NOTICE TO AGENCIES

In order to minimize costs of publishing the large volume of information expected under the Privacy Act of 1974, the Office of the Federal Register will accept magnetic tape or word processing equipment input by prior arrangement only. Call the Federal Register Privacy Act coordinator on 523-5240.

HIGHLIGHTS OF THIS ISSUE

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

PRESCRIPTION DRUGS—FTC proposes retail price disclosure regulations; comments by 7-4-75

DEPRESSANTS—Justice/DEA revises schedules of controlled substances; effective 7-2-75

CHILDRENS TV—FCC rules on sponsorship, commercial content and weekly program quota

COMMODITY FUTURES—CFTC extends large trader reporting requirements; effective 7-7-75

FOOD LABELING—HEW/FDA issues foreign language requirements; effective 6-4-75

PLASTICIZERS IN POLYMERIC SUBSTANCES—HEW/FDA provides for safe use in manufacture of certain articles; effective 6-4-75

EXPORT REGULATIONS—Commerce/DIBA amends general policy and licensing procedures; effective 6-1-75

(Continued inside)

PART II:

NONDISCRIMINATION—HEW rules concerning education programs receiving Federal assistance; effective 7-21-75

PART III:

CIVIL RIGHTS—HEW proposes consolidated rules for administration and enforcement; comments by 7-21-75

PART IV:

CACAO AND CONFECTIONERY PRODUCTS—HEW/FDA rules on good manufacturing practices; effective 8-4-75
<table>
<thead>
<tr>
<th>MEETINGS</th>
<th>ACTION: National Voluntary Service Advisory Council, 6-26 and 6-27-75</th>
<th>24042</th>
</tr>
</thead>
<tbody>
<tr>
<td>DO:</td>
<td>National Committee for Employees Support of the Guard and Reserve, 6-12-75</td>
<td>24035</td>
</tr>
<tr>
<td>DOT:</td>
<td>Citizens’ Advisory Committee on Transportation Quality, 6-23 and 6-24-75</td>
<td>24042</td>
</tr>
<tr>
<td>HEW:</td>
<td>National Professional Standards Review Council, Technical Subcommittee, 6-30 and 7-1-75</td>
<td>24040</td>
</tr>
<tr>
<td>MAMM:</td>
<td>Marine Mammal Commission and Committee of Scientific Advisors on Marine Mammals, 7-10 through 7-12-75</td>
<td>24057</td>
</tr>
<tr>
<td>VA:</td>
<td>Station Committee on Educational Allowances, 6-11-75</td>
<td>24068</td>
</tr>
</tbody>
</table>

**ATTENTION:** Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202-523-5266. For information on obtaining extra copies, please call 202-523-5240.

To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202-523-5022.
list of cfr parts affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month. A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1974, and specifies how they are affected.

5 CFR
213 (10 documents) 22087-22089

7 CFR
915 24008
944 24008
Proposed Rules: 24013
51 24013
918 24013
1064 24019

9 CFR
113 22389

14 CFR
39 22390
71 (2 documents) 22390
Proposed Rules: 24019
71 24019

15 CFR
370 22390

16 CFR
Proposed Rules: 24031
447 24031

17 CFR
15 23894
18 23894
18 CFR Proposed Rules:
154 24031

21 CFR
1 23996
121 (2 documents) 23996, 23997
128c 24182
701 23898
1308 23898

24 CFR
82 23677
1914 (2 documents) 23976, 23978
1915 (2 documents) 23976, 23982

26 CFR
11 24002
Proposed Rules: 24011
301 24011
Proposed Rules: 24020

29 CFR
Proposed Rules:
1952 24020

40 CFR
423 23987
Proposed Rules: 24020
45 CFR
63 24003
86 24128
Proposed Rules: 24128

47 CFR
47 CFR 1 24004
Proposed Rules: 24004

49 CFR
1 24004
Proposed Rules: 24004

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during June.

### 5 CFR
- 213: 23717-23718, 23835, 23967-23989
- 302: 23833
- 330: 23838
- 351: 23834
- 383: 23833
- 531: 23839
- 550: 23838
- 533: 23839
- 553: 23839
- 772: 23839

### 9 CFR
- 20: 23840
- 550: 23841
- 531: 23841
- 330: 23842
- 302: 23842
- 78: 23721
- 113: 23721, 23990

### 10 CFR
- Proposed Rules: 51, 916, 123, 1064, 1701
- 71: 23768
- 73: 23768
- 211: 23895

### 11 CFR
- Ch. I: 23833
- Ch. II: 23833

### 12 CFR
- 201: 23842
- Proposed Rules: 7, 220, 236, 544, 545

### 13 CFR
- 121: 23843

### 14 CFR
- 39: 23721-23723, 23843, 23990
- 71: 23724, 23990
- 75: 23724
- 97: 23843
- 216: 23844
- 228: 23844

### 15 CFR
- Proposed Rules: 1102
- 13: 23875
- 14: 23845
- 15: 23994
- 18: 23994
- 239: 23770

### 17 CFR
- Proposed Rules: 36, 154

### 18 CFR
- Proposed Rules: 465

### 19 CFR
- Proposed Rules: 141

### 20 CFR
- Proposed Rules: 465

### 21 CFR
- Proposed Rules: 1030

### 24 CFR
- Proposed Rules: 1925

### FEDERAL REGISTER PAGES AND DATES—JUNE

<table>
<thead>
<tr>
<th>Pages</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>23717-23834</td>
<td>June 2</td>
</tr>
<tr>
<td>23835-23976</td>
<td>3</td>
</tr>
<tr>
<td>23977-24172</td>
<td>4</td>
</tr>
</tbody>
</table>

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1973
reminders

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

Rules Going Into Effect Today

DOT—Odorization of gas in transmission lines.............. 20279; 5-9-75
NRC—Radioactive material in light-water-cooled nuclear reactor effluent. 19549; 5-5-75

Next Week's Deadlines for Comments

On Proposed Rules

AGRICULTURE DEPARTMENT
Agricultural Marketing Service—
Handling of nectarines grown in Calif.; container and pack regulations; comments by 5-13-75. 22269; 5-22-75
Milk in Appalachian; Chatanooga, Tenn., Knoxville, Tenn., and Ohio Valley marketing areas; comments by 6-9-75. 18946; 4-30-75
Peaches (fresh) grown in Ga.; expenses and rate of assessment for fiscal period 1975-76; comments by 6-9-75. 22114; 5-21-75
Potato research and promotion plan; expenses and rate of assessment; comments by 6-12-75. 23084; 4-30-75
Animal and Plant Health Inspection Service—
Meat and poultry; sales by exempt retail stores in designated states; comments by 6-9-75. 15906; 4-9-76
Farmers Home Administration—
Community facility loans; determination of security and facility design; comments by 6-9-75. 20284; 5-9-75

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; North Carolina; comments by 6-11-75. 20643; 5-13-75
Certain inert ingredients in pesticide formulations; exemption from requirement of tolerance; comments by 6-9-75. 20308; 5-9-75
Idaho; approval and promulgation of implementation plans; comments by 6-11-75. 22145; 5-21-75
First appeared at 16218; 4-10-75
Minimum standards for procurement under EPA grants; comments by 6-9-75. 20296; 5-9-75
Pesticide chemicals in or on raw agricultural commodities; tolerances; comments by 6-11-75. 20650; 5-12-75

FEDERAL COMMUNICATIONS COMMISSION
Advertising rates; joint sales practices; extension of time; comments by 6-12-75. 20651; 5-12-75
Combination advertising rates and other joint sales practices; first report further notice of proposed rulemaking; reply comments by 6-12-75. 11608; 3-12-75
FM broadcast stations; table of assignments; comments by 6-13-75. 18452; 4-28-75
Ports of New York and New Orleans; frequency designations; comments by 6-10-75. 18465; 4-28-75

FEDERAL POWER COMMISSION
Annual report forms; revision of certain schedule pages; comments by 6-9-75. 16684; 4-14-75

FEDERAL RESERVE SYSTEM
Credit practices; proposed trade regulation rule; comments by 6-10-75. 20289; 6-11-75

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Office of Education—
Assistance to States for State equalization plans; comments by 6-9-75. 16086; 4-9-75
Certification with respect to open meetings by local educational agencies in certain programs; comments by 6-9-75. 20285; 5-9-75
Special Action Office for Drug Abuse Prevention—
Confidentiality of alcohol and drug abuse program records; comments by 6-9-75. 20522; 5-9-75
Social and Rehabilitation Service—
Medical assistance program; advance payments for services; comments by 6-13-75. 20264; 5-14-75

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Office of Assistant Secretary for Housing Production and Mortgage Credit—
Construction loans for housing for the elderly and handicapped; comments by 6-16-75. 21040; 5-15-75

INTERSTATE COMMERCE COMMISSION
Confidential annual report supplement for class I carriers and railroad annual report; comments by 6-13-75. 22466; 5-22-75

RENEGOTIATION BOARD
Principles and factors in determining excessive profits; common control; comments by 6-16-75. 20827; 5-13-75

SECURITIES AND EXCHANGE COMMISSION
Registered separate accounts issuing variable annuity contracts; comments by 6-9-75. 20315; 5-9-75

TRANSPORTATION DEPARTMENT
Coast Guard—
Back Bay, Biloxi, Mississippi; drawbridge operation regulations; comments by 6-10-75. 18793; 4-30-75

SMALL BUSINESS ADMINISTRATION
Veterans benefits; automobiles and adaptive equipment; regulatory changes; comments by 6-13-75. 20563; 5-12-75

VETERANS ADMINISTRATION
Fiscal Service—
Federal recurring payments through financial organizations by means other than by check; comments by 6-13-75. 16669; 4-14-75
Internal Revenue Service—
Employment tax; expenses to enable individuals to be gainfully employed; comments by 6-12-75. 20633; 5-12-75

VETERANS ADMINISTRATION
Eisenhower Board—

AGRICULTURE DEPARTMENT
Agricultural Marketing Service—
Raisin Advisory Board; to be held in Fresno, Calif. (open), 6-11-75. 22013; 5-20-75
CIVIL RIGHTS COMMISSION
California State Advisory Committee; to be held at Sacramento, Calif. (open), 6-10-75. 22299; 5-22-75
Kansas State Advisory Committee; to be held at Garden City, Kan. (open), 6-14-75. 22299; 5-22-75
Oklahoma State Advisory Committee; to be held in Oklahoma City, Okla. (open), 6-14 and 15-75. 22362; 5-29-75
CIVIL SERVICE COMMISSION
Federal Employees Pay Council; to be held at Washington, D.C. (open), 6-11-75. 21511; 5-16-75
COMMERCE DEPARTMENT
Domestic and International Business Administration— East-West Trade Advisory Committee; to be held in Washington, D.C. (open), 6-11-75. 20332; 5-9-75
National Bureau of Standards— Task Group 13 Work-load Definition and Benchmarking; to be held in Gaithersburg, Md. (open), 6-18-75. 18479; 4-28-75
Visiting Committee; to be held in Washington, D.C. (open with restrictions), 6-11-75. 20332; 5-9-75
CONSUMER PRODUCT SAFETY COMMISSION
Consumer Product Safety Commission; to be held at Washington, D.C. (open with restrictions), 6-9 and 6-10-75. 19676; 5-6-75
DEFENSE DEPARTMENT
Army Department— Chief of Naval Operations Industry Advisory Committee for Telecommunications (CIAC); to be held in Arlington, Va. (closed), 6-11 and 6-12-75. 22080; 5-20-75
Navy Department— Secretary of the Navy's Advisory Board on Education and Training (SABET); to be held at Pensacola, Fla. (open), 6-12 and 6-13-75. 20829; 5-13-75
Office of the Secretary— Defense Intelligence Agency Scientific Advisory Committee; to be held in Washington, D.C. (closed), 6-10 and 6-11-75. 20115; 5-8-75
Department of Defense Wage Committee; to be held in Washington, D.C. (closed), 6-10-75. 20655; 5-12-75
Electron Devices Advisory Group; to be held in New York, N.Y. (closed), 6-21-75. 21510; 5-21-75
Electron Devices Advisory Group; to be held at Lexington, Mass. (closed), 6-11 and 6-12-75. 22150; 5-21-75
DEFENSE MANPOWER COMMISSION
Meeting to be held in Washington, D.C. (open), 6-13 and 6-20-75. 22876; 5-27-75
FEDERAL COMMUNICATIONS COMMISSION
Radio Technical Commission for Aeronautics; to be held in Washington, D.C. (open with restrictions), 6-13-75. 22305; 5-22-75
FEDERAL ENERGY ADMINISTRATION
Retail Dealers Advisory Committee; to be held in Boston, Mass. (closed), 6-16-75. 23367; 5-29-75
GENERAL SERVICES ADMINISTRATION
Regional Public Advisory Panel on Architectural and Engineering Services to be held in Washington, D.C. (closed), 6-12-75. 22320; 5-22-75
HEALTH EDUCATION AND WELFARE DEPARTMENT
Education Office— 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. 19573; 5-6-75
National Advisory Public Health Training Council; to be held in Bethesda, Md. (open and closed), 6-12 and 6-13-75. 20150; 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. 22342; 5-22-75
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 at 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
Voyagers National Park Draft Master Plan; to be held in Minnesota (open), 6-19 thru 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. 22342; 5-22-75
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Life Sciences Committee, to be held in Washington, D.C. (open), 6-11 and 6-15-75. 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. 22342; 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. 20670; 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.
This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are key to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

Title 24—Department of Housing and Urban Development

PART 82—REAL ESTATE SETTLEMENT PROCEDURES

CORRECTION

In FR Doc. 75-13260 appearing at page 22448 in the issue for Thursday, May 23, 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. R75-318

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Table: List of Eligible Communities

<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Location</th>
<th>Effective date of authorization of sale of flood insurance for area</th>
<th>Hazard area identified</th>
<th>State map repository</th>
<th>Local map repository</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arkansas</td>
<td>Cass Co.</td>
<td>Williams, city of.</td>
<td>Apr. 3, 1974</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arkansas</td>
<td>Pulaski</td>
<td>Marks, city of.</td>
<td>42 U.S.C. 4001-4128</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delaware</td>
<td>New Castle</td>
<td>Coatesville, town of.</td>
<td>Apr. 5, 1974</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Florida</td>
<td>Orange</td>
<td>Winter Springs, city of.</td>
<td>1973</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>Cherokee</td>
<td>Statesboro, town of.</td>
<td>Apr. 5, 1974</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>Cherokee</td>
<td>Statesboro, town of.</td>
<td>Apr. 5, 1974</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>Cherokee</td>
<td>Statesboro, town of.</td>
<td>Apr. 5, 1974</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>Cherokee</td>
<td>Statesboro, town of.</td>
<td>Apr. 5, 1974</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>Cherokee</td>
<td>Statesboro, town of.</td>
<td>Apr. 5, 1974</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>Cherokee</td>
<td>Statesboro, town of.</td>
<td>Apr. 5, 1974</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia</td>
<td>Cherokee</td>
<td>Statesboro, town of.</td>
<td>Apr. 5, 1974</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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 26166-67). A list of servicing companies is also available from the Federal Insurance Administration, HUD, 517 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 construction in these areas unless the community has entered the program and flood insurance has been purchased.

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

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.4 List of Eligible Communities.

(Continued)


FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

[FR Doc No. 75-14130 Filed 6-5-75; 8:45 am]
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 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.

§ 1914.4 List of Eligible Communities.

<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Location</th>
<th>Effective date of authorization of sale of flood insurance for area</th>
<th>Hazard area identified</th>
<th>State map repository</th>
<th>Local map repository</th>
</tr>
</thead>
<tbody>
<tr>
<td>do</td>
<td>Cleburne</td>
<td>Helena, city of</td>
<td>do</td>
<td>Apr. 7, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Calhoun</td>
<td>Wadron, city of</td>
<td>do</td>
<td>May 31, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>California</td>
<td>San Joaquin</td>
<td>Bakersfield, city of</td>
<td>do</td>
<td>Mar. 1, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Sutter</td>
<td>Live Oak, city of</td>
<td>do</td>
<td>June 7, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Kings</td>
<td>Altus, town of</td>
<td>do</td>
<td>May 28, 1975, emergency</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Calhoun</td>
<td>Crystal River, city of</td>
<td>do</td>
<td>May 24, 1975</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Idaho</td>
<td>Dobo, city of</td>
<td>do</td>
<td>May 27, 1975</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Kansas</td>
<td>Unincorporated areas</td>
<td>do</td>
<td>Mar. 9, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Louisiana</td>
<td>Unincorporated areas</td>
<td>do</td>
<td>Mar. 10, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Massachussets</td>
<td>Middleborough, town of</td>
<td>do</td>
<td>Nov. 1, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Minnesota</td>
<td>Carlota, city of</td>
<td>do</td>
<td>Nov. 9, 1973</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Mississippi</td>
<td>Flowood, town of</td>
<td>do</td>
<td>Mar. 9, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Lauderdale</td>
<td>Unincorporated areas</td>
<td>do</td>
<td>May 17, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>New York</td>
<td>Unincorporated areas</td>
<td>do</td>
<td>May 27, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Oneida</td>
<td>Unincorporated areas</td>
<td>do</td>
<td>May 27, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>North Carolina</td>
<td>Unincorporated areas</td>
<td>do</td>
<td>May 27, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>South Dakota</td>
<td>Unincorporated areas</td>
<td>do</td>
<td>May 27, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Wisconsin</td>
<td>Unincorporated areas</td>
<td>do</td>
<td>May 27, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
<tr>
<td>do</td>
<td>Wyoming</td>
<td>Dayton, town of</td>
<td>do</td>
<td>Sept. 6, 1974</td>
<td>deposited.</td>
<td>deposited.</td>
</tr>
</tbody>
</table>
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 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 floodplain 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 financial assistance for acquisition or construction purposes in an identified floodplain 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 identifi-
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 floodproofing 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.

<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Location</th>
<th>Map No.</th>
<th>State map repository</th>
<th>Local map repository</th>
<th>Effective date of identification of areas which have special flood hazards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Florida</td>
<td>Brevard</td>
<td>West Melbourne, city of.</td>
<td>H 120335A 01</td>
<td>Alabama Insurance Department, Room 403, Administrative Bldg., Montgomery, Ala. 36114.</td>
<td>Mayor, City Hall, 90 East Court St., West Melbourne, Fla. 32901.</td>
<td>Aug. 1, 1975.</td>
</tr>
<tr>
<td>Florida</td>
<td>Columbia</td>
<td>Groveton, city of.</td>
<td>H 130035 01</td>
<td>Department of Community Affairs, 2571 East Center Circle East, Howard Bldg., Tallahassee, Fla. 32301.</td>
<td>Mayor, City Hall, 90 East Court St., West Melbourne, Fla. 32901.</td>
<td>Aug. 1, 1975.</td>
</tr>
<tr>
<td>Do</td>
<td>Clinton</td>
<td>Carthage, city</td>
<td>H 170716A 01</td>
<td>Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.</td>
<td>Mayor, City Hall, Thomasville, Ala. Aug. 1, 1975.</td>
<td>36734.</td>
</tr>
<tr>
<td>Do</td>
<td>Missaukee</td>
<td>Holland, township of.</td>
<td>H 200000A 05</td>
<td>Division of Water, Department of Natural Resources, Capitol Park Office Tower, Frankfort, Ky. 40601.</td>
<td>Mayor, City Hall, Thomasville, Ala. Aug. 1, 1975.</td>
<td>36734.</td>
</tr>
</tbody>
</table>

Issued: May 12, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

Effective date of identification of areas which have special flood hazards

<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Location</th>
<th>Map No.</th>
<th>State map repository</th>
<th>Local map repository</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minnesota</td>
<td>Itasca</td>
<td>Squaw Lake, city of.</td>
<td>H 270328 01</td>
<td>Division of Waters, Soils, and Minerals, Department of Natural Resources, Centennial Office Building, St. Paul, Minn. 55151</td>
<td>Mayor, City of Squaw Lake, Squaw Lake, Minn. 56081</td>
</tr>
<tr>
<td>Do.</td>
<td>Lincoln</td>
<td>Hendricks, city of.</td>
<td>H 270329A 01</td>
<td>MInnesota Division of Insurance, R-210 State Office Building, St. Paul, Minn. 55101</td>
<td>Mayor, City Hall, Hendricks, Minn. 56345</td>
</tr>
<tr>
<td>Do.</td>
<td>Wilkin</td>
<td>Kent, city of.</td>
<td>H 270526 01</td>
<td></td>
<td>Mayor, City Hall, Kent, Minn. 56353</td>
</tr>
<tr>
<td>Do.</td>
<td>Beltrami</td>
<td>Blackduck, city of.</td>
<td>H 270536 01</td>
<td></td>
<td>Mayor, City Hall, Blackduck, Minn. 56620</td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>Turtle River, city of.</td>
<td>H 270606 01</td>
<td></td>
<td>Mayor, City Hall, Turtle River, Minn. 56680</td>
</tr>
<tr>
<td>Mississippi</td>
<td>Clarke</td>
<td></td>
<td>H 28035A 01</td>
<td>Mississippi Research and Development Center, P.O. Drawer 2759, Jackson, Miss. 39205</td>
<td>Mayor, Town of Mount Olive, Mount Olive, Miss. 38648</td>
</tr>
<tr>
<td>Do.</td>
<td>Covington</td>
<td>Mount Olive, town of.</td>
<td>H 280356 01</td>
<td></td>
<td>Mayor, City Hall, Mount Olive, Miss. 38648</td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>Seminary, town of.</td>
<td>H 280406 01</td>
<td></td>
<td>Mayor, Seminary, Miss. 37364</td>
</tr>
<tr>
<td>Do.</td>
<td>Jasper</td>
<td>Bay Springs, town of.</td>
<td>H 280507 01</td>
<td></td>
<td>Mayor, Bay Springs, Miss. 37222</td>
</tr>
<tr>
<td>Do.</td>
<td>Simpson</td>
<td>Magee, city of.</td>
<td>H 280636 01</td>
<td></td>
<td>Mayor, City Hall, Magee, Miss. 38741</td>
</tr>
<tr>
<td>Do.</td>
<td>Smith</td>
<td>Taylorville, town of.</td>
<td>H 280716 01</td>
<td></td>
<td>Mayor, Taylorville, Miss. 37381</td>
</tr>
<tr>
<td>North Carolina</td>
<td>Iredell</td>
<td>Statesville, city of.</td>
<td>H 290130 01</td>
<td>Division of Community Assistance, Department of Natural and Economic Resources, F.O. Box 2487, North Carolina Insurance Department, P.O. Boxes 8985, Raleigh, N.C. 27611</td>
<td>Statesville Planning Department, P.O. Box 1111, Statesville, N.C. 28677</td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>Statesville, city of.</td>
<td>H 290130 02</td>
<td></td>
<td>Statesville Planning Department, P.O. Box 1111, Statesville, N.C. 28677</td>
</tr>
<tr>
<td>Ohio</td>
<td>Cuyahoga</td>
<td>Shaker Heights, city of.</td>
<td>H 300126 01</td>
<td>Ohio Department of Natural Resources, Flood Insurance Cell, Building 54, Statement Sq., Columbus, Ohio 43224</td>
<td>Mayor, City Hall, 2400 Lee Rd., Shaker Heights, Ohio 44120</td>
</tr>
<tr>
<td>Do.</td>
<td>Lucas</td>
<td>Oregon, city of.</td>
<td>H 300581 01</td>
<td>Ohio Insurance Department, 477 East Broad St., Columbus, Ohio 43211</td>
<td>Safety Service Director, 3330 S. Smanent Rd., Oregon, Ohio 43665</td>
</tr>
<tr>
<td>Do.</td>
<td>Richland</td>
<td>Bexley, village of.</td>
<td>H 300661 01</td>
<td></td>
<td>Village Clerk, Village of Bexley, Bexley, Ohio 43209</td>
</tr>
<tr>
<td>Do.</td>
<td></td>
<td>Lexingon, village of.</td>
<td>H 300681 01</td>
<td></td>
<td>Village Clerk, Village of Lexington, Lexington, Ohio (no ZIP)</td>
</tr>
<tr>
<td>Do.</td>
<td>Greene</td>
<td>Yellow Springs, village of.</td>
<td>H 300681 02</td>
<td></td>
<td>Village Manager, 222 Dayton Ave., Yellow Springs, Ohio 45387</td>
</tr>
<tr>
<td>Do.</td>
<td>Lawrence</td>
<td>Athens, village of.</td>
<td>H 300686 01</td>
<td></td>
<td>Village Clerk, Village of Athens, Athens, Ohio (no ZIP)</td>
</tr>
<tr>
<td>South Carolina</td>
<td>Chesterfield</td>
<td>Cheraw, town of.</td>
<td>H 400060 01</td>
<td>South Carolina Water Resources Commission, P.O. Box 4345, Columbia, S.C. 29202</td>
<td>Town Council, Town of Cheraw, Cheraw, S.C. 29520</td>
</tr>
<tr>
<td>West Virginia</td>
<td>Greenbrier</td>
<td>Belleville, town of.</td>
<td>H 400333A 01</td>
<td>Office of Federal-State Relations, Division of Planning and Development, Capitol Blvd., Room 100, Charleston, W. Va. 25301</td>
<td>Town Council, Town of Ravenswood, Ravenswood, W. Va. 25160</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>Milwaukee</td>
<td>Glendale, city of.</td>
<td>H 500726 01</td>
<td>Department of Natural Resources, P.O. Box 450, Madison, Wis. 53701</td>
<td>Office of City Engineer, Municipal Bldg., 5000 North Milwaukee River Ave. Madison, Wis. 53703</td>
</tr>
</tbody>
</table>

[FEDERAL REGISTER, VOL. 40, NO. 106—WEDNESDAY, JUNE 4, 1975]
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. 4001–4129). 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 date of initial identification, 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 program, whether or not participating prior to July 1, 1975, the statutory requirement for the purchase of insurance or the commencement of construction in these areas unless the community has entered the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin on the effective date of the Flood Hazard Boundary Map, whichever is later. Therefore, notice to the community, whether or not participating in the program, be given the opportunity to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 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.

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.

<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Location</th>
<th>Map No.</th>
<th>State map repository</th>
<th>Effective date of identification of areas which have special flood hazards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>Cochise</td>
<td>Huachuca City, city of</td>
<td>H 060164 08 through H 060193 09</td>
<td>Arizona State Land Department, 1924 West Adams, Room 400, Phoenix, Ariz. 85007.</td>
<td>de.</td>
</tr>
<tr>
<td>De.</td>
<td>Calhoun</td>
<td>Thornton, city of</td>
<td>H 060292 01</td>
<td>Arkansas Insurance Department, 400 University Tower Blvd., Little Rock, Ark. 72201.</td>
<td>de.</td>
</tr>
<tr>
<td>De.</td>
<td>Washington</td>
<td>Tontitown, town of</td>
<td>H 060296 01 through H 060295 01</td>
<td>Arkansas Insurance Department, 400 University Tower Blvd., Little Rock, Ark. 72201.</td>
<td>de.</td>
</tr>
<tr>
<td>De.</td>
<td>Faulkner</td>
<td>Greenbrier, town of</td>
<td>H 060296 02 through H 060296 03</td>
<td>Arkansas Insurance Department, 400 University Tower Blvd., Little Rock, Ark. 72201.</td>
<td>de.</td>
</tr>
<tr>
<td>De.</td>
<td>Franklin</td>
<td>Altus, city of</td>
<td>H 060298 01 through H 060298 01</td>
<td>Arkansas Insurance Department, 400 University Tower Blvd., Little Rock, Ark. 72201.</td>
<td>de.</td>
</tr>
<tr>
<td>De.</td>
<td>Ouachita</td>
<td>Childers, city of</td>
<td>H 060400 01 through H 060400 02</td>
<td>Arkansas Insurance Department, 400 University Tower Blvd., Little Rock, Ark. 72201.</td>
<td>de.</td>
</tr>
<tr>
<td>California</td>
<td>Merced</td>
<td>Atwater, city of</td>
<td>H 060402 04 through H 060403 01</td>
<td>Department of Water Resources, P.O. Box 666, Sacramento, Calif. 95812.</td>
<td>de.</td>
</tr>
<tr>
<td>Colorado</td>
<td>Summit</td>
<td>Silverthorne, town of</td>
<td>H 060405 01</td>
<td>Colorado Water Conservation Board, Room 101, 1645 Sherman St., Denver, Colo. 80203.</td>
<td>de.</td>
</tr>
<tr>
<td>Georgia</td>
<td>Chattan</td>
<td>Pooler, town of</td>
<td>H 060408 01 through H 060408 01</td>
<td>Department of Natural Resources, Office of Planning and Research, 270 Washington St. SW., Room 707, Atlanta, Ga. 30303.</td>
<td>de.</td>
</tr>
</tbody>
</table>

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Location</th>
<th>Map No.</th>
<th>State map repository</th>
<th>Local map repository</th>
<th>Effective date of identification of areas which have special flood hazards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>Clay</td>
<td>Fiera, city of</td>
<td>H 170034A 01</td>
<td>Governor's Task Force on Flood Control, City Clerk, City of Fiera, P.O. Box 215, Fiera, Ill. 62839</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Logan</td>
<td>Lincoln, city of</td>
<td>H 170034A 02</td>
<td>Illinois Insurance Department, 555 West Jefferson St., Springfield, Ill. 62702</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Lee</td>
<td>Sublette, village of</td>
<td>H 170034A 03</td>
<td>Mayor, City Hall, Lincoln, Ill. 62656</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Woodford</td>
<td>Wauseka, village of</td>
<td>H 170034A 04</td>
<td>Mayor, City Hall, Sublette, Ill. 60556</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indiana</td>
<td>Johnson</td>
<td>Franklin, city of</td>
<td>H 170034A 05</td>
<td>Division of Water, Department of Natural Resources, 606 State Office Bldg., Indianapolis, Ind. 46204</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Montgomery</td>
<td>Dearing, city of</td>
<td>H 170034A 06</td>
<td>Mayor, Dike, Ind. 46204</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Tama</td>
<td>Gladbrook, city of</td>
<td>H 170034A 07</td>
<td>Mayor, Gladbrook, Ind. 46204</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Do.</td>
<td>Dyersville, city of</td>
<td>H 170034A 08</td>
<td>Mayor, Dyersville, Ind. 46204</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kansas</td>
<td>Johnson</td>
<td>DeSoto, city of</td>
<td>H 170034A 09</td>
<td>Division of Water Resources, State Department of Agriculture, State Office Bldg., Topeka, Kans. 66612</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Montgomery</td>
<td>Topeka, city of</td>
<td>H 170034A 10</td>
<td>Mayor, Town of Fredonia, Fredonia, Ky. 42411</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Republic</td>
<td>Cuba, city of</td>
<td>H 170034A 11</td>
<td>Mayor, City Hall, Gilbertsville, Ky. 42411</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Montgomery</td>
<td>Dearin, city of</td>
<td>H 170034A 12</td>
<td>Mayor, City Hall, Wurtland, Ky. 41774</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Cowley</td>
<td>Dexter, city of</td>
<td>H 170034A 13</td>
<td>Mayor, City Hall, South Carrollton, Ky. 42344</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Do.</td>
<td>South Hutchinson, city of</td>
<td>H 170034A 14</td>
<td>Office of Willmore-Jessamine, County Planning Commission, City of Wilmore, Nicholasville, Ky. 40389</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kentucky</td>
<td>Caldwell</td>
<td>Fredonia, town of</td>
<td>H 170034A 15</td>
<td>Mayor, Village Hall, Perryville, Ky. 41061</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Marshall</td>
<td>Harrisonville, city of</td>
<td>H 170034A 16</td>
<td>Mayor, City Hall, Gilbertsville, Ky. 42411</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Greenup</td>
<td>Wurtland, city of</td>
<td>H 170034A 17</td>
<td>Mayor, City Hall, Wurtland, Ky. 41774</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Do.</td>
<td>South Carrollton, city of</td>
<td>H 170034A 18</td>
<td>Mayor, City Hall, South Carrollton, Ky. 42344</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Louisiana</td>
<td>Caddo</td>
<td>Houston, village of</td>
<td>H 170034A 19</td>
<td>State Department of Public Works, P.O. Box 4414, Capitol Annex, Frankfort, Ky. 40601</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Allen Parish</td>
<td>Elizabeth, village of</td>
<td>H 170034A 20</td>
<td>Village President, Elizabeth, La. 70532</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>St. Tammany Parish</td>
<td>Covington, village of</td>
<td>H 170034A 21</td>
<td>Village President, Covington, La. 70433</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Bay</td>
<td>Munster, township of</td>
<td>H 170034A 23</td>
<td>Michigan Insurance Bureau, 111 North St., Lansing, Mich. 48911</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

