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Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 2, Amdt. 2]

PART 102—DISCLOSURE OF INFORMATION AND PRIVACY ACT OF 1974

Regulations Implementing the Privacy Act of 1974

Correction

In FR Doc. 75-26580 appearing at page 46280 of the issue of Monday, October 6, 1975, the headings should read as set forth above.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

Section 213.3316 is amended to show that one position of Special Assistant to the Deputy Assistant Secretary for Education is excepted under Schedule C.

Effective on October 20, 1975, § 213.3316 (r) (8) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(r) *Office of the Assistant Secretary for Education.* * * *

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

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-28093 Filed 10-17-75;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one position of Special Assistant to the Assistant Attorney General (Civil Division) has been reestablished and excepted under Schedule C.

Effective on October 20, 1975, § 213.3310(e)(4) is added as set out below:

§ 213.3310 Department of Justice.

* * * * *

(e) Civil Division. * * *

(4) One Special Assistant to the Assistant Attorney General.

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

CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-28094 Filed 10-17-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74-WE-47-AD; Amdt. 39-2390]

PART 39—AIRWORTHINESS DIRECTIVES

AiResearch Model GTCP30-54, -59, -70 and -92 Auxiliary Power Units (APU's)

Amendment 39-2022 (39 FR 40939), AD 74-24-09, requires a one time inspection of the turbine rotor to air seal clearance indicating proper assembly, an initial and recurring inspection of the turbine rotor hub for presence of thermal fatigue cracks and replacement as necessary. The directive was required because possible improper assembly and/or thermal fatigue of the turbine rotor hub can result in hub separation after which fragments may not be contained within the APU. After issuing Amendment 39-2022, the agency determined that other specific versions of the Model GTCP30 APU are potentially subject to the same condition as the -92 although no failures have been reported in these units. The AD was adopted November 7, 1974, and distributed by airmail letter dated November 8, 1974, to all known United States operators of aircraft incorporating the APU's. The AD was thereafter published in the FEDERAL REGISTER on November 22, 1974.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2022 (39 FR 40939), AD 74-24-09, is amended to read as follows:

AIRESEARCH MANUFACTURING COMPANY OF ARIZONA. Applies to AiResearch Model GTCP30-54, -59, -70 and -92 Auxiliary Power Units (APU's), installed in, but not limited to Hawker Siddeley HS and DH-125, Beech Hawker BH-125, Lockheed Model 1329, AMD-BA Falcon 20, Jet Commander 1121, Fairchild F-27, Goodyear Blimp, NAMC YS-11, BAC Viscount, HFB Noratlas, and Douglas DC-7 (conversion) certificated in all categories.

Compliance required as indicated to detect, correct and prevent turbine wheel hub separation, accomplish the following:

(a) APU serial numbers prior to 29046:

Within the next 25 hours of APU operating time in service after the effective date of Amendment 39-2022 (for Model GTCP30-92 APU's), or 25 hours of operating time in service after the effective date of the Amendment 39-2390 (for Models GTCP30-54, -59, and -70 APU's), unless previously accomplished, inspect the clearance between the turbine wheel and the stationary seal at a minimum of six (6) approximately equally spaced circumferential positions using a tool and procedures described in Paragraph 2.B and C. of AiResearch Service Bulletin GTCP30-49-3649, dated October 17, 1974, or later FAA-approved revisions. The clearance must be a minimum of 0.075 inch at each measured position. If clearance is less than minimum, the condition must be corrected before further operation.

(b) All serial number APU's:

Before exceeding 500 APU operating hours time in service, or, 50 hours of additional APU operating time in service after the effective date of Amendment 39-2022, whichever occurs later (for Model GTCP30-92 APU's only), or, before exceeding 500 APU operating hours time in service, or 50 hours of additional APU operating time in service from the effective date of Amendment 39-2390 (for Models GTCP30-54, and -70 APU's), whichever occurs later, and at intervals not to exceed 500 hours of APU operating time in service thereafter, inspect the turbine wheel hub "saddle area" for presence of fatigue cracks. If cracks are detected, replace turbine wheel with a serviceable part before further operation. AiResearch Service Bulletin GTCP 30-49-3649, dated October 17, 1974, or later FAA-approved revisions, describes an acceptable method of performing this inspection.

(c) Equivalent procedures may be approved by the Chief, Aircraft Engineering Division, FAA Western Region, upon submission of adequate substantiation data.

This amendment becomes effective November 19, 1975.

This amendment is made under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, California on October 9, 1975.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.75-28081 Filed 10-17-75;8:45 am]

[Docket No. 75-NE-27; Amdt. 39-2385]

PART 39—AIRWORTHINESS DIRECTIVES

Avco Lycoming T53 Series Engines

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of the torquemeter boost

pump on Avco Lycoming T53 series engines was published in "40 FR 24364".

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

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

AVCO LYCOMING. Applies to all Avco Lycoming T53 series engines. To prevent secondary failure of the N_2 accessory drive shaft, as a result of binding of the torquemeter boost pump drive shaft, remove torquemeter boost pump, Part Number 1-300-221-01 or Part Number 1-300-221-02, and replace with Part Number 1-300-221-03 or Part Number 1-300-221-04 within 200 hours time in service after the effective date of this AD.

NOTE: Avco Lycoming Service Bulletin Number 0031 pertains to this subject.

This amendment becomes effective October 29, 1975.

This amendment is made under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421, and 1423] and of Section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Burlington, Massachusetts, on October 6, 1975.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.75-28083 Filed 10-17-75;8:45 am]

[Docket No. 72-CE-30-AD; Amdt. 39-2395]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 18 Airplanes

Amendment 39-2222, AD 72-20-5, published in the FEDERAL REGISTER on May 30, 1975 (40 FR 23456), is an Airworthiness Directive (AD) applicable to Beech Model 18 airplanes which amended 39-1526 (37 FR 20231, 20232), and 39-1632 (38 FR 11340, 11341). AD 72-20-5 as amended in part authorizes the continued operation of unmodified aircraft until October 15, 1975, provided certain repetitive X-ray requirements are met.

Subsequent to the issuance of Amendment 39-2222, a supplemental notice of proposed rulemaking (Docket No. 75-CE-12-AD) was published in the FEDERAL REGISTER on September 29, 1975 (40 FR 44570 thru 44575). This rulemaking action, if adopted, will require a more extensive modification than that provided in AD 72-20-5. Pending the finalization of the supplemental notice, the agency believes that safety will not be compromised and that it is in the public interest to permit continued operation of those Beech Model 18 airplanes without the installation of Beech Kits 18-4024 and 791 as presently required in Paragraph D(4) of AD 72-20-5. These aircraft must continue to be X-ray inspected at 500 hour intervals and the X-ray plates submitted to the FAA or the manufacturer for evaluation, as presently required by currently effective ADs. Accordingly, AD 72-20-5 is being so amended.

Since this amendment is relieving in nature and is in the public interest, it imposes no additional burden on any person. Consequently, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2222 (40 FR 23456), AD 72-20-5, is being amended in the following respects:

1. Delete Paragraph D(4).

2. Revise Paragraph H so that it now reads as follows:

H. Those airplanes which have not been modified by installation of wing straps as of the effective date of this amendment may continue to be operated, provided they meet the following requirements:

(1) The X-ray plates required to be transmitted to the FAA by this AD and AD 73-18-4 have been so transmitted.

(2) For airplanes that have accumulated 500 or more hours' time in service since the last X-ray inspection of the wings and for which X-ray plates have been submitted to the FAA or Beech Aircraft Corporation, reinspect in accordance with paragraphs B, C, E and F of AD 75-09-18 before further flight.

(3) For airplanes which have accumulated less than 500 hours' time in service since the last X-ray inspection of the wings and for which X-ray plates have been submitted to the FAA or Beech Aircraft Corporation, prior to the accumulation of 500 hours' time in service and thereafter at 500 hour intervals, reinspect in accordance with Paragraphs B, C, E and F of AD 75-09-18.

This amendment becomes effective October 15, 1975.

This amendment is made under the authority of section 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on October 10, 1975.

C. R. MCLUGIN, Jr.,
Director, Central Region.

[FR Doc.75-28080 Filed 10-17-75;8:45 am]

[Docket No. 75-GL-18); Amdt. 39-2391]

PART 39—AIRWORTHINESS DIRECTIVES

Detroit Diesel Allison Model 501-D13 Series Engines

There has been a recent failure of a second stage turbine wheel in a Detroit Diesel Allison Model 501-D13D engine which resulted in penetration of the engine case and damage to surrounding structure. Investigation has shown that a low cycle fatigue failure can occur in a carbide precipitation network which may exist in the microstructure of the hub spline area of some wheels. Since the condition described herein may exist or develop in other engines of the same type design, an Airworthiness Directive is being issued requiring removal and inspection of all second stage turbine wheels from heat lots in which this condition has been found to exist, and from heat lots of unknown microstructure.

Since immediate action is required in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is not practical and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697 and 14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

Applies to Detroit Diesel Allison Model 501-D13 series engines which incorporate P/N 6829072 and 6847112 second stage turbine wheels with the serial numbers listed below:

Compliance required as indicated:

I. Remove from service in accordance with the schedule in paragraphs I. A, B, C, and D, wheels with the following serial numbers: CA-6108; CA-6112; CA-6114; CA-6056; CA-6083; KK-2052 to and including KK-2053; KK-2055 to and including KK-2085; KK-2092 to and including KK-2094; KK-2099 to and including KK-2100; KK-2102 to and including KK-2115; KK-2117 to and including KK-2167; KK-2169 to and including KK-2251; KK-2253 to and including KK-2329; KK-2332 to and including KK-2382; KK-2384 to and including KK-2460; KK-2475 to and including KK-2500; KK-2502 to and including KK-2643; KK-2645 to and including KK-2682; KK-2763 to and including KK-2813; KK-2824 to and including KK-2857; KK-2873 to and including KK-2901; KK-3033 to and including KK-3034; KK-3047 to and including KK-3048; KK-3063 to and including KK-3075; KK-3108 to and including KK-3118; KK-3136 to and including KK-3239; KK-3287 to and including KK-3300; KK-3314 to and including KK-3327; KK-3617 to and including KK-3643; KK-3756 to and including KK-3768; KK-3867 to and including KK-3880; KK-11829 to and including KK-11832; KK-16501 to and including KK-16589; KK-16901 to and including KK-16999; KK-19966 to and including KK-20064.

NOTE: At time of overhaul, some wheels have R1, R2, R3, R4, or R5 added as a suffix to the wheel serial number. The suffix should be disregarded in determining the applicability of this A.D.

A. Remove from service within the next 200 cycles, wheels which have 16,000 or more total cycles on the effective date of this A.D.

B. Remove from service within the next 400 cycles, or prior to exceeding 16,200 total cycles, which ever comes first, wheels which have from 14,000 to 16,000 total cycles on the effective date of this A. D.

C. Remove from service within the next 500 cycles, or prior to exceeding 14,400 total cycles whichever comes first, wheels which have 13,500 to 14,000 total cycles on the effective date of this A. D.

D. Remove from service prior to exceeding 14,000 total cycles, wheels which have less than 13,500 total cycles on the effective date of this A. D.

II. Remove from service in accordance with the schedule in paragraphs II A, B, C, D, E and F, wheels with the following serial numbers:

KK-3132 and KK-15499; KK-2961 to and including KK-2997; KK-3035 to and including KK-3046; KK-3049 to and including KK-3062; KK-3076 to and including KK-3107; KK-3119 to and including KK-3130; KK-3240 to and including KK-3286; KK-3301 to and including KK-3313; KK-3328 to and including KK-3364; KK-3376 to and including KK-3580; KK-3582 to and including KK-

3616; KK-3644 to and including KK-3755; KK-3769 to and including KK-3782; KK-3798 to and including KK-3866; KK-3881 to and including KK-3949; KK-3963 to and including KK-3976; KK-3996 to and including KK-4006; KK-11801 to and including KK-11821; KK-14201 to and including KK-14207; KK-14466 to and including KK-14470; KK-14801 to and including KK-14815; KK-15704 to and including KK-15784; KK-20577 to and including KK-20680; KK-21599 to and including KK-21653.

A. Remove from service within the next 200 cycles, wheels which have 16,000 or more total cycles on the effective date of this A.D.

B. Remove from service within the next 400 cycles, or prior to exceeding 16,200 total cycles, whichever comes first, wheels which have from 14,000 to 16,000 total cycles on the effective date of this A.D.

C. Remove from service within the next 1000 cycles, or prior to exceeding 14,400 total cycles whichever comes first, wheels which have 10,500 to 14,000 total cycles on the effective date of this A.D.

D. Remove from service within the next 2,000 cycles, or prior to exceeding 11,500 total cycles, whichever comes first, wheels which have from 7,000 to 10,500 total cycles on the effective date of this A.D.

E. Remove from service within the next 2,100 cycles, or prior to exceeding 9,000 total cycles, whichever comes first, wheels which have from 4,900 to 7,000 total cycles on the effective date of this A.D.

F. Remove from service prior to exceeding 7,000 total cycles, wheels with less than 4,900 total cycles on the effective date of this A.D.

III. Remove from service in accordance with the schedule in paragraphs III A, and B, wheels with serial numbers not specified in Paragraphs I or II above, or in AD 75-17-32 (Amdt. 39-2336).

A. Remove from service within the next 100 cycles, wheels which have 6,900 or more total cycles on the effective date of this A.D.

B. Remove from service prior to exceeding 7,000 total cycles, wheels which have less than 6,900 total cycles on the effective date of this A.D.

