowment portion of the fee before its residency ends. Set up a calendar, if necessary, to show when cash requests will have to be sent in. Group as many residencies as possible into each cash request. If there are questions about the appropriate way to fill out the cash request or what can be included on it, please call (202/634–6383) before sending it in. To receive the speediest treatment, cash requests should be sent directly to:

Grants Office, National Endowment for the Arts, Washington, D.C. 20506.

REMINDERS

October 1, 1975 State Arts Agencies must notify the Endowment who will administer the Dance Touring Program for their state.

March 1, 1976 Deadline for applications for fee Support funds for FY 1977.

ATTACHMENT A: UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

STANDARDS FOR GRANTEE FINANCIAL MANAGEMENT SYSTEMS

(1) This Attachment prescribes standards for financial management systems of grant-supported activities of state and local governments. Federal grantor agencies shall not impose additional standards on grantees unless specifically provided for in other Attachments to this Circular. However, grantor agencies are encouraged to make suggestions and assist the grantees in establishing or improving financial management systems when such assistance is needed or requested.

(2) Grantee financial management systems shall provide for:

(a) Accurate, current, and complete disclosure of the financial results of each grant program in accordance with Federal reporting requirements. When a Federal grantor agency requiries reporting on an accual basis and the grantee's accounting records are not kept on that basis, the grantee should develop such information through an analysis of the documentation on hand or on the basis of best estimates.

(b) Records which identify adequately the source and application of funds for grant-supported activities. These records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all funds, property, and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

(d) Comparison of actual with budgeted amounts for each grant. Also, relation of financial information with performance or productivity data, including the production of unit cost information whenever appropriate and required by the grantor agency.

(e) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the grantee, whenever funds are advanced by the Federal Government. When advances are made by a letter-of-credit method, the grantee shall make drawndowns from the U.S. Treasury through his commercial bank as close as possible to the time of making the disbursements.

(f) Procedures for determining the allowability and allocability of costs in accordance with the provisions of Office of Management and Budget Circular No. A–87.

(g) Accounting records which are supported by source documentation.

(h) Audits to be made by the grantee or at his direction to determine, at a minimum, the fiscal integrity of financial transactions and reports, and the compliance with laws, regulations, and administrative requirements. The grantee will schedule such audits with reasonable frequency usually annually, but not less frequently than once every two years, considering the nature, size and complexity of the activity.

(i) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(3) Grantees shall require subgrantees (recipients of grants which are passed through by the grantee) to adopt all of the standards in paragraph 2 above.

(No. A–102)

[FR Doc.75–14589 Filed 6–3–75;8:45 am]

DANCE TOURING PROGRAM FISCAL YEAR 77

Dance Touring Guidelines for Dance Companies

The following are guidelines for dance company grants made under the Dance Touring Program of the National Endowment for the Arts, an independent agency of the Federal government which makes grants to organizations and individuals concerned with the arts throughout the United States.

Notice is hereby given that the deadline date for this program is: August 1, 1975.

Interested persons should contact Joe Krakora, Director, Dance Program, National Endowment for the Arts, Washington, D.C. 20506, (202) 634–6383 for further information and application forms. Only the Dance Program office may distribute application forms.

Signed at Washington, D.C. on May 28, 1975.

FANNIE TAYLOR,
Director, Program Information.

INTRODUCTION

The National Endowment for the Arts Dance Touring Program (DTP) (formerly the Coordinated Residency Touring Program) was initiated in Fiscal Year 1968 as a pilot project. At that time four companies toured to eight communites in two states for a total of eight weeks. Since then the Program has grown with 74 companies touring in 52 states and jurisdictions for a total of 360 weeks during Fiscal Year 1975.

Among the most successful programs of the National Endowment for the Arts the DTP has fostered new sponsors for dance residencies, developed new audiences for American dance, and assisted those communities with a history of dance programs in presenting more of our nation's dance companies.

Integral to the success of the Program since its inception have been the state arts agencies, without whose close involvement and active participation the Program could not have achieved its current success. In Fiscal Year 1975, state arts agencies or their delegated organizations assumed primary administrative responsibilities for the Program.

PURPOSE

The primary purpose of the Dance Touring Program is to provide professional dance residencies to the largest possible number of the American people. Through these residencies and imaginative planning on the part of the state arts agencies, sponsors, and companies, it is expected the following objectives will be achieved:

(1) To develop new audiences for dance, and to expand the public's awareness and appreciation of dance.

(2) To improve touring practices for both sponsors and companies.

IMPLEMENTATION

The Dance Touring Program, through the state arts agencies or their delegated administrative organizations, assists sponsors in engaging professional dance companies for residencies of at least one-half week (two and one-half days). By encouraging residencies, both the sponsor and the company are allowed time to accomplish the purposes of the Program outlined above. The sponsor and the company are expected to evolve a schedule of activities which will involve the resident community as broadly as possible in the scheduled activities.

Residencies structured solely for the purposes of teaching a limited number of students will be considered contrary to the spirit of the Program.

Three basic elements contribute to a successful residency:

(1) Detailed advance work which will prepare the community for the residency so that it may take full advantage of the activities offered.

(2) Broad involvement of the community in the activities offered during the residency.

(3) Taking advantage of the "residual" benefits of the engagement.

In order to allow each local sponsor the flexibility to tailor each residency to its own needs and resources, and to use its own criteria in selecting the dance companies it wishes to engage, there is no longer a listing of companies based on qualitative review. Rather, any company meeting the quantitative criteria outlined below and meeting the qualitative judgments of the sponsor, may qualify for assistance. Sponsors, in other words, are given the responsibility for engaging companies on the basis of the sponsor's own qualitative selection.

HOW A COMPANY QUALIFIES FOR PARTICIPATION

As mentioned above, there is no listing of companies participating in the Dance Touring Program based on qualitative review. A company wishing to participate in the Program, however, must meet the following quantitative criteria:

(1) The company must be a nonprofit, tax-exempt organization donations to which are deductible as charitable contributions under section 170(c) of the Internal Revenue Code of 1954, and must submit a copy of its Internal Revenue Service Tax-Exempt Determination Letter to the Endowment.

(2) The company must certify to the Endowment that while on tour it pays all professional performers, related or supporting staff, laborers and mechanics no less than the minimum compensation level as determined by the appropriate union in accordance with Part 505 of Title 29 of the Code of Federal Regulations. The Company must also meet the applicable requirements of Title VI of the Civil Rights Act of 1964. The " 'Company Statement' accompanying the 'Company Information Questionnaire' " is to be used for this purpose.

(3) The company must have performed at least 15 public performances for which the dancers and staff were paid no less than the minimum compensation level as defined by the appropriate union during the 1974–75 season, and must project at least 15 such performances for the 1975–76 season. The company must have received compensation for these performances, either through box office receipts if self-produced or through contractual payment if not self-produced. Self-produced performances for a non-paying audience, or other performances for which the company receives no compensation will not be considered when determining if the 15 performance requirement has been met.

A list of these engagements must be attached to the Company Information Questionnaire (enclosed) indicating the place and date of these performances, and, for the 1974–75 appearances, the estimated attendance at each performance, and the company's compensation. The company must also attach budgetary information which indicates payment was made to the performers and staff at or above the appropriate minimum scale.

(4) The company must have adequate paid management to provide potential tour sponsors with the necessary services to contract and carry out tour engagements. The company must submit a description of its tour management structure, indicating the tour management staff employed (number, title, name, and description of responsibilities), whether part- or full-time (if part-time, number of hours per week employed), and how the staff is compensated. Please note: It is imperative companies be reached by phone year-round during regular business hours either directly or through an answering service. Therefore, please indicate in this description how the company's phone communications are handled. Also, a copy of the company's standard touring contract must be attached to the Company Information Questionnaire. Managers of companies which qualify will be required to attend regional meetings at their own expense in the fall of 1975.

(5) The company must have a history of sound administrative practices. If there is reason to question the administrative practices of the company, such as a history of cancelled contracts, commitments unfulfilled, deviation from the minimum fee requirements, et cetera, the company will be required to describe what it has done to correct these problems before it will be considered eligible for participation in the Program. If the problem remains, the company will be ineligible for participation. Each company's participation in the Program will be reviewed annually to determine that the company is functioning within the Guidelines of the Program.

Companies which believe they meet these criteria must provide the Endowment with the information requested on the accompanying "Company Information Questionnaire." This information will be reviewed by the Endowment on the basis of the above quantitative criteria.

Note: This information is to be mailed to:

Dance Touring Coordinator
National Endowment for the Arts
Washington, D.C. 20506

DEADLINE

And postmarked no later than August 1, 1975. Because of the very tight schedule of deadlines, material postmarked after this time will not be considered.

THE DIRECTORY OF DANCE COMPANIES

All companies meeting the quantitative criteria and filing the "Company Information Questionnaire" by August 1, 1975 will be included in a "Directory of Dance Companies" to be available from the Endowment in November 1975. Companies not in the Directory are not eligible for participation in the FY 1977 Program. This Directory will provide potential sponsors with pertinent factual information about each company extracted from the "Company Information Questionnaire." The directory is intended only as an initial aid to sponsors, and cannot provide all the information needed by a sponsor to make final company selections. Sponsors are advised to contact all companies in which they are interested in order to obtain from them more detailed information. It is the responsibility of the company to communicate directly with potential sponsors and to provide them with detailed information.

It should be noted that the administration of touring engagements for the American Ballet Theatre, The City Center Joffrey Ballet, and The New York City Ballet will continue to be handled directly by the Dance Program office of the Endowment, because of the size and complexity of their touring activity. These companies will be clearly marked in the Directory.

GENERAL PROCEDURES

Each state arts agency or its delegated administrative organization serves to promote the Dance Touring Program in general, to develop sponsorship for the Program, to aid sponsors and companies participating in the Program, and to evolve and administer its own program of technical assistance. A listing of these agencies will be sent to all companies in November. Sponsors deal directly with the appropriate agency for all matters concerning the Dance Touring Program. Although the state arts agency can be of assistance to companies seeking engagements in their state, companies should not ask or expect these agencies to promote them or seek engagements for them. This is solely the responsibility of the company.

Each sponsor is given free choice from the Directory. In order to provide the community with a variety of dance experience, or an in-depth exposure to dance, the sponsor is expected to engage at least two companies for a minimum of one-half week each, or in some cases one company for a minimum of one week. In extenuating circumstances the state arts agency can waive this requirement for sponsors participating in the Program for the first year. However, it is understood this waiver can generally be granted only for first-year sponsors. Residencies must be at least one-half week in length (2½ working days) and may be lengthened by increments of one day.

ENDOWMENT FUNDING

The National Endowment for the Arts through direct grants to the state arts agencies, will provide each sponsor through the sponsor's state arts agency one-third (33⅓%) of the company's quoted minimum weekly or half-weekly fee.

When an agreement between the company and the sponsor is reached, a contract (see "Contracts" page 8) must be signed and a signed copy sent by the company to the sponsor's state arts agency. No Endowment funds will be allocated until the state arts agency has received a copy of the contract signed by both parties, and it has been determined that the contract complies with the DTP Guidelines. (This includes compliance by the sponsor with the requirement that at least two companies be engaged for a minimum of one-half week each, or in some cases one company for a minimum of one week. Therefore, it is to the company's advantage to remind the sponsor of the above regulation. If a waiver of this regulation is sought, the sponsor must request this from the state arts agency in writing and must have confirmation in writing from the state arts agency that the waiver has been granted.)

Note: It is the responsibility of the company to insure that a copy of the contract is sent to the state arts agency.

Only a limited amount of funds is available. The Program closes when all funds have been allocated. It is impossible to set a firm date for this occurrence. In the past all funds have been allocated by late spring (in this

case, the spring of 1976). State arts agencies will keep sponsors informed of the status of the available funds. When all funds are allocated the Program is closed. Companies should keep in mind, however, that dance touring activity is not limited to what takes place under the Endowment's Dance Touring Program. For many companies, the DTP does not account for the majority of their tour engagements. Companies will usually find it possible and desirable to seek and book additional dates without Endowment assistance.

Residencies taking place in the summer of 1976 (after July 1, 1976) may be included in the Fiscal Year 1977 Program. However, because of Congressional appropriation procedures, payment for these engagements will be delayed. Therefore, both the company and the local sponsor should expect to defer receipt of Endowment funds until late summer 1976.

COMPANY FEES

Each participating company is asked to dures, payment for these engagements will be The company must then certify that it will accept no less than this fee for similar engagements whether under the DTP or not. It is expected that this fee will conform with the total fee structure of the company. There is no ceiling on this minimum fee.

In determining the company's minimum weekly fee, the following should be taken into account:

(1) One week equals five and one-half days in residence.

(2) One-half week equals two and one-half days in residence.

(3) One day equals one full day in residence.

(3) One day equals one full day in residence.

(4) The minimum half-weekly fee will be exactly one-half the minimum weekly fee.

(5) The minimum one-day fee will be exactly one-fifth the minimum weekly fee.

Companies may negotiate larger fees than the minimum fees quoted. The Endowment's participation, however, will remain at the levels stated above based on the company's quoted minimum fee.

SCHEDULING THE RESIDENCY

The company and the sponsor in collaboration arrive at a mutually agreeable residency schedule. There are no set rules or requirements for the residency schedule other than the minimum residency length and number of companies engaged as stated above, though it is expected that the goals and purposes of the Program will be served by the schedule.

The Dance Touring Program will continue to develop new sponsorship for dance company residencies. Local sponsors have been encouraged to use the company as imaginatively as possible and involve as broad a spectrum of the community as possible. Therefore, it is essential that company directors and managers deal generously and professionally with the local sponsors, and adhere fully to the agreed-upon schedule. However, keep in mind that seriously overextending the company in response to sponsor demands will result in lowered quality.

ANNOUNCEMENT OF THE PROGRAM

The National Endowment for the Arts will mail a flyer announcing the Program to the following:

(1) All state arts agencies.

(2) All past DTP sponsors.

(3) A mailing list of approximately 5,000 names drawn from standard sources of touring attraction sponsors.

The flyer will be mailed in late September 1975. Sponsors wishing complete Dance Touring Program Guidelines including the list of participating companies will return a request card to the Endowment. The "Guidelines for Sponsors" will be available for distribution by November 1975.

Companies qualifying for the Program are urged to include an indication of their availability under the Dance Touring Program in their booking publicity. The following standard wording is suggested:

"(name of company) participates in the Dance Touring Program of the National Endowment for the Arts. Under this program the Endowment will provide the sponsor with up to one-third of the company's minimum fee for residencies of one-half week or longer. For more information about the Dance Touring Program, please contact your state arts agency or the Dance Touring Coordinator, National Endowment for the Arts, Washington, D.C. 20506, (202) 634-6383."

If the above standard wording is not used, companies must clear any material referring to the Dance Touring Program through the National Endowment for the Arts, Director of Dance Programs.

Each company is requested to send state arts agencies of the states in which they plan to tour two complete copies of their promotional information. A list of the state arts agencies and their delegated administrative organizations will be sent to companies in November.

Note: The Directory is only a compendium of factual information to aid sponsors in their early decisions. Inclusion in the Dance Directory does not guarantee the company will be engaged. It is up to the company's booking representative to promote the company, and to procure any and all engagements, and to provide interested sponsors with more detailed information as requested.

CONTRACTS

For the purposes of confirming engagements and allocating Endowment funds (see "Endowment funding" above) the state arts agencies will accept the following binding agreements:

(1) A formal contract between the two parties including all items listed below. (If you would like a sample contract for residency engagements, contact the Endowment's Dance Program Office.)

(2) A letter of agreement including all items listed below.

(3) A "first priority" letter or contract including all items listed below. (If a sponsor is unable to execute either document No. 1 or No. 2 above because of a delay in his budget approval or other internal funding problem which prevents his committing funds to the engagement, the state arts agency will accept a letter or contract from the local sponsor which includes a clause certifying that, whether or not his total budget is approved, the first monies he receives will be used for the engagements under the Dance Touring Program. If you would like, the Endowment can provide a sample "first priority" agreement. Write to the Dance Touring Coordinator, National Endowment for the Arts, Washington, D.C. 20506.)

Items to be included in all letters, contracts, and agreements:

(a) Name, address and phone number of the company.

(b) Name, address and phone number of person actually in charge of scheduling details of the residency for the company.

(c) Name, address and phone number of sponsor.

(d) Name, address and phone number of person actually in charge of scheduling details of the residency for the sponsoring organization.

(e) Fee for the engagement.

(f) Specific dates and place of the engagement including beginning and ending times.

(g) Name and address of the local sponsoring person or agency to whom the state arts agency should make checks payable for the Endowment share of the company fee.

(h) Signatures of both parties (sponsor and company).

Note: If either No. 2 or No. 3 above are used, it is to the company's advantage to follow these agreements with a complete contract as soon as possible.

A clause stating that the National Endowment for the Arts will provide $_____ (appropriate amount of money) to the sponsor through the sponsor's state arts agency may be included in contracts and letters of agreement.

A complete technical requirement sheet from the company should be sent to the sponsor with your initial correspondence. In all discussions and agreements with the logical sponsor be sure to clarify all aspects of the engagement, including:

(1) The company's technical requirements in terms of equipment and personnel to be provided by the sponsor.

(2) The publicity services offered by the company and their costs, if any, and when publicity materials are to be available to the sponsor.

(3) Your space needs for classes, rehearsals, et cetera.

(4) Limitations on class size and levels.

(5) The availability of the performance space for set-up and rehearsals, including all necessary free time before performances.

(6) The actual beginning and ending time of the residency.

(7) The total fee and method of payment.

(8) Local transportation needs and who is to provide them.

(9) The names, addresses and phone numbers of all key people (technical director, sponsor, crew heads, et cetera).

Note: If your booking is done through a booking agent who does not handle the details of residency scheduling, please be sure that the booking agent makes it clear to the sponsor who in the company management is responsible for the residency details. Conversely, the contracting sponsor is not always the person in charge of detailed planning on the other end. These facts should be ascertained in advance and contracts should include name, address, and phone number of the "detailed person" on both sponsor and company sides.

COMPANY SPONSOR RELATIONS

Engagements under the Dance Touring Program are essentially the same as any other touring engagement. All negotiations between sponsor and company are the responsibility of the two parties. Advance planning is the key to a successful residency. Be sure to work out the residency schedule in detail and in writing well in advance of the engagement. If there are any questions or problems, please contact the Endowment immediately.

FOLLOWING THE RESIDENCY

In the past, company evaluations of residencies have been voluntary. Beginning with the FY 1977 program, all companies will be required to submit a brief evaluation of each residency. A sample evaluation form is included with these guidelines. All evaluations should be sent directly to the Dance Touring Coordinator, National Endowment for the Arts, Washington, D.C. 20506. Companies are urged to discuss potential sponsors with other companies who have had experience with the sponsor.

PLANNING SCHEDULE

Following is the Planning Schedule for the Dance Touring Program in Fiscal Year 1977 (July 1, 1976 through June 30, 1977).

August 1, 1975. Postmark deadline for Company Information Questionnaire to be sent to Endowment.

November 1975. Guidelines for Sponsors and Directory of Dance Companies distributed to potential sponsors. Distribution of state arts agency or delegated administrative organization list.

November 1975–March 1976. Peak period for tour engagement booking activity. Sponsors should indicate to their state arts agency their interest in participating in the Program.

January 1976–April 1976. Agreements between sponsor and company should be finalized, with a copy of the signed agreement going from the company to the sponsor's state arts agency for the purpose of committing funds.

Early Spring 1976. Funds begin to run out. Sponsors will be notified as funds become limited. When all funds are allocated, the Program is closed.

July 1, 1976. Fiscal Year 1977 Program begins (i.e. actual engagements).

Late Summer 1976. Endowment funds released to state arts agencies for payment to sponsors.

June 30, 1977. Fiscal Year 1977 Program ends.

[FR Doc.75-14590 Filed 6-3-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.27, "Nondestructive Examination of Welds in the Liners of Concrete Barriers in Fuel Reprocessing Plants," describes procedures acceptable to the NRC staff for complying with regulations with regard to the nondestructive examination of welds in the metal liners and penetrations of confinement barriers of concrete construction. This guide applies to metal liners of process cells, fuel storage pools, waste storage tank vaults, and other concrete confinement barriers in fuel reprocessing plants.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed (listed below) or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 3.27 will, however, be particularly useful in evaluating the need for an early revision if received by August 1, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 3 Regulatory Guides currently being developed include the following:

Control of Stainless Steel Welding for Safety-Related Components of Fuel Reprocessing Plants.
Corrosion Testing and Evaluation of Metals for Application in Fuel Reprocessing Plants.
Nondestructive Examination of Tubular Products for Use in Fuel Reprocessing and Fuel Fabrication Plants.
Control of the Use of Sensitized Stainless Steel for Components of Fuel Reprocessing Plants.
General Design Guide for Process Building Ventilation Systems for Fuel Reprocessing Plants.
General Fire Protection Guide for Fuel Reprocessing Plants.
Standard Format and Content of License Applications for Plutonium Processing and Fuel Fabrication Plants.
Standard Format and Content of License Applications for Commercial Waste Burial Facilities.
Quality Assurance for the Design, Construction, and Operation of Fuel Reprocessing Plants.
Guide for Design, Construction, and Operation of Ventilation Systems for Plutonium Fuel Manufacturing Plants.
Criteria for Siting, Design, and Operation of Plants for the Manufacture of Mixed Oxide Fuels.
Selection and Application of Protective Coatings (Paints) for Fuel Reprocessing Plants.
Guide to the Preparation of Emergency Plans for Uranium and Plutonium Processing and Fuel Fabrication Plants.
Design Criteria for Spent Fuel Storage Facilities at HTGR Sites.
Guide for Design of Irradiated Fuel Receiving and Storage Facilities.
Assumptions Used for Evaluating the Consequences of a Criticality Accident in LWR Fuel Fabrication Plants.
Selection, Training, and Qualification of Personnel for Fuel Reprocessing Plants.
Temporary Storage of High-Level Liquid Waste at Fuel Reprocessing Plants.
Assumptions Used for Evaluating the Consequences of a Criticality Accident in Fuel Reprocessing Plants.
Assumptions Used for Evaluating the Consequences of a Criticality Accident in Plutonium Processing and Fuel Fabrication Plants.
Confinement Structures and Systems for Plutonium Processing and Fuel Fabrication Plants.
Emergency Water Systems for Fuel Reprocessing Plants and Plutonium Processing and Fuel Fabrication Plants.
Protection Systems for Fuel Reprocessing Plants and for Plutonium Processing and Fuel Fabrication Plants.
Design Basis Floods for Fuel Reprocessing Plants.
Criteria for Gaseous Radioactive Effluent Systems at Fuel Reprocessing Plants.
Design Criteria for Decommissioning of Nuclear Fuel Reprocessing Plants.
Definition of Radioactive Waste Categories.
Codes Applicable to Quality Control and Fabrication of Metallic Structures, Systems, and Components for Fuel Reprocessing Plants.
Administrative Controls for Nuclear Fuel Reprocessing Plants.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 28th day of May 1975.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Acting Director,
Office of Standards Development.

[FR Doc.75-14568 Filed 6-3-75;8:45 am]

[Docket No. 50-57]

STATE UNIVERSITY OF NEW YORK

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. R-77 issued to State University of New York which revised Technical Specifications for operation of the Nuclear Science and Technology Facility, located in Buffalo, New York. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications to permit increasing the maximum fuel assembly burnup from 10,000 MWD/TU to 20,000 MWD/TU. However, the increase in the maximum burnup would be restricted to fuel assemblies not subject to pulsed operation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on March 31, 1975 (40 FR 14381). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

For further details with respect to this action, see (1) the application for amendment dated May 8, 1974 and Supplements dated November 6, 1974 and April 9, 1975, (2) Amendment No. 10 to License No. R-77, with Change No. 41 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C.

A copy of items (2) and (3) 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 29th day of May 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Reactor Licensing.

[FR Doc.75-14566 Filed 6-3-75;8:45 am]

[Docket Nos. STN 50-508; STN 50-509]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Availability of Final Environmental Statement; Nuclear Projects Nos. 3 and 5

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, related to the proposed Washington Public Power Supply System, Nuclear Projects Nos. 3 and 5 to be constructed by Washington Public Power Supply System in Grays Harbor County, Washington, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW, Washington, D.C. and in the W. H. Abel Memorial Library, 125 Main Street, South, Montesano, Washington. The Final Environmental Statement is also being made available at the Office of the Governor, Office of Program Planning and Fiscal Management, Olympia, Washington.

The notice of availability of the Draft Environmental Statement for the Washington Public Power Supply System Nuclear Projects Nos. 3 and 5 and requests for comments from interested persons was published in the FEDERAL REGISTER on February 18, 1975 (40 FR 7012). The comments received from Federal, State, local and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (NUREG-75/053) may be purchased from the National Technical Information Service, Springfield, Va. 22161, at $7.50 for paper copies and $2.25 for microfiche.

Dated at Rockville, Maryland, this 29th day of May 1975.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 4, Division of Reactor Licensing.

[FR Doc.75-14567 Filed 6-3-75;8:45 am]

[Docket No. 50-471]

BOSTON EDISON COMPANY (PILGRIM NUCLEAR POWER STATION, UNIT 2)

Availability of Response to Comments on Summary of New or Revised Sections Contained in the Final Environmental Statement

Notice is hereby given that a document entitled, response to comments on summary of new or revised sections of the final environmental statement for the Pilgrim Nuclear Power Station, Unit 2, which were required as a result of withdrawal of the application for Pilgrim Nuclear Power Station, Unit 3, final version, prepared by the Commission's Office of Nuclear Reactor Regulation, related to the proposed Pilgrim Nuclear Power Station, Unit 2, to be constructed by the Boston Edison Company on the western shore of Cape Cod Bay and south of Plymouth Bay in the Town of Plymouth, Plymouth County, Massachusetts, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Plymouth Public Library, North Street, Plymouth, Massachusetts. The document is also being made available at the Office of State Planning and Management, Leverett Saltonstall Building, 100 Cambridge Street, Room 909, Boston, Massachusetts and the Southeastern Massachusetts Regional Planning and Economic Development District, 68 Winthrop Street, Taunton, Massachusetts.

The notice of availability of the summary of new or revised sections of the final environmental statement for the Pilgrim Nuclear Power Station, Unit 2, which were required as a result of withdrawal of the application for Pilgrim Nuclear Power Station, Unit 3, final version and request for comments from interested persons was published in the FEDERAL REGISTER on November 21, 1974 (39 FR 40881). The comments received from Federal, State, and local officials and interested members of the public have been included in the response to comments on summary of new or revised sections of the final environmental statement for the Pilgrim Nuclear Power Station, Unit 2, which were required as a result of withdrawal of the application for Pilgrim Nuclear Power Station, Unit 3, final version.

Requests for copies of this document should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Rockville, Maryland, this 30th day of May 1975.

For the Nuclear Regulatory Commission.

B. J. YOUNGBLOOD,
Chief, Environmental Projects Branch 3, Division of Reactor Licensing.

[FR Doc.75-14725 Filed 6-3-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

ADVISORY COMMITTEE ON SOCIAL INDICATORS

Public Meeting

Pursuant to Pub. L. No. 92-463, notice is hereby given of a meeting of the Advisory Committee on Social Indicators to be held in Room 6211, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C., on Friday, July 11, 1975, at 10 a.m.

The purpose of the meeting is the development of the next Social Indicators Report of the Office of Management and Budget. The meeting will be open to public observation and participation.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.75-14608 Filed 6-3-75;8:45 am]

SELECTIVE SERVICE SYSTEM

REGISTRANTS PROCESSING MANUAL

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portions of that Manual are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER:

Section 603.13 (Revised April 30, 1975).
Chapter 619 (Revised April 30, 1975).
Section 622.19 (Revised April 30, 1975).
Section 603.7, paragraph 1(j) (Revised May 27, 1975).
Section 603.7, paragraph 1(l) Added May 27, 1975).
Section 623.6 (Added May 27, 1975).
Temporary Instruction No. 621-7, issued May 27, 1975.

BYRON V. PEPITONE,
Director.

MAY 29, 1975.

[Rev. Apr. 30, 1975]

SECTION 603.13

DISPOSITION OF FILE FOLDERS

(Authority: Chapter 715(L) Administrative Services Manual)

1. *Destruction at the Area Office.* a. Six months after a registration is canceled, the local board shall destroy the registrant's file folder.

b. When a file is certified for destruction, an entry "Destroyed" shall be made in the first available space to the right of the last classification entry pertaining to the registrant on the SSS Form 102.

2. *Transfer of Custody to Federal Records Centers.* a. The custody of the files of all registrants for whom accountability has been terminated, but whose files are not eligible for destruction under the provisions of the preceding paragraph, will be transferred to the appropriate Federal Records Center in January of each year.

b. Registrants' files which were not transferred with their year group, but later became eligible for transfer, will be packaged, in SSN order, with one or more year groups in a box. The FRC destruction date will be established by the latest year group represented in the box.

c. A printed label will be furnished by National Headquarters to be affixed by area office personnel to the outside cover of each Classification Record book in which are

listed names of registrants whose files have been designated for transfer to the FRC. The names and selective service numbers of those registrants whose termination of accountability is excepted under the provisions of paragraph 1, Section 619.3, and whose names appear in that particular Classification Record book shall be typed below the statement. A compensated employee should sign the label.

d. The Selective Service System retains jurisdiction over and access to files transferred to the FRC.

e. File transfer procedures, as prescribed by the Director and/or the State Director, will be followed with regard to packaging, labeling and shipping.

f. SF 135 (Records Transmittal and Receipt) or SF 135A (Records Transmittal and Receipt Continuation Sheet) shall be prepared by the local board in accordance with current instructions, as a composite record of file transfer action, and as a reference for possible file retrieval from the FRC, or for possible submission of material to the FRC for inclusion in files. The State Headquarters shall retain a suspense copy of the SF 135 or SF 135A from each local board and shall also make and retain a copy of the receipted SF 135 or SF 135A returned by the FRC, before sending the receipted copy to the local board of origin. The suspense copy will then be destroyed.

g. The FRC will destroy these files when they become eligible for destruction.

h. Any retrieval of files from the FRC must be requested through the State Director. The information upon which the retrieval is based must be in writing, and will be placed in the file upon its retrieval from the FRC.

i. When a file folder is temporarily retrieved from the FRC by the local board, the following entry will be made in pencil on the label affixed to the outside front cover of the Classification Record book in which the registrant's name appears: "File of (name) (SSN) retrieved from FRC (date)." The entry will be erased when the file is returned to the FRC. A copy of the local board's letter of request, as well as the transmittal letter(s) from (and to) the FRC, shall be placed in the file folder.

j. The file of an alien registrant (including a former American citizen who has expatriated himself) who was last classified in (1) an available class (1–A, 1–AM, 1–A–O, 1–A–OM, 1–O or 1–OM), (2) in Class 4–C, or (3) in Class 5–A (if 5–A was immediately preceded by Class 4–C), shall be sent to the FRC for permanent retention. No file will be retained under this provision for alien registrants born in 1953 or later, or for alien registrants who were not required to be registered until after the year in which they attained the age of 20. Their files will be subject to normal disposal procedures.

3. *Special Handling of Documents.* a. If, in the normal handling of a file folder immediately prior to its transfer or destruction, an original document is found which would be of value to the registrant, such as an original marriage certificate, it will be returned to him (or to his next of kin in the case of a deceased registrant).

b. Whenever the accountability of an alien registrant is to be terminated, any completed request for Relief from Training and Service in the Armed Forces of the United States (SSS Form 130), or its equivalent certificate, shall be withdrawn from the file folder and forwarded to the Immigration and Naturalization Service, using a transmittal letter similar to Attachment 603–1. The notation "Req. for Relief fr. T&S Fwd. to I&NS" (Request for Relief from Training and Service forwarded to Immigration and Naturalization Service) shall be made on page 2 of the file folder and in the Remarks column of the SSS Form 102.

c. Any Certificate of Release from Alternate Service (SSS Form 154) shall be removed from the file folder of any registrant who has ever been in Class 1–W, before disposition is made of his file. The form will be sent to State Headquarters for filing and this notation made on page 2 of the file folder and in the Remarks column of the SSS Form 102: "SSS Form 154 Fwd. to St. Hq.".

4. *Re-establishment of File Folders.* If a file folder has been destroyed and the registrant later becomes eligible for Restoration of Accountability, as set forth in Chapter 619, a file folder shall be reestablished for that registrant. An entry shall be made on the SSS Form 102 immediately to the right of the entry recording destruction, as follows: "File re-established (date)."

[Rev. Apr. 30, 1975]

SECTION 603.14

SERVICE TO REGISTRANTS FOLLOWING DISPOSAL OF FILES

1. Whenever a registrant (or another person on behalf of a registrant) submits new information intended for inclusion in his file folder after the file folder has been transferred to an FRC, the local board shall acknowledge receipt of the information and return it to the sender by use of a letter similar to Attachment 603–2. If the sender's address is not known, the correspondence shall be destroyed. If the new information is a form such as a DD Form 4, 44, 53, 62, or 214, it shall be destroyed after the information has been posted in the appropriate column of the SSS Form 102.

2. Whenever a registrant submits an inquiry concerning his individual case after the file folder has been transferred or destroyed, the local board shall respond, basing its response, if possible, on the information available in the local board.

3. Whenever a registrant (or an authorized representative of the registrant) submits a request for temporary access to his file after the file has been transferred to an FRC, the local board shall advise him of the fact that his file is no longer maintained at the local board. If the information desired was specified in the request, and if it is contained in other records at the local board (such as an SSS Form 102), the local board shall furnish the information. The registrant may be informed as to the appropriate military authority which has information regarding the individual's military service, which is not available at the local board. The registrant (or his authorized representative) is not to be actively discouraged from requesting access to the SSS Form 101, but the probability of delay in obtaining retrieval of the file from the FRC should be brought to his attention. If retrieval is absolutely necessary, the local board shall forward the registrant's written request to the State Director for further action.

4. It should be only in unusual cases, where the information is not otherwise available, that the file should be retrieved under this section.

[Rev. Apr. 30, 1975]

SECTION 603.15

THE AREA OFFICE

1. *Organization.* The area office is the administrative site for one or more local boards. The location of two or more local boards at one site is referred to as collocation. One or more of the boards located at an area office may be the result of a consolidation of two or more local boards. Refer to Chapter 604 for procedures to be followed in consolidating or collocating local boards.

2. *Service to the Public.* The area office is usually the principal point of contact between the public and the System. It is important, therefore, that an efficient and businesslike, courteous image be projected by the compensated employees. The following areas will be continually monitored by supervisors toward the end of presenting the best possible image to the public:

A. General office appearance.
B. Telephone and personal courtesy.
C. Punctuality in keeping office hours.
D. Promptness in processing mail.
E. Professionalism in manner.
F. Personal grooming and neatness of personnel.

3. *Professionalism.* Much of registrant processing involves the routine performance of relatively simple tasks, yet certain cases can—and often do—represent complex matters requiring a high level of professional competency on the part of all personnel, and compensated employees in particular. Study and training, constantly and judiciously applied, provide the means by which the level of professionalism in all areas of registrant processing can be raised. In the process, the respect and esteem of the public for the System and its employees will also be elevated.

4. *Area Office Housekeeping.* The efficiency of an area office will often depend to a large degree upon the skill with which the storekeeping, arranging, traffic-pattern planning, and general tidying-up is performed. Easy availability of needed supplies, planned ease in accommodating registrants and others, neatness and order in general appearance, all contribute to both employee morale and favorable reaction by the public. It is toward the end of making maximal use of the area office space and facilities in serving these goals that the supervisor should address himself.

[Rev. Apr. 30, 1975]

SECTION 603.16

SAFETY AND SECURITY

1. Each State Director will arrange for periodic safety inspections and security checks of offices under his jurisdiction. Furthermore, to minimize the likelihood of vandalism, all personnel must be alert to the need for a continuing program of office security. Worn or broken locks on doors and windows must be promptly repaired or replaced; file cabinets equipped with locks should be locked when not in use. Flammable materials must be kept in a secured storage place and labels showing emergency numbers should be affixed to telephones.

2. Plans should be developed for each office to prepare personnel for, and enable them to cope with, emergencies such as fire, fire bombing, invasion and occupation by vandals, and the like. A list of offices to be notified immediately upon the occurrence or discovery of vandalism should be kept near the telephone. Such a list should include the State Headquarters, Fire Department, Police Department, Federal Bureau of Investigation, Area Supervisor (if located away from the State Headquarters), adjacent offices, building owner, manager, or leasing office as appropriate, and any other offices and individuals as determined by the State Director. The appropriate report (Report of Sabotage, Robbery, Vandalism, See Attachment 603–3) shall be submitted by the State Director to the National Safety Director within 48 hours after any incident of sabotage, robbery, vandalism, bomb threat or other incident, except natural fire, occurs at any Selective Service System installation under his jurisdiction.

SAMPLE TRANSMITTAL
LETTER TO INS
(See Section 603.13)

Local Board Stamp

Gentlemen:

Enclosed for your information and retention is a request for relief from training and service in the Armed Forces of the United States, signed by the alien registrant listed below:

Name _____ SSN: _____

Address _____ RSN: _____

_____

Alien Registration Number _____

This document is furnished to you to assist you in determining the applicability of Section 212(a) of the Immigration and Nationality Act in this case.

Sincerely,

_____
Authorized Signature

Enclosure

Immigration and Naturalization Service
425 I Street NW
Washington, D. C. 20536

SAMPLE LETTER FOR RETURN OF
INFORMATION OR MATERIAL TO SENDER
(See Section 603.14)

(Local Board Stamp)

TO: Date of Mailing:

SSN:

(Address)

Dear

The Selective Service System is not maintaining record files on registrants after January of the year in which they attain the age of 21. The material submitted by you is therefore acknowledged and returned to you with thanks.

Sincerely,

_____
Authorized Signature

Enclosure

[Rev. Apr. 30, 1975]

CHAPTER 619

ACCOUNTABILITY FOR REGISTRANTS

Index

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SECTION 619.1

ACCOUNTABILITY

1. Accountability is defined as the responsibility of the Selective Service System to maintain a current record of the status and location of each registrant. Assumption, termination, or restoration of accountability does not affect any liability for training and service which a registrant may have under the Military Selective Service Act.

2. Assumption, termination, and restoration of accountability shall be recorded on the monthly Report of Manpower Inventory (SSS Form 116) in accord with its procedural directive.

3. Termination or restoration of accountability shall be brought to the attention of the local board and recorded in the minutes in accordance with the procedural directive for the Minutes of Local or Appeal Board Meeting (SSS Form 112).

SECTION 619.2

ASSUMPTION OF ACCOUNTABILITY

The Selective Service System's accountability for a registrant is assumed when he is listed on the Classification Record (SSS Form 102).

SECTION 619.3

TERMINATION OF ACCOUNTABILITY

1. Local boards shall terminate accountability for regular registrants when they enter the second priority selection group, and for all medical specialty registrants who are in that same year of birth group or older. Such termination shall not apply to a registrant in either of the following categories, so long as he remains in one of those categories:

a. He is under prosecutive review for violation of the Military Selective Service Act and final disposition has not been made of his case.

b. He has been convicted of a violation of the Military Selective Service Act and has not completed his sentence (to include any period of probation or parole).

2. When accountability for registrants is terminated under paragraph 1 of this section, a compensated employee shall affix a label to the outside front cover of the Classification Record Book as provided in Section 603.13.

3. Accountability will be terminated upon cancellation of a registration. The entry of the canceled registrant will be lined out on the SSS Form 102, and appropriate entries will be made in accordance with the provisions of Chapter 613, RPM.

4. Services to registrants who have been dropped from accountability shall be accomplished in accordance with Chapter 603.

SECTION 619.4

RESTORATION OF ACCOUNTABILITY

1. Accountability is restored for any registrant whose file folder is reestablished. "Acc. Restored (date)", (Accountability Restored), shall be entered in the remarks column of the SSS Form 102, and the registrant shall be picked up on the SSS Form 116 for that month.

2. If a file is temporarily retrieved from the FRC for purposes of review or to obtain information, the local board shall not reestablish accountability for the registrant.

[Rev. Apr. 20, 1975]

SECTION 622.19

CLASS 1-H: REGISTRANT NOT CURRENTLY SUBJECT TO PROCESSING FOR INDUCTION OR ALTERNATE SERVICE

1. Every registrant is administratively assigned to Class 1-H as of the time of registration. Any new registrant who qualifies for a class lower than 1-H will be classified out of 1-H and into that lower class by local board action as soon as practicable.

2. Registrants are eligible for Class 1-H unless eligible for a lower class if they are:

a. Members of the first priority selection group (1PSG) whose random sequence number (RSN) is above the administrative processing number (APN) which will be designated by the Director from time to time;

b. Registrants, in the year of their 19th birthday, whose RSN is above the APN designated by the Director for the following year's 1PSG;

c. Registrants who have not yet been assigned an RSN.

3. The following registrants are specifically *ineligible* for classification into Class 1-H by *board action:*

a. Volunteers during any period of inductions;

b. Registrants in the extended priority selection group (EPSG);

c. Registrants in the first priority selection group (1PSG) whose RSN is at or below the APN;

d. Registrants, in the year of their 19th birthday, whose RSN is at or below the APN designated for the following year's 1PSG;

e. Any registrant who qualifies for a class lower than 1-H.

4. The APN for the next year's 1PSG will be designated by the Director at the time of the lottery drawing for that age group. Designation of the APN is a basis for reopening the classification of registrants in that group who are in Class 1-H, and who have RSN's equal to or below the APN. Unless information in their files indicates these registrants are eligible for another class, they will be reclassified into Class 1-A.

5. All registrants in the second or lower priority selection group, or medical specialty registrants in those same year of birth groups, irrespective of their eligibility for any other class, are classified in Class 1-H, by direction of the Director of Selective Service; except that those registrants who are under prosecutive review for a selective service law violation shall enter Class 1-H only when their cases have been resolved, and registrants serving sentence for selective service law violations shall enter Class 1-H only when they have completed their sentences (to include any period of probation or parole). No Status Card (SSS Form 7) will be prepared for directed 1-H classifications, and directed 1-H classifications will not be individually noted on the SSS Form 101 or 102. The label affixed to the outside of the front cover of Classification Record books in the area office, as provided in Section 603.13, will provide public notice of the directed 1-H classifications. These registrants will be dropped on the Report of Manpower Inventory (SSS Form 116) as an "Administrative Out" from their last classification held before the directed 1-H.

Section 603.7, para. 1(j), revised May 27, 1975.

j. Reports (other than Computer Print-Outs) (most recent in front).

(1) Minutes of Local Board Meeting (SSS Forms 112 and 112-A).

(2) Report of Manpower Inventory (SSS Forms 116).

(3) Report of Availability by Selection Groups—Class 1-A and 1-A-O (SSS Forms 117).

(4) Monthly Report of Availability of 1-O Registrants (SSS Form 157).

(5) Inductions and Medical Determinations (SSS Form 205).

(6) Record of files destroyed or transferred (including SF 135, 135-A and SSS Form 707).

Section 603.7 para. 1(1), added May 27, 1975.

1. Information regarding men born in 1955 or later, for whom no file folders have been established; in alphabetical order, by year of birth. If the individual is a registrant, his SSN shall be entered on the upper right edge of the document. These documents shall be maintained until the year of birth group enters the 2PSG, at which time the documents shall be transferred to the FRC along with any Registrant File Folders for that year of birth group.

SECTION 623.6

DIRECTED CLASSIFICATION

1. The Director of Selective Service directs the classification into Class 1-C, 1-D, 1-H, 1-W, 4-A, 4-B, 4-C, 4-F, 4-G, or 4-W of every accountable registrant born prior to 1957, for whom documentation is received qualifying him for such classification in accordance with criteria specified in Chapter 622. The classification will be entered in the Classification Record (SSS Form 102), and on pages 1 and 2 of the Registrant File Folder (SSS Form 101) if a file folder has been established for the registrant. If no file folder has been established, the documentation will be filed in accordance with Section 603.7.

2. A Status Card (SSS Form 7) will be prepared and distributed in accordance with its procedural directive. A "D" will be typed in the "Administrative Assignment" box. The date shown for the "Date of Mailing" will also be shown as the "Date of Classification."

3. Directed classifications will not be brought before the local board nor entered on the Minutes of Local or Appeal Board Action Continuation Sheet (SSS Form 112-A). Table I, List of Classifications (RIB Report No. 160) when posted in the local board will provide the public notice of these classifications.

[Temporary Instruction No. 621-7]

REGISTRANT PROCESSING IN 1975

MAY 27, 1975.

1. *Board Actions.* a. Local boards will complete the classification out of Class 1-H of all registrants born in 1956 who have RSN 001-095, by October 1, 1975. This will include the completion of personal appearances and appeals resulting from these classification actions. Classification actions based upon subsequent changes of status will continue until December 31, 1975.

b. Local boards and appeal boards will take no further classification action ("board action") on any registrant unless he has an RSN of 095 or below, and was born in 1955 or 1956. However, procedures required to accomplish the directed classification actions of Section 623.6 will continue.

c. Personal appearances and appeals, other than for registrants with an RSN of 095 or below born in 1955 or 1956, are suspended. Registrants affected shall be notified. (See Attachment 1, T.I. 621-7).

2. *Records Processing.* a. No new file folder will be prepared for any registrant other than a registrant born in 1956, with an RSN of 095 or below.

b. Although no classification actions are to be accomplished on registrants born in 1957, Status Cards (SSS Forms 7) will continue to be prepared for change of address and as replacement cards for these registrants.

c. The file folders of registrants born in 1953 and 1954 will be transferred to Federal Records Centers before December 31, 1975. No updating of file folders or RIB records will be attempted for any medical specialist, or any regular registrant in second or a lower priority selection group, either before or after his records are transferred.

d. A registrant in the 2PSG or a lower priority selection group who inquires about his classification shall be furnished a letter explaining that he is in Class 1-H and not subject to further processing (See Attachment 2, T.I. 621-7). Any documents included with the inquiry shall be returned to him.

This Temporary Instruction will remain in effect until rescinded.