FEDERAL REGISTER, VOL 40, NO. 108—WEDNESDAY, JUNE 4, 1975
<table>
<thead>
<tr>
<th>State</th>
<th>County</th>
<th>Location</th>
<th>Map No.</th>
<th>State map repository</th>
<th>Local map repository</th>
<th>Effective date of identification of areas which have special flood hazards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do.</td>
<td>Kalamazoo</td>
<td>Charleston, town of...</td>
<td>H 26442 01</td>
<td>through</td>
<td>Township Supervisor, Township of Charleston, Charleston, Mich. (no Zip)</td>
<td>Do.</td>
</tr>
<tr>
<td>Do.</td>
<td>Oregon</td>
<td>Milw, township of...</td>
<td>H 26442 11</td>
<td>through</td>
<td>Township Supervisor, Milw, Mich. (no Zip)</td>
<td>Do.</td>
</tr>
<tr>
<td>Do.</td>
<td>Saguaro</td>
<td>Buena Vista, town of...</td>
<td>H 28488 01</td>
<td>through</td>
<td>Township Supervisor, Buena Vista, Mich. (no Zip)</td>
<td>Do.</td>
</tr>
<tr>
<td>Do.</td>
<td>Kochville</td>
<td>town of...</td>
<td>H 26442 15</td>
<td>through</td>
<td>Township Supervisor, Township of Kochville, Kochville, Mich. (no Zip)</td>
<td>Do.</td>
</tr>
<tr>
<td>Do.</td>
<td>St. Joseph</td>
<td>Constantine, village of...</td>
<td>H 26449 01</td>
<td>through</td>
<td>Village President, Constantine, Mich. 49041</td>
<td>Do.</td>
</tr>
<tr>
<td>Do.</td>
<td>Shihwases</td>
<td>New Haven, town of...</td>
<td>H 26449 11</td>
<td>through</td>
<td>Township Supervisor, Township of New Haven, New Haven, Mich. 49041</td>
<td>Do.</td>
</tr>
<tr>
<td>Do.</td>
<td>Van Buren</td>
<td>Almena, township of...</td>
<td>H 26450 01</td>
<td>through</td>
<td>Township Supervisor, Almena, Mich. (no Zip)</td>
<td>Do.</td>
</tr>
<tr>
<td>Missouri</td>
<td>New Madrid</td>
<td>Gideon, city of...</td>
<td>H 26452 01</td>
<td>through</td>
<td>Division of Waters, Soils, and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101</td>
<td>Do.</td>
</tr>
<tr>
<td>De.</td>
<td>Clay</td>
<td>Pelosi, city of...</td>
<td>H 26453 01</td>
<td>through</td>
<td>Mayor, Pelosi, Minn. 56540</td>
<td>Do.</td>
</tr>
<tr>
<td>De.</td>
<td>Hennepin</td>
<td>Brooklyn Park, city of...</td>
<td>H 26454 01</td>
<td>through</td>
<td>City Manager, 5800 56th Ave. North, Brooklyn Park, Minn. 55444</td>
<td>Apr. 12, 1974</td>
</tr>
<tr>
<td>De.</td>
<td>Rima</td>
<td>Rima, city...</td>
<td>H 26455 01</td>
<td>through</td>
<td>City Engineer, City of Edina, 4801 West 56th St. Edin, Minn. 55424</td>
<td>July 25, 1973</td>
</tr>
<tr>
<td>De.</td>
<td>Kokibechlag</td>
<td>Big Falls, city of...</td>
<td>H 26456 01</td>
<td>through</td>
<td>Mayor, City Office, Big Falls, Minn. 56203</td>
<td>Aug. 30, 1973</td>
</tr>
<tr>
<td>De.</td>
<td>Washington</td>
<td>Oakdale, city of...</td>
<td>H 26457 01</td>
<td>through</td>
<td>City Administrator, City of Oakdale, 1284 Hadley Ave. North, St. Paul, Minn. 55119</td>
<td>May 30, 1974</td>
</tr>
<tr>
<td>De.</td>
<td>Winona</td>
<td>Dakota, city of...</td>
<td>H 26458 01</td>
<td>through</td>
<td>Mayor, City of Mound City, Mound City, Mich. 49042</td>
<td>July 25, 1973</td>
</tr>
<tr>
<td>De.</td>
<td>Macon</td>
<td>New Cambria, city of...</td>
<td>H 26459 01</td>
<td>through</td>
<td>Mayor, City Hall, New Cambria, Mo. 63538</td>
<td>July 25, 1973</td>
</tr>
<tr>
<td>De.</td>
<td>Fort Morgan</td>
<td>Cooter, village of...</td>
<td>H 26460 01</td>
<td>through</td>
<td>Village President, Village of Cooter, Cooter, Mo. 63538</td>
<td>Do.</td>
</tr>
<tr>
<td>De.</td>
<td>Cooper</td>
<td>Pilot Grove, city of...</td>
<td>H 26461 01</td>
<td>through</td>
<td>Mayor, Pilot Grove, Mo. 65276</td>
<td>Do.</td>
</tr>
<tr>
<td>De.</td>
<td>De Kalb</td>
<td>Mauryville, city of...</td>
<td>H 26462 01</td>
<td>through</td>
<td>Mayor, Mauryville, Mo. 64460</td>
<td>Do.</td>
</tr>
<tr>
<td>De.</td>
<td>Holt</td>
<td>McPherson City, city of...</td>
<td>H 26463 01</td>
<td>through</td>
<td>Mayor, City of McPherson City, McPherson City, Mich. 48042</td>
<td>Do.</td>
</tr>
<tr>
<td>De.</td>
<td>Lafayette</td>
<td>Lexington, city of...</td>
<td>H 26464 01</td>
<td>through</td>
<td>Mayor, Lexington, Mo. 64007</td>
<td>Do.</td>
</tr>
<tr>
<td>Montana</td>
<td>Beaverhead</td>
<td>Lima, town of...</td>
<td>H 26465 01</td>
<td>through</td>
<td>Mayor, City Hall, Lima, Mont. 59530</td>
<td>Do.</td>
</tr>
<tr>
<td>Montana</td>
<td>Missoula</td>
<td>Red Willow, village of...</td>
<td>H 26466 01</td>
<td>through</td>
<td>Village President, Red Willow, Neb. 69009</td>
<td>Do.</td>
</tr>
<tr>
<td>De.</td>
<td>Sherman</td>
<td>Litchfield, village of...</td>
<td>H 26467 01</td>
<td>through</td>
<td>Village President, Litchfield, Neb. 69009</td>
<td>Do.</td>
</tr>
<tr>
<td>De.</td>
<td>Boone</td>
<td>Petersburg, village of...</td>
<td>H 26468 01</td>
<td>through</td>
<td>Village President, Petersburg, Neb. 69009</td>
<td>Do.</td>
</tr>
<tr>
<td>De.</td>
<td>Lincoln</td>
<td>Wallis, village of...</td>
<td>H 26469 01</td>
<td>through</td>
<td>Village President, Wallace, Neb. 69018</td>
<td>Do.</td>
</tr>
<tr>
<td>De.</td>
<td>Custer</td>
<td>Ampley, village of...</td>
<td>H 26470 01</td>
<td>through</td>
<td>Village President, Village Hall, Ampley, Neb. 68814</td>
<td>Do.</td>
</tr>
<tr>
<td>State</td>
<td>County</td>
<td>Location</td>
<td>Map No.</td>
<td>State map repository</td>
<td>Local map repository</td>
<td></td>
</tr>
<tr>
<td>-----------</td>
<td>---------------</td>
<td>---------------------------</td>
<td>---------</td>
<td>----------------------</td>
<td>---------------------</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Fergus</td>
<td>Arapahoe, city of.</td>
<td>H 310841 01</td>
<td>do</td>
<td>Mayor, City Hall, Arapahoe, Nebr.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Washington</td>
<td>Fort Calhoun, city of.</td>
<td>H 310888 01</td>
<td>do</td>
<td>Mayor, City Hall, Fort Calhoun, Nebr.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Antelope and Madison</td>
<td>Tilden, city of.</td>
<td>H 310894 01</td>
<td>do</td>
<td>Mayor, City of Tilden, City Hall, Tilden, Nebr. 69782.</td>
<td></td>
</tr>
<tr>
<td>New Jersey</td>
<td>Hudson</td>
<td>Jersey City, city of.</td>
<td>H 340223 01</td>
<td>through</td>
<td>Mayor, City of Jersey City, 240 Grove St, Jersey City, N.Y. 13762.</td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td>Curry</td>
<td>Melrose, village of.</td>
<td>H 350116 01</td>
<td>do</td>
<td>Mayor, City Hall, Melrose, N. Mex. 88124.</td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td>Lewis</td>
<td>Croghan, town of.</td>
<td>H 360827 01</td>
<td>through</td>
<td>Village President, Village Hall, Croghan, Rural Delivery, Castorland, N.Y. 13620.</td>
<td></td>
</tr>
<tr>
<td>North Carolina</td>
<td>Burke</td>
<td>Edgecombe, town of.</td>
<td>H 370110 01</td>
<td>do</td>
<td>Mayor, Edgecombe, N.C. 26500.</td>
<td></td>
</tr>
<tr>
<td>North Dakota</td>
<td>Walsh</td>
<td>Adams, city of.</td>
<td>H 380152 01</td>
<td>do</td>
<td>Mayor, City Hall, Adams, N. Dak. 58501.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Hamilton</td>
<td>Bath, village of.</td>
<td>H 390576 01</td>
<td>through</td>
<td>Mayor, City Hall, Bath, N.Y. 14610.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Suffolk</td>
<td>Old Field, town of.</td>
<td>H 390645 01</td>
<td>through</td>
<td>Mayor, City Hall, Old Field, N.Y. 12367.</td>
<td></td>
</tr>
<tr>
<td>North Dakota</td>
<td>Walsh</td>
<td>Adams, city of.</td>
<td>H 380122 01</td>
<td>do</td>
<td>Mayor, City Hall, Adams, N. Dak. 58511.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Divide</td>
<td>Fortuna, city of.</td>
<td>H 390717 01</td>
<td>do</td>
<td>Mayor, City Hall, Fortuna, N. Dak. 58544.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>La Mure</td>
<td>Edgerton, city of.</td>
<td>H 380223 01</td>
<td>do</td>
<td>Mayor, City Hall, Edgerton, N. Dak. 58555.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Athens</td>
<td>Aurburn, village of.</td>
<td>H 300035 01</td>
<td>do</td>
<td>Mayor, Village of Aurburn, Aurburn, Ohio 45711.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Cuyahoga</td>
<td>Highland Heights, city of.</td>
<td>H 300110 01</td>
<td>through</td>
<td>Mayor, City Hall, Highland Heights, N.Y. 12384.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Lake</td>
<td>Wickliffe, city of.</td>
<td>H 300221 01</td>
<td>through</td>
<td>Mayor, City Hall, Wickliffe, Ohio 45783.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Miami</td>
<td>Piqua, city of.</td>
<td>H 300265 01</td>
<td>through</td>
<td>Mayor, City Hall, Piqua, Ohio 45355.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Stark</td>
<td>Hartville, village of.</td>
<td>H 300141 01</td>
<td>through</td>
<td>Mayor, Village Hall, Hartville, Ohio 45652.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Brown</td>
<td>Mount Orab, village of.</td>
<td>H 300088 01</td>
<td>through</td>
<td>Mayor, Village of Mount Orab, Mount Orab, Ohio 44874.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Wood</td>
<td>Northwood, village of.</td>
<td>H 300222 01</td>
<td>through</td>
<td>Mayor, Village Office, Northwood, Ohio 45619.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Madison</td>
<td>Plain City, village of.</td>
<td>H 300255 01</td>
<td>through</td>
<td>Mayor, Village Council, Plain City, Ohio 43614.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Clinton</td>
<td>Sabina, village of.</td>
<td>H 300077 01</td>
<td>through</td>
<td>Mayor, City Bldg., Sabina, Ohio 45676.</td>
<td></td>
</tr>
<tr>
<td>Do.</td>
<td>Fulton</td>
<td>Swanton, village of.</td>
<td>H 300032 01</td>
<td>through</td>
<td>Mayor, Village Council, Swanton, Ohio 45358.</td>
<td></td>
</tr>
<tr>
<td>State</td>
<td>County</td>
<td>Location</td>
<td>Map No.</td>
<td>State map repository</td>
<td>Local map repository</td>
<td>Effective date</td>
</tr>
<tr>
<td>-----------</td>
<td>------------</td>
<td>-------------------------</td>
<td>---------</td>
<td>----------------------</td>
<td>----------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>De..........................</td>
<td>Conhocton....</td>
<td>West Lafayette, village of.</td>
<td>I 300988 02</td>
<td>through</td>
<td>Mayor, West Lafayette, Ohio 48445.</td>
<td>Do.</td>
</tr>
<tr>
<td>De..........................</td>
<td>Fairfield.....</td>
<td>Amanda, village of.</td>
<td>I 300988 01</td>
<td>through</td>
<td>Mayor, Amanda, Ohio 43032.</td>
<td>Do.</td>
</tr>
<tr>
<td>De..........................</td>
<td>Summit.......</td>
<td>Benton Heights, village of.</td>
<td>I 300965 01</td>
<td>through</td>
<td>Mayor, Village Hall, Village of Benton Heights, Ohio (no ZIP).</td>
<td>Do.</td>
</tr>
<tr>
<td>Oklahoma.................</td>
<td>Harper.......</td>
<td>Buffalo town of.</td>
<td>I 400851 01</td>
<td>through</td>
<td>Mayor, Town of Buffalo, Buffalo, Okla. 73851.</td>
<td>Do.</td>
</tr>
<tr>
<td>Oklahoma.................</td>
<td>Yuma........</td>
<td>Oklahoma Water Resources Board, 2314 Northwest 60th St., Oklahoma City, Okla. 73115.</td>
<td></td>
<td>through</td>
<td></td>
<td>Do.</td>
</tr>
<tr>
<td>Pennsylvania......</td>
<td>Venango.....</td>
<td>Oil City, city of.</td>
<td></td>
<td>through</td>
<td>Pennsylvania Insurance Department, 198 Finance Bldg., Harrisburg, Pa. 17110.</td>
<td>Do.</td>
</tr>
<tr>
<td>Texas..................</td>
<td>Brazoria....</td>
<td>Clute, city of.</td>
<td>I 400988 01</td>
<td>through</td>
<td>City Manager, City of Clute, Clute, Tex. 77551.</td>
<td>Do.</td>
</tr>
<tr>
<td>Texas..................</td>
<td>Bexar........</td>
<td>San Antonio, village of.</td>
<td></td>
<td>through</td>
<td></td>
<td>Do.</td>
</tr>
<tr>
<td>Texas..................</td>
<td>Denton.......</td>
<td>Krum, city of.</td>
<td>I 400977 01</td>
<td>through</td>
<td>Mayor, City of Krum, Krum, Tex. 75059.</td>
<td>Do.</td>
</tr>
<tr>
<td>Texas..................</td>
<td>Haskell......</td>
<td>O'Brian, city of.</td>
<td>I 400852 01</td>
<td>through</td>
<td>Mayor, O'Brian, Tex. 79389.</td>
<td>Do.</td>
</tr>
<tr>
<td>Texas..................</td>
<td>Navarro.....</td>
<td>Richland, town of.</td>
<td>I 400850 01</td>
<td>through</td>
<td>Mayor, Richland, Tex. 76181.</td>
<td>Do.</td>
</tr>
<tr>
<td>Utah....................</td>
<td>Summit........</td>
<td>Francis town of.</td>
<td>I 401100 01</td>
<td>through</td>
<td>Mayor, Francis, Utah (no ZIP).</td>
<td>Do.</td>
</tr>
<tr>
<td>De..........................</td>
<td>Millard.....</td>
<td>Delta, city of.</td>
<td>I 400906 01</td>
<td>through</td>
<td>Mayor, Delta, Utah 84324.</td>
<td>Do.</td>
</tr>
<tr>
<td>Virginia..............</td>
<td>Lunenburg....</td>
<td>Unincorporated area.</td>
<td>I 540000 01</td>
<td>through</td>
<td>Virginia Water Control Board, F.O. Box 11434, Richmond, Va. 23214.</td>
<td>Do.</td>
</tr>
<tr>
<td>De..........................</td>
<td>Amelia.....</td>
<td>Unincorporated area.</td>
<td>I 540314 01</td>
<td>through</td>
<td>Virginia Insurance Department, Blanton Bldg., P.O. Box 1145, Richmond, Va. 23230.</td>
<td>Do.</td>
</tr>
</tbody>
</table>
Wisconsin... Fond du Lac __... Campbellsport,

GENERATING POINT SOURCE CATEGORY

Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Federal Water Pollution Act as amended 33 U.S.C.
sections 301, 304 (b) and (c), 306(b)

Editorial errors and do not involve any

correcting 40 CFR 423—Steam Electric

Environmental Protection Agency (EPA) is

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

The notice of miscellaneous amendments and corrections to

become effective on July 1, 1981.

the limitation of paragraph “1” of this section shall

become effective on July 1, 1981.

The phrase “cooling tower blowdown” is substituted.

the phrase “low volume waste sources” is

deleted and the phrase “cooling tower blowdown” is substituted.

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


dated: May 28, 1975

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

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

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 August 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. 1321, 1311, 1314 (b) and (c), and 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 the phrase “low volume waste sources” is deleted and the phrase “cooling tower blowdown” is substituted.

4. Paragraph 423.15(1), 2nd list of items in table, “Phosphorous” is revised to “Phosphorus”.

5. Paragraph 423.25(1), 2nd list of items in table, “Phosphorous” is revised to “Phosphorus”.

6. Paragraph 423.33(1), 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.

Effective date

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

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.

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

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-55 Comp., p. 218)

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

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.

Issued: May 5, 1975.

[FR Doc.75-14139 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.

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

(2) One Private Secretary to the Deputy Secretary.

(3) One Staff Assistant to the Deputy Secretary.

(b) Office of the Secretary to the Under Secretary.

(1) One Confidential Secretary to the Under Secretary.

(2) Two Technical Assistants to the Under Secretary.

(3) One Staff Assistant to the Under Secretary.

(4) One Staff Assistant to the Special Assistant to the Under Secretary.

(5) One Staff Assistant to the Deputy Secretary.

(6) One Staff Assistant to the Special Assistant to the Deputy Secretary.

(7) One Staff Assistant to the Secretary.

(c) Office of the Under Secretary.

(1) Two Special Assistants to the Under Secretary.

(2) Two Technical Assistants to the Under Secretary.

(3) One Staff Assistant to the Under Secretary.

§ 213.3332 Small Business Administration.

(a) Office of the Assistant Administrator for Congressional and Public Affairs.

(b) Council of Economic Advisers.

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

§ 213.3332 Small Business Administration.

(a) One Special Assistant to the Assistant Administrator for Congressional and Public Affairs.
PART 213—EXCEPTED SERVICE

Commodity Futures Trading Commission

The Commission is amended by correcting the spelling of "Multocida" in § 113.102(c) (4); "recombinant DNA" in § 113.252(c) (2) to conform to § 113.89(c) (4); "Multocida" in the introductory paragraph of § 113.101; "multocida" in § 113.102(c) (4); "recommended" in § 113.103(d); "virus-bearing" in the introductory paragraphs of § 113.126 and § 113.140; and "show" in § 113.145(c) (0) by correcting the reference to the number of controls from "four" to "two" in § 113.143(b) (5) and by changing "influenza" to "rhinovirus" in § 113.252(c) (2) to conform to § 113.252(c) (1).

On May 8, 1975, regulations published in the Federal Register (40 FR 20667) contained misprints in § 113.104 and § 113.252. As printed, § 113.104(d) (4) (i), (ii), (iii), (iv), (v) and (vi) 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.

RULES AND REGULATIONS

1. The introductory portion of § 113.09(c) (4) is amended to read:

§ 113.09 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 of the controls die of leptospirosis, the test is invalid 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 Bacterin, Avian Isolates.

Pasteurella Multocida Bacterin, Avian Isolates, shall be prepared with cultures of Pasteurella multocida, avian isolates, Type 1, 2, or 3 (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 file Outline of Production for this 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 US-3, 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.

4. § 113.120 General requirements for killed virus vaccines.

§ 113.120(d) is amended to read:

§ 113.120 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.

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) (3) is amended to read:

§ 113.143 Encephalomyelitis Vaccine, Venezuelan.

(c) * * *

5. § 113.145 Encephalomyelitis Vaccine, Venezuelan.

(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 exhibit respiratory or other clinical signs of infection, the vaccinates and controls for 14 days post-challenge period. Only dead birds shall be considered in evaluating the product.

9. § 113.145(c) (8) 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 exhibit respiratory or other clinical signs of infection, the vaccinates and controls for 14 days post-challenge period. Only dead birds shall be considered in evaluating the product.

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.


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.
leaking 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 3/8 inch stainless steel socket 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.

---

**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(1)(2) and (3)(1) to read as follows:

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

(1) 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 hulls 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. (1) 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.

---

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

**Alteration of Transition Area**

On page 14730 of the Federal Register for April 2, 1975, the Federal Aviation Administration published a proposed rule which would alter the Parkersburg, W. Va., (49 FR 563) Transition Area. Interests 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 view 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 029° after the figure “200” where they appear.

(Section 307(a) of the Federal Aviation Act of 1958 [73 Stat. 746; 49 U.S.C. 1434], and section 6(c) of the Department of Transportation Act [49 U.S.C. 1055(c)])

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

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

---

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

**Alteration of Control Zone**

In FR Doc. 75-12866 appearing on page 21472 in the issue for Friday, May 16, 1975 in 71L171 * * * Hillsboro, Oregon, in the ninth line change 0.5 to 2.5.**

---

**Title 15—Commerce and Foreign Trade**

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

**Export Regulations**


Paragraphs 370.10(1) (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 hulls thereof, no longer require validated licenses for export to Country Groups Q, W, and Y.
§ 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 Posts, from the Office of Export Administration (Room 1617M), U.S. Department of Commerce, Washington, D.C. 20230. In addition, some of the 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 obtaining these will be included in a footnote. The initial time a form is cited will be 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 version numbers may be 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 must 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 an outstanding validated export license authorizing the export of the same commodity, 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. Section 374.3(c) Such request shall comply with any special provisions of the Export Administration Regulations covering export 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 an 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 to the same new consignee and 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 transactions are recorded and in accordance with § 374.2(g), except:

(i) In the space titled "Name of Exporter", "Name of Reexporting Carrier", or any other space indicated, enter the name and address of the authorized country(ies) of ultimate consignee;

(ii) If the GTE license number or the commodity being disposed of was previously exported, enter in the space titled "Port of Export or Post Office of Mailing", the name and location of the firm from which the original export was authorized, and in the space titled "Port of Export or Post Office of Mailing", the name and location of the firm from which the final disposition of the commodity was effected.

Effective date of action: June 1, 1975. Accordingly, the Export Administration Regulations (15 CFR Part 374) amended by revising § 371.22(c) to read as follows:

§ 371.22 General license GTE; temporary exports.

(a) 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 temporary export provisions of § 374.2, or is otherwise authorized under any other provision of the Export Administration Regulations, to reexport technical data or to export the product thereof, from 12 months to 24 months.

Revocation of authorization to reexport. 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.

§ 374.19 Effect on foreign laws.

Supplement No. 1—Instructions for Preparing Form DIB-699P or IA-1145, Request for Authorization to Reexport Commodities or Technical Data Previously Exported.


§ 374.11 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 terms of an export license, reexport provisions of § 374.2, or is otherwise 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;

(b) Export such commodity from the United States with the knowledge that it is intended 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 ¹ may be made without obtaining prior written authorization from the Office of Export Administration:

(a) Reexport of a commodity that requires a licensed sale to be exported from the United States to a certain foreign destination, and such reexport is prohibited by the provisions of § 374.1, the U.S. exporter knowing that a commodity previously made from the United States has been shipped to that country shall be included on the license application. The application shall specifically state the country to which the commodity was shipped and to enter the name and address of the consignee therefor.

(b) Reexports to a destination to which direct shipment from the United States is authorized under an unused portion of the license document, in the same manner exports are reported, regardless of whether the license is partially or wholly used for reexport purpose. Such reexports shall be reported on the reverse side of the license document, in the same manner exports are reported.

(c) Reexports of any commodity from Canada that were reexported from the country of destination shown on the application or license.

(d) Reexports to Canada of any commodity if the same vessel or aircraft is used to indicate that the commodity was reexported.

(e) Reexports between Switzerland and Liechtenstein:

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

(g) Reexports (return) to the United States of any commodity, and 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.

Note: See § 374.8 for effect on foreign laws.

¹ See § 374.8 for effect on foreign laws.

² For reexport of technical data, see § 379.8.

³ The permissive reexport provisions set forth in §§ 374.2(e) and 374.8 apply only to reexports, reexports or distributions made under the Direct-Order License, Foreign-Based Warehouse, or Aircraft and Vessel Repair Station Procedures. (See §§ 373.3, 378.4, and 378.8.)

⁴ If the reexporting party requests written authorization because the government of the country 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.

(i) At time of license application. If a U.S. exporter knows that a commodity that requires a licensed sale 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, the commodity to be exported is intended for distribution or resale in a country (other than the named country of ultimate destination), and such commodity was previous made from the United States; and address of new ultimate consignee; original ultimate consignee: whether reexport, sale, or other disposition was requested; the name and address of the consignee that the commodity was shipped to that country shall be included on the license application. The application shall specifically state the country to which the commodity was shipped and to enter the name and address of the consignee therefor.

(ii) At time of license application. If the reexporting party requests written authorization except as required for certain special commodities under the provisions of Part 376, or when one of the following conditions applies:

(iii) Reexports of specified destinations.

The consignee/purchaser statement or other documentation from the new ultimate consignee that would be required by § 374.3(c)(1), the documentation required by § 374.3(c) shall also be submitted with Form DIB-699P.

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

(v) Reexports (return) to the United States of any commodity, and 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.
§ 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 exporter shall include the number and date of the Swiss Blue Import Certificate submitted in support of the license and the name of the person or firm indicating the country to which the commodity will be returned. A consignee/purchaser statement or other documentation shall include a certification similar to that in § 372.6(c), suitably modified to indicate the true destination of the commodity, and the country (ies) where this will take place.

§ 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 otherwise, 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 § 378.3 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 a previously approved reexport authorization shall be submitted on Form DIB-685P, enter the notation “DIB-685P” 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-685P” in Item 17(a) of Form DIB-685P.

(1) 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 proposed extension in the proposed reexport transaction.

(ii) The documentation normally required to support certain reexport requests under the provisions of § 374.3(c) and (d) need not be submitted. 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 receive the commodities or technical data were previously exported under a validated license, show the license number and the name and address of the person or firm issuing the license, if known; if the license was issued under a general license, show the general license symbol (e.g., G-DEST, QLY, etc.).

Enter the names of parties of Interest not disclosed elsewhere, an explanation of documents attached to the request for the extension of validity period, and the names of parties of Interest not disclosed elsewhere, an explanation of documents attached to the request for the extension of validity period.

§ 374.8 Revocation of authorization to reexport.
All export licenses and other authorizations to reexport are subject to revocation, 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-685P OR IA-143B.

(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. The name and address of applicant.

Item 4. Any bank, freight forwarder, agent, or other intermediary is acceptable.

Item 5. Enter the name and address of the new 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 were previously exported under a validated license, show the license number and the name and address of the person or firm issuing the license.

Item 8(a). Show the quantity of each commodity in U.S. dollars and show the total value 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 § 371.11) either by submission of Form DIB-685P or by letter in the same manner as 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 § 371.11.

(For further recordkeeping requirements, see § 371.11.)
ITEM 11. REQUEST MUST BE MAN-
UNULLY SIGNED by applicant, or by an
officer or duly authorized agent of the appli-
cant. If signed by an agent of the applicant,
the title of agent and name of his firm must be
shown. (See Supplement S-26 for facsimile of form and Supplement No. 1
to Part 374 for instructions on complet-
ing the form.) If Form DIB-699P or IA-
1145 is not readily available, a request for
specific authorization to reexport technical
data, if granted, will generally be is-
tegrated with a validity period of 24 months
on Form DIB-699P or IA-1145, or by
means of a letter from the Office of Ex-
port Administration. Any request for ex-
tension of the validity period shall be
submitted in accordance with § 379.5(d).
This change is being made in the inter-

test of overall economy since the limited
frequency of activity in this area does not
justify printing, distributing, and seek-
ing 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.

PART 385—SPECIAL COUNTRY POLICIES
AND PROVISIONS

7. Effective date of action: June 1,
1975. Accordingly, the Export Adminis-
tration 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 con-
formity with the United Nations Security
Council Resolution 254 of 1968, the United
States has imposed an embargo on ship-
ments to the Republic of South Africa of
arms, munitions, military equipment, and
materials for their manufacture and main-
tenance. Accordingly, the prior
approval of the Department of Com-
merce is required for the export or
reexport to the Republic of South Africa
and South-West Africa (Namibia) of
commodities originating in the jurisdic-
tion in the general area of arms,
munitions, military equipment and mate-
rials, and materials and machinery for
their manufacture and maintenance,
even though some commodities of this
da 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 ex-
port 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 Re-
tained Samples. The provisions in the
Export Administration Regulations, in-
dicating the procedural actions followed
by Customs Officers when a sample is
taken from a shipment for technical ap-
praisal or analysis, have been revised to
discontinue use of, and to obsolete Form
IT-915, "Notice of Retained Samples."
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 newly regulated commodities.

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 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 located in a city in which the Commission maintains an office.4

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 amendments adopted herein, 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:

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Layers who hold or control reportable positions (series 08 forms)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Soybeans</td>
<td>301 303</td>
</tr>
<tr>
<td>Cotton</td>
<td>301 303</td>
</tr>
<tr>
<td>Sugar</td>
<td>301 303</td>
</tr>
<tr>
<td>Wheat</td>
<td>301 303</td>
</tr>
<tr>
<td>Corn</td>
<td>301 303</td>
</tr>
<tr>
<td>Oats</td>
<td>301 303</td>
</tr>
<tr>
<td>Rye</td>
<td>301 303</td>
</tr>
<tr>
<td>Barley</td>
<td>301 303</td>
</tr>
<tr>
<td>Plaxseed</td>
<td>301 303</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wheat</td>
<td>200,000 bushels</td>
</tr>
<tr>
<td>Corn</td>
<td>200,000 bushels</td>
</tr>
<tr>
<td>Oats</td>
<td>200,000 bushels</td>
</tr>
<tr>
<td>Rye</td>
<td>200,000 bushels</td>
</tr>
<tr>
<td>Barley</td>
<td>200,000 bushels</td>
</tr>
<tr>
<td>Plaxseed</td>
<td>200,000 bushels</td>
</tr>
</tbody>
</table>

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 than three days after the date of the report.
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 FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE 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. 1940-1942 as amended, 1047-1048 as amended, 1055 (21 U.S.C. 201, 343, 701(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 fluid ounces served 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.

Effective date. This regulation shall be effective on June 4, 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 382918), 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(C7, C 8-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:

[Table and text]

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
Substances Limitations

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) * * *

2. At levels not to exceed 24 percent by weight of permitted vinyl chloride homopolymer or copolymer used in contact with nonfatty foods. The average thickness of such polymer in the form in which they are in contact shall not exceed 0.005 inch.

3. At levels not exceeding 35 percent by weight of permitted vinyl chloride homopolymer and/or copolymer used in contact with nonfatty foods. The average thickness of such polymer in the form in which they are in contact shall not exceed 0.005 inch.

4. At levels not exceeding 35 percent by weight of permitted vinyl chloride homopolymer and/or copolymer used in contact with nonfatty foods. The average thickness of such polymer in the form in which they are in contact shall not exceed 0.005 inch.

List of substances Limitations

Di(\(C_7\), C\(_\text{-alkyl}\)) 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.