IV. Wheels removed per paragraphs I, II or III above, which have less than 14,000 total cycles may be inspected as specified in IV. A and B, and if found satisfactory, may be returned to service until they reach the total number of cycles specified in IV. C; however, no wheels may exceed 11,000 total hours in service.

A. Inspect for hub spline cracks using fluorescent penetrant method FP-30A or ZL-30A.

B. Inspect and classify microstructure per Detroit Diesel Allison 501-D13 Commercial Overhaul Information Letter No. COIL-349.

C. Wheels inspected and classified per IV. A and B above, may be continued in service as follows:

1. Light carbide and medium light carbide wheels may be operated for a maximum of 14,000 cycles total.

2. Medium heavy carbide wheels may be operated for 7,000 cycles between inspections per IV. A and B above, for a maximum of 14,000 total cycles.

3. Heavy carbide wheels may not be operated more than 7,000 total cycles maximum.

V. For the purposes of this airworthiness directive, a cycle is defined as one takeoff.

VI. Detroit Diesel Allison 501-D13 Commercial Service Letter No. CSL-235 pertains to this subject.

The manufacturer's service letter identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Detroit Diesel Allison, Division of General Motors Corporation, P.O. Box 894, Indianapolis, Indiana, 46206.

This document may also be examined at the Office of the Regional Counsel, Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois, 60018, and at Federal Aviation Administration Headquarters, 800 Independence Avenue, SW., Washington, D.C., 20591. A historical file on this AD which includes the incorporated material in full is maintained by the Federal Aviation Administration at its headquarters in Washington, D.C., and at the Great Lakes Regional Office in Des Plaines, Illinois.

This supersedes Amendment 39-2117, Airworthiness Directive 75-05-15.

This amendment is effective: October 23, 1975.

This amendment is made under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Illinois on October 9, 1975.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

NOTE.—The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.)

[FR Doc.75-28079 Filed 10-17-75;8:45 am]

[Airworthiness Docket No. 75-WE-49-AD; Amdt. 39-2387]

PART 39—AIRWORTHINESS DIRECTIVES

Certain Hughes Models 369, 369A, 369H Series and Military Models YOH-6A and OH-6A Helicopters

There have been incidents of failures of tail rotor drive shafts, P/N 369A5518, used in combination with metal tail rotor blades in Hughes 369 series helicopters which have caused emergency flight situations.

While investigations into the incidents have not identified all the possible causes of the failures, the combination of metal tail rotor blades with thin wall tail rotor shafts in these incidents, which involve a variety of operating conditions, indicates that the combination is a contributing, if not the primary cause of the failures. The manufacturer has issued Service Information Notice, No. HN-86, dated April 28, 1975 which requires, in part, the identification of the drive shaft and replacements, if applicable, on certain Hughes 369 Series helicopters. The agency, for the purpose of this rule making action, has limited the required action to those helicopters incorporating the equipment combination common to the incidents, and makes mandatory certain portions of the Service Information Notice.

Since this condition exists or is likely to develop in other tail rotor drive shafts of the same design, when used in combination with metal tail rotor blades, an airworthiness directive is being issued to require replacement of certain tail rotor drive shafts on Hughes 369 series helicopters and military YOH-6A and OH-6A helicopters which incorporate metal tail rotor blades.

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

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

HUGHES HELICOPTERS. Applies to all Hughes Model 369, 369A, 369H, 369HS, 369HE, 369HM, certificated in all categories and military OH-6A and YOH-6A helicopters incorporating metal tail rotor blades Part Number 369A1613, or -3, in combination with tail rotor drive shaft, Part Number 369A5518.

Compliance required within the next 50 hours time in service, after the effective date of this AD unless already accomplished.

(a) To prevent possible emergency flight situations resulting from failure of the tail rotor drive shaft, replace drive shaft P/N 369A5518 with drive shaft P/N 369A5518-601 in accordance with Part I, B.3. of Hughes Service Information Notice No. HN-86, dated April 28, 1975, or later FAA-approved revisions.

(b) Aircraft may be flown in accordance with FAR 21.197 to a base for the performance of the maintenance described herein.

(c) Equivalent modification procedures may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

NOTE.—Assure that the record to reflect compliance with this AD is made in aircraft records in accordance with FAR's 91.165 and 91.173.

This amendment becomes effective October 24, 1975.

This amendment is made under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, California on October 7, 1975.

LYNN L. HINK,
Acting Director
FAA Western Region.

[FR Doc.75-28077 Filed 10-17-75;8:45 am]

[Airworthiness Docket No. 75-WE-48-AD; Amdt. 39-2389]

PART 39—AIRWORTHINESS DIRECTIVES

Hughes 369 Series Helicopters

There have been numerous instances of corrosion and one fracture of the fiberglass tail rotor blades on Hughes Model 269 series helicopters. Most of the Model 369 Series helicopters incorporate tail rotor blades of similar design and thus would be subject to the same service difficulties. Fracture of a tail rotor

blade will result in hazardous degradation of control of the helicopter. Since this condition is likely to exist or develop in other helicopters of the same type design, an airworthiness directive is being issued to require inspection, repair and replacement of these tail rotor blades on Hughes Model 369 series helicopters. The manufacturer has developed FAA-approved procedures in a service bulletin.

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

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

HUGHES HELICOPTERS. Applies to Hughes Model 369, 369A, 369H, 369HM, 369HS, and 369HE helicopters certificated in all categories, including military YOH-6A and OH-6A equipped with fiberglass tail rotor blades P/N 369A1710, 369A1710-9, 369A 1710-11, 369-6120, 369A1607, and 369 CSK22.

Compliance required as indicated.

To detect possible corrosion, cracks, or other defects, inspect by visual, X-ray, or other specified means, the affected tail rotor blades and replace or rework in accordance with the instructions specified in Hughes Service Information Notice (SIN) No. HN-88, dated August 28, 1975, or later FAA-approved revisions, as follows:

(a) For blades with 500 or more hours time in service on the effective date of this AD, perform the visual and X-ray inspection, corrosion removal, casting procedure, metal treatment procedure, corrosion protection procedure, and fiberglass inspection—repair/spar exterior inspection procedure, set forth at Parts I through VIII of the Hughes SIN, referenced above, within the next 100 hours additional time in service or within 6 calendar months from the effective date of the AD, whichever occurs first, unless already accomplished.

(b) For blades with less than 500 hours time in service on the effective date of this AD, perform the visual and X-ray inspections, corrosion removal, casting procedures, metal treatment procedure, corrosion protection procedure, and fiberglass inspection—repair/spar exterior inspection procedure, set forth at Parts I through VIII of the Hughes SIN, referenced above, prior to accumulating 600 hours total time in service or within 6 calendar months from the effective date of this AD, whichever occurs first, unless already accomplished.

(c) After the effective date of this AD, perform the inspections and procedures described at Parts I through VIII of the Hughes SIN, referenced above, prior to the installation of spare blades or rotors on the aircraft.

(d) After the effective date of this AD, for all blades, perform the visual and X-ray inspections described as Part X of the Hughes SIN, referenced above, at intervals not to exceed 12 calendar months from the last inspection.

(e) After the effective date of this AD, repair or rework eligible blades as specified in the Hughes SIN, referenced above, as necessary, prior to further flight. Reinstall blades in accordance with Part IX of the Hughes SIN. Blades that exceed limits specified in the Hughes SIN and are therefore not repairable, must be marked in a conspicuous manner or destroyed so as to prevent inadvertent return to service.

(f) Paragraphs (a), (b), and (c), above, do not have to be accomplished on blades marked with a green dot or white dot per the preface, Hughes SIN. After the effective date of this AD, perform the visual and X-ray inspections for corrosion described at Part X of the Hughes SIN, referenced above, within 12 months after putting the blades into service, and at intervals not to exceed twelve months thereafter.

(g) Equivalent inspections and rework may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(h) Special flight permits may be issued for operating aircraft to a base for performance of the inspections and repairs or rework required by paragraphs (a) and (b), above, of this AD, per FAR's 21.197 and 21.199.

This amendment becomes effective October 23, 1975.

This amendment is made under the authority of Section 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, California on October 8, 1975.

ROBERT H. STANTON,
Director,
FAA Western Region.

[FR Doc.75-28078 Filed 10-17-75;8:45 am]

[Docket No. 75-EA-31; Amdt. 39-2394]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is amended § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-31P airplanes.

There have been reports of an inability to feather the propeller on the subject aircraft when an overspeed condition developed in the engine. It has been determined that this has resulted from a loss of air charge in the propeller dome. Since the foregoing deficiency can exist or develop in airplanes of similar type design, an airworthiness directive is being issued which will require a change to the airplane flight manual and eventual replacement of the propeller.

In view of the foregoing and because the deficiency is one which affects air safety, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PIPER. Applies to Model PA-31P aircraft equipped with Hartzell Model HC-C3YN-2L or HC-C3YN-2LF propellers, certificated in all categories.

Compliance required as indicated unless already accomplished.

In order to prevent propeller overspeeding and loss of feathering capability due to low propeller air dome pressure, accomplish the following:

1. Within 10 hours time in service after the effective date of this AD, incorporate the following temporary instructions into the PA-31P FAA approved Airplane Flight Manual as indicated.

Section III A8 Normal Operating Procedures, Engine Run-Up.

f. Check feathering at 1000 ± 20 RPM. Observe positive feathering action as evidenced by a 300 RPM drop within approximately 5 seconds. If propeller air charge is low or zero, feathering check will be sluggish or slow and no further flight shall be attempted. Refer to applicable airplane and propeller service manuals for corrective action.

Section III C18 Emergency Procedures—Propeller Overspeed In-Flight.

a. *Symptoms.*—(1) RPM control may be sluggish, particularly in the direction of reducing RPM.

(2) Slight overspeed or poor synchronization at the upper end of the cruising speed range.

b. *Corrective Action.*—(1) Control prop overspeed by immediately reducing airspeed to approximately 135 MPH by nosing-up slightly with a simultaneous slow throttle reduction to 20-25" manifold pressure. Do not allow airspeed to fall below best single engine rate of climb speed.

Reduction of prop speed can be assisted with prop control in the "feather detent" position. Therefore, if overspeed is above the red line (2133 RPM), select feather until prop speed drops below red line, then move control out of feather position.

(2) Set propeller control to desired speed, preferably 2000 RPM or less to provide a margin below red line RPM for further surges with power/airspeed changes.

(3) Slowly add throttle to regain power without overspeeding the propeller. Once proper RPM is recovered, hold airspeed well below that at which the overspeed occurred, preferably below 150 MPH. Use landing gear and/or flaps to increase drag for descent and maintain a manifold pressure of at least "20". Once control of propeller speed is regained, flight can be continued at reduced airspeed. With slow throttle changes at reduced airspeed, the engine will provide climb power without overspeeding.

CAUTION

Do not shut down the engine in flight since the propeller will not feather without air charge; and high drag will result from the windmilling propeller. If inadvertently shut down, the engine should be restarted carefully with low RPM setting and closed throttle; airspeed should be slightly above best single engine rate of climb speed to minimize RPM surge upon starting.

2. Within 30 days after the effective date of this AD, replace the subject propellers with Hartzell Model HC-C3YN-2LU or HC-C3YN-2LUF as applicable.

NOTE.—Hartzell propeller Models HC-C3YN-2L and HC-3YN-2LF may be converted to Models HC-C3YN-2LU and HC-C3YN-2LUF, which incorporate feathering springs in accordance with Hartzell Service Instruction No. 102.

3. Upon installation of feathering spring propellers per paragraph 2 above, the temporary AFM instructions specified in paragraph 1 above are no longer required.

4. Aircraft may be flown to a base where the maintenance required by this Airworthiness Directive is to be performed per FAR's

21.197 and 21.199. Piper Service Bulletin No. 458 and Hartzell Service Bulletin No. 111 also pertain to this subject.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Piper Aircraft Corporation, Service Department, Lock Haven, Penn. 17745. These documents may also be examined at the Engineering and Manufacturing Branch, Federal Aviation Administration, Eastern Region, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its Eastern Region Headquarters.

This amendment is effective October 24, 1975.

This amendment is made under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421 and 1423], and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on October 10, 1975.

DUANE W. FREER,
Director, Eastern Region.

[FR Doc. 75-28082 Filed 10-17-75;8:45 am]

[Docket No. 15053; Amdt. 39-2402]

PART 39—AIRWORTHINESS DIRECTIVES

Societe Nationale Industrielle Aerospatiale Models SA330F and SA330G Helicopters

Electrical connections of the external hoist pyrotechnic shears on certain Aerospatiale (formerly Sud Aviation) SA330 helicopters have been wired improperly so that external loads cannot be released by the electrical release system.

Since this condition is likely to exist or develop in other helicopters of the same type design, an airworthiness directive is being issued to require an inspection of the electrical connections to ensure that the connections are properly wired on certain Aerospatiale SA330 helicopters.

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

This amendment is made under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SOCIETE NATIONALE INDUSTRIELLE AEROSPATIALE. Applies to SA330F and SA330G helicopters certificated in all categories, equipped with external hoists AE-76 360-100 or AE-76 360-110-01.

Compliance is required within the next 10 hours time in service after the effective date of this AD, unless already accomplished. To ensure proper functioning of the pyrotechnic shears, accomplish the following:

(a) Inspect electrical connections ME 24F and ME 25F on mobile connector 52 Ma of the pyrotechnic shears control for proper connections.