BYRON V. PEPITONE,
Director.

SAMPLE LETTER TO INFORM
REGISTRANT OF SUSPENSION
OF HIS PROCESSING

(Local Board Stamp)

TO: Date of Mailing:

SSN:

RSN:

(Address)

Dear

You are now classified in Class 1-H (a registrant not currently subject to Selective Service processing). For this reason, the processing of your request for personal appearance, or of the appeal of your classification, has been suspended. If you should ever become liable for further processing by the Selective Service System, you will be afforded the rights of personal appearance and appeal at that time.

Meantime, no further action is required of you by the Selective Service System.

Authorized Signature

[FR Doc.75-14630 Filed 6-3-75;8:45 am]

U.S. INFORMATION AGENCY

CLOSED MEETING ACTIVITIES OF ADVISORY COMMITTEES

Public Availability of Reports

Pursuant to the provisions of the Federal Advisory Committee Act, Pub. L. 92-463, and OMB Circular A-63 of March 27, 1974, the U.S. Advisory Commission on Information, which held closed or partially closed meetings in 1974, has prepared reports on the activities of these meetings. Copies of these reports have been filed and are available for public inspection at two locations:

Library of Congress, Microform Reading Room
Room MB-140B, Main Building
10 First Street, S.E.
Washington, D.C.

U.S. Information Agency
Office of Public Information
1750 Pennsylvania Ave., N.W. Room 719
Washington, D.C. 20547

EDWARD J. NICKEL,
Assistant Director, Administration and Management, Advisory Committee Management Officer.

[FR Doc.75-14591 Filed 6-3-75;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on June 11, 1975, at 9 a.m., the Indianapolis Regional Office Station Committee on Educational Allowances shall at 575 North Pennsylvania Street, Indianapolis, Indiana, conduct a hearing to determine whether Veterans Administration benefits to all

eligible persons enrolled in Poro Barber and Beauty School, 2962 North Central Avenue, Indianapolis, Indiana, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

JAMES D. CROWE,
Director, Veterans Administration Regional Office.

MAY 27, 1975

[FR Doc.75-14592 Filed 6-3-75;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-32]

INTERNATIONAL SHOE CO.

Eligibility To Apply for Worker Adjustment Assistance

On May 27, 1975, the Department of Labor received a petition filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Shoe Workers of America, AFL-CIO, on behalf of the workers and former workers of Sikeston, Missouri plant of International Shoe Company, a division of Interco Incorporated, St. Louis, Missouri (TA-W-32).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's and boy's footwear produced by International Shoe Company, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriated, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than 10 days after this notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 29th day of May, 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-14397 Filed 6-3-75;8:45 am]

[TA-W-31]

ROSIA FOOTWEAR CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On May 27, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Boot and Shoe Workers' Union, AFL-CIO on behalf of the workers and former workers of Rosia Footwear Corporation, Portage, Pennsylvania (TA-W-31). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with women's footwear produced by Rosia Footwear Corporation, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than 10 days after this notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 28 day of May, 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-14596 Filed 6-3-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 881]

ASSIGNMENT OF HEARINGS

MAY 30, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 138276 Sub 2, J & G Transport Ltd., now being assigned July 22, 1975, (2 days) at Olympia, Washington, in a hearing room to be later designated.

MC 14751 Sub 4, Nelson Transfer & Storage Company, now assigned July 15, 1975 at Washington, D.C., is postponed indefinitely.

MC 109397 Sub 306, Tri-State Motor Transit Co.; MC 111397 Sub 109, Davis Transport, Inc.; MC 119777 Sub 309, Ligon Specialized Hauler, Inc. and MC 126899 Sub 80, Usher Transport, Inc., now assigned July 22, 1975 at Washington, D.C.; is postponed to September 9, 1975 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C 8320, Fidelity Storage & Van Co., Inc.—Revocation of Certificates—now being assigned July 16, 1975 (1 day), at Lincoln, Nebraska; in a hearing room to be designated later.

MC 130286, Northern Transportation Services, Inc., now being assigned July 8, 1975 (3 days), at Montpelier, Vermont; in a hearing room to be designated later.

MC 107993 Sub 33, J. J. Willis Trucking Company and MC 124947 Sub 36, Machinery Transports, Inc., now being assigned July 21, 1975 (3 days) at Denver, Colorado; in a hearing room to be designated later.

MC 125777 Sub 153, Jack Gray Transport, Inc., now being assigned July 8, 1975 at the Offices of the Interstate Commerce Commission, Washington, D.C. (Pre-hearing Conference).

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14645 Filed 6-3-75;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY ELIMINATION OF GATEWAY LETTER NOTICES

MAY 30, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before June 16, 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 1936 (Sub-No. E2), filed May 25, 1974. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross St., Pittsburgh, Pa. 15224. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Commodities, which because of size or weight, requires the use of special equipment; (1) between points in that part of Pennsylvania on, east, and north of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 80 to junction Pennsylvania Highway 38, thence along Pennsylvania Highway 38 to junction Pennsylvania Highway 208, thence along Pennsylvania Highway 208 to junction Pennsylvania Highway 36, thence along Pennsylvania Highway 36 to junction Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction Pennsylvania Highway 115, thence along Pennsylvania Highway 115 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction Pennsylvania Highway 502, thence along Pennsylvania Highway 502 to junction Pennsylvania Highway 690, thence along Pennsylvania Highway 690 to junction Pennsylvania Highway 590, thence along Pennsylvania Highway 590 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Pennsylvania-New Jersey State line, on the one hand, and, on the other, points in that part of West Virginia, on, west, and north of a line beginning at the Ohio-West Virginia State line and extending along U.S Highway 77 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 119, thence along U.S. Highway 119 to the West Virginia-Kentucky State line; and (2) between points in that part of Pennsylvania on, east, and north of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 80 to junction Pennsylvania Highway 68, thence along Pennsylvania Highway 68 to junction Pennsylvania Highway 36, thence along Pennsylvania Highway 36 to junction Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 309, thence along Pennsylvania Highway 309 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Pennsylvania-New Jersey State line, on the one hand, and, on the other, points in that part of West Virginia on, west, and north of a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway 33 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 119, thence along U.S. Highway 119 to the West Virginia-Kentucky State line. The purpose of this filing is to eliminate the gateway of Cuyahoga, Lake, or Lorain Counties, Ohio, or points in Medina County, Ohio, on and north of U.S. Highway 224.

No. MC 1936 (Sub-No. E12), filed May 24, 1974. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross St., Pittsburgh, Pa. 15224. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* requiring special equipment, restricted so that the loading and/or unloading which necessitates the use of special equipment is performed by consignor, consignee, or both, between Newburgh, Poughkeepsie and Firthcliffe, N.Y., on the one hand, and, on the other, points in Illinois, Indiana, Michigan, and points in that part of Kentucky on and west of a line beginning at the Kentucky-Ohio State line extending along U.S. Highway 68 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 25W, thence along U.S. Highway 25W to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and points in Cuyahoga, Lake, Lorain Counties, Ohio, or points in Medina County, Ohio, on and north of U.S. Highway 224.

No. MC 1936 (Sub-No. E14), filed May 24, 1974. Applicant: B & P MOTOR EXPRESS, INC., 720 Gross St., Pittsburgh, Pa. 15224. Applicant's representative: William H. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of size or weight require the use of special equipment, between points in that part of Pennsylvania on and north of a line beginning at the Pennsylvania-West Virginia State line extending along U.S. Highway 22 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Pennsylvania Highway 271, thence along Pennsylvania Highway 271 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction unnumbered highway near Shamokin Dam, thence along unnumbered highway to junction Pennsylvania Highway 147, thence along Pennsylvania Highway 147 to junction Pennsylvania Highway 61, thence along Pennsylvania Highway 61 to junction Pennsylvania Highway 54, thence along Pennsylvania Highway 54 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction U.S. Highway 80, thence along U.S. Highway 80 to the Pennsylvania-New Jersey State line, on the one hand, and, on the other,

points in that part of Kentucky on and west of a line beginning at the Ohio-Kentucky State line extending along Kentucky Highway 11 to junction Kentucky Highway 15, thence along Kentucky Highway 15 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Kentucky-Virginia State line. The purpose of this filing is to eliminate the gateways of Cuyahoga, Lake or Lorain Counties, Ohio, or points in Medina County, Ohio, on and north of U.S. Highway 224.

No. MC 21170 (Sub-No. E107), filed June 4, 1974. Applicant: BOS LINES, INC., PO Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, from points in that part of Iowa on and west of a line beginning at the Iowa-Minnesota State line and extending along U.S. Highway 169 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Iowa Highway 17, thence along Iowa Highway 17 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa Highway 117, thence along Iowa Highway 117 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction Iowa Highway 37, thence along Iowa Highway 37 to junction Iowa Highway 137, thence along Iowa Highway 137 to unnumbered highway at Eddyville, thence along unnumbered highway to junction Iowa Highway 213 near Munterville, thence along Iowa Highway 213 to junction unnumbered highway at Blakesburg, thence along unnumbered highway to junction Iowa Highway 369, thence along Iowa Highway 369 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway at Bloomfield, thence along unnumbered highway through Savannah to the Iowa-Missouri State line, to points in that part of West Virginia on and south of a line beginning at the West Virginia-Kentucky State line extending along U.S. Highway 60 to junction West Virginia Highway 16, thence along West Virginia Highway 16 to junction West Virginia Highway 39, thence along West Virginia Highway 39 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction West Virginia Highway 39, thence along West Virginia Highway 39 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of the facilities of the Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E108), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and *commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line extending along Iowa Highway 4 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction Iowa Highway 144, thence along Iowa Highway 144 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Mark, thence along unnumbered highway through Savannah to the Iowa-Missouri State line, to points in that part of West Virginia on and south of a line beginning at the West Virginia-Kentucky State line extending along U.S. Highway 60 to junction West Virginia Highway 4, thence along West Virginia Highway 4 to junction unnumbered highway near Dunden, thence along unnumbered highway to junction West Virginia Highway 20 at Cowen, thence along West Virginia Highway 20 to junction West Virginia Highway 15, thence along West Virginia Highway 15 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction West Virginia Highway 28, thence along West Virginia Highway 28 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction West Virginia Highway 45, thence along West Virginia Highway 45 to junction West Virginia Highway 29, thence along West Virginia Highway 29, to junction West Virginia Highway 9, thence along West Virginia Highway 29 to junction U.S. Highway 11, thence along U.S. Highway 11 to the West Virginia-Maryland State line. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E109), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in Iowa on and west of a line beginning at the Iowa-Minnesota State line extending along Iowa Highway 9 to junction Iowa Highway 182, thence along Iowa Highway 182 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction unnumbered highway at LeMars, thence along unnumbered highway through Neptune to junction U.S. Highway 20, thence along U.S. Highway 20 to junction unnumbered highway at Moville, thence along unnumbered highway to junction Iowa Highway 141 at Hornick, thence along Iowa Highway 141 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Iowa Highway 148, thence along Iowa Highway 148 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Mark, thence along unnumbered highway through Savannah to the Iowa-Missouri State line, to points in West Virginia. The purpose of this filing is to eliminate the gateway of the facilities of the Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Co. pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E110), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products and commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in that part of Iowa on and west of a line beginning at the Minnesota-Iowa State line extending along U.S. Highway 63 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway near Milton, thence along unnumbered highway through Cantril to the Iowa-Missouri State line, to points in that part of West Virginia on and south of a line beginning at the West Virginia-Kentucky State line extending along U.S. Highway 52 to junction West Virginia Highway 102, thence along West Virginia Highway 102 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of the fa-

cilities of Ralston Purina Co. located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Co. pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E111), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and *commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, from points in Iowa on, west and south of a line beginning at the Iowa-Minnesota State line extending along U.S. Highway 59 to junction Iowa Highway 10, thence along Iowa Highway 10 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Iowa Highway 4, thence along Iowa Highway 4 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 89, thence along Iowa Highway 89 to junction unnumbered highway, thence along unnumbered highway to junction U.S. Highway 69 at Huxley, thence along U.S. Highway 69 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction Iowa Highway 137, thence along Iowa Highway 137 to junction Iowa Highway 23, thence along Iowa Highway 23 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway near Milton, thence along unnumbered highway through Cantril to the Iowa-Missouri State line, to points in Delaware. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by the Cedar Rapids Steel Transportation Co. pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E112), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products* and *commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act, in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in Iowa on, west, and south of a line beginning at the Iowa-Minnesota State line extending along Iowa Highway 4 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction Iowa Highway 117, thence along Iowa Highway 117 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 163, thence along Iowa Highway 163 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction Iowa Highway 2, thence along Iowa Highway 2 to junction unnumbered highway near Milton, thence along unnumbered highway through Cantril to the Iowa-Missouri State line, to points in that part of Delaware on, and south of a line beginning at the Delaware-Maryland State line extending along Delaware Highway 44 to junction Delaware Highway 8, thence along Delaware Highway 8 to the Delaware Bay. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Co., pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E113), 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: *Food products* and *commodities* exempt from economic regulation pursuant to the provisions of Section 203(b)(c) of the Interstate Commerce Act in mixed loads with food products, restricted to such commodities as are dealt in by retail, wholesale and chain grocery stores, from points in that part of Iowa on, west and south of a line beginning at the Minnesota-Iowa State line extending along Iowa Highway 4 to junction Iowa Highway 7, thence along Iowa Highway 7 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Iowa Highway 141, thence along Iowa Highway 141 to junction Iowa Highway 89, thence along Iowa Highway 89 to junction unnumbered highway, thence along unnumbered highway to junction U.S. Highway 69 at Huxley, thence along U.S. Highway 69 to junction Iowa Highway 5, thence along Iowa Highway 5 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction Iowa Highway 137, thence along Iowa Highway 137 to junction Iowa Highway 23, thence along Iowa Highway 23 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction unnumbered highway at Bloomfield, thence along unnumbered highway through Savannah to the Iowa-Missouri State line, to the District of Columbia. The purpose of this filing is to eliminate the gateway of the facilities of Ralston Purina Co., located at or near California, Mo.

NOTE.—The authorities mentioned above were purchased by Cedar Rapids Steel Transportation Co., pursuant to No. MC-F-10199.

No. MC 33093 (Sub-No. E14), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10012. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated, between points in Arkansas on and west of U.S. Highway 71, on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateways of Atoka, Choctaw, Haskell, Le Flore, Latimer, McCurtain, McIntosh, Pittsburg, and Pushmataha Counties, Okla.

No. MC 33093 (Sub-No. E32), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 25085, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated, between points in Oklahoma, on the one hand, and, on the other, Appling, Atkinson, Bacon, Baker, Ben Hill, Berrien, Brantley, Brooks, Bryan, Calhoun, Camden, Charlton, Chatham, Clinch, Coffee, Cook, Dougherty, Decatur, Early, Echols, Glynn, Grady, Irwin, Jeff Davis, Lanier, Liberty, Long, Lowndes, Miller, Mitchell, McIntosh, Pierce, Seminole, Tift, Thomas, Turner, Ware, Wayne, and Worth Counties, Ga. The purpose of this filing is to eliminate the gateways of Columbia County, Ark., and New Orleans, La.

No. MC 33093 (Sub-No. E34), filed May 16, 1974. Applicant: GRAY VAN LINES, INC., P.O. Box 2508, Oklahoma City, Okla. 73125. Applicant's representative: Robert Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, uncrated, between points in that part of Arkansas on and west of U.S. Highway 71, on the one hand, and, on the other, Appling, Atkinson, Bacon, Baker, Ben Hill, Berrien, Brantley, Brooks, Bryan, Calhoun, Camden, Charlton, Chatham, Clinch, Coffee, Cook, Dougherty, Decatur, Early, Echols Glynn, Grady, Irwin, Jeff Davis, Lanier, Liberty, Long, Lowndes, Miller, Mitchell, McIntosh, Pierce, Seminole, Tift, Thomas, Turner, Ware, Wayne, and Worth Counties, Ga. The purpose of this filing is to eliminate the gateways of Columbia County, Ark., and New Orleans, La.

No. MC 52579 (Sub-No. E8), filed May 24, 1974. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Fred L. Cardascia (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Garments*, on hangers, from points in Alabama, Georgia, and Florida to points in New Hampshire and Delaware and to Rochester, N.Y. The purpose of this filing is to eliminate the gateway of points in the New York, N.Y., commercial zone.

No. MC 52579 (Sub-No. E9), filed May 24, 1974. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: Fred L. Cardascia (same as above). Authority sought to operate as

a *common carrier*, by motor vehicle, over irregular routes, transporting: *Garments and wearing apparel*, on hangers, from Racine, Wis., to points in the United States (except New York, N.Y., Philadelphia, Pa., Vineland, N.J., points in Illinois north of U.S. Highway 30 which are west of U.S. Highway 51, points in Iowa east of U.S. Highway 218, and points in Minnesota, Wisconsin, and Upper Peninsula of Michigan). The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 52579 (Sub-No. E13), filed May 24, 1974. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: F. L. Cardascia (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Garments*, on hangers, restricted to the transportation of traffic which has had a prior movement by carrier from California, from points in California to points in Connecticut, Kentucky, Maine, Massachusetts, Minnesota, Missouri, New Hampshire, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 52579 (Sub-No. E15), filed May 22, 1974. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, N.J. 07094. Applicant's representative: F. L. Cardascia (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, on hangers, from Hails, Tenn., to points in New Hampshire. The purpose of this filing is to eliminate the gateway of points in the New York, N.Y., commercial zone.

No. MC 52704 (Sub-No. E1) (Correction), filed May 20, 1974, published in the FEDERAL REGISTER April 15, 1975. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer H, Lafayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles*, for beverages and food; (1) from points in Georgia on and south of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 78 to Atlanta, Ga., thence along Interstate Highway 85 to the Georgia-South Carolina State line to points in Arkansas; (3) from Athens, Ga., to points in Florida on and west of Florida Highway 65 and on and south of Florida Highway 84; (9) from points in Georgia to points in Texas (restricted against traffic moving from points in Georgia south of a line beginning at the Alabama-Georgia State line and extending along Georgia Highway 37 to junction Georgia Highway 33, thence along Georgia Highway 33 to the Georgia-Florida State line to points in Texas on and east of a line beginning at the Texas-Louisiana State line and extending along U.S. Highway 84 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Interstate Highway 45, thence along Interstate Highway 45 to the Gulf of Mexico); (11) from points in Alabama on and east of a line beginning at the Alabama-Georgia State line and extending along Alabama Highway 22 to junction U.S. Highway 431, thence along U.S. Highway 431 to the Florida-Alabama State line to points in Arkansas (except traffic from Dothan, Ala., is restricted to traffic moving to points in Arkansas north of U.S. Highway 82; (16) from points in Alabama on and east of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 78 to junction U.S. Highway 431, thence along U.S. Highway 431 to the Alabama-Florida State line to points in Louisiana (except points on and east of U.S. Highway 61 and points south of Interstate Highway 10 and except when from Dothan, Ala., restricted to traffic to points in Louisiana north of Interstate Highway 20 and to Shreveport, La. The purpose of this filing is to eliminate the gateway of Lafayette, Ala. The purpose of this partial correction is to: in (1), (3), and (9) above, to correct the territorial description; and in (14) to include the destination territories; and in (16) to include the destination territories and to include the exception. The remainder of this letter-notice remains as previously published.

No. MC 73165 (Sub-No. E109), filed October 8, 1974. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. Applicant's representative: Carl W. Hurst (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* described in (1) below (except pipe, pipeline material, machinery, equipment, and supplies incidental to and used in connection with the construction, dismantling, and repair of pipelines), the transportation of which because of size or weight require the use of special equipment; (1) *machinery, equipment, material*, and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials, supplies*, and *equipment* incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, mining and milling of lead, zinc, iron, coal, and other minerals, when any of the commodities described in this paragraph consist of the following: (a) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; (b) *machinery, equipment, materials, and supplies* used in, or in connection with, the drilling of water wells.

(c) *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline right-of-way, between points in that part of Montana on and east of a line beginning at the Montana-Wyoming State line near Alzada, Mont., and extending along U.S. Highway 212 to junction U.S. Highway 312, thence along U.S. Highway 312 to Miles City, Mont., thence along Montana Highway 22 to Jordan, Mont., thence northwesterly in a straight line to Malta, Mont., and thence along Montana Highway 242 to the United States-Canada Boundary line, points in that part of North Dakota on and west of a line beginning at the United States-Canada Boundary line and extending along North Dakota Highway 30 to junction unnumbered highway at Lehr, N. Dak., and thence along unnumbered highway to Ashley, N. Dak., and thence along North Dakota Highway 3 to the North Dakota-South Dakota State line, and points in South Dakota west of the Missouri River and on and north of U.S. Highway 14, on the one hand, and, on the other, all points in Tennessee and points in Kentucky on, west and south of a line beginning at Owensboro, Ky., and extending along U.S. Highway 231 to Bowling Green, Ky., thence along Kentucky Highway 80 to junction U.S. Highway 460 near Allen, Ky., and thence along U.S. Highway 460 to the Kentucky-Virginia State line. The purpose of this filing is to eliminate the gateways of Ottawa County, Okla., and Arkansas or Missouri points within 50 miles of Sikeston, Mo.

No. MC 95540 (Sub-No. E827) (Correction), filed November 29, 1974, published in the FEDERAL REGISTER May 12, 1975. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits, frozen berries, and frozen vegetables*, from Charlotte and Concord, N.C., to points in Connecticut, Delaware, Massachusetts, Rhode Island, New Jersey, points in that part of Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line, thence along U.S. Highway 22 to Reading, thence along Pennsylvania Highway 61 to junction Pennsylvania Highway 54, thence along Pennsylvania Highway 54 to Ashland, thence along Pennsylvania Highway 42 to junction Pennsylvania Highway 442, thence along Pennsylvania Highway 442 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Pennsylvania-New York State line, and points in that part of New York on and east of a line beginning at the Pennsyl-

vania-New York State line, thence along U.S. Highway 15 to Rochester, N.Y., thence along New York Highway 104 to junction New York Highway 19, thence along New York Highway 19 to Lake Ontario, and Manchester, N.H. The purpose of this filing is to eliminate the gateways of points in Virginia on the Del-Marva Peninsula (Cheriton, Va.). The purpose of this correction is to expand the destination areas and to correct the gateway.

No. MC 102567 (Sub-No. E64), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gases), 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 those points in Texas, Arkansas, and Louisiana, within 150 miles of Henderson, Tex., and north of a line beginning at the junction of U.S. Highway 80 and U.S. Highway 180, near Weatherford, Tex., and extending along U.S. Highway 80 to junction Interstate Highway 20, thence along Interstate Highway 20 to Port Arthur, Tex., to those points in Mississippi north of a line beginning at the Mississippi-Tennessee State line and extending along U.S. Highway 72 to junction Mississippi Highway 5, thence along Mississippi Highway 5 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Mississippi-Alabama State line. The purpose of this filing is to eliminate the gateways of points in that part of Louisiana north and west of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 84 to junction U.S. Highway 167, thence along U.S. Highway 167 to the Louisiana-Arkansas State line, and the site of the pipeline terminal of the Oklahoma-Mississippi River Products Line, Inc., at or near West Memphis, Ark.

No. MC 102567 (Sub-No. E65), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gases), 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 those points in Texas and Louisiana within 150 miles of Henderson, Tex., which are south and west of a line beginning at a point on Texas Highway 22 near Meridian, Tex., and extending along Texas Highway 22 to junction Texas Highway 31, thence along Texas Highway 31 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction U.S. Highway 171, thence along U.S. Highway 171 to junction Texas Highway 5, thence along Texas Highway 5 to junction Texas Highway 7, thence along Texas Highway 7 to junction U.S. Highway 96, thence along U.S. Highway 96 to junction Texas Highway 62, thence along Texas Highway 62 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction Texas Highway 87, thence along Texas Highway 87 to Port Arthur, Tex., to those points in Mississippi north and east of a line beginning at the Mississippi-Tennessee State line and extending along U.S. Highway 61 to junction Mississippi Highway 4, thence along Mississippi Highway 4 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction Mississippi Highway 6, thence along Mississippi Highway 6 to junction Mississippi Highway 14, thence along Mississippi Highway 14 to the Alabama-Mississippi State line. The purpose of this filing is to eliminate the gateways of points in that part of Louisiana north and west of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 84 to junction U.S. Highway 167, thence along U.S. Highway 167 to the Louisiana-Arkansas State line, and the site of the pipeline terminal of the Oklahoma-Mississippi River Products Line, Inc., at or near West Memphis, Ark.

No. MC 102567 (Sub-No. E66), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gases), 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 those points in Texas within 150 miles of Henderson, Tex., which are on and north of Interstate Highway 30, to those points in Mississippi on, north and east of a line beginning at the Mississippi-Tennessee State line and extending along U.S. Highway 61 to junction Mississippi Highway 4, thence along Mississippi Highway 4 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction Mississippi Highway 6, thence along Mississippi Highway 6 to the Mississippi-Alabama State line. The purpose of this filing is to eliminate the gateways of points in that part of Louisiana north and west of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 84 to junction U.S. Highway 167, thence along U.S. Highway 167 to the Louisiana-Arkansas State line, and the site of the pipeline terminal of the Oklahoma-Mississippi River Products Line, Inc., at or near West Memphis, Ark.

No. MC 102567 (Sub-No. E67), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Box Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gases), 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 Lake Charles, La., to those points in Missouri within 200 miles of Conway except those on and west of Missouri Highway 5. The purpose of this filing is to eliminate the gateways of points in that part of Louisiana north and west of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 84 to junction U.S. Highway 167, thence along U.S. Highway 167 to the Louisiana-Arkansas State line, and the site of the pipeline terminal of the Oklahoma-Mississippi River Products Line, Inc., at or near West Memphis, Ark.

No. MC 102567 (Sub-No. E68), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gases), 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 Destrehan, La., to those points in Missouri within 200 miles of Conway, Ark., which are bounded on the east by a line beginning at the Missouri-Iowa State line and extending along U.S. Highway 61 to junction Missouri Highway 161, thence along Missouri Highway 161 to junction Missouri Highway 19, thence along Missouri Highway 19 to junction Missouri Highway 49, thence along Missouri Highway 49 to junction Missouri Highway 32, thence along Missouri Highway 32 to junction Missouri Highway 72, thence along Missouri Highway 72 to junction Missouri Highway 19, thence along Missouri Highway 19 to the Arkansas-Missouri State line, and bounded on the west by Missouri Highway 5. The purpose of this filing is to eliminate the gateways of points in that part of Louisiana north and west of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 84 to junction U.S. Highway 167, thence along U.S. Highway 167 to the Louisiana-Arkansas State line, and the site of the pipeline terminal of the Oklahoma-Mississippi River Products Line, Inc., at or near West Memphis, Ark.

No. MC 102567 (Sub-No. E69), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gases), 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 those points in Louisiana north and west of a line beginning at the Louisiana-Arkansas State line and extending along Louisiana Highway 3

to junction Interstate Highway 20, thence along Interstate Highway 20 to the Louisiana-Texas State line, to those points in Mississippi north of U.S. Highway 78. The purpose of this filing is to eliminate the gateway of the site of the pipeline terminal of the Oklahoma-Mississippi River Products Line, Inc., at or near West Memphis, Ark.

No. MC 102567 (Sub-No. E70), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gases), 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 those points in Louisiana beginning at the Louisiana-Arkansas State line and extending along U.S. Highway 84 to junction U.S. Highway 167, thence along U.S. Highway 167 to the Arkansas-Louisiana State line, to those points in Missouri within 200 miles of Conway, Mo., except points on and west of Missouri Highway 5. The purpose of this filing is to eliminate the gateway of the site of the pipeline terminal of the Oklahoma-Mississippi River Products Line, Inc., at or near Conway, Ark.

No. MC 102567 (Sub-No. E71), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gases), 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 those points in Louisiana, Arkansas and within 150 miles of Henderson, Tex., which are south of a line beginning at Alexandria, La., and extending along U.S. Highway 71 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Texas Highway 155, thence along Texas Highway 155 to junction U.S. Highway 79, thence along U.S. Highway 79 to a point on U.S. Highway 79 within 150 miles of Henderson, Tex., near Rockdale, Tex., to those points in Arkansas north of a line beginning at the Arkansas-Oklahoma State line and extending along U.S. Highway 62 to junction Arkansas Highway 25, thence along Arkansas Highway 25 to junction Arkansas Highway 18, thence along Arkansas Highway 18 to junction Arkansas Highway 135, thence along Arkansas Highway 135 to junction Arkansas Highway 140, thence along Arkansas Highway 140 to the Arkansas-Tennessee State line. The purpose of this filing is to eliminate the gateways of points in that part of Louisiana north and west of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 84 to junction U.S. Highway 167, thence along U.S. Highway 167 to the Louisiana-Arkansas State line.

No. MC 102567 (Sub-No. E72), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such petroleum products, as are *liquid chemicals* (petrochemicals), in bulk, in tank vehicles, from those points in Texas within 150 miles of Henderson, Tex., which are south of a line beginning at Eddy, Tex., and extending along Texas Highway 7 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 190, thence along U.S. Highway 190 to the Texas-Louisiana State line, to those points in Tennessee east of a line beginning at the Tennessee-Kentucky State line and extending along Tennessee Highway 48 to junction Tennessee Highway 100, thence along Tennessee Highway 100 to junction Tennessee Highway 20, thence along U.S. Highway 43, thence along U.S. Highway 43 to the Alabama-Tennessee State line, those in Kentucky east of a line beginning at the Kentucky-Illinois State line and extending along Kentucky Highway 91 to junction U.S. Highway 41, thence along U.S. Highway 41 to the Kentucky-Tennessee State line, those in Indiana west of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 50 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction Indiana Highway 66, thence along Indiana Highway 66 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Indiana-Kentucky State line, and those points in Illinois north of a line beginning at the Illinois-Iowa State line and extending along Illinois Highway 30 to junction Illinois Highway 38, thence along Illinois Highway 38 to Lake Michigan. The purpose of this filing is to eliminate the gateway of the plant site of American Cyanamid Company at Avondale, La.

No. MC 102567 (Sub-No. E73), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such petroleum products, as are *dry chemicals*, in bulk, in tank vehicles, from those points in Texas within 150 miles of Henderson, Tex., which are south of a line beginning at Denton, Tex., and extending along Interstate Highway 35 to junction U.S. Highway 175, thence along U.S. Highway 175 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Texas Highway 63, thence along Texas Highway 63 to the Texas-Louisiana State line, to those points in Tennessee east of a line beginning at the Tennessee-Virginia State line and extending along U.S. Highway 23 to junction U.S. Highway 19, thence along U.S. Highway 19 to the North Carolina-Tennessee State line. The purpose of this filing is to eliminate the gateway of Baton Rouge, La.

No. MC 102567 (Sub-No. E74), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such petroleum products, as are *dry chemicals*, in bulk, in tank vehicles, from those points in Texas within 150 miles of Henderson, Tex., to those points in Mississippi south of a line beginning at the Mississippi-Louisiana State line and extending along Mississippi Highway 26 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Mississippi Highway 42, thence along Mississippi Highway 42 to junction Mississippi Highway 63, thence along Mississippi Highway 63 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Alabama-Mississippi State line. The purpose of this filing is to eliminate the gateway of Baton Rouge, La.

No. MC 102567 (Sub-No. E75), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (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 (except liquefied petroleum gas, anhydrous ammonia and asphalt), from those points in Texas, Louisiana and Arkansas within 150 miles of Henderson, Tex., which are south of a line beginning at the Louisiana-Oklahoma State line and extending along Louisiana Highway 24 to junction Louisiana Highway 4, thence along Louisiana Highway 4 to junction Louisiana Highway 19, thence along Louisiana Highway 19 to Alexandria, La., to those points in Tennessee north and east of a line beginning at the Tennessee-Kentucky State line and extending along U.S. Highway 51 to junction Tennessee Highway 22, thence along Tennessee Highway 22 to the Tennessee-Mississippi State line. The purpose of this filing is to eliminate the gateways of El Dorado, Ark., Cotton Valley, La., and Waskom and Mt. Pleasant, Tex.

No. MC 102567 (Sub-No. E76), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such petroleum products, as are *dry chemicals*, in bulk, in tank vehicles, from those points in Texas within 150 miles of Henderson, Tex., which are south of a line beginning at Ft. Worth, Tex., and extending along Interstate Highway 20 to junction U.S. Highway 175, thence along U.S. Highway 175 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 190, thence along U.S. Highway 190 to the

Texas-Louisiana State line, to those points in Mississippi south of a line beginning at the Louisiana-Mississippi State line and extending along Mississippi Highway 24 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Mississippi Highway 13, thence along Mississippi Highway 13 to junction Mississippi Highway 28, thence along Mississippi Highway 28 to junction Mississippi Highway 18, thence along Mississippi Highway 18 to the Alabama-Mississippi State line. The purpose of this filing is to eliminate the gateway of Baton Rouge, La.

No. MC 102567 (Sub-No. E77), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such petroleum products, as are *dry chemicals*, in bulk, in tank vehicles, from those points in Texas within 150 miles of Henderson, Tex., to those points in Georgia south of a line beginning at the Alabama-Georgia State line and extending along Georgia Highway 206 to junction Georgia Highway 22, thence along Georgia Highway 22 to junction Georgia Highway 14, thence along Georgia Highway 14 to junction U.S. Highway 78, thence along U.S. Highway 78 to the Georgia-South Carolina State line. The purpose of this filing is to eliminate the gateway of Baton Rouge, La.

No. MC 102567 (Sub-No. E78), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such petroleum products, as are *dry chemicals*, in bulk, in tank vehicles, from those points in Texas within 150 miles of Henderson, Tex., which are west of a line beginning at Gainesville, Tex., and extending along U.S. Highway 77 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction U.S. Highway 175, thence along U.S. Highway 175 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Texas Highway 63, thence along Texas Highway 63 to the Texas-Louisiana State line, to points in Georgia. The purpose of this filing is to eliminate the gateway of Baton Rouge, La.

No. MC 102567 (Sub-No. E79), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Such petroleum products, as are *dry chemicals*, in bulk, in tank vehicles, from those points in Texas within 150 miles of Henderson, Tex., to points in Florida. The purpose of this filing is to eliminate the gateway of Baton Rouge, La.

No. MC 102567 (Sub-No. E128), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (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 (except liquefied petroleum gases), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are south and east of a line beginning at Monroe, La., and extending along Louisiana Highway 2 to junction Louisiana Alternate Highway 2, thence along Louisiana Alternate Highway 2 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction Louisiana Alternate Highway 2, thence along Louisiana Alternate Highway 2 to junction Louisiana Highway 9, thence along Louisiana Highway 9 to junction Louisiana Highway 147, thence along Louisiana Highway 147 to junction U.S. Highway 167, thence along U.S. Highway 167 to Alexandria, La., to points in Oklahoma. The purpose of this filing is to eliminate the gateway of Cotton Valley, La., and points within 10 miles thereof.

No. MC 102567 (Sub-No. E129), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (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 (except liquefied petroleum gases), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are north, south, and west of a line beginning at Gainesville Tex., and extending along U.S. Highway 82 to junction Interstate Highway 30, thence along Interstate Highway 30 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 79, thence along U.S. Highway 79 to a point of U.S. Highway 79 near Rockdale, Tex., to points in Alabama. The purpose of this filing is to eliminate the gateway of Cotton Valley, La., and points within 10 miles of Cotton Valley.

No. MC 102567 (Sub-No. E130), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (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 (except liquefied petroleum gases), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are north and west of a line beginning at Mena, Ark., and extending along U.S. Highway 71 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction U.S. Highway 79, thence along U.S. Highway 79 to points in U.S. Highway 79 near Rockdale, Tex., to those points in Alabama south of a line beginning at the Mississippi-Alabama State line and extending along U.S. Highway 84 to junction Alabama Highway 17, thence along Alabama Highway 17 to junction Alabama Highway 10, thence along Alabama Highway 10 to junction Alabama Highway 69, thence along Alabama Highway 69 to junction Alabama Highway 28, thence along Alabama Highway 28 to junction Alabama Highway 22, thence along Alabama Highway 22 to junction Alabama Highway 49 to junction Alabama Highway 48, thence along Alabama Highway 48 to the Alabama-Georgia State line. The purpose of this filing is to eliminate the gateway of Cotton Valley, La., and points within 10 miles of Cotton Valley.

No. MC 102567 (Sub-No. E131), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (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 (except liquefied petroleum gases), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are west of a line beginning at Mena, Ark., and extending along U.S. Highway 59/71 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction Louisiana Highway 7, thence along Louisiana Highway 7 to junction Louisiana Highway 6, thence along Louisiana Highway 6 to junction Texas Highway 87, thence along Texas Highway 87 to Port Arthur, Tex., to points in Georgia. The purpose of this filing is to eliminate the gateway of Cotton Valley, La., and points within 10 miles of Cotton Valley.

No. MC 102567 (Sub-No. E132), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except liquefied petroleum gas), in bulk, in tank vehicles, from those points in Arkansas within 150 miles of Henderson, Tex., which are west of U.S. Highway 59/71, to points in Mississippi (except Washington and Warren Counties). The purpose of this filing is to eliminate the gateways of Henderson, Tex., and points in Louisiana and Texas within 150 miles of Henderson, Tex.

No. MC 102567 (Sub-No. E133), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357,

Bossier City, La. 71010. Applicant's representative: Joe Day (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 (except liquefied petroleum gases), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are east of a line beginning at a point of U.S. Highway 79 near Eagle Mills, Ark., and extending along U.S. Highway 79 to junction Louisiana Highway 7, thence along Louisiana Highway 7 to junction Louisiana Highway 6, thence along Louisiana Highway 6 to junction U.S. Highway 96, thence along U.S. Highway 96 to junction Texas Highway 87, thence along Texas Highway 87 to those points in Oklahoma north of a line beginning at the New Mexico-Oklahoma State line and extending along U.S. Highway 56/64 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 270, thence along U.S. Highway 270 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Oklahoma Highway 11, thence along Oklahoma Highway 11 to junction U.S. Highway 177, thence along U.S. Highway 177 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Oklahoma-Missouri State line. The purpose of this filing is to eliminate the gateway of Cotton Valley, La., and points within 10 miles of Cotton Valley.

No. MC 102567 (Sub-No. E134), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative Joe Day (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 (except liquefied petroleum gases), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are east of a line beginning at Calion, Ark., and extending along Arkansas Highway 15 to junction U.S. Highway 82, thence along U.S. Highway 82 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction Louisiana Highway 5, thence along Louisiana Highway 5 to junction U.S. Highway 59, thence along U.S. Highway 59 to Houston, Tex., to those points in Oklahoma north of U.S. Highway 56/64. The purpose of this filing is to eliminate the gateway of Cotton Valley, La., and points within 10 miles of Cotton Valley.

No. MC 102567 (Sub-No. E135), filed June 3, 1974. Applicant: McNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (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 (except liquefied petroleum gases), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are east of a line beginning at Calion, Ark., and extending along Arkansas Highway 15 to junction Louisiana Alternate Highway 2, thence along Louisiana Alternate Highway 2 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction Interstate Highway 20, thence along Interstate Highway 20 to junction U.S. Highway 171, thence along U.S. Highway 171 to junction Louisiana Highway 5, thence along Louisiana Highway 5 to junction U.S. Highway 59, thence along U.S. Highway 59 to Houston, Tex., to those points in Oklahoma north and west of a line beginning at the Arkansas-Oklahoma State line and extending along Oklahoma Highway 3 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 271, thence along U.S. Highway 271 to the Texas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Cotton Valley, La., and points within 10 miles of Cotton Valley.

No. MC 102567 (Sub-No. E136), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe Day (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 (except liquefied petroleum gases), from those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are east of a line beginning at Calion, Ark., and extending along Arkansas Highway 15 to junction Louisiana Alternate Highway 2, thence along Louisiana Alternate Highway 2 to junction Louisiana Highway 3, thence along Louisiana Highway 3 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction U.S. Highway 59, thence along U.S. Highway 59 to Houston, Tex., to those points in Oklahoma west of a line beginning at the Arkansas-Oklahoma State line and extending along U.S. Highway 59/270 to junction Oklahoma Highway 1, thence along Oklahoma Highway 1 to junction Oklahoma Highway 144, thence along Oklahoma Highway 144 to junction U.S. Highway 271, thence along U.S. Highway 271 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction Oklahoma Highway 78, thence along Oklahoma Highway 78 to the Texas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Cotton Valley, La., and points within 10 miles of Cotton Valley.

No. MC 107456 (Sub-No. E5), filed May 31, 1974. Applicant: HARRY L. YOUNG AND SONS, INC., 542 West Sixth South, Salt Lake City, Utah 84104. Applicant's representative: Lon Rodney Kump, 200 Law Bldg. 333 East Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* the transportation of which because of size or weight requires the use of special equipment, and (2) *self-propelled vehicles*, each weighing 15,000 pounds or more (except motor vehicles and vehicles moving in driveaway service), and *related machinery, tools, parts*, and *supplies* moving in connection therewith, (a) between all points in Arizona (except points in Yuma County), on the one hand, and, on the other, all points in Elko County, Nev., and (b) between all points in Mohave, Coconino, Navajo, and Apache Counties, Ariz., on the one hand, and, on the other, points in Humboldt and Elko Counties, Nev. The purpose of this filing is to eliminate the gateway of Salt Lake City, Utah.

No. MC 107456 (Sub-No. E6), filed May 31, 1974. Applicant: HARRY L. YOUNG & SONS, INC., 542 West Sixth South, Salt Lake City, Utah 84104. Applicants' representative: Lon Rodney Kump, 200 Law Bldg. 333 East Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* the transportation of which because of size or weight requires the use of special equipment, and (2) *self-propelled vehicles*, each weighing 15,000 pounds or more (except motor vehicles and vehicles moving in driveaway service), and *related machinery, tools, parts and supplies* moving in connection therewith, between (1) all points in California south of the northern boundary lines of San Luis Obispo, Kern and San Bernardino Counties, on the one hand, and, on the other, all points in Idaho east of the western boundary line of Twin Falls, Gooding, Camas, Custer and Lemhi Counties; (2) between San Bernardino, Los Angeles, Orange, Riverside, San Diego, and Imperial Counties, Calif., on the one hand, and, on the other, all points in Idaho; (3) between San Bernardino, Los Angeles, Ventura, Santa Barbara, Orange, Riverside, San Diego, and Imperial Counties, Calif., on the one hand, and, on the other, all points in Idaho (except Ada County), and (4) between all points in California (except points in Modoc and Siskiyou Counties), on the one hand, and, on the other, all points in Idaho east of the western boundary line of Lemhi, Custer, Blaine, Minidoka, Power and Oneida Counties. The purpose of this filing is to eliminate the gateway of Salt Lake City, Utah.

No. MC 107456 (Sub-No. E9), filed May 31, 1974. Applicant: HARRY L. YOUNG & SONS, INC., 542 West Sixth South, Salt Lake City, Utah 84104. Applicant's representative: Lon Rodney Kump, 200 Law Bldg. 333 East Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*

the transportation of which because of size or weight requires the use of special equipment, and (2) *self-propelled vehicles*, each weighing 15,000 pounds or more (except motor vehicles and vehicles moving in driveaway service), and *related machinery, tools, parts, and supplies* moving in connection therewith, between all points in California, on the one hand, and, on the other, all points in Montana (except between points in California north of the southern boundary lines of Sierra, Yuba, Sutter, Colusa, Lake and Mendocino Counties, Calif., on the one hand, and, on the other, points in Lewis and Clark, Flat Road, Cascade, Glacier, Toole, Pondera, Teton, Liberty, Chouteau and Hill Counties, Mont.). The purpose of this filing is to eliminate the gateway of Salt Lake City, Utah.

No. MC 107456 (Sub-No. E15), filed May 31, 1974. Applicant: HARRY L. YOUNG & SONS, INC., 542 West Sixth South, Salt Lake City, Utah 84104. Applicant's representative: Lon Rodney Kump, 200 Law Bldg. 333 East Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Commodities* the transportation of which because of size and weight requires the use of special equipment; and (b) *machinery, parts and contractors' materials and supplies*, in mixed loads with the commodities in (1)(a) above; (2) *general commodities* (except motor vehicles, motor vehicle cabs and bodies, and Classes A and B explosives), in mixed loads with the commodities in (1)(a) above, restricted to movement under a single bill of lading and from a single consignor; (3)(a) *self-propelled vehicles* weighing 15,000 pounds or more (except motor vehicles as defined in Section 203(a)(15) of the Interstate Commerce Act, and vehicles moving in driveaway service), and (b) *machinery, tools, and parts of self-propelled vehicles* as described in (3)(a) above in mixed loads with self-propelled vehicles in (3)(a) above between all points in Oregon (except points in Curry, Josephine and Jackson Counties), on the one hand, and, on the other, all points in Arizona—eliminating the gateway of any point on the Utah State line. The purpose of this filing is to eliminate the gateway of Utah.

No. MC 107456 (Sub-No. E18), filed May 31, 1974. Applicant: HARRY L. YOUNG & SONS, INC., 542 West Sixth Street, Salt Lake City, Utah 84104. Applicant's representative: Lon Rodney Kump, 200 Law Bldg., 333 East Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Commodities* the transportation of which because of size and weight requires the use of special equipment; and (b) *machinery parts and contractors' materials and supplies*, in mixed loads with the commodities in (1)(a) above; (2) *general commodities* (except motor vehicles, motor vehicle cabs and bodies, and Classes A and B explosives), in mixed loads with the commodities in (1)(a) above, restricted to movement under a single bill of lading and from a single consignor; (3)(a) *self-propelled vehicles* weighing 15,000 pounds or more (except motor vehicles as defined in Section 203(a)(15) of the Interstate Commerce Act, and vehicles moving in driveaway service), and (b) *machinery, tools, and parts of self-propelled vehicles* as described in (3)(a) above in mixed loads with self-propelled vehicles in (3)(a) above (a) between Bishop, Calif., on the one hand, and, on the other, all points in Washington east of the eastern boundaries of Klickitat, Yakima, Kittitas, King, Snohomish, Skagit and Whatcom Counties; (b) between points in Imperial County, Calif., and Blythe and Needles, Calif., on the one hand, and, on the other, all points in Washington; (c) between all points in San Diego County, Calif., on the one hand, and, on the other, all points in Oregon north of the southern boundaries of Clatsop, Washington, Clackamas, Wasco, Wheeler, Harney and Malheur Counties, on the one hand, and, on the other, all points in Imperial County, Calif., and (d) between all points in Oregon east of the eastern boundaries of Harney, Grant and Umatilla Counties, on the one hand, and, on the other, all points in California south of the southern boundary line of San Luis Obispo, Kern and Inyo Counties. The purpose of this filing is to eliminate the gateway of Utah.