(h) * * *

(5) * * *

List of substances Limitations (expressed as percent by weight of closure-sealing gasket composition)

Di(\(C_7\), C\(_\text{-alkyl}\)) 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 thereeto. 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. 400(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)(1))


SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-14445 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 30947) and November 25, 1974 (39 FR 41194) that Food additive petitions (PAP 325052 and PAP 432095) 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., 82 Whittetmore 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.

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 thereeto. 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.
substantiated in any other fashion. Therefore, the Administrator of the Drug Enforcement Administration has determined that all concerned parties who 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, and consideration of all comments received in response to the January 27, 1975 notice of proposed rulemaking.

Among the comments received was a letter dated 4th March, 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 substantivity 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 oxazepam is equivalent to that of chlordiazepoxide (Librium) and diazepam (Valium), is not identified in either the Code of Federal Regulations (CFR) for Compliance (c)(1)).

2. As evidence of his contention that oxazepam is not an active metabolite of chlordiazepoxide, 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).

3. Recommendations concludes that oxazepam has a potential for abuse equivalent to chlordiazepoxide and diazepam, and has a dependence liability which may 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 and Chrulsctrl 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.

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, that all interested persons 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 specifying the authority for such an approach in the Act, its legislative history, or regulations of DEA.

14. Present evidence of abuse of oxazepam is lacking, and therefore continued marketing of oxazepam for the purpose of providing the basis for HEW's affirmative conclusions in the areas of tolerance, psychic, and physical dependence which the Isbell-Chruscie article addressed Where the Isbell-Chruscie 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 chlordiazepoxide and diazepam.

In fact, Drs. Isbell and Chruscie, 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 potential for abuse of oxazepam. HEW must be permitted HEW to affirmatively conclude that oxazepam possesses anti-metrazole, rotarod, anti-fighting and anti-maximal electro shock properties, similar to chlordiazepoxide and diazepam. Wyeth suggests that the preliminary reference for these conclusions. The Benzodiazepines, page 32, does not reveal any information regarding these properties of oxazepam. Regrettably, the reference to page 32 of The Benzodiazepines is to 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 causes an anti-convulsant (anti-Metrazol) activity at fifty percent effective doses of about 0.6 mg/kg, orally."

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 in the 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 drug's 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.

RULING AND REGULATIONS

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 26, 1974, and on June 24-25, 1974.

Of the scientific and medical literature reviewed by FDA Staff included numerous scientific articles.

In addition to, and more current than, Isbell, H. and Chruscie, T. L.: Dependence Liability of "Non-Narcotic" Drugs, p. 49, 1973, The chart in Recommendations provides the additional purpose of providing the basis for HEW's affirmative conclusions in the areas of tolerance, psychic, and physical dependence which the Isbell-Chruscie article addressed Where the Isbell-Chruscie 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 chlordiazepoxide and diazepam.

The chart in Recommendations provides further concern to Wyeth, which suggests that HEW does not identify the potential for abuse of oxazepam. HEW must be permitted HEW to affirmatively conclude that oxazepam possesses anti-metrazole, rotarod, anti-fighting and anti-maximal electro shock properties, similar to chlordiazepoxide and diazepam. Wyeth suggests that the preliminary reference for these conclusions. The Benzodiazepines, page 32, does not reveal any information regarding these properties of oxazepam. Regrettably, the reference to page 32 of The Benzodiazepines is to 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 causes an anti-convulsant (anti-Metrazol) activity at fifty percent effective doses of about 0.6 mg/kg, orally."

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 in the 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 drug's 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.

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 actual abuse. Recognizing this, FDA requested the above adverse reaction and dependent reports from Wyeth, in its own attempt to determine actual abuse. Recognizing this, FDA requested the above adverse reaction and dependent reports from Wyeth, in its own attempt to determine actual abuse. Recognizing this, FDA requested the above adverse reaction and dependent reports from Wyeth, in its own attempt to determine actual abuse. Recognizing this, FDA requested the above adverse reaction and dependent reports from Wyeth, in its own attempt to determine actual abuse. Recognizing this, FDA requested the above adverse reaction and dependent reports from Wyeth, in its own attempt to determine actual abuse. Recognizing this, FDA requested the above adverse reaction and dependent reports from Wyeth, in its own attempt to determine actual abuse. Recognizing this, FDA requested the above adverse reaction and dependent reports from Wyeth, in its own attempt to determine actual abuse. Recognizing this, FDA requested the above adverse reaction and dependent reports from Wyeth, in its own attempt to determine actual abuse.
survey taken by DEA in August 1974, has revealed that samples of oxazepam were seized in 73 cases. Of these, 46 cases involved local police laboratories at least 101 times. In seven Federal cases, oxazepam was seized with such drugs as amphetamine, barbiturates, cocaine, heroin, LSD, marihuana, mescaline, and phencyclidine. As with oxazepam, it 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 discontinuation of the drug are similar to those seen with the barbiturates. In 1966, it was reported that clorazepate 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.

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. Although the animal methodology is not by itself conclusive, data obtained therefrom is certainly relevant to and supportive of the HEW conclusion.

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 drug for its reinforcing value, as Wyeth's comment that "... the animal subject may be administering for reasons other than drug effect...", and demonstrates the behavior reinforcing properties of oxazepam, as well as clorazepate, diazepam, clorazepate and flurazepam. This method has been accepted by the WHO Expert Committee on Drug Dependence 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, diazepam, clorazepate, is ill-founded, for the reference which they cite as authority is not a journal article but a purely speculative letter (Valium may be due to its major metabolite oxazepam...). Recent scientific literature and other scientific materials not only support this statement by Wyeth regarding diazepam, but further indicate that chlordiazepoxide is metabolized to demoxepam and then to oxazepam, and that clorazepate is metabolized to oxazepam as well. 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 would lead to a dependence syndrome. Surely a drug possessing these characteristics poses some danger to the public health which could be diminished by imposing appropriate controls. The imposition of controls would be inappropriate only where a drug creates no danger to the public health.

The decision to propose 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 assert a class of drugs. FDA has already demonstrated that a drug possesses some danger to the public health which could be diminished by imposing appropriate controls. Therefore, it is not the case that the inclusion of 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.

As a result, it is clear that Wyeth comments made 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 rule-making was published in the Federal Register. 21 CFR 1308.02(c); 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 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 statistics, 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 submission of this data. Therefore, DEA informed 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.
have a low potential for abuse relative to the drugs or other substances in Schedule III. Therefore, under the authority vested in the Attorney General by section 265 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 10.160 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 presence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Barbitals 2145
(2) Chloral betaine 2260
(3) Chloral hydrazine 2260
(4) Chloral hydrazide 2260
(5) Chloral oxide 2260
(6) Chloral oxime 2260
(7) Diethyl ether 2260
(8) Ethchlorvynol 2260
(9) Flunitrazepam 2260
(10) Flurazepam 2260
(11) Methaqualone 2260
(12) Meprobamate 2260
(13) Methyprylon 2260
(14) Methyphenobarbital 2260
(15) Oxazepam 2260
(16) Paraldehyde 2260
(17) Petrolcholor 2260
(18) Phenobarbital 2260

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

**EFFICIVE DATES**

1. Registration. Any person who manufactures, distributes, dispenses, imports or exports, chloridiazepoxide, diazepam, oxazepam, clorazepate, flurazepam and clonazepam shall take an inventory pursuant to §§ 1306.01-1306.06 and §§ 1306.21-1306.25 of Title 21 of the Code of Federal Regulations on or before June 30, 1975 shall, if authorized for reftilling, be limited to five refills, and shall not be refilled after December 30, 1975.

2. Criminal Liability. Pursuant to Title 21 of the Code of Federal Regulations, Section 1308.49, the Administrator, Drug Enforcement Administration, may continue to conduct normal business or professional practice with chloridiazepoxide, diazepam, oxazepam, clorazepate, flurazepam and clonazepam as 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, except that any person who is registered to handle these substances but who is not entitled to registration under such Acts may continue to conduct normal business or professional practice with chloridiazepoxide, diazepam, oxazepam, clorazepate, flurazepam and clonazepam 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 chloridiazepoxide, diazepam, oxazepam, clorazepate, flurazepam and clonazepam, packaged after December 1, 1975, shall comply with the requirements 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. Abuse of chloridiazepoxide, 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.
title 26—internal revenue
chapter 1—internal revenue service, department of the treasury
subchapter a—income tax
[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 pension, profit-sharing, or stock bonus plan, or bond purchase plan described in section 401(a), 403(a), or 405(a) of the code.

under section 3001(a) of the employee retirement income security act of 1974 (88 stat. 989), 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 7478(b) (1) of the code for 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 if such applicant has notified each employee who qualifies as an interested party under regulations prescribed under section 7478(b) (1) of the code for 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 7479 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 7478(d) in the case of an actual controversy involving:

(1) a determination by the internal revenue service with respect to the initial or continuing qualification as to whether a pension, profit-sharing, or stock bonus plan, or a bond purchase plan described in section 401(a) or a trust which is a part of such a plan, an annuity plan, or bond purchase plan described in section 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 7478(b) (1) of the code for the application for such determination.

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 a 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—

(1) such initial qualification of such a plan, or
(ii) whether a plan amendment (other than an amendment described in paragraph (b) (3) of this section) 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.

(b) 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.

(c) exceptions. notwithstanding any other provision in this section—

(1) 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 shareowner 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 because of age or length of service, and which clearly meets the eligibility standards of section 410(b) (1) (A).

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.
(ii) The following persons shall not be interested parties—
(A) Employees covered by an agreement described in section 410(b)(2) (A) (regardless of whether or not they are covered by 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 not within any such classes and are therefore not 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.

§ 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 is required to apply to a plan year to which section 410(c) (2) applies to such plan.

§ 11.7476-3 Notice by posting.
(1) Time of determination. The status of an employee (whether 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. The status of an employee as present or former employee shall be determined for the purpose of applying the requirements of paragraph (c) (4) and (5) of this section for special rules in respect of years to which section 410 applies.

(2) Controlled groups, etc. An individual shall be considered to be an employee of an employer if such employee is treated as an employee's employee under § 1.414(j)(1) and (2) of this section.

(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(a) (1), section 410 will be considered to apply to a plan year to which such organization for any plan year to which section 410(c) (2) applies to such plan.

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

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 rules making 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 "[L]ike standards adopted by the [NAB]...
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 provisions. In order to give effect to the policies adopted in the Children's Television Report 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. 17-18), 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.

New Question 13: Past Commercial Practices. List each one hour or 1/2 hour segment of programming designed for children twelve years old and under to supply the requested information in question 16 for periods following January 1, 1976. (emphasis added). New questions 13 and 16 concern past and proposed commercial practices of television licensees with respect to commercial matter in programs designed for children.

New Question 14: Proposed Commercial Practices. In order to determine the level of compliance with the new NAB and INTV commercialization limits, the Commission must receive specific information from commercial television licensees on their commercial practices following their compliance with the new NAB and INTV standards. Moreover, with regard to the public service responsibilities in this area, by compliance with the industry's reform provisions, the amendments contained herein is set forth in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, (47 U.S.C. 154(i), 303(r), 308, 309, and 403) of the Communications Act of 1934, as amended, (47 U.S.C. 154(i), 303(r), 308, 309, and 403).

New Question 16: Proposed Commercial Practices. If the applicant proposes to permit this frequency congestion grows). The present construction permit application form (FCC Form 435) will continue to be used for the Domestic Public Radio Services. In connection with the implementation of the 435 form, the FCC is 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 will send a schedule of the 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) and 303(r) of the Communications Act of 1934, as amended. As added, (47 U.S.C. 154(i), 303(r), 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.

Adopted: January 22, 1975.


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

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

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

DOMESTIC PUBLIC RADIO SERVICES

Procedural Order

In the matter of amendment of Parts 1 and 2 of the Commission's rules and regulations relative to various procedural enhancements for domestic Public Radio Services and other services.

1. The Commission has under consideration several minor changes to Parts 1 and 2 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 materials.

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 the filing of technical 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 435) 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. In connection with the implementation of the 435 form, the FCC is 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 will send a schedule of the differences in commercial practices before and after January 1, 1976.

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. As added, (47 U.S.C. 154(i), 303(r), 308, 309, and 403).

Adopted: May 21, 1975.

Released: May 29, 1975.

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

Upon further consideration of Service Order No. 1158 (38 FR 30001; 39 FR 16130, 38384, and 40 FR 6161), and good cause appearing therefor:

It is ordered that §1033.1158 (Chicago and North Western Transportation Company) 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.

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.

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

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 (39 FR 32259 and 39 FR 18280 and 41843), and good cause appearing therefor:

It is ordered, That §1033.1163 (Missouri Pacific Railroad Company) 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.

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.

[FR Doc.75-14660 Filed 6-3-75;8:45 am]

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, 38384, and 39 FR 18655, 41853), and good cause appearing therefor:

It is ordered, That §1033.1102 (Delaware and Hudson Railway Company and Pan 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) 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.

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.

[FR Doc.75-14663 Filed 6-3-75;8:45 am]
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.

(See 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]

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 Kansas City Southern Railway 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.

(See 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]

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.

(See 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]

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.

(See 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]
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 provided in 30 FR Part 810, 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 3 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

<table>
<thead>
<tr>
<th>Variety</th>
<th>Date</th>
<th>Minimum weight or diameter</th>
<th>Date</th>
<th>Minimum weight or diameter</th>
<th>Date</th>
<th>Minimum weight or diameter</th>
<th>Date</th>
<th>Minimum weight or diameter</th>
</tr>
</thead>
</table>

(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 weights 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 5;

(4) From the date listed for the respective variety in Column 2 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 weights 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 7;

(5) From the date listed for the respective variety in Column 2 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 weights 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 8;
(6) No handler shall handle during the period June 16, 1975, through July 21, 1975, any Arbe variety avocados unless the individual fruit in each lot of such avocados weighs at least 14 ounces, or is at least 
\[\frac{3}{4}\] inches in diameter.

(7) No handler shall handle (i) prior to August 25, 1975, any Lisa variety avocados; (ii) 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 least 12 ounces, (iii) during the period September 8, 1975, through September 22, 1975, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 13 ounces, (iv) during the period September 23, 1975, through August 25, 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 26, 1975, through September 30, 1975, any Lisa variety avocados unless the individual fruit in each lot of such avocados weighs at least 9 ounces, (vi) during the period October 1, 1975, through September 15, 1975, any Booth 8 variety avocados, (vii) during the period October 3, 1975, through November 17, 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 \(\frac{3}{4}\) inches in diameter, or (vii) 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 \(\frac{3}{4}\) inches in diameter, or (vii) during the period October 20, 1975, through November 23, 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 \(\frac{3}{4}\) inches in diameter, or (v) during the period November 24, 1975, through December 21, 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 \(\frac{3}{4}\) inches in diameter.

(8) No handler shall handle (i) prior to September 15, 1975, any Linda variety avocados; (ii) during the period September 16, 1975, through October 1, 1975, any Linda variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, or is at least \(\frac{3}{4}\) inches in diameter, or (iii) during the period October 2, 1975, through October 19, 1975, any Linda variety avocados unless the individual fruit in each lot of such avocados weighs at least 14 ounces, or is at least \(\frac{3}{4}\) inches in diameter, or (v) during the period October 20, 1975, through November 23, 1975, any Linda variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, or is at least \(\frac{3}{4}\) inches in diameter, or (vii) during the period November 24, 1975, through December 21, 1975, any Linda variety avocados unless the individual fruit in each lot of such avocados weighs at least 10 ounces or is at least \(\frac{3}{4}\) inches in diameter.

(9) No handler shall handle any variety 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.

(10) Terms used in the amended marketing agreement and order, when used herein, have the same meaning as is defined in the United States Standards for Florida Avocados (7 CFR 51.3050-51.3069).
(2) Avocados of the Pollock variety shall not be imported (1) prior to July 7, 1975; (ii) from July 7, 1975, through July 30, 1975, unless the individual fruit in each lot of such avocados weighs at least 12 ounces or measures at least 3 inches in diameter; and (iii) from July 31, 1975, through August 4, 1975, unless the individual fruit in each lot of such avocados weighs at least 13 ounces.

(3) Avocados of the Catalina variety shall not be imported (1) 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 12 ounces or measures at least 3 inches in diameter; and (iii) from September 22, 1975, through October 6, 1975, unless the individual fruit in each lot of such avocados weighs at least 13 ounces.

(4) Avocados of the Trapp variety shall not be imported (1) prior to August 18, 1975; (ii) from August 18, 1975, through August 24, 1975, unless the individual fruit in each lot of such avocados weighs at least 12 ounces or measures at least 3 inches in diameter; and (iii) from August 25, 1975, through September 2, 1975, unless the individual fruit in each lot of such avocados weighs at least 13 ounces.

(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 (1) 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 12 ounces or measures at least 3 inches in diameter.

(6) 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 (1) 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 12 ounces or measures at least 3 inches in diameter.

(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 subparagraph; that the avocados be grown on a commercial 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, 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 imported avocados. The 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). The cost of any inspection and certification shall be borne by the applicant therefor.

(c) 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 initial and number, the truck and the trailer license number, the name of the vessel, or other identifying characteristics of the avocados imported: Provided, That such avocados are those imported under regulations of the Department governing the importation 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 shall make appropriate 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: (d) 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 certification 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 initial and number, the truck and the trailer license number, the name of the vessel, or other identifying characteristics of the avocados imported: Provided, That such avocados are those imported under regulations of the Department governing the importation 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 shall make appropriate 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: (f) Inspection certificates shall cover only the quantity of avocados that is being imported at a particular port of entry by a particular importer.

(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 applied to imported avocados other than of the Pollock, Catalina, and Trapp varieties, are the same as those being 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 the use of such 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, avocados which, by the terms of the certificate, are rejected by the inspectors and which are identified as being rejected because of variations in characteristics from the domestic avocados.
RULES AND REGULATIONS

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))


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

[FR Doc. 75–14636 Filed 6–3–75;8:45 am]
DEPARTMENT OF THE TREASURY
Internal Revenue Service
[26 CFR Parts 1, 301]

NOTIFICATION OF INTERESTED PARTIES
Qualification of Certain Retirement Plans

This document contains proposed Income Tax Regulations (26 CFR Parts 1 and 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 3601(a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 905), 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 406(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.

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. Written comments are to be submitted to the Chief of the Division of Regulations, Internal Revenue Service, 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 601.601(d). 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 requesting an advance determination has requested a hearing withdraw their request 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 3601(a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 905), 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 406(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.

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. Written comments are to be submitted to the Chief of the Division of Regulations, Internal Revenue Service, 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 601.601(d). 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 requesting an advance determination has requested a hearing withdraw their request 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).

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 3601(a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 905), 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 406(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.

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. Written comments are to be submitted to the Chief of the Division of Regulations, Internal Revenue Service, 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 601.601(d). 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 requesting an advance determination has requested a hearing withdraw their request 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).

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 3601(a) of the Employee Retirement Income Security Act of 1974 (88 Stat. 905), 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 406(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.

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. Written comments are to be submitted to the Chief of the Division of Regulations, Internal Revenue Service, 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 601.601(d). 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 requesting an advance determination has requested a hearing withdraw their request 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).

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.
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) of the Code of the application for such determination. See section 3001(a) of the Employee Retirement Income Security Act of 1974 (83 Stat. 955). 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 qualification or continuing qualification of a plan, or a retirement plan defined in section 7476(d) of the Code, 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 D of chapter 1 of the Code of a retirement plan.
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 a plan, or

a. (1) A determination by the Internal Revenue Service to provide a definition of such a plan, or
b. (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.

For purposes of paragraph (b) (2) (i) of this section, if qualification of the plan is dependent upon 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 determination 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 who have a nonforfeitable right to an accrued benefit under the plan, and (ii) the following persons shall be considered as interested persons:

1. All present employees who are eligible to participate under the plan.
2. If the plan amendment affects participation under the plan, all present employees of the employer, and
3. 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, then the amendment shall be considered to affect participation under the plan.

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

1. Employees who are not eligible to participate under the plan shall not be interested parties.

(5) Applicability. This paragraph shall only apply in the case of an application for an advance determination of the Internal Revenue Service requesting an advance determination that a retirement plan as defined in section 7476(d) and paragraph (a) of this section shall meet 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 to the Internal Revenue Service for an advance determination that a retirement plan 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 an employee or former employee of the employer as of 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 of the Internal Revenue Service is made.

(4) Years to which section 410 applies. 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 410(e) or (f) 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.
§ 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 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 mail, or by publication. 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.

(c) 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 workplaces 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, the court shall have power to declare the rights and liabilities of the parties to any suit concerning the qualification of a retirement plan under this section or concerning the initial or continuing qualification of a retirement plan under section 410 of the Employee Retirement Income Security Act of 1974.

(b) Such continuing qualification if the controversy arises from a plan amendment, shall be determined in accordance with those sections of chapter 1 (31 U.S.C. 1301 et seq.) under which the Internal Revenue Service has been authorized to make advance determinations of the qualifications of such plans. 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 (a) is a 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) Petition. The Tax Court shall not issue a declaratory judgment or decree under this section in any proceeding unless it appears 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 concerning the initial or continuing qualification of a retirement plan before the expiration of 270 days after the requirements of such determination have been satisfied.

(4) Plan put into effect. No proceeding may be maintained under this section unless the plan is in effect.

(5) Time for bringing action. If the Secretary or his delegate sends by certified or registered mail a notice of a determination with respect to the qualification of a retirement plan to any person 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 date 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 shall have power under this section to hear by the commissioners of the court, and the court may authorize a commissioner to hear by the court with respect to such proceeding, subject to such conditions and review as the court may prescribe.

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

(1) A pension, profit-sharing, or stock bonus retirement 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).

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

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

(e) Cross reference. For provisions concerning intervention by Pension Benefit Guaranty Corporation in cases brought under this section and of Pension Benefit Guaranty Corporation (as defined in section 412(c) of title II 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 301 of Adm. Nat. Tax Regs. (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 application 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

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 51.5201-51.5203). These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1687, 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 by the National Marketing Board to a special 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 proposed revision of these grade standards should do so not later than August 31, 1975, with the Hearing Clerk, U.S. Department of Agriculture, Room 113, 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-
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 made available in June 1974, with a comment 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, Vegetable Growers, New York State; Central Wholesale Carlot Receivers; Atlanta Produce Terminal Market Association; Baltimore Association, New York City; Philadelphia Marketing Association.

These proposals are as follows:

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

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 a shipment 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, untrimmed 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 wrapper 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 “Reassuredly trimmed” would be introduced 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 grading 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 (INSPECTION, CERTIFICATION, AND STANDARDS)**

**Subpart—United States Standards for Grades of Lettuce**

**Sec.**

51.2510 U.S. Fancy.

**U.S. Fancy** 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; (2) Russet spotting; and (3) Doubles.

(c) Free from injury by: (1) Tiphurn; (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.

**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 Crown.**

**51.2527 Crown.**

**51.2528 Injury.**
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. (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>
<thead>
<tr>
<th>Lot tolerance, Total number of heads in package</th>
<th>21 or 29</th>
<th>30 or over</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>2</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>3</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>4</td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td>5</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>6</td>
<td>8</td>
<td>9 or more</td>
</tr>
</tbody>
</table>

(b) For defects at shipping point, 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; or,

(1) 8 percent for heads having permanent defects including therein not more than 5 percent for soft heads; or,

(2) 6 percent for heads which are seriously damaged; including therein 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. 1—(1) For defects at shipping point, 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 other than decay, 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) For defects 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.

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 5 percent shall be allowed for soft heads: And provided further, That not more than 4 percent shall be allowed for defects other than decay, 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) Excessively tightly packed means that heads in any container may vary appreciably in size from the standard size head exclusive of the wrapper leaves. (see § 51.2514)

(3) Fairly firm—"Fairly firm" means that the head is compact, but may yield slightly to moderate pressure.

(3) Soft—"Soft" means that the head is easily compressed or spongy.

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 38°F (2.2°C) when placed in a refrigerated conveyance or storage.

(b) The standard size head for a 2 dozen pack is that size head exclusive of the wrapper leaves, has at least 4 heads of uniform size in each row in a container, the attachment of the outer leaves, and that the head is not soft and spongy, and has good head formation.

(c) 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 standards containing "doubles" a "bridge" of 6 heads may be placed between the layers in a 2½ dozen pack.

(d) 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 container pack.

(e) 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.

(f) Excessively tightly packed means that heads are packed so tightly as to cause distortion, or crushing of the heads or breaking of the midribs.

(g) When heads of lettuce are wrapped no head may have more than 1 wrapper leaf.

TABLE 1—Minimum number of defective heads permitted in any package

<table>
<thead>
<tr>
<th>Lot tolerance, Total number of heads in package</th>
<th>21 or 29</th>
<th>30 or over</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>2</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>3</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>4</td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td>5</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>6</td>
<td>8</td>
<td>9 or more</td>
</tr>
</tbody>
</table>

DEFINITIONS

§ 51.2516 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.

§ 51.2517 Solidity classification.

(a) Solidity of lettuce 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.

§ 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.

§ 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 inches 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 inches in number.

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
§ 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 1 1/2 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.

§ 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

<table>
<thead>
<tr>
<th>Defect</th>
<th>Injury</th>
<th>Damage</th>
<th>Serious damage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tipbum</td>
<td>More than 2 spots of tipbum occurring anywhere in the compact portion of the head or the aggregate area of discernible tipbum, regardless of color, exceeds that of a rectangle 1-inch (25.4 mm) in length and 0.5-inch (6.4 mm) in width.</td>
<td>Aggregate area of tipbum occurring anywhere in the compact portion of the head exceeds a rectangle 1-inch (25.4 mm) in length and 0.5-inch (6.4 mm) in width.</td>
<td>Aggregate area of tipbum occurring anywhere in the compact portion of the head exceeds that of a rectangle 2.5 inches (63.5 mm) in length and 1-inch (25.4 mm) in width.</td>
</tr>
<tr>
<td>Downy mildew</td>
<td>Occurring on any head or wrapper leaf.</td>
<td>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.</td>
<td>Materially detracting from the appearance or shipping quality of any head leaf; mildew not accompanied by discoloration is readily apparent on more than 2 wrapper leaves, or discoloration associated with mildew is readily apparent on more than 2 wrapper leaves.</td>
</tr>
<tr>
<td>Opening</td>
<td>In a hard or firm head when 1/4 or more of the head is separated from the remainder, or any degree of opening in a fairly firm head.</td>
<td>Causing the head to split or when protruding through the outer head leaves. More than 4 head leaves have midribs broken in 2 due to abnormal growth.</td>
<td>Present in any degree. Areas of deep pink color seriously detracts from the appearance or the edible quality of more than 2 head leaves.</td>
</tr>
<tr>
<td>Seedstems</td>
<td>Present in any degree.</td>
<td>Present in any degree.</td>
<td>Present in any degree.</td>
</tr>
<tr>
<td>Broken midribs</td>
<td>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.</td>
<td>Ribs of more than 2 head leaves have midribs broken in 2 due to abnormal growth.</td>
<td>More than 4 head leaves have midribs broken in 2 due to abnormal growth.</td>
</tr>
<tr>
<td>Russet spotting</td>
<td>Occurring on any head leaf.</td>
<td>Present in any degree.</td>
<td>Present in any degree.</td>
</tr>
<tr>
<td>Pink rib</td>
<td>Occurring on any head leaf.</td>
<td>Present in any degree.</td>
<td>Present in any degree.</td>
</tr>
<tr>
<td>Eib discoloration</td>
<td>Occurring on any head leaf.</td>
<td>Aggregate length of brown or black spots on outer surface of any head leaf exceeds 1 inch (25.4 mm).</td>
<td>Seriously detracting from the appearance or the edible quality of more than 2 head leaves.</td>
</tr>
<tr>
<td>Dirt</td>
<td></td>
<td>Composite portion of the head is smeared with mud, or wrapper leaves are badly smeared with mud when the head portion is caked with mud or dry dirt.</td>
<td>Composite 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.</td>
</tr>
<tr>
<td>Insects and worms</td>
<td></td>
<td>Aggregate length of brown or black spots on outer surface of any head leaf exceeds 1 inch (25.4 mm).</td>
<td>Aggregate length of brown or black spots on outer surface of any head leaf exceeds 1 inch (25.4 mm).</td>
</tr>
</tbody>
</table>

**LETUCE SEEDSTEM**

Maximum extent to which head may be affected by seedstem in U.S. No. 1 grade

### Figure 2

**TABLE II—At Shipping Point**

<table>
<thead>
<tr>
<th>Defect</th>
<th>Injury</th>
<th>Damage</th>
<th>Serious damage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rib discoloration</td>
<td>Occurring on any head leaf.</td>
<td>Aggregate length of brown or black spots on outer surface of any head leaf exceeds 1 inch (25.4 mm).</td>
<td>Seriously detracting from the appearance or the edible quality of more than 2 head leaves.</td>
</tr>
<tr>
<td>Dirt</td>
<td></td>
<td>Composite portion of the head is smeared with mud, or wrapper leaves are badly smeared with mud when the head portion is caked with mud or dry dirt.</td>
<td>Composite 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.</td>
</tr>
<tr>
<td>Insects and worms</td>
<td></td>
<td>Aggregate length of brown or black spots on outer surface of any head leaf exceeds 1 inch (25.4 mm).</td>
<td>Aggregate length of brown or black spots on outer surface of any head leaf exceeds 1 inch (25.4 mm).</td>
</tr>
</tbody>
</table>

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
NOCTERINES 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, unless extended. The regulation prescribes that shipments of California nectarines be at least U.S. No. 1 grade 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 Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended.

E. L. Peterson, Administrator, Agricultural Marketing Service.

[7 CFR Part 916]

[§ 916.348 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, 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 affected 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 russetting. 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 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 21993), 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:

The color referred to is illustrated by plate 16 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 N. Calvert St., Baltimore, Md. 21218.

Dated: May 27, 1975.

E. L. Peterson, Administrator, Agricultural Marketing Service.

[FR Doc.75-14210 Filed 6-3-75;8:45 am]

FEDERAL REGISTER, VOL. 40, NO. 108 — WEDNESDAY, JUNE 4, 1975
area of a circle ¼ inch in diameter: Provided further. That an additional toler­
ance 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.

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 Armingk, 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 Early Sungrand, Grandandy, Independent-

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. 691 et seq.), the termi-
nation of the Base-Excess Plan provisions of the order regulating the han-
dling of milk in the Greater Kansas City marketing area, effective September 1,
1975, is being considered.

All persons who desire to submit writ-
ten data, views, or arguments in connec-
tion 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.


JOHN C. BLUM,
Associate Administrator.

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

[FR Doc. 75-14636 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

PROPOSED RULES

24019

§ 1064.32 [Amended]

1. In § 1064.32, Other reports, remove paragraph (a) and (b) in their entirety.

§ 1064.60 [Amended]

2. Immediately preceding § 1064.60, in the column heading "UNITED FARMER WANTED 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-stabilization fund, remove the references "or (b) (2)" and "or (b) (3)".

§ 1064.73 [Amended]

6. In § 1064.73, Payments to producers and to cooperative associations, remove the letter "s" in the word "prices" where such word appears both in the definitive section heading and in paragraph (b) (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 en-
tirety, 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 in-
tended 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 De-
cember of the preceding year. In the Febru-
ary-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 as-
signed to the higher valued Class I. The remaining class utilization determines the price of base milk. During non-base paying months (August through Janu-
ary) 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 re-
quested 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 per-
centage of producers are finding that ad-
justment of the plan in relation to the base and excess plan presents very dif-
cult 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 opera-
tion of the plan are similar to problems experienced by producers in 1973 and
1974 which led to a temporary suspen-
sion of the plan for the months of Feb-
uary through July 1974, the base paying
months.

Signed at Washington, D.C., on May 30,
1975.

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

[PR Doc. 75-14637 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 1959 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. 607) for the review of changes and progress in the implementation 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 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 Administrator, the Department of Labor, the State of North Carolina submitted supplements to its plan involving developmental changes. Following regional review, the supplements were submitted to the Associate 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 1952.109(k), the Assistant Secretary has promulgated the following administrative regulations essentially paralleling the like-numbered Federal regulations:

(1) North Carolina Department of Labor Regulation 1993, concerning inspections, citations, and proposed penalties.

(2) North Carolina Department of Labor Regulation 1994, concerning record and reporting of occupational injuries and illnesses.