(b) Electrical connections which are improperly connected must be disassembled, reconnected and checked in accordance with paragraph 2.B of Aerospatiale Service Bulletin No. 45.06, dated April 2, 1975, or an FAA-approved equivalent.

This amendment becomes effective November 3, 1975.

Issued in Washington, D.C. on October 10, 1975.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.75-28075 Filed 10-17-75;8:45 am]

[Docket No. 15051; Amdt. 39-2401]

PART 39—AIRWORTHINESS DIRECTIVES

Societe Nationale Industrielle Aerospatiale Model SA341G "Gazelle" Helicopter

There have been defects found on new and recently overhauled main gear boxes of Aerospatiale (formerly Sud Aviation) SA341G helicopters that could result in failure of the main gear box. Since this condition is likely to exist or develop in other helicopters of the same type design, an airworthiness directive is being issued to require checks of the main gear box (MGB) for free rotation, and checks of the MGB magnetic plug oil filter, on Aerospatiale SA341G helicopters with less than 25 hours time in service since the installation of new or overhauled main gear boxes.

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

This amendment is made under the authority of Sections 313(a), 601, and 603, of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 16(c)).

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SOCIETE NATIONALE INDUSTRIELLE AEROSPATIALE. Applies to SA341G helicopters, certificated in all categories, equipped with main gear boxes P/N 341A.32.1000.01, .02, .03, or .05 with less than 25 hours time in service since new or overhauled, and that have not been altered in accordance with AMS 07.7077.

Compliance is required until the accumulation of 25 hours time in service on new and newly overhauled main gear box.

To detect main gear box (MGB) defects, accomplish the following:

(a) Before each flight after the effective date of this AD check the MGB magnetic plug for particles and check the main gear box for abnormal friction points or noise by slowly rotating the main rotor by hand.

(b) Before the first flight of each day after the effective date of this AD or within intervals of 5 hours MGB time in service after the last inspection, whichever occurs first, check the MGB oil filter for foreign metallic particles.

(c) If highly heated and laminated (black) particles appear on the magnetic plug, or if fine particles deposited on the magnetic plug are preceded or accompanied by bronze particles left in the main gear box oil filter, or if abnormal friction points or noise is detected on the main gear box, prior to further flight replace main gear box with a serviceable part of the same part number incorporating Modification AMS 07.7077, or an FAA-approved equivalent. The checks required by this AD may be performed by the pilot.

(Aerospatiale's Service Bulletin No. 05.10 dated February 7, 1975, refers to this subject.)

This amendment becomes effective November 3, 1975.

Issued in Washington, D.C. on October 10, 1975.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.75-28076 Filed 10-17-75;8:45 am]

[Airspace Docket No. 75-SO-101]

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

Alteration of Transition Area

Correction

In FR Doc 75-27092 appearing at page 47481 in the issue for Thursday, October 9, 1975, in the third column, third paragraph, the following should be added immediately after the third line: "December 4, 1975, as hereinafter set forth."

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED (1974.....)

Income and Resources

On October 3, 1973, and January 22, 1974, there were published in the FEDERAL REGISTER (38 FR 27406; 39 FR 2487) notices of proposed rule making with amendments adding new Subparts K and L to new Part 416 (20 CFR). The proposed amendments define income and exclusion from income and resources and exclusions from resources. Further, they establish the policies and limitations pertaining to income and resources to be excluded and income and resources to be counted and the disposition of excess resources for persons eligible or applying for benefits under title XVI of the Act.

Interested persons were given the opportunity to submit within 30 days, data, views, or arguments with regard to the proposed changes.

Several organizations expressed concern about the difficulty in the application and administration of gifts as income and the market value limitations on "house" and household furnishings. However, these difficulties had been recognized and were considered in formulating the proposed rules.

Comments were received from other organizations concerning the treatment as income of supplementary medical insurance benefit premiums which are deducted from title II benefits. However, there seems to be no basis for any conclusion other than that the full title II benefit is income. The amount deducted from the title II benefit is income over which the beneficiary has control and chooses to spend for the purchase of supplementary medical insurance. There is no apparent distinction between this case and that of the title II beneficiary who uses part of his benefit to purchase private health insurance.

Several organizations also believed the definition of income which excluded social services was not explicit enough. It was suggested that payments made for services which are intended only to "pass through" the recipient to the provider of services not be counted as income. We concur in that position; however, we do not believe that a reading of the regulation as originally proposed leads to the conclusion that such payments are counted as income. Therefore, a change is not required. However, § 416.1109(b) has been clarified by adding the phrase "of the type furnished in accordance with title IV, V, or VI of the Social Security Act as amended" in defining the kinds of services excluded. Therefore, cash to pay for services, which services would not be income if furnished directly, will not be income if the payment is made to the provider of services through the recipient.

A number of comments were received on § 416.1125 dealing with unearned income, support and maintenance. Due to the enactment of Public Law 93-484 and other policy decisions made by the Secretary requiring changes in that section, it is being published again with a notice of proposed rulemaking and an additional period for public comment. Therefore, that section has been omitted from these final regulations.

Another comment was that the interpretation of the statute concerning the proceeds of a life insurance policy is incorrect. It was felt that the net proceeds of a life insurance policy, up to $1,500, after the payment of the expenses of last illness and burial, should be excluded from income. However, title XVI specifically states that all proceeds of life insurance policies in excess of the costs of last illness and burial costs not to exceed $1,500 are income.

Another organization raised several questions which took issue with the statute rather than the regulations; e.g., treatment of gifts and inheritances as income, no work expenses excluded from income for the aged and disabled. One comment, though, questioned the rule which would not allow depreciation or depletion to be counted as an expense to be deducted from unearned rental income. While cash expenses incurred in receiving the unearned income do reduce the amount of income considered, it is not believed to be consistent with the intent of title XVI to allow persons with rental property to set aside part of their income to improve the property or to recoup their investments. Therefore, no changes have been made in this provision. In response to several suggestions, the proposed regulations have been modified to clarify that casualty insurance received as a replacement for a nonexcluded resource is counted as a resource and not as income, portions of scholarships, grants, or fellowships used for educational purposes are excluded from income, and legal fees incurred in receiving unearned income are excluded from income.

With respect to resources, one organization expressed concern that while resources would be evaluated according to their current market value, the regulations did not furnish any guidance as to the mechanics of determining market value. It was suggested that if such guidance is not issued in the regulations, it should be issued in the form of operating instructions. The mechanics of establishing market value are operational in nature and, therefore, are believed to be inappropriate for issuance in the regulations. They are contained in operating instructions for Social Security Administration claims personnel. Operating instructions are available for inspection by the public at any social security office.

Several organizations expressed dissatisfaction with the maximum value of an excludable home and indicated that it should be increased or that there should be greater regional variations. The statute requires that a reasonable limit be established for the value of a home which will be excluded. The home value limitations were established based on national statistics which indicated that individuals with incomes low enough to be eligible for supplemental security income payments would hardly be able to maintain homes of greater value. Several groups also expressed concern over the maximum value ($1,500) of excludable household goods and personal effects. It was felt that the limitation should be raised considerably or that there should be no limitation at all. The law requires setting a reasonable value on excludable household goods and personal effects. As the regulations provide, these items are evaluated based upon their resale value. Ordinary used household goods and personal effects generally have low values. Only when an individual owns an item or items of exceptional value would his household goods and personal effects exceed the limitations prescribed in the regulations.

Several groups also felt the $1,200 limitation on an excludable automobile was too low. The regulations do provide that vehicles can also be excluded, regardless of value, if they are used for regular medical treatment or employment or are specially modified for a handicapped person. The value set in the regulations pertains only to vehicles other than those identified in the previous sentence. A number of groups felt that establishing limitations on the value of excludable property (home, household goods, personal effects, automobile) would be exceedingly difficult to administer and would be inequitable in their effect. However; the law requires establishing such limits. Some groups also felt that encumbrances on property should be taken into account in determining value. Consideration was given to this approach. However, it was felt to be inconsistent with the purposes of the supplemental security income program to permit an individual with property having a considerable market value to be eligible because there were large encumbrances on the property while another individual with property having a similar market value would be ineligible because there were small or no encumbrances on the property.

Section 416.1125 (Unearned income; support and maintenance) published in the FEDERAL REGISTER on October 3, 1973, (38 FR 27407) with a notice of proposed rulemaking; and § 416.1185 (Deeming of Income) published in the FEDERAL REGISTER on January 22, 1974, (39 FR 2487) with notice of proposed rule making are not contained in the final regulations set forth below and retain their interim effect. These sections will be published as final regulations in the FEDERAL REGISTER at a later date.

The provision that tax refunds are included as income only if the amounts were not previously counted has been deleted from the general rule of § 416.1112 that tax refunds are not income. Since tax refunds result almost exclusively from earned income, the provision had only the unintended effect of counting as income refunds relating to earnings from a time before the individual became an SSI recipient.

The parenthetical phrase, other than a home determined to be an includable resource, in § 416.124(a)(1) which resulted in unequal treatment to individuals (and spouses, if any) has been omitted from the final regulations.

Accordingly, with these changes and additions, as well as other editorial and clarifying changes, the proposed rules are adopted as set forth below.

(Secs. 1102, 1601, 1602, 1611, 1612, 1613, 1614 (f), and 1631(d), 49 Stat. 647 as amended, 86 Stat. 1465, 1466, 1468, 1470, 1473; 42 U.S.C. 1302, 1381, 1381a, 1382, 1382a, 1382b, 1382c(f), and 1383(d).)

Effective date. These amendments shall become effective on October 20, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: June 30, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: October 14, 1975.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended by adding thereto Subpart K (§§ 416.1101–416.1180) and Subpart L (§§ 416.1201–416.1266) to read as follows:

Subpart K—Income and Exclusions

Sec.

416.1101 Income—general.
416.1102 Income defined.
416.1105 Receipts from the conversion or replacement of resource not income.
416.1107 Supplementary medical insurance premiums.
416.1109 Medical and social services.
416.1112 Income tax refund.
416.1115 Countable income defined.
416.1120 Availability of unearned income.
416.1130 Unearned income; annuities, pensions and similar payments.
416.1132 Unearned income; prizes and awards.
416.1134 Unearned income; proceeds of life insurance policy.
416.1136 Unearned income; gifts, support and alimony, inheritances.
416.1138 Unearned income; rents, dividends, interest, royalties.
416.1145 Exclusions from income; order of application.
416.1149 Refund of taxes.
416.1151 State assistance based on need.
416.1153 Grants, scholarships, and fellowships.
416.1155 Home produce.
416.1157 Infrequent or irregular income.
416.1159 Foster care payments.
416.1161 Child support.
416.1163 Earned income of a student child.
416.1165 First $60 of unearned or earned income.
416.1167 Amount of earned income exclusion.
416.1169 Work expenses of the blind.
416.1171 Income needed to fulfill a plan for self-support.
416.1175 Income exclusions for certain blind individuals.
416.1180 Consideration of income.

Subpart K—Income and Exclusions

§ 416.1101 Income—general.

(a) Under title XVI of the Act, an individual's income includes all of his own income in cash or in kind, both earned income and unearned income. It also includes all of the income of his or her eligible spouse (as defined in § 416.120(c)(14)). In addition, an individual's income is deemed to include:

(1) (i) Certain income of his or her ineligible spouse who lives in the same household, or

(ii) If the individual is a child as defined in § 416.1050 and under age 21, certain income of his parent and the spouse of such parent who live in the same household, and

(2) The income of an essential person as provided by § 416.1190.

(b) If countable income (see § 416.1115) equals or exceeds the standard payment amount as set forth in Subpart D of this part, no Federal benefit under title XVI may be paid for that quarter (or month where applicable).

§ 416.1102 Income defined.

(a) *Meaning of income.* The term "income" for purposes of title XVI means the receipt by an individual of any property or service which he can apply, either directly or by sale or conversion, to meeting his basic needs for food, clothing, and shelter.

(b) *Earned income.* The term "earned income" is defined in section 1612(a)(1) of the Act by reference to the definition of wages for purposes of the earnings test (see § 404.429(c) of this chapter) and net earnings from self-employment for coverage purposes (see § 404.1050 of this chapter) under title II of the Act.

(c) *Unearned income.* The term "unearned income" means all income that is not included in the definition of "earned income" (see §§ 416.1125—416.1138).

§ 416.1105 Receipts from the conversion or replacement of resource not income.

(a) *Conversion of resource.* Any cash or other property received from the sale or exchange of a resource as defined in § 416.1201 is not income, but retains the character of a resource.

(b) *Insurance payment on excluded resource.* The cash proceeds of casualty insurance to replace a resource are not income but retain the character of resources. For treatment of an excluded resource see § 416.1232.

§ 416.1107 Supplementary medical insurance premiums.

The term "income" does not include the amount of a premium payment for supplementary medical insurance under title XVIII of the Act which is paid by a third-party insurer on behalf of a beneficiary.

§ 416.1109 Medical and social services.

(a) *Medical services.* The term "income" does not include the value of any third-party payment for medical care or medical services furnished to a beneficiary. This exclusion from income also applies to room and board furnished during medical confinement and paid for by such third party.

(b) *Social services.* The term "income" does not include the value of advice, consultation (e.g., on educational plans, money management), training (e.g., on chores which the individual might be able to perform for himself), or other services of a strictly social nature furnished an individual by any governmental or private agency of the type furnished in accordance with title IV, V, VI, or XX of the Social Security Act, as amended.

§ 416.1112 Income tax refund.

Since income taxes are included as income when determining the amount of wages (see § 416.1102(b)) or unearned income (see § 416.1120) of an individual, a refund of such taxes will not be included as income.