No. MC 107456 (Sub-No. E19), filed May 31, 1974. Applicant: HARRY L. YOUNG & SONS, INC., 542 West Sixth South, Salt Lake City, Utah 84104. Applicant's representative: Lon Rodney Kump, 200 Law Bldg., 333 East Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *commodities* the transportation of which because of size or weight requires the use of special equipment; and (b) *machinery parts and contractors' materials and supplies*, in mixed loads with the commodities in (1)(a) above; (2) *general commodities* (except motor vehicles, motor vehicle cabs and bodies, and Classes A and B explosives), in mixed loads with the commodities in (1)(a) above, restricted to movement under a single bill of lading and from a single consignor; (3)(a) *self-propelled vehicles* weighing 15,000 pounds or more (except motor vehicles as defined in Section 203(a)(15) of the Interstate Commerce Act, and vehicles moving in driveaway service), and (b) *machinery, tools, and parts of self-propelled vehicles* as described in (3)(a) above in mixed loads with self-propelled vehicles in (3)(a) above between all points in Santa Ana County, Calif., on the one hand, and, on the other, all points in Washington east of the eastern boundaries of Klickitat, Yakima, Kittitas, King and Snohomish Counties and north of the northern boundary line of Snohomish County; (e) between all points in Los Angeles County, Calif., on the one hand, and, on the other, all points in Washington east of the eastern boundary lines of Klickitat, Yakima, Kittitas, King, Snohomish, Skagit and Whatcom Counties; (f) between all points in Riverside and San Bernardino Counties, Calif., on the one hand, and, on the other, all points in Washington east of the eastern boundary lines of Clark, Cowlitz, Lewis, and Pierce Counties and north of the northern boundary lines of Pierce, Thurston and Grays Harbor Counties; (g) between all points in Ventura County, Calif., on the one hand, and, on the other, all points in Washington east of the eastern boundary lines of Benton, Yakima, Kittitas, Chelan, and Okanogan Counties; (h) between all points in Santa Barbara County, Calif., on the one hand, and, on the other, all points in Washington east of the eastern boundary lines of Benton, Franklin, Adams, Grant and Okanogan Counties; and (i) between all points in Kern County, Calif., on the one hand, and, on the other, all points in Ferry County, Wash. The purpose of this filing is to eliminate the gateway of Utah.

No. MC 107515 (Sub-No. E554), filed January 27, 1975. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 33050. Applicant's representative: R. M. Tettlebaum, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, from the plant site of Broughton Foods Company at Charleston, W. Va., to points in Arizona, Oregon, California, Washington, Idaho, Utah, Wyoming, Colorado, Nevada, and New Mexico, restricted against the transportation of frozen meats from Nashville to Hillsboro, Oreg., and restricted against transportation of frozen citrus products from points in Florida to points in Colorado, Idaho, Montana, and Wyoming; and (2) *Cheese*, in vehicles equipped with mechanical refrigeration, from the origin specified above, to California, Oregon, and Washington. Parts (1) and (2) are both restricted to the transportation of traffic originating at the named plant site of Broughton Foods Company at Charleston, W. Va. The purpose of this filing is to eliminate the gateway of Woodbury, Tenn.

No. MC 109478 (Sub-No. E2), (Correction), filed May 15, 1974, published in the FEDERAL REGISTER January 16, 1975. Applicant: WORSTER MOTOR LINES, INC., Gay Road, P.O. Box 110, North

East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth Street, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, other than frozen or in bulk, in tank vehicles, from all points in New York on and west of a line extending from Ogdensburg, N.Y., southeast along New York Highway 68 to intersection with New York Highway 56, thence along New York Highway 56 to intersection with New York Highway 3, thence along New York Highway 3 to intersection with New York Highway 30, thence along New York Highway 30 to intersection with New York Highway 17, thence along New York Highway 17 to intersection unnumbered highway at Cadosia, N.Y., and thence southwest along such unnumbered highway through Hancock to the New York-Pennsylvania State line to points in Florida. The purpose of this filing is to eliminate the gateways of Hamlin, Holley, and Williamson, N.Y. The purpose of this correction is to clarify the territorial destination points.

No. MC 109478 (Sub No. E9), (Correction), filed May 15, 1974, published in the FEDERAL REGISTER, February 12, 1975. Applicant: WORSTER MOTOR LINES, INC., Gay Road, P.O. Box 110, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth Street, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Preserved food products*, other than frozen or in bulk, in tank vehicles, in vehicles equipped with mechanical refrigeration, from Boston and Waban, Mass., and Philadelphia, Pa., to points in Indiana; and (2) *grape juice, tomato juice, honey, jams, jellies and preserves, and frozen fruits, frozen fruit juices and frozen tomato juice*, from Boston and Waban, Mass., and Philadelphia, Pa., to points in Illinois and Indiana. The purpose of this filing is to eliminate the gateways of (1) that part of Genesee and Monroe Counties, N.Y., that is within 50 miles of LeRoy, N.Y., that part of Chautauqua County, N.Y., within 5 miles of the shore of Lake Erie, and Erie County,, Pa., and (2) Brocton, N.Y. The purpose of this correction is to change the commodity, territorial and gateway descriptions.

No. MC 109478 (Sub-No. E27), filed May 15, 1974. Applicant: WORSTER MOTOR LINES, INC., Gay Road, P.O. Box 110, North East, Pa. 16428. Applicant's representative: Joseph F. Mackrell, 23 W. Tenth Street, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juice and fruit juice concentrates*, in bulk, in tank vehicles, from Geneva, Ohio, Lower Peninsula of Michigan, points in New York and points in Pennsylvania (except points in Berks, Bucks, Carbon, Chester, Delaware, Lancaster, Lehigh, Monroe, Montgomery, Northampton, Pike and Wayne Counties), to Lake Wales, Fla. The purpose of this filing is to eliminate the gateway of Westfield, N.Y., and North East, Pa.

No. MC 109478 (Sub-No. E28), filed May 15, 1974. Applicant: WORSTER MOTOR LINES, INC., Gay Road, P.O. Box 110, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth St., Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grape juice*, in bulk, in tank vehicles, from Geneva, Ohio, Erie County, Pa., and points in New York on and west of a line beginning at Lake Ontario extending along N.Y. Highway 48 to junction Interstate Highway 481, thence along Interstate Highway 481 to junction Interstate Highway 81, thence along Interstate Highway 81 to the New York-Pennsylvania State line, to Birmingham, Ala. The purpose of this filing is to eliminate the gateway of Fredonia, N.Y.

No. MC 109478 (Sub-No. E29), filed May 15, 1974. Applicant: WORSTER MOTOR LINES, INC., Gay Road, P.O. Box 110, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth St., Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grape juice*, in bulk, in tank vehicles, from Geneva, Ohio, Erie County, Pa., points in the Lower Peninsula of Michigan, and points in that part of New York on and west of a line beginning at Buffalo extending along New York Highway 16 to the New York-Pennsylvania State line, to Front Royal, Va. The purpose of this filing is to eliminate the gateway of Westfield, N.Y.

No. MC 109478 (Sub-No. E52), filed May 15, 1974. Applicant: WORSTER MOTOR LINES, INC., Gay Road, P.O. Box 110, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth St., Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass and tin containers* for preserved fruits and vegetables and canned or frozen fruit and vegetable juices, from points in New Jersey, Pennsylvania, and Baltimore, Md., to Erie and Chautauqua Counties, N.Y., and Erie County, Pa. The purpose of this filing is to eliminate the gateways of Brocton and Westfield, N.Y., and North East, Pa.

No. MC 109478 (Sub-No. E54), filed May 15, 1974. Applicant: WORSTER MOTOR LINES, INC., Gay Road, P.O. Box 110, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth St., Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Preserved food products*, other than frozen or in bulk, in tank vehicles, from points in Erie, Genessee and Niagara Counties, N.Y., that are within 50 miles of LeRoy, N.Y., to points in Delaware, Maryland, that part of Pennsylvania on and east of Interstate Highway 81, and the District of Columbia; and (2) *Preserved fruits and vegetables* and *fruit and vegetable juices*, other than frozen or in bulk in tank vehicles, from points in Erie and Chautauqua Counties, N.Y., to points in Delaware, Maryland, West Virginia and the District of Columbia. The purpose of this filing is to eliminate the gateways of (1) that part of Chautauqua County N.Y., that is within 5 miles of the Shore of Lake Erie, and (2) North East, Pa.

No. MC 109478 (Sub-No. E55), filed March 20, 1975. Applicant: WORSTER MOTOR LINES, INC., P.O. Box 110, North East, Pa. 16428. Applicant's representative: William J. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, in containers, from Trenton, N.J., to points in Allegany, Cattaraugus, Chautauqua, Erie, Livingston, Steuben and Wyoming Counties, N.Y., and points in that part of Genesee County, N.Y., on and south of New York Highway 5; and (2) *Empty malt beverage containers*, from points in Allegany, Cattaraugus, Chautauqua, Erie, Livingston, Steuben and Wyoming Counties, N.Y., and points in that part of Genesee County, N.Y., on and south of New York Highway 5, to Trenton, N.J. The purpose of this filing is to eliminate the gateway of Bradford, Pa.

No. MC 109478 (Sub-No. E56), filed March 20, 1975. Applicant: WORSTER MOTOR LINES, INC., P.O. Box 110, North East, Pa. 16428. Applicant's representative: William J. Taylor (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, in containers, from New York, N.Y., to points in Allegany, Cattaraugus, Chautauqua, Erie, Livingston, Steuben and Wyoming Counties, N.Y., and points in that part of Genesee County, N.Y., on and south of New York Highway 5; and (2) *Empty used malt-beverage containers*, from points in Allegany, Cattaraugus, Chautauqua, Erie, Livingston, Steuben and Wyoming Counties, N.Y., and points in that part of Genesee County, N.Y., on and south of New York Highway 5 to New York, N.Y. The purpose of this filing is to eliminate the gateway of McKean County, Pa.

No. MC 111401 (Sub-No. E19), filed May 12, 1974. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank and hopper-type vehicles, from points in that part of Oklahoma on and south of a line beginning at the Texas-Oklahoma State line extending along US Highway 62 to junction Oklahoma Highway 7, thence along Oklahoma Highway 7 to junction US Highway 271, thence along US Highway 271 to the Oklahoma-Texas State line, to points

in the United States on, south and east of a line beginning at the Gulf of Mexico extending along the Louisiana-Texas State line to junction Interstate Highway 20, thence along Interstate Highway 20 to junction Interstate Highway 59 near Meridian, Misd., thence along Interstate Highway 59 to junction Interstate Highway 75 at Chattanooga, Tenn., thence along Interstate Highway 75 to the Ohio-Michigan State line, thence along the Ohio-Michigan State line to Maumee Bay, near Toledo, Ohio. The purpose of this filing is to eliminate the gateway of Longview, Tex.

No. MC 113908 (Sub-No. E104), filed June 4, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180, Glen Stone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer*, in bulk, in tank vehicles, from Nebraska City, Nebr., to points in Yuma County, Ariz., points in that part of New Mexico south and east of a line beginning at the Texas-New Mexico State line, thence along U.S. Highway 82 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction New Mexico Highway 11, thence along New Mexico Highway 11 to the United States-Mexico International Boundary line near Columbus, points in that part of Texas south and east of a line beginning at the Mexico-United States International Boundary line and extending along U.S. Highway 81 to junction Texas Highway 34, thence along Texas Highway 34 to junction Interstate Highway 30. The purpose of this filing is to eliminate the gateways of Verona, Mo., for Arkansas points and Springfield, Mo., for all other points.

No. MC 113908 (Sub-No. E182), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from St. Paul, Minn., to points in California, with no transportation for compensation on return (except as otherwise authorized). The purpose of this filing is to eliminate the gateway of Kansas City, Mo.

No. MC 113908 (Sub-No. E294), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Bailey, Belding and Fremont, Mich., to points in Colorado, Oklahoma, and Texas (except those points south and east of a line extending from the Louisiana-Texas State line and extending along U.S. Highway 190 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Texas Highway 113, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Wichita, Kans.

No. MC 113908 (Sub-No. E326), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar* and *vinegar stock*, in bulk, in tank vehicles, from points in California in and south of Monterey, San Benito, Fresno, Tulare, and Inyo Counties, to St. Paul, Minn., Fremont, Bailey, and Belding, Mich., Lyndonville and North Rose, N.Y., Chicago, Ill., Rogers, Ark., Memphis, Tenn., and Charlotte, N.C., with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Kansas City, Mo.

No. MC 113908 (Sub-No. E329), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar* and *vinegar stock*, in bulk, in tank vehicles, from Chicago, Ill., to points in New York, Pennsylvania, Maryland, and Delaware, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Belding, Mich.

No. MC 113908 (Sub-No. E333), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180-Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Wenatchee and Yakima, Wash., to those points in South Carolina on and east of a line beginning at the North Carolina-South Carolina State line and extending along Interstate Highway 95 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 521 to the Atlantic Coast, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 113908 (Sub-No. E412), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180-Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from North Rose, N.Y., to points in Arkansas on and west of U.S. Highway 71, and Oklahoma, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Memphis, Tenn., or Marionville, Mo.

No. MC 113908 (Sub-No. E413), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180-Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Rogers, Ark., to points in Colorado and Nebraska (except those east of U.S. Highway 81), with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Nixa, Mo., and Wichita, Kans.

No. MC 113908 (Sub-No. E414), filed December 15, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180-Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from New York, N.Y., to points in Missouri south and east of Missouri Highway 96 and U.S. Highway 71, and Texas east of U.S. Highway 259 and U.S. Highway 69, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Memphis, Tenn., or Rogers, Ark.

No. MC 113908 (Sub-No. E425), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180-Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from North Rose, N.Y., to points in Texas, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Memphis, Tenn., or Rogers, Ark.

No. MC 113908 (Sub-No. E426), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORPORATION, P.O. Box 3180-Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Belding, Mich., to points in Texas except those east of U.S. Highway 75 and Interstate Highway 45, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate

the gateway of Memphis, Tenn., or Nixa, Mo.

No. MC 113908 (Sub-No. E427), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Dallas, Tex., to points in New York, those in Pennsylvania north of Interstate Highway 76 and Interstate Highway 70, and those in Delaware north of Delaware Highway 72, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Chicago, Ill., and Belding, Mich.

No. MC 113908 (Sub-No. E428), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: John E. Jandera, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar*, in bulk, in tank vehicles, from Belding, Mich., to points in California with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways of Nixa, Mo., and Rogers, Ark.

No. MC 115322 (Sub-No. E193) (Correction), filed January 27, 1975, published in the FEDERAL REGISTER, April 30, 1975. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, Fla. 32809. Applicant's representative: James Wilson, 13th and Pennsylvania Ave. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen grape concentrate*, from Westfield, N.Y., to Cornelia, Ga. The purpose of this filing is to eliminate the gateway of Winchester, Va. The purpose of this correction is to correct the origin area.

No. MC 115841 (Sub-No. E132), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representaative: E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except frozen fruits, frozen berries, and frozen vegetables), and *frozen fruits, frozen berries, and frozen vegetables*, when moving in mixed loads with frozen foods, in vehicles equipped with mechanical refrigeration, from Cleveland, Ohio, to points in Arkansas, Mississippi, Oklahoma, and Texas, and points in California on and south of a line extending along Interstate Highway 40 from the Nevada-California State line at Barstow, thence along California Highway 58 to Bakersfield, thence along California Highway 99 to junction California Highway 152 (3 miles south of Chowchilla), and thence along California Highway 152 to the Pacific Ocean. The purpose of this filing is to eliminate the gateways of Birmingham, Ala., and Memphis and Nashville, Tenn.

No. MC 115841 (Sub-No. E147), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except frozen fruits, frozen berries, and frozen vegetables), and *frozen fruits, frozen berries, and frozen vegetables* when moving in mixed loads with frozen foods, in vehicles equipped with mechanical refrigeration, from Atlanta, Ga., to points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateways of Birmingham, Ala., and Memphis, Tenn.

No. MC 115841 (Sub-No. E150), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except frozen fruits, vegetables, and berries), from Atlanta, Ga., to points in Iowa, Missouri, and points in Kansas and Nebraska on and east of U.S. Highway 81. The purpose of this filing is to eliminate the gateways of Chattanooga and Nashville, Tenn.

No. MC 117344 (Sub-No. E15), filed May 25, 1974. Applicant: THE MAXWELL CO., 10380 Evandale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar chemicals*, in bulk, in tank vehicles, from Hamilton and Middletown, Ohio, to Jefferson County, Ky., and points in Wisconsin. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio, and Jackson County, Ind.

No. MC 119777 (Sub-No. E57), filed April 23, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Jean Holmes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Lumber, wirebound boxes and pallets*, (1) from points in Alabama, to points in Idaho, Montana, Oregon, Washington, and Wyoming; (2) from points in Connecticut, to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington; (3) from points in Delaware, to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; (4) from points in Florida, to points in Idaho, Montana, Oregon, Utah, Washington, and Wyoming; (5) from points in Georgia, to points in California, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming; (6) from points in Maine, to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington; (7) from points in Maryland, to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah and Washington; (8) from points in Massachusetts, to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington; (9) from points in Mississippi to points in Washington; (10) from points in New Hampshire to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington; (11) from points in New Jersey to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah and Washington.

(12) From points in New York to points in Arizona, California, Nevada, New Mexico, Oregon, Utah, and Washington; (13) from points in North Carolina, to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; (14) from points in Ohio, to points in Arizona, California, New Mexico, and Oregon; (15) from points in Pennsylvania to points in Arizona, California, Nevada, New Mexico, Oregon, Utah, and Washington; (16) from points in Rhode Island to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; (17) from points in South Carolina to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; (18) from points in Tennessee, to points in Idaho, Oregon, and Washington; (19) from points in Vermont to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington; (20) from points in Virginia to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; and (21) from points in West Virginia to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah and Washington. The purpose of this filing is to eliminate the gateways of Muhlenberg County, and Logan County, Ky., and Karnak, Ill.

No. MC 126593 (Sub-No. E2), filed May 27, 1974. Applicant: TRANSPORT VAN LINES, INC., 2105 Wall Avenue, Ogden, Utah 84401. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Pine Bluffs, Wyo., and points within 30 miles thereof, on the one hand, and, on the other, points in Kansas in and east of Barber, Pratt, Stafford, Barton, Russell,

Lincoln, Mitchell, and Jewell Counties. The purpose of this filing is to eliminate the gateway of Nelson, Nebr., and points within 15 miles thereof.

No. MC 126904 (Sub-No. E1), filed April 25, 1974. Applicant: H. C. PARRISH TRUCK SERVICE, INC., Suite 1400–11 South Meramec Ave., St. Louis, Mo. 63105. Applicant's representative: B. W. LaTourette (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete products* (except commodities which because of size or weight require special equipment or special handling), from Pacific, Mo., to points in Louisiana, Georgia, Alabama, Florida, Arkansas, Kentucky, Tennessee, and Mississippi. The purpose of this filing is to eliminate the gateway of Centralia, Ill.

No. MC 127253 (Sub-No. E2), filed December 2, 1974. Applicant: R. A. CORBETT TRANSPORT, INC., P.O. Box 728, Waskom, Tex. 75692. Applicant's representative: Kenneth Sitton (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, in bulk, in tank vehicles, from points in that part of Texas on and north of a line beginning at the Texas-Louisiana State line extending along U.S. Highway 84 to Palestine, thence along Texas Highway 19 to junction Interstate Highway 20, thence along Interstate Highway 20 to El Paso (except from those points in a section of Texas bordered on the west by U.S. Highway 271 and on the south by Interstate Highway 20 to points in Louisiana north of Interstate Highway 20 and from a section in Texas bordered on the west by U.S. Highway 259 and on the north by Interstate Highway 20 to points in Louisiana south of Interstate Highway 20 and west of U.S. Highway 165 to points in Louisiana; (Waskom, Tex.)* (2) *Petroleum products*, in bulk, in tank vehicles, from points in that part of Texas on and south of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 84 to Palestine, thence along Texas Highway 19 to junction Interstate Highway 20, thence along Interstate Highway 20 to El Paso (except from points in a section of Texas bordered on the west by U.S. Highway 96 and on the north by Interstate Highway 20 to points in Louisiana south of Interstate Highway 20), to points in Louisiana on and north of U.S. Highway 84; (Waskom, Tex.)* (3) *Petroleum products*, in bulk, in tank vehicles, from points in that part of Texas on and south of a line begining at the Texas-Louisiana State line and extending along Interstate Highway 20 to Marshall, thence along U.S. Highway 59 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Interstate Highway 20, thence along Interstate Highway 20 to the New Mexico-Texas State line to points in that part of Arkansas on, south, and west of a line beginning at the Louisiana-Arkansas State line and extending along U.S. Highway 79 to Magnolia, Ark., thence along U.S. Highway 82 to Texarkana, Ark., thence along U.S. Highway 59–71 to DeQueen, Ark., and thence along U.S. Highway 70 to the Arkansas-Oklahoma State line, and points in Arkansas on U.S. Highway 67 between Texarkana and Prescott, (Waskom, Tex., and Superior, La.)*;

(4) *Petroleum products*, in bulk, in tank vehicles, from Waskom and Jefferson, Tex., to points in that part of Arkansas on, south, and west of a line beginning at the Louisiana-Arkansas State line and extending along U.S. Highway 79 to Magnolia, thence along U.S. Highway 82 to Texarkana, thence along U.S. Highway 59–71 to Prescott, thence along Arkansas Highway 24 to Lockesburg, thence along U.S. Highway 59–71 to DeQueen, and thence along U.S. Highway 70 to the Arkansas-Oklahoma State line (except from Jefferson, Tex., to those points in Arkansas north of U.S. Highway 67) (Superior)*; (5) *Petroleum products*, in bulk, in tank vehicles, from Shreveport and Bossier City, La., to points in Texas (Waskom, Tex.)*; (6) *Anhydrous ammonia*, in bulk, in tank vehicles, from El Dorado, Ark., to points in Texas (except those points in Texas bounded on the south by Interstate Highway 20 and the west by U.S. Highway 183) (Shreveport, La., and Waskom, Tex.)*; (7) *Liquid fertilizer solutions*, in bulk, in tank vehicles, from Monroe, La., to points in Texas west of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 277 to Del Rio, Tex., thence along unnumbered Highway to the International Boundary line between the United States and Mexico (Waskom, Tex.)*; and (8) *Petroleum products*, in bulk, in tank vehicles, from points in Orange, and Jefferson Counties, Tex., to points in that part of Louisiana on, north, and west of a line beginning at the Texas-Louisiana State line and extending along Interstate Highway 20 to Ruston, thence along U.S. Highway 167 to the Louisiana-Arkansas State line (Waskom, Tex.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 127524 (Sub-No. E1), filed May 3, 1974. Applicant: QUADREL BROS. TRUCKING COMPANY, INC., 1603 Hart Street, Rahway, N.J. 07065. Applicant's representative: Edward M. Alfano (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk (except liquefied petroleum gas), (1) from points in Essex, Hudson, Union Counties, N.J., and points in Middlesex County, north of the Raritan River, to points in Suffolk, Putnam, Sullivan, Greene, Columbia, and Ulster Counties, N.Y., and points in New Haven, Litchfield, Hartford, and Middlesex Counties, Conn., (2) from points in Bergen, Hudson, and Passaic Counties, N.J., to points in Wayne, Lackawanna, Wyoming, Luzerne, Carbon, Monroe, Northampton, Lehigh, Bucks, Berks, Montgomery, Chester, Philadelphia, Schuylkill, Delaware, York, Lancaster, Dauphin, and Lebanon Counties, Pa., (3) from points in Hudson County, N.J., to points in New Jersey (except points in Bergen, Essex, Hudson, Passaic, Union and Middlesex Counties), (4) from New York, N.Y., to points in Columbia, Greene, Sullivan and Ulster Counties, N.Y.; points in Hartford, Litchfield, Middlesex and New Haven Counties, Conn., and points in Wayne, Lackawanna, Wyoming, Luzerne, Carbon, Monroe, Northampton, Lehigh, Bucks, Berks, Montgomery, Chester, Philadelphia, Schuylkill, Delaware, York, Lancaster, Dauphin, and Lebanon Counties, Pa., (5) from Philadelphia and Marcus Hook, Pa., and Claymont, Del., to points in Suffolk, Putnam, Sullivan, Greene, Columbia and Ulster Counties, N.Y., and points in Fairfield, New Haven, Litchfield, Hartford and Middlesex Counties, Conn. The purpose of this filing is to eliminate the gateway of the Flexi-Flo Terminal of Penn Central Transportation Company, at North Bergen, N.J.

No. MC 127840 (Sub-No. E29), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 South Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 North Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils*, and *vegetable oils*, and *edible blends and edible products* of animal fats, animal oils, and vegetable oils (except liquid chemicals), in bulk, in tank or hopper-type vehicles, from points in (1) that part of Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line, thence along U.S. Highway 45 to junction Illinois Highway 83, thence along Illinois Highway 83 to junction Illinois Highway 53, thence along Illinois Highway 53 to junction Illinois Highway 7, thence along Illinois Highway 7 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, and (2) that part of Indiana within the commercial zone of Chicago, Ill., as defined by the Commission, to points in Iowa. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 127840 (Sub-No. E38) (Correction), filed June 4, 1974, published in the FEDERAL REGISTER November 11, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 South Chicago Avenue, Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 North Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils*, and *vegetable oils*, and *edible blends and edible products* of animal fats, animal oils, and vegetable oils (except liquid chemicals), in bulk, in tank vehicles, from points in Kansas in and bounded by Smith, Jewell, Republic, Washington, Marshall, Namaha, Brown, Jackson, Shawnee, Wabaunsee, Lyon, Chase, Butler, Sumner, Harper, Barber, Comanche, Clark, Meade, Seward, Stevens, Morton, Stanton, Hamilton,

Wichita, Gove, Graham, and Rooks Counties, to points in Ohio and points in, north, and east of Newton, Jasper, White, Tippecanoe, Clinton, Hamilton, Hancock, Rush, and Franklin Counties, Ind. The purpose of this filing is to eliminate the gateway of Chicago, Ill. The purpose of this correction is to expand the destination area.

No. MC 127840 (Sub-No. E40) (correction), filed June 4, 1974, published in the FEDERAL REGISTER November 11, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 South Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 North Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils*, and *vegetable oils*, and *edible blends* and *edible products* of animal fats, animal oils and vegetable oils (except liquid chemicals), in bulk, in tank vehicles, from points in and north of Woodbury, Ida, Sac, Calhoun, Webster, Hamilton, Hardin, Grundy, Black Hawk, Buchanan, Delaware, and Dubuque Counties, Iowa, to points in Indiana, Ohio, and Kentucky. The purpose of this filing is to eliminate the gateway of Chicago, Ill. The purpose of this correction is to correct the origin points.

No. MC 127840 (Sub-No. E45), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 South Chicago Ave., Lansing, Ill. 60438. Applicant's representative: William H. Towle, Suite 1133, 127 North Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hog mucosa*, in bulk, in tank or hopper type vehicles, (1) from points in the United States (except Virginia and points in Lake, Newton, Jasper, Benton, and Porter Counties, Ind.), to points in Cook, Will, and DuPage Counties, Ill., and points in that part of Indiana within the commercial zone of Chicago, Ill., as defined by the Commission, (2) from points in Michigan (except the Upper Peninsula of Michigan), and those in the United States (except Virginia) on and east of a line beginning at Michigan City, Ind., thence along U.S. Highway 421 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Gulf of Mexico, to points in Nebraska and Iowa on and north of Interstate Highway 80 and those in Illinois on and north of a line beginning at the Illinois-Iowa State line, thence along the Cook County line to the Illinois-Indiana State line (except points in Cook and Du Page Counties, Ill.), (3) from points in Michigan, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, Maine, and that part of Ohio on and north of U.S. Highway 33 to points in Kansas, that part of Colorado on, north, and east of a line beginning at the Colorado-Kansas State line, that part of Iowa and Nebraska on and south of Interstate Highway 80, and that part of Illinois on and within an area beginning at the Illinois-Iowa State line, thence along Interstate Highway 80 to the Illinois-Indiana State line, thence along the Illinois-Indiana State line to junction U.S. Highway 36, thence along U.S. Highway 36 to the east bank of the Mississippi River, thence along the east bank of the Mississippi River to the place of beginning, (4) from points in and west of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, to points in that part of Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line, thence along Illinois Highway 47 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Illinois-Indiana State line, and (5) from points in that part of the United States on and east of a line beginning at the United States-Mexico International Boundary line, thence along Interstate Highway 10 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction Interstate Highway 15, thence along Interstate Highway 15 to the United States-Canada International Boundary line, to points in that part of Illinois on, east, and north of a line beginning at the Illinois-Wisconsin State line, thence along U.S. Highway 51 to junction U.S. Highway 36, thence along U.S. Highway 36 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 128383 (Sub-No. E70), filed June 4, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19070. Applicant's representative: Gerald K. Gimmel, 303 North Frederick Ave., Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment and motor vehicles), between Chicago O'Hare International Airport, Chicago, Ill., on the one hand, and, on the other, points in Philadelphia County, Pa., on and east of the line formed by Pennsylvania Highway 320 between Chester and Norristown, Pa., and U.S. Highway 202 between Norristown, Pa., and the Delaware River, those points in Bucks County, Pa., on and east of U.S. Highway 202 and north and west of Pennsylvania Highway 232, points in Camden, Atlantic, and Cape May Counties, N.J., those points in Burlington County, N.J., south of Rancocas Creek, and those points in Gloucester, Salem, and Cumberland Counties, N.J., on and east of the line formed by U.S. Highway 322 between the Delaware River and Mulica Hill, N.J., New Jersey Highway 77 between Mulica Hill and Cohansey Creek, and New Jersey Secondary Highway 553 between Cohansey Creek and the Maurice River. The purpose of this filing is to eliminate the gateway of John F. Kennedy International Airport, New York, N.Y.

No. MC 129631 (Sub-No. E2), filed June 2, 1974. Applicant: PACK TRANSPORT, INC., 3975 South 2nd West, Salt Lake City, Utah 84107. Applicant's representative: Gwyn D. Davidson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and siding materials*, from points in Maricopa County, Ariz., to points in Wyoming in and west of Carbon, Natrona, and Campbell Counties. The purpose of this filing is to eliminate the gateways of Oneida County, Idaho, and Salt Lake City, Woods Cross, Ogden, or North Ogden, Utah.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14640 Filed 6-3-75;8:45 am]

[Notice No. 18]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION

MAY 30, 1975.

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 (49 CFR 1042.4 (c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4 (c)(11)).

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 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed on or before July 7, 1975.

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 112713 (Deviation No. 29), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Ave., Shawnee Mission, Kans., 66207, filed May 16, 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 junction California Highways 33 and 46 over California Highway 46 to junction U.S. Highway 101 at Paso Robles, Calif., thence over U.S. Highway 101 to Salinas, Calif., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From junction

California Highways 33 and 46 over California Highway 46 to junction California Highway 99, thence over California Highway 99 to junction California Highway 152, thence over California Highway 152 to Gilroy, Calif., thence over U.S. Highway 101 to Salinas, Calif., and return over the same route.

No. MC 112713 (Deviation No. 30), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Ave., Shawnee Mission, Kans. 66207, filed May 23, 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 Lawton, Okla., over U.S. Highway 62 to junction U.S. Highway 83, thence over U.S. Highway 83 to junction Texas Highway 256, thence over Texas Highway 256 to junction U.S. Highway 287, thence over U.S. Highway 287 to Amarillo, Tex., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Lawton, Okla., over U.S. Highway 277 to junction U.S. Highway 81, thence over U.S. Highway 81 to junction U.S. Highway 66, thence over U.S. Highway 66 to Amarillo, Tex., and return over the same route.

No. MC 2202 (Deviation No. 141), ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, Ohio 44309, filed May 20, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (a) From Memphis, Tenn., over Interstate Highway 55 to junction U.S. Highway 63, thence over U.S. Highway 63 to junction U.S. Highway 60, thence over U.S. Highway 60 to Springfield, Mo., and (b) From Memphis, Tenn., over Interstate Highway 55 to St. Louis, Mo., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (a) From Memphis, Tenn., over U.S. Highway 70 to Nashville, Tenn., thence over Alternate U.S. Highway 41 to junction U.S. Highway 41, thence over U.S. Highway 41 to Vincennes, Ind., thence over U.S. Highway 50 to St. Louis, Mo., thence over U.S. Highway 66 to Springfield, Mo., and (b) From Memphis, Tenn., over the same routes indicated above to St. Louis, Mo., and return over the same routes.

No. MC 1515 (Deviation No. 696) (Cancels Deviation No. 636), GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077, filed May 16, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: From Savannah, Ga., over Interstate Highway 16 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction U.S. Highway 25, thence over U.S. Highway 25 to Brunswick, Ga., with the following access routes: (a) From junction Interstate Highway 95 and U.S. Highway 17 over U.S. Highway 17 to Richmond Hills, Ga., (b) From junction Interstate Highway 95 and Georgia Highway 38 over Georgia Highway 38 to junction U.S. Highway 17, (c) From junction Interstate Highway 95 and U.S. Highway 17 over U.S. Highway 17 to South Newport, Ga., (d) From junction Interstate Highway 95 and Georgia Highway 251 over Georgia Highway 251 to junction U.S. Highway 17, and (e) From junction Interstate Highway 95 and Georgia Highway 99 over Georgia Highway 99 to junction U.S. Highway 17, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Savannah, Ga., over U.S. Highway 17 to Brunswick, Ga., and return over the same route.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14644 Filed 6-3-75;8:45 am]

[Notice No. 43]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 30, 1975.

The following publications include motor carrier, water carrier, broker, freight forwarder and rail proceedings indexed as follows: (1) grants of authority requiring republication prior to certification; (2) notices of filing of petitions for modification of existing authorities; (3) new operating right's applications directly related to and processed on a consolidated record with finance applications filed under sections 5(2) and 212(b); (4) notices of filing of sections 5(2) and 210a(b) finance applications; and (5) notices of filing of section 212(b) transfer applications.

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 in compliance with the requirements of 49 CFR 1100.250.

Protests to the granting of the requested authority must be filed with the Commission on or before July 7, 1975 (unless otherwise specified). Failure seasonably 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 requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and a detailed description of the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the 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 Rule 40 requiring the 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 special rules, and shall include the certification required therein.

No. MC-70947 (Sub-Nos. 19, 20 and 21) (Republication of petition to modify a certificate), filed October 3, 1974, and published in the FEDERAL REGISTER issue of October 23, 1974, and republished this issue. Petitioner: MT. HOOD STAGES, INC., doing business as PACIFIC TRAILWAYS, 1068 Northwest Bond Street, Bend, Oreg. 97701. Petitioner's Representative: Earl V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. An Order of the Commission, Operating Rights Board, dated May 7, 1975, and served May 23, 1975, finds that the present and future public convenience and necessity require modification of Certificates No. MC-70947 (Sub-Nos. 19, 20 and 21) authorizing operations by petitioner, over irregular routes, transporting *passengers and their baggage*, in one-way charter and special operations, in Sub 19: Between points on carrier's presently authorized routes in Idaho, Oregon, and Utah, on the one hand, and, points in Arizona, California, Nevada, and Texas on the other; in Sub 20: Between points on carrier's presently authorized routes in Idaho, Oregon, and Utah, on the one hand, and, points in Massachusetts, New York, and the District of Columbia on the other; and in Sub 21: Between points on carrier's presently authorized routes in Idaho, Oregon, and Utah, on the one hand, and, points in Alaska on the other; that Petitioner is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this Republication is to indicate that petitioner seeks authority to conduct special and charter operations involving passengers who originate their travel at points other than those on the existing regular routes. Because it is possible that other parties who have relied upon the notice of the petition as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of Certificates in this proceeding will be withheld for a period of 30

days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention of other relief in this proceeding, setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 12862 (notice of filing of petition to modify license), filed May 15, 1975. Petitioner: ANTHONY TOUR SERVICE, INC., 6060 North Central Expressway, Suite 672, Dallas, Tex. 75206. Petitioners representative: John Terrell Hinds (same address as applicant). Petitioner holds a license to conduct operations as a *broker* at Dallas, Tex. in No. MC 12862, issued March 26, 1965, to sell or offer to sell the transportation of *Passengers and their baggage*, in charter service, in educational tours, beginning and ending at points in Arkansas, Colorado, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Nebraska, New Mexico North Dakota, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin, and extending to all points in the United States, including Alaska, but excluding Hawaii. By the instant petition, petitioner seeks to delete the phrase, "in educational tours" from the above authority. 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 on or before July 7, 1975.

No. MC 138375 (Sub-No. 8) (Notice of filing of petition to modify territorial description), filed May 19, 1975. Petitioner: J. H. WARE TRUCKING, INC., 909 Brown Street, P.O. Box 398, Fulton, Mo. 65251. Petitioner's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Petitioner holds a motor *contract carrier* permit in No. MC 138375 (Sub-No. 8), issued April 22, 1975, authorizing transportation, over irregular routes, of *Magazines, periodicals, and printed matter*, from Chicago, Ill., to Los Angeles, Calif., Denver, Colo., Kansas City, Mo., Oklahoma City, Okla., and Dallas, Tex., under a continuing contract or contracts with Time, Incorporated, of Chicago, Ill. By the instant petition, petitioner seeks to add Omaha, Nebr. and Des Moines, Iowa as destination points 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 on or before July 7, 1975.

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 of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1,240).

No. MC 52709 (Sub-No. 330), filed April 8, 1975. Applicant: RINGSBY TRUCK LINES, INC., 5773 South Prince Street, Littleton, Colo. 80120. Applicant's representative: Alvin J. Meiklejohn, Jr., Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) Between Ogden, Utah and Maryhill, Wash., serving Biggs, Oreg. for joinder purposes only, and serving the termini for joinder purposes only: From Ogden, Utah over Interstate Highway 80N to junction U.S. Highway 97, thence over U.S. Highway 97 to Maryhill, Wash., and return over the same routes; (2) Between Ogden, Utah and junction Interstate Highway 82 and Interstate Highway 90, serving no intermediate points, and serving the termini for joinder purposes only: From Ogden, Utah over Interstate Highway 80N to junction Interstate Highway 82, thence over Interstate Highway 82 to junction Interstate Highway 90, and return over the same routes; (3) Between Biggs, Oreg. and Portland, Oreg., serving no intermediate points, and serving Biggs, Oreg. for joinder purposes only: From Biggs, Oreg. over Interstate Highway 80N to Portland, Oreg., and return over the same route;

(4) Between Ogden, Utah and Prosser, Wash., serving the junction of Interstate Highway 15W and Interstate Highway 80N for joinder purposes only, and serving the termini for joinder purposes only: From Ogden, Utah over Interstate Highway 80N to junction U.S. Highway 395, thence over U.S. Highway 395 to junction U.S. Highway 730, thence over U.S. Highway 730 to junction unnumbered highway (bridge over the Columbia River) at or near Umatilla, Oreg., thence over unnumbered highway to junction Washington Highway 14, thence over Washington Highway 14 to junction Washington Highway 221, thence over Washington 221 to Prosser, Wash., and return over the same routes; and (5) Between junction U.S. Highway 30N and Interstate Highway 80 and junction Interstate Highway 15W and Interstate Highway 80N, serving no intermediate points: From junction U.S. Highway 30N and Interstate Highway 80 over U.S. Highway 30N to junction Interstate Highway 15, thence over Interstate Highway 15 to junction Interstate Highway 15W, thence over Interstate Highway 15W to junction Interstate Highway 80N, and return over the same route, (1) through (5) above as alternate routes for operating convenience only, in connection with carrier's authorized regular route operations, restricted in (1) through (5) above to the transportation of traffic moving to, from or through Denver, Colo. or Cheyenne, Wyo.

NOTE.—Common control may be involved. This is a matter directly related to consolidated section 5 proceedings in MC-F-12495 and MC-F-12496 published in the Federal Register issue of May 23, 1975. If a hearing is deemed necessary, applicant requests it be held at either Denver, Colo., Washington, D.C. or Portland, Oreg.

No. MC 108398 (Sub-No. 43), filed April 8, 1975. Applicant: RINGSBY-PACIFIC, LTD., 5773 South Prince Street, Littleton, Colo. 80120. Applicant's representative: Alvin J. Meiklejohn, Jr., Suite 1600 Lincoln Center, 1600 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) (1) Between junction U.S. Highway 97 and Oregon Highway 58 (about 81 miles north of Klamath Falls, Oreg.) and Spokane, Wash., serving no intermediate points and serving the junction of U.S. Highway 97 and Oregon Highway 58 for the purposes of joinder only: From junction U.S. Highway 97 and Oregon Highway 58 over U.S. Highway 97 to Biggs, Oreg., thence over Interstate Highway 80N to its junction with U.S. Highway 730, thence over U.S. Highway 730 to Umatilla, Oreg., thence over unnumbered highway (bridge over the Columbia River) to Plymouth, Wash., thence over Washington Highway 14 to Pasco, Wash., thence over U.S. Highway 395 to Spokane, Wash., and return over the same routes, and (2) Between Portland, Oreg. and Spokane, Wash., serving no intermediate points: From Portland, Oreg. over Interstate Highway 80N to its junction with U.S. Highway 730, thence over U.S. Highway 730 to Umatilla, Oreg., thence over unnumbered highway (bridge over the Columbia River) to Plymouth, Wash., thence over Washington Highway 14 to Pasco, Wash., thence over U.S. Highway 395 to Spokane, Wash., and return over the same routes, restricted in (1) and (2) above against transportation of traffic moving between Portland, Oreg. and Spokane, Wash.

NOTE.—Common control may be involved. This is a matter directly related to consolidated Section 5 proceedings in MC-F-12495 and MC-F-12496 published in the Federal Register issue of May 23, 1975. If a hearing is deemed necessary, applicant requests it be held at either Denver, Colo., Washington, D.C. or Portland, Oreg.

No. MC 115931 (Sub-No. 29) (Correction), filed March 11, 1975, published in the Federal Register issue of May 7, 1975, and republished as corrected, this issue. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 925, Baker, Mont. 59313. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Agricultural machinery and implements* and (b) *parts, attachments and accessories* for the commodities in (a) above, from Bismarck, N. Dak., to points in the United States (except Alaska and Hawaii), and (2) *materials and supplies* used in the manufacture and distribution of the commodities described in (1) above (except commodities in bulk), from points

in the United States (except Alaska and Hawaii), to Bismarck, N. Dak., restricted to traffic originating at or destined to the plant site and storage facilities of Clark Equipment Company-Melroe Division, at Bismarck, N. Dak.

NOTE.—The purpose of this republication is to correct the commodity description in (1)(a) above, previously published in error. Common control may be involved. This is a matter directly related to a section 5 proceeding in MC–F–12491 published in the FEDERAL REGISTER issue of April 23, 1975. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont. or St. Paul, Minn.

No. MC–F–12445. (Supplement) (BRANCH INDUSTRIES, INC.—CONTROL—WHITE TRUCK LINE, INC.), published in the March 5, 1975, issue of the FEDERAL REGISTER. By an amendment filed May 12, 1975, GERTRUDE BENDER, RUTH PLATT, LOIS BERLIN, AND ALMA BOGGIA, all of 114 Fifth Avenue, New York, NY 10011, join in as party applicants in control of the applicants.