(b) Review Board. The North Carolina Occupational Safety and Health Review Board, as established by the Act, was amended by 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 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 (42 U.S.C. 1348(a)) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1659(c)).
Issued in East Point, Ga., on May 23, 1975.

PHILLIP M. SWATEK, Director, Southern Region.
[FR Doc. 75-15439 Filed 6-7-75; 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY
[ 40 CFR Part 450 ]

EFFLUENT GUIDELINES AND STANDARDS
Pretreatment Standards for Oil and Grease; Extension of Consent 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 75-699]

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 matters concerning 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 personal communications services in order to highlight the substantial difference in requirements for the various services. We believe this will facilitate clarity and understanding.5 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 without prior authorization. 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 insist on an updated technical examination 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. In effect it provides for a 90-day grace period. Also, §§ 21.207(c) and 21.210 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 D) are noteworthy.

a. The 50 percent non-affiliation requirement in the mobile and personal communications services, which would now 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 21.798 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 21.798 would be modified so as to permit a provider of microwave service obtaining section 214 authorization in connection with radio applications. Due to the different requirements of section 214 and 219, it has become increasingly difficult to simultaneously 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)5 and would require the carrier to provide interstate service upon demand (§ 21.503(b)). These changes are consistent with our recent decision in Midwest Corporation, et al., adopted May 21, 1975 (FCC 75-698). 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 transmission 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 667, 683-24 (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 same radio spectrum and our own policy of locating 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 which are not germane to this proceeding. For example, in the Microwave Radio Service (Subpart I) the Commission has attempted to more explicitly state the current policy for taking technical data on all authorized microwave stations. The 50 percent non-affiliation requirement in the mobile and personal communications services, which would now 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.

2 Some thought was initially given to separating these services into different parts or subparts of the rules. However, we have decided not to do so at this time because of the substantial effort that would be involved and the substantial commonality of requirements for these services in many areas.

3 It should be noted that the different requirement for microwave services in this regard are predicated upon the use of Amateur procedures. Similar procedures may be introduced in the future for the mobile and personal communications services, which are also included in the proposed rules.

4 No change with respect to this policy in other 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 recognising 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 licenses 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 Communication 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 these proposed rule changes contained below on or before August 5, 1975. All relevant and timely comments and reply comments will be served thereby. 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
[FR] 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:

<table>
<thead>
<tr>
<th>Proposed Rules</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)</td>
</tr>
</tbody>
</table>

### Subpart A—General

<table>
<thead>
<tr>
<th>Sec.</th>
<th>Scope and authority.</th>
</tr>
</thead>
<tbody>
<tr>
<td>21.0</td>
<td>[Reserved]</td>
</tr>
</tbody>
</table>

| Subpart B—Applications and Licenses |

<table>
<thead>
<tr>
<th>Sec.</th>
<th>General Filing Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>21.2</td>
<td>Definitions.</td>
</tr>
</tbody>
</table>

§ 21.11 Eligibility for station license is redesignated as § 21.4.

5. Section 21.10 is redesignated as § 21.4.

6. Section 21.11 is redesignated as § 21.4 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 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.

(c) 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.

(d) Upon the completion of construction, the continued operation and 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.

(g) 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 authority 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 reviewed by the Commission prior 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.
PROPOSED RULES

(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 when 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.

Such formal 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, 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 otherwise complies with § 21.92 of this chapter.

8. Section 21.13 is redesignated as § 21.92 and amended to read as follows:

§ 21.92 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 be mailed or delivered to the Domestic Public Land Mobile Radio Service, Docket No. 75-269, Washington, D.C. 20554.

(c) Except as otherwise specified, all applications, amendments, and correspondences 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 in the prescribed by § 1.174 of this chapter.

§ 21.14 [Reserved]

9. Section 21.7 is marked reserved.

10. Section 21.14 is redesignated as § 21.13 and amended to read as follows:

§ 21.13 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 § 1.121 of this chapter.

(b) Application for Construction or License Authorization in the Point-to-Point Microwave Radio, Local Television, Experimental, and WWV 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 paragraph (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 of a license (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 license; and

(D) Changes to an existing station as listed below: (i) Increase in number of mobile units to be placed in operation; (ii) Increase in number of mobile units to be placed in operation after the expiration of a license; and (iii) Increase in number of mobile units to be placed in operation beyond the boundary of the city, borough, town, or community where the control

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

24023
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 control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.

(b) The following areas are considered specified Regional Areas:

1. Chicago Regional Area consists of the counties listed below:

- Illinois

- Indiana

- Iowa

- Michigan

- Ohio

- Other

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

21.208(g) (2) ; (viii) Change in or additional control of existing radio station site, or change antenna obstruction markings; (x) Change in points of communications (Rural Radio Service); (xi) Correction of coordinates.
§ 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 permittees 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.

(iv) Change the height of an antenna, provided that:

(A) The new height (measured at the center-of-radiation) is within ±5 feet of the previously authorized height;

(B) Antenna directivity changes where:

(i) The new transmitter appears on the current type-accepted list for use under this Part 21 (see § 21.125) and is installed without modification;

(ii) The overall height of the antenna extension above the 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.

(v) Change the azimuth of radiation toward another user; and

(vi) Change in antenna, 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 authorization 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 any 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 changes to an antenna:

(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 if the transmitter being replaced (and where applicable, the number of communications) and the frequency on which such transmitter operates; and

(F) Date of replacement.

(2) With respect to changes or replacement of 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;

(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;

(D) Modifications which may be made without prior authorization under paragraph (c) of this section are limited to:

(i) Antenna changes where:

(A) Antenna height changes or corrections do not vary more than 2 feet from the height authorized and do not increase the overall structure height;

(B) Antenna directivity changes do not vary more than 1° from the values authorized; and

(C) 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 such changes in the dispatching are reported to the Commission.

(3) Replacement of a transmitter where:

(A) The new transmitter appears on the Commission's current type-accepted list for use under this Part 21 (see § 21.120) and is installed without modification;

(B) The type-accepted output power is equal to the authorized output power for the transmitter being replaced; and

(C) It conforms to the frequency, class of station and emission specified in the current instrument of authorization and any other applicable rules and regulations.

(4) Change in antenna, transmission line, and other devices between the transmitter and the antenna at the location 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:

PROPOSED RULES

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
§ 2113 General application requirements.

(a) Each application for a construction permit or for consent to assignment or transfer of control shall:

1. Be submitted by the applicant (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. Meet the informational requirements 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 any special showings that may be applicable (e.g., those required by §§ 21.110(d), 21.103, 21.501, 21.505, 21.506, 21.516, 21.686, 21.695, 21.700, 21.706, 21.909, 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 any information or any requirement of the 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 applicant's exhibits 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 21.13 of this part, each application shall contain (if applicable) 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, P, O, H, I, J and K as appropriate). The following paragraphs describe a number of general technical requirements.

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 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.

17. Add a new § 21.14 to read as follows:

§ 2114 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, P, O, 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 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) 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 proposed operation and maintenance procedures involved to ensure 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 center for a point to point microwave system, 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 in the event of normal or unusual maintenance procedures to be followed in the event of normal or unusual maintenance procedures to be followed in the event of normal or unusual

4. An applicant proposing construction 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 a copy of the FAA study indicating whether or not FAA notification is required. If notification is required, the application should include a copy of the FAA study indicating whether or not FAA notification is required.

5. Description of the technical personnel responsible for the day-to-day operation and maintenance of the facilities,

6. 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 center for a point to point microwave system, 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.

7. A general description of the routine maintenance procedures to be followed and a description of the procedures to be followed in the event of normal or unusual maintenance procedures to be followed in the event of normal or unusual maintenance procedures to be followed in the event of normal or unusual

8. An applicant proposing construction 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 a copy of the FAA study indicating whether or not FAA notification is required. If notification is required, the application should include a copy of the FAA study indicating whether or not FAA notification is required.

9. Description of the technical personnel responsible for the day-to-day operation and maintenance of the facilities,

10. 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 center for a point to point microwave system, 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.
identifying and correcting system malfunctions when maintenance personnel are not available.

(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 contract contains 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 line, 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 to 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 change the 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:

(a) 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 have not yet forth, have been made for installation, technical service and maintenance of the mobile units by licensed first- or second-class radio operators; and

(j) 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 the 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) of this section are made for the requested number of mobile units to obtain communication service, upon the frequencies requested, through the base stations specifically identified in paragraphs (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 "A" 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 credit arrangement for 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 security interest in the proposed facilities 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]


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) (5));

5. The application does not demonstrate the availability of the proposed site of a new facility;

6. The application does not include an environment at the proposed site 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 §170 of this chapter whenever a proposed new or modified facility shall be located within the jurisdiction of these agencies.

(6) The application is filed after the "cut-off" date prescribed in §21.30 of this part.

(7) 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, and 21 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 (even though it shows 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. [Revised §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) It is timely 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 in §21.212, and 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 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 ensure 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 special authority 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, and is not inconsistent with any of the Commission's rules, and does not involve a waiver request; and

(5) If 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 shall:

(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 the filing of an application under the procedures 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.

(e) At the time of an application under the Domestic Public Land Mobile Radio Service for an extension of the period of time to construct or modification of construction permit 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.

(f) At the time of an application under the Domestic Public Land Mobile Radio Service for the renewal of a construction permit 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.
PROPOSED RULES

(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 Radio Receiving Zone.

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 other parties. Any applicant who has no reliable data which indicates that the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities should advance consultation as well as any significant variation in the proposed frequency, power, 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 on the proposed frequencies and the modifications 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.

(d) In order to minimize possible harmful interference to 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 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°07'00" 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:

<table>
<thead>
<tr>
<th>Field strength (millivolt per meter)</th>
<th>Power flux density (microwatt per square meter)</th>
<th>Antennas</th>
<th>Bandwidth of service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below 450 kHz</td>
<td>-53.8</td>
<td>-65.8</td>
<td>-65.8</td>
</tr>
<tr>
<td>540 to 1000 kHz</td>
<td>-50.8</td>
<td>-65.8</td>
<td>-65.8</td>
</tr>
<tr>
<td>1.6 to 63 MHz</td>
<td>-50.8</td>
<td>-65.8</td>
<td>-65.8</td>
</tr>
<tr>
<td>63 to 470 MHz</td>
<td>-50.8</td>
<td>-65.8</td>
<td>-65.8</td>
</tr>
<tr>
<td>470 to 800 MHz</td>
<td>-50.8</td>
<td>-65.8</td>
<td>-65.8</td>
</tr>
<tr>
<td>Above 800 MHz</td>
<td>-50.8</td>
<td>-65.8</td>
<td>-65.8</td>
</tr>
</tbody>
</table>

1 Equivalent values of power flux density are calculated assuming free-space characteristic impedance of 377 ohms.

2 Space stations shall conform to the power flux density limits at the earth's surface specified in paragraph (c) of the FCC rule, but in no case should exceed the above levels in any 1 kHZ band for all angles of arrival.

24029

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
§ 21.700 Eligibility.

Authorizations for stations in this service will be issued to existing and prospective 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 facilities 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 statement which does not contain the showing required by this section will be returned as unacceptable for filing.

§ 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 audio-visual communication services, 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.

(b) Where the application is for a license to operate a fixed station less than 10 miles from the site of a television station antenna site 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 Channels Will Be Destroyed" (Charts for television channels 4 and 5 are set forth in § 21.103).

(c) 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 of:

(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.

§ 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.

(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, or the writing of, or the influencing of the content of any information to be transmitted over the facilities; and

(2) The carrier does not render service to any entity which 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 communication; 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 30 (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.75-14490 Filed 6-3-75;8:45 am]

FEDERAL POWER COMMISSION

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-designated matter 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. FLUMM, Secretary.

[FR Doc.75-14524 Filed 6-6-75;8:45 am]

FEDERAL TRADE COMMISSION

ORDER EXTENDING TIME FOR FILING COMMENTS AND REPLY COMMENTS

In the matter of amendment of § 73.205(b), table of assignments, FM broadcast stations. (Port 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. 17539. 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 Shanev. 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(1), 5(d), (1) and 363(f) of the Communications Act of 1934, as amended, and §§ 0.281 and 1.46 of the Commission's rules.


Released: May 29, 1975.

[47 CFR Part 73]

[Docket No. RM75-19]

FM BROADCAST STATIONS

[FR Doc.75-14690 Filed 6-6-75;8:45 am]

PROPOSED RULES

Accordingly, the Commission proposes the following trade regulations and should adopt or construct a Trade Regulation Rule, Chapter 1 of 16 CFR by adding a new Part 447 as follows:

§ 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.

(a) 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 relative to 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) 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 federal, state, or local governmental agency, or any non federal 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, if not readily understandable in any other manner, whatever information is re-
The Commission has reason to believe that:

a. The availability of price information for prescription drugs is inadequate to relieve consumer confusion and to enable consumers to use price information in a rational manner as a consideration in making purchase decisions;

b. 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;

c. Since the inadequate availability of price information for prescription drugs is largely depending on, 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;

d. 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 generalized public interest in the increased price disclosures may (1) lead to inaccurately lessen the effectiveness of monitoring by pharmacists to prevent drug interactions, (2) demoralize the profession of pharmacy, and (4) lead to the dispensing of state or adulterated drugs, are without significant merit and are outweighed by the probable benefits to consumers from more price information.

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
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 of prescription drugs 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 or in a window display 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 department? Should the message solely be a reference to the existence of a pharmacy 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 advertising inviting consumers to compare prices by mail include information describing the classes or types of drugs that are not dispensed by the seller, the maximum period of time elapsed 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?

(RESTRICTIONS AGAINST PRICE DISCLOSURES)

9. To what extent and in what ways, if any, have State boards of pharmacy influenced or prevented pharmacies from disclosing the actual prices of prescription drugs? 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 unfairly or uncooperatively in supplying price information over the telephone or in person?

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) be considered constitutionally invalid so as to render all drug classifications as "controlled substances" by Federal statute (21 U.S.C. 812)? If so, why?

15. What costs or other impact on 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 private restraints, 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 promulgate final rules which differ in ways suggested by the following questions.

(Questions)

Interested persons are urged to consider carefully these questions. Although certain proposals were drafted in specific terms, the Commission reserves the right to adopt any findings or conclusions of the rulemaking record.

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 drugs?

3. Would more information about prescription drug prices lower prices by increasing competition?

4. If so, by what magnitude; if not, why not?

(AFFIRMATIVE REQUIREMENTS)

5. In what ways could the proposed rules be changed to be of greater assist.

6. Would there be any requirement for the government to require special techniques of price disclosure? Please explain in detail.

7. 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?

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 advertising inviting consumers to compare prices by mail include information describing the classes or types of drugs that are not dispensed by the seller, the maximum period of time elapsed 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?

(RESTRICTIONS AGAINST PRICE DISCLOSURES)

9. To what extent and in what ways, if any, have State boards of pharmacy influenced or prevented pharmacies from disclosing the actual prices of prescription drugs? 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 unfairly or uncooperatively in supplying price information over the telephone or in person?

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) be considered constitutionally invalid so as to render all drug classifications as "controlled substances" by Federal statute (21 U.S.C. 812)? If so, why?

15. What costs or other impact on 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 private restraints, 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 promulgate final rules which differ in ways suggested by the following questions.

(Questions)

Interested persons are urged to consider carefully these questions. Although certain proposals were drafted in specific terms, the Commission reserves the right to adopt any findings or conclusions of the rulemaking record.

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 drugs?

3. Would more information about prescription drug prices lower prices by increasing competition?

4. If so, by what magnitude; if not, why not?

(AFFIRMATIVE REQUIREMENTS)

5. In what ways could the proposed rules be changed to be of greater assist.
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 23, 1975.

By direction of the Commission.

Charles A. Tobin, Secretary.
mandated by the Office of the Secretary of Defense.

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, Office of the Secretary of Defense.


[FR Doc.75-14683 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 MERRIDIAN

T. 18 S., R. 2 E., Sec. 1, 2, 3, and 4, E/4', W/4', extending strip withdrawn in Cascade Lakes Road Zone by FLO 2781 dated August 12, 1962:

should read:

T. 18 S., R. 2 E., Sec. 1, 2, 3, and 4, E/4', W/4', Exception* strip withdrawn in Cascade Lakes Road Zone by FLO 2781 dated August 12, 1962.

II. Petitioner submits that the 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 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 intermediate vicinity of 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.

(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 schematic the underground circuitry is still distinguishable 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 described in the applicable provisions of § 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 75-106]

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 (e) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 811 (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. 5 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 of 30 CFR 75.701-4 to its Bird No. 2 and Bird No. 5 Mines, Tire Hill, Pennsylvania.

(b) Where the power conductor used is No. 6 A.W.G., or larger.

(c) 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 where the power conductor used is No. 6 A.W.G., or larger.

(B) 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 magnetically connects to the grounding wire.

(D) Two electrical current transformers of equal ratio parallel in polarity to operate a ground trip 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 .5 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.

(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 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 Brass Monitoring System.

(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.75-14578 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.

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.

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 28, 1975.


DONALD B. GREGG

[FR Doc.75-14587 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.75-14588 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, May 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 29, 1975.


N. Ricci

[FR Doc.75-14587 Filed 6-3-75;8:45 am]

John Rolfing, Jr.

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.


JOHN ROLFING

[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 the 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 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.75-14589 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, flooding and tornadoes April 1 through May 31, 1974, drought through the months of June, July, August and September, 1974, and excessive snowfall in January, February and March 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 the Public Law 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 31, 1975, for physical losses and February 24, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation be made.

Done at Washington, D.C., this 28th day of May, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-14588 Filed 6-3-75;8:45 am]
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. 75-14566 Filed 6-3-75; 8:45 am]

NOTICES

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
- Whitewater, 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; 3:45 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-R3-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 agricultural treatment of 102,000 acres of forested land with options for treating additional lands if Federal funds are appropriated for road construction.

This draft environmental 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
- Teeland Substation
- San Juan National Forest
- P.O. Box 341
- Durango, Colorado 81301

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. Comments must be received by July 28, 1975, in order to be considered in the preparation of the final environmental statement.

THOMAS M. McFADDEN, Acting Regional Forester.
San Juan Region, Forest Service.

May 28, 1975.

[FR Doc. 75-14575 Filed 6-3-75; 8:45 am]

NOTICES

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 approximately 20 miles of 230 kV transmission line from the existing 230 kV Tealood 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, 15th 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 environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
NOTICES

24039

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. 6) and in conformance with applicable agency policies and procedures as set forth in the proposed REA Bulletin 330-22, “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 qualified 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 330-22 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.75-14568 Filed 6-7-75; 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 1500.8(e) of the Council on Environmental Quality Guidelines 39 FR 26550, August 1, 1973; and part 650.8(b)/(3) of the Soil Conservation Service Guidelines (38 FR 19653, August 1, 1973); and part 650(3)/(e)/(1) of the Soil Conservation Service Guidelines (39 FR 19650, 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 865, 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 26 acres of a 170 acre park.

Requests for the negative declaration should be sent to the above address.


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 20530, August 1, 1973); and part 650(3)/(e)/(1) 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 assessment for the East Upper Maple River Watershed Project, Clinton, Gratiot, and Shiawassee counties, Michigan, USDA-SCS-EIS-WS-(ADM)-75-3-(D)-M.

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 scouring, 1.1 miles of floodway, 11.7 miles of flood control levee, 10.8 miles of multiple-purpose collection channels next to the levees, and two pumping stations.

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.

Requests for the negative declaration should be sent to the above address.

Dated: May 27, 1975.

WILLIAM B. DAVEY, Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-14574 Filed 6-8-75; 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 20530, August 1, 1973); and part 650(3)/(e)/(1) 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-
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.

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 28, 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.


Betsy Ancker-Johnson, Assistant Secretary for Science and Technology, U.S. Department of Commerce.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

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, N.J. 47410, proposing that §121.2547 Sanitizing solutions (21 CFR 121.2547) be amended to provide for the safe use of aqueous solutions containing d-n-alkyl(C-C6) 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.

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:


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 requested 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 assist the Secretary of Health, Education, and Welfare in the administration of Social Security Act (Title XI, Part B, Social Security Act). Professional Standards Review is the process to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform 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.


Henry E. Simmons, Executive Secretary, National Professional Standards Review Council.

Office of Interstate Land Sales Registration

Office of Interstate Land Sales Registration

[Docket No. N-75-369]

PEACE RIVER ESTATES SUBDIVISION

SECTION I AND SECTION III

In the matter of Peace River Estates Subdivision Section I and Section III, OILSR No. 0-1723-09-060, Doct. 75-38.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR. 1720.100(d) notice is hereby given that:

1. American International Land Corporation, Richard Rundle, President, its officers and agents, hereinafter referred to as "Respondent," has filed a Petition for Issuance of an Order pursuant to 15 U.S.C. 1707 et seq., to the effect that the provisions of the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701 et seq.) shall apply to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR. 1719.45(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 DeSoto 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. The 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 7166, Department of HUD, 441 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. 20591, 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 1720.440.

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.


James W. Mast,
Administrative Law Judge.

[FR Doc.75-14626 Filed 6-3-75;8:45 am]

[DOCKET NO. N-75-311]

REAL ESTATE SETTLEMENT COSTS
Special Information Booklet
Corrections

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

ELIMINATION OF VFR FLIGHT PLAN SERVICE
Proposed Change in Policy
Corrections

Proposed Rule Making, the last of which is scheduled for issuance by May 30, 1976. The comments made on the proposals in this compilation and the additional discussion at the First Biennial Operations Review Conference 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 date the Notice of Proposed Rule Making was published in the Federal Register, Vol. 40, No. 106—WEDNESDAY, JUNE 4, 1975.
in 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.

(See 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.75-14504 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 2330, 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 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 75-6-95]
AMERICAN AIRLINES, INC.
Domestic Air Freight Rate Investigation; Order of Suspension
In FR Doc. 72-1415, 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(c) of the Federal 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 applications is October 8, 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, interested parties should 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.75-14680 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

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 5, 1970, as amended, between the Governments of the United States and Pakistan.

On May 8, 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 Category 31 (other than shop towels); and limits in the aggregate and group limits, specific limits on Categories 9/10, 18/19, 22/23, parts of 26 (barkcloth and duck), 31 (other than shop towels), and 41/42. In excess of the following levels of restraint:

<table>
<thead>
<tr>
<th>Category</th>
<th>Eighteen-month level of restraint</th>
</tr>
</thead>
<tbody>
<tr>
<td>9/10</td>
<td>180,923,840</td>
</tr>
<tr>
<td>18/19/26</td>
<td>(printcloth)</td>
</tr>
<tr>
<td>22/23</td>
<td>320,813,234</td>
</tr>
<tr>
<td>26 (barkcloth)</td>
<td>326,385,324</td>
</tr>
<tr>
<td>26 (duck)</td>
<td>328,385,324</td>
</tr>
<tr>
<td>31 (other than shop towels)</td>
<td>1,339,971</td>
</tr>
<tr>
<td>41/42</td>
<td>29,974,010</td>
</tr>
</tbody>
</table>

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of May 8, 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 9/10 and 18/19/26 may be exceeded by 16 percent; 2) if the implementation of Category 26-64, by 7 percent; 3) these same levels may be increased for carryover and carryforward up to a maximum of 42 percent in 1975 and 40 percent in 1976; and 4) 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 the Customs Service.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 9, 1975 (40 FR 5310).

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 Council for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being of foreign relations character, cannot be the subject of judicial review. Any person aggrieved by an action of the Commissioner, or any portion of an action of the Commissioner, may file a petition for review with the Federal Trade Commission. The level of restraint 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.


The 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.
accepted the offer of Underwriters' Laboratories, Inc. (UL), dated March 31, 1975, 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) has the capability of developing 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 Standards Committee (CPSSC) including technically-oriented and use-oriented representatives of ultimate consumers and consumer groups, manufacturers, retailers, representatives of insurance interested parties, and government authorities, TV services, 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 May 28, 1975, Federal Register. The CPSSC members will then present a plan of action to the full CPSSC for consideration.

Subsequently, the CPSSC membership will be divided into a number of sub-committees which will deal with specific areas of the project divided. If UL has any problems in completing the plan of action as proposed, it may start the development of the recommended standard.

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 (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 156 days beginning May 28, 1975, to complete the Technical Advisory Group (TAG), 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 combine 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 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) 642-8969.


Sheldon D. Butts, Acting Secretary, Consumer Product Safety Commission.

[FR Doc.75-14683 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. 68, 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 discussed in the May 9, 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.


[FR Doc.75-14685 Filed 6-3-75; 8:45 am]
FEDERAL COMMUNICATIONS COMMISSION

COMMON CARRIER SERVICES INFORMATION

Domestic Public Radio Services
Applications Accepted for Filing

MAY 27, 1975.

Pursuant to sections 1.227(b)(3) and 21.90(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 notice listing the first prior filed application; or (b) within the Commission takes action on the earlier: (a) the close of business one period, only if the Commission has not accepted for filing. An application which is period, only if the Commission has not application, in order to be considered accepted for filing, is directed to for a new one-way station to operate on 454.250 MHz to be located at 100 S.E. 3rd Avenue, Ft. Lauderdale, Florida.

Major Amendment

6388-C2-P-73 Springfield Radio Communi- Amend to change transmitting antenna site to Williamette Heights Park, Springfield, Oregon. All other particulars remain as stated above.

Correction

21007-CD-P-75 South Central Bell Telephone Co., Bartlesville, Oklahoma. C.P. for a new one-way station 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.

1 All applications listed in the appendix are subject to further consideration and review and are not necessarily in the order they are listed.

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 Services (Part 21 of the rules).

NOTICES

20145

RURAL RADIO

6031-CH-P-75 RCA Alaska Communications, Inc. (WGF78) C.P. for additional inter-office facilities to operate on 152.50 MHz and 454.55 MHz, to be located Approximately 6 miles NNE from Kenai, Alaska.

POINT-TO-POINT MICROWAVE RADIO-SERVICE

3853-CF-ML-75 American Telephone and Telegraph Company, 1935 East Roosevelt, Idaho, Lat. 42 47 19 N.-Long. 119 03 06 W. Mod. of License to change polarity from Horizontal to Vertical on frequencies 3780 3800-4070 and 14160, and from Vertical to Horizontal on 3780 3800 3810 3890 and 4110 MHz toward American Falls, Idaho on azimuth 66 degrees/06 minutes.

3054-CF-ML-75 Same (KFPP4) 6.5 Miles West of American Falls, Idaho. Lat. 42 47 19 N.-Long. 119 03 06 W. Mod. of License to change polarity from Horizontal to Vertical on frequencies 3780 3800-4070 and 14160, and from Vertical to Horizontal on 3780 3800 3890 and 4110 MHz toward American Falls, Idaho on azimuth 66 degrees/06 minutes.

1423-CF-ML-75 Washington Telephone Company (KSP43) 3.2 Miles SW of Parrish, Washington. Lat. 45 24 04 N.-Long. 69 28 45 W. Mod. of License to change coordinates to read as stated above.


324-CF-P-75 Navajo Communications Company, Inc. (WKN78) GSeon, 6 Miles NNE of Gallup, New Mexico. Lat. 35 36 17 N.-Long. 100 49 08 W. Mod. of License to change frequency 21784.5 MHz toward a new point of communication at Tohatchi, New Mexico on azimuth 86 degrees/16 minutes.

1926-CF-P-75 Same (KFPP4) 7.8 Miles SE of Tohatchi, New Mexico. Lat. 35 46 56 N.-Long. 108 16 45 W. C.P. for a new station on frequency 21284.1 MHz toward a new point of communication at Tohatchi, New Mexico on azimuth 86 degrees/07 minutes.

2788-CF-ML-75 New York Telephone Company (KEF41) 2.3 Miles NW of Colton, New York, Lat. 44 33 50 N.-Long. 74 19 10 W. Mod. of License to change polarity from Vertical to Horizontal on frequency 6153.9 MHz toward a new point of communication at Kinyon Park, New York on azimuth 359 degrees/16 minutes.

2787-CF-ML-75 Same (KEEB9) 73 Market Street, Potsdam, New York. Lat. 44 40 10 N.-Long. 74 59 10 W. Mod. of License to change polarity from Vertical to Horizontal on frequency 6063.8 MHz toward a new point of communication at Kinyon Park, New York on azimuth 179 degrees/16 minutes.

3230-CF-P/ML-75 RCA Alaska Communications, Inc. (WAHA77) Fort Wainwright, Blvd. 1655, north post area of Ft. Wainwright. 2 Miles East of Fairbanks, Alaska. Lat. 64 56 38 N.-Long. 147 36 13 W. C.P. for a new station on frequency 2162.4 MHz to 3117.2 MHz toward Fairbanks, Alaska on azimuth 264 degrees/14 minutes.

3231-CF-P/ML-75 Same (WGF78) 200 East Gaffney Road, Fairbanks, Alaska. Lat. 64 56 38 N.-Long. 147 36 13 W. C.P. and Mod. of License to change frequency 2117.2 MHz to 2167.2 MHz toward Ft. Wainwright, Alaska on azimuth 84 degrees/60 minutes.

RURAL REGISTER, VOL. 40, NO. 106—WEDNESDAY, JUNE 4, 1975
NOTICES

4097-CF—P—75 Same (WAH62) 2.0 Miles SW of Chadwick, Illinois. Lat. 42°00’12” N., Long. 89°32’04” W. C.P. to add new point of communication, add transmitting equipment and increase output power on existing frequencies.

4100-CF—MP—75 Same (WAH61) 7.3 Miles SW of Alton, Illinois. Lat. 42°32’14” N., Long. 89°08’45” W. C.P. to add antenna system, antenna system and co-ordinates to read as above; change antenna location and replace transmitters.

4116-CF—P—75 Same (KCR87) Rockland, Maine that was changed to name from MCI New York West, Inc. to MCI Telecommunications Corporation. Change applicant’s name New Jersey to 11305H, 11385H, 11625H and 11385H MHz, 6049.0V MHz and 6108.3V MHz toward Oneida, New York, on azimuth 71°32’.

4117-CF—P—75 Same (WQR58) Ironton, Ohio. Lat. 38°46’19” N., Long. 84°57’03” W. C.P. for a new station on 6241.7V MHz, 6301.0V MHz and 6360.3V MHz toward ribs, Pennsylvania, on azimuth 125°11’.

4118-CF—P—75 Same (WTW50) 4.7 Miles NW of Bensenville, Illinois. Lat. 41°54’53” N., Long. 87°42’35” W. C.P. to change transmitting equipment and increase output power on existing frequencies.

4119-CF—P—75 Same (WQR72) Hooks town, Texas. Lat. 33°17’02” N., Long. 97°06’45” W. C.P. to change frequency to 6301.0V MHz toward Camano, Washington, and add transmitter. All other particulars to remain as reported on Notice No. 739 dated February 3, 1975.

4120-CF—P—75 Same (NEW) On Hwy. 666, 1.3 Km South of Newcomb, New Mexico. Lat. 36°16’24” N., Long. 107°42’20” W. C.P. for a new station on frequency 6094.3V MHz toward Deza Bluff, New Mexico on azimuth 188 degrees/33 minutes.

3111-CF—P—75 Same. (WDO86) Bell Point, Pennsylvania. Lat. 40°59’00” N., Long. 79°57’51” W. C.P. to power frequencies 10738.0MHz and 10846.0MHz towards New York, New York on azimuths 106°18’, 161°21’, and 253°21’, respectively, power split frequencies 10735.0V MHz and 10844.5V MHz toward new points of communication at Greensbur and North Versailles, Pennsylvania, on azimuths 186°08’.

4046-CF—P—75 Same. (WQP99) Quaker Hill, New York. Lat. 41°20’30” N., Long. 75°13’17” W. C.P. for a new station on 6331.4V MHz and 6380.3V MHz toward Effland, N. C., on azimuth 112°42’.

4047-CF—P—75 Same. (New) Canpee, North Carolina. Lat. 35°50’37” N., Long. 79°21’30” W. C.P. for a new station on 6582.7V MHz, 6594.6V MHz and 6683.9V MHz toward Raleigh, North Carolina, on azimuth 122°11’.

4049-CF—P—75 Same. (New) Raleigh, North Carolina. Lat. 35°57’43” N., Long. 78°52’30” W. C.P. for a new station on 6567.7V MHz, 6540.4V MHz and 6613.6V MHz toward Selma, North Carolina, on azimuth 118°29’.