§ 416.1115 Countable income defined.

(a) The amount of a beneficiary's countable income for a calendar quarter (or shorter period, when applicable) is used to determine whether he is or is not eligible for benefits under title XVI of the Act and, if he is eligible, the amount payable. Countable income is the amount of an individual's income which affects payments under title XVI. It is the sum of:

(1) His total earned income (as set forth in § 416.1102(b)) less his earned income exclusions (as set forth in §§ 416.1145–416.1175); and

(2) His total unearned income (as set forth in § 416.1102(c)) less his unearned income exclusions (as set forth in §§ 416.1145–416.1175).

(b) The countable income so determined may not have a negative value; it never can be less than zero. After countable income has been determined for a calendar quarter (or month, where applicable), the benefit payable is computed in accordance with Subpart D of this part.

§ 416.1120 Availability of unearned income.

In determining the amount of unearned income the amount actually available to the individual is considered. The gross amount is reduced by any ordinary and necessary expenses incurred in getting or receiving the unearned income. However, reduction is not permitted below a zero value. For example, where an individual receives compensation for damages incurred in an automobile accident, the amount of unearned income under title XVI is the final settlement amount less ordinary and necessary legal, medical, and other expenses. An amount earmarked to replace the damaged automobile could be excluded from income under § 416.1105(b). Personal income tax withheld from unearned income before it is paid to the individual is not a deductible expense and, therefore, does not reduce the amount of the unearned income to the individual (e.g., income tax withheld from lottery winnings).

§ 416.1130 Unearned income; annuities, pensions, and similar payments.

The following types of periodic payments are among those included in unearned income; however, this list is not all-inclusive:

(a) *Annuities.* Annuities are periodic payments calculated on an annual basis which are in the nature of returns on prior payments or services. They may be received from any source.

(b) *Pensions or retirement payments.* Normally, pension or retirement payments are paid to a worker following his retirement from employment. Such payments may be paid directly by a former employer; however, they also may be paid from a fund, insurance, or any similar-purpose source.

(c) *Disability benefits.* Disability benefits normally are paid to one who has suffered injury or impairment. Such payments are not limited to those arising from an employment relationship. Such payments may be made by an employer or from any insurance or other public or private fund.

(d) *Veterans compensation and pension.* Veterans payments are based on service in the armed forces; but this service is not limited to the U.S. armed

forces. Such payments may be made by the U.S. Veterans Administration, another country, a State or local governmental entity, or any other organization or entity.

(e) *Workmen's compensation payments.* Workmen's compensation payments are awarded to an injured employee or to his dependents. This includes payments under Federal and State workmen's compensation statutes, Longshoremen and Harbor Worker's Act, and so forth. Amounts included in such awards for medical, legal, or related expenses paid or actually incurred by an individual in connection with such claim are deducted in determining the amount that is counted as unearned income.

(f) *Social security benefits.* Old-age, survivors, and disability insurance payments made by the Social Security Administration under provisions of the Social Security Act are unearned income. Also included are special payments at age 72 (see § 404.374 of this chapter) and payments under title IV of the Federal Coal Mine Health and Safety Act of 1969 (i.e., Black Lung Benefits).

(g) *Railroad retirement payments.* Payments, such as sick pay, annuities, pensions, and unemployment insurance benefits, which are paid by the Railroad Retirement Board to an individual who is or was a railroad worker, or to his dependents or survivors, are unearned income.

(h) *Unemployment compensation.* Payments in the nature of insurance for which one qualifies by reason of having been employed and which are financed by contributions made to a fund during periods of employment are unearned income.

§ 416.1132 Unearned income; prizes and awards.

In general, the term "prize" means something won in a contest, lottery, or game of chance. In general, the term "award" means something of value received as the result of a decision or judgment of a court, a board of arbitration, or the like; ordinarily it does not come from a competition. In either event, the income is unearned income in determining eligibility for and the amount of benefits payable. Where a prize or award is not in cash, the current fair market value of the item is counted as unearned income.

§ 416.1134 Unearned income; proceeds of life insurance policy.

Unearned income under title XVI of the Act includes the proceeds of any life insurance policy to the extent that the proceeds exceed $1,500, or the amount expended by the beneficiary of the policy on the insured's last illness and burial expenses, whichever is less. Last illness and burial expenses include related hospital, medical expenses, funeral, burial plot and interment expenses, and related costs.

§ 416.1136 Unearned income; gifts, support and alimony, inheritances.

(a) *General.* Unearned income under title XVI of the Act includes gifts, support and alimony payments, and inheritances. The fair market value of the item received is used where the item is not received in cash.

(b) *Gifts.* A gift may or may not be in cash. It is anything given to an individual which is:

(1) Not compensation for services or other consideration, and

(2) Without legal obligation on the donor's part.

(c) *Support and alimony.* For purposes of this section, support means contributions in cash or in kind to provide some or all of an individual's usual needs (e.g., food, shelter, clothing); it may be provided voluntarily or pursuant to court order. Alimony is the allowance made by a court to one spouse from funds of the other spouse either pending decision on a suit for separation or divorce or after decision in such suit. In some jurisdictions a court uses the term "maintenance" instead of alimony.

(d) *Inheritance.* For purposes of this section, inheritance means cash, other liquid resources, noncash items, or any right in real or personal property to which one succeeds as the result of the death of another. An inheritance counts as unearned income when it meets the definition of income in § 416.1102(a).

§ 416.1138 Unearned income; rents, dividends, interest, royalties.

(a) *General.* Unearned income under title XVI of the Act includes rents, dividends, interest, and royalties which are not income from self-employment (as defined in section 211(a) of the Act).

(b) *Rents*—(1) *Defined.* Rents represent compensation in cash or in kind for the use of real or personal property (e.g., land, an apartment, a room, machinery).

(2) *Amount included.* In determining the amount of rent that is unearned income (i.e., not net earnings from self-employment), only ordinary and necessary "out of pocket" expenses incurred in operating and maintaining the property are deducted from the gross rent. Such expenses shall include only those expenses necessary for the production or collection of income, as defined in sections 163, 164, and 212 of the Internal Revenue Code of 1954 and the regulations thereunder; under no circumstances will depreciation or depletion of the property be considered such an expense.

(c) *Dividends and interest.* Dividends and interest normally represent return on a capital investment, usually on stocks, bonds, and savings accounts.

(d) *Royalties.* Royalties are payments to the holder of a patent or copyright, the owner of a mine, oil well, etc., for duplication of a writing, use of an invention, extraction of a product, or the like.

§ 416.1145 Exclusions from income; order of application.

(a) For the purpose of determining countable income in accordance with § 416.1115 of this subpart, the following income shall be excluded:

(1) Return or refund by any public agency of taxes on real property or food (§ 416.1149).

(2) Assistance based on need, which is paid by any State or political subdivision in supplementation of benefits (§ 416.1151).

(3) Tuition and fee portions of grants, scholarships and fellowships (§ 416.1153).

(4) Home produce used for personal consumption (§ 416.1155).

(5) Infrequently or irregularly received income, unearned and earned, if such income does not exceed $60 per quarter of unearned income and $30 per quarter of earned income (§ 416.1157).

(6) Certain payments received for foster care (§ 416.1159).

(7) One-third of child support payments by an absent parent (§ 416.1161).

(8) Student child's earned income up to specified limits (§ 416.1163).

(9) The first $60 per quarter of income, earned or unearned, other than income based on need (§ 416.1165).

(10) Earned income in the amount of $195, plus one-half of the remainder of the earned income per quarter (§ 416.1167).

(11) Work expenses of the blind (§ 416.1169).

(12) Income of the blind and disabled needed to fulfill a plan for self-support (§ 416.1171).

(b) In determining the countable income in accordance with § 416.1115, the exclusions listed in paragraph (a) of this section shall apply first to unearned income, and then to earned income, where appropriate. In so applying they shall be considered in the numerical sequence in which they are listed in paragraph (a) of this section.

§ 416.1149 Refund of taxes.

Any amount refunded from any public agency, if paid on the purchase of food or the satisfaction of real property levies, shall not be considered in determining countable income under § 416.1115.

§ 416.1151 State assistance based on need.

Assistance by a State or a political subdivision (including Indian tribes) which is based on need and which meets the definition of State supplementation in Subpart T of this part shall not be considered in determining countable income under § 416.1115.

§ 416.1153 Grants, scholarships, and fellowships.

Any portion of any grant, scholarship or fellowship, for use in paying tuition, fees or other expenses necessary to the securing of an education at an educational institution received by an individual or spouse shall not be considered in determining countable income under § 416.1115. Portions used to defray the expenses of food, clothing or shelter shall be considered in determining countable income under § 416.1115.

§ 416.1155 Home produce.

The value of agricultural products raised by an individual or spouse and not

raised in connection with a trade or business and consumed by such individual or his immediate family shall not be considered in determining countable income under § 416.1115.

§ 416.1157 Infrequent or irregular income.

(a) *Earned income.* Earned income as defined in § 416.1102(b) if it does not exceed $30 per quarter in total which is received less frequently than twice per quarter or which cannot be reasonably anticipated shall not be considered in determining countable income under § 416.1115.

(b) *Unearned income.* Unearned income as defined in § 416.1102(c) if it does not exceed $60 per quarter in total which is received less frequently than twice per quarter or which cannot be reasonably anticipated shall not be considered in determining countable income under § 416.1115.

§ 416.1159 Foster care payments.

Income to an individual or spouse which represents payment for the foster care of a child who is not an eligible individual but is living in the same home as such individual and was placed there by a public or nonprofit private child-placement or child-care agency, shall not be considered in determining countable income under § 416.1115.

§ 416.1161 Child support.

Income received as support by an individual who meets the definition of child in § 416.1050 from an absent parent of such child shall be reduced by one-third before it is considered in determining countable income under § 416.1115.

§ 416.1163 Earned income of a student child.

The first $1,200 of quarterly earnings, not to exceed $1,620 a calendar year, shall be excluded from the earned income of a blind or disabled child who is a student regularly attending school in accordance with the provisions of § 416.1057.

§ 416.1165 First $60 of unearned or earned income.

The first $60 of unearned income or earned income received in a quarter, not otherwise excluded by §§ 416.1149 through 416.1163 shall not be considered in determining countable income under § 416.1115; except income which is paid on the basis of need shall not be excluded under this section.

§ 416.1167 Amount of earned income exclusion.

Earned income not excluded from consideration by § 416.1149 through § 416.1165 in the amount of $195 received per quarter plus one-half of any remaining earned income not previously excluded and received in the same quarter shall not be considered in determining countable income under § 416.1115.

§ 416.1169 Work expenses of the blind.

Earned income not excluded from consideration by § 416.1149 through § 416.1167 of an individual who is blind as defined in Subpart I shall not be considered in determining countable income under § 416.1115 of this subpart to the extent that such income is used to meet any expenses reasonably attributable to the earning of any income.

§ 416.1171 Income needed to fulfill a plan for self-support.

Earned or unearned income which has not been excluded from consideration by § 416.1149 through § 416.1169 shall not be considered in determining countable income under § 416.1115 to the extent that such earned or unearned income is needed to fulfill an approved plan for self-support pursuant to § 416.1731 for an individual who is disabled or blind as provided by Subpart I of this part.

§ 416.1175 Income exclusions for certain blind individuals.

For an individual who is blind as defined under a State plan, which was approved under title X or XVI of the Act, as in effect in October 1972 and who for the month of December 1973 was a recipient of aid or assistance under such State plan, the maximum amount of earned or unearned income which could have been disregarded under such State plan will be disregarded in determining countable income under § 416.1115 in lieu of applying the exclusions from income provided in § 416.1145, provided that the application of the provisions of § 416.1145 would result in a larger amount of countable income.

§ 416.1180 Consideration of income.

Except as otherwise noted, income is counted in determining eligibility for and the amount of benefits payable under title XVI when it is actually received or is counted when constructively received (see § 404.1026(b)(2) of this chapter), whichever first occurs. In general, this is the first point at which it is available to the individual to use. For example, interest on a regular savings account is counted when credited to the account. Generally, wages will be counted when received. Net earnings from self-employment will be allocated and counted as received equally in each quarter of the individual's taxable year.

Subpart L—Resources and Exclusions

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Subpart L—Resources and Exclusions

§ 416.1201 Resources; general.

(a) *Resources; defined.* For purposes of this subpart L, resources mean cash or other liquid assets or any real or personal property that an individual (or spouse, if any) owns and could convert to cash to be used for his support and maintenance. If the individual has the right, authority or power to liquidate the property, or his share of the property, it is considered a resource. If a property right cannot be liquidated, the property will not be considered a resource of the individual (or spouse).

(b) *Liquid resources; defined.* Liquid resources are those properties that are in cash or are financial instruments which are convertible to cash. Liquid resources include cash on hand, cash in savings accounts or checking accounts, stocks, bonds, mutual fund shares, promissory notes, mortgages and similar properties.

(c) *Nonliquid resources; defined.* Nonliquid resources include all other properties. The term includes both real and personal property. Nonliquid resources are evaluated according to their current market value except as otherwise provided. For purposes of this Subpart L, the "current market value" of an item is defined as the price that item can reasonably be expected to sell for on the open market in the particular geographic area involved.

§ 416.1202 Deeming of resources.

(a) *Married individual.* In the case of an individual who is living with a person not eligible under this part and who is considered to be the husband or wife of such individual under the criteria in § 416.1005, such individual's resources shall be deemed to include any resources, not otherwise excluded under this subpart, of such spouse whether or not such resources are available to such individual.