No. MC–F–12528. Authority sought for purchase by ROBERT N. TOOMEY, doing business as ROBERT N. TOOMEY TRUCKING CO., 1516 South George St., York, PA 17403, of a portion of the operating rights of SYSTEM REEFER SERVICE, INC., 4614 Lincoln Ave., Cypress, CA 90630. Applicants' attorney: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Operating rights sought to be transferred: *Chains, cotter pins, hoisting equipment, trolleys, screws, washers* and *abrasive wheels*, as a *contract carrier* over irregular routes, from York, Pa., to points in Texas, with restriction. Vendee is authorized to operate as a *contract carrier* in California, Texas, Oklahoma, Illinois, Pennsylvania, Washington, Nevada, Oregon and Arizona. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–12532. Authority sought for control and merger by THE YOUNGSTOWN CARTAGE CO., P.O. Box 119, Youngstown, OH 44501, of the operating rights and properties of (B) STONY'S TRUCKING CO., 11550 Mahoning Ave., N. Jackson, OH 44451, and (BB) MISSISSIPPI-EAST, INC., P.O. Box 769, Clairton, PA 15025, and for acquisition by WILLIAM F. WOLFF, SR., AND WILLIAM F. WOLFF, JR., both of Youngstown, OH 44501, of control of such rights and properties through the purchase. Applicants' attorney: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Operating rights sought to be controlled and merged: (B) *Steel* and *metal* and *wire products*, as a *common carrier* over irregular routes, between Columbus and Martins Ferry, Ohio, on the one hand, and, on the other, points in Ohio; *wire and wire products, sheet steel ware, steel coal doors, steel channels, steel fence posts, solder, sheet steel, tin plate*, and *terne plate*, between Columbus and Portsmouth, Ohio and Wheeling, W. Va., and points within 25 miles of Wheeling, W. Va., on the one hand, and, on the other, points in Ohio, and those in that part of Indiana south of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 30 to certain specified points in Indiana, from Portsmouth, Ohio and Wheeling, W. Va., and points within 25 miles of Wheeling, W. Va., to Detroit, Mich.; *fertilizer*, between Columbus, Ohio, on the one hand, and, on the other, points in that part of West Virginia on and west of U.S. Highway 19, and on and north of U.S. Highway 60; *flat rolled steel sheets* and *strip steel* (flat or on coils), from Weirton, W. Va., to Seymour, Ind.; *ferro-alloys*, in bulk, in dump vehicles, from Brilliant, Ohio, to Baltimore, Md., St. Louis, Mo., points in Illinois, Indiana, Kentucky, Michigan, New York, those in that part of Pennsylvania east of U.S. Highway 219, and those in that part of West Virginia west of a line beginning at the Ohio River and extending along U.S. Highway 21 to the Virginia-West Virginia State line; *ferro-alloys*, from Brilliant, Ohio, to certain specified points in Pennsylvania, with restriction:

(BB) *Machinery, equipment, materials*, and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, *coal stripping machinery*, and *construction machinery*, as a *common carrier* over irregular routes, between points in Washington, Fayette, and Greene Counties, Pa., on the one hand, and, on the other, points in West Virginia on and north of U.S. Highway 60, and those in Ohio on and east of U.S. Highway 23, *glass-making machinery*, between Washington, Pa., and points within two miles thereof, on the one hand, and, on the other, points in the above-described territory in West Virginia and Ohio; *such commodities as contractors' equipment, heavy and bulky articles, machinery* and machine parts, and articles, requiring specialized handling or rigging because of size or weight, between points in Allegheny, Westmoreland, Fayette, Washington, and Greene Counties, Pa., between points in that part of Ohio on and east of U.S. Highway 21 between points in West Virginia, between points in the above-specified Pennsylvania territory, on the one hand, and, on the other, points in West Virginia and that part of Ohio on and east of U.S. Highway 21. THE YOUNGSTOWN CARTAGE CO., is authorized to operate as a common carrier in Connecticut, Delaware, Illinois, Indiana, Kentucky, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12533. Authority sought for purchase by DE-PEN LINE, INC., P.O. Box 486, Phoenixville, PA 19460, of the operating rights of HOFFMAN DELIVERY COMPANY, 2514 Mayfair Dr., Lancaster, PA 17603, and for acquisition by WILLIAM J. FORD, also of Phoenixville, PA 19460, of control of such rights through the purchase. Applicants' attorney: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St. N.W., Washington, DC 20005. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC–97522 (Sub-No. 1), covering the transportation of property, as a common carrier, in interstate commerce, within the State of Pennsylvania. Vendee is authorized to operate as a *common carrier* in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12534. Authority sought for purchase by TAKIN BROS. FREIGHT LINE, INC., 2125 Commercial St., Waterloo, IA 50704, of the operating rights and property of McCOY TRUCK LINES, INC., 809 Prospect Blvd., Waterloo, IA 50701, and for acquisition by ALLEN E. KROBLIN, LOYAL H. FRISCH, AND KENNETH L. SCHADLE, all of Box 5000, Waterloo, IA 50704, of control of such rights and property through the purchase. Applicants' representatives: Allen E. Kroblin, Box 5000, Waterloo, IA 50704, and Joseph E. Hall, 809 Prospect Blvd., Waterloo, IA 50701. Operating right sought to be transferred: *Farm tractor engines* and *farm tractor parts*, as a *common carrier* over irregular routes, from Waukesha, Wis., to Charles City, Iowa; and return with *rough iron engine castings*, and *pallets* used in connection with transportation of engines and engine castings. Vendee is authorized to operate as a *common carrier* in Iowa, Illinois, Indiana, and Nebraska. Application has been filed for temporary authority under section 210a(b).

No. MC–F–12536. Authority sought for purchase by MECCA & SON TRUCKING CORP., 25 Fairmount Ave., Jersey City, NJ 07304, of a portion of the operating rights of HAMILTON MOTOR LINES, INC., Central Dr., Farmingdale, NY 11735, WILLIAM S. KAYE, Assignee for Benefit of Creditors, 118–21 Queens Blvd., Forest Hills, NY 11375, and for acquisition by JERRY MECCA, and HELEN MECCA, both of 541 Art Lane, Ridgefield, NJ 07657, of control of such rights through the purchase. Applicants' attorney and representative: A. David Millner, 744 Broad St., Newark, NJ 07102, and William S. Kaye (Assignee for Benefit of Creditors), 118–21 Queens Blvd., Forest Hills, NY 11375. Operating rights sought to be transferred: *General commodities*, with the usual exceptions, as a *common carrier* over irregular routes, between New York, N.Y., on the one hand, and, on the other, points in Nassau and Suffolk Counties, N.Y. Vendee is authorized to operate as a *common carrier* in New York, and New Jersey. Application has been filed for temporary authority under section 210a(b).

[Finance Docket No. 27917]

APPLICATION OF ROBERT W. BLANCHETTE, RICHARD C. BOND AND JOHN H. MCARTHUR, TRUSTEES OF THE PROPERTY OF PENN CENTRAL TRANSPORTATION COMPANY, DEBTOR, FOR AUTHORITY TO ACQUIRE TRACKAGE RIGHTS OVER THE BALTIMORE AND OHIO RAILROAD COMPANY

NOTICE OF FILING

1. The name and address of applicant is: Robert W. Blanchette, Richard C. Bond and John H. McArthur, Trustees of the property of Penn Central Transportation Company, Debtor, 6 Penn Center Plaza, Philadelphia, County of Philadelphia, Pennsylvania 19104.

The name and address of applicant's attorney is:

Charles E. Mechem
Commerce Counsel
Penn Central Transportation Company
Room 1138
Six Penn Center Plaza
Philadelphia, Pa. 19104

2. Applicant seeks authorization by the Interstate Commerce Commission under section 5(2) of the Interstate Commerce Act for its operation over the lines of The Baltimore and Ohio Railroad Company between Mile Post 1.6 and 20.0 at Caledonia, New York, pursuant to a contract granting such trackage rights which will be limited to bridge movements only. The charge for such operation will be interest rental of $27,450 yearly, plus cost of maintenance and operation on a car count basis or wheelage.

3. The operations sought to be performed will be the bridge movement of applicant's trains over the lines of The Baltimore and Ohio Railroad Company between Rochester to Caledonia, New York, a distance of 18.4 miles.

In the opinion of the applicant, the proposed acquisition of trackage rights will be consistent with the public interest and will have no adverse effect on the environment. In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), Implementation-Nat'l Environmental Policy Act, 1969, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra Part (b)(1)–(5), 340 I.C.C. 431, 461.

4. The proceeding will be handled without public hearings unless protests are received which contain information indicating a need for such hearings. Any protests submitted shall be filed with the Commission no later than July 7, 1975.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14643 Filed 6-3-75;8:45 am]

TEMPORARY AUTHORITY TERMINATION

[NOTICE #53]

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Garrett Freightlines, Inc., MC-263 Sub-208, Sub-212	MC-263 Sub-205	Nov. 27, 1974
Wheeler Transport Service, Inc., MC-2392 Sub-89, Sub-92	MC-2392 Sub-95	Oct. 22, 1974
Wheeler Transport Service, Inc., MC-2392 Sub-91	MC-2392 Sub-94	Nov. 19, 1974
Wheeler Transport Service, Inc., MC-2392 Sub-93	MC-2392 Sub-88	Nov. 21, 1974
National Freight, Inc., MC-2860 Sub-130	MC-2860 Sub-133	Sept. 24, 1974
Deaton, Inc., MC-11207 Sub-344	MC-11207 Sub-346	Nov. 13, 1974
Milwaukee Motor Transportation Co., MC-19778 Sub-85	MC-19778 Sub-87	Oct. 22, 1974
All-American, Inc., MC-29129 Sub-174	MC-29129 Sub-176	Oct. 22, 1974
Five Transportation Co., MC-29642 Sub-7	MC-29642 Sub-8	Nov. 27, 1974
Kroblin Refrigerated Express, Inc., MC-30844 Sub-482	MC-30844 Sub-484	Do.
Wells Fargo Armored Services Corp., MC-35807 Sub-41	MC-35807 Sub-43	Nov. 12, 1974
Cassens Transport Co., MC-42537 Sub-48	MC-42537 Sub-49	Nov. 5, 1974
Suhr Transport, MC-46313 Sub-11	MC-46313 Sub-12	Nov. 11, 1974
Interstate Dress Carriers, Inc., MC-50307 Sub-67	MC-50307 Sub-68	Nov. 12, 1974
P. C. M. Trucking, Inc., MC-50493 Sub-53	MC-50493 Sub-55	Nov. 18, 1974
Paul H. Liskey, MC-51004 Sub-3	MC-51004 Sub-4	Oct. 18, 1974
Schneider Transport, Inc., MC-51146 Sub-340	MC-51146 Sub-367	Nov. 13, 1974
D.b.a. General Motor Lines, MC-58549 Sub-19	MC-58549 Sub-20	Nov. 11, 1974
Herman Bros., Inc., MC-61396 Sub-238	MC-61396 Sub-237	Sept. 23, 1974
Rogers Cartage Co., MC-64932 Sub-516, Sub-517	MC-64932 Sub-518	Oct. 3, 1974
Southern Trucking Corp., MC-73688 Sub-60	MC-73688 Sub-58	Nov. 27, 1974
Kilpsch Hauling Co., MC-82063 Sub-45	MC-82063 Sub-47	Nov. 12, 1974
Watkins Motor Lines, Inc., MC-95540 Sub-872	MC-95540 Sub-829	Nov. 25, 1974
Santry Trucking Co., MC-95920 Sub-31	MC-95920 Sub-30	Nov. 6, 1974
H. B. Nelson & Sons, Inc., MC-100300 Sub-6, Sub-8	MC-100300 Sub-7	Nov. 11, 1974
Mallinger Truck Line, Inc., MC-100449 Sub-38	MC-100449 Sub-39	Oct. 23, 1974
Melton Truck Lines, Inc., MC-100666 Sub-273	MC-100666 Sub-274	Nov. 29, 1974
Coastal Tank Lines, Inc., MC-102616 Sub-887	MC-102616 Sub-883	Sept. 25, 1974
Fleet Transport Co., Inc., MC-103051 Sub-294	MC-103051 Sub-298	Nov. 18, 1974
Morgan Drive-Away, Inc., MC-103993 Sub-790	MC-103993 Sub-795	Oct. 3, 1974
Associated Transport, Inc., MC-104004 Sub-192	MC-104004 Sub-193	Nov. 12, 1974
Matson Truck Lines, Inc., MC-105007 Sub-28	MC-105007 Sub-29	Oct. 21, 1974
National Trailer Convoy, Inc., MC-106398 Sub-696	MC-106398 Sub-699	Oct. 22, 1974
Miller Transporters, Inc., MC-107002 Sub-436	MC-107002 Sub-438	Nov. 6, 1974
Pre fab Transit Co., MC-107295 Sub-669	MC-107295 Sub-683	Oct. 22, 1974
Matlack, Inc., MC-107403 Sub-870, Sub-882, Sub-895	MC-107403 Sub-886	Nov. 29, 1974
Ruan Transport Corp., MC-107496 Sub-869, Sub-686, Sub-897	MC-107496 Sub-879	Nov. 13, 1974
Refrigerated Transport Co., Inc., MC-107515 Sub-871	MC-107515 Sub-877	Sept. 23, 1974
A. J. Metler Hauling and Rigging, Inc., MC-108676 Sub-62, Sub-63	MC-108676 Sub-57	Oct. 22, 1974
Fogg's Daily Service, MC-109098 Sub-3	MC-109098 Sub-2	Nov. 6, 1974
Southern Tank Lines, Inc., MC-109637 Sub-393	MC-109637 Sub-393	Oct. 3, 1974
Coldway Food Express, Inc., MC-110563 Sub-97	MC-110563 Sub-93	Nov. 12, 1974
Wheeling Pipe Lines, Inc., MC-111170 Sub-201	MC-111170 Sub-203	Nov. 11, 1974
Burns Motor Freight, Inc., MC-111785 Sub-55	MC-111785 Sub-56	Oct. 21, 1974
Smith's Truck Lines, MC-111940 Sub-57, Sub-58	MC-111940 Sub-59	Nov. 25, 1974
Owens Bros., Inc., MC-112027 Sub-17	MC-112027 Sub-19	Nov. 5, 1974
Bray Lines, Inc., MC-112822 Sub-288	MC-112822 Sub-296	Oct. 21, 1974
West Coast Truck Lines, Inc., MC-112989 Sub-27	MC-112989 Sub-31	Do.
D.b.a. Island Freight, MC-113025 Sub-6	MC-113025 Sub-7	Nov. 19, 1974
Warren Transport, Inc., MC-114211 Sub-221	MC-114211 Sub-223	Nov. 8, 1974
Builders Transportation Co., MC-114334 Sub-24	MC-114334 Sub-23	Nov. 6, 1974
Dart Transit Co., MC-114457 Sub-147	MC-114457 Sub-145	Sept. 25, 1974
Dart Transit Co., MC-114457 Sub-174	MC-114457 Sub-180	Nov. 22, 1974
Bankers Dispatch Corp., MC-114533 Sub-285	MC-114533 Sub 292	Nov. 4, 1974
Senn Trucking Co., MC-114552 Sub-73	MC-114552 Sub-86	Nov. 12, 1974
Senn Trucking Co., MC-114552 Sub-78	MC-114552 Sub-76	Nov. 22, 1974
Caudell Trans., Inc., MC-114604 Sub-12	MC-114604 Sub-16	Sept. 23, 1974
Apple Lines, Inc., MC-114632 Sub-59	MC-114632 Sub-56	Sept. 25, 1974
Apple Lines, Inc., MC-114632 Sub-61	MC-114632 Sub-66	Do.
Wynne Transport, Service, Inc., MC-114725 Sub-55	MC-114725 Sub-57	Nov. 7, 1974
Weiss Trucking Inc., MC-115092 Sub-29	MC-115092 Sub-24	Nov. 12, 1974
John D. Bohr, Inc., MC-115379 Sub-45	MC-115379 Sub-44	Nov. 25, 1974
Barrett Mobile Home Transport, Inc., MC-116073 Sub-288	MC-116073 Sub-283	Nov. 12, 1974
Max Binswanger Trucking, MC-116314 Sub-25	MC-116314 Sub-26	Oct. 18, 1974
The Maxwell Co., MC-117344 Sub-226	MC-117344 Sub-230	Oct. 4, 1974
Transportation, Inc., MC-117519 Sub-1	MC-117519 Sub-2	Nov. 14, 1974
Motor Service Co., Inc., MC-117565 Sub-65	MC-117565 Sub-63	Nov. 20, 1974
D.b.a. L. H. Searles, MC-117698 Sub-12	MC-117698 Sub-13	Sept. 25, 1974
Mustang Transportation, Inc., MC-118039 Sub-17	MC-118039 Sub-20	Sept. 23, 1974
Bill Meeker, MC-118178 Sub-17, Sub-19, Sub-21	MC-118178 Sub-20	Nov. 14, 1974
Central Transport, Inc., MC-118831 Sub-106	MC-118831 Sub-107	Do.
Morton Truck Lines, Inc., MC-119384 Sub-24	MC-119384 Sub-25	Nov. 19, 1974
A-1 Transportation Co., MC-119897 Sub-17	MC-119897 Sub-18	Nov. 7, 1974
Marshfield Drayage Co., MC-121631 Sub-2	MC-121631 Sub-3	Nov. 4, 1974
Diamond Transportation System, Inc., MC-123048 Sub-286	MC-123048 Sub-288	Nov. 18, 1974
Jalt Corp., d.b.a. United Newspaper Delivery Service, MC-123778 Sub-20	MC-123778 Sub-21	Nov. 8, 1974
W & L Motor Lines, Inc., MC-123872 Sub-20	MC-123872 Sub-24	Nov. 18, 1974
Foglemen Truck Lines, Inc., MC-123993 Sub-29	MC-123993 Sub-31	Sept. 24, 1974
Concrete Delivery Co., Inc., MC-124069 Sub-14	MC-124069 Sub-13	Sept. 23, 1974
Brink's Inc., MC-124328 Sub-53	MC-124328 Sub-58	Nov. 25, 1974
D.b.a. Lang Cartage, MC-124554 Sub-9	MC-124554 Sub-11	Do.
Oil Transport, Inc., MC-124965 Sub-3	MC-124965 Sub-4	Nov. 7, 1974
Saturn Express, Inc., MC-125785 Sub-21	MC-125785 Sub-24	Nov. 18, 1974
Interstate Distributor Co., MC-125952 Sub-17	MC-125952 Sub-20	Sept. 24, 1974
The Stout Trucking Co., Inc., MC-128030 Sub-37, Sub-38	MC-128030 Sub-42	Nov. 4, 1974
D.b.a. Mayer Truck Line, MC-128217 Sub-6, Sub-9, Sub-10	MC-128217	Mar. 21, 1974
Blue Eagle Truck Lines, Inc., MC-128381 Sub-6	MC-128381 Sub-7	Sept. 23, 1974
Pinto Trucking Service, Inc., MC-128383 Sub-46	MC-128383 Sub-31	Sept. 25, 1974
D.b.a. Lambe's Trucking, MC-128532 Sub-2	MC-128532 Sub-3	Sept. 23, 1974
Star Bulk Transport, Inc., MC-128772 Sub-7, Sub-8	MC-128772 Sub-9	Do.
Joseph Georgiana, MC-129427 Sub-5	MC-129427 Sub-4	Nov. 26, 1974
D.b.a. Smoester Bros., MC-129645 Sub-51	MC-129645 Sub-52	Nov. 27, 1974

Temporary authority application	Final action or certificate or permit	Date of action
Port of New York Express, Co., Inc., MC–129910 Sub-5	MC–129910 Sub-6	Nov. 6, 1974
Hearin Transportation, Inc., MC–133478 Sub-10	MC–133478 Sub-8	Sept. 24, 1975
Overland Express, Inc., MC–133689 Sub-38	MC–133689 Sub-39	Do.
Mainliner Motor Express, Inc., MC–134134 Sub-14	MC–134134 Sub-15	Nov. 26, 1974
All-Star Transportation, MC–134182 Sub-9	MC–134182 Sub-10	Sept. 24, 1974
Livestock Service, Inc., MC–134645 Sub-5	MC–134645 Sub-7	Nov. 11, 1974
Edward P. Howell, Inc., MC–134718 Sub-3	MC–134718 Sub-7	Sept. 23, 1974
Sooner Express, Inc., MC–134777 Sub-9	MC–134777 Sub-12	Nov. 19, 1974
Janesville Auto Transport Co., MC–134779 Sub-3	MC–134779 Sub-4	Sept. 23, 1974
Janesville Auto Transport Co., MC–134779 Sub-5	MC–134779 Sub-6	Do.
Direct Service, Inc., MC–134783 Sub-5	MC–134783 Sub-7	Nov. 14, 1974
Allied Delivery and Installation, Inc., MC–136474 Sub-4	MC–136474 Sub-6	Nov. 5, 1974
Ray Wagner & Son Trucking Co., Inc., MC–136545 Sub-4	MC–136545 Sub-5	Nov. 4, 1974
Mark Interstate Carriers Co., Inc., MC–138042 Sub-1	MC–138042	Sept. 25, 1974
D.b.a. Werner Enterprises, MC–138328 Sub-3	MC–138328 Sub-4	Nov. 4, 1974
D.b.a. Wisconsin Provisions Express, MC–138512 Sub-4	MC–138512 Sub-2	Do.
Walt Keith Trucking, Inc., MC–138557 Sub-4	MC–138557 Sub-3	Do.
Dorsey L. Hancock, MC–138615	MC–138615 Sub-1	Nov. 27, 1974
Sea-Jet Trucking Corp., MC–138715	MC–138715 Sub-1	Nov. 7, 1974
D. J. Viskoe Trucking, Inc., MC–138792	MC–138792 Sub-1	Nov. 8, 1974
D.b.a. Gresilvold Truck Line, MC–138843 Sub-1	MC–138843 Sub-2	Nov. 19, 1974
Rod Ten Klay, MC–138868 Sub-1	MC–138868 Sub-2	Nov. 29, 1974
Fred E. Farris, MC–138976 Sub-1	MC–138976	Nov. 4, 1974
Montgomery G. Dukes, MC–139020 Sub-1	MC–139020 Sub-2	Nov. 7, 1974
Metro Sales Corp., MC–139108 Sub-2	MC–139108 Sub-1	Nov. 29, 1974
Lester Gray, MC–139139	MC–139139 Sub-1	Nov. 6, 1974
Richard's Transport, Ltd., MC–139154 Sub-1	MC–139154 Sub-2	Nov. 18, 1974
Rhodes Trucking Corp., MC–139162	MC–139162 Sub-1	Nov. 27, 1974
Frank W. Madden Co., MC–139170 Sub-2, Sub-4	MC–139170 Sub-1	Nov. 7, 1974
Maiers Transfer & Storage Co., Inc., MC–139177	MC–139177 Sub-1	Do.
Bruce's Transport Service, Inc., MC–139234	MC–139234 Sub-1	Sept. 23, 1974

[SEAL]

JOSEPH M. HARRINGTON,
Acting Secretary.

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PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

■

NONDISCRIMINATION ON BASIS OF SEX

Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance

Title 45—Public Welfare

SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

PART 86—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

1

On June 20, 1974, the Office for Civil Rights of the Department of Health, Education, and Welfare gave notice of proposed rulemaking to the effect that it intended to add Part 86 to the Departmental regulation to effectuate title IX of the Education Amendments of 1972 (20 U.S.C. sections 1681 et seq.), except sections 904 and 906 thereof (20 U.S.C. 1684 and 1686), with regard to Federal financial assistance administered by the Department (39 FR 22228). Title IX provides that "No person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance," with certain exceptions. Title IX is similar to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) except that title IX applies to discrimination based on sex, is limited to education programs and activities, and includes employment. Title IX is also similar to, but independent of, sections 799A and 845 of the Public Health Service Act which, in effect, proscribe discrimination on the basis of sex in admissions to certain health training programs (42 U.S.C. 295h–9 and 42 U.S.C. 298b–2).

2

Interested persons were given until October 15, 1974, in which to submit written comments, suggestions, or objections regarding the proposed regulation. The Department received over 9700 comments, suggestions or objections and, after consideration of all relevant matter presented by interested persons, the regulation as proposed is hereby adopted, subject to changes as reflected herein.

3

EFFECTIVE DATE

This regulation has been signed by the Secretary of Health, Education, and Welfare and approved by the President. It will be transmitted to Congress pursuant to section 431(d)(1) of the General Education Provisions Act, as amended by section 509(a)(2) of the Education Amendments of 1974 (Pub. L. 93–380, 88 Stat. 567). The regulation will become effective on July 21, 1975.

4

SUMMARY OF REGULATION

Subpart A of this regulation (§§ 86.1 through 86.9) includes definitions and provisions concerning: remedial and affirmative actions, self-evaluation, required assurances, dissemination of information policies, and other general matters related to discrimination on the basis of sex. The Subpart also explains the effect of state and local laws and other requirements.

5

Subpart B (§§ 86.11 through 86.17) describes the educational institutions and other entities, whether public or private, which are covered in whole or in part by the regulation. It also includes exemptions as to the admissions practices of certain educational institutions and an exemption as to the membership practices of social fraternities and sororities, the Boy Scouts, Girl Scouts, Camp Fire Girls, Y.W.C.A., Y.M.C.A., and certain voluntary youth service organizations. This Subpart defines "admissions," and describes certain educational institutions which are eligible to submit transition plans designed to convert their single-sex admissions processes to non-discriminatory processes over a stated period of time not to exceed seven years from the date of enactment of title IX (*i.e.*, by June 24, 1979). The exemptions for the admissions practices of certain educational institutions are set forth in § 901 (a) of title IX as originally passed by Congress in Pub. L. 92–318. The exemption for the membership practices of the aforementioned youth organizations was inserted into title IX by § 3(a) of Pub. L. 93–568, signed by the President on December 31, 1974.

6

Subpart C (§§ 86.21 through 86.23) sets forth the general and particular prohibitions with respect to nondiscrimination based on sex in admissions policies and admission preferences, including requirements concerning recruitment of students. The regulatory requirements regarding treatment of students and employment (Subparts D and E) are applicable to all educational institutions receiving Federal financial assistance, including those whose admissions are exempt under Subpart C.

7

Subpart D (§§ 86.31 through 86.42) sets forth the general rules with respect to prohibited discrimination in educational programs and activities. The specific subject matter covered in Subpart D includes discrimination on the basis of sex in academic research, extracurricular and other offerings, housing, facilities, access to programs and activities, financial and employment assistance to students, health and insurance benefits for students, physical education and instruction, athletics, discrimination based on the marital or parental status of students and portions of classes dealing with sex education. The regulation explicitly does not affect the use of particular textbooks or curricular materials.

8

Subpart E (§§ 86.51 through 86.61) sets forth the general rules with respect to employment in educational programs and activities. The specific subject matters covered are: discrimination on the basis of sex in hiring and employment criteria, recruitment, compensation, job classification and structure, promotions and terminations, fringe benefits, consideration of marital or parental status, leave practices, advertising, and pre-employment inquiries as to marital or parental status. It also includes provisions for exemptions where sex is a bona fide occupational qualification.

9

Subpart F (§ 86.71) sets forth the interim procedures which will govern the implementation of the regulation by incorporating by reference the Department's procedures under title VI of the Civil Rights Act of 1964.

SCOPE OF APPLICATION

10

Section 86.11, in Subpart B, provides that the regulation applies "to each education program or activity which receives or benefits from Federal financial assistance" administered by the Department. Under analogous cases involving constitutional prohibitions against racial discrimination, the courts have held that the education functions of a school district or college include any service, facility, activity or program which it operates or sponsors, including athletics and other extracurricular activities. These precedents have been followed with regard to sex discrimination; *see Brenden v. Independent School District 742*, 477 F. 2d 1292 (8th Cir. 1973).

11

Title IX requires in 20 U.S.C. 1682, that termination or refusal to grant or continue such assistance "shall be limited in its effect to the particular education program or activity or part thereof in which noncompliance has been found." The interpretation of this provision in title IX will be consistent with the interpretation of similar language contained in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1). Therefore, an education program or activity or part thereof operated by a recipient of Federal financial assistance administered by the Department will be subject to the requirements of this regulation if it receives or benefits from such assistance. This interpretation is consistent with the only case specifically ruling on the language contained in title VI, which holds that Federal funds may be terminated under title VI upon a finding that they "are infected by a discriminatory environment * * *" *Board of Public Instruction of Taylor County, Florida v. Finch*, 414 F. 2d 1068, 1078–79 (5th Cir. 1969).

A more detailed discussion of various sections in each of the Subparts of the title IX regulation is set forth in the following paragraphs. In certain cases, major issues and the reasons for the final language are discussed.

SUBPART A—CHANGES

13

Section 86.1—The statement of purpose is amended by adding the words "whether or not such program or activity is offered or sponsored by an educational institution as defined in this part."

14

Paragraph 86.2(a)—The definition of "title IX" as used in the regulation is amended by adding "except §§ 904 and 906 thereof." The U.S. Code citation has been appropriately amended to reflect this change.

15

Paragraph 86.2(j)—The definition of "local education agency" is amended to include the following parenthetical abbreviation: "L.E.A."

16

Section 86.3—Remedial and affirmative action and self-evaluation. Paragraph (a) of this section is amended to read as follows:

If the Director finds that a recipient has discriminated against persons on the basis of sex in an education program or activity, such recipient shall take such remedial action as the Director deems necessary to overcome the effects of such discrimination.

17

Paragraph (b) of this section is amended by adding the sentence "Nothing herein shall be interpreted to alter any affirmative action obligations which a recipient may have under Executive Order 11246."

In addition, paragraphs (c) and (d) of this section have been added. Paragraph (c) requires recipients within a year of the effective date of the regulation to evaluate their policies and practices and the effects thereof in terms of the requirements of the regulation, to modify any of these polices and practices which do not or may not meet the requirements of the regulation, and to take appropriate remedial action to eliminate the effects of any discrimination which resulted or may have resulted from adherence to them. Paragraph (d) requires that the recipient maintain for at least three years from completion of the evaluation made pursuant to paragraph (c) a description of any modifications made and any remedial actions taken pursuant to paragraph (c).

18

Section 86.4(a)—The general description of assurances required is amended to add the following:

An assurance of compliance with this Part shall not be satisfactory to the Director if the applicant or recipient to whom such assurance applies fails to commit itself to take whatever remedial action is necessary in accordance with § 86.3(a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior or subsequent to the submission to the Director of such assurance.

19

Paragraph 86.6(a)—The paragraph concerning the effect of this regulation on other Federal provisions is amended to add the words "and do not alter" immediately prior to the word "obligations" in the proposed regulation.

20

Section 86.8—The section concerning designation of a responsible employee is amended as follows: The section as it appeared in the proposed regulation is redesignated as paragraph 86.8(a) and is amended by adding, at the end of the section as it appeared in the proposed regulation, the sentence: "The recipient shall notify all its students and employees of the name, office address and telephone number of the employee or employees appointed pursuant to this paragraph." A second paragraph designated paragraph 86.8(b) is added to read:

(b) *Complaint procedure of recipient.* A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this Part.

21

Section 86.9—The section on dissemination of policy has been amended as follows: Subparagraph 86.9(a)(1) is amended by adding the words "and parents of elementary and secondary students" following the word "students," and by adding the words "and all unions or professional organizations holding collective bargaining or professional agreements" before the words "with the recipient."

ANALYSIS

22

Although a number of changes were made in Subpart A, most of these changes may be viewed as clarifications rather than as substantive alterations. One substantive change was made in § 86.3 where two new paragraphs concerning self-evaluation have been added. The Secretary believes that many of the discriminatory policies and practices now adhered to continue largely because the institutions responsible for them are unaware of their existence. Accordingly, the Secretary believes that the requirement that recipients conduct an initial inquiry into their activities will enable them to identify and to eliminate much discrimination without the intrusion of the Federal government. In addition, where a compliance review reveals noncompliance, the Department will be able to take into account in determining necessary corrective action to be taken by a recipient the actions already being taken by the recipient to further equal opportunity and to achieve full compliance with title IX and the regulation pursuant to their self-evaluation.

An additional substantive change was made in § 86.8 where the regulation now requires recipients to establish grievance procedures (§ 86.8(b)). The Secretary believes that the establishment of grievance procedures by recipients will facilitate compliance and prompt correction of complaints with resort to Federal involvement.

The regulation leaves up to the recipient the choice of having one central grievance procedure or of establishing individual procedures on different campuses if that is appropriate.

23

Other than as noted above, the content of Subpart A remains substantively close to that in the proposed rule. § 86.2 is especially important since it provides definitions applicable throughout the regulation. Of particular note is § 86.2(o) which provides that where an educational institution is composed of more than one school, department or college, admission to which is independent of admission to any other component, each such school, department or college is considered as a separate unit for the purposes of determining whether its admissions are covered by the regulation. Thus, if a private institution is composed of an undergraduate and a graduate college, admissions to the undergraduate college are exempt (see discussion under Subpart B below), but admissions to the graduate school are not.

24

Paragraph 86.3(a) requires remedial action to overcome the effects of previous discrimination based on sex which has been found or identified in a Federally assisted education program or activity. Remedial action pursuant to paragraph 86.3(a) is restricted to those areas of a recipient's education program or activity which are not exempt from coverage. Paragraph 86.3(b) permits, but does not require, affirmative efforts to overcome the effects of conditions which have resulted in limited participation in all or part of a recipient's education program or activity by members of either sex. Moreover, the affirmative efforts referred to in paragraph 86.3(b) do not alter any obligations which a recipient may have as a Federal contractor pursuant to Executive Order 11246.

25

Section 86.4 requires each recipient of Federal financial assistance to submit to the Director an assurance that each of its education programs and activities receiving or benefiting from such assistance will be administered in compliance with the regulation. Such an assurance will be considered unsatisfactory if, at any time after it is given, the recipient fails to take any remedial action found necessary to correct discrimination or the effects thereof.

SUBPART B—CHANGES

26

Section 86.12 is amended as follows: Paragraph 86.12(b) concerning the claiming of an exemption based on religion is amended to read:

(b) *Exemption.* An educational institution which wishes to claim the exemption set forth in paragraph (a) of this section shall do so by submitting in writing to the Director a statement by the highest ranking official of the institution, identifying the provisions of this Part which conflict with a specific tenet of the religious organization.

27

Sections 86.14 through 86.16 are redesignated as §§ 86.15 through 86.17. A new § 86.14 is added dealing with membership practices of social fraternities and sororities, YMCA, YWCA, Girl Scouts, Boy Scouts, Camp Fire Girls and certain voluntary youth organizations. A new paragraph 86.15(a), reflecting the specific language of subparagraph 901(a)(2) of the Statute, is added specifying that the regulation does not apply to the admissions practices of educational institutions prior to June 24, 1973, which is one year from the date of enactment of title IX.

ANALYSIS

28

Three changes were made in Subpart B of which two might be considered substantive: The procedure for obtaining an exemption from the coverage of title IX because of conflict between the statutory requirements and the religious tenets of a recipient or its controlling organization have been modified and simplified. An educational institution now need only submit a statement by its highest ranking official identifying the provisions of the regulation which conflict with the tenets of the religious organization involved. The most notable substantive change in Subpart B, however, is the addition of a new § 86.14 which essentially incorporates the provisions of the recently enacted "Bayh Amendment" to title IX. The amendment, which is found at § 3 of Pub. L. 93-568, exempts from the requirements of title IX and, hence, of this regulation, the membership policies and practices of certain organizations which, though educational in nature or assisted by an education institution, have traditionally restricted their membership to members of one sex. It is important to note that, with respect to fraternal organizations, both the amendment and the regulation limit their exemption to fraternties and sororities of a social nature. Thus, membership policies of business and other professional fraternities and sororities may be subject to coverage either if they themselves receive Federal financial assistance in connection with an education program or activity or if they fall within the ambit of subparagraph 86.31(b)(7) under which recipients are prohibited from providing significant assistance to agencies, organizations or persons which discriminate on the basis of sex.

29

Apart from the changes noted immediately above, Subpart B remains substantively the same as it appeared in the proposed regulation. Section 86.12 provides that the regulation does not apply to religiously controlled institutions to the extent that such application would be inconsistent with the religious tenets of the controlling organization. Section 86.13 of the regulation provides that all public and private military schools which are recipients of Federal financial assistance, whether secondary or postsecondary, are exempt from coverage. Neither the statute nor the regulation applies to United States military and merchant marine academies since these schools are Federal entities rather than recipients of Federal assistance.

30

The statute covers admissions in only certain institutions: vocational, professional, graduate, and public undergraduate institutions, except such of the latter as from their founding have been traditionally and continually single-sex. The admissions policies of private undergraduate institutions are exempt. Under the statute and § 86.15, the admissions requirements do not apply, in general, to admissions to public or private preschool, elementary and secondary schools. Because the statute mandates such coverage as to vocational schools, however, admission to public or private vocational schools, whether at the junior high school, high school or post-secondary level, is covered by paragraph 86.15(c) and must be nondiscriminatory. With respect to coverage of admissions to institutions of professional and vocational education, the Secretary has interpreted the statute as excluding admissions coverage of professional and vocational programs offered at private undergraduate schools. Thus, admission to programs leading to a first degree in fields such as teaching, engineering, and architecture at such private colleges will be exempt under paragraph 86.15(d). A number of comments were received urging the Secretary to change his interpretation of the statute in this area. Even after reassessing the Department's position on this issue, the Secretary believes that Congress did not address the overlap between the term "professional" and the term "undergraduate." Thus, the Secretary remains convinced that, while that section of the statute pertaining to admissions might be read as including professional degrees wherever they are offered, the statute can also be read as stating that admissions to private undergraduate schools were to be totally exempt. The exemption in paragraph 86.15(d) for admissions to public traditionally and continually single-sex undergraduate institutions will affect only a few institutions. Likewise, § 86.16 of the regulation, concerning transition by single-sex institutions whose admissions are covered by the statute into institutions with nondiscriminatory admissions practices, will affect relatively few institutions.

SUBPART C—CHANGES

31

Section 86.21—Subparagraph 86.21(b)(2) is amended to include the words "and alternative tests or criteria which do not have such a disproportionately adverse effect are shown to be unavailable" following the paragraph as it appeared in the proposed regulation. That section is further amended by omitting the words "successful completion of" and inserting the words "success in."

32

Subparagraphs 86.21(c)(2) and (3) are amended by deleting the words "miscarriage, abortion" and inserting in lieu thereof the words "termination of pregnancy."

33

Subparagraph 86.21(c)(4) is amended by deleting the term "Ms."

34

Section 86.23—Paragraph 86.23(a) is amended to read as follows:

(a) *Nondiscriminatory recruitment.* A recipient to which this Subpart applies shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial action pursuant to § 86.3(a), and may choose to undertake such efforts as affirmative action pursuant to § 86.3(b).

ANALYSIS

35

Neither of the two changes in Subpart C is substantive. The amendment to subparagraph 86.21(b)(2) clarifies a principle which provoked some confusion in the comments.

Both that change and the revision of paragraph 86.23(a) reflect an effort to conform the provisions of the regulations dealing with students and those dealing with employees. Apart from these changes, the substance of Subpart C remains unchanged and generally prescribes (subject to the appropriate admissions exemptions) requirements for nondiscrimination in recruitment and admission of students to education programs and activities. In addition to a general prohibition of discrimination in paragraph 86.21(a), the regulation delineates, in paragraph 86.21(b), specific prohibitions based on sex relating to such practices as ranking of applicants, application of quotas, and administration of tests or selection criteria. Use of tests for admission which are shown to have a disproportionately adverse effect on members of one sex must be shown validly to predict success in the education program or activity in question and alternative tests or criteria which do not have such a disproportionately adverse effect must be shown to be unavailable (subparagraph 86.21(b)(2)). Further, in connection with this prohibition, § 86.22 of the regulation forbids a recipient from giving preference to applicants on the basis of their attendance at particular institutions if the preference results in discrimination on the basis of sex. Such preferences may be permissible under that section, however, if the granting institution can show that the pool of applicants eligible for such preferences includes roughly equivalent numbers of males and females, or it can show that the total number of applicants eligible to receive preferences is insignificant in comparison with its total applicant pool.

36

Specific prohibitions in Subpart C also forbid applying rules concerning such matters as marital or parental status in a manner which discriminates in admissions on the basis of sex (subparagraph 86.21(c)(1)). Subparagraph 86.21(c)(2) prohibits discrimination on the basis of pregnancy and related conditions, and subparagraph 86.21(c)(3) provides that recipients shall treat disabilities related to such conditions in the same manner and under the same policies as any other temporary disability or physical condition is treated. Finally, in addition to the provisions of § 86.23 discussed above, a recipient may not, under paragraph 86.23(b), recruit primarily or exclusively at institutions the student bodies of which are exclusively or predominantly single-sex if the effect of such recruitment efforts is to discriminate on the basis of sex.

SUBPART D—CHANGES

37

Section 86.31, concerning education programs and activities, is amended as follows:

38

Subparagraph 86.31(b)(6) is amended by adding after the word "behavior" the word "sanctions."

39

Subparagraph 86.31(b)(6) is amended by adding after the word "applicant" the words "including eligibility for in-state fees and tuition."

40

Subparagraph 86.31(b)(7) is amended to read as follows:

(b)(7) aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;

Paragraph (c) is redesignated as paragraph (d) and a new paragraph (c) is inserted to read as follows:

(c) *Assistance administered by a recipient educational institution to study at a foreign institution.* A recipient educational institution may administer or assist in the administration of scholarships, fellowships, or other awards established by foreign or domestic wills, trusts, or similar legal instruments, or by acts of foreign governments and restricted to members of one sex, which are designed to provide opportunities to study abroad, and which are awarded to students who are already matriculating at or who are graduates of the recipient institution; *Provided*, a recipient educational institution which administers or assists in the administration of such scholarships, fellowships, or other awards which are restricted to members of one sex provides, or otherwise makes available reasonable opportunities for similar studies for members of the other sex. Such opportunities may be derived from either domestic or foreign sources.

41

Subparagraph 86.31(d)(2)(i) is amended by deleting the word "ensure" appearing in the second line of the proposed regulation and substituting therefor the words "assure itself."

42

Subparagraph 86.32(c)(2) is amended after the word "students" in line 5 of the paragraph as it appeared in the proposed regulation to read as follows:

shall take such reasonable action as may be necessary to assure itself that such housing * * *

The remainder of the paragraph is unchanged.

43

Paragraph 86.34(a) is redesignated as § 86.34 and is amended further by adding six subparagraphs containing language:

(a) Providing adjustment periods with respect to classes and activities in physical education;

(b) Allowing grouping of students in physical education classes and activities by ability;

(c) Allowing separation of students by sex within physical education classes and activities during participation in contact sports;

(d) Requiring use of standards for measuring skill or progress in physical education classes which do not adversely affect members of one sex;

(e) Allowing portions of classes in elementary and secondary schools which deal exclusively with human sexuality to be conducted separately for boys and girls; and

(f) Allowing recipients to offer a chorus or choruses composed of members of one sex or predominantly composed of members of one sex if those choruses are based on vocal range or quality.

44

Paragraph 86.34(b) is redesignated as § 86.35 and retitled "Access to schools operated by L.E.A.s."

45

Paragraph 86.34(c) is redesignated as § 86.36 to read as follows:

§ 86.36 *Counseling and use of appraisal and counseling materials.*

(a) *Counseling.* A recipient shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission.

(b) *Use of appraisal and counseling materials.* A recipient which uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their sex or use materials which permit or require different treatment of students on such basis unless such different materials cover the same occupations and interest areas and the use of such different materials is shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex. Where the use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination in the instrument or its application.

(c) *Disproportion in classes.* Where a recipient finds tht the enrollment of a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors.

46

Paragraph 86.35(a) is redesignated as § 86.37 and the new section includes four paragraphs which include language:

(a) Generally prohibiting recipients from limiting eligibility for or providing different financial assistance to students on the basis of sex or from assisting outside organizations or persons which so discriminate in providing assistance, and from applying any rules or assisting in the application of any rules which treat members of one sex differently from members of the other sex on the basis of marital or parental status;

(b) Specifically allowing recipients to administer or assist in administration of sex-restrictive scholarships, fellowships or other forms of financial assistance established under a domestic or foreign will, trust, bequest or other similar instrument, if the overall administration is nondiscriminatory;

(c) Requiring the provisions of reasonable opportunities to receive athletic scholarships or grants-in-aid in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics, but allowing separate financial assistance for members of each sex provided in connection with separate athletic teams to the extent those teams are permitted under this regulation.

47

A new § 86.38 is added which is entitled "Employment assistance to students." The new section includes two paragraphs: Paragraph 86.35(b) becomes paragraph 86.38(a). Paragraph 86.35(c) is redesignated as paragraph 86.38(b).

48

Section 86.36 is redesignated as § 86.39 and is amended by adding at the end of the section as it appeared in the proposed regulation the sentence "However, any recipient which provides full coverage health service must provide gynecological care."

50

Paragraph 86.40(b) is amended to include five subparagraphs containing language:

1. Prohibiting discrimination against or exclusion of pregnant students from an education program or activity unless the student voluntarily requests to participate in a separate portion of the program or activity of the recipient;

2. Allowing a recipient to require a pregnant student to obtain a certification of a physician that the student is physically and emotionally able to continue participation in the normal education program or activity so long as such a certification is required of all students

for other physical or emotional conditions;

3. Allowing recipients to offer separate instruction for pregnant students so long as admittance to such instruction is voluntary and provided such instruction is comparable to that offered tc nonpregnant students;

4. Requiring recipients to treat pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom like any other temporary disability; and

5. Where a recipient does not maintain a temporary disability policy for the student or where a student does not qualify for leave, the recipient must treat pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom as a justification for a medical leave of absence at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

51

Paragraph 86.38(b), "Determination of student interest," and paragraph 86.38(c), "Affirmative efforts," of the proposed regulation have been deleted. Section 86.38 is redesignated as § 86.41 and is further amended to include language:

(a) Prohibiting discrimination by a recipient in any interscholastic, intercollegiate, club, or intramural athletics.

(b) Allowing separate teams when those teams are based on competitive skill or if they are in contact sports, but requiring that if a team is provided for members of one sex and not for the other in a non-contact sport and athletic opportunities for the sex for whom a team is not provided have previously been limited, members of that sex be allowed to try-out for the team offered. (Contact sports are defined for the purpose of the regulation.)

(c) Delineating some of the factors which will be considered in assessing whether a recipient has provided equal opportunity in the area of athletics.

(d) Allowing recipients an adjustment period during which they must work to comply with this section as quickly as possible but in no event allowing noncompliance to continue past one year from the effective date of the regulation in the case of elementary schools and in no case later than three years from the effective date of the regulation in the case of secondary and post-secondary schools.

52

A new § 86.42 is added concerning curriculum.

ANALYSIS

53

Several of the changes made in Subpart D are substantive in nature. The language in subparagraph 86.31(b)(7) has been amended in response to comments in order to clarify the Department's position when agencies, organizations or person not part of the recipient would be subject to the requirements of the regulation. Some of these "outside" organizations have been exempted from title IX with respect to their membership policies by a recent amendment to the Statute which was enacted in late 1974. This amendment is reflected, as already noted, in § 86.14 which exempts social fraternities and sororities, certain named groups such as the Girl Scouts and certain voluntary youth service organizations. Other groups, however, such as business and professional fraternities and sororities and honor societies continue to be covered. The regulation provides that if the recipient furnishes the "outside" agency or organization with "significant assistance," the "outside" agency or organization becomes so connected with the education program or activity of the recipient that any discriminatory policies or practices for which it is responsible become attributable to the recipient. Thus, such forms of assistance as faculty sponsors, facilities, administrative staff, etc., may be significant enough to create the nexus and to render the organization subject to the regulation. Such determinations will turn on the facts and circumstances of specific situations.