4051-CF—P—75 Same. (New) Selma, North Carolina. Lat. 35°38’41” N., Long. 78°16’55” W. C.P. for a new station on 6606.9V MHz, 6019.3H MHz and 6078.6H MHz toward Greensboro, N. C. on azimuth 124°19’. Change transmitting equipment and increase output power on.

4056-CF—P—75 Same (WQR73) Pittsburgh, Pennsylvania. Lat. 40°44’40” N., Long. 79°06’28” W. C.P. to change transmitting equipment and increase output power on existing frequencies.

3111-CF—P—75 Same. (WDO86) Bell Point, Pennsylvania. Lat. 40°59’00” N., Long. 79°57’51” W. C.P. to power frequencies 10738.0MHz and 10846.0MHz towards New York, New York on azimuths 106°18’, 161°21’, and 253°21’, respectively, power split frequencies 10735.0V MHz and 10844.5V MHz toward new points of communication at Greensbur and North Versailles, Pennsylvania, on azimuths 186°08’.

4046-CF—P—75 Same. (WQP99) Quaker Hill, New York. Lat. 41°20’30” N., Long. 75°13’17” W. C.P. for a new station on 6331.4V MHz and 6380.3V MHz toward Effland, N. C., on azimuth 112°42’.
Crain, St. George, Utah, for construction permits.

1. This proceeding involves the mutually exclusive applications of Julie P. Miner (KDSXU) and Albert L. Crain (Crain) for an authorization to construct a new standard broadcast station at Topanga, California. By Order, 1 FR 45765, published December 30, 1974, these applications were designated for consolidated hearing on various issues. Presently before the Review Board is a petition to enlarge the service area of Station KDSXU, filed by Ordes, T. Miner, the licensee of Station KDSXU, a Class IV station operating on 1450 kHz, seeks 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). Question and Answer 6 of the Primer permits an applicant to show why it chooses not to serve a major market 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 assertion that the net increase in revenues to both Miner and Crain, and the programing proposed to meet the needs of this area. Therefore we are compelled to add the requested Suburban issue.

**Financial Issue**

5. Miner amended her financial proposal subsequent to the filing of the initial petition to enlarge. As a result of the acceptance of this amendment, many of Crain's allegations, most notably those concerning cost estimates, have been answered. Therefore, the Crain's allegations relating to the availability of funds to be considered. According to her amended financial plan, Miner expects to meet total first year costs of $109,439 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 from existing operations of $32,000, and funds retained after paying the cost of operation of Station KDSXU 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 financial proposal is insufficient on the grounds that the bank commitment letters 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 states that the loan commitments are conditioned on surmise and speculation. Therefore, these statements are insufficient to support the requested financial issue.

7. Crain's requested financial issue, Crain makes a number of assertions that are not based on surmise and speculation. Therefore, it is our opinion that the requested financial issue is not in the public interest.

**Memorandum Opinion and Order**

In re applications of Julie P. Miner (KDSXU), St. George, Utah, Albert L. Crain, St. George, Utah, for construction permits.

1. This proceeding involves the mutually exclusive applications of Julie P. Miner (KDSXU) and Albert L. Crain (Crain) for an authorization to construct a new standard broadcast station at Topanga, California. By Order, 1 FR 45765, published December 30, 1974, these applications were designated for consolidated hearing on various issues. Presently before the Review Board is a petition to enlarge the service area of Station KDSXU, filed by Ordes, T. Miner, the licensee of Station KDSXU, a Class IV station operating on 1450 kHz, seeks 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). Question and Answer 6 of the Primer permits an applicant to show why it chooses not to serve a major market 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 assertion that the net increase in revenues to both Miner and Crain, and the programing proposed to meet the needs of this area. Therefore we are compelled to add the requested Suburban issue.

**Financial Issue**

5. Miner amended her financial proposal subsequent to the filing of the initial petition to enlarge. As a result of the acceptance of this amendment, many of Crain's allegations, most notably those concerning cost estimates, have been answered. Therefore, the Crain's allegations relating to the availability of funds to be considered. According to her amended financial plan, Miner expects to meet total first year costs of $109,439 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 from existing operations of $32,000, and funds retained after paying the cost of operation of Station KDSXU 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 financial proposal is insufficient on the grounds that the bank commitment letters 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 states that the loan commitments are conditioned on surmise and speculation. Therefore, these statements are insufficient to support the requested financial issue.

7. Crain's requested financial issue, Crain makes a number of assertions that are not based on surmise and speculation. Therefore, it is our opinion that the requested financial issue is not in the public interest.
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 consolidated balance sheet. Finally, 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 and inventory. Such accounts and inventory have not been established. See FCC Form 301, Section m., paragraph 4 (b). However, estimated gross profits in excess of $50,000 from Miner's other stations can be considered, since these are supported by appropriate profit and loss statements. In our view, it is not unreasonable for the applicant to assume that $50,000 after tax profit would therefore be available from those operations. This amount together with projected revenues and the Dixie State Bank loan total $218,000 in available funds to meet estimated first year operating costs. Therefore, some 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, 1975.6 Opposing the addition of this issue, Miner submits affidavits from Julie P. Miner and L. John Miner avering, 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 Board of Review 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. However, since there is no indication that the allegedly missing items are 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. It is further 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, 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 community, to meet those needs and interests;
(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 burden of proceeding and proof under issue (a) added herein shall be on Julie P. Miner.


Released: June 2, 1975.

FEDERAL COMMUNICATIONS COMMISSION

[SEAL] VINCENT J. MULLINS, Secretary

[FR Doc 75-14049 Filed 6-2-75; 8:45 am]

TOWN AND COUNTRY RADIO, INC., ET AL.

Memorandum Opinion and Order Enlarging Issues


The above-captioned mutually exclusive applications for authorization to construct a new FM broadcast station at Suffolk, Virginia, were designated for filing on February 25, 1975, by 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 against Tidewater's application from the Order as released, a Correction was published on January 14, 1975 (40 FR 2313). Now before the Review Board is a petition to enlarge issues; filed January 12, 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&CR).7 11

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, 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

---


7In 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 basic 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.

8The affidavit recites, in pertinent part "... I observed that a number of the exhibits referred to in the Tidewater application, and to which these exhibits were requested were not presented, but some reference was made to their being in Washington, D.C. Several sections of the application were not available to me for inspection."
First, Voice alleges that Hall has failed to disclose financial information concerning his real estate investment and construction enterprises which may have supplied Hall with the additional income on which he submitted his application. Second, Voice points out that Hall proposed to lend Tidewater up to $300,000 at 7 1/2 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, and interest payable through the sixth month of the following 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 satisfactory to the bank 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 remain as to whether Hall's balance date is to be accepted since the bank request indicates that Hall's financial statement was submitted 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.

Voice next alleges that Tidewater also failed to disclose financial information concerning Hall's business interests and background. Petitioner further states that 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.

Voice also argues that, while Tidewater indicated that Hall's May 20, 1974, balance sheet shows liquid assets of $340,700 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 $6,000 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.

Voice further asserts that Tidewater's contacts with a number of the significant groups in Suffolk, especially the elderly and the Black community, were not sufficiently representative of the "youth-students" group; that it has described the Blacks it interviewed by occupation only and has not included the 25 Blacks from the population of 46 from Suffolk and 8 from surrounding communities which Tidewater's service area contains.

Tidewater opposes addition of the requested issue and submits, with its opposition, a copy of an amendment to its petition to enlarge issues. More specifically, it requests that the petition be amended to include the following:

1. Petitioners have no valid reason for questioning the existence of the bank loan commitment. As the Board has observed, the September 27, 1974, bank letter provides reasonable assurance of a loan commitment, and it is the general policy of the Board not to question the validity of a loan commitment when the bank's letter expresses a firm agreement to extend credit to an applicant. See, e.g., Commer­

2. The Board concurs with the judgment of the Board of Governors of the Federal Reserve System in the matter of the proposed loan to Tidewater.

3. Petitioner's assertion that the Board is acting improperly in not requiring Tidewater to meet the terms of the bank loan commitment is not supported by the evidence in the record. See, e.g., Memorandum Opinion and Order, FCC 75-61, slip op. at 9-10 (March 12, 1975).

4. The Board concurs with the judgment of the Board of Governors of the Federal Reserve System in the matter of the proposed loan to Tidewater.

5. Petitioner next alleges that Tidewater's assertion that it has failed to adequately ascertain the community problems of the area for which it proposed to lend funds is not supported by the evidence in the record. In particular, Voice states that Tidewater's ascertainment study rests on the results of interviews with 35 community leaders (45 from Suffolk and 8 from surrounding communities) which, according to Voice, is an inadequate sampling for a service area containing 1,188,200 persons. Voice also notes that Tidewater's 42 general public survey is a limited and inadequate sample of only 0.1 percent of the total population. Moreover, Voice states 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, especially the elderly and the Black community, were not sufficiently representative of the "youth-students" group; that it has described the Blacks it interviewed by occupation only and has not included the 25 Blacks from the population of 46 from Suffolk and 8 from surrounding communities which Tidewater's service area contains.

6. Tidewater opposes addition of the requested issue and submits, with its opposition, a copy of an amendment to its application. In addition, serious questions remain as to whether Hall's balance date is to be accepted since the bank request indicates that Hall's financial statement was submitted 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.
NOTICES

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 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. In support of its request, Voice attaches the Annual Employment Reports (FCC Form 395), 1971-1974, of broadcast stations wholly or partially owned by 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. 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 designed to meet the Commission’s requirements. Notwithstanding these facts, however, and the lack of specific allegations as to instances of particular 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.

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 assure equal opportunity to 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 as many as 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 WHZ (FM), Xenia, Ohio, have been extremely stable over recent years. During 1974, T&C indicates, one regular part-time Black announcer, who had been employed by the licensee off and on for several years, logging a total of 150 hours of operation were curtailed during the winter, but, T&C adds, he will be offered re-employment when the broadcast day lengths.

10. The Board will add the requested issue if it is found that T&C’s proposed programming is designed to meet the bulk of the ascertained needs through one-half hour in length for a program which will not exceed one hour in length, expire annually, and be entitled "Viewpoint." In describing "Viewpoint", the applicant states that it "is the purpose of this program to be an educational forum for the expression of the opinions and views of concerned citizens of the community..." T&C has an interest in other broadcast 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 assure equal opportunity to 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 as many as 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 WHZ (FM), Xeni...
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... 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.

12. It is further ordered, That the petition to enlarge issues, filed January 29, 1975, by Voice of the People, IS... 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 opportunity 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 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.

Released: June 2, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[Seal] VINCENT J. MULLINS, Secretary.

[Pat Doc 63-14685 Filed 6-3-75; 88 45 am]

NOTICES

VEGAS INSTANT PAGE AND AIRSIGNAL OF NEVADA, INC.

[Docket Nos. 20330, 20331; 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 channels in Las Vegas, 158.79 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 two-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, seeking the addition of competitive guardband policy, misrepresentation and strike issues against VIP.

COMPETITIVE GUARDBAND POLICY ISSUE

2. This requested issue against VIP is premised on the assertion that certain Commission and court cases represent a “policy” favoring competitive guardband allocations and service within communities. 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. 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 related and decided 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 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 a single factor in satisfying the 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 possible applications without doing violence to the parties’ Ashbacker rights; i.e., right to a competitive hearing. Moreover, the Bureau asserts that the ATP case does not support Airsignal’s position since the licenses 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 argues that the hearing in FCC v. RCA Communications, Inc., 346 U.S. 88 (1953), is dispositive, since it allegedly prohibits the Commission from making encouragements 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 sequentially. 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 there is such a policy. By Memorandum Opinion and Order, 40 FCC 2d 921 (1971), a hearing on the contentions raised by the Independent Broadcasting Association 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 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.

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., 40 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 DPLMRS service. The Commission concluded 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, and, in addition, grants to the qualified applicants seeking both channels. The Bureau also opposes the issue arising 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 again are faced with an application of §§ 21.15(c) (4) of the rules does not give an applicant "unfettered discretion" as to what portion of an acquisition to file. The Bureau also opposes the issue arising 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.

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 urges that disqualification for the sole remaining guardband frequency, rather than based upon an actual need justification, is designed to delay competitive guardband service in Las Vegas. Airsignal further contends that 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 PSC authorization has not raised an affirmative question 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 design" is insufficient grounds for strike of a strike issue. Airsignal International of Pittsburgh, Pennsylvania, Inc., supra, 46 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 FFC 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 intention to mislead 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 here 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" in the example below. It is requested that this step be taken so that it will be clear that the information you insert

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
Comments with reference to the proposed contract form at the Washington office of the
Federal Maritime Commission, Washington, D.C. 20573, or at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, Puerto Rico and San Francisco, California.

3. Insert “Make” and “Type No.” of your modulator monitor in the spaces provided.

For example:

<table>
<thead>
<tr>
<th>Modulator Monitor</th>
<th>Make</th>
<th>Type No.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Your cooperation is appreciated, and will expedite the processing of your applications.

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 14(b) of the Shipping Act, 1916, as amended (39 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; or before June 30, 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. 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.

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, was filed on May 28, 1975.

The agreement to be revoked effective May 28, 1975.

By Order of the Federal Maritime Commission.


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, was filed on May 28, 1975.

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.

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]

WEST COAST OF ITALY, SICILIAN AND ADRIC 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.

The agreement pertains to your frequency monitor. Your cooperation is appreciated, and will expedite the processing of your applications.

The Commission finds. It is desirable and in the public interest to permit the Miami Valley Power Project to intervene in this proceeding.

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 distributor 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 petition is granted.

[FR Doc.75-14748 Filed 6-3-75; 8:45 am]

FEDERAL POWER COMMISSION

[Docket No. R74-82, R74-81]

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 distributor 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.

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

NOTICES
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 hereafter 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 5-8-75; 8:45 am]

[DOCKET NO. E-3294]

DETOIT EDISON CO.

Order Granting Interventions

MAY 28, 1976.

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 petition to intervene, we believe that the petitioner has sufficient interest in the proceedings to warrant intervention.

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 hereafter 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. CPS-70-331]

MCCULLOUGH 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. CPT-70-331 a petition to amend the order issued pursuant to section 7(c) of the Natural Gas Act on June 19, 1970 (43 FPC 900), as amended November 6, 1970 (44 FPC 1364), in the subject docket authorizing Petitioner to transport natural gas from the Jamison Prong Field to CIG, 14,000 Mcf of gas per day to CIG for resale. In the petition, Petitioner requests an amendment to its existing certificate authority to include an additional 1,500 h.p. compressor plant to be constructed at the 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 Hilgert 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 Hilgert and Prong Field. Petitioner further explains that at the time of construction of the new facilities, Petitioner was able to negotiate a cost reduction of $35,000, which 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 a protest in accordance with the requirements of the Commission's rules of practice and procedures (18 CFR 1.4 or 1.10) and the regulations under the Natural Gas Act (15 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 participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

[FR Doc.75-14527 Filed 6-3-75; 8:45 am]

[DOCKET NO. OP-639]

MOBIL OIL CORP., ET AL.

Notice of Rate Change Filings Pursuant to Commission's Opinion No. 639 or 699-1

MAY 28, 1975.

Take notice that the producers listed in the Appendix attached hereto have filed Notice of Rate Change Filings Pursuant to Commission's Opinion No. 639 or 699-1. All producers filing with the Commission's Opinion No. 639, issued December 28, 1974, 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 a protest in accordance with the requirements of the Commission's rules of practice and procedures (18 CFR 1.4 or 1.10) and the regulations under the Natural Gas Act (15 CFR 157.10). Any person wishing to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

[FR Doc.75-14528 Filed 6-3-75; 8:45 am]
NOTICES

[FR Doc. 75-14532 Filed 6-3-75; 8:45 am]

NATURAL GAS PIPELINE CO. OF AMERICA, Etc.

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 the parties 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 a.m. on June 13, 1975, in Room 5200 at the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

KENNETH F. PLUMB, Secretary.

[F.R. Doc. 75-14532 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).

[FR Doc. 75-14531 Filed 6-3-75; 8:45 am]

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.

[F.R. 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. 819a-822r) by South Carolina Public Service Authority (SCPSA) (Correspondence to Mr. William J. Maiden, Jr., Debovo, Washington, D.C. 20005).

The proposed use would be 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 Black 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 could 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 waterfowl. The impoundment will increase 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 pipe 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, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.3 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 thereon must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, Secretary.

[F.R. Doc. 75-14532 Filed 6-3-75; 8:45 am]

[FR Doc. 75-14531 Filed 6-3-75; 8:45 am]

Revision to Tariff

May 28, 1975.

Take notice that on May 19, 1975, South Georgia Natural Gas Company
South Georgia states that the above sheets represent a rate change under its PCA Clause, such clause approved to become effective April 14, 1973, by Commission Order in FPC Docket No. RP72-133 PA 75-9 issued April 13, 1973. The Company further states that it proposes to 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, 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.
All documents, evidence, and other submissions received by the Commission with respect to any 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 20, 1975

KENNETH R. MAGON, 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. 20506 by June 27, 1975.

JOHN R. TAYLOR, Jr., Executive Director, Marine Mammal Commission.


[F.H Doc.75–14547 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 Krakor, 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.


PANNNY TAYLOR, Director, Program Information.

INTRODUCTION

A Coordinated Residency Touring Program (CRTP) for dance companies was initiated in Fiscal Year 1969 as a pilot project. At that time four companies toured to eight states for a total of eight weeks. Since then the Program has grown with 32 companies touring in 50 states and jurisdictions for a total of 320 weeks during Fiscal Year 1975.

The CRTP, with the assistance of the State Arts Agencies, has fostered new sponsors for dance residencies, expanded 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 Agency assistance is encouraged to assist their local sponsors in coordinating the three basic elements which contribute to a successful program:

1. (1) detailed advance work which will prepare the community for the residency so that it may take full advantage of the activities offered.

2. (2) broad involvement of the community in the activities offered during the residency.

3. (3) taking full advantage of the residual benefits of the engagement.

In order to allow each local sponsor the flexibility to tailor the 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 may apply. The Qualitative judgments of the sponsor, may receive assistance. Sponsors, in other words, are given the responsibility for selecting 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. (1) To develop new audiences for dance, and to expand the public’s awareness and appreciation of dance.

2. (2) To improve touring practices for both sponsors and companies.

3. (3) To maximize the benefits of the engagement.

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 delegation of administrative responsibility should be made on the basis of the willingness of the sponsoring arts agency to cooperate with the administration of the Dance Touring Program and other components of each state’s program.

INTEGRAL TO THE PROGRAM SINCE ITS INCEPTION HAS BEEN THE STATE ARTS AGENCIES...
and carrying out the Program, receiving these funds and administering them.

2. 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.

3. Making final statistical and evaluative reports to the Endowment as required in the Office of the Endowment. These reports will be of assistance. In addition to the regional publicists and others who are engaged in a variety of activities, it is to the State Arts Agency's advantage to keep in close contact with these individuals, both to get the latest news of developments and to 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 any organization or individual with the capability of relaying the activities of the Program to the community will be of value to the program. Examples of sponsors who have participated in the past include colleges and universities, community arts councils, community services, parks and recreation departments, fraternal organizations, local dance companies or associations, orchestras, museums, theaters, etc. Frequently a group of organizations will cooperate in sponsoring one or more companies. These are many companies. These are many companies. These are many companies. These are many companies. These are many companies.

WHAT IS A RESIDENCY?

Residencies are a minimum of one-week (5 day) length. Residential companies working throughout the country, there are other organizations and people who may be of assistance. In addition to the regional publicists and others who are engaged in a variety of activities, it is to the State Arts Agency's advantage to keep in close contact with these individuals, both to get the latest news of developments and to provide invaluable assistance with the Program. The Endowment can help you contact these people.

ENDOWMENT FEE SUPPORT

The National Endowment, through direct grants to the State Arts Agencies, will provide funds for residencies of a 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 to obtain the latest available 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 large number of companies and the variety of their touring activity, it is not possible to set a firm date for the performance of the Program. The Fiscal Year 1977 Program will be entered into a contract with the company.

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 used in selecting companies, 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 substantial agreement with the criteria for participation in the FY 1977 Program. This Directory will provide potential sponsors with profiles of the companies to which they are interested in enrolling. It is the responsibility of the company to communicate directly with interested sponsors to provide them with 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 to obtain the latest available 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 large number of companies and the variety of their touring activity, it is not possible to set a firm date for the performance of the Program. The Fiscal Year 1977 Program will be entered into a contract with the company.

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
Sponsors are expected to develop and apply
their own qualitative criteria in selecting
candidates for participating in the final se-
lection of, companies. This qualitative deci-
sion is the full responsibility of the sponsor.
The success of each residency is with the
sponsor's careful selection.

CONTRACTS

Both sponsors and companies are advised to
sign a formal contract. It is for the State
Arts Agencies to accept the following alter-
native agreements for the purpose of al-
locating fee support funds:

(1) A letter of agreement including all
necessary items listed below.

(2) A "first priority" letter or contract in-
cluding all necessary items listed below.

(a) Name, address and phone number of
the company.
(b) Name, address and phone number of
the sponsor.
(c) Residencies may be lengthened by ad-
ditional full working days.
(d) Name and address of site for residencies.
(e) The company's minimum weekly fee.
(f) The company's subsequent week fee.
(g) The over-all budget for the residency,
including total expenses and sources of in-
come (i.e. dance students, community
residents, et cetera).

The information collected should be sub-
mitted with the final report for the Endow-
ment grant.

GUIDELINES FOR SPONSORS AND COMPANIES

Accompanying these Guidelines for State
Arts Agencies and Dance Companies, The
Guidelines for Sponsors and the Directory of
Dance Companies will be provided by the
Endowment. Each of the sponsors or companies
will receive, and from which they will be work-
ing although there is some duplication of in-
formation, that is to say, that information
is not included in these Guidelines for State
Arts Agencies. Please read the Company and
Sponsor Guidelines carefully.

FIN© RICENTENNIAL

The Endowment recognizes that the arts
play an important role in the celebration of
the bicentennial of the United States. It is
therefore to be expected that the federal,
state, and local governments will encourage
and support the arts as a way to improve the
quality of life for all Americans.

FLOW OF ENDOWMENT FEE SUPPORT FUNDS

Each State Arts Agency will make applica-
tion 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 re-
quests the funds, receives them, and distrib-
utes 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 would like to have statistical and
evaluative information for FY 1977 includ-
ing:

(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) Evaluations of the Program for each activity.
(4) The over-all budget for the residency,
including total expenses and sources of in-
come.

A general description and evaluation of the
successes and failures of the residency.

Any suggestions or recommendations for
improving the Program and better achiev-
ing the goals outlined for the Program.

Sponsors should be reminded to assemble
the necessary information so that it will be
available to the State Arts Agency when requested.

It is suggested that State Arts Agencies de-
velop a simple form which can be circulated
among the sponsors in order to collect this in-
formation. If the SAA would like additional
information for its own records, feel free to include additional questions. However, the
Endowment would like to urge that the evalua-
tion procedures be kept relatively un-
complicated so as not to burden the local
sponsors unnecessarily.

The information should be submitted to
the State Arts Agency for the purpose of
allocating fee support funds.

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

24059
NOTICES

Funds released to State Arts Agencies.

Continue to offer support under the Dance 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 organization. Applications should come from the organization that is assuming full responsibility for administering the project. If the applicant is another nonprofit, tax-exempt organization not a government agency, it should use the NFA’s Project Grant Application. NFA’S (REV.)

The requests will be reviewed on the basis of the total funds anticipated to be available for the 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 date the cash request is needed. A more realistic interpretation is that funds may be requested 90 days in advance of the date the cash request is needed. A more realistic interpretation is that funds may be requested 90 days in advance of the date the cash request is needed. A more realistic interpretation is that funds may be requested 90 days in advance of the date the cash request is needed.

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. This 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 date the cash request is needed. A more realistic interpretation is that funds may be requested 90 days in advance of the date the cash request is needed.

If it takes six weeks of processing to get the money from the hands of the Endowment to the dance company, it is expected that the grantee shall make drawdowns from the U.S. Treasury through its commercial bank as close as possible to the time of making the disbursements.

The primary purpose of the Dance Touring Program is to provide professional 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, WHOSE DELEGATED ORGANIZATIONS, ASSUMED PRIMARY ADMINISTRATIVE RESPONSIBILITIES FOR THE PROGRAM.

The primary purpose of the Dance Touring Program is to provide professional dance residencies, developed new audiences for American dance, and expanded the public's awareness and appreciation of dance.
NOTICES

FEDERAL REGISTER, VOL 40, NO. 108—WEDNESDAY, JUNE 4, 1975

(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 days) in length. 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 residents as broadly as possible in the scheduled activities.

Residencies structured solely for the purpose 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. Taking advantage of the residual benefits of the engagement.

3. Active involvement of the community in the activities offered during the residency.

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 must have received compensation for performances for the 1975-76 season. The "Company Information Questionnaire" is to be filled, deviation from the minimum fee requirement is not considered when determining if the company qualifies will be required to attend regional meetings at their own expense in the fall of 1976.

(1) The company must be a nonprofit, tax-exempt organization donations to which are deductible under section 170(c) of the Internal Revenue Code of 1954, and must submit a copy of its Internal Revenue Tax Exempt Determination Letter to the Endowment.

(2) The company must certify to the Endowment that it will make final company selections. Sponsors are advised to contact all companies in which they are interested in order to receive from them more detailed information. It is the responsibility of the company to communicate directly with potential sponsors and to provide them with the necessary services to contract and carry out tour engagements. The company must submit a description of its tour management structure, indicating the touring management staff employed (number, titles, names, and description of responsibilities), whether part-time or full-time, and the qualifications of the position.

(3) The company must have a history of sound administrative practices. If there is reason to believe the company has engaged in any of the practices listed in paragraphs (1) and (2) above, it may be considered 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.

(4) The company must have a history of financial soundness. The company must have a history of sound financial practices such as a history of cancelled contracts, commitments unfilled, deficiency of license fees, and other liabilities. If there is reason to believe the company has engaged in any of the practices listed in paragraphs (1) and (2) above, it may be considered 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.

(5) The company must have a history of compliance with the Federal Regulations. The company must also certify to the Endowment on the basis of the above criteria and filing the "Company Information Questionnaire" (enclosed) indicating the place and date of these performances, and, for the 1974-75 season, the estimated attendance at each 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 for 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 may be considered for engagement.

(6) The company must have a history of compliance with the spirit of the Program. To improve touring practices, the company 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. In order to attract a more varied audience, the state arts agency can waive this requirement for sponsors participating in the Program for the first year. However, it is understood 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 requirement.

ENDOWMENT FUNDING

The National Endowment for the Arts through direct grants to the state arts agencies, will provide funding to the sponsor's state arts agency one-third (33 1/3%) 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 "contract" on page 8) must be signed by both parties, and a copy sent 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 DFP 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 requirement.) If a company is interested in the Program and the state arts agency has not granted the waiver, 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 ensure that 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 activities have not been limited to areas of Congressional appropriation procedures, payment for these engagements will be delayed. Therefore, both the company and the local arts agency will usually find it possible and desirable to seek and book additional dates without Endowment satisfaction.

Residences ‘taking place’ in the summer of 1976 (after July 1, 1976) may be included in the FY 1977 program. No funds will be used to pay for the total fee structure of the company. There is no ceiling on this minimum fee.

In order to arrive at 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.

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 half the fee will conform with the total fee structure of the company. There is no ceiling on this minimum fee.

Companies may negotiate larger fees than the minimum fees quoted. The Endowment for the Arts, Washington, D.C. 20506, (202) 634-6383. The company is urged 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 overestimating the fee for the engagement will result in lowered quality. A clause stating that the National Endowment for the Arts, Washington, D.C. 20506, will provide the sponsor with the appropriate amount of money will 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 the booking agent’s decision to make the logical sponsor 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.
3. Contractual dates, dates, whether or not the solicitation is a “first priority” agreement. If the company is not a “first priority” agreement, write to the Dance Touring Coordinator, National Endowment for the Arts, Washington, D.C. 20506.

For the purposes of confirming engagements and allocating Endowment funds (see note on “Endowment funding” above) the state arts agencies and their delegated administrative organizations will be sent to companies in the spring of 1976.

The company is urged 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 overestimating the fee for the engagement will result in lowered quality. A clause stating that the National Endowment for the Arts, Washington, D.C. 20506, will provide the sponsor with the appropriate amount of money will 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 the booking agent’s decision to make the logical sponsor 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.
3. Contractual dates, dates, whether or not the solicitation is a “first priority” agreement. If the company is not a “first priority” agreement, write to the Dance Touring Coordinator, National Endowment for the Arts, Washington, D.C. 20506.

For the purposes of confirming engagements and allocating Endowment funds (see note on “Endowment funding” above) the state arts agencies and their delegated administrative organizations will be sent to companies in the spring of 1976.

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 half the fee will conform with the total fee structure of the company. There is no ceiling on this minimum fee.

Companies may negotiate larger fees than the minimum fees quoted. The Endowment for the Arts, Washington, D.C. 20506, (202) 634-6383. The company is urged 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 overestimating the fee for the engagement will result in lowered quality. A clause stating that the National Endowment for the Arts, Washington, D.C. 20506, will provide the sponsor with the appropriate amount of money will 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 the booking agent’s decision to make the logical sponsor 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.
3. Contractual dates, dates, whether or not the solicitation is a “first priority” agreement. If the company is not a “first priority” agreement, write to the Dance Touring Coordinator, National Endowment for the Arts, Washington, D.C. 20506.
NOTICES

PLANNING SCHEDULE
Following is the Planning Schedule for the Dance Touring Program for Fiscal Year 1977 (July 1, 1976 through June 30, 1977).

August 1, 1975. Postmark deadline for Company Information Questionnaire to be sent to the Commission.

November 1975. Guidelines for Sponsors and Directory of Dance Companies distributed to policy makers. Directory to be updated as state arts agency or delegated administrative organization list.

November 1976-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 formalized, with a copy of the signed agreement provided to the company 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.


[FR Doc.75-14590 Filed 6-5-75; 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 bring the public the methods acceptable to the NRC staff for implementing specific parts of the Commission’s regulations. The following texts are some examples of the information needed by the staff in its review of applications for licenses.

Regulatory Guide 2.77, “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 linings and penetrations of confinement barriers of concrete construction. This guide applies to metal liners and storage tank vaults, and other concrete confinement barriers in fuel reprocessing plants.

Comments and suggestions in connection with (1) items for inclusion in the guides currently being developed listed below or (2) improvements in all published guides are encouraged at any time.

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 limited) may be submitted on an automatic distribution list for single copies of future guides on which is made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, April 20, 1975. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted. Each draft of a Commission approval is dated on its date of issuance.

For the Nuclear Regulatory Commission.

ROBERT B. MENOUG, Acting Director, Office of Standards Development.

[FR Doc.75-14568 Filed 6-3-75; 8:45 am]

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-77-77 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 pulsing operation.

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, 1973, (2) Amendment No. 10 to License No. R-77, with Change No. 41 and (3) the Commission’s related Safety Evaluation Report. Items of the actions 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

FEDERAL REGISTER, VOL. 40, NO. 106—WEDNESDAY, JUNE 4, 1975
NOTICES

[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 and request for comments from local and interested members of the public have been included as appendices which were required as a result of withdrawal of the application for Pilgrim Nuclear Power Station, Unit 2, to be constructed by the Boston Edison Company on the western shore of Cape Cod Bay from 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, South Street, Plymouth, Massachusetts. The document is also being made available at the Office of State Planning and Management, Leverett Staton 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.

W. M. H. Ragan, Jr.,
Chief, Environmental Projects Branch 4, Division of Reactor Licensing.

[FR Doc.75-14903 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.75-14906 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).

Section 622.19 (Revised April 30, 1975).

Section 633.7, paragraph 1(1) (Revised May 27, 1975).

Section 633.7, paragraph 1(1) (Added May 27, 1975).

Section 623.6 (Added May 27, 1975).

Temporary Instruction No. 621-7, issued May 27, 1975.

Byron V. Pettone, Director.

May 29, 1975.