(b) *Child.* In the case of a child (as defined in § 416.1050) who is under age 21, such child's resources shall be deemed to include any resources, not otherwise excluded under this subpart, of a parent of such child (or the spouse of such a parent) who is living in the same household (as defined in § 416.1070) as such child, whether or not available to such child, to the extent that the resources of such parent (or such spouse of a parent)

exceed $1,500 in the case of one parent or $2,250 in the case of two parents (or one parent and the spouse of such parent). As used in this section, the term "parent" means the natural or adoptive parent of a child and "spouse of a parent" means the spouse (as defined in Subpart J of this part) of such natural or adoptive parent.

(c) *Applicability.* When used in this Subpart L, the term "individual" refers to an eligible aged, blind, or disabled person, and also includes a person whose resources are deemed to be the resources of such individual (as provided in paragraphs (a) and (b) of this section).

§ 416.1205 Limitation on resources.

(a) *Individual with no eligible spouse.* An aged, blind, or disabled individual with no spouse shall be eligible for benefits under title XVI of the Act if his nonexcludable resources do not exceed $1,500 and all other eligibility requirements are met. An individual who is living with an ineligible spouse shall be eligible for benefits under title XVI of the Act if his nonexcludable resources, including the resources of such spouse, do not exceed $2,250 and all other eligibility requirements are met.

(b) *Individual with an eligible spouse.* An aged, blind, or disabled individual who has an eligible spouse shall be eligible for benefits under title XVI of the Act if their nonexcludable resources do not exceed $2,250 and all other eligibility requirements are met.

§ 416.1210 Exclusions from resources; general.

In determining the resources of an individual (and spouse, if any) the following items shall be excluded:

(a) The home (including the land appertaining thereto) to the extent its value does not exceed the amount set forth in § 416.1212;

(b) Household goods and personal effects to the extent that their total value does not exceed the amount provided in § 416.1216;

(c) An automobile to the extent that its value does not exceed the amount provided in § 416.1218;

(d) Property of a trade or business which is essential to the means of self-support as provided in § 416.1222;

(e) Nonbusiness property which is essential to the means of self-support as provided in § 416.1224;

(f) Resources of a blind or disabled individual which are necessary to fulfill an approved plan for achieving self-support as provided in § 416.1226;

(g) Stock in regional or village corporations held by natives of Alaska during the twenty-year period in which the stock is inalienable pursuant to the Alaska Native Claims Settlement Act (see § 416.1228);

(h) Life insurance owned by an individual (and spouse, if any) to the extent provided in § 416.1230; and

(i) Restricted allotted land owned by an enrolled member of an Indian tribe as provided in § 416.1234.

§ 416.1212 Exclusion of the home.

(a) A home is excluded in determining the resources of an individual (and spouse, if any) to the extent its current market value does not exceed $25,000 ($35,000 in Alaska and Hawaii).

(b) A home, for purposes of this part, is any shelter in which the individual (and spouse, if any) has ownership interest and which is used by the individual (and spouse, if any) as his principal place of residence. The home includes any land that appertains thereto and any related outbuildings necessary to the operation of the home.

(c) Where a State or locality imposes a value-based property tax or levy, the current market value of a home shall be based on the most recent assessed value placed on it by such State or locality, taking into consideration the ratio between such assessed value and the market value.

(d) The proceeds from the sale of a home which is excluded from the individual's resources will also be excluded from resources to the extent they are intended to be used and are, in fact, used to purchase another home, which is similarly excluded, within 3 months of the date of receipt of the proceeds.

§ 416.1216 Exclusion of household goods and personal effects.

(a) *Household goods and personal effects; defined.* Household goods are defined as including household furniture, furnishings and equipment which are commonly found in or about a house and are used in connection with the operation, maintenance and occupancy of the home. Household goods would also include the furniture, furnishings and equipment which are used in the functions and activities of home and family life as well as those items which are for comfort and accommodation. Personal effects are defined as including clothing, jewelry, items of personal care, individual education and recreational items such as books, musical instruments, and hobbies.

(b) *Limitation on household goods and personal effects.* In determining the resources of an individual (and spouse, if any), household goods and personal effects are excluded if their total market value is $1,500 or less. If the market value of household goods and personal effects is in excess of $1,500, the excess will be counted against the resource limitation.

(c) *Additional exclusions of household goods and personal effects.* In determining the resources of an individual (and spouse, if any) and in determining the value of the household goods and personal effects of such individual (and spouse), there shall be excluded a wedding ring and an engagement ring and household goods and personal effects such as prosthetic devices, dialysis machines, hospital beds, wheel chairs and similar equipment required because of a person's physical condition. The exclusion of items required because of a person's physical condition is not applicable to items which are used extensively and primarily by members of the household in addition to the person whose physical condition requires the item.

§ 416.1218 Exclusion of the automobile.

(a) *Automobile; defined.* As used in this section, the term "automobile" includes, in addition to passenger cars, other vehicles used to provide necessary transportation.

(b) *Limitation on automobile.* In determining the resources of an individual (and spouse, if any) an automobile is excluded from counting as a resource if its current retail market value is $1,200 or less. If the retail market value of the automobile exceeds $1,200, the amount to be counted against the resource limit is that portion of the retail market value which exceeds $1,200. However, an automobile will be totally excluded if it is used for employment or for the medical treatment of a specific or regular medical problem of the individual or a member of his household, or if it has been modified for operation by or transportation of a handicapped person.

(c) *Number of automobiles.* Only one automobile may be excluded in determining the resources of an individual (and spouse, if any) under this section.

(d) *Retail market value.* The "retail market value" of an automobile is the average price a vehicle of that particular year, make, model, and condition will sell for on the open market (to a private individual) in the particular geographic area involved.

§ 416.1220 Exclusion of property essential to self-support.

In determining the resources of an individual (and spouse, if any) there shall be excluded, subject to the criteria and limitations in §§ 416.1222 and 416.1224, property so essential to the self-support of the individual (and spouse, if any) as to warrant its exclusion. Such property shall include both the property used in a trade or business (as defined in § 404.1070 of Part 404) and property not used in a trade or business but which nevertheless produces income or is otherwise necessary to the self-support of the individual (and spouse, if any). In the case of property not used in a trade or business, however, it shall not include cash, stocks, bonds, or any other liquid resources (as defined in § 416.1201) even though such liquid resources may be producing income.

§ 416.1222 Exclusion of property of a trade or business essential to self-support.

(a) In determining the resources of an individual (and spouse, if any) there shall be excluded property used by the individual (and spouse, if any) in his trade or business (as defined in § 404.1070 of this chapter) to the extent that such property is essential to the self-support of such individual (and spouse, if any).

(b) Property of a trade or business is considered essential for self-support if its current market value does not exceed limits which take into account the nature of the business and the gross and net

income such business may be expected to produce in the light of such property.

(c) For purposes of this section, "property of a trade or business" means items commonly referred to as tangible business assets such as land and buildings, equipment and supplies, inventory, cash on hand, accounts receivable, etc.

§ 416.1224 Exclusion of nonbusiness property essential to self-support.

(a) In determining the resources of an individual (and spouse, if any) there shall be excluded nonliquid property (as defined in § 416.1201) which although not used in a trade or business is essential to the self-support of the individual (and spouse, if any). Nonbusiness property is considered essential for self-support if it is relied upon by the individual as a significant factor in producing income on which he can live, it is used to produce goods essential to the support of the individual, or it is used to provide services essential to the individual's support.

(b) Property used exclusively to produce items for home consumption is considered essential for self-support if the items produced are a significant factor in the support and maintenance of the individual.

(c) Tools, equipment, uniforms, and similar items required by the individual's employer are considered essential for self-support.

(d) A motor vehicle (in addition to that otherwise excludable under this Subpart L) is considered essential for self-support if, because of climate, terrain, distance, or similar factors, additional or specially modified vehicles are required to provide necessary transportation. The limitations on value of otherwise excluded vehicles in this Subpart L are applicable to vehicles in this category.

§ 416.1226 Exclusion of resources necessary to fulfill an approved plan for self-support.

In determining the resources of a blind or disabled individual, there shall be excluded such resources as an approved plan for achieving self-support pursuant to § 416.1731, specifies as being necessary for the fulfillment of such plan for so long as such plan remains in effect.

§ 416.1228 Exclusion of Alaskan natives' stock in regional or village corporations.

(a) In determining the resources of a native of Alaska (and spouse, if any) there will be excluded from resources, shares of stock held in a regional or village corporation during the period of 20 years in which such stock is inalienable, as provided by sections 7(h) and 8(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606, 1607). The 20-year period of inalienability terminates on January 1, 1992.

(b) As used in this section, "native of Alaska" has the same meaning as that contained in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

§ 416.1230 Exclusion of life insurance.

(a) *General.* In determining the resources of an individual (and spouse, if any), life insurance owned by the individual (and spouse, if any) will be considered to the extent of its cash surrender value. If, however, the total face value of all life insurance policies on any person does not exceed $1,500, no part of the cash surrender value of such life insurance will be taken into account in determining the resources of the individual (and spouse, if any). In determining the face value of life insurance on the individual (and spouse, if any), term insurance and burial insurance will not be taken into account.

(b) *Definitions*—(1) *Life insurance.* Life insurance is a contract under which the insurer agrees to pay a specified amount upon the death of the insured.

(2) *Insurer.* The insurer is the company or association which contracts with the owner of the insurance.

(3) *Insured.* The insured is the person upon whose life insurance is effected.

(4) *Owner.* The owner is the person who has the right to change the policy. This is normally the person who pays the premiums.

(5) *Term insurance.* Term insurance is a form of life insurance having no cash surrender value and generally furnishing insurance protection for only a specified or limited period of time.

(6) *Face value.* Face value is the basic death benefit of the policy exclusive of dividend additions or additional amounts payable because of accidental death or under other special provisions.

(7) *Cash surrender value.* Cash surrender value is the amount which the insurer will pay (usually to the owner) upon cancellation of the policy before death of the insured or before maturity of the policy.

(8) *Burial insurance.* Burial insurance is insurance whose terms specifically provide that the proceeds can be used only to pay the burial expenses of the insured.

§ 416.1232 Replacement of damaged or lost excluded resources.

Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., is excluded as a resource provided the total amount of the cash is used to repair or replace such excluded resource within 3 months if the resource is personal property and 6 months if the resource is real property. Any such cash not so used within such time periods is an includable resource to the extent retained beginning with the quarter following the quarter of receipt.

§ 416.1234 Exclusion of Indian lands.

In determining the resources of an individual (and spouse, if any) who is of Indian descent from a federally recognized Indian tribe, there shall be excluded such restricted, allotted lands as such individual (and spouse, if any) may possess if such individual (and spouse, if any) cannot sell, transfer or otherwise dispose of such land without permission of other individuals, his tribe or an agency of the Federal Government.

§ 416.1240 Disposition of resources.

(a) Where the resources of an individual (and spouse, if any) are determined to exceed the limitations prescribed in § 416.1205, such individual (and spouse, if any) shall not be eligible for payment except under the conditions provided in this section. Payment will be made to an individual (and spouse, if any) if:

(1) Total includable resources do not exceed $3,000 in the case of an individual or $4,500 in the case of an individual and spouse; and

(2) Total includable liquid resources (as defined in § 416.1201) do not exceed one-fourth of the applicable dollar amount specified in section 1611(b)(1) of the Act in the case of an individual and in section 1611(b)(2) in the case of an individual and spouse; and

(3) The individual agrees in writing to:

(i) Dispose of the nonliquid resources (as defined in § 416.1201) in excess of the limitations prescribed in § 416.1205 within the time period specified in § 416.1242; and

(ii) Repay any overpayments (as defined in § 416.1244) with the proceeds of such disposition.

(b) Payment made for the period during which the resources are being disposed of will be conditioned upon the disposition of resources prescribed in paragraph (a)(3) of this section. Any payments so made are (at the time of disposition) considered overpayments to the extent they would not have been paid had the disposition occurred at the beginning of the period for which such payments were made.

§ 416.1242 Time limits for disposing of resources.

(a) In order for payment conditioned on the disposition of nonliquid resources to be made, the individual must agree in writing to dispose of real property within 6 months and other property within 3 months. The time period will begin on the date the written agreement to dispose of the resources is signed by the individual. However, in case of an individual who is disabled, the time period will begin with the date the individual is determined to be disabled.

(b) The 6 and 3 month time periods for disposition will be extended an additional 3 months where it is found that the individual had "good cause" for failing to dispose of the resources within the original time period.

(c) An individual will be found to have "good cause" for failing to dispose of a resource if, despite reasonable and diligent effort on his part, he was prevented by circumstances beyond his control from disposing of the resource.

§ 416.1244 Treatment of proceeds from disposition of resources.

(a) Upon disposition of the resources, the net proceeds to the individual from

the sale are considered available to repay that portion of the payments that would not have been made had the disposition occurred at the beginning of the period for which payment was made.

(b) The net proceeds from disposition will normally be the sales price less any encumbrance on the resource and the expenses of sale such as transfer taxes, fees, advertising costs, etc. where, however, a resource has been sold (or otherwise transferred) by an individual to a friend or relative for less than its current market value, the net proceeds will be the current market value less costs of sale and encumbrance.

(c) After deducting any amount necessary to raise the individual's (and spouse's, if any) resources to $1,500 or $2,250 (as applicable), as of the beginning of the disposition period, the balance of the net proceeds will be used to recover the payments made to the individual (and spouse, if any). Any remaining proceeds are considered liquid resources.