Section 86.31(c) provides that where a sex-restricted scholarship, fellowship, or other such award established by a foreign will, trust or similar legal instrument but administered by a recipient constitutes a benefit to a student *already matriculating* at the recipient institution (*e.g.* the Rhodes Scholarship and the Clare Fellowship which provides opportunities for male students at domestic institutions to study abroad), the scholarship, fellowship or award may not be administered by the recipient unless the recipient administers, provides, or otherwise makes available, reasonable opportunities for similar studies for students of the other sex. Such benefits may be derived from either domestic or foreign sources.

54

The language in subparagraph 86.32(c)(2) has been changed in response to numerous comments which indicated concern that institutions which list or approve off-campus housing would be required to conduct on-site reviews of that housing which would result in a high cost to the institution and thereby militate against its continuing to aid students in finding off-campus housing. Under the regulation, on-site reviews, while permissible, need not be made as a routine matter by institutions, but the institution must take reasonable steps to assure itself that off-campus housing is comparable with respect to quality, quantity, and cost for members of each sex, given the proportion of individuals of each sex seeking such housing.

55

The changes in § 86.34 are also substantive. Subparagraph 86.34(a) requires physical education classes at the elementary school level to comply fully with the regulation as quickly as possible but to be in full compliance no later than one year from the effective date of the regulation in order to permit schools and local education agencies sufficient time to adjust schedules and prepare staff. It further requires physical education classes at the secondary and post-secondary levels to comply fully with the regulation as quickly as possible but to be in full compliance no later than three years from the effective date of the regulation. During such grace periods, while the recipient is making any necessary adjustments, it must ensure that physical education classes and activities which are separate are comparable for members of each sex. The recipient must be able to demonstrate that it is moving as expeditiously as possible within the prescribed time frame toward eliminating separate physical education classes. The adjustment period permitted at the secondary and post-secondary levels is significantly longer than that to be permitted at the elementary level because of the existence of wide skill differentials attributable to the traditionally lower levels of training available to girls in many schools.

56

Subparagraph 86.34(b) provides that ability grouping in physical education classes is permissible provided that the composition of the groups is determined objectively with regard to individual performance rather than on the basis of sex. Subparagraph 86.34(c) allows separation of students by sex within physical education classes during competition in wrestling, boxing, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact. Subparagraph 86.34(d), requiring the use of standards for measuring skill or progress in physical education which do not impact adversely on members of one sex, is intended to eliminate a problem raised by many comments that, where a goal-oriented standard is used to assess skill or progress, women will almost invariably score lower than men. For example, if progress is measured by determining whether an individual can perform twenty-five push-ups, the standard may be virtually out-of-reach for many more women than men because of the difference in strength between average persons of each sex. Accordingly, the appropriate standard might be an individual progress chart based on the number of push-ups which might be expected of that individual.

57

Subparagraph 86.34(e) which allows separate sessions in sex education for boys and girls at the elementary and secondary school level was published on July 12, 1974, as a clarification of the proposed regulation published in June (39 FR 25667). The final language has been slightly modified in response to comments indicating that the original language published on July 12, which referred generally to "sessions involving sex education" was somewhat vague. The present language more precisely identifies the material which may be taught separately as that dealing "exclusively with human sexuality." It should be stressed, of course, that neither the proposed regulation nor these final provisions require schools to offer sex education classes. Rather, the regulation specifically allows particular por-

tions of any such classes that a school district elects to offer to be offered separately to boys and girls.

58

Numerous comments were received on the subject of physical education both in favor of and opposed to the position taken in the proposed regulation. Many commentators linked their opposition to coeducational physical education to their opposition to coeducational sex education classes. Some asked for separate but equal or comparable physical education. Others were opposed to the proposed regulation on the grounds of safety and supervision problems, and because they believed that physical differences between the sexes mandated differential treatment. Another group suggested that women would be discriminated against by losing in competition and receiving lower grades. Finally, some were opposed to any Federal involvement in local school matters.

59

The expanded section on counseling and use of appraisal and counseling materials was included in response to comments. Three amendments to the original language are of particular note: First, while the language which appeared in the proposed regulation treated only use of appraisal and counseling materials, paragraph 86.36(a) of the final regulation prohibits discriminatory counseling itself. Second paragraph 86.36(b) which incorporates some of the proposed language on materials also includes several further concepts. It allows use of different counseling materials based on sex if use of such materials is shown to be essential in eliminating sex bias. Recipients are required to use internal procedures for ensuring that their counseling materials are free from sex bias; and finally, where use of a particular test or instrument results in a classification which is substantially disproportionate in sexual composition, the recipient must take whatever action is necessary to assure itself that the disproportionate classification is not the result of a sex-biased test or of discriminatory administration of an unbiased test. Third, paragraph 86.36(c) requires that where a recipient educational institution finds that the composition of a class is disproportionately male or female, it must take steps to assure itself that the disproportion is not the result of sex-biased counseling or the use of discriminatory counseling or appraisal materials.

60

New § 86.37 concerning financial assistance to students has also been expanded over its earlier version as § 86.35 of the proposed regulation. The proposed regulation prohibited recipients from giving different types of financial assistance or different amounts of any form of such assistance on the basis of sex. The present provisions remain unchanged with respect to this requirement.

61

Numerous comments were received from colleges and universities claiming that the proposed paragraph 86.35(a) would cause to "dry-up" a substantial portion of funds currently available for student financial assistance made available through wills, trusts and bequests which require that award be made to members of a specified sex. As a result, a new paragraph 86.37(b) has been added which allows recipients to administer or assist in the administration of scholarships, fellowships or other financial assistance programs established pursuant to domestic or foreign wills, trusts, or similar legal instruments, which require that awards be made only to members of a specified sex, provided that the overall effect of such administration or assistance is nondiscriminatory. Thus, the regulation now requires institutions to award financial aid on the basis of criteria other than sex. Once those students eligible for financial aid have been identified, the financial aid office may award aid from both sex-restrictive and non-sex-restrictive sources. If there are insufficient sources of financial aid designated for members of a particular sex, the institution would be required to obtain the funds from other sources or to award less assistance from the sex-restrictive sources.

62

For example, if fifty students are selected by a university to receive financial assistance, the students should be ranked in the order in which they are to receive awards. If award is based on need, those most in need are placed at the top of the list; if award is based on academic excellence, those with the higher academic averages are placed at the top of the list. The list should then be given to the financial aid office which may match the students to the scholarships and other aid available, whether sex-restrictive or not. However, if after the first twenty students have been matched with funds, the financial aid office runs out of non-restrictive funds and is left with only funds designated for men, these funds must be awarded without regard to sex and not solely to men unless only men are left on the list. If both men and women remain on the list, the university must locate additional funding for the women or cease to give awards at that point.

The provision included in the proposed regulation exempting sex-restricted scholarships, fellowships, and other financial assistance programs established under foreign wills, trusts or similar legal instruments, has been removed. Where such scholarships, fellowships, and financial aid are administered by the recipient and constitute assistance to a student enabling him or her to *matriculate at the recipient institution*, they may be treated like similar forms of financial assistance established under domestic wills, trusts, and similar legal instruments or by acts of foreign governments, and paragraph 86.37(b) has been modified accordingly.

64

Subparagraph 86.37(c)(1) requires recipients to provide reasonable opportunities for athletic scholarships or grants-in-aid for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

65

Subparagraph 86.37(c)(2) retains the provision of paragraph 86.35(d) of the proposed regulation allowing sex-restrictive athletic scholarships provided as part of sex-restrictive athletic teams to the extent the operation of such teams is consistent with subparagraph 86.37(c)(1) and the athletics section of the regulation (§ 86.41).

66

Section 86.38 requires, as did its predecessor section, that assistance in making outside employment available to students, and that employment of students by a recipient must be undertaken in a nondiscriminatory manner.

67

Section 86.39, in addition to incorporating § 86.36 of the proposed regulation, requires that if full coverage health service is offered by recipients it must include gynecological care. This requirement should not be interpreted as requiring the recipient to employ a specialist physician. Rather, it is the Department's intent to require only that basic services in the gynecological field such as routine examinations, tests and treatment be provided where the recipient has elected to offer full health service coverage. Any limitations on health services offered cannot be based on sex.

68

The content of paragraph 86.40(a) is unchanged from the earlier proposal. The changes in paragraph 86.40(b) summarized above continue to require that pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom be treated like any other temporary disability. In response to many comments, the regulation now provides in subparagraph 86.40(b)(2) that a recipient may require a student who is or has recently been pregnant to obtain a doctor's certificate as to her ability to participate in the normal education program or activity so long as such a certificate is required of all students for other physical or emotional conditions. Subparagraph 86.40(b)(3) now allows a recipient to operate a portion of its program or activity separately for pregnant students. However, it prohibits mandatory assignment of students to such classes or schools and the instructional program offered separately must be comparable to that offered to nonpregnant students.

69

Section 86.41, the athletics section of the regulation, has been changed to meet some of the problems raised by the comments. Many comments received during the comment period indicate some confusion as to whether intramural programs are covered by this section. Since the intent is to cover intramurals, the phrase "interscholastic, intercollegiate, club or intramural athletics" has been substituted for the term "athletic programs" appearing in the first sentence of paragraph 86.38(a) of the proposed regulation.

70

Paragraph 86.41(a) provides that athletics must be operated without discrimination on the basis of sex. The Department continues to take the position that athletics constitute an integral part of the educational processes of schools and colleges and, as such, are fully subject to the requirements of title IX even in the absence of Federal funds going directly to athletics. Except for certain specific exemptions not directly pertinent to athletics, paragraph 901(a) of title IX is virtually identical to paragraph 601(a) of ttitle VI of the Civil Rights Act of 1964. Since the language of title IX so closely parallels that of title VI, in the absence of specific Congressional indications to the contrary, the Department has basically interpreted title IX consistently with interpretations of title VI in similar areas. Under title VI, the courts have consistently considered athletics sponsored by educational institutions to be an integral part of that institution's education program or activity and, consequently, covered by title VI. See, for example, *Swann* v. *Charlotte-Mecklenburg Board of Education*, 402 U.S. 1, 18 (1971) and *United States* v. *Jefferson County Board of Education*, 372 F.2d 836, 891 (5th Cir. 1966), *affirmed en banc*, 380 F.2d 385 (5th Cir. 1967) *cert. denied sub nom. United States* v. *Caddo Parish Board of Education*, 389 U.S. 840 (1967).

71

Similarly, in cases wherein plaintiffs have challenged state and local rules prohibiting competition between men and women in high school athletics as being a violation of the equal protection clause of the Fourteenth Amendment, interscholastic sports have been specifically recognized as part of the education process. *Brenden* v. *Independent School District 742*, 477 F.2d 1292, 1297–1299 (8th Cir. 1973); *Bucha* v. *Illinois High School Association*, 351 F. Supp. 69, 74 (M.D. Ill. 1972); cf. *Hass*. v. *South Bend Community School Corporation*, 289 N.E. 2d 495, 499 (S. Ct. Ind. 1972) and *Reed* v. *Nebraska School Activities Association*, 341 F. Supp. 258, 262 (D. Neb. 1972).

72

In addition, § 844 of the Education Amendments of 1974 (Pub. L. 93–380) compels the Department to "[P]repare and publish * * * proposed regulations implementing the provisions of title IX of the Education Amendments of 1972 * * * which shall include with respect to intercollegiate athletic activities reasonable provisions considering the nature of particular sports." Thus, in light of the case law under title VI and the Fourteenth Amendment, and the Congressional mandate to cover intercollegiate athletics in § 844 of Pub. L. 93–380, the Department believes that coverage of athletics is mandated by title IX and that such coverage must be reflected in the regulation.

73

A substantial number of comments was received by the Department on the various issues raised concerning the athletic provisions of the proposed regulation. Numerous comments were received favoring a proposal submitted by the National Collegiate Athletic Association that the revenues earned by revenue-producing intercollegiate sports be exempted from coverage under this regulation. Other comments were submitted against this proposal.

74

The NCAA proposal was not adopted. There is no basis under the statute for exempting such sports or their revenues from coverage of title IX. An amendment to the Education Amendments of 1974 was introduced by Senator John Tower on the floor of the Senate specifically exempting from title IX revenue from revenue-producing intercollegiate athletics. 120 *Cong. Rec.* S 8488 (daily ed. May 20, 1974). The "Tower Amendment" was deleted by the conference committee and was, in effect, replaced by the so-called "Javits Amendment" which became § 844 of Pub. L. 93–380 mandating that the Department publish proposed title IX regulations whch would include "reasonable provisons" covering intercollegiate athletics.

75

In response to the comments, while paragraph 86.41(a) remains substantively the same as its predecessor, the remainder of the athletics section has been changed. Paragraph 86.38(b) of the proposed regulation required an annual determination of student interest by a recipient. This provision was widely misinterpreted as requiring institutions to take an annual poll of the student body and to offer all sports in which a majority of the student body expressed interest and abolish those in which there is no interest. The Department's intent, however, is to require institutions to take the interests of both sexes into account in determining what sports to offer. As long as there is no discrimination against members of either sex, the institution may offer whatever sports it desires. The "determination of student interest" provision has been removed. A new paragraph 86.41(c)(i) requires institutions to select "sports and levels of competition which effectively accommodate the interests and abilities of members of both sexes." In so doing, an institution should consider by a reasonable method it deems appropriate, the interests of both sexes.

Paragraph 86.38(c) of the proposed regulation required all recipients sponsoring athletic activities to take certain affirmative efforts with regard to members of the sex for which athletic opportunities have been limited notwithstanding the lack of any finding of discrimination. Since such a requirement could be considered "affirmative action" and was somewhat inconsistent with § 86.3, it has been deleted. However, "affirmative efforts" may still be required pursuant to paragraph 86.3(a) or may be undertaken on a voluntary basis pursuant to paragraph 86.3(b). Paragraph 86.41(b) permits separate teams for members of each sex where selection for the team is based on competitive skill or the activity involved is a contact sport. If, however, a team in a non-contact sport, the membership of which is based on skill, is offered for members of one sex and not for members of the other sex, and athletic opportunities for the sex for whom no team is available have previously been limited, individuals of that sex must be allowed to compete for the team offered. For example, if tennis is offered for men and not for women and a woman wishes to play on the tennis team, if women's sports have previously been limited at the institution in question, that woman may compete for a place on the "men's" team. However, this provision does not alter the responsibility which a recipient has under § 86.41(c) with regard to the provision of equal opportunity. Under § 86.41(c)(i), recipients are required to select "sports and levels of competition which effectively accomodate the interests and abilities of members of both sexes." Thus, an institution would be required to provide separate teams for men and women in situations where the provision of only one team would not "accommodate the interests and abilities of members of both sexes." This provision, of course, applies whether sports are contact or non-contact. As in the section on physical education, a contact sport is defined by using some examples and leaving the status of other sports to be determined on the basis of whether their purpose or major activity involves bodily contact.

76

Paragraph 86.41(c) retains the substance of paragraph 86.38(d) of the proposed regulation but has been expanded to provide more guidance on what factors the Department considers integral to providing equal opportunities in athletics. A list has been provided for the guidance of recipients of items which will be considered by the Office for Civil Rights in evaluating a recipient's interscholastic, intercollegiate, club or intramural athletics to determine if equal opportunity is available. These items will be considered whether or not a recipient sponsors separate teams, since inequality of opportunity may exist even where women participate on the same teams with men. The enumeration of items is not intended as a limitation on the items which the Department may deem pertinent for consideration during a particular compliance investigation or review.

77

As provided in the proposed regulation, the Department will not consider, as a *per se* failure to provide equal opportunity, unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if such separate teams are offered or sponsored. Clearly, it is possible for equality of opportunity to be provided without exact equality of expenditure. However, any failure to provide necessary funds for women's teams may be considered by the Department in assessing equality of opportunity for members of each sex.

78

Finally, paragraph 86.41(d) has been added to provide a period of time similar to that allowed in the area of physical education for recipients to adjust their athletics offerings to comply with the requirements of the regulation. The Department will construe this section as requiring recipients to comply before the end of the adjustment period wherever possible.

79

The last substantive change in Subpart D is the addition of specific exemption of textbooks and curricular materials from the scope of the regulation. The new section explicitly states the Department's position that title IX does not reach the use of textbooks and curricular materials on the basis of their portrayals of individuals in a stereotypic manner or on the basis that they otherwise project discrimination against persons on account of their sex. As stated in the preamble to the proposed regulation, the Department recognizes that sex stereotyping in textbooks and curricular materials is a serious matter. However, the imposition of restrictions in this area would inevitably limit communication and would thrust the Department into the role of Federal censor. There is no evidence in the legislative history that the proscription in title IX against sex discrimination should be interpreted as requiring, prohibiting or limiting the use of any such material. Normal rules of statutory construction require the Department, wherever possible, to interpret statutory language in such a way as to avoid potential conflicts with the Constitution. Accordingly, the Department has construed title IX as not reaching textbooks and curricular materials on the ground that to follow another interpretation might place the Department in a position of limiting free expression in violation of the First Amendment.

80

The Department received a number of comments as well as one petition concerning discrimination in textbooks and curricular materials. The comments in favor of including coverage of textbooks and curricular materials came from national organizations, several college or university presidents or chancellors, several local school superintendents, several local organizations and interest groups, and a number of individuals. Comments opposing coverage were also submitted.

SUBPART E—CHANGES

81

Sections 86.41 through 86.51 are redesignated as §§ 86.51 through 86.61. Subparagraph 86.51(a)(4) is added providing as follows:

A recipient shall not grant preferences to applicants for employment on the basis of attendance at any educational institution or entity which admits as students only or predominantly members of one sex, if the giving of such a preference has the effect of discriminating on the basis of sex in violation of this Part.

82

Subparagraph 86.51(b)(2) is amended to add after the word "termination" the words "application of nepotism policies." Subparagraph 86.51(b)(6) is amended to delete the words "pregnancy leave" and to substitute therefor the words "leave for pregnancy, childbirth, false pregnancy, termination of pregnancy."

83

Section 86.53 is amended by deleting § 86.53(a) and substituting the following:

(a) *Nondiscriminatory recruitment and hiring.* A recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees. Where a recipient has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has in the past so discriminated, the recipient shall recruit members of the sex so discriminated against so as to overcome the effects of such past or present discrimination.

84

Section 86.54 is amended by deleting paragraphs 86.44 (b) and (c) as they appeared in the proposed regulation and by substituting a new paragraph 86.54(b) to read:

(b) Results in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

85

Paragraph 86.55(c) is amended by deleting the words "operate to." Section 86.57 is amended by deleting paragraphs 86.57 (b), (c), (d) and (e) and by substituting therefor language:

(1) Prohibiting discrimination in employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

(2) Requiring treatment of pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom, to be treated as any other temporary disability for the purposes of leave, seniority and other benefits or services.

(3) Requiring, where a recipient does not maintain a leave policy or where an employee does not qualify for leave under such a policy because of inadequate longevity on the job, that the recipient shall treat an employee's pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom, as a justification for reasonable leave without pay with guaranteed reinstatement upon her return.

86

Section 86.60 is amended by deleting the term "Ms."

ANALYSIS

87

Before discussing the substantive changes in Subpart E, one explanation is needed regarding a section that was not changed. Subpart E generally follows the Sex Discrimination Guidelines (29 CFR Part 1604) of the Equal Employment Opportunity Commission (EEOC) and the regulations of the Office of Federal Contract Compliance (OFCC), United States Department of Labor (41 CFR Part 60). The EEOC administers title VII of the Civil Rights Act of 1964, which prohibits employment discrimination, and the OFCC is responsible for the coordination and implementation of Executive Order 11246, as amended, which prohibits employment discrimination by Federal contractors. HEW is responsible for administration, pursuant to the OFCC regulations, of the Executive Order as to Federal contractors who are educational institutions. Virtually all recipients subject to this Part 86 are also subject to title VII and many are also subject to the Executive Order. Except in the area of fringe benefits, where Subpart E of the title IX regulation differs from the title VII Sex Discrimination Guidelines of the EEOC, an employer who complies with the title IX regulation will generally be complying both with title VII and the Executive Order. It should be emphasized, however, that nothing in the title IX regulation alters any responsibilities that an employer may have under the Executive Order or title VII. Paragraphs 86.3(b) and 86.6(a) of Subpart A have been modified to accentuate this point.

88

Accordingly, subparagraphs 86.56(b)(2) of Subpart E remains the same as subparagraph 86.46(b)(2) as it appeared in the proposed regulation and continues to follow the Executive Order regulations in requiring that fringe benefit plans provide either for equal periodic benefits to members of each sex or equal contributions by the employer for members of each sex (§ 86.39 imposes identical requirements for student benefit plans). The title VII Sex Discrimination Guidelines of the EEOC differ in that they prohibit payment of unequal periodic benefits on the basis of sex and preclude employers from justifying unequal periodic benefits on the basis of differences in cost for males and for females. While the approach taken in the final regulation is felt to be the most reasonable at present, the Secretary recognizes the need to move toward some provision for equality in periodic benefits. In view of the potential problems associated with such a provision and also with the present inconsistency between the EEOC, OFCC and HEW approaches, the President has directed that a report be prepared by October 15 recommending a single approach.

89

Subparagraph 86.51(a)(1) makes it clear that the regulation applies to part-time employees. In the preamble to the proposed regulation it was stated that the section concerning fringe benefits (now § 86.56) would be interpreted as follows: It would require that where an institution's female permanent employees are disproportionately part-time or its permanent part-time employees are disproportionately female, and the institution does not provide its permanent part-time employees fringe benefits proportionate to those provided full time employees, the institution demonstrate that such a manner of providing fringe benefits does not discriminate on the basis of sex. Assuming the absence of discriminatory hiring practices on the part of an employer which channel female job applicants into part-time positions, it is questionable whether the Department has the authority to place the burden on an employer to demonstrate that failure to give part-time employees fringe benefits proportionate to those provided to full-time employees under the circumstances stated above is not discriminatory. Since discriminatory hiring practices which channel female job applicants into part-time jobs are clearly prohibited by subparagraph 86.51(a)(1), and because of the questions which may be raised as to the soundness of the interpretation given to § 86.56 in the preamble to the proposed regulation, the Department will assume the initial burden of demonstrating that a particular method of providing fringe benefits to part-time employees is discriminatory.

90

Subparagraph 86.51(a)(4) parallels paragraph 86.23(b) which concerns student recruitment. It prohibits recipients from granting preferences to employment applicants who are graduates of particular institutions, the student bodies of which are exclusively or predominantly of one sex, if the effect of such preferences results in discrimination on the basis of sex.

91

Paragraph 86.43(a) as it appeared in the proposed regulation required recipients who recruit for employment to make comparable efforts to recruit members of each sex. Paragraph 86.53 (a) of the final regulation no longer requires comparable efforts but provides that a recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees. This change recognizes that, under some circumstances, an employer may expend greater efforts to recruit members of one sex without discriminating against members of the other. For example, where a school district is located close to an all-female private undergraduate school, the district may have to expend greater efforts to recruit male teachers than it will have to use to recruit female teachers. However, where a recipient is presently discriminating on the basis of sex, or has in the past so discriminated, it shall take remedial action to recruit members of the sex discriminated against until the effect of such past discrimination no longer exists.

92

In response to the public comments, the language of paragraph 86.54(b) has been simplified over the language appearing in the proposed regulation to prohibit a recipient from enforcing any policy or practice which results in the payment of wages to members of one sex at a rate less than that paid to members of the other sex for equal work on jobs, the performance of which requires equal skill, effort and responsibility, and which are performed under similar working conditions. This makes the title IX regulation consistent with the wording of the Equal Pay Act of 1963, Pub. L. 88–38, 29 U.S.C. paragraph 206(d), and will enable the Director to rely on the case law established under the Equal Pay Act to interpret and enforce paragraph 86.54 (b).

93

Paragraphs 86.57 (b), (c) and (d) have been slightly modified from the earlier version to make it clear that a recipient cannot discriminate on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom and that such conditions and any temporary disabilities resulting therefrom must be treated by the recipient as any other temporary disability for all job-related purposes.

94

Paragraph 86.47(e) in the proposed regulation provided that an employee could not be required to commence leave related to pregnancy so long as her physician certified that she was capable of performing her duties, and that she must be allowed to resume work after such a leave no more than two weeks after her physician certifies that she is capable of doing so or, in the case of an employee who is a teacher, at the beginning of the first academic term after such certification is made. This section has been completely deleted from the final regulation since it is inconsistent with paragraph 86.57(b) which requires that all conditions related to pregnancy be treated as disabilities for job-related purposes. If a recipient requires that any employees suffering from a temporary disability be required to obtain a physician's certification that they are capable of continued work, then it may also require such a certification from pregnant employees. If a recipient requires all employees who take sick leave for a temporary disability to return to work after such leave two weeks after a physician certifies that such employees are capable of returning, then the same procedure must be utilized for pregnant employees. However, if none of these certifications is required for other temporary disabilities, none may be required of pregnant employees. Likewise, a recipient may not require pregnant employees to give advance notice of when they intend to commence sick leave unless such advance notice is also required of all other employees who intend to go on sick leave due to a temporary disability in cases where advance knowledge of the absence makes such notice possible.

95

Paragraph 86.60(a) prohibits pre-employment inquiries as to an applicant's marital status since such inquiries are frequently the foundation for discrimination against married women. Subparagraph 86.21(c)(4) in Subpart C contains a similar prohibition with regard to pre-admission inquiries. The proposed regulation proscribed inquiries into whether a job applicant was "Ms., Miss or Mrs." Since under paragraph 86.60(b) inquiries as to the sex of an applicant may be made so long as it is made of members of both sexes and is not used to discriminate, the inquiry proscribed in paragraph 86.60(a) as to whether an applicant is "Ms., Miss or Mrs." has been changed to delete the "Ms."

96

Finally, § 86.51 permits consideration of sex in making employment decisions where sex is a "bona fide occupational qualification." This section is retained in the final regulation to make the title IX regulation consistent with the Sex Discrimination Guidelines of the EEOC and with the OFCC regulations implementing Executive Order 11246. This section will be interpreted narrowly, consistent with interpretations already made under title VII of the Civil Rights Act of 1964 and the Executive Order.

SUBPART F

§ 86.71 Interim Procedures

For the purposes of implementing this Part during the period between its effective date and the final issuance by the Department of a consolidated procedural regulation applicable to title IX and other civil rights authorities administered by the Department, the procedural provisions applicable to title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 45 CFR §§ 80–6—80–11 and 45 CFR Part 81.

The Secretary has chosen to adopt the title VI procedures for use during the interim period between the effective date of this regulation and effectiveness of the final consolidated procedural regulation to simplify enforcement during that time and to avoid applying a different procedure for enforcement of requirements concerning discrimination based on race, color, or national origin from those based on sex. The Department is publishing, simultaneously with this final regulation, a proposed consolidated procedural regulation which will apply to most of the Department's civil rights enforcement activities. Comments on that proposal are solicited, as provided in the notice of proposed rulemaking, for 45 days.

QUESTIONS

Questions concerning the application or interpretation of this regulation should be addressed to the Regional Directors of the Office for Civil Rights whose addresses are as follows:

Region I—Mr. John G. Bynoe, RKO General Building, 5th Floor, Bulfinch Place, Boston, Massachusetts 02114.

Region II—Mr. Joel Barkan, 26 Federal Plaza, Room 3908, New York 10007.

Region III—Mr. Dewey Dodds, Gateway Building, 3535 Market Street, Philadelphia, Pennsylvania 19101.

Region IV—Mr. William Thomas, 50 Seventh Street, N.E., Room 404, Atlanta, Georgia 30323.

Region V—Mr. Kenneth A. Mines, 309 W. Jackson Boulevard, 10th Floor, Chicago, Illinois 60606.

Region VI—Ms. Dorothy D. Stuck, 1114 Commerce Street, Dallas, Texas 75202.

Region VII—Mr. Taylor D. August, 12 Grand Building, 12th and Grand Avenue, Kansas City, Missouri 64106.

Region VIII—Mr. Gilbert D. Roman, Room 11037 Federal Building, 1961 Stout Street, Denver, Colorado 80202.

Region IX—Mr. Floyd L. Pierce, 760 Market Street, Room 700, San Francisco, California 94102.

Region X—Ms. Marlaina Kiner, 6101 Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.

Dated: May 27, 1975.

CASPAR W. WEINBERGER,
Secretary.

Dated: May 27, 1975.

Approved:

GERALD R. FORD,
President.

Part 86 is added to read as set forth below:

PART 86—NONDISCRIMINATION ON THE BASIS OF SEX UNDER FEDERALLY ASSISTED EDUCATION PROGRAMS AND ACTIVITIES

Subpart A—Introduction

Sec.
86.1 Purpose and effective date.
86.2 Definitions.
86.3 Remedial and affirmative action and self-evaluation.
86.4 Assurance required.
86.5 Transfers of property.
86.6 Effect of other requirements.
86.7 Effect of employment opportunities.
86.8 Designation of responsible employee and adoption of grievance procedures.
86.9 Dissemination of policy.

Subpart B—Coverage

86.11 Application.
86.12 Educational institutions controlled by religious organizations.
86.13 Military and merchant marine educational institutions.
86.14 Membership practices of certain organizations.
86.15 Admissions.
86.16 Educational institutions eligible to submit transition plans.
86.17 Transition plans.
86.18–86.20 [Reserved].

Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

86.21 Admission.
86.22 Preference in admission.
86.23 Recruitment.
86.24–86.30 [Reserved].

Subpart D—Discrimination on the Basis of Sex in Education Programs and Activities Prohibited

Sec.
86.31 Education programs and activities.
86.32 Housing.
86.33 Comparable facilities.
86.34 Access to course offerings.
86.35 Access to schools operated by L.E.A.s.
86.36 Counseling and use of appraisal and counseling materials.
86.37 Financial assistance.
86.38 Employment assistance to students.
86.39 Health and insurance benefits and services.
86.40 Marital or parental status.
86.41 Athletics.
86.42 Textbooks and curricular material.
86.43–86.50 [Reserved].

Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs and Activities Prohibited

86.51 Employment.
86.52 Employment criteria.
86.53 Recruitment.
86.54 Compensation.
86.55 Job classification and structure.
86.56 Fringe benefits.
86.57 Marital or parental status.
86.58 Effect of State or local law or other requirements.
86.59 Advertising.
86.60 Pre-employment inquiries.
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86.71 Interim procedures.

Subpart A—Introduction

§ 86.1 Purpose and effective date.

The purpose of this part is to effectuate title IX of the Education Amendments of 1972, as amended by Pub. L. 93–568, 88 Stat. 1855 (except sections 904 and 906 of those Amendments) which is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution as defined in this part. This part is also intended to effectuate section 844 of the Education Amendments of 1974, Pub. L. 93–380, 88 Stat. 484. The effective date of this part shall be July 21, 1975.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682, as amended by Pub. L. 93–568, 88 Stat. 1855, and Sec. 844, Education Amendments of 1974, 88 Stat. 484, Pub. L. 93–380)

§ 86.2 Definitions.

As used in this part, the term—

(a) *"Title IX"* means title IX of the Education Amendments of 1972, Pub. L. 92–318, as amended by section 3 of Pub. L. 93–568, 88 Stat. 1855, except §§ 904 and 906 thereof; 20 U.S.C. §§ 1681, 1682, 1683, 1685, 1686.

(b) *"Department"* means the Department of Health, Education, and Welfare.

(c) *"Secretary"* means the Secretary of Health, Education, and Welfare.

(d) *"Director"* means the Director of the Office for Civil Rights of the Department.

(e) *"Reviewing Authority"* means that component of the Department delegated authority by the Secretary to appoint, and to review the decisions of, administrative law judges in cases arising under this Part.

(f) *"Administrative law judge"* means a person appointed by the reviewing authority to preside over a hearing held under this Part.

(g) *"Federal financial assistance"* means any of the following, when authorized or extended under a law administered by the Department:

(1) A grant or loan of Federal financial assistance, including funds made available for:

(i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and

(ii) Scholarships, loans, grants, wages or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that entity.

(2) A grant of Federal real or personal property or any interest therein, including surplus property, and the proceeds of the sale or transfer of such property, if the Federal share of the fair market value of the property is not, upon such sale or transfer, properly accounted for to the Federal Government.

(3) Provision of the services of Federal personnel.

(4) Sale or lease of Federal property or any interest therein at nominal consideration, or at consideration reduced for the purpose of assisting the recipient or in recognition of public interest to be served thereby, or permission to use Federal property or any interest therein without consideration.

(5) Any other contract, agreement, or arrangement which has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty.

(h) *"Recipient"* means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives or benefits from such assistance, including any subunit, successor, assignee, or transferee thereof.

(i) *"Applicant"* means one who submits an application, request, or plan required to be approved by a Department official, or by a recipient, as a condition to becoming a recipient.

(j) *"Educational institution"* means a local educational agency (L.E.A.) as defined by section 801(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 881), a preschool, a private elementary or secondary school, or an applicant or recipient of the type defined by paragraph (k), (l), (m), or (n) of this section.

(k) *"Institution of graduate higher education"* means an institution which:

(1) Offers academic study beyond the bachelor of arts or bachelor of science degree, whether or not leading to a certificate of any higher degree in the liberal arts and sciences; or

(2) Awards any degree in a professional field beyond the first professional degree (regardless of whether the first professional degree in such field is awarded by an institution of undergraduate higher education or professional education); or

(3) Awards no degree and offers no further academic study, but operates ordinarily for the purpose of facilitating research by persons who have received the highest graduate degree in any field of study.

(l) *"Institution of undergraduate higher education"* means:

(1) An institution offering at least two but less than four years of college level study beyond the high school level, leading to a diploma or an associate degree, or wholly or principally creditable toward a baccalaureate degree; or

(2) An institution offering academic study leading to a baccalaureate degree; or

(3) An agency or body which certifies credentials or offers degrees, but which may or may not offer academic study.

(m) *"Institution of professional education"* means an institution (except any institution of undergraduate higher education) which offers a program of academic study that leads to a first professional degree in a field for which there is a national specialized accrediting agency recognized by the United States Commissioner of Education.

(n) *"Institution of vocational education"* means a school or institution (except an institution of professional or graduate or undergraduate higher education) which has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers fulltime study.

(o) *"Administratively separate unit"* means a school, department or college of an educational institution (other than a local educational agency) admission to which is independent of admission to any other component of such institution.

(p) *"Admission"* means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by a recipient.

(q) *"Student"* means a person who has gained admission.

(r) *"Transition plan"* means a plan subject to the approval of the United States Commissioner of Education pursuant to section 901(a)(2) of the Education Amendments of 1972, under which an educational institution operates in making the transition from being an educational institution which admits only students of one sex to being one which admits students of both sexes without discrimination.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.3 Remedial and affirmative action and self-evaluation.

(a) *Remedial action.* If the Director finds that a recipient has discriminated against persons on the basis of sex in an education program or activity, such recipient shall take such remedial action as the Director deems necessary to overcome the effects of such discrimination.

(b) *Affirmative action.* In the absence of a finding of discrimination on the basis of sex in an education program or activity, a recipient may take affirmative action to overcome the effects of conditions which resulted in limited participation therein by persons of a particular sex. Nothing herein shall be interpreted to alter any affirmative action obligations which a recipient may have under Executive Order 11246.

(c) *Self-evaluation.* Each recipient education institution shall, within one year of the effective date of this part:

(i) Evaluate, in terms of the requirements of this part, its current policies and practices and the effects thereof concerning admission of students, treatment of students, and employment of both academic and non-academic personnel working in connection with the recipient's education program or activity;

(ii) Modify any of these policies and practices which do not or may not meet the requirements of this part; and

(iii) Take appropriate remedial steps to eliminate the effects of any discrimination which resulted or may have resulted from adherence to these policies and practices.

(d) *Availability of self-evaluation and related materials.* Recipients shall maintain on file for at least three years following competition of the evaluation required under paragraph (c) of this section, and shall provide to the Director upon request, a description of any modifications made pursuant to subparagraph (c)(ii) and of any remedial steps taken pursuant to subparagraph (c)(iii).

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.4 Assurance required.

(a) *General.* Every application for Federal financial assistance for any education program or activity shall as condition of its approval contain or be accompanied by an assurance from the applicant or recipient, satisfactory to the Director, that each education program or activity operated by the applicant or recipient and to which this part applies will be operated in compliance with this part. An assurance of compliance with this part shall not be satisfactory to the Director if the applicant or recipient to whom such assurance applies fails to commit itself to take whatever remedial action is necessary in accordance with § 86.3(a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior or subsequent to the submission to the Director of such assurance.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended to provide real property or structures thereon, such assurance shall obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used to provide an education program or activity.

(2) In the case of Federal financial assistance extended to provide personal property, such assurance shall obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases such assurance shall obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Form.* The Director will specify the form of the assurances required by paragraph (a) of this section and the extent to which such assurances will be required of the applicant's or recipient's subgrantees, contractors, subcontractors, transferees, or successors in interest.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.5 Transfers of property.

If a recipient sells or otherwise transfers property financed in whole or in part with Federal financial assistance to a transferee which operates any education program or activity, and the Federal share of the fair market value of the property is not upon such sale or transfer properly accounted for to the Federal Government both the transferor and the transferee shall be deemed to be recipients, subject to the provisions of Subpart B.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.6 Effect of other requirements.

(a) *Effect of other Federal provisions.* The obligations imposed by this part are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by Executive Order 11246, as amended; sections 799A and 845 of the Public Health Service Act (42 U.S.C. 295h–9 and 298b–2); Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); the Equal Pay Act (29 U.S.C. 206 and 206(d)); and any other Act of Congress or Federal regulation.

(Secs. 901, 902, 905, Education Amendments of 1972, 86 Stat. 373, 374, 375; 20 U.S.C. 1681, 1682, 1685)

(b) *Effect of State or local law or other requirements.* The obligation to comply with this part is not obviated or alleviated by any State or local law or other requirement which would render any applicant or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex, to practice any occupation or profession.

(c) *Effect of rules or regulations of private organizations.* The obligation to comply with this part is not obviated or

alleviated by any rule or regulation of any organization, club, athletic or other league, or association which would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by a recipient and which receives or benefits from Federal financial assistance.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.7 Effect of employment opportunities.

The obligation to comply with this Part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for members of one sex than for members of the other sex.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.8 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions which would be prohibited by this part. The recipient shall notify all its students and employees of the name, office address and telephone number of the employee or employees appointed pursuant to this paragraph.

(b) *Complaint procedure of recipient.* A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.9 Dissemination of policy.

(a) *Notification of policy.* (1) Each recipient shall implement specific and continuing steps to notify applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in the educational programs or activities which it operates, and that is required by title IX and this part not to discriminate in such a manner. Such notification shall contain such information, and be made in such manner, as the Director finds necessary to apprise such persons of the protections against discrimination assured them by title IX and this part, but shall state at least that the requirement not to discriminate in education programs and activities extends to employment therein, and to admission thereto unless Subpart C does not apply to the recipient, and that inquiries concerning the application of title IX and this part to such recipient may be referred to the employee designated pursuant to § 86.8, or to the Director.

(2) Each recipient shall make the initial notification required by paragraph (a)(1) of this section within 90 days of the effective date of this part or of the date this part first applies to such recipient, whichever comes later, which notification shall include publication in: (i) Local newspapers; (ii) newspapers and magazines operated by such recipient or by student, alumnae, or alumni groups for or in connection with such recipient; and (iii) memoranda or other written communications distributed to every student and employee of such recipient.

(b) *Publications.* (1) Each recipient shall prominently include a statement of the policy described in paragraph (a) of this section in each announcement, bulletin, catalog, or application form which it makes available to any person of a type described in paragraph (a) of this section, or which is otherwise used in connection with the recruitment of students or employees.

(2) A recipient shall not use or distribute a publication of the type described in this paragraph which suggests, by text or illustration, that such recipient treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by this part.

(c) *Distribution.* Each recipient shall distribute without discrimination on the basis of sex each publication described in paragraph (b) of this section, and shall apprise each of its admission and employment recruitment representatives of the policy of nondiscrimination described in paragraph (a) of this section, and require such representatives to adhere to such policy.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

Subpart B—Coverage

§ 86.11 Application.

Except as provided in this subpart, this Part 86 applies to every recipient and to each education program or activity operated by such recipient which receives or benefits from Federal financial assistance.

§ 86.12 Educational institutions controlled by religious organizations.

(a) *Application.* This part does not apply to an educational institution which is controlled by a religious organization to the extent application of this part would not be consistent with the religious tenets of such organization.

(b) *Exemption.* An educational institution which wishes to claim the exemption set forth in paragraph (a) of this section, shall do so by submitting in writing to the Director a statement by the highest ranking official of the institution, identifying the provisions of this part which conflict with a specific tenet of the religious organization.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.13 Military and merchant marine educational institutions.

This part does not apply to an educational institution whose primary purpose is the training of individuals for a military service of the United States or for the merchant marine.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.14 Membership practices of certain organizations.

(a) *Social fraternities and sororities.* This part does not apply to the membership practices of social fraternities and sororities which are exempt from taxation under Section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at institutions of higher education.

(b) *YMCA, YWCA, Girl Scouts, Boy Scouts and Camp Fire Girls.* This part does not apply to the membership practices of the Young Men's Christian Association, the Young Women's Christian Association, the Girl Scouts, the Boy Scouts and Camp Fire Girls.

(c) *Voluntary youth service organizations.* This part does not apply to the membership practices of voluntary youth service organizations which are exempt from taxation under Section 501(a) of the Internal Revenue Code of 1954 and the membership of which has been traditionally limited to members of one sex and principally to persons of less than nineteen years of age.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682; Sec. 3(a) of P.L. 93-568, 88 Stat. 1862, amending Sec. 901)

§ 86.15 Admissions.

(a) Admissions to educational institutions prior to June 24, 1973, are not covered by this part.

(b) *Administratively separate units.* For the purposes only of this section, §§ 86.15 and 86.16, and Subpart C, each administratively separate unit shall be deemed to be an educational institution.

(c) *Application of Subpart C.* Except as provided in paragraphs (c) and (d) of this section, Subpart C applies to each recipient. A recipient to which Subpart C applies shall not discriminate on the basis of sex in admission or recruitment in violation of that subpart.

(d) *Educational institutions.* Except as provided in paragraph (e) of this section as to recipients which are educational institutions, Subpart C applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.

(e) *Public institutions of undergraduate higher education.* Subpart C does not apply to any public institution of undergraduate higher education which traditionally and continually from its establishment has had a policy of admitting only students of one sex.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.16 Educational institutions eligible to submit transition plans.

(a) *Application.* This section applies to each educational institution to which Subpart C applies which:

(1) Admitted only students of one sex as regular students as of June 23, 1972; or

(2) Admitted only students of one sex as regular students as of June 23, 1965, but thereafter admitted as regular students, students of the sex not admitted prior to June 23, 1965.

(b) *Provision for transition plans.* An educational institution to which this section applies shall not discriminate on the basis of sex in admission or recruitment in violation of Subpart C unless it is carrying out a transition plan approved by the United States Commissioner of Education as described in § 86.17, which plan provides for the elimination of such discrimination by the earliest practicable date but in no event later than June 23, 1979.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.17 Transition plans.

(a) *Submission of plans.* An institution to which § 86.15 applies and which is composed of more than one administratively separate unit may submit either a single transition plan applicable to all such units, or a separate transition plan applicable to each such unit.

(b) *Content of plans.* In order to be approved by the United States Commissioner of Education, a transition plan shall:

(1) State the name, address, and Federal Interagency Committee on Education (FICE) Code of the educational institution submitting such plan, the administratively separate units to which the plan is applicable, and the name, address, and telephone number of the person to whom questions concerning the plan may be addressed. The person who submits the plan shall be the chief administrator or president of the institution, or another individual legally authorized to bind the institution to all actions set forth in the plan.

(2) State whether the educational institution or administratively separate unit admits students of both sexes, as regular students and, if so, when it began to do so.

(3) Identify and describe with respect to the educational institution or administratively separate unit any obstacles to admitting students without discrimination on the basis of sex.

(4) Describe in detail the steps necessary to eliminate as soon as practicable each obstacle so identified and indicate the schedule for taking these steps and the individual directly responsible for their implementation.

(5) Include estimates of the number of students, by sex, expected to apply for, be admitted to, and enter each class during the period covered by the plan.

(c) *Nondiscrimination.* No policy or practice of a recipient to which § 86.16 applies shall result in treatment of applicants to or students of such recipient in violation of Subpart C unless such treatment is necessitated by an obstacle identified in paragraph (b)(3) of this section and a schedule for eliminating that obstacle has been provided as required by paragraph (b)(4) of this section.

(d) *Effects of past exclusion.* To overcome the effects of past exclusion of students on the basis of sex, each educational institution to which § 86.16 applies shall include in its transition plan, and shall implement, specific steps designed to encourage individuals of the previously excluded sex to apply for admission to such institution. Such steps shall include instituting recruitment programs which emphasize the institution's commitment to enrolling students of the sex previously excluded.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.18–86.20 [Reserved]

Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

§ 86.21 Admission.

(a) *General.* No person shall, on the basis of sex, be denied admission, or be subjected to discrimination in admission, by any recipient to which this subpart applies, except as provided in §§ 86.16 and 86.17.

(b) Specific prohibitions. (1) In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which this Subpart applies shall not:

(i) Give preference to one person over another on the basis of sex, by ranking applicants separately on such basis, or otherwise;

(ii) Apply numerical limitations upon the number or proportion of persons of either sex who may be admitted; or

(iii) Otherwise treat one individual differently from another on the basis of sex.

(2) A recipient shall not administer or operate any test or other criterion for admission which has a disproportionately adverse effect on persons on the basis of sex unless the use of such test or criterion is shown to predict validly success in the education program or activity in question and alternative tests or criteria which do not have such a disproportionately adverse effect are shown to be unavailable.

(c) *Prohibitions relating to marital or parental status.* In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which this subpart applies:

(1) Shall not apply any rule concerning the actual or potential parental, family, or marital status of a student or applicant which treats persons differently on the basis of sex;

(2) Shall not discriminate against or exclude any person on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom, or establish or follow any rule or practice which so discriminates or excludes;

(3) Shall treat disabilities related to pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or physical condition; and

(4) Shall not make pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is "Miss" or "Mrs." A recipient may make pre-admission inquiry as to the sex of an applicant for admission, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.22 Preference in admission.