[FR Doc.75-14906 Filed 6-3-75; 8:45 am]

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, 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. The 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

FEDERAL REGISTER, VOL 40, NO. 104—WEDNESDAY, JUNE 4, 1975
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, shall be made in pencil and forwarded to the Immigration and Naturalization Service, in a transmittal letter (SFS Form 135A) signed by the registrant, on the day the registrant last appears in the selective service registration column of the Classification Record book. The transmittal letter shall be signed by the registrant, and the form must be sent to State Headquarters for filing and this notation made on page 2 of the file folder and in the 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 desires re-establishment 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, in the Remarks column 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, other than a registrant) submits an information intended for inclusion in his file folder after the file folder has been transferred to the FRC, the local board shall acknowledge receipt of the information and return it to the sender by use of a letter similar to Attachment 639-2. If the sender's address is not available, the correspondence shall be returned to the sender. If the information desired was specified in the request, and it is contained in the file, the local board shall notify the sender of its receipt on the information available in the file.

2. Whenever a registrant submits an information 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 it is contained in the file, the local board shall notify the registrant of its receipt 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 it is contained in the file, the local board shall notify the registrant of its receipt on the information available in the file.

4. In the event that a registrant requests temporary access to his file after the file has been transferred, 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 it is contained in the file, the local board shall notify the registrant of its receipt on the information available in the file.

[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 shall 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 Director's office), building owner, manager, or leasing office as appropriate, and any other offices and individuals as determined by the State Director. The list should be reviewed periodically to ensure that it is current and complete. The list should be kept in a secure storage place and labels showing emergency numbers should be affixed to telephones.

2. Plans should be developed for each office to prepare personnel for emergencies. It is the responsibility of each office to prepare personnel for emergencies. The type of emergency depends on the location of the office and the type of work conducted at the office. For example, an office in a high rise building may be more susceptible to fire than an office in a single-story building. Each office should develop a plan that is appropriate for its specific needs.

[Rev. Apr. 30, 1975]
TO: [Local Board Stamp]

Date of Mailing: [Date]

SSN: [SSN]

(Address)

Dear [Local Board Stamp],

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,

[Signature]

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,

[Signature]

Immigration and Naturalization Service
425 I Street NW
Washington, D.C. 20536

Enclosure
NOTICES

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

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. 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.

SECTION 622.19 CLASS 1-H: REGISTRANT NOT CURRENTLY SUBJECT TO PROCESSING FOR INDUCTION OR ALTERNATIVE 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 the 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 at or below the APN.

3. Registrants who have not yet been assigned an RSN.

4. The following registrants are specifically ineligible for classification into Class 1-H by local boards:
   a. Volunteers during any period of induction;
   b. Registrants in the extended priority selection group (EP-SG);
   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.

5. Any registrant who qualifies for a class lower than 1-H shall be administratively assigned to Class 1-H as of the time of registration except:
   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 Selective Service Act and has not completed his sentence (to include any period of probation or parole).

6. When accountable 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 609.13.

7. Accountability will be terminated upon cancellation of a registration. The entry of the canceled registration will be listed on the SSS Form 102, and local board entries will be made in accordance with the provisions of Chapter 613, RPM.

8. 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, "Accountability Restored" (ARS) in the remarks column of the SSS Form 102, and the registrant shall be picked up on the SSS Form 110 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.

3. 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 the lower class by local board action as soon as practicable.

4. 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 at or below the APN.

5. Any registrant who qualifies for a class lower than 1-H shall be administratively assigned to Class 1-H as of the time of registration except:
   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 Selective Service Act and has not completed his sentence (to include any period of probation or parole).

6. When accountable 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 609.13.

7. Accountability will be terminated upon cancellation of a registration. The entry of the canceled registration will be listed on the SSS Form 102, and local board entries will be made in accordance with the provisions of Chapter 613, RPM.

8. Services to registrants who have been dropped from accountability shall be accomplished in accordance with Chapter 603.

9. Accountability is restored for any registrant whose file folder is reestablished, "Accountability Restored" (ARS) in the remarks column of the SSS Form 102, and the registrant shall be picked up on the SSS Form 110 for that month.

10. 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.

11. 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 the class lower than 1-H by local board action as soon as practicable.

12. 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 at or below the APN.

13. Any registrant who qualifies for a class lower than 1-H shall be administratively assigned to Class 1-H as of the time of registration except:
   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 Selective Service Act and has not completed his sentence (to include any period of probation or parole).

14. When accountable 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 609.13.

15. Accountability will be terminated upon cancellation of a registration. The entry of the canceled registration will be listed on the SSS Form 102, and local board entries will be made in accordance with the provisions of Chapter 613, RPM.

16. Services to registrants who have been dropped from accountability shall be accomplished in accordance with Chapter 603.

17. Accountability is restored for any registrant whose file folder is reestablished, "Accountability Restored" (ARS) in the remarks column of the SSS Form 102, and the registrant shall be picked up on the SSS Form 110 for that month.
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. PETTITONE,
Director.

SAMPLE LETTER TO INFORM REGISTRANT OF SUSPENSION OF HIS PROCESSING

(Local Board State)

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

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-146B, 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.

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
NOTICES

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 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 29th day of May, 1975.

MARTIN M. FOWRS,
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 28th day of May, 1975.

MARTIN M. FOWRS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-14596 Filed 6-3-75;8:45 am]
NOTICES

[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 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 ensure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 102976 Sub 3, J & O Transport Ltd., now being assigned July 15, 1975 at Washington, D.C. in a hearing room to be later designated.


MC 136986, 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 126947 Sub 56, Machinery Transport, Inc., now assigned July 8, 1975 (3 days) at Denver, Colorado; in a hearing room to be designated later.


[SEAL]

JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc. 75-14465 Filed 6-3-75; 7:55 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 1069), 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 any interested person or hearing representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.


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 J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought is to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodity requiring special equipment, restricted so that the loading or unloading of such commodity or the use of special equipment is performed by consignor, consignee, or both, between Newburgh, Poughkeepsie and Parchuthe, N.Y., on the one hand, and, on the other, points in Illinois, Indiana, Michigan, and Ohio State line extending along U.S. Highway 68 to junction U.S. Highway 25, then along U.S. Highway 25 to junction U.S. Highway 26W, then along U.S. Highway 25W to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateways of Philadelphi, Pa., and points in Cuyahoga, Lake, Lorain counties, Ohio, or points in Medina County, Ohio, on and north of U.S. Highway 234.

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
NOTICES

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-Missouri State line, to points in West Virginia on and west of a line beginning at the West Virginia-Kentucky State line extending along U.S. Highway 11 to junction West Virginia Highway 15, thence along West Virginia Highway 15 to junction U.S. Highway 118, thence along U.S. Highway 118 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction West Virginia Highway 30, thence along West Virginia Highway 30 to junction U.S. Highway 29, thence along U.S. Highway 29 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 39, thence along West Virginia Highway 39 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.

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-Missouri State line, to points in West Virginia on and west of a line beginning at the West Virginia-Kentucky State line extending along U.S. Highway 11 to junction West Virginia Highway 15, thence along West Virginia Highway 15 to junction U.S. Highway 118, thence along U.S. Highway 118 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction West Virginia Highway 30, thence along West Virginia Highway 30 to junction U.S. Highway 29, thence along U.S. Highway 29 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 39, thence along West Virginia Highway 39 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.

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-Missouri State line, to points in West Virginia on and west of a line beginning at the West Virginia-Kentucky State line extending along U.S. Highway 11 to junction West Virginia Highway 15, thence along West Virginia Highway 15 to junction U.S. Highway 118, thence along U.S. Highway 118 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction West Virginia Highway 30, thence along West Virginia Highway 30 to junction U.S. Highway 29, thence along U.S. Highway 29 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 39, thence along West Virginia Highway 39 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.

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-Missouri State line, to points in West Virginia on and west of a line beginning at the West Virginia-Kentucky State line extending along U.S. Highway 11 to junction West Virginia Highway 15, thence along West Virginia Highway 15 to junction U.S. Highway 118, thence along U.S. Highway 118 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction West Virginia Highway 30, thence along West Virginia Highway 30 to junction U.S. Highway 29, thence along U.S. Highway 29 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 39, thence along West Virginia Highway 39 to junction West Virginia Highway 39, thence along West Virginia Highwa...
Iowa Highway 137 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 71, thence along U.S. Highway 71 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 extending along Delaware-Maryland State line, thence along Delaware Highway 44 to junction Delaware Highway 6, thence along Delaware Highway 6 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. E11), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Geno R. Prohuski (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Household goods, uncrated, between points in Iowa 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 the facilities of Ralston Purina Co., located at or near California, Mo.

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. 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 west and south of a line beginning at 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 Cedar Rapids Steel Transportation Co. pursuant to MC-F-10199.

No. MC 21170 (Sub-No. E11), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Geno 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 west and south of a line beginning at 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 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. 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 west and south of a line beginning at 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.
a common carrier, by motor vehicle, over irregular routes, transporting: Garments and wearing apparel, on hangers, from Charleston, S.C., east of a line beginning at an intersection with the Georgia-Florida State line near Tifton, Ga., and extending along Georgia 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 23 to junction U.S. Highway 92; (12) from points in Alabama on and east of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 431 to the Florida-Alabama State line to points in Florida (except traffic from Dothan, Ala., restricted to traffic moving to points in Florida); (13) 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 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 82 to junction U.S. Highway 85 to the Georgia-South Carolina State line to points in South Carolina. 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 Phoenix, Ariz., as previously published. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 32579 (Sub-No. E13), filed May 22, 1974. Applicant: GILBERT CARR LINES, INC., P.O. Box 11086, Birmingham, Ala. 35202. 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, from Alabama on and east of a line beginning at the Alabama-Georgia State line and extending along U.S. Highway 82 to junction U.S. Highway 92 and points south of Interstate Highway 10 and except traffic from Dothan, Ala., restricted to traffic moving to points in Georgia. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Commodities described in (11) below (except pipe, pipeline material, machinery, equipment, and supplies incidental to and used 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 products and by-products, and machinery, materials, equipment, 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}

No. MC 32579 (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 Dallas, Texas, 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, May 15, 1974. Applicant: GLENN McLENDON 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. 30301. 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; (2) from Athens, Ga., to points in Florida on and west of Florida Highway 65 and on and south of Florida Highway 84; (3) 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 Florida-Georgia 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 85 to the Georgia-South Carolina State line to points in South Carolina. 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 discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, and 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 construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and
vania-New York State line, thence along U.S. Highway 18 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 the part of that part of Louisiana north and west of a line beginning at the Mississippi-Tennessee State line and extending 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. E64), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La. 71101. Applicant's representative: Joe Day (same as above).

The purpose of this correction is to expand the destination areas and to correct the gateway.


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 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.


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 Mississippi-Tennessee State line and extending along U.S. Highway 167 to the Mississippi-Alabama State line, and the site of the pipeline terminal of the Oklahoma-Mississippi River Products Line, Inc., at or near West Memphis, Ark.


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 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.


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 Mississippi-Tennessee State line and extending along U.S. Highway 167 to the Mississippi-Alabama State line, and the site of the pipeline terminal of the Oklahoma-Mississippi River Products Line, Inc., at or near West Memphis, Ark.
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 79.

The purpose of this filing is to eliminate the gateway of the site of the pipeline terminal of the Arkansas-Mississippi River Products Line, Inc., at or near New Orleans, La.

No. MC 102557 (Sub-No. E70), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La., 71101. 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), in bulk, in tank vehicles, from those points in Texas north of U.S. Highway 79, to those points in Arkansas north of U.S. Highway 79, thence along U.S. Highway 79 to the Louisiana-Arkansas State line, 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 79. The purpose of this filing is to eliminate the gateway of the site of the pipeline terminal of the Arkansas-Mississippi River Products Line, Inc., at or near New Orleans, La.
No. MC 102567 (Sub-No. E120), filed June 3, 1974. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La., 71101. 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, 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 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 78, thence along U.S. Highway 78 to points in U.S., which are west of a line beginning at the Mississippi-Alabama State line and extending along U.S. Highway 9 to junction Alabama Highway 17, thence along Alabama Highway 17 to junction Alabama Highway 10, thence along Alabama Highway 10 to junction Alabama Highway 9, thence along Alabama Highway 90 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. E121), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La., 71101. 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 the Mississippi-Alabama State line and extending along U.S. Highway 9 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 78, thence along U.S. Highway 78 to points in U.S., which are west of a line beginning at the Mississippi-Alabama State line and extending along U.S. Highway 9 to junction Alabama Highway 17, thence along Alabama Highway 17 to junction Alabama Highway 10, thence along Alabama Highway 10 to junction Alabama Highway 9, thence along Alabama Highway 90 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. E132), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La., 71101. 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 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 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 78, thence along U.S. Highway 78 to points in U.S., which are west of a line beginning at the Mississippi-Alabama State line and extending along U.S. Highway 9 to junction Alabama Highway 17, thence along Alabama Highway 17 to junction Alabama Highway 10, thence along Alabama Highway 10 to junction Alabama Highway 9, thence along Alabama Highway 90 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. E133), filed June 3, 1974. Applicant: MC NAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, La., 71101. 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 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 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 78, thence along U.S. Highway 78 to points in U.S., which are west of a line beginning at the Mississippi-Alabama State line and extending along U.S. Highway 9 to junction Alabama Highway 17, thence along Alabama Highway 17 to junction Alabama Highway 10, thence along Alabama Highway 10 to junction Alabama Highway 9, thence along Alabama Highway 90 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.
NOTICES

20777

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

NOTICES

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 179, thence along U.S. Highway 179 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 6, thence along Louisiana Highway 6 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 junction U.S. Highway 69, thence along U.S. Highway 69 to Houston, Tex., to those points in Oklahoma west of a line beginning at Call, Okla., and extending along Oklahoma Highway 19 to junction U.S. Highway 78, thence along U.S. Highway 78 to junction U.S. Highway 59, thence along U.S. Highway 59 to Houston, Tex., to those points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., which are east of a line beginning at Callon, Ark., and extending along Arkansas Highway 15 to junction U.S. Highway 62, thence along U.S. Highway 62 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那些 points in Oklahoma north of U.S. Highway 58/64. The purpose of this filing is to eliminate the gateway of Cotton Valley, La., and points within 10 miles of Cotton Valley.

No. MC 102657 (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 Callon, Ark., and extending along Arkansas Highway 15 to junction Louisiana Alternate Highway 2, thence along Louisiana Alternate Highway 2 to junction U.S. Highway 179, thence along U.S. Highway 179 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 6, thence along Louisiana Highway 6 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 junction U.S. Highway 69, thence along U.S. Highway 69 to Houston, Tex., to those points in Oklahoma west of a line beginning at Call, Okla., and extending along Oklahoma Highway 19 to junction U.S. Highway 78, thence along U.S. Highway 78 to junction U.S. Highway 59, thence along U.S. Highway 59 to Houston, Tex., to 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 62, thence along U.S. Highway 62 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 58/64. The purpose of this filing is to eliminate the gateway of Cotton Valley, La., and points within 10 miles of Cotton Valley.

No. MC 102657 (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: (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 driveway 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 107455 (Sub-No. E6), 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 driveway service), and related machinery, tools, parts and supplies moving in connection therewith, (a) between 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, on the one hand, and, on the other, all points in Humboldt, Eureka, Elko, and Humboldt Counties, on the one hand, and, on the other, all points in Nevada and Arizona. The purpose of this filing is to eliminate the gateway of Salt Lake City, Utah.

No. MC 107455 (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 driveway service), and related machinery, tools, parts and supplies moving in connection therewith, (a) between 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, on the one hand, and, on the other, all points in Humboldt, Eureka, Elko, and Humboldt Counties, on the one hand, and, on the other, all points in Nevada and Arizona. The purpose of this filing is to eliminate the gateway of Salt Lake City, Utah.
the transportation of which because of size or weight requires the use of special equipment; (2) self-propelled vehicles, each weighing 15,000 pounds or more (except motor vehicles and vehicles moving in driveway service), and related machinery, tools, parts, and supplies, on the one hand, and, on the other, all points in California, on the one hand, and, on the other, all points in Montana (except between points in Montana north of the southern boundary line of Sioux, Yukon, Butte, Colusa, and Mendocino Counties, Calif., on the one hand, and, on the other, points in Lewis and Clark, Flat Road, Cascade, Glacier, Toole, Fonda, 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: Len 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 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, restricted to movement under a single bill of lading and from a single consignor; 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 California, on the one hand, and, on the other, all points in Montana (except between points in Montana north of the southern boundary line of Sioux, Yukon, Butte, Colusa, and Mendocino Counties, Calif., on the one hand, and, on the other, points in Lewis and Clark, Flat Road, Cascade, Glacier, Toole, Fonda, 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. E19), filed May 31, 1974. Applicant: HARRY L. YOUNG & SONS, INC., 542 West Sixth South, Salt Lake City, Utah 84104. Applicant's representative: Len 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 (b) machinery, parts, and contractors' materials and supplies, in mixed loads with the commodities in (1)(a) above, restricted to movement under a single bill of lading and from a single consignor; (2) self-propelled vehicles weighing 15,000 pounds or more (except motor vehicles as defined in Section 263(a)(15) of the Interstate Commerce Act, and vehicles moving in driveway 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 California, on the one hand, and, on the other, all points in Montana (except between points in Montana north of the southern boundary line of Sioux, Yukon, Butte, Colusa, and Mendocino Counties, Calif., on the one hand, and, on the other, points in Lewis and Clark, Flat Road, Cascade, Glacier, Toole, Fonda, Teton, Liberty, Chouteau and Hill Counties, Mont.). The purpose of this filing is to eliminate the gateway of Salt Lake City, Utah.

No. MC 107536 (Sub-No. E5541), 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, 3775 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 point of origin at Nashville, Tenn., to points in Arizona, Oregon, California, Washington, Idaho, Utah, Wyoming, Colorado, Nevada, and New Mexico, restricted against the transportation of frozen meats from Nashville, Tenn., to Broughton Foods Company at Charleston, W. Va., 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 against the transportation of traffic originating at the same point, site of Broughton Foods Company at Charleston, W. Va. The purpose of this filing is to eliminate the gateway of Woodbury, Tenn.

No. MC 109473 (Sub-No. E2), (Correction), filed May 15, 1974, published in the Federal Register, Vol. 40, No. 108, p. 24078, Applicant: WORSTER MOTOR LINES, INC., Gay Road, P.O. Box 110, North
NOTICES

East, Pa. 16423. 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., southward along Canadian National Railway to intersection with New York Highway 56, thence along New York Highway 56 to intersection with New York Highway 5, thence along New York Highway 5 to intersection with New York Highway 15, thence along New York Highway 15 to intersection with New York Highway 17, thence along New York Highway 17 to intersection unnumbered highway at Cadotia, 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 (1) that part of Genesee and Monroe Counties, N.Y., that is within 5 miles of the Shore of Lake Erie, and (2) North East, Pa.

No. MC 109478 (Sub-No. ES3), filed May 15, 1974. Applicant: WORSTER MOTOR LINES, INC., Gay Road, 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: Grape juice, 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. ES5), 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) Fruit juice concentrates, in bulk, in tank vehicles, from all points in 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., and North East, Pa.

No. MC 109478 (Sub-No. EO9), (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, 22 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 Buffalo and company, N.Y., 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 Buffalo and New York, N.Y., 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 5 miles of the shore of Lake Erie, and (2) North East, Pa. The purpose of this correction is to change the commodity, territorial and gateway descriptions.

No. MC 109478 (Sub-No. EO27), 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 St., 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, Erie and Wayne Counties), to Lake Wals, Fla. The purpose of this filing is to eliminate the gateway of Westfield, N.Y., and North East, Pa.

No. MC 109478 (Sub-No. EO28), 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 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 New York 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 Front Royal, Va. The purpose of this filing is to eliminate the gateway of Fredonia, N.Y.

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
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, Miss., thence along Interstate Highway 59 to junction Interstate Highway 75 to 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, 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: Lignite, 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 New Mexico 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 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 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 gateway of Verona, Mo., for all other points.

No. MC 113908 (Sub-No. E182), 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: Lignite, 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 New Mexico 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 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 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 gateway of Verona, Mo., for Arkansas points and Springfield, Mo., for all other points.

No. MC 113908 (Sub-No. E239), 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 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.

The purpose of this filing is to eliminate the gateway of Kansas City, Mo.

No. MC 113908 (Sub-No. E233), 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 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. E294), 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 Bailey, Delding 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 71, thence along U.S. Highway 71 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 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 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 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 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 Memphis, Tenn., or Rogers, Ark.

The purpose of this filing is to eliminate the gateway of Kansas City, Mo.

No. MC 113908 (Sub-No. E333), 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 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.

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 Marionville, Mo.
NOTICES

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

the gateway of Memphis, Tenn., or Nixa, Mo.

No. MC 113608 (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, 611 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 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 Chillicothe, Ill., and Belding, Mich.

No. MC 113608 (Sub-No. E428), filed December 5, 1974. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180—Glenstone Station, Springfield, Mo. 65804. Applicant's representative: E. Jandera, 611 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 Chillicothe, Ill., and Belding, Mich.

No. MC 113522 (Sub-No. E193) (Correction), filed January 27, 1975, published in the Federal Register, April 30, 1975. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10477, Taft, Fla. 33901. 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: Concentrate, from Westfield, N.Y., to Coralia, 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. E150), filed June 4, 1974. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Hesley, 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 117344 (Sub-No. E54), filed May 25, 1974. Applicant: THE MAXWELL CO., 10360 Evendale 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 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 gateways of Chattanooga and Nashville, Tenn.

No. MC 119777 (Sub-No. E57), filed April 23, 1974. Applicant: LIGON SPEARMAN, 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, wiredown 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 Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming; (6) from points in Maine, to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; (7) from points in Massachusetts, to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; (8) from points in Maryland, to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; (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, Washington, and Wyoming; (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, Oregon, Utah, and Washington; (15) from points in Pennsylvania to points in Arizona, California, 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, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; (20) from points in Virginia to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; and (21) from points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington. The purpose of this filing is to eliminate the gateways of Muskellunge County, and Logan County, Ky., and Kankakee, Ill.

No. MC 120663 (Sub-No. E2), filed May 27, 1974. Applicant: TRANSPORT VAN LINES, INC., 2105 Wall Avenue, Ogden, Utah 84401. Applicant's representative: Bradford E. Kilster, P.O. Box 82038, 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 and east of Barber, Pratt, Stafford, Barton, Russell,
Lincoln, Mitchell, and Jewell Counties. 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). The purpose of this filing is to eliminate the gateway of the Flex-Flo Terminal of Penn Central Transportation Company, at North Bergen, N.J.

No. MC 127640 (Sub-No. E2) 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. Applicant seeks authority to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Petroleum products, in bulk, in tank vehicles, from Monroe, La. to DeRidder, La., and Waskom, Tex.; (7) Liquid fertilizer solutions, in bulk, in tank vehicles, from Monroe, La., to points in Texas (except those points in Texas bounded on the south by Interstate Highway 20 and the west by U.S. Highway 59); (5) Petroleum products, in bulk, in tank vehicles, from Del Rio, Tex., to Del Rio, Tex.; (6) Petroleum products, in bulk, in tank vehicles, from Oil City, Pa., to Warren, Pa., and Chalfont, Pa.; (2) 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 U.S. Highway 167 to the Louisiana-Arkansas State line (Waskom, Tex.). The purpose of this filing is to eliminate the gateway of FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975

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: (1) 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 locating on the New Jersey Turnpike, and in bulk, in tank vehicles, from Shreveport and Bossier City, La., to points in Texas (Waskom, Tex.); (6) Petroleum products, 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 59); (5) Petroleum products, in bulk, in tank vehicles, from Monroe, La., to points in Texas west of a line beginning at the Texas-Arkansas 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 (6) 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 U.S. Highway 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 71).}

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: (1) 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 locating on the New Jersey Turnpike, and in bulk, in tank vehicles, from Shreveport and Bossier City, La., to points in Texas (Waskom, Tex.); (6) Petroleum products, 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 59); (5) Petroleum products, in bulk, in tank vehicles, from Monroe, La., to points in Texas west of a line beginning at the Texas-Arkansas 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 (6) 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 U.S. Highway 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 71).

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: (1) 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 locating on the New Jersey Turnpike, and in bulk, in tank vehicles, from Shreveport and Bossier City, La., to points in Texas (Waskom, Tex.); (6) Petroleum products, 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 59); (5) Petroleum products, in bulk, in tank vehicles, from Monroe, La., to points in Texas west of a line beginning at the Texas-Arkansas 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 (6) 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 U.S. Highway 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 71).
No. MC 127840 (Sub-No. E40) (correction), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 South Chicago Ave., Lansing, Ill. 60620. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Animal fats, animal oils, and vegetable oils, in bulk, in tank or carrier, by motor vehicle, over irregular routes, transporting: Animal fats, animal oils, and vegetable oils (except liquid chemicals), in bulk, in tank vehicles, from points in and north of Woodbury, Ida, Sae, Calhoun, Webster, Hamilton, Hardin, Grundy, Black Hawk, Buchanan, Delaware, and Dubuque Counties, Iowa, to points in Indiana, Ohio, and Kentucky; and (5) from points in and west of the United States (except Virginia and Vermont, New Hampshire; Maine, Massachusetts, Rhode Island, Connecticut, New Hampshire, Maine, and that part of New York State comprised by the New York, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, New Hampshire, Maine, and that part of New York State comprised by the 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, and thence along the Illinois-Indiana State line to junction U.S. Highway 36, thence along U.S. Highways 36 and 37 to 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 and south 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 19 to junction Interstate Highway 25, thence along Interstate Highway 23 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 38, thence along U.S. Highway 36 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of Chicago, III. The purpose of this correction is to correct the origin points.

No. MC 127840 (Sub-No. E40), filed June 4, 1974. Applicant: MONTGOMERY TANK LINES, INC., 17730 South Chicago Ave., Lansing, Ill. 60620. 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 designated on the map provided 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 designated on the map, and (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 85, 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 DuPage Counties, Ill., and points in Michigan, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, New Hampshire, Maine, and that part of New York State comprised by the 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, and thence along the Illinois-Indiana State line to junction U.S. Highway 36, thence along U.S. Highways 36 and 37 to 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 and south 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 19 to junction Interstate Highway 25, thence along Interstate Highway 23 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 38, thence along U.S. Highway 36 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of Chicago, III. The purpose of this correction is to correct the origin points.

No. MC 128383 (Sub-No. E70), filed June 4, 1974. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19070. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities, except Classes A and B explosives, except as otherwise specifically provided, from point to point, and to 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, Atlante, 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 2722 between the Delaware River and Mullica Hill, N.J., New Jersey Highway 77 between Mullica Hill and Cohansey Creek, and New Jersey Highway 559 between Cohansey Creek and the Mullica River. The purpose of this filing is to eliminate the gateway of John F. Kennedy International Airport, New York, N.Y.
California Highways 33 and 46 over California Highway 46 to junction California Highway 99, thence over California Highway 99 to junction California Highway 108, thence over U.S. Highway 52 to Gilroy, Calif., thence over U.S. Highway 101 to Salinas, Calif., and return over the same route.

No. MC 112713 (Delegation No. 39), YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Ave., Shawnee Mission, Kansas 66209, filed March 6, 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 passengers and the same property, over a pertinent service route as follows: From Savannah, Ga., over U.S. Highway 47 to Houston, Tex., and return over the same route.

No. MC 2292 (Delegation No. 141), ROADWAY EXPRESS, INC., P.O. Box 471, 1712 Governor 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 69, thence over U.S. Highway 60 to Springfield, Mo., and over the same routes indicated above 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 general commodities, over pertinent service routes as follows: (a) From Memphis, Tenn., over U.S. Highway 70 to Nashville, Tenn., thence over Interstate U.S. Highway 41 to Indiana, Ind., thence over U.S. Highway 41 to Vin cennes, Ind., thence over U.S. Highway 50 to St. Louis, Mo., thence over U.S. Highway 47 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 (Delegation No. 696) (Cancels Delegation No. 630), GREGHOUND LINES, INC., Greghound Tower, Phoenix, Ariz., filed March 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, as follows: (a) From Savannah, Ga., over Interstate Highway 15 to junction Interstate Highway 40, 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 25 to junction U.S. Highway 17 to Richmond Hills, Ga., (b) From junction Interstate Highways 95 and Georgia Highway 38 over Georgia Highway 33 to junction U.S. Highway 17, (c) From junction Interstate Highway 95 and U.S. Highway 17 to South Newport, Ga., (d) From junction Interstate Highways 95 and Georgia Highway 261 over Georgia Highway 471 to junction U.S. Highway 17, and (e) From junction Interstate Highways 95 and Georgia Highway 99 over Georgia Highway 69 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 47 to Houston, Tex., and return over the same route.

By the Commission.

[Signature]
Joseph M. Harrington, Acting Secretary.

[FR Doc.75-1444 Filed 6-5-75; 8:45 am]

NOTICE

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS


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 applications filed under sections 5(2) and 212(b); (4) notices of filing of sections 5(2) and 210(a)(b) finance applications; and (5) notices of filing of sections 213(b) 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 include the following: (1) a statement of the reasons for protest; (2) the authority sought in the protest (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 affected points in Alaska on the other; that petitioner seeks authority to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The pur-

By the Commission.

J. M. Harrington, Acting Secretary.

[FR Doc.75-1444 Filed 6-5-75; 8:45 am]

NOTICE

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS


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 applications filed under sections 5(2) and 212(b); (4) notices of filing of sections 5(2) and 210(a)(b) finance applications; and (5) notices of filing of sections 213(b) 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 include the following: (1) a statement of the reasons for protest; (2) the authority sought in the protest (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 affected points in Alaska on the other; that petitioner seeks authority to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The pur-
NOTICES

TRUCK LINES, INC., 5773 South Prince Street, Littleton, Colo. 80120, Applicant's representative: Alvin J. Melkejohn, Jr., Suite 1600, Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) Between Ogden, Utah and Maryhill, Wash., serving Biggs, Oreg., for jointer purposes only, and serving the terminal for jointer 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 route; (2) Between Biggs, Oreg., and Portland, Oreg., for jointer purposes only: From Biggs, Oreg., over Interstate Highway 80N to Portland, Oreg., and return over the same route; (3) Between Ogden, Utah and Portland, Oreg., for jointer purposes only: From Ogden, Utah over Interstate Highway 82 and Interstate Highway 90, serving no intermediate points, and serving the terminal for jointer 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 route; (4) Between Ogden, Utah over Prosser, Wash., serving the junction of Interstate Highway 15W and Interstate Highway 80N for jointer purposes only, and serving the terminal for jointer 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) to Plymouth, Wash., thence over Washington Highway 14 to Pasco, Wash., and return over the same routes; (5) Between Prosser, Wash. and Umatilla, Oreg., serving no intermediate points, and serving the terminal for jointer purposes only: From Umatilla, Oreg., over Interstate Highway 80N to its junction with U.S. Highway 730, thence over U.S. Highway 730 to junction U.S. Highway 395 to Spokane, Wash., and return over the same routes, restricted (1) for the purposes of jointer only: From Spokane, Wash. and Umatilla, Oreg., over Interstate Highway 80N to its junction with U.S. Highway 395 to Spokane, Wash., and return over the same routes, restricted (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—P—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. Melkejohn, 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 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 to its junction with U.S. Highway 395, thence over U.S. Highway 395 to Pasco, Wash., and return over the same routes; (2) Between Pasco, Wash., and Umatilla, Oreg., serving no intermediate points, and serving the terminal for jointer purposes only: From Pasco, Wash., and Umatilla, Oreg., over Interstate Highway 80N to its junction with U.S. Highway 730, thence over U.S. Highway 730 to junction U.S. Highway 395 to Spokane, Wash., and return over the same routes, restricted (1) for the purposes of jointer only: From Spokane, Wash. and Umatilla, Oreg., over Interstate Highway 80N to its junction with U.S. Highway 395 to Spokane, Wash., and return over the same routes, restricted (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—P—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: PACIFIC, LTD., 5773 South Prince Street, Littleton, Colo. 80120. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank, Idaho Falls, Idaho. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: (1) (a) Agricultural machinery and implements and (b) parts, attachments and accessories for farm machinery, (2) (a) Timber (raw or treated), (b) Motorcar or automobile parts, (c) Machinery and equipment, (d) Parts and supplies used in the manufacture and distribution of the commodities described in (1) above (except commodities in bulk), from points
NOTICES

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 in the United States, 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.