(d) The overpayment to be recovered is equal to the balance of the net proceeds (as described in paragraph (c) of this section) or the total payments made to the individual (and spouse, if any) for the period of disposition, whichever is less.

§ 416.1260 Special resource provision for recipients under a State plan.

(a) *General.* In the case of any individual or any individual (and spouse, if any) who for the month of December 1973 was a recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI, of the Act, the resources of such individual (and spouse, if any) shall be deemed not to exceed the amount specified in § 416.1205 during any period that the resources of such individual (and spouse, if any) do not exceed the maximum amount of resources specified in such State plan as in effect in October 1972.

(b) *State plan; defined.* As used in this section and §§ 416.1261–416.1266, "an approved State plan as in effect in October 1972" and "State plan for October 1972" means a State plan as approved under the provisions of 45 CFR Ch. II as in effect in October 1972.

§ 416.1261 Application of special resource provision.

In determining the resources of an individual (and spouse, if any) who meets the conditions specified in § 416.1260(a), either the State plan resource limit and exclusions (as specified in § 416.1260) or the resource limit (as specified in § 416.1205) and exclusions (as specified in § 416.1210), whichever is most advantageous to the individual (and spouse, if any) will be used.

§ 416.1264 Spouse ineligible under a State plan in December 1973.

In the case of an individual who meets the conditions specified in § 416.1260 but whose spouse does not meet such conditions, whichever of the following is most advantageous for the individual (and spouse, if any) will be applied:

(a) The resource limitation and exclusions for an individual as in effect under the approved State plan for October 1972, or

(b) The resource limitation (as specified in § 416.1205) and exclusions (as specified in § 416.1210) for an individual and eligible spouse or an individual living with an ineligible spouse.

§ 416.1266 Individual under special resource provision dies after December 1973.

Where only one person, either the eligible individual or the eligible spouse, meets the conditions specified in § 416.1260 and that person dies after December 1973, the State plan resource limitation and exclusions will not be applied to determine the amount of resources of the surviving individual. The resource limitation (as specified in § 416.1205) and exclusions (as specified in § 416.1210) will be applied for the now eligible individual beginning with the month such person is considered the eligible individual as defined in Subpart A of this part.

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Title 21—Food and Drugs

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

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 75N-0267]

PART 310—NEW DRUGS

Oral Contraceptive Patient Labeling

The Commissioner of Food and Drugs is amending § 310.501 (21 CFR 310.501) to require manufacturers of oral contraceptives to include in the mandatory patient labeling and the patient brochure a statement that oral contraceptives are of no value in the prevention or treatment of venereal disease, effective January 19, 1976.

The Commissioner proposed, in the FEDERAL REGISTER of April 19, 1974 (39 FR 13972), to amend § 310.501 to require the statement in the mandatory patient labeling and the patient brochure for oral contraceptives. Interested persons were invited to submit comments regarding the proposal on or before June 18, 1974. An editorial correction of the proposal was published in the FEDERAL REGISTER of May 16, 1974 (39 FR 17448).

Twenty-one comments were received in response to the proposal: From a city health agency, a community organization for VD awareness, and other persons. Fifteen comments expressed approval of the proposal, some with suggested modification. Five comments opposed the proposal. One comment did not directly respond to the proposal, and one comment that favored the proposal was also directed to the overall content and language of the patient package information. In this regard, the Food and Drug Administration is currently reviewing the broader issue of patient package inserts for prescription drugs. The printed information supplied to a user of oral contraceptives is included in this review and will be assessed by physicians, patients, and experts in communications in an effort to test the adequacy of the information. Any deficiencies identified in the patient insert for these drugs will be remedied when the review is completed. The principal issues raised in the comments and the Commissioner's conclusions are as follows:

1. One comment opposed the proposal because no connection between an increase in venereal disease and the absence of the proposed warning statement has been established.

The Commissioner agrees that there is no factual evidence that an increase in venereal disease is related to the absence of a statement in the labeling warning patients that oral contraceptives are of no value in the prevention or treatment of this disease. The justification for this warning does not rely on an increase in venereal disease. The request for the addition of this warning, as discussed in the proposal, asserted that lay persons are uninformed on this subject and may be misled into believing that oral contraceptives prevent venereal disease. Education of the public might therefore reduce the incidence of this disease. The Commissioner concludes that it is in the public interest to require that such a warning statement be included in the mandatory patient labeling and patient brochure for oral contraceptives. As noted in the preamble to the proposal, this requirement has the support of the Center for Disease Control, Atlanta, GA, and the Food and Drug Administration's Obstetrics and Gynecology Advisory Committee.

2. Two comments favored the proposal but suggested adding a more positive statement relating to the physiological effect of these drugs, which may make the genital tract more susceptible to infection. One of these comments suggested including recommendations that, while using oral contraceptives, the patient be provided an active program for prevention of venereal disease.

The Commissioner is aware that an association between females taking oral contraceptives and an increase in venereal disease has been reported in medical literature. Reports suggest that these drugs produce a physiological change in the genital tract, thus making the female more susceptible to venereal disease. He concludes, however, that there is insufficient evidence of this association to justify including such information in the labeling. Many other factors may contribute to an increase in venereal disease. The Food and Drug Administration will continue to monitor adverse reaction information received and the published literature regarding the effect noted by the comment. If such an effect appears reasonably associated with the use of oral contraceptives, the Commissioner will then consider adding such information to the oral contraceptive labeling.

The Commissioner believes that programs for preventing venereal disease can be more appropriately dealt with by the physician, other health care experts, and social scientists. Such programs are not within the scope of this proposal.

3. One comment suggested that the proposed warning statement appear in the Spanish language as well as the English language since Spanish is often the commonly used language in some U.S. population sectors.

The Commissioner advises that there is no prohibition against printing the entire patient package information leaflet in both the English and Spanish languages and that such printing should be encouraged for Spanish speaking communities. (See 21 CFR 201.15(c).) However, printing the warning statement regarding venereal disease in both Spanish and English on all English language versions would place undue emphasis on this statement over all other information in the leaflet and therefore will not be permitted.

4. One comment recommended adding a statement informing patients that they can contact their physician or pharmacist for additional information regarding the use of oral contraceptives and venereal disease.

The Commissioner recognizes that, although physicians and pharmacists are reliable sources for helpful information regarding venereal disease and the use of oral contraceptives, they are not the sole sources. Other health professionals such as nurses, physicians' assistants, medical societies, government agencies, and consumer educational groups are also engaged in educating the public about venereal disease. The Commissioner is of the opinion that most people are aware of these sources of information on oral contraceptives and venereal disease from publicity in the press, television, and other media. He does not believe the addition of such information to the patient labeling is necessary at this time.

5. One comment suggested that the caution statement regarding venereal disease and the use of oral contraceptives be in boldface type.

The Commissioner advises that paragraph (a)(5)(i) and (ii) of § 310.501 requires that the text of all information in paragraph (a)(4) of that section, which is the patient package information, be in boldface type. The statement "Caution: Oral contraceptives are of no value in the prevention or treatment of venereal diseases" required in the patient package information by this regulation will therefore be in boldface type, as the comment suggested. For the reasons discussed in paragraph 3 above, no other special attention should be called to this statement.

6. One comment suggested placing the caution statement on the label of the dispensed oral contraceptive pack where it would be more easily seen since many patients rarely read the accompanying literature after the first month of use.

The Commissioner advises that the printed information included in or with the oral contraceptive package dispensed to the patient contains the necessary information to alert the patient to the nature of oral contraceptives, to the potential hazards of taking these drugs, and to the fact that continued medical supervision is needed for their safe and effective use. A caution statement regarding venereal disease, as required by this regulation, is appropriate as part of this printed information. Including such a statement on the label of the dispensed oral contraceptive container rather than as part of the printed patient information leaflet may erroneously imply that this caution is of greater importance than all other information contained in the patient leaflet. The Commissioner believes that the widespread dissemination of patient information to the many users of oral contraceptives will most likely bring such a caution statement to the attention of all who need to have this information.

7. One comment suggested changing the caution statement to read "Caution: Not for the Prevention or Treatment of Venereal Disease."

The Commissioner believes that the suggested change does not properly emphasize that oral contraceptives are of no value in the treatment or prevention of venereal disease. The recommended wording change erroneously suggests that although oral contraceptives are not intended for the treatment or prevention of venereal disease, they may nevertheless be of value in such treatment or prevention.

The Commissioner concludes that the statement as proposed more accurately informs the patient.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502 (a) and (f), 505, 701(a), 52 Stat. 1050–1053 as amended, 1055 (21 U.S.C. 352 (a) and (f), 355, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 310 is amended in § 310.501 by revising the "Patient Package Information" in paragraph (a)(4) and by adding a new paragraph (a)(6)(xiii), to read as follows:

§ 310.501 Preparations for contraception; labeling directed to the patient.

(a) * * *

(4) * * *

(Patient Package Information)

ORAL CONTRACEPTIVES

(Birth Control Pills)

Do Not Take This Drug Without Your Doctor's Continued Supervision

The oral contraceptives are powerful and effective drugs which can cause side effects in some users and should not be used at all by some women. The most serious known side effect is abnormal blood clotting which can be fatal.

Safe use of this drug requires a careful discussion with your doctor. To assist him in providing you with the necessary information, _____ has prepared a
(Firm name)
booklet (or other form) written in a style understandable to you as the drug user. This provides information on the effectiveness and known hazards of the drug including warnings, side effects and who should not use it. Your doctor will give you this booklet (or other form) if you ask for it and he can answer any questions you may have about the use of this drug.

Notify your doctor if you notice any unusual physical disturbance or discomfort.

Caution: Oral contraceptives are of no value in the prevention or treatment of venereal disease.

* * * * *

(6) * * * (xiii) A statement warning the patient that oral contraceptives are of no value in the prevention or treatment of venereal disease.

* * * * *

Effective date. This regulation shall be effective on January 19, 1975.

(Secs. 502(a) and (f), 505, 701(a), 52 Stat. 1050–1053 as amended, 1055 (21 U.S.C. 352(a) and (f), 355, 371(a)).)

Dated: October 10, 1975.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.75-28099 Filed 10-17-75;8:45 am]

[Docket No. 75N-0241]

PART 369—INTERPRETATIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

Insulin Syringes; Warning and Caution Statement

Correction

In FR Doc. 75-26603 appearing on page 46100 in the issue of Monday, October 6, 1975, make the following changes:

1. On page 46100, in the second column, first and second lines, the date "January 5, 1975" should read "January 5, 1976".

2. On page 46101, in the first column, third paragraph, the date, "January 5, 1975" should read "January 5, 1976".

Title 24—Housing and Urban Development

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-75-352]

PART 25—MORTGAGEE REVIEW BOARD

Subpart A—Department of Housing and Urban Development Mortgagee Review Board

Correction

In FR Doc. 75-24840, appearing at page 43026 in the issue for Thursday, September 18, 1975, in § 25.5(c), the word "person" in the second line should read "purpose".

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

SUBCHAPTER M—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. ATF-19; Ref. No. 279]

PART 245—BEER

Tax Offset Limitation for Beer Returned to Brewery

Correction

In FR Doc. 75-27243 appearing on page 47490 in the issue of Thursday, October 9, 1975, the heading below the CFR part heading for Part 254 should read as set forth above.

Title 41—Public Contracts and Property Management

CHAPTER I—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 159]

PART 1–16—PROCUREMENT FORMS

New Edition of a Standard Form

This amendment of the Federal Procurement Regulations prescribes the use of the April 1975 edition of Standard Form 253, General Provisions (Architect-Engineer Contract).

The new edition of the standard form includes new and revised contract provisions. The new and revised provisions involve the following clauses: Assignment of Claims, Examination of Records by Comptroller General, Contract Work Hours and Safety Standards Act—Overtime Compensation, Convict Labor, Equal Opportunity, Pricing of Adjustments, Payment of Interest on Architect-Engineer's Claims, Utilization of Small Business Concerns, Utilization of Minority Business Enterprises, and Suspension of Work.

Clauses for the Employment of the Handicapped and Listing of Employment Openings were not included because revisions of the clause currently are under consideration by the Department of Labor.

In order not to further delay the issuance of the new edition of the form, the recently issued Clean Air and Water clause was not physically incorporated in the new edition but was prescribed for use with the new form by § 1–16.701(b).

Subpart 1–16.7—Forms for Negotiated Architect-Engineer Contracts

1. Section 1–16.701(b) is revised, as follows:

§ 1–16.701 Forms prescribed.

* * * * *

(b) *General Provisions (Architect-Engineer Contract) (Standard Form 253, April 1975 edition).* Pending the publication of a new edition of the form, the Listing of Employment Openings clause set forth in § 1–12.1102–2, the Employment of the Handicapped clause set forth in § 1–12.1304–1, and the Clean Air and Water clause set forth in § 1–1.2302–2 shall be added as additional articles of the General Provisions.

* * * * *

Subpart 1–16.9—Illustrations of Forms

2. Section 1–16.901–253 is revised to illustrate the revised edition of Standard Form 253.

§ 1–16.901–253 Standard Form 253, General Provisions (Architect-Engineer Contract).

(a) Page 1 of Standard Form 253.

GENERAL PROVISIONS
(Architect-Engineer Contract)

1. DEFINITIONS

(a) The term "head of the agency" or "Secretary" as used herein means the Secretary, or any other head of the executive or military department or other Federal agency, and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the head of the agency or the Secretary.

(b) The term "Contracting Officer" as used herein means the person executing this contract on behalf of the Government and includes a duly appointed successor or authorized representative.