A recipient to which this subpart applies shall not give preference to applicants for admission, on the basis of attendance at any educational institution or other school or entity which admits as students or predominantly members of one sex, if the giving of such preference has the effect of discriminating on the basis of sex in violation of this subpart.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.23 Recruitment.

(a) *Nondiscriminatory recruitment.* A recipient to which this subpart applies shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial action pursuant to § 86.3(a), and may choose to undertake such efforts as affirmative action pursuant to § 86.3(b).

(b) *Recruitment at certain institutions.* A recipient to which this subpart applies shall not recruit primarily or exclusively at educational institutions, schools or entities which admit as students only or predominantly members of one sex, if such actions have the effect of discriminating on the basis of sex in violation of this subpart.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§§ 86.24–86.30 [Reserved]

Subpart D—Discrimination on the Basis of Sex in Education Programs and Activities Prohibited

§ 86.31 Education programs and activities.

(a) *General.* Except as provided elsewhere in this part, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives or benefits from Federal financial assistance. This subpart does not apply to actions of a recipient in connection with admission of its students to an education program or activity of (1) a recipient to which Subpart C does not apply, or (2) an entity, not a

recipient, to which Subpart C would not apply if the entity were a recipient.

(b) *Specific prohibitions.* Except as provided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

(1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment;

(5) Discriminate against any person in the application of any rules of appearance;

(6) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;

(7) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;

(8) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(c) *Assistance administered by a recipient educational institution to study at a foreign institution.* A recipient educational institution may administer or assist in the administration of scholarships, fellowships, or other awards established by foreign or domestic wills, trusts, or similar legal instruments, or by acts of foreign governments and restricted to members of one sex, which are designed to provide opportunities to study abroad, and which are awarded to students who are already matriculating at or who are graduates of the recipient institution; *Provided*, a recipient educational institution which administers or assists in the administration of such scholarships, fellowship, or other awards which are restricted to members of one sex provides, or otherwise makes available reasonable opportunities for similar studies for members of the other sex. Such opportunities may be derived from either domestic or foreign sources.

(d) *Programs not operated by recipient.* (1) This paragraph applies to any recipient which requires participation by any applicant, student, or employee in any education program or activity not operated wholly by such recipient, or which facilitates, permits, or considers such participation as part of or equivalent to an education program or activity operated by such recipient, including participation in educational consortia and cooperative employment and student-teaching assignments.

(2) Such recipient;

(i) Shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activtiy takes no action affecting any applicant, student, or employee of such recipient which this part would prohibit such recipient from taking; and

(ii) Shall not facilitate, require, permit, or consider such participation if such action occurs.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.32 Housing.

(a) *Generally.* A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this section (including housing provided only to married students).

(b) *Housing provided by recipient.* (1) A recipient may provide separate housing on the basis of sex.

(2) Housing provided by a recipient to students of one sex, when compared to that provided to students of the other sex, shall be as a whole:

(i) Proportionate in quantity to the number of students of that sex applying for such housing; and

(ii) Comparable in quality and cost to the student.

(c) *Other housing.* (1) A recipient shall not, on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than provided by such recipient.

(2) A recipient which, through solicitation, listing, approval of housing, or otherwise, assists any agency, organization, or person in making housing available to any of its students, shall take such reasonable action as may be necessary to assure itself that such housing as is provided to students of one sex, when compared to that provided to students of the other sex, is as a whole: (i) Proportionate in quantity and (ii) comparable in quality and cost to the student. A recipient may render such assistance to any agency, organization, or person which provides all or part of such housing to students only of one sex.

(Secs. 901, 902, 907, Education Amendments of 1972, 86 Stat. 373, 374, 375; 20 U.S.C. 1681, 1682, 1686)

§ 86.33 Comparable facilities.

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374)

§ 86.34 Access to course offerings.

A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses.

(a) With respect to classes and activities in physical education at the elementary school level, the recipient shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation. With respect to physical education classes and activities at the secondary and post-secondary levels, the recipient shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

(b) This section does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

(c) This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.

(d) Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the recipient shall use appropriate standards which do not have such effect.

(e) Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

(f) Recipients may make requirements based on vocal range or quality which may result in a chorus or choruses of one or predominantly one sex.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.35 Access to schools operated by L.E.A.s.

A recipient which is a local educational agency shall not, on the basis of sex, exclude any person from admission to:

(a) Any institution of vocational education operated by such recipient; or

(b) Any other school or educational unit operated by such recipient, unless such recipient otherwise makes available to such person, pursuant to the same policies and criteria of admission, courses, services, and facilities comparable to each course, service, and facility offered in or through such schools.

(Sections 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.36 Counseling and use of appraisal and counseling materials.

(a) *Counseling.* A recipient shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission.

(b) *Use of appraisal and counseling materials.* A recipient which uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their sex or use materials which permit or require different treatment of students on such basis unless such different materials cover the same occupations and interest areas and the use of such different materials is shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex. Where the

use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination in the instrument or its application.

(c) *Disproportion in classes.* Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors.

§ 86.37 Financial assistance.

(a) *General.* Except as provided in paragraphs (b), (c) and (d) of this section, in providing financial assistance to any of its students, a recipient shall not: (1) On the basis of sex, provide different amount or types of such assistance, limit eligibility for such assistance which is of any particular type or source, apply different criteria, or otherwise discriminate; (2) through solicitation, listing, approval, provision of facilities or other services, assist any foundation, trust, agency, organization, or person which provides assistance to any of such recipient's students in a manner which discriminates on the basis of sex; or (3) apply any rule or assist in application of any rule concerning eligibility for such assistance which treats persons of one sex differently from persons of the other sex with regard to marital or parental status.

(b) *Financial aid established by certain legal instruments.* (1) a recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign wills, trusts, bequests, or similar legal instruments or by acts of a foreign government which requires that awards be made to members of a particular sex specified therein; *Provided,* that the overall effect of the award of such sex-restricted scholarships, fellowships, and other forms of financial assistance does not discriminate on the basis of sex.

(2) To ensure nondiscriminatory awards of assistance as required in subparagraph (b) (1) of this paragraph, recipients shall develop and use procedures under which:

(i) Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to members of a particular sex;

(ii) An appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under subparagraph (b) (2) (i) of this paragraph; and

(iii) No student is denied the award for which he or she was selected under subparagraph (b) (2) (i) of this paragraph because of the absence of a scholarship, fellowship, or other form of financial assistance designated for a member of that student's sex.

(c) *Athletic scholarships.* (1) To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

(2) Separate athletic scholarships or grants-in-aid for members of each sex may be provided as part of separate athletic teams for members of each sex to the extent consistent with this paragraph and § 86.41 of this part.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682; and Sec. 844, Education Amendments of 1974, Pub. L. 93-380, 88 Stat. 484)

§ 86.38 Employment assistance to students.

(a) *Assistance by recipient in making available outside employment.* A recipient which assists any agency, organization or person in making employment available to any of its students:

(1) Shall assure itself that such employment is made available without discrimination on the basis of sex; and

(2) Shall not render such services to any agency, organization, or person which discriminates on the basis of sex in its employment practices.

(b) *Employment of students by recipients.* A recipient which employs any of its students shall not do so in a manner which violates Subpart E.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.39 Health and insurance benefits and services.

In providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not discriminate on the basis of sex, or provide such benefit, service, policy, or plan in a manner which would violate Subpart E if it were provided to employees of the recipient. This section shall not prohibit a recipient from providing any benefit or service which may be used by a different proportion of students of one sex than of the other, including family planning services. However, any recipient which provides full coverage health service shall provide gynecological care.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.40 Marital or parental status.

(a) *Status generally.* A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex.

(b) *Pregnancy and related conditions.* (1) A recipent shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

(2) A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation in the normal education program or activity so long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

(3) A recipient which operates a portion of its education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in paragraph (b) (1) of this section shall ensure that the instructional program in the separate program is comparable to that offered to non-pregnant students.

(4) A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan or policy which such recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's educational program or activity.

(5) In the case of a recipient which does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence for so long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status which she held when the leave began.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.41 Athletics.

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by recipient, and no recipient shall provide any such athletics separately on such basis.

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes of this part, contact sports include boxing,

wrestling, rugby, ice hockey, football, basketball and other sports the purpose of major activity of which involves bodily contact.

(c) *Equal opportunity.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available the Director will consider, among other factors:

(i) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(ii) The provision of equipment and supplies;

(iii) Scheduling of games and practice time;

(iv) Travel and per diem allowance;

(v) Opportunity to receive coaching and academic tutoring;

(vi) Assignment and compensation of coaches and tutors;

(vii) Provision of locker rooms, practice and competitive facilities;

(viii) Provision of medical and training facilities and services;

(ix) Provision of housing and dining facilities and services;

(x) Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the Director may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(d) *Adjustment period.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the elementary school level shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the secondary or post-secondary school level shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682; and Sec. 844, Education Amendments of 1974, Pub. L. 93-380, 88 Stat. 484)

§ 86.42 Textbooks and curricular material.

Nothing in this regulation shall be interpreted as requiring or prohibiting or abridging in any way the use of particular textbooks or curricular materials.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.43–86.50 [Reserved]

Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs and Activities Prohibited

§ 86.51 Employment.

(a) *General.* (1) No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor, whether full-time or part-time, under any education program or activity operated by a recipient which receives or benefits from Federal financial assistance.

(2) A recipient shall make all employment decisions in any education program or activity operated by such recipient in a nondiscriminatory manner and shall not limit, segregate, or classify applicants or employees in any way which could adversely affect any applicant's or employee's employment opportunities or status because of sex.

(3) A recipient shall not enter into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to discrimination prohibited by this Subpart, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the recipient.

(4) A recipient shall not grant preferences to applicants for employment on the basis of attendance at any educational institution or entity which admits as students only or predominantly members of one sex, if the giving of such preferences has the effect of discriminating on the basis of sex in violation of this part.

(b) *Application.* The provisions of this subpart apply to:

(1) Recruitment, advertising, and the process of application for employment;

(2) Hiring, upgrading, promotion, consideration for and award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation, and changes in compensation;

(4) Job assignments, classifications and structure, including position descriptions, lines of progression, and seniority lists;

(5) The terms of any collective bargaining agreement;

(6) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave;

(7) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(8) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbaticals and leaves of absence to pursue training;

(9) Employer-sponsored activities, including social or recreational programs; and

(10) Any other term, condition, or privilege of employment.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.52 Employment criteria.

A recipient shall not administer or operate any test or other criterion for any employment opportunity which has a disproportionately adverse effect on persons on the basis of sex unless:

(a) Use of such test or other criterion is shown to predict validly successful performance in the position in question; and

(b) Alternative tests or criteria for such purpose, which do not have such disproportionately adverse effect, are shown to be unavailable.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.53 Recruitment.

(a) *Nondiscriminatory recruitment and hiring.* A recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees. Where a recipient has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has been found to have in the past so discriminated, the recipient shall recruit members of the sex so discriminated against so as to overcome the effects of such past or present discrimination.

(b) *Recruitment patterns.* A recipient shall not recruit primarily or exclusively at entities which furnish as applicants only or predominantly members of one sex if such actions have the effect of discriminating on the basis of sex in violation of this subpart.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.54 Compensation.

A recipient shall not make or enforce any policy or practice which, on the basis of sex:

(a) Makes distinctions in rates of pay or other compensation;

(b) Results in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.55 Job classification and structure.

A recipient shall not:

(a) Classify a job as being for males or for females;

(b) Maintain or establish separate lines of progression, seniority lists, career ladders, or tenure systems based on sex; or

(c) Maintain or establish separate lines of progression, seniority systems, career ladders, or tenure systems for similar jobs, position descriptions, or job requirements which classify persons on the basis of sex, unless sex is a bona-fide occupational qualification for the positions in question as set forth in § 86.51.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.56 Fringe benefits.

(a) *"Fringe benefits" defined.* For purposes of this part, "fringe benefits" means: any medical, hospital, accident, life insurance or retirement benefit, service, policy or plan, any profit-sharing or bonus plan, leave, and any other benefit

or service of employment not subject to the provision of § 86.54.

(b) *Prohibitions.* A recipient shall not:

(1) Discriminate on the basis of sex with regard to making fringe benefits available to employees or make fringe benefits available to spouses, families, or dependents of employees differently upon the basis of the employee's sex;

(2) Administer, operate, offer, or participate in a fringe benefit plan which does not provide either for equal periodic benefits for members of each sex, or for equal conrtibutions to the plan by such recipient for members of each sex; or

(3) Administer, operate, offer, or participate in a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex or which otherwise discriminates in benefits on the basis of sex.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.57 Marital or parental status.

(a) *General.* A recipient shall not apply any policy or take any employment action:

(1) Concernihg the potential marital, parental, or family status of an employee or applicant for employment which treats persons differently on the basis of sex; or

(2) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

(b) *Pregnancy.* A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

(c) *Pregnancy as a temporary disability.* A recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom and any temporary disability resulting therefrom as any other temporary disability for all job related purposes, including commencement, duration and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.

(d) *Pregnancy leave.* In the case of a recipient which does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status which she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.58 Effect of State or local law or other requirements.

(a) *Prohibitory requirements.* The obligation to comply with this subpart is not obviated or alleviated by the existence of any State or local law or other requirement which imposes prohibitions or limits upon employment of members of one sex which are not imposed upon members of the other sex.

(b) *Benefits.* A recipient which provides any compensation, service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, service, or benefit to members of the other sex.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.59 Advertising.

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a *bona-fide* occupational qualification for the particular job in question.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.60 Pre-employment inquiries.

(a) *Marital status.* A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss or Mrs."

(b) *Sex.* A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by this part.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.61 Sex as a bona-fide occupational qualification.

A recipient may take action otherwise prohibited by this subpart provided it is shown that sex is a bona-fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section which is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

(Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§§ 86.62–86.70 [Reserved]

Subpart F—Procedures [Interim]

§ 86.71 Interim procedures.

For the purposes of implementing this part during the period between its effective date and the final issuance by the Department of a consolidated procedural regulation applicable to title IX and other civil rights authorities administered by the Department, the procedural provisions applicable to title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 45 CFR §§ 80–6—80–11 and 45 CFR Part 81.

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Office of the Secretary

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ADMINISTRATION AND ENFORCEMENT OF CERTAIN CIVIL RIGHTS LAWS AND AUTHORITIES

Consolidated Procedural Rules

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 81]

CONSOLIDATED PROCEDURAL RULES FOR ADMINISTRATION AND ENFORCEMENT OF CERTAIN CIVIL RIGHTS LAWS AND AUTHORITIES

Notice of Proposed Rulemaking

Purpose of Part 81. The Office for Civil Rights of the Department of Health, Education, and Welfare proposes to issue a new Part 81 to the Departmental Regulation to establish a uniform procedure for enforcement of the various nondiscrimination requirements which are applicable to programs administered by the Department and for which responsibility has been delegated to the Director of that Office. These enforcement procedures will apply to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) as implemented by 45 CFR Part 80; title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.) as implemented by 45 CFR Part 86; sections 799A and 845 of the Public Health Service Act (42 U.S.C. 295h–9 and 298b–2); section 504 of the Rehabilitation Act of 1972 (29 U.S.C. 794); section 407 of the Alcohol and Drug Abuse and Treatment Act of 1972 (42 U.S.C. 1173); and section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. 4587).

The current Part 81 (45 CFR Part 81) was issued in November 1967, under 5 U.S.C. 301 and 45 CFR 80.9(d), the latter being a provision of the Department's regulation implementing title VI of the Civil Rights Act of 1964. At that time, title VI was the only major civil rights enforcement program being administered by the Department, and the regulation was expressly tailored to meet the Department's needs in a busy but relatively limited area. Since that time, numerous authorities have been enacted by Congress in the civil rights area and the Department's responsibilities with regard to enforcement of these statutes as well as its duties under Executive Order 11246 have likewise increased greatly.

At the present time most of the grantees and contractors subject to HEW jurisdiction are subject to the reach of three or more statutory civil rights provisions (e.g. education institutions subject to title VI and title IX and section 504), or to two or more statutory civil rights provisions as well as the nondiscrimination and affirmative action provisions of the Executive Order (e.g. State health agencies subject to title VI, section 504 and Executive Order 11246). This increase in the number of civil rights provisions governing the conduct of a single grantee or contractor is further complicated by the fact that the type of discrimination in employment prohibited by title IX is identical to one of the types of discrimination prohibited by E.O. 11246, and thus, a single institution may be simultaneously responsible for compliance with both authorities. To minimize conflicts caused by these overlaps the Department is developing a coordinated enforcement approach toward reviewing the compliance of a given recipient with all applicable HEW-enforced civil rights provisions. Accordingly, the Secretary believes that it has now become essential to issue a uniform procedural regulation for such enforcement.

The proposed procedures, it should be noted, will not apply to Executive Order 11246 since this Department is not the primary enforcement agency under the Order. The Department of Labor is responsible for development of regulations implementing the Order. It should be noted that almost all contractors subject to HEW jurisdiction under E.O. 11246 are also grantees subject to these procedures, but many grantees subject to these procedures are not contractors subject to HEW jurisdiction under the Executive Order.

In addition to serving the needs of the Department for promoting efficiency and effective enforcement, these proposed procedures will, it is hoped, be helpful to the many grantees of Federal financial assistance administered by the Department in eliminating confusion, overlap and inconsistencies which would assuredly result from adoption of different procedures for effectuating the civil rights requirements of each Federal program in question. A review of the various statutes referred to above provides no substantial reason for differing enforcement procedures and, to the extent that individual programmatic aspects of particular statutes require particularized treatment, special provisions can be developed within the context of a consolidated procedural regulation.

The proposed procedures are similar in many respects to the general procedural provisions of 45 CFR Part 80, the Department's substantive regulation implementing title VI, as well as the current Part 81. There are a number of changes which have been effected to shorten and simplify the presentation. One revision, however, should be noted since it represents an attempt to bring the procedural regulation into line with existing practice and to ensure that the significant increase in the Department's civil rights enforcement responsibilities does not result in either a one-sided or a highly inefficient administrative effort, but rather, in a balanced and organized approach by which the Department will proceed to set its enforcement priorities and under which it will be free to adjust these priorities to meet shifting needs.

The essence of the proposal is to articulate the Department's role in civil rights enforcement in terms of a methodical approach geared toward identifying and eliminating systemic discrimination rather than in terms of a reactive or complaint-oriented approach geared toward securing individual relief for persons claiming discrimination. While individual complaints will continue to be an important factor in scheduling and conducting compliance reviews, the revised procedures are intended as a means of establishing a manageable way for the Office for Civil Rights to handle its overall responsibilities in a manner responsive to the directives of Congress and the President, regardless of what individual complaints may come to the Department's attention.

In this connection, it should be noted that complaints received by the Department over the last few years have not been broadly representative of the spectrum of the Department's civil rights enforcement program, since generally, in any given time period, more complaints involving sex discrimination in higher education academic employment have been received than on any other subject. Departmental enforcement policy must attempt to take into account this skew in complaints received and the factors which contribute to it so as to ensure that whole areas of non-compliance are not ignored merely because few, if any, complaints have been received. This problem is, perhaps, particularly acute in the area of national origin discrimination where potential complainants speak and write English with difficulty.

The need for clarification of departmental roles is derived from several sources: First, as mentioned already, the workload of the Office for Civil Rights has increased appreciably over the years since publication of the current Part 81. In addition to the increase in statutory responsibilities, the high visibility of the Office for Civil Rights in such areas as school desegregation and employment discrimination has resulted in increased public interest and in a concomitant rise in individual complaints of discrimination. Until recently, the Department, operating under its substantive regulations implementing title VI and the Executive Order, has attempted, wherever possible and as quickly as its resources have allowed, to resolve these individual complaints. As statutory responsibilities have increased, however, and as the Office attempted to maintain a rational system of monitoring and of correcting systemic discrimination, it became increasingly difficult to adhere to the assurance in the substantive regulations of prompt investigation of each complaint or other information concerning possible noncompliance.

This difficulty may be illustrated by some figures:

Title VI of the Civil Rights Act of 1964 prohibits discrimination in any federally assisted program or activity on the ground of race, color, or national origin. The bulk of its coverage includes approximately 16,000 public school districts, 2,874 institutions of higher education, and some 30,000 institutions and agencies involved in health and social services programs.

Title IX of the Education Amendments of 1972 generally prohibits discrimination on the basis of sex in federally assisted education programs and activities. It contains several exemptions concerning religiously controlled educational institutions, military schools and others. Its coverage extends primarily to educational institutions but also to organizations and persons which receive federal

assistance in connection with educational programs and activities. Its coverage, therefore, includes approximately 16,000 public school districts, and 2,697 institutions of higher education.

Section 799A of the Public Health Service Act prohibits the Secretary from awarding Federal grants, contracts or other forms of assistance under title VII of PHSA to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry and pharmacy, as well as to training centers for allied health personnel unless the Secretary has received a satisfactory assurance that the applicant is not discriminating in admissions to its health-related training programs on the basis of sex. Section 845 of the Act contains similar requirements with respect to schools of nursing. These provisions reach approximately 1,500 institutions.

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of handicap in any federally assisted program or activity. Like title VI, it reaches all federally assisted programs and activities and its universe will be identical.

Finally, Executive Order 11246 prohibits discrimination on the basis of race, color, or national origin, religion or sex by government contractors or by contractors performing under federally assisted construction contracts. It is generally administered by the Department of Labor's Office of Federal Contract Compliance, but compliance responsibilities with respect to educational institutions, medical and health-related institutions, social service facilities, certain nonprofit organizations, and state and local public agencies holding Federal government contracts and subcontracts have been delegated to HEW. It applies directly to approximately 863 higher education campuses as well as to some 3,500 construction contractors and nonconstruction contractors outside the field of higher education, but within HEW's jurisdiction.

The so-called "universe" figures given here represent the outer parameters of the civil rights enforcement responsibilities of the Department and of the Office for Civil Rights. Any attempt to monitor compliance as a matter of routine would need to be responsive on this scale. It should, of course, be remembered that in 1964 when the original title VI regulation was issued, and in 1967 when current Part 81 became effective, title VI and the Executive Order were the only major civil rights authorities being administered by the Department. The magnitude of the increase in the Department's responsibilities, therefore, may easily be seen.

In addition to the general increase represented by the "universe" figures, as mentioned earlier, the volume of individual complaints (i.e. those submitted by or on behalf of individuals) also rose. Thus, in 1969, for example, in higher education, five Executive Order and nine title VI complaints were received and resolved, and these two legal authorities were the only two civil rights authorities for which the Department was responsible. In 1974, however, with four major legal authorities, the figures for higher education show the following:

	Executive order	Title IX	Title VI	Public Health Service Act	Total
Complaints received	197	127	118	2	444
Complaints resolved	33	27	30	0	90

At the same time, however, the Office for Civil Rights conducted several hundred compliance reviews, many of which involved institutions or agencies about which individual complaints had been received, and had undertaken a massive compliance effort in response to the original District Court order in *Adams v. Weinberger*, 351 F. Supp. 636 (D.D.C. 1972), 356 F. Supp. 92 (D.D.C. 1973), affirmed with modification, 480 F.2d 1159 (D.C. Cir. 1973), with respect to over 200 school districts and 10 state systems of higher education.

In addition to the civil rights compliance programs discussed above, the workload of the Department and of the Office for Civil Rights includes an increasing role in the annual approval of funds under the Emergency School Assistance Act and an extensive on-going monitoring effort to ensure compliance both with the ESAA requirements and title VI. The size of this task for the present fiscal year is estimated at approximately 1800 desk audits to be performed as pre-grant clearance checks and over 150 on-site compliance reviews to be conducted through the year. While some of the latter reviews might be broadened to allow review of school districts' operations as they are covered by titles VI and IX, the ESAA obligation itself must be fulfilled by the end of each fiscal year (e.g., June 30, 1975) and must be allocated the needed staff and resources.

The second source from which the need for a consolidated and revised procedure is derived is the recently entered Supplemental Order in *Adams v. Weinberger*, supra. Subpart F of that Order states:

> This Court has ruled in this case that HEW has a duty to commence prompt enforcement activity upon all complaints or other information of racial discrimination in violation of Title VI, and that where it appears that a school district is in violation or presumptive violation of Title VI the agency has a duty under Title VI to commence enforcement proceedings by administrative notice of hearing or any other means authorized by law where efforts to obtain voluntary compliance do not succeed within a reasonable period.

The court then establishes a schedule by which HEW is required to act in resolving complaints or taking appropriate enforcement action. In effect, this court order requires the Department to become almost totally complaint-oriented with regard to its enforcement activities under title VI at least in the southern and border states, since the number of complaints subject to the Order now on hand for 1975 is sufficient to occupy existing staff resources responsible for those states full-time in order to ensure compliance with the court's schedule of resolution.

During the 45-day public comment period following publication of this proposed procedural regulation in the FEDERAL REGISTER, the Department intends to seek a modification or a lifting of the restrictions of this portion of the *Adams* order either in the District Court or in the Court of Appeals. If this effort does not result in a change in the order, that order will have a significant impact on all other civil rights activities of the Office for Civil Rights, since it will divert available resources from other compliance activities.

Under the Supplemental decree in *Adams*, and whether or not any other court issues similar orders, the Department would be left unable to fulfill its Congressional mandate which extends beyond the limited scope of the *Adams* order. Investigation, negotiation, and enforcement action concerning isolated incidents of discrimination by a grantee institution or agency can consume as much staff time as monitoring the operations of, for example, some entire school systems. Yet, the result in real compliance obtained as a result of a complaint investigation may be drastically disproportionate to the expenditure of enforcement resources required. Accordingly, the Secretary believes that, in exercise of proper administrative discretion, the re-casting of the Department's role is both justified and advisable.

A final note should be added concerning the nature of these proposed procedures. The Secretary is aware that by describing its civil rights enforcement role in this manner, the Department will be rearticulating its approach. The Secretary believes, however, that a more assertive role in planning and effectuating overall civil rights objectives is necessary to carry out fully the various broadly stated Congressional mandates for which the Department is responsible. As demands on the Office for Civil Rights have increased, several ways of adjusting to the pressures were tried. The budget and staff of the Office for Civil Rights have been substantially increased. Since fiscal 1968, the staff has grown from approximately 330, to approximately 850, in fiscal 1975. Attempts were made, within the context of current regulations to set priorities between the complaints received and routine compliance reviews made. Further, the Department of Labor entered into an agreement with the Equal Employment Opportunity Commission (EEOC) under

which individual complaints of employment discrimination under the Executive Order would be referred by this Department to the EEOC for judicial action. In accordance with this agreement, most complaints of this type have been so referred since March 1972. In addition, since enactment of title IX, when individual complaints of employment discrimination have been received which were not clearly brought under title IX or under the Executive Order, the Department, in an effort to expedite attempts to secure their resolution, has treated those complaints as having arisen under the Executive Order and has referred them to EEOC. Preliminary discussions have been held between the Department and EEOC to develop an agreement under which employment complaints arising solely under title IX could also be referred to EEOC. The referral practice, therefore, could be continued in the context of these proposed procedures.

The Secretary recognizes, however, that the EEOC backlog of cases is substantial. Although aware of this problem, the Secretary feels compelled to propose these new procedures to enhance and maintain the effectiveness of the Department's general civil rights efforts. While all these efforts have been made to improve the effectiveness and impact of the Department's civil rights enforcement program, and while the Department will continue these efforts, none of them singly or in combination promises to overcome the defects inherent in a complaint-dominated regulatory scheme.

SUMMARY OF PROPOSED PROVISIONS

Subpart A, entitled *General*, states the purpose and application of the proposed procedures. As may be seen, the procedures will be applicable both to activities where the Department already has published substantive regulations and to activities where such regulations will be published in the near future. Subpart A also includes definitions of terms used throughout the proposed procedures.

Subpart B, entitled *Compliance Inquiries*, contains provisions which will govern in the administration of the various statutes to which the proposed procedures apply up to the point where enforcement action must be taken to obtain compliance with particular nondiscrimination requirements. Section 81.4(a) requires development and maintenance of data and information by recipients, and § 81.4 (b) requires preservation of such data and information for a period of three years. The three-year period would run from the date of collection of the data or information, except where it relates to grievances and the recipient's treatment of same. In those circumstances, the three-year period would not begin to run until the particular grievance has been resolved or the matter closed. Such a three year period is currently in use by the Department of Labor's Office of Federal Contract Compliance. Section 81.4 (c) requires that the recipient submit to the Director such data and information as the Director may request in connection with the performance of his or her civil rights enforcement duties. Such a request need not be limited to data and information which, under § 81.4(a), the recipient is required to develop and maintain, but reasonable notice of other matters requested will be given to the recipient who will be permitted reasonable time to respond. Section 81.4(d) requires recipients to permit access by the Director to sources of information and to facilities and provides that confidentiality of information will be maintained by the Department except where such information is necessary in formal enforcement proceedings or where otherwise required by law.

Section 81.5 provides that any person or organization may submit information to the Director in writing concerning possible noncompliance with the statutes to which this part applies or their implementing regulations.

Section 81.6 prescribes the treatment to be accorded compliance information received or obtained by the Director. It requires acknowledgement of submissions of information from persons or organizations and an indication as to whether the Department expects to conduct, within the next 12 months, a compliance review which will encompass any or all of the matters concerned in the submission. It also provides that the Director will notify such persons or organizations of government agencies at the Federal, state, and local levels with current legal authority to investigate and act on any or all of the matters raised by the information submitted to the Department. The Director will also inform such persons or organizations of available grievance procedures required of recipients pursuant to some of the statutes to which these proposed procedures apply. Finally, the section provides that the Director will inform the recipient and appropriate State agency, if any, of the general nature of information which has been submitted concerning possible noncompliance of the recipient.

Section 81.7 provides for compliance reviews to be conducted by the Director of the Office for Civil Rights and for written notification of recipients of the results of such reviews.

Section 81.8 requires that the Director promptly notify a recipient in writing if, after a compliance review has been conducted, there is a determination that the recipient is in compliance with the statutes to which this part applies.

Section 81.9 provides for a preliminary finding of noncompliance which will be made known in writing to the recipient together with a description of the possible noncompliance. The recipient may respond within 30 days of its receipt of such a preliminary finding and may offer an explanation or provide further information concerning the matters in the finding. If the Director determines that the explanation or further information offered by the recipient is inadequate or if no such explanation or information is received, the Director will then make a formal determination of noncompliance as soon as is possible under the specific circumstances.

Section 81.10 provides for a formal determination of noncompliance by the Director which will be sent in writing to the recipient together with a description of the reasons therefor.

Section 81.11 provides the mechanism by which the Director will seek to obtain voluntary compliance after making formal determination of noncompliance by a recipient. Generally within 90 days, a recipient must either comply fully or submit a plan satisfactory to the Director by which it will comply fully within a specified time. This section also provides that under unusual circumstances the Director may approve a two step procedure consisting of a commitment submitted by the recipient within 90 days to develop a plan under which it will comply fully within a specified time. The unusual circumstances contemplated by the Secretary in this section may result from combinations of factors such as size, complexities of violations and of relief, and number of recipient agencies involved.

Subpart C, entitled *Enforcement Actions*, includes the provisions governing the conduct of administrative hearings and the initiation of other proceedings authorized by law.

Section 81.12 sets forth the procedure for effecting compliance, including hearings directed to the suspension, termination of, or refusal to award or continue Federal financial assistance, referrals of matters to the Department of Justice for appropriate court action, and actions involving any applicable proceeding under State or local law. Such procedures may be commenced for violations of the nondiscrimination requirements of the statutes to which this Part applies or of their implementing regulations or for failure to furnish assurances of compliance required under applicable Departmental regulations.

Section 81.13 provides for termination of or refusal to award or continue Federal financial assistance. It sets forth limitations on the effective date of termination orders and provides that the scope of any such order will be limited in its effect to the particular program or activity or part thereof in which noncompliance has been found. Specifically, the section states that Federal financial assistance will be subject to a termination order at the close of the appropriate administrative proceeding if it is administered in a discriminatory manner, or if it is so affected by discrimination occurring elsewhere in the recipient's program that the assistance itself may be considered discriminatory.

Section 81.14 sets forth the procedures for conducting administrative hearings. These procedures are commenced by sending a notice of an opportunity for hearing which will advise the applicant for or recipient of Federal financial assistance of the action which the Department proposes to take, the provision or provisions under which that action will be taken and the matters of fact or law asserted as the basis for that action. The

remainder of § 81.14 closely follows current procedures set forth in 45 CFR Part 80 and Part 81 relating to content of notices, waiver of hearing, time and place of hearing, participation as amicus curiae, conformity with other procedural requirements, and consolidated or joint hearings.

Section 81.15 permits the Department to defer consideration of requests or applications for new Federal financial assistance pending the outcome of administrative proceedings. The Department will continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the date of notice of any such deferral. This section is substantively the same as the parallel provision in 45 CFR Part 80.

Section 81.16 concerning decisions and notices is also closely similar to the provisions appearing in 45 CFR Parts 80 and 81. It includes, among other things, provisions concerning decisions by administrative law judges, decisions on exceptions by the Reviewing Authority, review and decision in certain cases by the Secretary, content of orders, and final agency action for purposes of judicial review.

Section 81.17 sets the standards for restoration of eligibility of a recipient which has been subjected to a termination order under this part. It establishes procedures by which such a recipient may request the Director to restore its eligibility and, if the Director refuses such a request, may request a hearing at which to demonstrate that is and will be in compliance, that it has eliminated the effects of past noncompliance, and that it has complied with all terms and conditions of the order of termination issued against it.

Section 81.18 provides for judicial review of final decisions of the Department as provided in the statutes to which this part applies or as is consistent with the Administrative Procedure Act.

Section 81.19 sets out the procedures by which the Director may obtain compliance by other means authorized by law.

Subpart D, entitled *Miscellaneous Provisions*, includes two sections, the substance of both of which appears in current 45 CFR Part 80. The first at §81.-20 prohibits recipients from intimidating, threatening, coercing, or discriminating against any individual because he or she has participated in any manner in an investigation, proceeding or hearing under these proposed procedures or has provided information to the Department concerning any aspect of any such investigation, proceeding, or hearing. The second, at § 81.21, provides that the Department will keep confidential the identity of persons submitting information except to the extent necessary to carry out the purposes of the statutes to which this part applies or their implementing regulations or where otherwise required by law.

Subpart E, entitled *Rules of Practice for Conducting Hearings Under Subpart C of This Part*, includes the technical rules of practice which will govern administrative proceedings. They are not summarized here since the Secretary believes that their content is self-explanatory.

CONCLUSION

In summary, the Secretary firmly believes that the proliferating responsibilities of the Office for Civil Rights and the concomitant rights of recipients and beneficiaries of Federal financial assistance necessitate a uniform and rational procedure for civil rights enforcement. He believes further that the proposed procedures will enable the Office for Civil Rights to make the most effective use of all compliance information requested or made available to it while providing the Office with sufficient flexibility to allocate its resources in a considered and efficient manner. Finally, he believes that the proposed procedures fulfill the need for an orderly and compliance-oriented progression from a preliminary determination of noncompliance to a resolution of the problem or institution of enforcement proceedings, either through the administrative or the judicial route.

Persons or organizations wishing to submit comments, suggestions, or objections pertaining to this regulation may present their views in writing to the Director, Office for Civil Rights, Department of Health, Education, and Welfare, P.O. Box 24079, Washington, D.C. 20024. The comment period will close on July 21, 1975. Comments received in response to this notice will be available for public inspection in Room 3256, 330 Independence Avenue SW., Washington, D.C. 20201, between 9 a.m. and 5:30 p.m., Monday through Friday (except Federal holidays) both before and after the close of the comment period, until the regulation is published in final form.

In consideration of the foregoing, it it proposed to add Part 81 to Title 45 of the Code of Federal Regulations to read as set forth below.

Dated: May 27, 1975.

CASPAR W. WEINBERGER,
Secretary, Department of Health, Education, and Welfare.

PART 81—CONSOLIDATED PROCEDURAL RULES FOR ADMINISTRATION AND ENFORCEMENT OF CERTAIN CIVIL RIGHTS LAWS AND AUTHORITIES

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AUTHORITY: Title IV of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), secs. 799A and 845 of the Public Health Services Act (42 U.S.C. 295h–9 and 298b–2), sec. 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), sec. 407 of the Alcohol and Drug Abuse Office and Treatment Act of 1972 (42 U.S.C. 1173), sec. 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. 4587).

Subpart A—General

§ 81.1 Purpose.

The purpose of this subpart is to establish uniform procedures for enforcing nondiscrimination requirements under various statutes administered by the Department.

§ 81.2 Applicability.

The procedures established by this subpart apply to the nondiscrimination requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) as implemented at 45 CFR Part 80; title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) as implemented at 45 CFR Part 86; sections 799A and 845 of the Public Health Service Act (42 U.S.C. 295h–9 and 298b–2); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); section 407 of the Alcohol and Drug Abuse Office and Treatment Act of 1972 (42 U.S.C. 1173); and section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4587).

§ 81.3 Definitions.

As used in this part the term—

(a) "Department" means the Department of Health, Education, and Welfare.

(b) "Secretary" means the Secretary of Health, Education, and Welfare.

(c) "Director" means the Director of the Office for Civil Rights of the Department.

(d) "Reviewing Authority" means the component of the Department delegated authority by the Secretary to appoint and to review the decisions of administrative law judges in cases arising under this part.

(e) "Administrative Law Judge" means a person appointed by the Reviewing Authority to preside over a hearing held under this part.

(f) "Federal financial assistance" means any assistance authorized or extended under a law administered by the Department by means of a grant, loan, contract, or other arrangement (except to the extent that contracts of insurance or guaranty are exempt from coverage under title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972 or other nondiscrimination statute), including:

(1) Funds made available for the acquisition, construction, renovation, restoration, or repair of a building or a facility or any portion thereof;

(2) Funds made available for scholarships, loans, grants, or wages, or other funds extended for payment to or on behalf of students or other participants in a program or activity covered by any statute to which this part applies;

(3) Use of Federal real or personal property or any interest therein, including surplus property, and the proceeds of the sale or transfer of such property if the Federal share of the fair market value of the property is not, upon such sale or transfer, properly accounted for to the Federal Government;

(4) Federal property or any interest therein which is sold or donated to a person, institution, or other organization at nominal consideration, or at consideration reduced for the purpose of assisting the person, institution or other organization or in recognition of public interest to be served thereby, or by permission given to use such Federal property or any interest therein without consideration.

(g) "Recipient" means any State or political subdivision thereof, or any instrumentality of a State or poliitcal subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient.

(h) "Applicant" means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution or organization, or other entity, or any person having pending with the Department an application, request, or plan required to be approved by a Department official, as a condition to becoming a recipient. Unless otherwise stated, rights and obligations accorded to or imposed on recipients pursuant to this part will be deemed accorded to or imposed on applicants.

Subpart B—Compliance Inquiries

§ 81.4 Compliance information.

(a) *Development and maintenance of information.* Recipients shall develop and maintain data and information concerning their programs or activities which are subject to statutes to which this part applies. Such data and information shall relate to:

(1) Application, admission and assignment of students, members or other participants;

(2) Recruitment of students, faculty, staff, and other participants;

(3) Financial aid administered or provided by the recipient;

(4) Recruitment, selection, assignment, promotion, salary, training, demotion and separation of employees;

(5) Grievances and effectiveness of grievance procedures;

(6) Disciplinary rules and application thereof; and

(7) Such other matters as the Director may from time to time designate.

(b) Recipients shall preserve the data and information developed and maintained pursuant to paragraph (a) of this section together with appropriate supporting materials for a period of three years provided that the three year period in the case of paragraph (a)(5) of this section will run from the time a particular grievance has been resolved or closed.

(c) *Provision of information to the Director.* At the request of the Director, recipients shall prepare and furnish such data and information as the Director may request in connection with the performance of the duties of the Director under this part.

(d) *Access to sources of information.* Each recipient shall permit access by the Director during normal business hours to such of its books, records, accounts, other documents, and to its facilities, and shall permit the Director to make copies of any such written information as may be pertinent to ascertain compliance with this part. Asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating or seeking to enforce compliance with this part. Information of a confidential nature obtained in connection with compliance evaluation or enforcement will not be disclosed by the Department except where necessary in formal enforcement proceedings or where otherwise required by law.

§ 81.5 Submission of information.

Any person or organization wishing to provide information concerning possible noncompliance with statutes to which this part applies or with their implementing regulations may submit such information to the Director in writing.

§ 81.6 Treatment of compliance information.

(a) *General.* The Director will consider all compliance information, regardless of whether it is received through submissions from individuals or organizations outside the Department, through reports submitted to the Department by recipients, or through onsite inspection of recipients' programs or activities by the Department, in setting priorities for the Department's compliance program under this part.

(b) *Acknowledgment of submissions of information.* The Director will acknowledge each submission of information and will notify the person or organization submitting such information as to whether the Department expects to conduct a compliance review which will encompass any or all of the matters concerned in the submission within the next 12 months.

(c) *Notification of sources of relief.* Upon receipt of each submission of information concerning possible noncompliance by a recipient, the Director will:

(1) Notify the person or organization submitting information of those governmental agencies at the Federal, state and local levels known to have current legal authority (i) to conduct an investigation of the matter or matters raised in such submission of information, and (ii) to take legal action designed to compel a recipient to provide a remedy to any person determined by such an investigation to have been discriminated against;

(2) Inform such an individual or organization of any grievance procedures or mechanisms which are required to be available pursuant to statutes to which this part applies and applicable implementing regulations; and

(3) Inform the recipient about whom information as to possible noncompliance

has been submitted and the appropriate State agency, if any, of the general nature of that information.

§ 81.7 Compliance reviews.

(a) *Conduct of reviews.* The Director will periodically review the practices and policies of recipients to determine whether they are complying with the statutes to which this part applies and their implementing regulations. Using all data and information available to the Department in reports submitted by recipients, through on-site inspection of recipients' programs or activities, or through submissions from individuals or organizations outside the Department, and taking into account priorities and available resources, the Director will decide where and on what schedule compliance reviews will be made.

(b) *Notification of results of reviews.* Upon completion of a compliance review, the Director will notify the recipient, in writing, of the results of the review.

§ 81.8 Determination of compliance.

Whenever the Director determines as the result of a compliance review conducted pursuant to § 81.7 of this part or as the result of any other review of available data and information, that the recipient reviewed is in compliance with the statutes to which this part applies, the Director will promptly so notify the recipient in writing.

§ 81.9 Preliminary finding of noncompliance.

(a) *Finding and notification.* Whenever the Director, on the basis of a compliance review conducted pursuant to § 81.7 of this part, or on the basis of any other available data and information, finds evidence of possible noncompliance, or otherwise determines that possible noncompliance exists, the Director will provide written notification to the recipient of this preliminary finding together with a description of the possible noncompliance.

(b) *Explanation of findings.* The Director will provide the recipient an opportunity to submit within 30 days an explanation or further information concerning the matters described in the notification, or to make such other response to the notification as the recipient considers appropriate.

§ 81.10 Determination of noncompliance.

Whenever the Director determines that a recipient has failed to comply with the statutes to which this part applies and their implementing regulations, the Director will notify the recipient of this determination together with a statement of the reasons therefor.

§ 81.11 Voluntary compliance.

(a) *General.* Upon receipt of notification of a determination of noncompliance made pursuant to § 81.10 of this part, the recipient shall, within 90 days:

(1) Comply fully with the statutes to which this part applies and with their implementing regulations and eliminate the effects of past noncompliance; or

(2) Submit a plan satisfactory to the Director by which within a time therein specified, it will comply fully with the statutes to which this part applies and with their implementing regulations and will eliminate the effects of past noncompliance.

(b) *Unusual circumstances.* Upon receipt of notification of a determination of noncompliance made pursuant to § 81.10 of this part, and with the approval of the Director based on the existence of unusual circumstances, the recipient shall, within 90 days, submit to the Director a commitment that within a specified time it will take appropriate action under paragraph (a) of this section.

(c) *Failure to participate.* Nothing in this section shall be interpreted to preclude the Director from determining at any time that efforts to secure voluntary compliance have failed or will be unsuccessful because of failure of the recipient to participate or agree to participate in such efforts.

Subpart C—Enforcement Actions

§ 81.12 Procedure for effecting compliance.

(a) *General.* If the Director determines that a recipient has failed to comply with statutes to which this part applies, and if the noncompliance cannot be corrected by informal means as set forth in § 81.11 of this part, compliance by the recipient may be effected by the suspension or termination of or refusal to award or continue Federal financial assistance in accordance with this part, or by any other means authorized by law. Such other means of effecting compliance may include, but are not limited to:

(1) Referral to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States, or any assurance or other contractual undertaking; and

(2) Action involving any applicable proceeding under State or local law.

(b) *Noncompliance with assurance requirements.* If an applicant or recipient fails or refuses to furnish an assurance of compliance required under Departmental regulations and their implementing statutes to which this part applies, or otherwise fails or refuses to comply with a requirement imposed by or pursuant to those statutes, and efforts to achieve compliance pursuant to § 81.11 of this part have failed, Federal financial assistance may be terminated and refused in accordance with the procedures set out in this part, or the Director may seek to effect compliance by other means authorized by law pursuant to paragraph (a) of this section.

§ 81.13 Termination of or refusal to grant or to continue Federal financial assistance.

(a) *Effective date of order.* Where required under statutes to which this part applies or their implementing regulations, no order suspending, terminating or refusing to award or continue Federal financial assistance will become effective until:

(1) The Director has advised the applicant or recipient of its failure to comply and has determined that compliance cannot be secured by voluntary means;

(2) There has been a finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, the statutes to which this part applies, and their implementing regulations; and

(3) Thirty days have expired after the Secretary has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action.

(b) *General scope of order.* Any action to suspend or terminate or to refuse to award or continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program or activity or part thereof in which such noncompliance has been so found.