No. MC-F-12445. (Supplement) (BRANCH INDUSTRIES, INC.—CONTRACT—WHITE TRUCK LINE, INC.)*, published in the March 5, 1975, issue of the Federal Register. By an amendment filed May 4, 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-15252. Authority sought for purchase by ROBERT N. TOOMEY, doing business as ROBERT N. TOOMEY TRUCKING CO., 1516 South George St., Harrisburg, PA 17104, of a portion of the operating rights and properties of (B) SYSTEM REEFER SERVICE, INC., 3701 E. Union Ave., Corpus Christi, TX 78410. Applicants’ attorney: Charles E. Creager, 1329 Pennsylvania Ave., P.O. Rm. 1411, Hagerstown, MD 21740. Operating rights sought to be transferred: Chains, cotter pins, hoisting equipment, trolleys, screws, washers and abrassive 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 210(a)(b).

No. MC-F-12593. 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., 1150 Mahoning Ave., N. Jackson, OH 44451, and (BB) MISSISSIPPI-EAST, INC., P.O. Box 769, Clairton, PA 15025, and for acquisition by WILLIAM P. WOLFF, JR., both of Youngstown, OH 44501, of control of such rights and properties through the purchase. Applicants’ attorney: John P. McMahon, 160 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 Perry, Ohio, on the one hand, and, on the other, points in Ohio, and as a common carrier in Illinois and storage facilities 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., to Detroit, Mich.; fertilizers, 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 60; flat rolled steel sheets and strip steel (flat or on coils), from Weirton, W. Va., to Somerset, Pa.; and, on the other, points in 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, transportation, use, distribution of natural gas and petroleum and their products and by-products, coal stripping machinery, and construction machinery, as a common carrier, in interstate commerce, within the State of Pennsylvania, with restriction.

Application has been filed for temporary authority under section 210(b).

No. MC-F-12534. Authority sought for purchase by TAKIN BROS. FREIGHT LINE, INC., 3125 Commercial St., Waterloo, IA 50704, of the operating rights and properties of MOODY TRUCK LINE, INC., 809 Prospect Blvd., Waterloo, IA 50704, and for acquisition by ALLEN E. KROBLIN, LOYAL H. FRISCH, AND ALMA BOGGIA, all of 210 Renaissance Village Blvd., Water­ loo, IA 50704, and Joseph E. Hall, 809 Prospect Blvd., Waterloo, IA 50704, of control of such rights and property through the purchase. Applicants’ representatives: Allen E. Kroblin, 1310 Hargrave, Waterloo, IA 50701, and William S. Kaye (Assignee for Benefit of Creditors), 180 W. 59th St., New York, NY 10019. Operating rights 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 210(a)(b).

No. MC-F-12535. Authority sought for purchase by MECCA & SON TRUCKING CO., P.O. Box 200, Farmingdale, NY 11735, 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, 2514 Mayfair Dr., Lan­ don, OH 43237, and (BB) MISSISSIPPI-EAST, INC., P.O. Box 486, Phoenixville, PA 19460, of control of such rights through the purchase. Applicants’ attorney and representative: A. David Miller, 744 Broad St., Newark, NJ 07102, and William S. Kaye (Assignee for Benefit of Creditors), 180 W. 59th St., New York, NY 10019, and Joseph E. Hall, 809 Prospect Blvd., Waterloo, IA 50704. 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, New Jersey, and the District of Columbia. Application has been filed for temporary authority under section 210(a)(b).
NOTICE OF FILING

1. The name and address of applicant is:

2. Applicant seeks authorization by the Interstate Commerce Commission under section 5(2) of the Interstate Commerce Act for its operation over the territory 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 rail movements only. The charge for such service is expected to be $27,450 yearly, plus cost of maintenance and operation on a car count basis or wheeeling.

3. The operations sought to be performed will be the bridge movement of applicant's trains over the lines of The Interstate Dress Carriers, Inc., at 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 1100.240), 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 over 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.

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] JOSPEH M. HARRINGTON, Acting Secretary.
<table>
<thead>
<tr>
<th>Temporary authority application</th>
<th>Final action or certificate or permit</th>
<th>Date of action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Port of New York Express, Co., Inc., MC-129910 Sub-5</td>
<td>MC-130190 Sub-2</td>
<td>Nov. 6, 1974</td>
</tr>
<tr>
<td>Earth Transportation, Inc., MC-134778 Sub-14</td>
<td>MC-134778 Sub-3</td>
<td>Sept. 26, 1974</td>
</tr>
<tr>
<td>Overseas Express, Inc., MC-132630 Sub-34</td>
<td>MC-132630 Sub-34</td>
<td>Nov. 7, 1974</td>
</tr>
<tr>
<td>Mainliner Motor Express, Inc., MC-133124 Sub-14</td>
<td>MC-133124 Sub-14</td>
<td>Nov. 7, 1974</td>
</tr>
<tr>
<td>All-Star Transportation, Inc., MC-136812 Sub-5</td>
<td>MC-136812 Sub-5</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>Livestock Service, Inc., MC-136945 Sub-4</td>
<td>MC-136945 Sub-4</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>Edward F. Howell, Inc., MC-137078 Sub-3</td>
<td>MC-137078 Sub-3</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>Sooner Express, Inc., MC-137177 Sub-5</td>
<td>MC-137177 Sub-5</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>Jannettas Auto Transport Co., MC-137477 Sub-3</td>
<td>MC-137477 Sub-3</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>Direct Service, Inc., MC-137678 Sub-3</td>
<td>MC-137678 Sub-3</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>Allied Delivery and Installation, Inc., MC-137474 Sub-4</td>
<td>MC-137474 Sub-4</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>Lay Wagner &amp; Son Trucking Co., Inc., MC-136476 Sub-4</td>
<td>MC-136476 Sub-4</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>Mark Interstate Carriers Co., Inc., MC-136820 Sub-2</td>
<td>MC-136820 Sub-2</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>D.b.a. Werner Enterprises, MC-136268 Sub-3</td>
<td>MC-136268 Sub-3</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>D.b.a. Wisconsin Previous Express, MC-136053 Sub-4</td>
<td>MC-136053 Sub-4</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>Walt Keith Trucking, Inc., MC-138577 Sub-3</td>
<td>MC-138577 Sub-3</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>Dorsey L. Hancock, MC-138613</td>
<td>MC-138613 Sub-1</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>Sea-Jet Tracking Corp., MC-138715</td>
<td>MC-138715 Sub-1</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>D J. Vokes Trucking, Inc., MC-138761</td>
<td>MC-138761 Sub-1</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>D.b.a. Uralsvold Truck Line, MC-138843 Sub-1</td>
<td>MC-138843 Sub-1</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>Fred E. Farris, MC-138976 Sub-1</td>
<td>MC-138976</td>
<td>Nov. 4, 1974</td>
</tr>
<tr>
<td>Montgomery G. Dukes, MC-139020 Sub-1</td>
<td>MC-139020 Sub-1</td>
<td>Nov. 4, 1974</td>
</tr>
<tr>
<td>Metre Sales Corp., MC-139108 Sub-1</td>
<td>MC-139108</td>
<td>Nov. 4, 1974</td>
</tr>
<tr>
<td>Lester Gray, MC-139108</td>
<td>MC-139108 Sub-1</td>
<td>Nov. 4, 1974</td>
</tr>
<tr>
<td>Eichard's Transport, Ltd., MC-139134 Sub-1</td>
<td>MC-139134 Sub-1</td>
<td>Nov. 4, 1974</td>
</tr>
<tr>
<td>Rhodes Trucking Corp., MC-139164</td>
<td>MC-139164 Sub-1</td>
<td>Nov. 4, 1974</td>
</tr>
<tr>
<td>Frank W. Madden Co., MC-139170 Sub-2</td>
<td>MC-139170 Sub-2</td>
<td>Nov. 4, 1974</td>
</tr>
<tr>
<td>Malen Transfer &amp; Storage Co., Inc., MC-139171</td>
<td>MC-139171 Sub-1</td>
<td>Nov. 4, 1974</td>
</tr>
<tr>
<td>Bruce's Transport Service, Inc., MC-139234</td>
<td>MC-139234 Sub-1</td>
<td>Nov. 4, 1974</td>
</tr>
</tbody>
</table>

[SEAL]

JOSEPH M. HARRINGTON,
Acting Secretary.

[FR Doc.75-14016 Filed 6-3-75; 8:45 am]
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
PART 86—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

1

On June 30, 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. sections 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 790A and 790B of the Public Health Service Act which, in effect, proscribes discrimination on the basis of sex in admissions to certain health training programs (42 U.S.C. sections 295h-3 and 295b-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 7,900 written comments, suggestions or objections and, after consideration of all relevant matters 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 1, 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, discrimination in educational programs and activities 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. The exemptions are from the date of enactment of title IX (i.e. June 24, 1979). The exemptions for the admissions practices of certain educational institutions are set forth in § 801(a) of title IX and 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. 93-380, 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 concerning treatment of students and employment (Subparts D and E) are applicable to all educational institutions receiving Federal financial assistance, including those which 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, curricular and extracurricular 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 matter 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 Breedien v. Independent School District 742, 477 F. 2d 1292 (8th Cir. 1973).

11

Title IX requires in 20 U.S.C. 1683, 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). The particular 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 noncompliance may only be found 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, 1079-79 (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.
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."

Paragraph 86.2(a)—The definition of "title IX" as used in the regulation is amended by adding "except §§ 994 and 908 thereof."

Paragraph 86.2(j)—The definition of "local education agency" is amended to include the following parenthetical abbreviation: "L.E.A."

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 discovered that any of its students or employees are being subjected to sex discrimination in any education program or activity, such recipient shall take such remedial action as the Director deems necessary to overcome the effects of such discrimination.

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 policies and practices which do 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 maintaining 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).

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 order to avoid the effects of conditions which have resulted or may result from the existence of sex 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.

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.

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 with resort to Federal authority by members of either sex which would be prohibited by this Part.

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 of professional or professional organizations holding collective bargaining or professional agreements" before the words "with the recipient."

Analysis

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 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 its failure to conduct, or its conduct of, a grievance procedure or of establishing a grievance procedure or of establishing 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.

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(a) 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.

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.

Section 86.4 requires each recipient of Federal financial assistance to submit to the Director an assurance that each of its programs and activities receiving or benefiting from Federal 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

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 be considered as a religious educational institution under § 86.12(a) 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.
Sections 86.14 through 86.18 are re-designated 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 a regulation requires a recipient or its controlling organization to 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

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. The amendment which is found at § 3 of Pub. L. 93-568, exempts from the requirements of title IX of the education amendments of 1974, educational institutions prior to June 24, 1973, which is one year from the date of enactment of title IX.

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 post-secondary, 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.

The statute covers admissions in only certain institutions: vocational, professional, graduate, and public undergraduate institutions of the Lliter 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, the new regulations, 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 practices which, though educational in nature, have traditionally and continually single-sex. If the preference results in discrimination on the basis of sex, admissions might be read as including professional degrees wherever they are offered, the statute can also be read as affirmative action pursuant to § 86.3(a), and may choose to undertake such efforts as affirmative action pursuant to § 86.3(b).

Neither of the two changes in Subpart C is substantive. The amendment to subparagraph 86.21(b)(2) clarifies a principle which provided 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 to the regulations dealing with employees. Apart from these changes, the substance of Subpart C remains unchanged and generally pre-scribes (subject to the appropriate administrative process) regulations relating to: non-discrimination in recruitment and admission of students to education programs and activities. In addition to a general prohibition of discrimination in education, § 86.21(a) contains the requirement that a recipient or its controlling organization must not discriminate on the basis of sex. 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 a roughly equivalent number 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.
applying 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 § 88.34 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;
(f) Allowing recipients to offer a chorus or choruses composed of members of one sex or predominantly composed of members of one sex which are based on vocal range or quality.

44 Paragraph 86.34(b) is redesignated as § 89.35 and is redesignated "Access to schools operated by L.E.A.S."

45 Paragraph 86.34(c) is redesignated as § 89.36 and is redesignated as follows:

§ 89.36 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 appraisal or counseling students shall not use different materials for students on the basis of their sex or use different materials for students who require different treatment of students on such basis unless such different materials cover the same occupations, and areas of interest 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.

46 Paragraph 86.35(a) is redesignated as § 88.37 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 who 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 the administration of sex-restrictive scholarships, fellowships or other forms of financial assistance established under a domestic or foreign will, trust, fund, 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 to participate 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 86.39 is redesignated as § 88.39 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 to non-pregnant 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(c), "Affirmative efforts." 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.)

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 in which they must comply with this section as quickly as possible but in no event allowing non-compliance 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.

A new § 86.42 is added concerning curriculum.

52

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 persons 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 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, but not the recipient, would administer 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 would be made 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 recipient will be used only for informal 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 Fulbright Stipend) 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 administrators, 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 and post-secondary levels to comply 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. The requirements for off-campus housing 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. 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 addition of "appropriate" in this section about the elementary 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 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 differences between the physical capacities of the sexes. 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 in 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 in 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, excludes virtually all teaching which is taught 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 commenters expressed 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 male and female students are essential. Another group suggested that women would be discriminated against by losing in competition and receiving lower grades. Finally, some were concerned to a particular 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 the 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 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, based on 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 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 financial 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 requires 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 determined, 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, all such funds would be required to remain available out of 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 eligible to receive aid 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 highest 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 list has been matched with funds, there are still funds left, it may be necessary to award less financial aid to students eligible for financial aid on the basis of criteria other than sex. Once those students eligible for financial aid have been determined, 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, all such funds

66 Section 86.33 requires, as did its predecessor section, that students for enrollment outside employment available to students, and that employment of students by a recipient 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 insurance is included in the financial aid package, the insurance be provided 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 determined, 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, all such funds would be required to remain available out of other sources or, to award less assistance from the sex-restrictive sources.

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 educational 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 non-pregnant students.
Section 66.41, the athletics section of the Education Amendments of 1972, has been expanded 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 were covered under the statute. 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(e) of the proposed regulation.

Paragraph 66.41(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 related to 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.

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 interscholastic athletic units be exempted from coverage under this regulation. Other comments were submitted against this proposal.

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 of title IX by the Javits Amendment of 1974 was introduced by Senator John Tower on the floor of the Senate specifically to exempt from title IX revenue from revenue-producing interscholastic 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 which would include “reasonable provisions” covering interscholastic athletics.

In response to the comments, while paragraph 66.41(a) remains substantively unchanged, 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 a result of misunderstanding 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) requires institutions to cooperate with each other in providing athletic opportunities 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 each 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(b) as it has been changed, 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 only for women and a man 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 spot on a 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)(1), recipients are required to provide “opportunities in athletic competition which effectively accommodate the interests and abilities of members of both sexes.” This provision, of course, applies whether or not the recipient has previously been limited 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 or not the recipient provides equal opportunity.

In addition, § 844 of the Education Amendments of 1972 (Pub. L. 93-380) compels the Department to “prepare 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 or activities in light of the case law under title VI and the Fourteenth Amendment, and the Congressional mandate to cover intercollegiate athletes in § 86.3(B)(1)(vi) 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.
As provided in the proposed regulation, the Department will not consider, as a 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.

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.

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 promote 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 prescription in title IX against sex discrimination should be interpreted as requiring prohibiting or limiting the use of any and all textbooks. Nonstatutory 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.

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 presidents, 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.
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 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 basis of sex. Furthermore, it is questionable whether the male job applicants into part-time positions are provided 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 basis of sex.

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).

Paragraphs 86.57(b), (c) and (d) have been slightly modified from the earlier verison to make it clear that a recipient shall not discriminate on the basis of sex in the recruitment of pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom and that such conditions and any temporary disabilities resulting therefrom must be treated the same as any other temporary disability for all job-related purposes.

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 men or from female employees who are teachers. 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 employee is 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 for pregnancy. 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 temporary disability in cases where advance knowledge of the absence makes such notice possiible.

Finally, § 86.51 permits consideration of sex in making employment decisions but 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

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.

Paragraph 86.43(a) as it appeared in the proposed regulation required recipients who recruit for employment of 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 a greater incentive to recruit male teachers than it will have to use to recruit female teachers. Likewise, where a recipient is presently discriminating on the basis of sex, or has
PART 86—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES

Sec.
86.1 Purpose and effective date.
86.2 Definitions.
86.3 Remedial and affirmative action and self-evaluation.
86.4 Assurance or 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 Admission.
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
86.31 Education programs and activities.
86.32 Housing.
86.33 Comparable facilities.
86.34 Admission and recruitment plans.
86.35 Access to education programs and activities.
86.36 Counseling and use of appraisal and counseling services.
86.37 Dissemination of policy.
86.38 Employment assistance to students.
86.39 Financial assistance to students.
86.40 Marital or parental status.
86.41 Athletics.
86.42 Textbooks and curricular materials.
86.43-86.50 [Reserved].

Subpart E—Discrimination 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 Employment for local law or local requirements.
86.59 Advertising.
86.60 Employment inquires.
86.61 Sex as bona-fide occupational qualification.
86.62-86.70 [Reserved].
86.71 Interim procedures.

Subpart F—Procedures
86.72 Procedures.

§86.1 Purpose and effective date.

The purpose of this part is to effectuate the requirements contained in Title IX of the Education Amendments of 1972, as amended by Pub. L. 93-568, 88 Stat. 1855, except §§904 and 906 of that 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 intended to effectuate section 844 of the Education Amendments of 1974, Pub. L. 93-380, 88 Stat. 546. The effective date of this part shall be July 21, 1975.

Subpart A—Introduction
86.2 Definitions.


(b) "Department" means the Department of Health, Education, and Welfare.

(c) "Secretary" means the Secretary of Health, Education, and Welfare.

Approved:

Gerald R. Ford, President.

Dated: May 27, 1975.

Secretary.

Dated: May 27, 1975.
(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 or conducts, 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 certificate of any higher degree in the liberal arts and sciences; 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 accrediting agency or body which certifies credentials or offers degrees, but which may or may not offer academic study.

(n) "Institution of vocational education" means a school or institution (except an institution of professional education or an institution of graduate 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 full-time 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 §86.19 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.

§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 any 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 other applicable law.

(c) Self-evaluation. Each recipient education institution shall, within one year of the effective date of this part:
(1) Evaluate, in terms of the requirement 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:
(2) Modify any of these policies and practices which do not or may not meet the requirements of this part; and
(3) 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 in subparagraph (c) of this section, and shall provide to the Director upon request, a description of any modifications made pursuant to subparagraph (c)(i) and any of remedial action taken pursuant to subparagraph (c)(ii).

§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.

§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 imposed to eliminate discrimination 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.

(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
A recipient shall adopt and publish notification of all its students and employees of educational programs or activities which it operates, and that is required by title IX and this part. - .

§ 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.

§ 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 continue 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. Each 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.

§ 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, 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 education program 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 a manner, as the Recipient shall deems necessary to apprise such persons of the protections against discrimination assuured them by title IX and this part, but shall not at least that the requirement not to discriminate in education programs and activities extends to employment therein, and to admission thereof 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 notice 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: (1) Local newspapers; (2) newspapers and magazines operated by such recipient or by student, alumni, or alumni groups for or in connection with such recipient; (3) Any publications of the type described in paragraph (a) of this section, or which is otherwise used in connection with the recruitment of students or employees.

(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 that treatment is permitted by this part.

(c) Distribution. Each recipient shall distribute without discrimination on the basis of sex each publication described in paragraph (a) 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.

§ 86.10 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 operation of which 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 a written statement to the Director. - .

§ 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.

(see 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 Boy Scouts, and the 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.

(see Secs. 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682; Sec. 3(a) of P.L. 93-608, 88 Stat. 1692, 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 (e) and (f) 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 enrollment 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 a public institution of undergraduate higher education which traditionally and continually from its establishment has had a policy of admitting only students of one sex.

(see 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, 1975.

(See, 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1683)

§ 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 to each administratively separate unit any obstacles to the educational institution or administratively separate unit admits students of both sexes, as regular students and, if so, when it began to do so.

(b) Content of plans. In order to be approved by the United States Commissioner of Education, a transition plan shall:

(i) 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.

(ii) Specify 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.

(c) 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.

(d) 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.

(e) Allow for the estimation of the number of students, by sex, expected to apply for, be admitted to, and enter each class to which § 86.16 applies.

(f) Prohibit recruitment 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.

(g) 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.

(See, 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;

(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 the effect of discriminating 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:

(i) Shall not apply any rule concerning the actual or potential parental, family, or marital status of a student or applicant which treats persons differentially on the basis of sex;

(ii) 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:

(See, 901, 902, Education Amendments of 1972, 86 Stat. 373, 374; 20 U.S.C. 1681, 1682)

§ 86.22 Preference in admission.

(a) Nondiscriminatory recruitment. A recipient to which this subpart applies shall not make pre-admission inquiries to the marital or family, or marital status of a student or applicant which treats persons differentially 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 § 86.24 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 action has the effect of discriminating on the basis of sex in violation of this subpart.

(See, 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, 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.

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 impose different fees or requirements, or offer different services or benefits related to housing, except as provided in this subpart (including housing provided only to married students);

(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 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, 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 shall own, administer, or otherwise assist 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.

(1) Programs not operated by recipient. (1) This paragraph applies to any recipient which requires participation by 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 require 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 consistent with the provision of such housing 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 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 in the administration of such housing, 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 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.

(3) A recipient 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; 20 U.S.C. 1681, 1682)

§ 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; 20 U.S.C. 1681, 1682)

§ 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 or applicants for admission.

(1) Such recipient;

(i) Shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other educational program or activity 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)

§ 86.35 Access to schools operated by I.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;

(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 procedures governing admissions, courses, services, and facilities comparable to each course, service, and facility offered in or through such schools.

(Secs. 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 the separation 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 in 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 type, or employ 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 through endowment, gift, will, trust, bequest, or similar legal instruments or by acts of a foreign government which requires that awards be made to members of a particular sex specified by sex. 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 provided in accordance with 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.

§ 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 without discrimination on the basis of sex and marital status which treats students differently from persons of the other sex, and employment is made available without discrimination on the basis of sex; and

(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.

§ 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.

§ 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) Marital or parental status.

§ 86.41 Athletics.

(a) General. No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be treated differently from another person or otherwise be discriminated against with respect to any intercollegiate, interscholastic, interparty, or intramural sports and athletic activities offered by the recipient, and no recipient shall place any such athletic activities on any basis except on the basis of sex.

(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, the recipient shall not operate or sponsor any interscholastic, interparty, or intramural athletics offered by the recipient, and no recipient shall place any such athletic activities on any basis except on the basis of sex.

(c) Athletic scholarships. (1) To the extent that in providing 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 programs. Provided, that the separate athletic program is comparable to the overall effect of the award of such sex-restricted athletic scholarships, fellowships, and other forms of financial assistance designated for a member of that student’s sex.

(d) Pregnancy and related conditions. (1) A recipient shall not discriminate against any student, or exclude any student from its educational program or activity, including any class or extra-curricular 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 participate 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 educational program or activity separately for pregnant students, admission to which is completely voluntary on the part of the student, shall 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 as the 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 before the leave of absence.
wrestling, rugby, ice hockey, football, basketball and other sports the purpose of which is to produce major activity of which involves bodily contact.

(c) Equal opportunity. A recipient that sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunities for members of both sexes. In determining whether equal opportunities are available the Director will consider, among other factors,

(i) The selection of sports and levels of competition effectively accommodates 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 allowances;

(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 services;

(ix) Provision of housing and dining facilities and services;

(x) Publicity.

Unequal aggregate expenditures for members of one sex or unequal expenditures for teams for one sex in assessing which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunities for members of both sexes.

Subpart E—Discrimination on the Basis of Sex

§ 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 discriminate, for example: (a) Classify applicants or employees in any way which could adversely affect any applicant's or employee's employment opportunities or status; or

(b) Invoke any practice or policy which has the effect of discriminating on the basis 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 on the basis of sex.

(b) Application. The provisions of this subpart apply to:

(1) Recruitment, advertising, and the process of application for employment;

(2) Interviews, consideration for and award of tenure, deprecation, transfer, layoff, termination, participation in nepotism policies, right of return from layoff, and rehiring;

(3) Establishment of any 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 for personal, child, birth, 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, conferences, professional meetings, and related activities, selection for tuition assistance, attendance at, and leave of absence for purposes of training;

(9) Employment opportunities, including social or recreational programs; and

(10) Any other term, condition, or privilege of employment.

FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
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 differentially upon the basis of the employee's sex;

(2) 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 states.

(a) General. A recipient shall not apply any policy or take any employment action

(1) Concerning 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 resulting from any other temporary disability for the 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 obliterated or alleviated by the existence of a 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.


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 such action, that such 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 Acts of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 45 CFR §§ 30—5—80—11 and 45 CFR Part 81.

Subject Index to Title IX Pream ande and Regulation*

A

Access to Course Offerings [43, 55, 66, 67, 68]; 86.34

Access to Schools Operated by LEA's [44]; 86.35

Admissions [5, 6, 30]; 86.15, 86.21

Affirmative and remedial action [16, 17, 24]; 86.3(a) (b)

Administratively separate units [30]; 86.15(b) 86.2(a)

Administrative, [30]; 86.31(c)

Public institutions of undergraduate higher education [86.15(c)]

Recruitment [34, 35]; 86.2

Specific prohibitions [86.21(b)]

Tests [31]; 86.21(b)(2)

Preference in admission [35]; 86.22

Advertising [86.25]

Affirmative Action, see "Remedial and Affirmative Actions"

Assistance to "outside" discriminatory organizations [40, 53]; 86.31(b)(7), (c)

Assurances [18]; 86.4

Duration of obligation 86.4(b)

Form, 86.4(c)

Athletics [69 to 78]; 86.41

Adjustment period [78]; 86.41(d)

Comparability benefits [76, 77]; 86.41(d)

Equal opportunity [76, 77]; 86.41(d)

Determining factors 86.41(e) (i) to (x)

Equipment [86.41(c)]

Expenditures 86.41(c)

Facilities 86.41(c)

Travel, 86.41(e)

Scholarships [95, 96]; 86.41(d)

General, [70, 71, 72, 73, 74, 75]; 86.41(e) (Separate teams, [75]; 86.41(b)

B

BPOQ [96]; 86.51

C

Comparable facilities

Housing [42, 54]; 86.32

Other, 86.31, 86.35(b)

Compensation, [84, 87, 92]; 86.54

Counseling

Disproportionate classes [45, 59]; 86.36(e)

General, [45, 59]; 86.36(a)

Materials, [45, 59]; 86.36(b)

Course Offerings

Adjustment period [50]; 86.34(a) (1)

General, [7, 42]; 86.34

Music classes, [43]; 86.34(f)

Other educational materials, [58]; 86.34(e)

Equipment, [43, 57]; 86.34(e)

Coverage, [5]; 86.31 to 86.17

Exemptions

Curriculum materials [30]; 86.42(a)

D

Definitions [14, 15]; 86.2 (a) to (t)

Designation of responsible employee, [20, 22]; 86.8(b), (d)

* Preamble paragraph numbers are in brackets [ ]
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

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 develop, as set forth in this proposed Part, 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 78A and 87 of the Public Health Service Act (42 U.S.C. 295h-9 and 296h-2); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); section 407 of the Alcohol and Drug Abuse and Treatment Act of 1970 (42 U.S.C. 179); and section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4867).

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 program area. In the intervening years, the Department's responsibilities 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 title VI as 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 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 the 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 although 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 effectiveness, the proposed enforcement procedures will, it is hoped, be helpful to the many grantees of Federal financial assistance administered by the Department in eliminating confusion, overlap and inconsistency in their programs and assure that the different procedures for effectuating the civil rights requirements of each Federal program in question. A review of the various statutes referred to above may make no substantial reason for differing enforcement procedures and, to the extent that individual programmatic aspects of particular statutes require particularized treatment, these procedures 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 40 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 procedures as well as to establish the HEW jurisdiction as E.O. 11246, and thus, a single institution may be simultaneously responsible for compliance with both authorities. To

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 for 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 issues covered by the 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. The 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 all areas of non-compliance are not ignored merely because few, if any, complaints have been received. This problem is, perhaps, particularly acute for the many areas of the nation's origin discrimination which makes the potential rights 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 increase in the workload of the Office for Civil Rights in such areas as school desegregation and employment discrimination. Since publication of the current Part 81, there have increased greatly in number of simple and complex complaints as well as the increasing complexity of the subject matter of the complaints. 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 in any federally assisted program or activity on the basis of sex. The Office for Civil Rights has jurisdiction over the enforcement of this provision, which includes private schools and other institutions which receive Federal financial assistance. The Office for Civil Rights is responsible for enforcing the civil rights provisions of Title IX of the Education Amendments of 1972, which prohibit, inter alia, sex discrimination in any aspect of any education program or activity that receives Federal financial assistance. The Office for Civil Rights is also responsible for enforcing the civil rights provisions of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal financial assistance. The Office for Civil Rights is responsible for enforcing the civil rights provisions of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal financial assistance.

Title IX of the Education Amendments of 1972 generally prohibits discrimination in any federally assisted program or activity on the basis of sex. The Office for Civil Rights has jurisdiction over the enforcement of this provision, which includes private schools and other institutions which receive Federal financial assistance. The Office for Civil Rights is responsible for enforcing the civil rights provisions of Title IX of the Education Amendments of 1972, which prohibit, inter alia, sex discrimination in any aspect of any education program or activity that receives Federal financial assistance. The Office for Civil Rights is also responsible for enforcing the civil rights provisions of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal financial assistance. The Office for Civil Rights is responsible for enforcing the civil rights provisions of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal financial assistance.

Title IX of the Education Amendments of 1972 generally prohibits discrimination in any federally assisted program or activity on the basis of sex. The Office for Civil Rights has jurisdiction over the enforcement of this provision, which includes private schools and other institutions which receive Federal financial assistance. The Office for Civil Rights is responsible for enforcing the civil rights provisions of Title IX of the Education Amendments of 1972, which prohibit, inter alia, sex discrimination in any aspect of any education program or activity that receives Federal financial assistance. The Office for Civil Rights is also responsible for enforcing the civil rights provisions of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal financial assistance. The Office for Civil Rights is responsible for enforcing the civil rights provisions of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal financial assistance.
assistance in connection with educational programs and activities. Its coverage, therefore, includes approximately 16,000 public school districts, and 2,879 institutions of higher education. Section 79A 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 listed accordingly.

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 363 higher education campuses as well as to some 3,500 construction contracts 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 programs and activities with the 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:

<table>
<thead>
<tr>
<th>Executive Order</th>
<th>Title IX</th>
<th>Public Health Service Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaints received</td>
<td>492</td>
<td>197</td>
</tr>
<tr>
<td>Complaints resolved</td>
<td>28</td>
<td>27</td>
</tr>
<tr>
<td>Title VI</td>
<td>Total</td>
<td></td>
</tr>
<tr>
<td>----------------</td>
<td>-------</td>
<td></td>
</tr>
<tr>
<td>118</td>
<td>444</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>6</td>
<td></td>
</tr>
</tbody>
</table>

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 (D.D.C. 1972), 356 F. Supp. 92 (D.D.C. 1973), affirmed with modification, 489 F.2d 1150 (D.C. Cir. 1973), with respect to over 200 school districts and 16 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 the original District Court order. The present fiscal year is estimated at approximately 1,800 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 that this Court has ruled in this case that HEW has a duty to commence prompt enforcement action upon any 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. If 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 border states, since the number of possible violations is overwhelming.