2. RESPONSIBILITY OF THE ARCHITECT-ENGINEER

(a) The Architect-Engineer shall be responsible for the professional quality, technical accuracy and the coordination of all designs, drawings, specifications, and other services furnished by the Architect-Engineer under this contract. The Architect-Engineer shall, without additional compensation, correct or revise any errors or deficiencies in his designs, drawings, specifications, and other services.

(b) Neither the Government's review, approval or acceptance of, nor payment for, any of the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Architect-Engineer shall be and remain liable to the Government in accordance with applicable law for all damages to the Government caused by the Architect-Engineer's negligent performance of any of the services furnished under this contract.

(c) The rights and remedies of the Government provided for under this contract are in addition to any other rights and remedies provided by law.

3. CHANGES

(a) The Contracting Officer may, at any time, by written order, make changes within the general scope of the contract in the services to be performed. If such changes cause an increase or decrease in the Architect-Engineer's cost of, or time required for, performance of any services under this contract, whether or not changed by any order, an equitable adjustment shall be made and the contract shall be modified in writing accordingly. Any claim of the Architect-Engineer for adjustment under this clause must be asserted in writing within 30 days from the date of receipt by the Architect-Engineer of the notification of change unless the Contracting Officer grants a further period of time before the date of final payment under the contract.

(b) No services for which an additional cost or fee will be charged by the Architect-Engineer shall be furnished without the prior written authorization of the Contracting Officer.

4. TERMINATION

(a) The Contracting Officer may, by written notice to the Architect-Engineer, terminate this contract in whole or in part at any time, either for the Government's convenience or because of the failure of the Architect-Engineer to fulfill his contract obligations. Upon receipt of such notice, the Architect-Engineer shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Architect-Engineer in performing this contract, whether completed or in process.

(b) If the termination is for the convenience of the Government, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.

(c) If the termination is due to the failure of the Architect-Engineer to fulfill his contract obligations, the Government may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Architect-Engineer shall be liable to the Government for any additional cost occasioned to the Government thereby.

(d) If, after notice of termination for failure to fulfill contract obligations, it is determined that the Architect-Engineer had not so failed, the termination shall be deemed to have been effected for the convenience of the Government. In such event, adjustment in the contract price shall be made as provided in paragraph (b) of this clause.

(e) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

5. DISPUTES

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Architect-Engineer. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Architect-Engineer mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the head of the agency involved. The decision of the head of the agency or his duly authorized representative for the determination of such appeals shall be final and conclusive. This provision shall not be pleaded in any suit involving a question of fact arising under this contract as limiting judicial review of any such decision to cases where fraud by such official or his representative or board is alleged, **Provided, however,** that any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Architect-Engineer shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Architect-Engineer shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This Disputes clause does not preclude consideration of questions of law in connection with decisions provided for in paragraph (a) above. Nothing in this contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

6. ASSIGNMENT OF CLAIMS

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this contract provides for payments aggregating $1,000 or more, claims for moneys due or to become due the Architect-Engineer from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this contract, payments to an assignee of any moneys due or to become due under this contract shall not, to the extent provided in said Act, as amended, be subject to reduction or set-off. (The preceding sentence applies only if this contract is made in time of war or national emergency as declared by the President or Congress and is with the Department of Defense, the General Services Administration, the Energy Research and Development Administration, the National Aeronautics and Space Administration, the Federal Aviation Administration, or any other department or agency of the United States designated by the President pursuant to Clause 4 of the proviso of section 1 of the Assignment of Claims Act of 1940, as amended by the Act of May 15, 1951, 65 Stat. 41.)

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential," be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same. However, a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

7. GOVERNMENT RIGHTS (UNLIMITED)

The Government shall have unlimited rights, for the benefit of the Government, in all drawings, designs, specifications, notes and other work developed in the performance of this contract, including the right to use same on any other Government work without additional cost to the Government; and with respect thereto the Architect-Engineer agrees to and does hereby grant to the Government a royalty free license to all such data which he may cover by copyright and in all designs as to which he may assert any rights or establish any claim under the design patent or copyright laws. The Architect-Engineer for a period of three (3) years after completion of the project agrees to furnish and to provide access to the originals or copies of all such materials on the request of the Contracting Officer.

8. EXAMINATION OF RECORDS BY COMPTROLLER GENERAL

(a) This clause is applicable if the amount of this contract exceeds $10,000 and was entered into by means of negotiation, including small business restricted ad-

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Standard Form 253
April 1975 Edition
General Services Administration
Fed. Proc. Reg. (41CFR) 1-16.901
252-102

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(b) Page 2 of Standard Form 253.

vertising, but is not applicable if this contract was entered into by means of formal advertising.

(b) The Architect-Engineer agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under this contract or such lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations Part 1–20, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Architect-Engineer involving transactions related to this contract.

(c) The Architect-Engineer further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under the subcontract or such lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations Part 1–20, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $10,000 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(d) The periods of access and examination described in (b) and (c), above, for records which relate to (1) appeals under the "Disputes" clause of this contract, (2) litigation or the settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

9. COVENANT AGAINST CONTINGENT FEES

The Architect-Engineer warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Architect-Engineer for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

10. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

11. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT — OVERTIME COMPENSATION

This contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

(a) Overtime requirements. No Architect-Engineer or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, apprentices, trainees, watchmen, and guards shall require or permit any laborer, mechanic, apprentice, trainee, watchman, or guard in any workweek in which he is employed on such work to work in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act unless such laborer, mechanic, apprentice, trainee, watchman, or guard receives compensation at a rate not less than one and one-half times his basic rate of pay for all such hours worked in excess of 8 hours in any calendar day or in excess of 40 hours in such workweek, whichever is the greater number of overtime hours.

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions of paragraph (a), the Architect-Engineer and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such Architect-Engineer and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, apprentice, trainee, watchman, or guard employed in violation of the provisions of paragraph (a) in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by paragraph (a).

(c) Withholding for unpaid wages and liquidated damages. The Contracting Officer may withhold from the Architect-Engineer, from any moneys payable on account of work performed by the Architect-Engineer or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Architect-Engineer or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) Subcontracts. The Architect-Engineer shall insert paragraphs (a) through (d) of this clause and the preamble in all subcontracts, and shall require their inclusion in all subcontracts of any tier.

(e) Records. The Architect-Engineer shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for 3 years from the completion of the contract.

12. CONVICT LABOR

In connection with the performance of work under this contract, the Architect-Engineer agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89–176, September 10, 1965 (18 U.S.C. 4082(c)(2)) and Executive Order 11755, December 29, 1973.

13. EQUAL OPPORTUNITY CLAUSE

(The following clause is applicable unless this contract is exempt under the rules, regulations, and relevant orders of the Secretary of Labor (41 CFR, ch. 60).)

During the performance of this contract, the Architect-Engineer agrees as follows:

(a) The Architect-Engineer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Architect-Engineer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Architect-Engineer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(b) The Architect-Engineer will, in all solicitations or advertisements for employees placed by or on behalf of the Architect-Engineer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The Architect-Engineer will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Architect-Engineer's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Architect-Engineer will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Architect-Engineer will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Architect-Engineer's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Architect-Engineer may be declared ineligible for further Government contracts, in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Architect-Engineer will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The Architect-Engineer will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; **Provided, however,** that in the event the Architect-Engineer becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Architect-Engineer may request the United States to enter into such litigation to protect the interests of the United States.

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(c) Page 3 of Standard Form 253.

14. PRICING OF ADJUSTMENTS

When costs are a factor in any determination of a contract price adjustment pursuant to the "Changes" clause or any other provision of this contract, such costs shall be in accordance with the contract cost principles and procedures in Part 1–15 of the Federal Procurement Regulations (41 CFR 1–15) or section XV of the Armed Services Procurement Regulation as applicable which are in effect on the date of this contract.

15. PAYMENT OF INTEREST ON ARCHITECT-ENGINEER'S CLAIMS

(a) If an appeal is filed by the Architect-Engineer from a final decision of the Contracting Officer under the Disputes clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the Architect-Engineer. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to Public Law 92–41, 85 Stat. 97, from the date the Architect-Engineer furnishes to the Contracting Officer his written appeal under the Disputes clause of this contract, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to the Architect-Engineer of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a board of contract appeals.

(b) Notwithstanding (a), above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal, and (2) interest shall not be paid for any period of time that the Contracting Officer determines the Architect-Engineer has unduly delayed in pursuing his remedies before a board of contract appeals or a court of competent jurisdiction.

16. UTILIZATION OF SMALL BUSINESS CONCERNS

(a) It is the policy of the Government as declared by the Congress that a fair proportion of the purchases and contracts for supplies and services for the Government be placed with small business concerns.

(b) The Architect-Engineer agrees to accomplish the maximum amount of subcontracting to small business concerns that the Architect-Engineer finds to be consistent with the efficient performance of this contract.

17. UTILIZATION OF MINORITY BUSINESS ENTERPRISES

(a) It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(b) The Architect-Engineer agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American Aleuts. The Architect-Engineer may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

18. SUSPENSION OF WORK

(a) The Contracting Officer may order the Architect-Engineer in writing to suspend all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended or delayed by an act of the Contracting Officer in the administration of this contract, or by his failure to act within the time specified in this contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this contract (excluding profit) necessarily caused by such unreasonable suspension or delay, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension or delay to the extent (1) that performance would have been suspended or delayed by any other cause, including the fault or negligence of the Architect-Engineer, or (2) for which an equitable adjustment is provided for or excluded under any other provision of this contract.

(c) No claim under this clause shall be allowed (1) for any costs incurred more than [illegible] before the Architect-Engineer shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension or delay, but not later than the date of final payment. No part of any claim based on the provisions of this clause shall be allowed if not supported by adequate evidence showing that the cost would not have been incurred but for a delay within the provisions of this clause.

SPECIMEN

3 Standard Form 253 Page 3 (Rev. 4–75)

☆ U.S. GOVERNMENT PRINTING OFFICE : 1974 O—580-454 14-1

Availability of forms. It is anticipated that copies of the form will be available for use by January 30, 1976, and may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activitiy.

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

Effective date. This regulation is effective January 30, 1976, but may be observed as soon as copies of the new edition of the standard form prescribed herein are available.

Dated: October 8, 1975.

It is hereby certified that the economic and inflationary impact of this regulation have been carefully evaluated in accordance with OMB Circular A–107.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.75–28009 Filed 10–17–75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19973; FCC 75–1096]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Terrestrial Services

In the matter of amendment of Part 2 of the Commission's rules to provide allocations in the 40 GHz to 300 GHz bands for terrestrial services,

1. In 1971 a World Administrative Radio Conference for Space Telecommunications (WARC–ST) was convened in Geneva, Switzerland, by the International Telecommunication Union (ITU). As a result of that conference the table of frequency allocations of the ITU was amended so as to include allocations in the 40 GHz to 275 GHz band for radio astronomy and various space radio services. Previously, there had been no ITU allocations above 40 GHz. In its Report and Order of February 14, 1973 (38 FR 5562, March 1, 1973; FCC 73–169), terminating the proceedings in Docket No. 19547, the Commission amended its Table of Frequency Allocations (§ 2.106 of its rules and regulations) to conform, as nearly as was practicable, to the ITU Regulations as revised by the WARC–ST. In the notice of proposed rulemaking initiating that proceeding (37 FR 15714, August 4, 1972; FCC 72–629) the Commission stated that it intended to initiate at some future time a rulemaking proceeding to make allocations for terrestrial services in the bands above 40 GHz. Accordingly, the Commission adopted the notice of proposed rulemaking opening this proceeding on March 13, 1974 (39 FR 11196, March 26, 1974; FCC 74–249). The dates established for the filing of comments and reply comments were April 29, 1974, and May 10, 1974, respectively.

2. Comments were filed by American Satellite Corporation (ASC), American Telephone and Telegraph Company (AT&T), Communications Satellite Corporation (Comsat), and Comsat General Corporation. Reply comments were filed by AT&T, Comsat, CML Satellite Corporation (CML), and RCA Global Communications, Inc., (RCA Globcom). AT&T favored adoption of the proposed amendments to the Table of Frequency Allocations, while the other parties filing opposed them. The opposing comments allege three main deficiencies in the Commission proposals: (1) the lack of a showing of any rationale for the proposed allocations, (2) the inconsistency of the proposed allocations with the ITU Regulations, and (3) the prematureness of any general terrestrial allocations above 40 GHz at this time.