(c) *Application.* Where Federal financial assistance to a recipient is designated for a particular purpose or range of purposes, it will be subject to an order terminating and refusing to award or continue Federal financial assistance pursuant to this part if:

(1) The assistance is administered in a discriminatory manner; or

(2) The assistance is so affected by discrimination occurring elsewhere in the recipient's program or activity that the assistance itself may be considered discriminatory.

§ 81.14 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required under this part, reasonable written notice will be given to each affected applicant or recipient. The notice will advise such applicant or recipient of the action proposed to be taken, the specific provision or provisions under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action.

(b) *Content of notice.* A notice under paragraph (a) of this section will:

(1) Fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request the Director in writing that the matter concerned in the notice be scheduled for hearing; or

(2) Advise such applicant or recipient that the matter concerned in the notice has been set down for hearing at a stated place and time which will be subject to change at the request of the applicant or recipient upon a showing of good cause.

(c) *Waiver of hearing.* An applicant or recipient may waive a hearing and, instead, submit written information and argument for the record. The failure of

an applicant or recipient to request a hearing or to make an appearance at a hearing for which a date has been set without prior notification to the administrative law judge or the Reviewing Authority will be deemed to be a waiver of the right to a hearing under the statutes and regulations cited in the notice of opportunity for hearing and under this part.

(d) *Time and place of hearing.* Hearings will be held before an administrative law judge. Hearings will be held at the offices of the Department in Washington, D.C., at a time fixed by the Director unless the administrative law judge determines that the convenience of the applicant or recipient or of the Department requires that another place be selected.

(e) *Public notice of enforcement actions.* The Director will publish monthly in the FEDERAL REGISTER notice of the following actions:

(1) All administrative hearings completed during the prior month;

(2) All administrative hearings scheduled for the coming month (subject to change without further notice);

(3) All exceptions filed with the Reviewing Authority;

(4) All Reviewing Authority decisions on fund termination proceedings;

(5) All decisions by the Secretary to review decisions of the Reviewing Authority; and

(6) All referrals of matters to the Department of Justice or other actions taken to secure compliance with the statutes to which this part applies and their implementing regulations by other means authorized by law as provided in § 81.12 of this part.

(f) *Participation as amicus curiae.* Any interested person or organization may petition the administrative law judge for leave to participate as amicus curiae by giving testimony concerning pertinent facts and/or by filing briefs in a hearing held pursuant to this part. Such petition shall be submitted no more than 20 days after the date of the notice prescribed by § 81.12 of this part.

(g) *Procedures.* The hearing, decision, and any administrative review thereof will be conducted in conformity with 5 U.S.C. 554–557 and in accordance with Subpart E of this part and any other rules which the Director may prescribe.

(h) *Consolidated or joint hearing.* In cases in which the same or related facts are asserted to constitute noncompliance with two or more statutes to which this part applies, or their implementing regulations, or noncompliance with the regulations of this Department and of one or more other Federal departments or agencies issued under any of the authorities to which this part applies, the Director may, by agreement with such other departments or agencies, provide for the conduct of consolidated or joint hearings. Final decisions in such cases, insofar as this regulation is concerned, shall be made in accordance with this section and with Subpart E of this part.

§ 81.15 Deferral of consideration of applications or requests for new Federal financial assistance pending completion of an administrative proceeding.

The Department may defer action on applications or requests for new Federal financial assistance or for substantial increases in continuing forms of Federal financial assistance during the pendency of the administrative proceedings under this part, except that the Department will continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the date of notice of any such deferral.

§ 81.16 Decisions and notices.

(a) *Decisions by administrative law judges.* After a hearing is completed, the administrative law judge will make an initial decision, and a copy of such initial decision or certification will be mailed to the applicant or recipient as well as to any amicus curiae.

(b) *Exceptions.* Within 20 days after issuance of the initial decision pursuant to this section, the applicant or recipient or the Department may file with the Reviewing Authority exceptions to the initial decision, together with the reasons therefor. Responses to such exceptions, if any, must be filed with the Reviewing Authority within 10 days of the filing of the first exceptions.

(c) *Oral argument on review.* If an applicant, recipient, or the Department desires to argue a case orally on exceptions or replies to exceptions to an initial decision, that party shall make such request in writing. The Reviewing Authority may grant or deny such requests in its discretion. If granted, it will serve notice of oral argument on all parties. The notice will set forth the order of presentation, the amount of time allotted, and the time and place for argument.

(1) The names of persons who will argue should be filed with the Department hearing clerk not later than 7 days before the date set for oral argument.

(2) The purpose of oral argument is to emphasize and clarify the written argument in the briefs.

(3) Pamphlets, charts, and other written material may be presented at oral argument only if such material is limited to facts already in the record and is served on all parties and filed with the Civil Rights hearing clerk at least 7 days before the argument.

(d) *Decisions on review.* Upon the receipt of such exceptions and responses, the Reviewing Authority will review the initial decision, exceptions, and responses and issue its own decision, including the reasons therefor. In the absence of exceptions, the initial decision will constitute the final decision of the Department.

(e) *Incapacity of administrative law judge.* Whenever, after being designated as the hearing officer for a particular matter, an administrative law judge becomes unable to complete his or her duties specified under this part, jurisdiction as to the matter in question will revert to the Reviewing Authority which may complete the administrative procedure under this part either by designating a new administrative law judge, or by taking other such actions as it deems appropriate under the circumstances.

(f) *Decisions on record without a hearing.* Whenever a hearing is waived pursuant to § 81.14(c) of this part, the Reviewing Authority will make its final decision on the record or refer the matter to an administrative law judge for an initial decision to be made on the record. A copy of such decision will be provided to the applicant or recipient and to any amicus curiae.

(g) *Rulings required.* Each decision of an administrative law judge or of the Reviewing Authority will set forth a ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to the statutes to which this part applies with which it is found that the applicant or recipient has failed to comply.

(h) *Review in certain cases by the Secretary.* Within 30 days after issuance of the final decision by the Reviewing Authority, a recipient or applicant or the Department may request the Secretary to review such decision. Such review will be granted only where the Secretary determines there are special and important reasons therefor. The Secretary may also review the final decision of the Reviewing Authority upon his or her own motion. The Secretary's decision to undertake or not to undertake such review whether at the request of a party or on his or her own motion will be communicated in writing after the issuance of the Reviewing Authority's decision, to each party, and any amicus curiae. Failure of an applicant or recipient to file an exception with the Reviewing Authority or to request review under this paragraph will not be deemed a failure to exhaust administrative remedies for the purpose of obtaining judicial review.

(i) *Final agency action for purposes of judicial review.*

(1) A decision under this section will become the final decision of the Department and will constitute final agency action within the meaning of section 704 of title 5 of the United States Code in the following manner:

(i) A decision by an administrative law judge pursuant to this section will become final on the 21st day after such decision is made, unless prior to such day review by the Reviewing Authority has been requested;

(ii) A decision by the Reviewing Authority pursuant to this section will become final on the 31st day following its issuance unless review by the Secretary is requested prior to such day under this section; and

(iii) A decision of the Secretary under this section will become final on the day following its issuance.

(2) Whenever required by or pursuant to a statute to which this part applies,

a decision to terminate or to refuse to award or continue Federal financial assistance, which would otherwise constitute the final decision of the Department and final agency action pursuant to paragraph (h) of this section, shall not constitute such action until the Secretary transmits it as such to the appropriate Congressional committees with a report of his action as described in § 81.13(a)(3) of this part.

(j) *Content of decision.* The final decision will include an order for suspension or termination of, or refusal to award or continue, in whole or in part, Federal financial assistance to which this part applies, and may contain such terms, conditions, and other provisions as are consistent with and which will effectuate the purposes of the statutes to which this part applies.

(k) An order issued pursuant to this part terminating and refusing to award or continue Federal financial assistance will remain in effect unless and until the recipient corrects its noncompliance and satisfies the Director that it will fully comply with the statutes and regulations as to which it has been found in noncompliance.

§ 81.17 Post-termination proceedings.

(a) An applicant or recipient subject to an order issued under § 81.16(i) of this part shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility, or it corrects its noncompliance and the effects of past noncompliance and satisfies the Director that it will fully comply with the statutes and regulations as to which its noncompliance was found.

(b) Any applicant or recipient subject to an order entered pursuant to § 81.16(i) of this part may at any time following the effective date of the order request the Director to restore its eligibility to receive Federal financial assistance. Such a request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (a) of this section. If the Director determines that those requirements have been satisfied, he or she will restore such eligibility.

(c) If the Director denies any such request, the applicant or recipient may submit a written request for a hearing to be conducted pursuant to this part, specifying why it believes the Director's decision refusing renewal of eligibility to have been in error. The recipient will be entitled to a hearing, with a decision on the record, in accordance with rules of procedure contained in this part and such further rules as the Director prescribes. The applicant or recipient will be restored to such eligibility if as a result of such a hearing the administrative law judge determines that the applicant or recipient has satisfied the requirements of paragraph (a) of this section.

(d) In the event that a hearing is requested pursuant to paragraph (c) of this section, the hearing procedures established by this part shall be applicable to the proceedings, except as otherwise provided in this section.

(e) The pendency of any proceeding under this section shall not lift or stay the sanctions imposed by the order issued under § 81.16(i) of this part.

§ 81.18 Judicial review.

Final decisions of the Department as defined in § 81.16(h) of this part are subject to judicial review as provided in the statutes to which this part applies or as is consistent with Chapter 5 of title 5, United States Code.

§ 81.19 Other means authorized by law.

(a) No action to effect compliance by any other means authorized by law as provided in § 81.12 of this part will be taken by the Director until: (1) The Director determines that compliance cannot be secured by voluntary means pursuant to § 81.11 of this part, (2) the recipient has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient. During this period of at least 10 days, the recipient will be afforded an additional opportunity to comply with this part and to take such corrective action as may be appropriate.

(b) Other means authorized by law include referral of a matter to the Department of Justice with a recommendation that appropriate judicial action be taken to enforce the statutes to which this part applies and their implementing regulations, as well as any applicable assurances of compliance, and other actions determined by the Director to be in the interests of justice and consistent with the statutes to which this part applies and their implementing regulations.

(c) Nothing in this section shall preclude the Director from taking preliminary action to notify other agencies, including the Department of Justice, of the Department's intention to take action under this section and to provide such information as may be necessary to such other agencies to enable them to take any appropriate steps to assist in such enforcement after the expiration of the 10 day waiting period prescribed under paragraph (a) of this section.

Subpart D—Miscellaneous Provisions

§ 81.20 Intimidatory or retaliatory acts prohibited.

Each recipient shall permit the Director to interview any of its students or employees without a representative of such recipent being present. No recipient shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any rights or privileges secured by the statutes to which this part applies or by this part, or because he or she has testified, assisted or participated in any manner in an investigation, proceeding or hearing.

§ 81.21 Identity of persons submitting information.

The identity of persons submitting information will be kept confidential by the Department except to the extent necessary to carry out the purposes of the statutes to which this part applies or their implementing regulations, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder, or where otherwise required by law.

Subpart E—Rules of Practice for Conducting Hearings Under Subpart C of This Part

§ 81.30 Records to be public.

All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copies in the office of the Civil Rights Hearing Clerk. Inquiries may be made at the Central Information Center, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201.

§ 81.31 Use of gender and number.

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing the masculine gender may be applied to females or organizations.

§ 81.32 Suspension of rules.

Upon notice to all parties, the Reviewing Authority or the presiding officer, with respect to matters pending before them, may modify or waive any rule in this part upon determination that no party will be unduly prejudiced and the ends of justice will thereby be served.

§ 81.33 Parties.

(a) The term "party" shall include an applicant or recipient to whom a notice of hearing or opportunity for hearing has been mailed naming him as respondent.

(b) The General Counsel of the Department of Health, Education, and Welfare shall be deemed a party to all proceedings.

(c) A person or organization which has been granted permission to participate in a proceeding pursuant to this part as an amicus curiae shall not be deemed a party to such proceeding. An amicus curiae may:

(1) Submit a statement of position to the presiding officer prior to the beginning of a hearing, and shall serve a copy on each party;

(2) Submit a brief on each occasion a decision is to be made, or a prior decision is subject to review, which shall be filed and served on each party within the time limits applicable to the party whose position the amicus curiae deems himself to support or, if he does not deem himself to support the position of any party, within the longest time limit applicable to any party at that particular stage of the proceedings;

(3) With the permission of the presiding officer, offer material which the presiding officer determines will assist materially in elucidating factual matters at issue between the parties and which will not expand the issues.

(d) A person submitting information to the Director concerning the possible noncompliance of an applicant or recipient pursuant to § 81.5 of this part is not a party to the proceedings governed by this part, but may petition to become an amicus curiae.

§ 81.34 Appearance.

A party may appear in person or by counsel and participate fully in any proceeding. A State agency or a corporation may appear by any of its officers or by any employee it authorizes to appear on its behalf. Counsel must be members in good standing of the bar of a State, Territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico.

§ 81.35 Authority for representation.

Any individual acting in a representative capacity in any proceeding may be required to show his authority to act in such capacity.

§ 81.36 Exclusion from hearing for misconduct.

Disrespectful, disorderly, or contumacious language contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at any hearing before a presiding officer shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

§ 81.37 Form of documents to be filed.

Documents to be filed under the rules in this part shall be dated, the original signed in ink, shall show the docket description and title of the proceeding, and shall show the title, if any, and address of the signatory. Copies need not be signed but the name of the person signing the original shall be reproduced. Documents shall be legible and shall not be more than 8½ inches wide and 12 inches long. All documents filed should be accompanied by two copies.

§ 81.38 Signature of documents.

The signature of a party, authorized officer, employee or attorney constitutes a certificate that he has read the document, that to the best of his knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this part, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed. Similar action may be taken if scandalous or indecent matter is inserted.

§ 81.39 Filing and service.

All notices by a Department official, and all written motions, requests, petitions, memoranda, pleadings, exceptions, briefs, decisions, and correspondence to a Department official from a party, or vice versa, relating to a proceeding after its commencement shall be filed and served on all parties. Parties shall supply the original and two copies of documents submitted for filing. Filings shall be made with the Civil Rights hearing clerk at the address stated in the notice of hearing or notice of opportunity for hearing, during regular business hours. Regular business hours are every Monday through Friday (legal holidays in the District of Columbia excepted) from 9 a.m. to 5:30 p.m., eastern standard or daylight saving time, whichever is effective in the District of Columbia at the time. Originals only of exhibits and transcripts of testimony need be filed.

§ 81.40 Service—how made.

Service shall be made by personal delivery of one copy to each person to be served or by mailing by first-class mail, properly addressed with postage prepaid. When a party or amicus has appeared by attorney or other repersentative, service upon such attorney or representative will be deemed service upon the party or amicus. Documents served by mail preferably should be mailed in sufficient time to reach the addressee by the date on which the original is due to be filed, and should be air mailed if the addressee is more than 300 miles distant.

§ 81.41 Date of service.

The date of service shall be the day when the matter is deposited in the U.S. mail or is delivered in person, except that the date of service of the initial notice of hearing or opportunity for hearing shall be the date of its delivery, or of its attempted delivery if refused.

§ 81.42 Certificate of service.

The original of every document filed and required to be served upon parties to a proceeding shall be endorsed with a certificate of service signed by the party making service or by his attorney or representative, stating that such service has been made, the date of service, and the manner of service, whether by mail or personal delivery.

§ 81.43 Computation of time.

In computing any period of time under the rules in this part or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed in the District of Columbia, in which event it includes the next following business day. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

§ 81.44 Extension of time or postponement.

Requests for extension of time should be served on all parties and should set forth the reasons for the application. Applications may be granted upon a showing of good cause by the applicant. From the designation of a presiding officer until the issuance of his decision such requests should be addressed to him. Answers to such requests are permitted, if made promptly.

§ 81.45 Reduction of time to file documents.

For good cause, the Reviewing Authority or the presiding officer, with respect to matters pending before them, may reduce any time limit prescribed by the rules in this part, except as provided by law or elsewhere in this part.

§ 81.46 Notice of hearing or opportunity for hearing.

Proceedings are commenced by mailing a notice of hearing or opportunity for hearing to an affected applicant or recipient, pursuant to § 81.40 of this part.

§ 81.47 Answer to notice.

The respondent, applicant or recipient may file an answer to the notice within 20 days after service thereof. Answers shall admit or deny specifically and in detail each allegation of the notice, unless the respondent party is without knowledge, in which case his answer should so state, and the statement will be deemed a denial. Allegations of fact in the notice not denied or controverted by answer shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. Failure of the respondent to file an answer within the 20-day period following service of the notice may be deemed an admission of all matters of fact recited in the notice.

§ 81.48 Amendment of notice or answer.

The General Counsel may amend the notice of hearing or opportunity for hearing once as a matter of course before an answer thereto is served, and each respondent may amend his answer once as a matter of course not later than 10 days before the date fixed for hearing but in no event later than 20 days from the date of service of his original answer. Otherwise a notice or answer may be amended only by leave of the presiding officer. A respondent shall file his answer to an amended notice within the time remaining for filing the answer to the original notice or within 10 days after service of the amended notice, whichever period may be the longer, unless the presiding officer otherwise orders.

§ 81.49 Request for hearing.

Within 20 days after service of a notice of opportunity for hearing which does not fix a date for hearing the respondent, either in his answer or in a separate document, may request a hearing. Failure of the respondent to request a hearing shall be deemed a waiver of the right to a hearing and to constitute his consent to the making of a decision on the basis of such information as is available.

§ 81.50 Consolidation.

The presiding officer may provide for proceedings in the Department to be joined or consolidated for hearing with proceedings in other Federal departments or agencies, by agreement with such other departments or agencies and pursuant to § 81.14(h). All parties to any proceeding consolidated subsequently to service of the notice of hearing or opportunity for hearing shall be promptly served with notice of such consolidation.

§ 81.51 Motions.

Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged. If made before or after the hearing, these matters shall be

in writing. If made at the hearing, they may be stated orally; but the presiding officer may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Motions, answers, and replies shall be addressed to the presiding officer, if the case is pending before him. A repetitious motion will not be entertained.

§ 81.52 Responses to motions and petitions.

Within 8 days after a written motion or petition is served, or such other period as the Reviewing Authority or the presiding officer may fix, any party may file a response thereto. An immediate oral response may be made to an oral motion.

§ 81.53 Disposition of motions and petitions.

The Reviewing Authority or the presiding officer may not sustain or grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response: *Provided however,* That prehearing conferences, hearings and decisions need not be delayed pending disposition of motions or petitions. Oral motions and petitions may be ruled on immediately. Motions and petitions submitted to the Reviewing Authority or the presiding officer, respectively, and not disposed of in separate rulings or in their respective decisions will be deemed denied. Oral arguments shall not be held on written motions or petitions unless the presiding officer in his discretion expressly so orders.

§ 81.54 Who presides.

An administrative law judge shall preside over the taking of evidence in any hearing to which these rules of procedure apply.

§ 81.55 Designation of administrative law judge as presiding officer.

The designation of the administrative law judge as presiding officer shall be in writing. A copy of such order shall be served on all parties. After service of an order designating an administrative law judge to preside, and until such judge makes his decision, motions and petitions shall be submitted to him.

§ 81.56 Authority of presiding officer.

The presiding officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to these ends, including (but not limited to) the power to:

(a) Arrange and issue notice of the date, time, and place of hearings, or, upon due notice to the parties, to change the date, time, and place of hearings previously set.

(b) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(c) Require parties and amici curiae to state their position with respect to the various issues in the proceeding.

(d) Administer oaths and affirmations.

(e) Rule on motions, and other procedural items on matters pending before him.

(f) Regulate the course of the hearing and conduct of counsel therein.

(g) Examine witnesses and direct witnesses to testify.

(h) Receive, rule on, exclude or limit evidence.

(i) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(j) Issue initial or recommended decisions.

(k) Take any action authorized by the rules in this Part or in conformance with the provisions of 5 U.S.C. 551–559 (the Administrative Procedure Act).

§ 81.57 Statement of position and trial briefs.

The presiding officer may require parties and amici curiae to file written statements of position prior to the beginning of a hearing. The presiding officer may also require the parties to submit trial briefs.

§ 81.58 Evidentiary purpose.

(a) The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented in statements, memoranda, or briefs, as determined by the presiding officer. Brief opening statements, which shall be limited to statement of the party's position and what he intends to prove, may be made at hearings.

(b) Hearings for the reception of evidence will be held only in cases where issues of fact must be resolved in order to determine whether the respondent has failed to comply with one or more applicable requirements of the statutes to which this part applies or their implementing regulations or this part. In any case where it appears from the respondent's answer to the notice of hearing or opportunity for hearing, from his failure timely to answer, or from his admissions or stipulations in the record, that there are no matters of material fact in dispute, the Reviewing Authority or presiding officer may enter an order so finding, vacating the hearing date if one has been set, and fixing the time for filing briefs under § 81.74. Thereafter the proceedings shall go to conclusion in accordance with this part. The presiding officer may allow an appeal from such order in accordance with § 81.71.

§ 81.59 Testimony.

Testimony shall be given orally under oath or affirmation by witnesses at the hearing; but the presiding officer, in his discretion, may require or permit that the direct testimony of any witness be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing, and filed as part of the record thereof. Unless authorized by the presiding officer, witnesses will not be permitted to read prepared testimony into the record. Except as provided in §§ 81.60 and 81.61, witnesses shall be available at the hearing for cross-examination.

§ 81.60 Exhibits.

Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing if the presiding officer so requires. Proposed exhibits not so exchanged may be denied admission as evidence. The authenticity of all proposed exhibits exchanged prior to hearing will be deemed admitted unless written objection thereto is filed prior to the hearing or unless good cause is shown at the hearing for failure to file such written objection.

§ 81.61 Affidavits.

An affidavit is not inadmissible as such. Unless the presiding officer fixes other time periods affidavits shall be filed and served on the parties not later than 15 days prior to the hearing; and not less than 7 days prior to hearing a party may file and serve written objection to any affidavit on the ground that he believes it necessary to test the truth of assertions therein at hearing. In such event the assertions objected to will not be received in evidence unless the affiant is made available for cross-examination, or the presiding officer determines that cross-examination is not necessary for the full and true disclosure of facts referred to in such assertions. Notwithstanding any objection, however, affidavits may be considered in the case of any respondent who waives a hearing.

§ 81.62 Depositions.

Upon such terms as may be just, for the convenience of the parties or of the Department, the presiding officer may authorize or direct the testimony of any witness to be taken by deposition.

§ 81.63 Admissions as to facts and documents.

Not later than 15 days prior to the scheduled date of the hearing except for good cause shown, or prior to such earlier date as the presiding officer may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth or any relevant matters of fact stated in the request. Each of the matters of which an admission is requested shall be deemed admitted, unless within a period designated in the request (not less than 10 days after service thereof, or within such further time as the presiding officer or the Reviewing Authority if no presiding officer has yet been designated may allow upon motion and notice) the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which an admission is requested or setting forth in de-

tail the reasons why he cannot truthfully either admit or deny such matters. Copies of requests for admission and answers thereto shall be served on all parties. Any admission made by a party to such request is only for the purposes of the pending proceeding, or any proceeding or action instituted for the enforcement of any order entered therein, and shall not constitute an admission by him for any other purpose or be used against him in any other proceeding or action.

§ 81.64 Evidence.

Irrelevant, immaterial, unreliable, and unduly repetitious evidence will be excluded.

§ 81.65 Cross-examination.

A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his direct examination.

§ 81.66 Unsponsored written material.

Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing will be placed in the correspondence section of the docket of the proceeding. These data are not deemed part of the evidence or record in the hearing.

§ 81.67 Objections.

Objections to evidence shall be timely and briefly state the ground relied upon.

§ 81.68 Exceptions to rulings of presiding officer unnecessary.

Exceptions to rulings of the presiding officer are unnecessary. It is sufficient that a party, at the time the ruling of the presiding officer is sought, makes known the action which he desires the presiding officer to take, or his objection to an action taken, and his grounds therefor.

§ 81.69 Official notice.

Where official notice is taken or is to be taken of a material fact not appearing in the evidence or record, any party, on timely request, shall be afforded an opportunity to show the contrary.

§ 81.70 Public document items.

Whenever there is offered (in whole or in part) a public document, such as an official report, decision, opinion, or published data issued by any of the executive departments (or their subdivisions), legislative agencies or committees, or administrative agencies of the Federal Government (including Government-owned corporations), or a similar document issued by a State or its agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice, as a public document item by specifying the document or relevant part thereof.

§ 81.71 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 81.72 Appeals from ruling of presiding officer.

Rulings of the presiding officer may not be appealed to the Reviewing Authority prior to his consideration of the entire proceeding except with the consent of the presiding officer and where he certifies on the record or in writing that the allowance of an interlocutory appeal is clearly necessary to prevent exceptional delay, expense, or prejudice to any party, or substantial detriment to the public interest. If an appeal is allowed, any party may file a brief with the Reviewing Authority within such period as the presiding officer directs. No oral argument will be heard unless the Reviewing Authority directs otherwise. At any time prior to submission of the proceedings to it for decision, the Reviewing Authority may direct the presiding officer to certify any question or the entire record to it for decision. Where the entire record is so certified, the presiding officer shall recommend a decision.

§ 81.73 Official transcript.

The Department will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith shall be filed with the Department. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.

§ 81.74 Record for decision.

The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision shall constitute the exclusive record for decision.

§ 81.75 Posthearing briefs; proposed findings and conclusions.

(a) The presiding officer shall fix the time for filing posthearing briefs, which may contain proposed findings of fact and conclusions of law, and, if permitted, reply briefs.

(b) Briefs should include a summary of the evidence relied upon together with references to exhibit numbers and pages of the transcript, with citations of the authorities relied upon.

§ 81.76 Service on amici curiae.

All briefs, exceptions, memoranda, requests, and decisions referred to in this part shall be served upon amici curiae at the same time and in the same manner required for service on parties. Any written statements of position and trial briefs required of parties under § 81.57 shall be served on amici.

§ 81.77 Conduct.

Parties and their representatives are expected to conduct themselves with honor and dignity and observe judicial standards of practice and ethics in all proceedings. They should not indulge in unseemly conduct. A representative of any party whether or not a lawyer shall observe the traditional responsibilities of lawyers as officers of the court and use his best efforts to restrain his client from improprieties in connection with a proceeding.

§ 81.78 Improper conduct.

With respect to any proceeding it is improper for any interested person to attempt to sway the judgment of the Reviewing Authority by undertaking to bring pressure or influence to bear upon any officer having a responsibility for a decision in the proceeding, or his decisional staff. It is improper that such interested persons or any members of the Department's staff or the presiding officer give statements to communications media, by paid advertisement or otherwise, designed to influence the judgment of any officer having a responsibility for a decision in the proceeding, or his decisional staff. It is improper for any person to solicit communications to any such officer, or his decisional staff, other than proper communications by parties or amici curiae.

§ 81.79 Ex parte communications.

Only persons employed by or assigned to work with the Reviewing Authority who perform no investigative or prosecuting function in connection with a proceeding shall communicate ex parte with the Reviewing Authority, or the presiding officer, or any employee or person involved in the decisional process in such proceedings with respect to the merits of that or a factually related proceeding. The Reviewing Authority, the presiding officer, or any employee or person involved in the decisional process of a proceeding shall communicate ex parte with respect to the merits of that or a factually related proceeding only with persons employed by or assigned to work with them and who perform no investigative or prosecuting function in connection with the proceeding.

§ 81.80 Expeditious treatment.

Requests for expeditious treatment of matters pending before the presiding officer or the Reviewing Authority are

deemed communications on the merits, and are improper except when forwarded from parties to a proceeding and served upon all other parties thereto. Such communications should be in the form of a motion.

§ 81.81 Matters not prohibited.

A request for information which merely inquires about the status of a proceeding without discussing issues or expressing points of view is not deemed an ex parte communication. Such requests should be directed to the Civil Rights hearing clerk. Communications with respect to minor procedural matters or inquiries or emergency requests for extensions of time are not deemed ex parte communications prohibited by § 81.79. Where feasible, however, such communications should be by letter with copies to all parties. Ex parte communications between a respondent and the presiding officer, the Reviewing Authority or the Secretary with respect to securing such respondent's voluntary compliance with any requirement of the statutes to which this Part applies or their implementing regulations.

§ 81.82 Filing of ex parte communications.

A prohibited communication in writing received by the Secretary, the Reviewing Authority, or by the presiding officer, shall be made public by placing it in the correspondence file of the docket in the case and will not be considered as part of the record for decision. If the prohibited communication is received orally, a memorandum setting forth its substance shall be made and filed in the correspondence section of the docket in the case. A person referred to in such memorandum may file a comment for inclusion in the docket if he considers the memorandum to be incorrect.

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PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

CACAO PRODUCTS AND CONFECTIONERY

Good Manufacturing Practice

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 128c—CACAO PRODUCTS AND CONFECTIONERY

Good Manufacturing Practice

In a notice published in the FEDERAL REGISTER of November 26, 1973 (38 FR 32554), the Food and Drug Administration proposed a regulation governing good manufacturing practices for cacao products and confectionery. The proposed regulation identified the types of food products to be included and set forth what the Commissioner of Food and Drugs regarded as good manufacturing practice in the manufacture, packaging, storage, transportation, and distribution of these products. The intent of the proposed regulation was to identify those materials, equipment, conditions, and operations that would receive the Commissioner's attention in fulfilling certain of his responsibilities under the Federal Food, Drug, and Cosmetic Act to prevent the introduction of adulterated foods into commercial channels. This notice promulgates a final regulation on this matter. The order becomes effective August 4, 1975, with an extension to December 1, 1975, granted when certain significant problems in implementation exist.

A period of 60 days was provided for the filing of comments on the proposal. In response to a request by industry, the comment period was extended by notice of February 1, 1974 (39 FR 4113), to 90 days ending on February 25, 1974.

Eighteen letters, each containing one or more comments on the proposal, were received from manfuacturers and processors, trade associations, suppliers, and other interested persons.

1. Four comments were basically in favor of the regulation and found the proposal generally satisfactory.

2. One comment suggested that separate GMP's be proposed for cacao products and confectionery in order to treat the "special characteristics" of each properly.

The Commissioner considered the suggestion but, based on industry association recommendations and other considerations, he concluded that a single regulation would be appropriate, particularly for the many manufacturers who process cacao products either in addition to or in conjunction with their confectionery operations.

3. Several comments expressed the view that many provisions of the proposed good manufacturing practice regulation under Part 128c properly belong in Part 128, frequently referred to as the "umbrella" GMP. The statement was made that some provisions of the proposed regulation are not necessarily unique to cacao products and confectionery but are applicable to foods in general. Specific references were made to §§ 128c.3, 128c.4 (e) and (f), 128c.5, 128c.6 (a) and (c), 128c.7 (e) and (f), and 128c.8. Sections 128c.4 (e) and (f) and 128c.7 (e) and (f) are, respectively, §§ 128c.4 (d) and (e) and 128c.7 (d) and (e) in the final order.

The Commissioner concludes that the provisions and requirements incorporated into the proposed Part 128c are designed for and lend specific direction to the processing of cacao products and confectionery. Moreover, as stated in the preamble to the proposal, the Commissioner intends to propose amendments to 21 CFR Part 128 at a later time which will provide more current guidance to the entire food industry.

4. Five comments stated that the proposal is discriminatory in singling out the cacao products and confectionery industries for a supplemental GMP. The nature of the comments was that supplemental GMP's should be proposed for segments of the food industry, based on the degree of hazard they represent, and that they should be truly applicable, appropriate, and nondiscriminatory. It was also suggested that the rest of the food industry should be required to meet the standards established in Part 128c.

As stated previously, the Commissioner intends to propose specific GMP's for individual segments of the food industry and also to propose amendments to Part 128 to provide more current guidance to the entire food industry on plant sanitation practices, as warranted. GMP's have already been promulgated for other segments of the food industry and more are in preparation. Consequently, the cacao products and confectionery industries were not singled out but are simply among the earlier segments of the food industry for which specific GMP's are being proposed.

5. One comment suggested that, because of the future implications of Part 128c, the proposal constitutes "latent" regulations for all segments of the food industry without their being properly alerted or having proper opportunity to participate or comment.

The Commissioner notes that long established and accepted procedures for promulgating regulations were followed in announcing the proposed GMP and observes that the comments received included some from companies and a trade association in which confectionery does not represent a major interest. The comment period was extended in response to a request by an industry association and there were no requests for further extension. Moreover, as GMP's are formulated for other segments of the food industry they will be published first as proposals with opportunity for comment.

6. Several comments questioned the statutory authority of the Food and Drug Administration to promulgate certain provisions of Part 128c. Among these are the replacement of some advisory "should" provisions in the "umbrella" GMP under Part 128 with mandatory "shall" provisions, the incorporation of the principle of "critical control points," the requirement for recordkeeping, and the reference to surveillance of records. Some comments referred to pending legislation which deals with the latter subjects.

The Commissioner's authority to promulgate these provisions derives from section 701(a) of the act. He has presented this regulation for cacao products and confectionery to promote the efficient enforcement of section 402 of the act, which pertains to food filth and safety. Of course, the regulation will be revised as may be required by future legislation that is enacted. With respect to "critical control points" and the requirement for recordkeeping, these subjects are discussed further in paragraphs 10 and 88.

7. Ten comments were directed at those requirements of Part 128c which were judged to be overly strict and rigid. Some of these comments identified cacao product and confectionery manufacture as low hazard industries and stated that stringent requirements are not warranted or that they would be financially ruinous to much of the industry. It was recommended that they be replaced by general guidelines comparable to those in the "umbrella" GMP or that certain mandatory "shall" requirements be changed to recommended or advisory "should" provisions. Specific reference was made to §§ 128c.3, 128c.4 (a) and (b), 128c.5(c), 128c.7 (c), (e), and (f), and 128c.8. It was stated that a relaxation of the requirements is necessary to maintain the cooperative effort between the Food and Drug Administration and industry. Section 128c.7 (e) and (f) is § 128c.7 (d) and (e) in the final order.

The Commissioner points out that all provisions which he considers to be essential for protecting consumers are mandatory and that advisory provisions are used in all other instances. He further points out that the requirements state what is to be accomplished and provide flexibility by allowing the manufacturer to choose alternative means whereby he may achieve compliance. The Commissioner recognizes that compliance with these requirements may require an investment of resources but considers them as necessary and appropriate for compliance with the law.

8. Five comments took exception to the sentence in the preamble to the proposal which reads, "The unique characteristics of cacao products and confectionery * * * require that special consideration be given to processing methods and sanitary controls * * *". The statement was described as false and misleading by implying that cacao products and confectionery are high risk products.

The Commissioner did not intend to imply that cacao products and confectionery are or are not high risk products, but rather that special considerations must be given to their processing in order to accommodate any unique properties and to eliminate potential hazards. Among the more important unique properties is the necessity for maintaining dry conditions in cacao product operations. Whereas water may be used freely in processing some foods, it must be restricted in the production and cleaning

operations associated with chocolate manufacture. Its presence may create conditions conducive to the growth of microorganisms. On the other hand, because of the low moisture environment, microorganisms which may be present are more resistant to destruction by heat.

The absence from the preamble to the proposal of a direct reference to microbial contamination was not meant to infer that cacao products and confectionery are free of the possibility of its occurrence. Since the writing of the proposal, there have been three occurrences of the presence of *Salmonella* in confectionery items containing milk chocolate which necessitated recall of the contaminated products. One involved candy produced domestically and two were of imported confectionery that were implicated in illnesses. Follow-up inspection of one foreign producer disclosed the presence of *Salmonella* organisms in the plant, on equipment, on cacao beans, and on in-line products. These occurrences point up the fact that continued surveillance is necessary in the production of cacao products and confectionery to maintain the good manufacturing practices that ensure the safety, cleanliness, and wholesomeness of these products. Documentation of the recall actions referred to above has been placed on display at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, for public review.

9. Nine comments stated that the statistics presented in the preamble regarding the compliance of the industry to FDA requirements were misleading, unrepresentative, and unsupported. They felt that more detail should have been presented regarding the basis for the inspections, the criteria used for evaluating the stated insanitary conditions, and the outcome of the legal actions cited.

The Commissioner explains that because of the volume of the supporting material, the information was presented in summary fashion with the statement that reports and other references cited were placed on display in the office of the Hearing Clerk for public review. The data were presented to point out that insanitary conditions do exist and to demonstrate the need for a GMP that would benefit both industry and consumers. The legal actions cited in the preamble to the proposal covered a 13-month period which ended in February 1973. During the ensuing period ending in April 1974, there were an additional 5 legal actions confirmed by notices of judgment involving manufacturers and dealers of confectionery and a deal of cacao beans as a raw material. These violations involved storage under insanitary conditions, or adulteration by filth or extraneous matter. Copies of the notices of judgment have been placed on file for public review at the office of the Hearing Clerk.

10. Five comments expressed concern over the use of the term "critical control points" in the proposal. They either asked that the term be clarified or questioned the appropriateness of its use on the grounds that "critical control points" should relate only to health hazards whereas GMP's should be concerned only with aesthetic or nonhealth matters.

The Commissioner recognizes from the comments that there is some confusion regarding the terms "critical control points" and "good manufacturing practice." He emphasizes that there is basically no distinction between them. Critical control points identify processes, practices, or conditions that present a potential for causing a food to be dangerous, filthy, or otherwise unsuitable for food use. Good manufacturing practices represent a code of procedures designed to control these points. The good manufacturing practice regulations are intended to implement certain provisions of the act relating to adulterated food, and the failure of a manufacturer to identify critical control points and to adopt good manufacturing practices which control these points may result in violations of section 402(a) of the act. Moreover, the Commissioner points out that the scope of good manufacturing practice regulations is not restricted to aesthetic or nonsafety factors as implied by some of the comments but also relates to safety.

Cacao Products

11. Two comments recommended that provision be made in the definition for "cacao products" under § 128c.1(a) to exclude the raw cacao bean.

The Commissioner concurs in the recommendation because he does not regard the raw agricultural commodity to be within the scope of the definition for cacao products. Accordingly, he has made an appropriate addition to the definition in the final order.

12. One comment recommended that flavorings and extracts derived from the cacao bean be excluded from the definition of "cacao products."

The Commissioner recognizes that the manufacture of chocolate extracts and of flavorings derived from them represents a technology unlike the manufacture of cacao products, and that the GMP requirements are different. Therefore, he has excluded such extracts and flavorings from the definition of cacao products in the final order. For the same reason, he has excluded most chocolate- or cocoa-flavored foods. Products such as cake mixes and chocolate- or cocoa-flavored milk for which separate GMP's are appropriate are among these exclusions. The Commissioner also has expanded the definition for cacao products to delineate more clearly the types of food products that are included.

Confectionary

13. Two comments suggested narrowing the definition for "confectionery" under § 128c.1(b). One suggested changing "* * * candy and other food products * * *" to "* * * candy and similar food products * * *". The second comment suggested the addition of the words "* * * and generally consumed as such," to the definition to eliminate sauces, toppings, frostings, and cake decorations.

The Commissioner agrees that the definition of confectionery needs some clarification. He does not agree that toppings, frostings, and cake decorations should be excluded as they are generally regarded as confectionery. He has clarified the scope of the definition in the final order by revision and also by indicating examples of foods which are included or excluded. He recognizes that there yet may be uncertainties regarding the applicability of the regulation to specific products, and he will be glad to offer an opinion in answer to individual inquiries.

14. One comment stated that the phrase "* * * made basically from sweeteners * * *" is misleading and is not true of many confections, particularly nut products and chocolate.

The Commissioner points out that chocolate is included in the definition for "cacao products" under § 128c.1(a) rather than under paragraph (b). With respect to nut products, he considers the comment to be appropriate and has changed the definition for "confectionery" to make it applicable to products of this class which are not made basically from sweeteners.

15. One comment described the phrase "and often fashioned into attractive shapes or forms," as an unnecessary editorial comment and suggested that it be deleted.

The Commissioner agrees that the phrase is an unnecessary part of the definition and, accordingly, has deleted it.

16. In the Federal Register for February 1, 1974 (39 FR 4113), the Commissioner gave notice that the proposed Part 128c does not cover chewing gum. The exclusion of chewing gum has been added to the definition for confectionery in § 128c.1(b).

Lot

17. Two comments suggested that the definition of "lot" under § 128c.1(c) not be restricted to a day's production, in order to provide for lots of materials such as chocolate liquor, liquid sugar, or corn sirup which may be used for longer periods.

The Commissioner advises that the definition was intended to refer only to lots of finished product. He has revised the definition to clarify that point.

Mandatory Requirement and Recommended Procedures

18. One comment suggested that advisory provisions as defined in § 128c.1(f) are inappropriate in governmental regulations where noncompliance would constitute violation of the law. In light of this consideration, it was suggested that all provisions be made mandatory.

The Commissioner points out, as he has previously, that all provisions which he considers to be essential for protecting consumers are mandatory. However, he has seen fit to provide alternative means for meeting some of these requirements, and the alternatives are appropriately provided for in an advisory manner.

WASTE

19. One comment questioned, with respect to the definition of "waste" under § 128c.1(g), whether the filth or other contamination must actually be present in the products.

This was the intent of the definition of "waste" and the Commissioner has changed the definition to clarify that point. Possible alternatives to designating a product as waste are discussed below in paragraph 83.

20. Two comments described the term "filth" in the definition of "waste" as an unnecessary pejorative and recommended its deletion.

The Commissioner does not consider the use of the term "filth" in the definition of "waste" as being pejorative. Waste often contains filth and the use of a truthful term can hardly be considered as pejorative. However, the term does not appear in the revised definition for "waste" because it has been broadened to cover product rejected due to adulteration of any kind.

PLANTS AND GROUNDS

21. One comment asked who is responsible for determining when the mandatory requirement for separating operations under § 128c.3 shall be implemented. The question was prompted by the "wherever necessary" condition which introduced the section. Similar comments were made with respect to comparable provisions in §§ 128c.7(c)(7), (c)(8), and (d). Section 128c.7(d) is § 128c.7(c)(11) in the final order.

The Commissioner considers that the requirement allows individual judgments by manufacturers to the extent that the objectives of the GMP are met. However, FDA will cooperate with industry in exercising judgment on these matters. The Commissioner has restated the requirement in the final order to avoid the uncertainty that resulted from the combination of "shall" and "wherever necessary." The section now requires, without the qualifying "wherever necessary," that effective measures be taken to prevent contamination of products, raw materials, or packaging materials. The several methods described for separating operations are offered as suggested approaches to achieving compliance. Comparable revisions were made in § 128c.7(c)(7) and (8) and are discussed in paragraphs 77 and 78 below. The response to the comment directed at § 128c.7(d) is presented in paragraph 80 below.

22. One comment questioned whether the absence of a partition or other named method of separating operations constitutes a violation of section 402(a)(4) of the act.

The Commissioner observes that the absence of a partition may contribute to a violation of section 402(a)(4) of the act but that such absence, of itself, would not necessarily constitute a violation. The determination of whether or not a violation exists would depend on the particular conditions existing at the plant.

23. One comment said that § 128c.3 adds desirable specifics, but asked if this section does not apply essentially to cacao bean processing.

The Commissioner points out that only paragraphs (c) and (d) of this section refer exclusively to cacao bean and cacao product processing but that the remaining paragraphs are applicable to confectionery operations as well.

24. One comment stated that existing building codes and fire regulations would prohibit partitions in certain areas. Another comment requested a more careful description of partitions as it was felt that they are the scourge of most food plants and often acquire hidden reservoirs of food on which pests thrive. Two comments said that air flow separation is impractical in that it would require massive amounts of sterile air and would offer no benefit to the consumer.

The Commissioner points out that the separation of the indicated operations was not a mandatory requirement of the proposed regulation nor is it mandatory in the regulation as revised in the order. Instead, the regulation requires that effective measures be taken to prevent contamination. Separation is merely given as an example of one method for achieveing this goal. This section has been revised slightly to make this clearer.

EQUIPMENT AND UTENSILS

25. Six comments recommended that the provision for "corrosion-resistant" food-contact surfaces under § 128c.4(a) be amended to provide that the surfaces only be "maintained in a corrosion-free condition," since many manufacturers use cast iron, aluminum, and ordinary steel in their processing operations, and these materials can be maintained in a corrosion-free condition with minimum care often utilizing dry cleaning methods.

The Commissioner agrees that food-contact surfaces that are maintained in a corrosion-free condition are adequate for maintaining sanitary conditions and has changed the requirement accordingly.

26. One comment recommended establishing the following definition in § 128c.1 for "corrosion resistant": "Capable of maintaining original surface characteristics under the prolonged influence of the use environment, including the expected food contact and the normal use of cleaning methods, compounds and sanitizing solutions."

The Commissioner is of the opinion that the essence of the definition above is incorporated into § 128c.4(a) as revised in the order.

27. Three comments claimed that the word "nonabsorbent" in paragraph (a) would eliminate the use of wooden starch molding boards and paddles, which do not present a hazard if properly maintained.

The Commissioner agrees that it was not the intent of this section to eliminate the use of such equipment so long as it is properly maintained, and has made appropriate changes in this paragraph to allow for their use.

28. Three comments recommended amending § 128c.4(a), where it refers to "smooth material", to allow for equipment designed for abrasive action such as grinding, cracking, etc., and which is, through necessity, not smooth.

The Commissioner agrees that provision should be made for food-contact surfaces that are, of necessity, not smooth. Upon reconsideration, he also realizes that there are appropriate food-contact surfaces in addition to those intended for abrasive action, such as conveyor belts which are neither smooth nor nonabsorbent. He has therefore deleted the requirement for smooth and nonabsorbent food-contact surface materials. The Commissioner has, however, added a requirement that all food-contact surfaces shall be maintained so as to prevent product contamination.

29. One comment discussed the requirement that food-contact surfaces be made of materials that will not readily crack. It stated that a cracked plastic surface may not be a potential hazard if it is properly maintained and suggested changing § 128c.4(a) to recognize that there is an attrition rate of plastic equipment and utensils.

The Commissioner is of the opinion that cracked plastic surfaces are not suitable food-contact surfaces because of the potential which cracks provide for microbial accumulation and subsequent product contamination. He believes that § 128c.4(a), as revised, allows for the proper use of plastic ware in processing operations.