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 this 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 procedures 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 890, 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 has 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 determination. In addition, the proposed enforcement procedures, most complaints of this type have been so referred since March 1973. In addition, since enactment of Title IX, when individual complaints of sex 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 Department feels that it must preclude 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, while the Department will continue these efforts, none of them is expected to overcome the inherent 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 developed. 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 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 relating to the matters of fact or law asserted as the basis for that action. The

PROPOSED RULES

which individual complaints of employment discrimination under the Executive Order would be referred by this Department to the EEOC for judicial determination. In addition, the proposed enforcement procedures, most complaints of this type have been so referred since March 1973. In addition, since enactment of Title IX, when individual complaints of sex 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 Department feels that it must preclude 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, while the Department will continue these efforts, none of them is expected to overcome the inherent 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 developed. 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 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 relating to the matters of fact or law asserted as the basis for that action. The

PROPOSED RULES

which individual complaints of employment discrimination under the Executive Order would be referred by this Department to the EEOC for judicial determination. In addition, the proposed enforcement procedures, most complaints of this type have been so referred since March 1973. In addition, since enactment of Title IX, when individual complaints of sex 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 Department feels that it must preclude 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, while the Department will continue these efforts, none of them is expected to overcome the inherent 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 developed. 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 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 relating to the matters of fact or law asserted as the basis for that action. The

PROPOSED RULES

which individual complaints of employment discrimination under the Executive Order would be referred by this Department to the EEOC for judicial determination. In addition, the proposed enforcement procedures, most complaints of this type have been so referred since March 1973. In addition, since enactment of Title IX, when individual complaints of sex 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 Department feels that it must preclude 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, while the Department will continue these efforts, none of them is expected to overcome the inherent 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 developed. 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 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 relating to the matters of fact or law asserted as the basis for that action. The
remains of §81.14 closely follows cur­
rent 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 ap­
lications for new Federal financial as­
sistance pending the outcome of
administrative procedures. The Depart­
ment will continue assistance during the pend­
ency of such proceedings where such as­
sistance 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 pro­
visions appearing in 45 CFR Parts 80 and
81. It includes, among other things, pro­
visions concerning decisions by adminis­
trative law judges, decisions on except­
ions, the Reviewing Authority, review
and decision in certain cases by the Sec­
retary, content of orders, and final agen­
cy 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 termina­
tion 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 con­
ditions of the order of termination issued
against it.

Section 81.18 provides for judicial re­
view of final decisions of the Depart­
ment 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, contains two sections, the
substantive body 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 in­
vestigation, proceeding or hearing un­
der these proposed procedures or has
provided information to the Department
concerning any matter under in­
vestigation, proceeding, or hearing. The sec­
ond, at §81.21, provides that the Depart­
ment 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 regu­
lations 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 ad­
ministrative proceedings. They are not
summarized here since the Secretary be­
thieves that their content is self-expla­
natory.

Conclusion

In summary, the Secretary firmly be­
thieves that the proliferating responsibili­
ties of the Office for Civil Rights and the
concomitant rights of recipients, and benefi­
ciaries of Federal financial assistance neces­
itate a uniform and rational pro­
cedure for civil rights enforcement. He be­
thieves further that the proposed proce­
dures will expedite the Office due 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 allo­
cate its resources in a considered and ef­
ficient manner. Finally, he believes that
the proposed procedures fulfill the need for
an orderly and compliance-oriented pro­
gression from a preliminary deter­
mination of noncompliance to a resolu­
tion of the problem or institution of en­
f orcement proceedings, either through
the administrative or the judicial route.

Persons or organizations wishing to
submit comments, suggestions, or objec­
tions pertaining to this regulation may
present their views in writing to the Di­
rector, Office for Civil Rights, Depart­
ment of Health, Education, and Welfare,
200 Independence Avenue, S.W., Washin­
gton, D.C. 20201. The comment period will
close on July 21, 1975. Comments received in response to
this notice will be available for public in­
spection in Room 3311, 330 Independence
Avenue, S.W., Washington, D.C. 20204.

Dated: May 27, 1975.

CASPAR W. WEINBERGER,
Secretary, Department of Health,
Education, and Welfare.

PART 81—CONSOLIDATED PROCEDURAL
RULES FOR ADMINISTRATION AND EN­
FORCEMENT OF CERTAIN CIVIL RIGHTS
LAWS AND AUTHORITIES

Subpart A—General

Sec. 81.1 Purpose.
81.2 Definitions.

Subpart B—Compliance Inquiries
81.3 Compliance information.
81.4 Submission of information.
81.5 Treatment of compliance information.
81.6 Determination of compliance.
81.7 Compliance review.
81.8 Preliminary finding of noncompliance.
81.9 Remedial action order under this part.
81.10 Compliance and noncompliance.
81.11 Voluntary compliance.

Subpart C—Enforcement Actions
81.12 Procedure for enforcing compliance.
81.13 Remedial action order under this part.
81.14 Hearings.

Sec. 81.15 Deferral of consideration of applica­
tions or requests for new Federal financial assistance pending comple­
tion of an administrative pro­
cedure.
81.16 Decisions and notices.
81.17 Post-termination proceedings.
81.18 Judicial review.
81.19 Other means authorized by law.

Subpart D—Miscellaneous Provisions
81.20 Intimidatory or retaliatory acts pro­
hibited.
81.21 Identity of persons submitting informa­
tion.

Subpart E—Rules of Practice for Conducting
 Hearings Under Subpart C of this Part
81.30 Records to be public.
81.31 Use of record number.
81.32 Suspension of rules.
81.33 Parties.
81.34 Appearance.
81.35 Authority for representation.
81.36 Exclusion from hearing for miscon­
duct.
81.37 Form of documents to be filed.
81.38 Signature of documents.
81.39 Filing and service.
81.40 Service of documents.
81.41 Date of service.
81.42 Certificate of service.
81.43 Service by publication.
81.44 Extension of time or postponement.
81.45 Reduction of time to file documents.
81.46 Notice of hearing or opportunity for
hearing.
81.47 Answer to notice.
81.48 Amendment of notice or answer.
81.49 Request for hearing.
81.50 Consolidation.
81.51 Motions.
81.52 Responses to motions and petitions.
81.53 Service to motions and petitions.
81.54 Who presides.
81.55 Designation of administrative law
judges presiding.
81.56 Authority of presiding officer.
81.57 Statement of position and trial briefs.
81.58 Evidence.
81.59 Testimony.
81.60 Exhibits.
81.61 Affidavits.
81.62 Depositions.
81.63 Admission as to facts and documents.
81.64 Objections.
81.65 Cross-examination.
81.66 Unpublished written material.
81.67 Objections.
81.68 Exception to rulings of presiding of­
 ficer unnecessary.
81.69 Official notice.
81.70 Public document items.
81.71 Offer of proof.
81.72 Appeals from ruling of presiding
officer.
81.73 Official transcript.
81.74 Record for decision.
81.75 Posthearing briefs; proposed findings
and conclusions.
81.76 Service on amicus curiae.
81.77 Conduct.
81.78 Imprisonment, conduct.
81.79 Ex parte communications.
81.80 Expeditions.
81.81 Matters not prohibited.
81.82 Filing of ex parte communications.

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.), the Comprehensive Alcohol
and Drug Abuse Office and Treatment Act of
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.

§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 hold a hearing 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, repair of a building or a facility or any portion thereof;
(2) Funds made available for scholarships, loans, grants, or wages, or other funds made available 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 which is sold or donated to a person, institution, or other organization for consideration reduced for the purpose of assisting the person, institution or other organization or in recognition of public interest 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 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.
(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 the Department as a condition to becoming a recipient. Unless otherwise stated, rights and obligations accrued to or imposed on recipients pursuant to this part will be deemed accrued 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 to the extent that contracts of insurance or guaranty are exempt from coverage under title VI of the Civil Rights Act of 1964 or title IX of the Education Amendments of 1972 or other nondiscrimination statute, including:
(1) Files and records of employees;
(2) Minutes of meetings and other communications of governing bodies of the recipient; and
(3) Inform the recipient about whom information will be requested.

§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 on-site 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) Identification 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;
(3) Inform the recipient about whom information as to possible noncompliance...
PROPOSED RULES

§ 81.7 Compliance reviews.

(a) Conduct of reviews. The Director will periodically review the practices and policies of recipients to determine if 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, such data as 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 review of 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, and within 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 upon evidence 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 in view 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 which this part applies, or their implementing regulations; 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 for any other applicant or recipient. 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 by the 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 unless:

(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, reasonable written notice to which this part applies, and their implementing regulations; and

(3) Thirty days have expired after the Director has notified the appropriate office or the Secretary of the determination and finding of such noncompliance.

(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 recipient at whose program or activity the violation under any law of the United States, or its provisions or provisions under which such noncompliance has been so found, occurred, or is anticipated.

(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 suspending or terminating or refusing to award or continue Federal financial assistance pursuant to this part if:

(1) The assistance is administered in a discriminatory manner;

(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 other provisions of this part, a 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 as 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 require a Director or other person authorized by law to act as the basis for this action.

(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.

(e) Waiver of hearing. An applicant or recipient may waive a hearing and, instead, submit written information and argument for the record. The failure of

FEDERAL REGISTER, VOL. 40, NO. 109—WEDNESDAY, JUNE 4, 1975

has been submitted and the appropriate State agency, if any, of the general nature of that information.
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. The Department 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 action. 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 schedules 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;
(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 apply to 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.

(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 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 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) Extensions. Within 30 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 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 time and place of oral argument, 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 at least 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.

§ 81.17 Failure to obtain a hearing. Whenever a hearing is waived pursuant to § 81.14(e) 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.

§ 81.18 Application 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 under the statutes or regulations of the Department which is being altered. A copy of such decision will be provided to the applicant or recipient and to any amicus curiae.

§ 81.19 Review in certain cases by the Secretary. Within 30 days after issuance of the final decision of 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 to the final decision of the Reviewing Authority or to request review under § 81.19 shall not be deemed a failure to exhaust administrative remedies for the purpose of obtaining judicial review.

§ 81.20 Final agency action for purposes of judicial review.

(1) A decision under 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;

(2) A decision by the Reviewing Authority pursuant to this section will become final on the 21st day following its issuance unless review by the Secretary is requested prior to such day under this section.

(3) 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 (b) 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, termination, 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 to which this part applies, 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 entered under § 81.16(e) 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 if it corrects its noncompliance and the effects of such 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(e) 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 entitled 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 party in interest of any proceeding under this section shall not lift or stay the sanctions imposed by the order issued under § 81.16(f) 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 considered in 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 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 other agencies with such information as may be necessary for 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 recipient being present. No recipient shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the statutes to which this part applies or by this part, or because he or she has testified, opposed, or assisted 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.

§ 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 applicable to more than one 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 receiver 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 matters of fact or elucidating factual matters at issue between the parties and which will not expand the issues.
PROPOSED RULES

§ 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 be represented by any officer of its office who is authorized to act in such capacity. 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 contumacious 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, and accompanied by two copies. The original of every document filed shall be legible and shall not be more than 8% by 11 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 and agrees 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 but the name of the person signing the original shall be reproduced. Documents shall be legible and shall not be more than 8% by 11 inches wide and 12 inches long. All documents filed should be accompanied by two copies.

§ 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 (excluding Saturdays 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 first-class mail, properly addressed with postage prepaid. When a party or amicus has appeared by attorney or other representative, 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 shall be 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 accompanied by 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, legal holiday, or personal delivery.

§ 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. As a matter of course not later than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation.

§ 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 all parties 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 the service of the 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 state a hearing date, the party entitled to such hearing, 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, and with such other departments or agencies and pursuant to § 81.14(h). All parties to any proceeding consolidated subsequently to the commencement 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 officer may require, that 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 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 thereto. Motions and petitions served on the presiding officer, if the case is pending before him. A repetitious motion will not be entertained.

§ 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 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.

§ 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) Require parties and amici curiae to state their position with respect to the various issues in the proceeding.

(b) Administer oaths and affirmations.

(c) Rule on motions, and other procedural items on matters pending before him.

(f) Regulate the course of the hearing and conduct of counsel therein.

§ 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 opinions relevant 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 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 § 81.57. 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 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 convenience of the party; 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 and exhibits to be received as 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 because the affidavit contains other 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 affidavit 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 any affidavit. 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 order or direct the deposition 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 shall 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 regarding 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 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 that the record or in all being 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 any such 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 questions to the entire record 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, and all documents 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 applicable under 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 filed 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 for 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, 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. The Reviewing Authority, the presiding officer, or any employee or person involved in the decisional process of a proceeding shall 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.

§ 81.31 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.

§ 81.32 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.

[FR Doc. 75-14552 Filed 6-3-75; 8:45 am]
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—CACOA PRODUCTS AND CONFECTIONERY

Good Manufacturing Practice

In a notice published in the Federal Register of November 26, 1973 (38 FR 32954), 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 and confectionery that would be subject to the regulation and specified the types of practices that were to be followed. The proposed regulation also identified the types of practices that were to be followed. The proposed regulation also identified the types of practices that were to be followed.

The Commissioner concluded that the proposed regulation was necessary to protect the public health and safety. The proposed regulation was intended to provide industry with guidance on the good manufacturing practices that are necessary to ensure the safety and wholesomeness of cacao products and confectionery. The proposed regulation also addressed issues such as the handling, storage, and distribution of cacao products and confectionery.

The proposed regulation was to be effective on December 1, 1975, the date of publication in the Federal Register. It was to be revised as necessary in the future to incorporate any changes in the law or in the interpretation of the law.

The proposed regulation was to be published in the Federal Register on November 26, 1973, and was to remain in effect for a period of 90 days, after which time it was to be revised as necessary. The proposed regulation was to be revised as necessary in the future to incorporate any changes in the law or in the interpretation of the law.

The proposed regulation was to be published in the Federal Register on November 26, 1973, and was to remain in effect for a period of 90 days, after which time it was to be revised as necessary. The proposed regulation was to be revised as necessary in the future to incorporate any changes in the law or in the interpretation of the law.

The proposed regulation was to be published in the Federal Register on November 26, 1973, and was to remain in effect for a period of 90 days, after which time it was to be revised as necessary. The proposed regulation was to be revised as necessary in the future to incorporate any changes in the law or in the interpretation of the law.

The proposed regulation was to be published in the Federal Register on November 26, 1973, and was to remain in effect for a period of 90 days, after which time it was to be revised as necessary. The proposed regulation was to be revised as necessary in the future to incorporate any changes in the law or in the interpretation of the law.

The proposed regulation was to be published in the Federal Register on November 26, 1973, and was to remain in effect for a period of 90 days, after which time it was to be revised as necessary. The proposed regulation was to be revised as necessary in the future to incorporate any changes in the law or in the interpretation of the law.

The proposed regulation was to be published in the Federal Register on November 26, 1973, and was to remain in effect for a period of 90 days, after which time it was to be revised as necessary. The proposed regulation was to be revised as necessary in the future to incorporate any changes in the law or in the interpretation of the law.

The proposed regulation was to be published in the Federal Register on November 26, 1973, and was to remain in effect for a period of 90 days, after which time it was to be revised as necessary. The proposed regulation was to be revised as necessary in the future to incorporate any changes in the law or in the interpretation of the law.
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 the presence of Salmonella 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 products, and those 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 if the safety of these products and the wholesomeness of these products is to be maintained. 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 to be confused with 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 conurs in the recommend.ation because he does not regard the raw cacao bean as a food. He considers cacao beans to be raw materials, and materials which may be used for longer periods.

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 no new actions confirmed by notices of judgment involving manufacturers and dealers of confectionery and a delinquent cacao bean or any other cacao product. The violations were 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 healthful practices.

The Commissioner recognizes from the comments that there is some confusion regarding the terms "critical control points" as used in the definition for "confectionery." He emphasizes that there is basically no distinction between them. Critical control points identify processes, practices, or conditions that present a potential for causing 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 to be confused with aesthetic or nonsafety factors as implied by some of the comments but also relates to safety.

Confectionary

12. Two comments suggested narrowing the definition for "confectionary" under § 128c.1(b). One suggested changing "* * * candy and other food products similar to candy and other food products" to "* * * candy and other food products similar to candy or other 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 the phrase "* * * candy and other food products similar to candy and other food products" should be excluded as they are generally regarded as confectionery. He has clarified the scope of the definition in the final order and also by indicating examples of foods which are included or excluded. He recognizes that there 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 from cacao or cocoa-flavored foods" is misleading, untrue 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) and that the statement is not true of many confections, particularly nut products and chocolate.

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).

17. Two comments suggested that the definition of "food" under § 128c.1(c) be restricted to a day's production, in order to provide for lots of materials such as chocolate liquor, liquid sugar, or corn starch 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.14 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 requirements in meeting some of these requirements, and the alternatives are appropriately provided for in an advisory manner.
WASTE

19. 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 term "sectional," as being pejorative. Waste was not the use of the term "filth" in the definition of "waste" as being pejorative and recommended its deletion.

The Commissioner does not consider the use of the term "filth" in the definition of "waste" as an unnecessary pejorative and recommended its deletion.

20. A comment was made to § 128c.3(c)(7) and (d), which introduced the section. Similar revisions were made 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 term "filth" 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 term "sectional," as being pejorative. Waste was not the use of the term "filth" in the definition of "waste" as being pejorative and recommended its deletion.

The Commissioner does not consider the use of the term "filth" in the definition of "waste" as an unnecessary pejorative and recommended its deletion.

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 Food, Drug, and Cosmetic Act.

The Commissioner observes that the absence of a partition or other named method of separating operations constitutes a violation of section 402(a)(4) of the Food, Drug, and Cosmetic Act.

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 specific requirement for separating operations, 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 impossible 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 requirement is to separate the air flow so that effective measures be taken to prevent contamination. Separation is merely given as an example of one method for achieving 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": "(1) All food-contact surfaces shall be designed and constructed in such a manner as to minimize the retention of moisture and dust, the shelter of vermin, and packaging materials."

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.

28. Three comments recommended amending § 128c.4(a), where it refers to "smooth material," to allow for equipment designed for the purpose such as grinding, cracking, etc., and which is, through necessity, not smooth.

The Commissioner agrees that provision should be added to the definition designed for abrasive action such as grinding, cracking, etc., and which is, through necessity, not smooth. Upon reconsideration, he also realizes that there are appropriate food-contact surfaces in addition to those identified for use, and recommends 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.

29. Two comments said that the term "Seams" should be changed to read "Patches" in paragraphs 21 and 22. One comment questioned, with respect to the definition of "waste" in paragraphs 23 and 24, whether or not a violation might occur where "inaccessible spaces" exist.

The Commissioner realizes that there are appropriate food-contact surfaces in addition to those identified for use, and recommends 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. One comment asked if § 128c.4(a)(4) should 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.

31. Three comments suggested changing § 128c.4(a) to allow for the use of plastic ware in processing operations.

The Commissioner recognizes the need to consider access doors and lids, movable seams, and belts, and has changed § 128c.4(a) to allow for their use with proper maintenance.

32. One comment suggested changing the wording in paragraph (b) to emphasize the microbial problems that might occur where "inaccessible spaces" exist. The Commissioner recognizes the need to consider access doors and lids, movable seams, and belts, and has changed § 128c.4(a) to allow for their use with proper maintenance.
RULES AND REGULATIONS

and soil, and to facilitate inspection, servicing, maintenance and cleaning," saying this is more definitive than the proposed requirement. A second comment suggested using 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 problem to require of nonfood-contact surfaces in contrast to the more detailed requirements in § 128c.4(a) for food-contact surfaces. However, the Commissioner recognizes the desirability of installing dust control devices adequately and the desirability of dust control measures for preventing contamination by dust operations. The Commissioner recognizes 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 or enclosed means for preventing contamination by dust operations. The Commissioner recognizes the desirability of installing dust control devices. He believes that § 128c.3 of the order covers the control of dust operations adequately and makes it unnecessary to refer to dust control devices. He has therefore deleted paragraphs (d), (e), and (g) as designated paragraphs (c), (f), and (g), respectively.

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 temperatures regulating, measuring and recording devices on equipment used to pasteurize or otherwise control or prevent undesirable microbial growth in raw materials. Paragraphs (c), (d) and (g) of § 128c.7(a) (1) of the regulation 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 used to control or prevent undesirable microbial growth in food materials to be restrictive and recommended 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 for 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 amendment of 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, recommended changing the provision with respect to freezer and cold storage compartments used for storing or holding materials capable of supporting growth of microorganisms be constructed as to prevent recontamination of the equipment, and the compartment 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 acceded it attention as a new paragraph (f) under § 128c.4. (f)

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 and 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 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 present 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 all 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, in the circumstances described, the facility must be designed to comply 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. It is recommend­ed that compliance can ensure that employees' hands are sanitized and not recontaminated before starting to work without using such equipment. The provisions in this paragraph are not mandatory.

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 § 128c.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(a). They indicated that it is not feasible in every operation to assign the responsibility to supervi­sors.
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 enumeration in the paragraph following. As in § 128c.6, with the phrase “in order to identify the need for these requirements in the preamble to the proposal, the Commissioner points out that the preamble includes a discussion of regulations applying to adulterated cacao products and confectionery, of consumer complaint letters, and of noncompliance of some cacao product and confectionery manufacturers with good manufacturing practices. These examples illustrated that adequate quality control was obviously lacking in the processing of some of these products.

55. 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 contained 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 or those supplied to the manufacturer.

The paragraph also allows the use of alternatives for ensuring the safety and wholesomeness of the product.

54. A comment suggested that § 128c.7 identifies alternative methods for ensuring the safety and wholesomeness of the product.

The Commissioner concurs with the comments and makes an appropriate change in the paragraph.

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 enumeration in the paragraph following. As in § 128c.6, with the phrase “in order to identify the need for these requirements in the preamble to the proposal, the Commissioner points out that the preamble includes a discussion of regulations applying to adulterated cacao products and confectionery, of consumer complaint letters, and of noncompliance of some cacao product and confectionery manufacturers with good manufacturing practices. These examples illustrated that adequate quality control was obviously lacking in the processing of some of these products.

The Commissioner concurs with the comments and makes an appropriate change in the paragraph.

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 enumeration in the paragraph following. As in § 128c.6, with the phrase “in order to identify the need for these requirements in the preamble to the proposal, the Commissioner points out that the preamble includes a discussion of regulations applying to adulterated cacao products and confectionery, of consumer complaint letters, and of noncompliance of some cacao product and confectionery manufacturers with good manufacturing practices. These examples illustrated that adequate quality control was obviously lacking in the processing of some of these products.

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 enumeration in the paragraph following. As in § 128c.6, with the phrase “in order to identify the need for these requirements in the preamble to the proposal, the Commissioner points out that the preamble includes a discussion of regulations applying to adulterated cacao products and confectionery, of consumer complaint letters, and of noncompliance of some cacao product and confectionery manufacturers with good manufacturing practices. These examples illustrated that adequate quality control was obviously lacking in the processing of some of these products.

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 enumeration in the paragraph following. As in § 128c.6, with the phrase “in order to identify the need for these requirements in the preamble to the proposal, the Commissioner points out that the preamble includes a discussion of regulations applying to adulterated cacao products and confectionery, of consumer complaint letters, and of noncompliance of some cacao product and confectionery manufacturers with good manufacturing practices. These examples illustrated that adequate quality control was obviously lacking in the processing of some of these products.

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 enumeration in the paragraph following. As in § 128c.6, with the phrase “in order to identify the need for these requirements in the preamble to the proposal, the Commissioner points out that the preamble includes a discussion of regulations applying to adulterated cacao products and confectionery, of consumer complaint letters, and of noncompliance of some cacao product and confectionery manufacturers with good manufacturing practices. These examples illustrated that adequate quality control was obviously lacking in the processing of some of these products.

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 enumeration in the paragraph following. As in § 128c.6, with the phrase “in order to identify the need for these requirements in the preamble to the proposal, the Commissioner points out that the preamble includes a discussion of regulations applying to adulterated cacao products and confectionery, of consumer complaint letters, and of noncompliance of some cacao product and confectionery manufacturers with good manufacturing practices. These examples illustrated that adequate quality control was obviously lacking in the processing of some of these products.

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 enumeration in the paragraph following. As in § 128c.6, with the phrase “in order to identify the need for these requirements in the preamble to the proposal, the Commissioner points out that the preamble includes a discussion of regulations applying to adulterated cacao products and confectionery, of consumer complaint letters, and of noncompliance of some cacao product and confectionery manufacturers with good manufacturing practices. These examples illustrated that adequate quality control was obviously lacking in the processing of some of these products.
By promulgating GMP's, the Commissioner currently available for protecting the pathogens of pathogenic microorganisms, the Commissioner represents the most feasible approach for raw materials. 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.

The Commissioner has repurposed the statement 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."

The Commissioner has also adopted the recommendation 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.

One comment considered aflatoxins too important to be linked to natural or unavoidable defects and criticized the use of this concept. 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 enforceable as tolerances. These levels are subject to revision as new information and improved methodology pertaining to aflatoxins become available.

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.

One comment stated that there are specific 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 references. 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 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 would result in destruction of a large part of our food supply.

One comment questioned the value of holding raw materials in their original condition as required. The Commissioner further requires that if the containers are flaky or have 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.

One comment said it was necessary to change the term "prevent" in the first sentence of § 128c.7(b) to "defer" 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 raw materials entered foods. The impetus should be toward preventing contamination and any lesser direction would be inappropriate. The same reasoning applies to paragraph (c) in the final order.

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.

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."

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 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.

A comment requested more detail on the filtered air-intake vents on storage tanks for liquid sugars under § 128c.7(b)(3). The Commissioner 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.

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.

Three comments recommended deleting one or more subdivisions of
The indicated time and temperature conditions for wholesomeness is not adversely affected.

Egg products be defrosted in a sanitary environment must merely requires that frozen products be handled properly and stored in a manner that prevents the growth of pathogenic microorganisms or to destroy them in such mixtures. The alternative holding and processing methods which follow the regulations are presented as advisory procedures for achieving the required freedom from these microorganisms.

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 Commission is not incorporating the addition requested because he does not believe it represents a significant change in the requirements of the subparagraph. He points out that the regulation merely requires that frozen egg products be defrosted in a manner that prevents the growth of pathogenic microorganisms.

The indicated time and temperature limitations are presented as advisory procedures.

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 are mandatory but the time necessary to carry out these activities may be carried out as necessary to implement quality control procedures for preventing product contamination (§ 128c.7).

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 regulations. 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 requiring any method in a single method.

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. The 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.

One comment considered the reference to cross-contamination to be unnecessary because of the provision in § 128c.7(d) for testing 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) 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 which are not specifically mentioned elsewhere in the regulation.

Three comments on § 128c.7(c)(7) and (8) asked whether it is necessary 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 made the manufacturer's responsibility to make these 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 order to remove the phrase "where necessary" which appears to have been a source of uncertainty for those who commented.

One comment stated that § 128c.7(c)(7) and (8) should be more specific to include references to raw materials of use, and other details to make these paragraphs definitive of good or bad manufacturing processes.

As indicated above, the Commissioner considers 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.

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. It does not state that the regulation as proposed would permit the use of this procedure or any other that is effective in preventing product contamination.

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 required. 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 requirements and has concluded that the provision for testing is unnecessary and, accordingly, has deleted it from the regulation.

The remaining provisions of the proposed rule relating to the disposal of adulterated material have been redesignated paragraphs (e) and (f), respectively.

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 comment.

One comment stated that the testing requirements of § 128c.7(d) would present manufacturers with a cost burden which, in some instances, may prove prohibitive. 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 being offered for sale. The proposed rule 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.

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 Commissioner points out that the proposed regulation provides for reconditioning of adulterated material as an alternative to disposal only when reconditioning would make it feasible. The material is to be disposed of when it cannot be restored to a condition that makes it suitable for use as human food.

The Commissioner's view that these requirements are consistent with widely accepted good manufacturing practice.

One comment expressed the opinion that in the event or question of com-
tamination a manufacturer should be allowed to rely on a loss of the whole of his inventory rather than having to comply with the requirement of §128c.7(d). 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 its 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 in form. The Commissioner recognizes that 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 Commissioner believes that the record-keeping requirements 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 matter to be addressed within the regulation.

Another comment suggested that the provision for minimizing deterioration of product quality should be reworded to require identification of 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.

One comment expressed concern that the burden of recordkeeping requirements of §128c.8(b) creates problems. The Commissioner notes that paragraph (b) of §128c.8 prescribes minimum time requirements for maintaining records of examinations or of suppliers guarantees or certifications, but not both.

The Commissioner rejects the suggestion that the requirement for records of examinations or 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 is restricted 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 agrees that 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 responds that 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. The Commissioner considers it 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 suspect product 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 to conform to the requirements 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 that 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.


FEDERAL REGISTER, VOL. 40, NO. 108—WEDNESDAY, JUNE 4, 1975
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.

§ 128c.1 Definitions.

For the purposes of this part, the following definitions apply:

(a) "Cacao product and confectionery" 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 128 of this chapter, and chocolate syrup. 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. These foods include but are not limited to frostings, toppings, and candy 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, packaging, marketing, 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 to specific methods and procedures used in the manufacture, processing, packaging, packing, or holding of cacao products and confectionery.

1. The criteria for evaluating manufacturing and processing operations and for determining whether the facilities, processes, equipment, or materials are suitable shall be in accordance with the following definitions:

(a) Equipment and utensils used for manufacturing and processing operations shall be smoothly bonded or maintained as to prevent microbiological contamination in raw materials or finished products and which is maintained at a suitable temperature for hand washing, effective hand cleaning and sanitizing facilities, or storage of food.

(b) Equipment and utensils used for maintaining in place of raw materials, packaging materials, or food-contact surfaces shall be in compliance with section 409 of the act (21 U.S.C. 348) as it pertains to indirect food additives.

(c) Equipment and utensils used for processing or holding raw materials or products used to pasteurize raw materials or products shall be accurate and effective for their designated use.

(d) Temperature recording devices on equipment used to record or control the temperature of temperature recording devices and temperature recording devices on equipment used to detect the presence of temperatures shall be installed so as to prevent the occurrence of microbial growth in raw materials or finished products.

128c.3 Plants and grounds.

Effective measures shall be taken to prevent contamination of product, 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 product and confectionery processing.

(d) Temperature measuring devices, or temperature 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 controlling or temperature measuring device 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.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 of equipment may cause conditions suitable for microbial growth shall be maintained in such a manner as to prevent recontamination of clean, sanitized hands.

(c) Equipment shall be utilized to prevent recontamination of clean, sanitized hands.

(d) Equipment and utensil cleaning and sanitizing.

(e) Each freezer and cold storage compartment used for storing or holding raw materials, or 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 have become soiled or contaminated shall be constructed so as to permit hand washing and sanitizing.

(f) Coolers shall be designed and constructed to prevent recontamination of clean, sanitized hands.

(g) Sanitizing agents shall be utilized to prevent recontamination of clean, sanitized hands.

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. The facilities shall be furnished with means of maintaining at a suitable temperature for hand washing, effective hand cleaning and sanitizing, and general sanitation, as well as for hand washing and sanitizing.

(b) Rework shall be processed, handled, or consumed by a common container code or mark-

(c) "Personnel sanitation facilities" means:

(1) Personnel wash and handwashing facilities for employees who may handle 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 after each absence from post of duty, and when their hands have become soiled or contaminated.

(2) Personnel wash and handwashing facilities shall be in compliance with section 409 of the act (21 U.S.C. 348) as it pertains to indirect food additives.

(d) Effective measures shall be taken to prevent contamination of product, 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:

(e) Equipment and utensil cleaning and sanitizing.

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) Equipment and utensils used for processing or holding low moisture raw materials or products such as chocolate, fats and oils, liquid nutritive sweeteners, and other similar materials which are not conducive to microbial growth shall be maintained in a sanitary condition. When cleaning and sanitizing of such equipment may cause conditions conducive to microbial growth, other appropriate cleaning methods shall be utilized to prevent product contamination.
amining these materials for infestation and contamination.

(b) Storing and holding of raw materials. Raw materials shall be held in containers or prior to its use to prevent raw material contamination. Raw materials and packaging materials shall be stored 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 type of contamination. Storage tanks for liquid sugars shall have filtered air-inake vents.

(4) Liquid mixtures containing egg products or other perishable materials 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 operation 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 operation 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 de-frosted in a sanitary manner and by such methods that their wholesomeness is not adversely affected. This may be accomplished by de-frosting at a temperature of 40°F or below, or by de-frosting 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. 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.

(4) Effective measures shall be taken to prevent cross contamination between raw materials and 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 conveyer shall be protected against contamination from extraneous material.

(5) Equipment, containers, and utensils used to convey, process, hold or store raw materials or products shall be held during processing or storage in such a manner as to prevent raw material or product contamination.

(6) 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, magnet, electronic metal detectors, or by other effective means.

(7) Effective measures shall be taken to remove extraneous material from raw materials before the raw material is placed 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.

(8) Effective measures shall be taken to prevent microbial growth in finished products or to maintain the finished product at a temperature below 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.

(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) Cocoa 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. This may be accomplished by reconditioning, if feasible, and then re-examined 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 on display for 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 adulter-
tion of the products. Such facilities and equipment shall be free of vermin or other objectionable conditions.

§ 128-8 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.


Dated: May 17, 1975.

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

[FR Doc.75-14548 Filed 6-3-75;8:45 am]