30. Two comments said that the term "Seams" should be changed to read "Permanent seams" in order to allow for seams that require movement to facilitate various product sizes and for doors and lids. One comment expressed the opinion that § 128c.4(b) as written would eliminate industry's standard "whip stitch" method for repairing belts, thus requiring what were considered to be costly and unnecessary replacements. It was also said that currently available belting materials do not have smoothly bonded articulations and that this requirement, as written, would eliminate the use of wire mesh belts in processing and packaging areas.

The Commissioner recognizes the need to consider access doors and lids, moveable seams, and belts, and has changed § 128c.4(b) accordingly to allow for their use with proper maintenance.

31. Three comments suggested changing the wording in paragraph (b) to emphasize the microbial problems that might occur where "inaccessible spaces exist in which dirt or organic material might accumulate" rather than emphasizing the mere presence of such spaces.

The Commissioner considers the recommendation to be appropriate and has revised the paragraph accordingly.

32. One comment suggested changing § 128c.4(c), which refers to nonfood-contact surfaces, to read, "All equipment shall be designed and constructed in such a manner as to minimize the retention of moisture and dust, the shelter of vermin

and soil, and to facilitate inspection, servicing, maintenance and cleaning," saying this is more definitive than the proposed requirement. A second comment suggested the wording "Nonfood-contact surfaces which could cause contamination of equipment shall be so constructed that they can be kept in a clean, sanitary condition."

The Commissioner concludes that the suggestions are inappropriate because, in his opinion, they would change the provision from its intended purpose as a simple statement of the clean condition required of nonfood-contact surfaces in contrast to the more detailed requirements in § 128c.4(a) for food-contact surfaces. However, the Commissioner concludes that the reference to the sanitary condition of nonfood-contact surfaces is inappropriate and has deleted it.

33. One comment recommended that the provision for dust control devices on equipment under § 128c.4(d) be made mandatory for consistency with other mandatory requirements in the proposal.

The Commissioner points out that § 128c.3, as revised in the final order, requires that effective measures be taken to prevent contamination of products, raw materials, or packaging materials. See paragraph 21 above. That section includes, for example, separation by enclosed systems among the alternative means for preventing contamination by dusty operations. The Commissioner recognizes the desirability of installing dust-control devices, but since they are obviously not the only means for preventing contamination by dust, he does not consider it appropriate to make such installations mandatory. Upon further consideration of the matter, he believes that § 128c.3 of the order covers the control of dusty operations adequately and makes it unnecessary to refer to dust control devices. He has therefore deleted paragraph (d) of § 128c.4 and has redesignated paragraphs (e), (f), and (g) as paragraphs (d), (e), and (f), repectively.

34. One comment on § 128c.4(e), § 128c.4(d) in the final order, said that FDA should identify the raw materials to be pasteurized.

The Commissioner advises that this provision is intended only to deal with the accuracy requirements for temperature regulating, measuring and recording devices on equipment used to pasteurize or otherwise control or prevent undesirable microbial growth in raw materials and finished products. Materials requiring pasteurization are detailed in § 128c.7(a)(1) of the regulation.

35. One comment considered the ±2° F tolerance for the accuracy of temperature controlling, measuring, and recording devices on equipment used to control or prevent undesirable microbial growth in food materials to be restrictive and recommended that the tolerance be changed to ±5° F if one must be established. The reason presented was that variations in temperature are not important as long as the temperature is maintained within the specified range.

The Commissioner believes that the tolerance on temperature controlling, measuring, and recording devices should be defined, whenever feasible, in order to maintain actual and observed temperatures within limits that are not misleading. He is therefore retaining the ±2° F tolerance for such devices on equipment used to control or prevent undesirable microbial growth in raw materials or finished products.

36. One comment recommended that temperatures be indicated in degrees Centigrade as well as degrees Fahrenheit to allow adjustment to the metric system.

Since American manufacturers presently use Fahrenheit thermometers to monitor their processes, the Commissioner sees no need at this time to include a Centigrade scale. Upon the adoption of the metric system, an across-the-board revision will be made of all regulations. In any event, conversion tables are readily available.

37. One comment regarding § 128c.4(f), § 128c.4(e) in the final order, requested that the requirements of this paragraph with respect to freezer and cold storage compartments used for storing or holding materials capable of supporting growth of microorganisms be changed so as not to apply to compartments that are present but not used for the stated purpose.

The Commissioner concludes that it is unnecessary to make the change requested because he regards the requirement as presently written to be clearly applicable only to those compartments which are actually used.

38. One comment agreed with the requirement that cooling tunnels have access doors or other provisions to permit cleaning of the interior and suggested that the requirement be presented as a separate paragraph.

The Commissioner agrees that the subject of cooling tunnels should be the subject of a separate paragraph and has accorded it attention as a new paragraph (f) under § 128c.4.

PERSONNEL SANITATION FACILITIES

39. Two comments regarded the provision for hand sanitizing preparations as a requirement for hand dip stations under § 128c.5(a). They claimed that in chocolate and candy manufacture, such wet facilities can be a source of trouble when located in certain processing areas or that the effectiveness of sanitizing solutions is negated by the necessity for drying the hands. Among the comments, one requested that the location of the sanitizing facilities be clarified and a second recommended that the requirement for them be deleted.

The Commissioner considers the use of hand sanitizing preparations as a necessary precautionary practice. He points out that the regulation requires only that the facilities be readily accessible and effective. Beyond that, the selection of type and location is left to the discretion of the manufacturer.

40. One comment expressed general agreement with the section on personnel sanitation but stated that hand washing facilities should be required in open production areas where unprotected food is handled in order to prevent recontamination from contact with doors and knobs. For the same reason, the comment recommended changing the provision for water control valves so designed and constructed as to prevent recontamination of clean, sanitized hands from advisory to mandatory.

The Commissioner notes that the regulation does not preclude the installation of hand washing and sanitizing facilities in production areas when feasible. However, their location is left to the discretion of the manufacturer because, as noted above, wet facilities in the production area can be a source of trouble in some processes. With respect to the design of water control valves, the Commissioner points out that paragraph (e) of § 128c.5 is a mandatory provision of the regulation intended to ensure that employees' hands are washed and sanitized under the circumstances described. The facilities must be designed so as to permit compliance with this requirement. The reference in paragraph (a) to the design of water control valves was included as guidance to the manufacturer as one approach to such compliance. If management can ensure that employees' hands are santized and not recontaminated before starting to work without using such equipment they are free to do so.

41. One comment recommended an addition to § 128c.5(a) to provide that waste receptacles be constructed in a clean, sanitary manner and be provided with covers.

The Commissioner has considered this comment and wishes to make it clear that the sanitary and safe condition of the food is his concern rather than the details relating to receptacles for refuse. Accordingly, he has revised paragraph (a) in the regulation to require that the receptacles be constructed and maintained so as to prevent product contamination. Within that limitation, he has left the details of their design and the use of covers to the discretion of the manufacturer. The Commissioner also has redesignated the receptacles as "refuse receptacles" to avoid confusion with the word "waste" which is defined in § 128c.1(g).

42. One comment requested the addition of a provision to clarify that gloves complying with the requirements of § 128.8(b)(4) of the "umbrella" GMP can be used.

The Commissioner is not making the addition requested because the regulation does not preclude the use of gloves when appropriate, and the conditions for their use are adequately covered by the "umbrella" GMP.

43. Four comments considered it management's responsibility to enforce the requirements for hand washing and sanitizing under § 128c.5(c). They indicated that it is not feasible in every operation to assign the responsibility to supervi-

sors or that to do so would be a step backward in management-employee relationships. They recommended either that the responsibility be assigned to management and/or supervisors or that the paragraph be reworded as a directive to the employees.

The Commissioner agrees that this responsibility properly belongs to management and has revised the regulation accordingly. The regulation does not preclude delegation by management of control of the operations, provided that the stated requirements are met.

44. One comment suggested that an impossible burden would be imposed on supervisory personnel if they are required to ensure that employees wash and sanitize their hands under all necessary circumstances. The comment thus recommended changing the phrase "to ensure" to "so that." It also recommended making the requirement applicable when hands have actually become soiled or contaminated rather than when they may have become soiled or contaminated.

The Commissioner believes that the burden of complying with this provision of the regulation is no less a responsibility of management than is compliance with its other provisions. With the method for implementing the required control left to the discretion of the manufacturer, the Commissioner regards the requirement as a reasonable one as well as a necessary one. He rejects the suggestions for modifying the requirement because the changes suggested would negate its effectiveness. It is not always possible to tell by examination when employees' hands have become contaminated as such contamination is often not present as visible soil. It is therefore necessary to use the more general requirements set forth in the regulation.

45. Two comments asked what degree of supervision is necessary to satisfy the requirement for "sufficient control" over hand washing and sanitizing operations.

The Commissioner advises that "sufficient control" is whatever is necessary to see that employees wash and sanitize their hands. This may be a supervisor's visual observation and control or any other effective means.

EQUIPMENT AND UTENSIL CLEANING AND SANITIZING

46. One comment suggested that § 128c.6, which deals with equipment and utensil cleaning and sanitizing, should be expanded to include unused equipment and spare parts.

The Commissioner rejects the suggestion to expand the section because he considers those items actually used as the principal ones presenting a direct potential for contaminating products. The provisions of this section would of course apply to unused equipment and spare parts when they are put into use.

47. One comment requested definition of the terms "cleaning" and "sanitizing" in § 128c.6(a) and asked if everything need be sanitized.

The Commissioner points out that the term "sanitize" is defined in § 128.1(c) of the "umbrella" GMP as the "adequate treatment of surfaces by a process that is effective in destroying vegetative cells of pathogenic bacteria and in substantially reducing other microorganisms". The term "cleaning" is intended to convey its commonly accepted meaning of removing dirt, filth, and extraneous matter from surfaces. Sanitization of equipment is necessary to the extent that it is needed to prevent product contamination.

48. One comment stated that there is no reason to single out "corn sirup" under § 128c.6(b) and suggested that it be changed to read "nutritive sweeteners in liquid form."

The Commissioner agrees with the comment and has made an appropriate change in the paragraph.

49. One comment was critical of the sentence in § 128c.6(b) pertaining to possible microbial problems associated with the wet cleaning of certain equipment because it does not mention "sanitize".

The Commissioner points out that the requirement in the first sentence of this paragraph for maintaining food-contact surfaces of equipment in a sanitary condition applies to all equipment, whether cleaned by wet or dry methods.

50. One comment recommended rewording the limitation on the use of wet cleaning methods in § 128c.6(b) to permit properly used wet cleaning methods where microbial growth could be a problem due to improper use of wet cleaning methods.

The Commissioner does not agree that this provision needs revision since the requirement as written in the regulation does not preclude wet cleaning performed in a manner that does not introduce a microbial problem.

51. One comment stated that FDA should spell out specific conditions which "shall" be observed in the handling of insecticides under § 128c.6(c) since they are not spelled out in Part 128.

The Commissioner believes it is impossible to give detailed instructions in this regulation for the numerous permitted applications of pesticides in their multitude of compositions, physical forms, and use levels. He considers it to be the manufacturer's responsibility to use only those pesticides bearing a label statement providing for use in food manufacturing areas and, also, to use them within the label restrictions. Questions regarding their use should be referred to the pesticide supplier or to the Environmental Protection Agency. The food manufacturer must not use a pesticide if safe conditions for its use cannot be devised to preclude product contamination.

PROCESSES AND CONTROLS

52. One comment asked whether the quality control requirements of the introductory paragraph to § 128c.7 are a peculiar need of confectionery processing and if so, why the need was not spelled out in the preamble.

The Commissioner explains that the requirements of this paragraph are applicable generally to most foods and that their recital at this point in the regulation was intended as an introduction to the more specific requirements for cacao products and confectionery enumerated in the paragraphs which follow in § 128c.7. With respect to identifying the need for these requirements in the preamble to the proposal, the Commissioner points out that earlier the preamble included a discussion of legal actions against adulterated cacao products and confectionery, of consumer complaint letters, and of noncompliance of some cacao product and confectionery manufacturing plants with good manufacturing practices. These examples illustrated that adequate quality control was obviously lacking in the processing of some of these products.

53. One comment stated that paragraph (a) of § 128c.7 pertaining to the handling of raw materials neither provides guidance nor clarifies responsibilities and is superfluous because its requirements are provided for in the act.

The Commissioner does not agree and notes that paragraph (a) gives specific direction not covered elsewhere for handling raw materials used in cacao products and confectionery manufacturing. The paragraph also allows the use of alternative methods for ensuring the safety and wholesomeness of the product.

54. A comment suggested that § 128c.7 (a) and (b)(4) outline bad manufacturing practices in that they allow for purification of materials and killing of pathogens during processing rather than emphasizing purity of raw materials. The acceptability of purchasing under a supplier's guarantee was also questioned.

The Commissioner points out that the manufacturer is responsible for ensuring that his finished product is safe, clean, wholesome, and free of pathogenic microorganisms. Whether the manufacturer chooses to pasteurize raw materials before or during use or to purchase them under a supplier's guarantee or whether he choses to analyze the materials to verify that they are in compliance is his prerogative. The Commissioner considers any of these alternatives to be consistent with good manufacturing practices.

55. Three comments suggested a change in the wording of the last sentence of paragraph (a)(1), (2) and (3), which identifies alternative methods for complying with the requirements of the respective subparagraphs. The comments pointed out that analyzing materials for pathogenic microorganisms is not a method for accomplishing compliance with the requirements but serves only to establish whether materials are or are not in compliance. It was also suggested that the statement would be more definitive and less ambiguous if the word "This" were replaced by "These requirements."

The Commissioner concurs with the substance of these comments and has reworded the sentence in question in each subparagraph to clarify its meaning.

56. Two comments suggested the addition of an appropriate provision that would relate the requirements of § 128c.7(a)(1) to Food and Drug Administration guidelines for natural or unavoidable defects with respect to pathogenic microorganisms. It was stated that such a provision would permit deferring to future definitions a decision as to what a pathogen is. A third comment stated that ensuring freedom from pathogens would be impossible based on statistical testing.

The Commissioner points out that no tolerance is allowed for pathogens in foods and, consequently, there are no applicable FDA guidelines for such contamination. With respect to the definition of pathogenic microorganisms, the Commissioner considers them to be microorganisms capable of causing illness or disease in humans. The Commissioner realizes that statistical testing will not ensure absolute freedom from pathogens. By promulgating GMP's, the Commissioner is attempting to incorporate procedures into food manufacturing that will avoid pathogens in finished products. The statistical testing methods being used are designed to measure the effectiveness of these procedures. The Commissioner believes that this system represents the most feasible approach currently available for protecting the consumer from pathogens.

57. One comment recommended that the first sentence in § 128c.7(a)(1) be clarified so as to indicate that the word "materials" in the sixth line includes all of those previously mentioned.

The Commissioner has adopted the recommendation by inserting "(i.e., milk, milk products, and egg products)" after the word "materials."

58. One comment stated that because of the inclusion of corn meal among the raw materials identified as being susceptible to aflatoxin contamination under § 128c.7(a)(2), the entire text of this subparagraph belongs in the "umbrella" GMP.

It was the Commissioner's intent to make this subparagraph informative to manufacturers of cacao products and confectionery by including a comprehensive list of food materials presently known to be susceptible to aflatoxin contamination. Since these materials are used in relatively few commodities, the Commissioner does not believe their listing in the "umbrella" GMP is warranted.

59. One comment considered aflatoxins too important to be linked to natural or unavoidable defects and criticized the use of action levels to control aflatoxins.

The Commissioner advises that because aflatoxins are clearly poisonous or deleterious substances, the phrase "poisonous or deleterious substances" has been substituted for the phrase "natural or unavoidable defects".

The Commissioner also explains that enforcement of established action levels has been effective in controlling aflatoxin contamination. Action levels are as enforceable as tolerances. These levels are subject to revision as new information and improved methodology pertaining to aflatoxins become available.

60. One comment suggested inserting the word "pathogenic" before "microorganisms" in § 128c.7(a)(3) for consistency with paragraph (a)(1).

The Commissioner points out that whereas paragraph (a)(1) pertains specifically to pathogenic microorganisms, paragraph (a)(3) is concerned with contamination by other microorganisms.

61. One comment stated that more specifics are needed regarding unavoidable defect action levels and sieve requirements for materials described in § 128c.7(a)(3).

The Commissioner points out that defect action levels that have been established for many materials for reasons of aesthetics are applicable to cacao products and confectionery without their specific incorporation in this regulation. Revisions of and amendments to these action levels also would be applicable. The Commissioner concludes that reference to Food and Drug Administration action levels and the provision in paragraph (c)(7) and (8) of § 128c.7 for the use of equipment to remove extraneous materials are adequate for this GMP regulation.

62. One comment labeled the action levels as outdated and said their existence provides a source of contamination. It was stated that such action levels do not meet good manufacturing requirements for raw materials or finished products.

The action levels being used are based on the best information available to the Commissioner at this time. These action levels are being updated as fast as new data can be obtained. The Commissioner believes that compliance with these regulations is in accordance with current good manufacturing practices and does not add avoidable contamination to food. The only alternative available is to use a zero level for such contamination which is not feasible since it would result in destruction of a large part of our food supply.

63. One comment questioned the value of holding raw materials in their original containers under § 128c.7(b), particularly if the containers are filthy or were previously stored under insanitary conditions.

The Commissioner did not intend to imply a special significance to "original containers" and so has deleted this term with the understanding that original containers may be suitable in some cases for holding raw materials. He also has added to the paragraph a requirement that containers for holding raw materials be maintained so as to prevent raw material contamination.

64. One comment said it was necessary to change the term "prevent" in the first sentence of § 128c.7(b) to "deter" or "resist" because it was felt that 100 percent exclusion of contaminants, as inferred by the term "prevent," is impossible in commercial food production. Similar comments questioned the use of the word "prevent" in § 128c.7(c)(10) which deals with the prevention of contamination during the cracking of cacao beans and in § 128c.7(f), redesignated § 128c.7(e) in the final order, which deals with warehousing and distribution.

The Commissioner does not agree and he is retaining the word "prevent". He points out that the intent of paragraph (b) is to prescribe storage conditions which will ensure that raw materials will be in compliance with the provisions of the act as they relate to adulterated foods. The impetus should be toward preventing contamination and any lesser direction would be inappropriate. The same reasoning applies to paragraph (c)(10) and to paragraph (f), paragraph (e) in the final order.

65. One comment said the prevention of decomposition, as required by § 128c.7(b), is impossible because decomposition is a dynamic process which occurs as soon as a product is grown or harvested.

The Commissioner has changed the sentence in question to read in part, "* * * to prevent their adulteration due to contamination or decomposition." He believes that this change will clarify the point so that decomposition now refers to deteriorative changes from an initial condition sufficient to constitute adulteration.

66. One comment requested a definition of the "short periods of time" that materials capable of supporting growth of pathogenic microorganisms need not be stored as indicated under § 128c.7(b)(1).

In order to clarify this point the Commissioner has rephrased the statement to read in part, "* * * except for such period of time actually required for the processing involved and which does not affect the wholesomeness of the raw materials."

67. Three comments stated that temperatures of 0° F or below in § 128c.7(b)(2) are not necessary for storing many frozen materials and that higher temperatures such as 20° F are adequate for this purpose.

The Commissioner points out that paragraph (b)(2) requires only that frozen materials be kept frozen and recommends that the storage temperature be 0° F or below.

68. A comment requested more detail on the filtered air-intake vents on storage tanks for liquid sugars under § 128c.7(b)(3). The comment questioned whether they should be dust tight or be capable of excluding mold and bacteria.

The Commissioner concludes that such detail is not warranted in the regulation and leaves to the manufacturer the selection of filters that will prevent contamination.

69. One comment noted the absence of a reference to the use of ultraviolet lights as a means of controlling microbial growth, particularly as it might apply to controlling mold in tanks of liquid sugars.

The Commissioner points out that ultraviolet lights may be used in addition to air-intake filters if they are considered necessary to prevent microbial growth.

70. Three comments recommended deleting one or more subdivisions of

§ 128c.7(b)(4), which list alternative means for precluding the growth of pathogenic microorganisms in liquid mixtures containing perishable materials. The means described were said to be expensive, wasteful, and unnecessary for all but the most sensitive materials.

The Commissioner considers it important to require, as does this subparagraph, that measures be taken either to preclude the growth of pathogenic microorganisms or to destroy them in these liquid mixtures. The alternative holding and processing methods which follow the requirement are merely advisory procedures for achieving the required freedom from these microorganisms.

71. One comment requested an addition to § 128c.7(c)(1) to allow for defrosting of frozen egg products by the quickest method possible which does not significantly increase the microbial load.

The Commissioner is not incorporating the addition requested because he does not believe it represents a significant change in the requirements of this subparagraph. He points out that the regulation merely requires that frozen egg products be defrosted in a sanitary manner and by such methods that their wholesomeness is not adversely affected. The indicated time and temperature limitations are presented as advisory procedures.

72. Three comments on § 128c.7(c)(3) and (4) asked how long rework can be stored or held before it is required to be examined as a raw material before reprocessing.

The Commissioner considers that the diverse nature of materials that might be defined as rework and the rework storage or holding conditions are such that a time limit cannot be specified for holding rework without possible reexamination. He has modified § 128c.7(c)(3) so that both rework and return are considered as raw materials. Examination and testing of rework and return shall be carried out as necessary to implement quality control procedures for preventing product contamination (§ 128c.7).

73. One comment with reference to § 128c.7(c)(3) and (4) suggested the addition of a requirement that containers for rework and waste be emptied and steam-cleaned daily.

The Commissioner has amended § 128c.7(c)(3) and (4) to state clearly the requirements and to suggest methods whereby they may be met. He agrees that the daily emptying and steam cleaning of containers for rework and waste may prevent product contamination and is not precluded by the regulation. However, any method that keeps the waste from contributing directly or indirectly to product contamination is satisfactory, and the Commissioner can see no useful purpose in insisting on a single method.

74. One comment suggested that in § 128c.7(c)(5), the wording of the phrase "* * * cross-contamination between * * * these materials and refuse" be reversed so as to read, "* * * cross-contamination between * * * refuse and these materials," thus indicating that refuse is the source of contamination.

The Commissioner has made this change in the order for the reason stated.

75. One comment requested clarification as to the type of protection against contamination that is required by § 128c.7(c)(5).

The Commissioner is not making such an addition to § 128c.7(c)(5) because he is of the opinion that the type of protection used to prevent contamination should be decided by the manufacturer.

76. One comment considered the reference to cross-contamination to be unnecessary because of the provision in § 128c.3 for separating operations to prevent contamination.

Although the Commissioner agrees that there may be some repetition, he is retaining the reference to cross-contamination in § 128c.7(c)(5) because he believes that it amplifies and lends desirable emphasis to the provisions of § 128c.3, particularly with respect to contamination from refuse and to protection of materials transported by conveyor, which are not specifically mentioned elsewhere in the regulation.

77. Three comments on § 128c.7(c)(7) and (8) asked who will determine when and what devices shall be utilized to prevent the inclusion of metal or other extraneous material in the finished product as required by paragraph (c)(7). The comments considered that it should be management's responsibility to make those decisions.

The Commissioner agrees that it is the manufacturer's responsibility to establish the detailed conditions that define processing operations that are necessary for meeting stated requirements of the regulation. Section 128c.7(c)(7) has been revised in the order to remove the phrase "where necessary" which appears to have been a source of uncertainty for those who commented.

78. One comment stated that § 128c.7(c)(7) and (8) should be more specific concerning sieve sizes, their manners of use, and other details to make these paragraphs definitive of good or bad manufacturing processes.

As indicated above, the Commissioner considers it to be the manufacturer's responsibility to establish these points based on specific needs. Also, for the reason given above, § 128c.7(c)(8) has been revised to omit the phrase "whenever necessary."

79. One comment suggested that under § 128c.7(c)(10) the handling and holding of materials resulting from cacao bean cracking operations, in a manner to prevent product contamination, can be facilitated by holding them in a separate building.

The Commissioner views the comment as expressing one method of meeting this requirement but points out that the regulation as proposed would permit the use of this procedure or any other that is effective in preventing product contamination.

80. One comment stated that in § 128c.7(d) the word "shall" which introduces the requirement for testing is incompatible with the "as necessary" condition which follows it.

The Commissioner recognizes that the combination of "shall" and "as necessary" may lead to uncertainty as to the circumstances when testing would be called for and, also, as to the required frequency of testing. In view of the fact that appropriate quality control procedures are required by the introductory paragraph of § 128c.7, the Commissioner has reconsidered the matter of testing. He has concluded that a specific provision for testing is unnecessary and, accordingly, has deleted it from the regulation. The remaining provisions of § 128c.7(d) of the proposal relating to the disposal or reconditioning of adulterated material have been redesignated paragraph (c)(11). Paragraphs (e) and (f) have been redesignated paragraphs (d) and (e), respectively.

81. One comment on § 128c.7(d) recommended replacing the word "ensure" with "ascertain." It was asserted that 100 percent consumption of the product in testing would be required to ensure compliance with the requirement.

The deletion of the provision for testing (see paragraph 80 above) makes it unnecessary to consider the suggested change in wording.

82. One comment stated that the testing requirements of § 128c.7(d) would present manufacturers with a cost burden which, in some instances, may prove ruinous. The comment described the testing of both in-process materials and finished products as duplicative and stated that products might be ready for shipment before in-process test results are available.

Although the specific reference to testing has been deleted from the regulation (see paragraph 80 above), the Commissioner believes that testing may be a necessary part of an effective quality control program. He recognizes that in some instances it may be necessary to test both in-process materials and finished products to prevent contaminated products from being offered to consumers. He encourages the investment in testing in the absence of effective alternatives and points out that the required frequency and extent of testing are to be determined by the manufacturer based on his particular needs.

83. One comment was critical of the provision in § 128c.7(d) which permits, when feasible, the reconditioning of adulterated material. The comment was also critical of what it described as a complete dependence on reexamination of reconditioned materials for ensuring product purity.

The Commisisoner points out that the proposed regulation provides for reconditioning of adulterated material as an alternative to disposal only when reconditioning to a wholesome condition, as verified by examination, is feasible. The material must be disposed of when it cannot be restored to a condition that makes it suitable for use as human food. It is the Commissioner's view that these requirements are consistent with widely accepted good manufacturing practice.

84. One comment expressed the opinion that in the event or question of con-

tamination a manufacturer should be allowed the option of risking the loss of his entire inventory rather than having to comply with the requirement of § 128c.7(e) for mandatory coding of shipping containers.

The Commissioner points out that the purpose of coding is to expedite the recall of adulterated food and that the risks involved are not solely economic nor are they borne exclusively by the manufacturer. The Food and Drug Administration monitors the recall procedure as part of its role in protecting the public health, and the entire process can be expedited when questionable lots are identified by their code marks. Accordingly, this requirement is retained under § 128c.7(d) of the order.

85. Three comments recommended changes that would make the requirements for coding more flexible. One recommended revised wording to direct that code marks be at a readily visible location and not necessarily on the outer layer of finished product packages. A second comment suggested that code marks for identifying a packaging lot be allowed as an alternative to the identification of product lot. The stated purpose is to allow for meaningful coding of packages which contain mixtures of different product lots such as assorted chocolates. A third comment recommended that plant identification not be mandatory for products produced only in one plant.

The Commissioner has revised the regulation, as suggested by the first comment, to require that code marks on the finished product package be visible on the unopened package. He believes that the change removes the uncertainty as to what constitutes the outer layer and allows for greater flexibility in package coding. He has further changed the regulation to remove the mandatory requirement for placing the code marks on the shipping container and to provide the manufacturer with the flexibility to code either the shipping container or the finished product package, or both, if he so desires. The Commissioner also has revised the regulation to incorporate the second suggestion that identification of packaging lots be permitted as an alternative to identifying product lots. The alternative would be applicable to situations in which identification of product lot is impracticable or impossible, e.g., the coding of boxes containing assorted chocolates which may be manufactured in different departments on different dates. With reference to the third comment, the Commissioner is retaining the requirement for plant identification. When a product is implicated in a possible threat to consumer health, it is important, as indicated in paragraph 84 above, that the Commissioner be able to identify the point of manufacture as rapidly as possible. Inasmuch as coding of products is required in any event, the Commissioner believes that the complete coding required by the regulation does not impose an additional burden on the manufacturer.

86. Two comments requested a rewording of § 128c.7(f), § 128c.7(e) in the final order, to limit the manufacturer's responsibility for warehousing and distribution only to products being transported, stored, or held for sale in facilities under his control.

The Commissioner is of the opinion that the provisions in the regulation for controlling the storing, holding, and transporting of finished products are appropriate components of the GMP regulation whether or not each of these operations beyond the actual manufacturing stage is under the control of the manufacturer. In the event of a violation, the question of accountability would, of course, be resolved so that regulatory action would be directed at the responsible party. The course of action to be followed in implementing this regulation is neither unique nor a matter to be addressed within the regulation.

87. Another comment suggested that the provision for minimizing deterioration of product quality should be removed because it refers to aesthetic quality rather than product safety. According to the comment, the regulation of product quality goes beyond the scope of the GMP regulation and the statutory authority of the Food and Drug Administration.

The Commissioner agrees that deterioration of product quality is not related to the provisions of section 402(a) of the act and has therefore deleted that part of paragraph (f) (paragraph (e) in the order) pertaining to product quality.

88. One comment expressed concern that the broad recordkeeping requirements of § 128c.8 provide no protection of trade secrets or other confidential information.

The Commissioner agrees that deterio- safeguarding of confidential information that may be included among the records required by this section does not present a unique situation. The Food and Drug Administration will take adequate protective measures for such information as it does for the large volumes of other confidential information entrusted to it.

89. The Commissioner notes that paragraph (b) of § 128c.8 prescribes minimum periods of time that certain processing and production records shall be maintained, but that paragraphs (a) and (c) do not specify time periods for maintaining other required records. He considers it appropriate to apply the same time requirements uniformly to all records required by the regulation and has incorporated such a requirement in a new paragraph (d) of this section.

90. One comment suggested a rewording of § 128c.8(a) to require records of examinations or of suppliers guarantees or certifications, but not both.

The Commissioner rejects the suggestion and reaffirms the position that records of examinations and of guarantees or certifications shall be maintained for a specified period of time when such records exist. He points out, however, that there is no section of the regulation which requires the manufacturer both to perform examinations and to obtain guarantees or certifications on the same materials.

91. Two comments on § 128c.8(b) stated that the examination of processing and production records by the Food and Drug Administration should be restricted only to those situations where examination of these records is necessary for the protection of public health or if a specific health problem arises.

The Commissioner considers that the examination of records is intended to detect and correct deficiencies in processing or production before they manifest themselves as public health problems. This principle of prevention of problems by good manufacturing practice is the purpose of the regulation.

92. Two comments claimed that the requirement of § 128c.8(c) for maintaining records to identify the initial distribution of finished products would impose a costly burden on the manufacturer without benefit to the consumer.

The Commissioner is of the opinion that the benefits to the consumer from this requirement are clear. It would expedite the recall of dangerous or potentially dangerous products from the market. He considers the requirement to be a logical companion to the one for coding (discussed in paragraph 84 above), and that it serves the same purpose in protecting the public health. The rapid identification of suspected food lots by their code marks together with a knowledge of the meaning of the code marks and a knowledge of their distribution can make a recall much easier and faster and thus result in increased consumer protection.

The Commissioner has concluded that the proposal previously referred to, together with the comments received, form the basis for a good manufacturing practice regulation for cacao products and confectionery. In addition to amending the proposal to reflect the comments received, the Commissioner has modified portions of the proposal as he considered to be necessary for the implementation of the proposed regulation. Accordingly, having evaluated the comments received and other relevant material, the Commissioner concludes that the regulation should be promulgated as set forth below.

The Commissioner has set an effective date of August 4, 1975 for this final order. However, the Commissioner believes it is reasonable to extend the effective date in those instances where compliance with particular provisions requires the installation of equipment or facilities which are in short supply and where the manufacturer is able to demonstrate that this is causing significant problems to the extent he needs additional time for complete compliance. Where this is demonstrated, the Commissioner will grant an extension of the effective date for up to December 1, 1975.

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; 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 is amended by adding a new Part 128c to read as follows:

PART 128c—CACAO PRODUCTS AND CONFECTIONERY

Sec.

128c.1 Definitions.
128c.2 Current good manufacturing practice.
128c.3 Plants and grounds.
128c.4 Equipment and utensils.
128c.5 Personnel sanitation facilities.
128c.6 Equipment and utensil cleaning and sanitizing.
128c.7 Processes and controls.
128c.8 Records.

AUTHORITY: Secs. 402(a)(4), 409, 701(a), 52 Stat. 1046, 1055, 72 Stat. 1785–1788 (21 U.S.C. 342(a)(4), 348, 371(a)).

§ 128c.1 Definitions.

For the purposes of this part, the following definitions apply:

(a) "Cacao products" means any form of chocolate, chocolate product, cocoa, or cocoa product. Such foods include but are not limited to cacao nibs, sweet chocolate, milk chocolate, other foods standardized by Part 14 of this chapter, and chocolate sirup. They do not include the raw cacao bean, extracts, flavoring derived from such extracts, and chocolate- or cocoa-flavored foods.

(b) "Confectionery" means candy and other food products made with sweeteners, and frequently prepared with colorings, flavorings, milk products, cacao products, nuts, fruits, starches, and other materials. Such foods include but are not limited to frostings, toppings, and cake decorations. They do not include chewing gum, sauces, sirups, jellies, jams, preserves, cakes, or cookies.

(c) "Lot" means a collection of primary containers or units of the same size, type and style, containing finished product produced under conditions as nearly uniform as possible, designated by a common container code or marking, and, in any event no more than a day's production.

(d) "Return" means clean, wholesome product(s) returned to the manufacturer for reprocessing for reasons other than insanitary conditions and which is suitable for use as food.

(e) "Rework" means clean, wholesome product(s) removed from processing for reasons other than insanitary conditions and which is suitable for reprocessing and for use as food.

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

(g) "Waste" means product rejected due to adulteration that renders it unsuitable for use as human food.

§ 128c.2 Current good manufacturing practice.

(a) The criteria and definitions in Part 128 of this chapter shall apply in determining whether the facilities, methods, practices, and controls used for the manufacture, processing, packing, or holding of cacao products and confectionery are in conformance with and are operated or administered in conformity with good manufacturing practices to produce, under sanitary conditions, food for human consumption.

(b) The criteria in §§ 128c.3 through 128c.8 set forth additional standards to be applied in evaluating the methods and procedures used in the manufacture, processing, packaging, packing, or holding of cacao products and confectionery.

(c) Pertinent criteria from Part 128 of this chapter have been incorporated into §§ 128c.3 through 128c.8 to emphasize critical control points in the manufacture, processing, packaging, packing, or holding of cacao products and confectionery.

§ 128c.3 Plants and grounds.

Effective measures shall be taken to prevent contamination of products, raw materials, or packaging materials with microorganisms, chemicals, filth, or other extraneous material. This may be accomplished by separating the following operations by partition, location, air flow, enclosed systems, or other effective means:

(a) Receiving.

(b) Raw material storage.

(c) Cacao bean cleaning, roasting, cooling, cracking, and fanning.

(d) Cacao product milling, pressing, mixing, refining, conching, tempering, and molding.

(e) Pulverizing or separating of cocoa, and other dusty operations.

(f) Cacao product and confectionery processing.

(g) Portable equipment and utensil cleaning and sanitizing.

(h) Packaging and packing.

(i) Finished product storage and shipping.

§ 128c.4 Equipment and utensils.

(a) Food-contact surfaces shall be corrosion-free and made of nontoxic material that will not crack or disintegrate in normal operation and will withstand the environment of its intended use and the action of food ingredients, cleaning compounds, and sanitizing agents. All food-contact surfaces shall be maintained to prevent product contamination and shall be in compliance with section 409 of the act (21 U.S.C. 348) as it pertains to indirect food additives.

(b) Seams on food-contact surfaces shall be smoothly bonded or maintained so as to prevent microbiological contamination in places where dirt or organic material might accumulate.

(c) Nonfood-contact surfaces of equipment shall be so constructed that they can be kept in a clean condition.

(d) Regulating and/or recording controls, thermometers, other temperature measuring devices, and temperature recording devices on equipment used to pasteurize raw materials or products shall be accurate and effective for their designated uses. The accuracy of temperature controlling, measuring, and recording devices on equipment used to control or prevent undesirable microbial growth in raw materials or finished products shall be within ±2° F.

(e) Each freezer and cold storage compartment used for storing or holding raw materials or products capable of supporting growth of micro-organisms shall be fitted with an indicating thermometer, temperature measuring device, or temperature recording device so installed as to show accurately the temperature within the compartment, and should be fitted with an automatic control for regulating temperature or an automatic alarm system to indicate a significant temperature change in a manual operation.

(f) Cooling tunnels on processing lines shall have access doors or other provisions to permit cleaning of the interior.

§ 128c.5 Personnel sanitation facilities.

(a) Adequate and readily accessible hand washing and sanitizing facilities shall be provided in the plant for employees who may handle unprotected food, unprotected packaging materials, and food-contact surfaces. Such facilities shall be furnished with running water at a suitable temperature for hand washing, effective hand cleaning and sanitizing preparations, sanitary towel service or suitable drying devices, and, where appropriate, refuse receptacles constructed and maintained in a manner to prevent product contamination. These facilities should also be equipped with water control valves so designed and constructed as to prevent recontamination of clean, sanitized hands.

(b) Readily understandable signs directing employees handling unprotected food, unprotected packaging materials, or food-contact surfaces, to wash and sanitize their hands before starting work, after each absence from post of duty, and when their hands may have become soiled or contaminated shall be conspicuously posted in the processing room(s) and in all other areas where employees may handle such materials and surfaces.

(c) Management shall maintain sufficient control to ensure that employees handling unprotected food, unprotected packaging materials, or food-contact surfaces wash and sanitize their hands before starting work, after each absence from post of duty, and when their hands may have become soiled or contaminated.

§ 128c.6 Equipment and utensil cleaning and sanitizing.

(a) Cleaning and sanitizing of utensils and equipment shall be carried out in such a manner as to prevent raw material, packaging material, or product contamination.

(b) Food-contact surfaces of equipment used for processing or holding low moisture raw materials or products such as chocolate, fats and oils, liquid nutritive sweeteners, peanut butter, and similar materials which are not conducive to microbial growth shall be maintained in a sanitary condition. When wet cleaning of such equipment may cause conditions conducive to microbial growth, other appropriate cleaning methods shall be utilized to prevent product contamination.

(c) Poisonous or dangerous cleaning compounds, sanitizing agents, and pesticide chemicals shall be applied, stored, and held in such a manner as to prevent food or packaging material contamination. These materials shall be identified and used only in such manner and under such conditions as will be safe for their intended use. Any applicable regulations promulgated by the Environmental Protection Agency for the application, use, or holding of such materials shall be followed.

§ 128c.7 Processes and controls.

The manufacturer shall employ appropriate quality control procedures and treatments to ensure that raw materials and finished products are wholesome and fit for food, that packaging materials are safe and suitable, and that all of the foregoing materials are otherwise in compliance with the Federal Food, Drug, and Cosmetic Act.

(a) *Handling of raw materials.* (1) Milk and milk products shall have been pasteurized before use, and egg products shall have been pasteurized or otherwise treated to destroy viable Salmonella microorganisms before use, or these materials (i.e., milk, milk products and egg products) shall be pasteurized or otherwise treated during processing operations to destroy pathogenic microorganisms. The manufacturer shall ensure that gelatin, dried coconut, nuts, and other raw materials susceptible to contamination by pathogenic microorganisms are free of such microorganisms before these materials are incorporated into finished products unless these materials are pasteurized or otherwise treated before or during processing operations to destroy pathogenic microorganisms. Compliance with this requirement may be accomplished by purchasing these materials under a supplier's guarantee or certification, or verified by analyzing these materials for pathogenic microorganisms.

(2) The manufacturer shall ensure that peanuts, Brazil nuts, pistachio nuts, filberts, walnuts, almonds, pecans, corn meal, and other raw materials susceptible to aflatoxin contamination comply with current Food and Drug Administration regulations, guidelines, and action levels for poisonous or deleterious substances before these materials are incorporated into finished products. Compliance with this requirement may be accomplished by purchasing these materials under a supplier's guarantee or certification, or verified by analyzing these materials for aflatoxins.

(3) The manufacturer shall ensure that nuts, raisins, cacao beans, spices, rework, return, and other raw materials susceptible to infestation or contamination by animals, birds, vermin, microorganisms, or extraneous material comply with current Food and Drug Administration regulations, guidelines, and action levels for natural or unavoidable defects before these materials are incorporated into finished products. Compliance with this requirement may be verified by examining these materials for infestation and contamination.

(b) *Storing and holding of raw materials.* Raw materials shall be held in containers so designed and constructed as to prevent raw material contamination. Raw materials and packaging materials shall be held at such temperature and relative humidity and in such a manner as to prevent their adulteration due to contamination or decomposition.

(1) Materials capable of supporting growth of pathogenic microorganisms shall be stored at a temperature below 40° F. or above 140° F., except for such period of time actually required for the processing involved and which does not affect the wholesomeness of the raw materials.

(2) Frozen materials shall be kept frozen and should be stored at a temperature of 0° F. or below.

(3) Liquid sugars shall be held in such a manner as to prevent microbial growth or any other direct or indirect contamination. Storage tanks for liquid sugars shall have filtered air-intake vents.

(4) Liquid mixtures containing egg products or other perishable materials and capable of supporting growth of pathogenic microorganisms shall be held in such a manner as to preclude the growth of these microorganisms or shall be processed in such a manner as to destroy these microorganisms. This may be accomplished by:

(i) Maintaining the mixtures at a temperature below 40° F. after removal from storage and disposing of the unused portion at least every 12 hours during operations and at the end of the day's operation; or

(ii) Maintaining the mixtures at a temperature below 50° F. after removal from storage and disposing of the unused portion at least every 4 hours during operations and at the end of the day's operation; or

(iii) Pasteurizing or otherwise treating the mixtures during processing operations to destroy pathogenic microorganisms.

(c) *Processing operations.* (1) Frozen egg products shall be defrosted in a sanitary manner and by such methods that their wholesomeness is not adversely affected. This may be accomplished by defrosting at a temperature of 40° F. or below, or by defrosting at a temperature above 40° F. for a period of time not exceeding 24 hours: Provided, That the temperature in any part of the defrosted liquid does not exceed 50° F.

(2) Processes intended to pasteurize or otherwise treat materials to destroy pathogenic microorganisms shall be scientifically determined to be adequate under the conditions of manufacture for a given product to ensure destruction of such microorganisms.

(3) Rework and return shall be considered as raw materials. They shall be held in properly identified containers in a manner to prevent product contamination.

(4) Waste shall not contribute to direct or indirect product contamination. This may be accomplished by holding the waste in properly identified containers and removing it from the processing area daily.

(5) Effective measures shall be taken to prevent cross contamination between raw materials and finished products or between refuse and these materials. When any of these materials are unprotected they shall not be handled simultaneously in a receiving, loading, or shipping area. Raw materials and products transported by conveyor shall be protected against contamination from extraneous material.

(6) Equipment, containers, and utensils used to convey, process, hold or store raw materials or products shall be handled during processing or storage in such a manner as to prevent raw material or product contamination.

(7) Effective measures shall be taken to prevent the inclusion of metal or other extraneous material in finished products. This may be accomplished by using suitable equipment such as sieves, magnets, electronic metal detectors, or by other effective means.

(8) Effective measures shall be taken to remove extraneous material from molding starch before it is reused in molding operations. This may be accomplished by passing the starch through a sieve and a metal trap or by otherwise treating it to remove extraneous material.

(9) The cooling and winnowing of roasted cacao beans and the processing and storage of cocoa nibs shall be carried out in such a manner as to prevent product contamination.

(10) Cacao bean shell, dust, and other residue particles resulting from cracking operations shall be handled and held in such a manner as to prevent product contamination.

(11) Adulterated materials shall be disposed of in such a manner as to prevent raw material, rework, return, or finished product contamination, or shall be reconditioned, if feasible, and then reexamined and found to be wholesome before being incorporated into finished products.

(d) *Coding.* Permanently legible code marks shall be placed at a readily visible location on each shipping container or they shall be placed on each finished product package delivered or displayed to retail purchasers and be visible on the unopened package. The code marks may be placed in both locations if desired by the manufacturer. Such marks shall identify at least the plant where packed and the product lot or packaging lot.

(e) *Warehousing and distribution.* Finished products shall be handled in storage, during shipment, and while being held for sale in such a manner as to prevent product contamination. Transportation equipment, warehouses, and other facilities used for storing, holding, or transporting finished products shall be of such design and construction as to prevent contamination or adultera-

tion of the products. Such facilities and equipment shall be free of vermin or other objectionable conditions.

§ 128c.8 Records.

(a) Records shall be maintained of the results of examinations of raw materials, packaging materials, and finished products. Suppliers' guarantees or certifications that verify compliance with Food and Drug Administration regulations and guidelines shall be retained.

(b) Processing and production records covering processes intended to pasteurize or otherwise treat materials to destroy pathogenic microorganisms shall be maintained, and shall contain sufficient information to permit a public health evaluation of the processes.

(c) Records shall be maintained to identify the initial distribution of the finished product to facilitate, when necessary, the segregation of specific food lots that may have become contaminated or otherwise rendered unfit for their intended use.

(d) The records required by paragraphs (a), (b), and (c) of this section shall be retained for a period of time that exceeds the shelf life of the finished product, except that they need not be retained more than 2 years.

Effective date. This order shall be effective August 4, 1975, except that it shall become effective on December 1, 1975, where an extension is granted because of significant problems related to the supply and installation of equipment or facilities.

(Secs. 402(a)(4), 409, 701(a), 52 Stat. 1046, 1055, 72 Stat. 1785–1788 (21 U.S.C. 342(a)(4), 348, 371(a)))

Dated: May 17, 1975.

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

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