A. THE RATIONALE OF THE ALLOCATION

3. Comsat and RCA Globcom both commented that they could find nothing in the Notice of Proposed Rule Making that explained how the proposed allocations to the various terrestrial services were derived. Actually, the terrestrial allocations which were proposed and which we are now adopting conform very closely to recommendations contained in the Final Acts of the 1971 WARC–ST (23 U.S.T. 1527). That conference was competent to deal only with allocations for radio astronomy and space services. It did, however, make recommendations, addressed to administrations and to future competent World Administrative Radio Conferences, as to the kinds of

terrestrial services it considered should share various of the bands it had allocated to space services. For example, the bands allocated to the inter-satellite service (54.25–58.2 GHz, 59–64 GHz, 105–130 GHz, 170–182 GHz and 185–190 GHz) were located close to peaks of atmospheric absorption; therefore, in Recommendation No. Spa2–3, the WARC–ST recommended that a future conference should consider also allocating these bands to terrestrial services, excepting aeronautical mobile services. Recommendation No. Spa2–4 concerns the 43–48 GHz, 66–71 GHz, 95–101 GHz, 142–150 GHz, 190–200 GHz and 250–265 GHz bands, which the WARC–ST allocated to the aeronautical mobile-satellite, maritime mobile-satellite, aeronautical radionavigation-satellite, and maritime radionavigation-satellite services. The WARC–ST recommended that a furture conference consider the shared use of these bands by the aeronautical mobile, maritime mobile, aeronautical radionavigation, and maritime radionavigation services. With regard to the 41–43 GHz and 84–86 GHz bands allocated by the WARC–ST to the broadcasting satellite service, Recommendations No. Spa2–5 recognizes "that it is possible, by appropriate coordination for a frequency band to be shared by the broadcasting-satellite service, on the one hand, and the fixed and mobile services, on the other * * *" (23 U.S.T. 1527, 1843).[1]

4. The remaining major category where terrestrial allocation have been proposed consists of bands allocated by the WARC—ST to the fixed-satellite service (40–41 GHz, 50–51 GHz, 92–95 GHz, 102–105 GHz, 140–142 GHz, 150–152 GHz, 220–230 GHz, and 265–275 GHz). The fixed-satellite service currently shares a number of bands at lower frequencies with the fixed and mobile services and it is therefore probable that such sharing will also prove feasible at frequencies above 40 GHz.

5. The 52–54.25 GHz, 58.2–59 GHz, 64–65 GHz, 86–92 GHz, 101–102 GHz, 130–140 GHz, 182–185 GHz, and 230–240 GHz bands were allocated by the WARC—ST to radio astronomy and passive research operations. Consequently, we did not propose that these bands be shared with active operations. Also, since no equipment capable of operating at frequencies above 300 GHz is expected to be available in the foreseeable future, neither the ITU, the Office of Telecommunications Policy (OTP), or the Commission, suggested any allocations there. Instead, we have followed our usual practice of allowing amateur stations to operate on these unallocated frequencies.

6. Thus, our proposed terrestrial allocations do, we feel, confrom very closely to the intent of the allocations and recommendations made by the 1971 WARC—ST. It should also be mentioned that the Commission has worked very closely with the OTP in this area and that many terrestrial allocations included in our proposals are based upon defined Federal Government requirements. For example, some of the bands which are not presently allocated by the ITU, i.e., 48–50 GHz, 71–84 GHz, 152–170 GHz, 200–220 GHz, 240–250 GHz and bands above 275 GHz are presently allocated under OTP regulations to services such as radio-location for which there are specific U.S. Government needs. The remaining bands unallocated by the ITU have been proposed for the general fixed and mobile services, which are very broad categories allowing maximum flexibility in future planning and development.

7. In summary, our proposed allocations conform very closely to the terrestrial allocations above 40 GHz currently in effect for U.S. Government entities. It is obviously desirable when Government and non-Government services are sharing a band that the services be similar. Of equal importance, the allocations that were proposed are consistent with the recommendations made by the 1971 WARC—ST and with our own experiences with such sharing.

B. Consistency with ITU Regulations

8. Comsat alleged that the allocations which we proposed were not consistent with the international allocations adopted by the ITU and gave undue preference to the terrestrial service. It states that the Commission did not, with regard to a number of bands, follow the international allocations adopted in Docket No. 19547, the proceeding conducted to modify the Commission's rules to reflect the results of the 1971 WARC—ST. Comsat correctly states that we did not allocate the bands 54.25–58.2 GHz, 59–64 GHz, 105–110 GHz, 117.5–122.5 GHz, 170–175 GHz and 189–190 GHz to the Inter-Satellite Service, nor did we allocate the bands 92–93 GHz, 102–103 GHz, 140–141 GHz and 150–151 GHz to the Fixed-Satellite Service. Such allocations were made by the 1971 WARC—ST, but were not adopted by us for non-Government services.

9. However, there is good reason for this. As we stated in paragraph 38 of the notice of proposed rulemaking in Docket 19547 (37 FR 15714), a philosophy of general sharing between Government and non-Government services was followed in the allocations then proposed except in those to the broadcasting-satellite service, where there was no defined Government requirement, and in certain of the fixed-satellite and inter-satellite bands, where specific Government needs for exclusivity had been identified. The bands mentioned by Comsat fall into this latter category. These bands are allocated to space services in close harmony with the ITU allocations, but are not available for non-Government use in this country. Consequently, all frequencies allocated by the 1971 WARC–ST to space services in Region II have also been allocated to space services in the United States, though not all are available to non-Government stations. Therefore, Comsat's statement that these bands are being allocated exclusively to fixed and mobile terrestrial services in the United States is incorrect.

10. Comsat is correct in stating that fixed and mobile terrestrial services will have some bands allocated exclusively to them. These are bands which were not allocated to space services by the WARC–ST and were therefore not included in our Docket No. 19547. Comsat suggests that some of these bands should also be allocated to space services. While such additional space allocations lie beyond the scope of this proceeding, the matter may be considered in connection with preparations for upcoming 1979 WARC.

11. Therefore, the space allocations in effect in the United States are in accord with the international allocations. The ITU has, of course, made no terrestrial allocations above 40 GHz. Nevertheless, terrestrial stations operating in those bands will not necessarily be acting in contravention of the ITU Regulations. ITU Regulation No. RR 115 permits administrations to authorize the use of frequencies by stations different from those specified in the ITU allocation table so long as such authorizations are made subject to the express condition that such stations shall not cause harmful interference to stations operating in accordance with the ITU table. Although the proposed terrestrial allocations do not now appear in the ITU Regulations, they follow the recommendations made by the WARC–ST (see section A). Terrestrial stations operating under this allocation will not contravene international agreement so long as they do not interfere with foreign space stations and any developmental authorizations made by the Commission will be so conditioned. The allocation is therefore not inconsistent with ITU Regulations and is consistent with the spirit of the Final Acts of the 1971 WARC–ST.

C. The Timeliness of the Allocation

12. AT&T stated that it was desirable that the proposed allocations be implemented without delay because any substantial delay would discourage exploration and development. Such a delay, it said, would cause the curtailment of preliminary terrestrial system planning and development activities. AT&T felt that "further progress depends on reasonable assurances that clearly defined frequency bands will be available to receive and nurture substantial investments of creative technical talent and financial resources." (AT&T Reply Comment, p. 2.). It stated that the terrestrial services and space services, both of which are of interest to AT&T, should have the opportunity to develop and grow. AT&T also supported the delaying for a time of the establishment of specific criteria for sharing between space and terrestrial services. Such criteria if established now would be based on practices required at frequencies well below 40 GHz, and the imposition of such standards in the bands

[1] Recommendation No. Spa2–5 mentions only the 41–43 band specifically. However, the language logically implies that a similar situation should in all probability exist in the 84–86 GHz band.

above 40 GHz could well inhibit future development. It stated that sharing criteria should not be adopted until firmer data has been developed on how these frequencies may be employed. Further, AT&T stated that it was their view that the proposals made by the Commission were "well drawn" to encourage the development of the portion of the spectrum between 40 GHz and 300 GHz. AT&T therefore supported the immediate adoption of the allocations in the form proposed.

13. All of the other parties filing, however, requested that no allocations to terrestrial services be made above 40 GHz until after studies on the feasibility of the sharing of these bands by space and terrestrial services had been conducted. Comsat stated (Comsat Comments, p. 10) that a rulemaking proceeding is an awkward vehicle for developing a sound general allocation table since it entails only two opportunities to file written pleadings and no opportunity for joint discussions or for an interchange of ideas and positions based on substantial groundwork. It was therefore suggested that the proposed allocations not be now adopted and the issues involved be made part of the preparatory work for the General World Administrative Radio Conference scheduled for 1979. The preparation for that conference will stretch over several years and involve a number of filings.

14. The parties opposing the allocation generally feel that it is necessary to obtain more experience and more data before terrestrial services are permitted to share the bands with space services. It is not now possible, in their opinion, to determine whether such sharing is feasible and, if so, what standards will be necessary.[2] These parties think that the feasibility of sharing is very much in doubt and that no sharing should be authorized until that question is resolved. Comsat also asserts that sharing between terrestrial and space services may lead to severe inefficiencies in spectrum use because of technical characteristics of these bands. For similar reasons Comsat thinks it may prove economically desirable for the existing allocations for fixed satellites to be widened. In short, the parties opposing the proposed allocations think that nothing should be done to alter the situation of having space allocations exclusively[3] above 40 GHz until lengthy studies have been carried out.

15. Other comments filed go essentially to the matter of how information can best be gathered so that these bands can be effectively developed. AT&T thinks that general terrestrial allocations now will encourage study and development while the other parties filing want a comprehensive study made first. Because of the large number of services which must be considered and the lack of developed technology in these bands, we feel that making general allocations now will more probably result in the best and most rapid development of information and experience on which future specific sharing decisions can be made. With the number and variety of operations involved and the current lack of knowledge, any extended compatibility study would necessarily deal only with hypotheticals for many years. Such a study would be unlikely to produce any concrete results in the foreseeable future and could, we believe, unnecessarily curtail beneficial experimentation and development of terrestrial services above 40 GHz. The general allocation scheme we are adopting will permit specific types of systems and sharing configurations to be considered and tested on a case-by-case basis. It should be emphasized that we are now adopting only general allocations; there are no provisions, applicable to either space or terrestrial services, under which stations can be regularly licensed in these bands. We will consider such rules only when more development has been done and specific systems are proposed. Sharing criteria will also be considered at that time. Interested parties will of course be afforded opportunity to participate in any such proceeding. It may be, as Comsat and ASC suggest, that some exclusive space or terrestrial allocations will be necessary where we have provided for sharing, but that can best be determined by consideration of specific bands and specific systems. Even in the absence of Government terrestrial services, we would not feel that we would be justified in suppressing the development of non-Government terrestrial services in these bands simply because there are uncertainties about the feasibility of sharing. Certainly we cannot decide at this time that terrestrial services will be any less valuable to the public in these bands that the yet undefined space services, or that sharing would unduly hinder the development of either. On the contrary, we are convinced that the shared allocations that were proposed will lead to the most rapid and efficient development of these bands, and produce the greatest amount of useful information for our future spectrum planning, including the preparation for the next General World Administrative Radio Conference scheduled for 1979.

16. Finally, both Comsat and CML, in their reply comments stated that allocations for specific services might be made before the conclusion of general study, but only upon showing of need. Under the approach we are adopting another rulemaking proceeding will be necessary before any regular systems can be authorized. In any such proceeding, need, technical merit, economic viability, etc. would be weighed, and all interested parties would be able to participate and have their positions considered. We are making a general terrestrial allocation now because we feel it will lead to the best development of these bands in the public interest. It was on this same general basis that space allocations were made above 40 GHz, and equal consideration, we feel, should be given to the terrestrial counterparts. In what will be necessary before any stations can actually become operational, however, our approach does not differ significantly from what others have recommended in opposition to the notice.

17. Accordingly, *it is ordered*, Effective November 14, 1975, that Part 2 of the Commission's rules and regulations be amended to reflect the changes which were proposed and which are contained below. Authority for this act is contained in sections 4(i), 303(c), and 303(r) of the Communications Act of 1934, as amended.

18. *It is further ordered*, That the proceeding in Docket No. 19973 is terminated.

Adopted: October 1, 1975.

Released: October 8, 1975.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 164, 303)

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

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended by amending the table in § 2.106 as follows:

[2] Comsat, in a footnote on p. 9 of its Reply Comments, states that the bands now allocated to the inter-satellite service are presently recognized as "potentially suitable for sharing with terrestrial services."

[3] These statements overlook the fact, already mentioned, that the bands between 40 GHz and 300 GHz are not now allocated exclusively to the space services in the United States. Government terrestrial services already share most of the space bands in a manner almost identical to what we have proposed. These Government allocations were developed in coordination with the Commission and parallel the non-Government allocations proposed herein.

§ 2.106 Table of frequency allocations.

United States		Federal Communications Commission				
Band (GHz)	Allocation	Band (GHz)	Service	Class of Station	Frequency (GHz)	Nature of SERVICES of stations
(5)	(6)	(7)	(8)	(9)	(10)	(11)
• • •	• • •	• • •	• • •	• • •	• • •	• • •
40.0–41.0	G, NG	40.0–41.0	FIXED. FIXED-SATELLITE. MOBILE.	Space.		
41.0–43.0	G, NG	41.0–43.0	FIXED. BROADCASTING-SATELLITE. MOBILE.	Space.		
43.0–48.0	G, NG	43.0–48.0	AERONAUTICAL MOBILE. AERONAUTICAL MOBILE-SATELLITE. MARITIME-MOBILE. MARITIME-MOBILE SATELLITE. AERONAUTICAL RADIONAVIGATION. AERONAUTICAL RADIONAVIGATION-SATELLITE. MARITIME RADIONAVIGATION. MARITIME RADIONAVIGATION-SATELLITE.			
48.0–50.0	G, NG	48.0–50.0	RADIOLOCATION. Amateur.			
50.0–51.0	G, NG	50.0–51.0	FIXED. FIXED-SATELLITE. MOBILE.	Earth.		
51.0–52.0	G, NG	51.0–52.0	EARTH EXPLORATION-SATELLITE. SPACE RESEARCH.			
52.0–54.25	G, NG 412J	52.0–54.25	SPACE RESEARCH (Passive).			
54.25–58.2	G, NG	54.25–58.2	FIXED. MOBILE (except aeronautical mobile).			
58.2–59.0	G, NG 412J	58.2–59.0	SPACE RESEARCH (Passive).			
59.0–64.0	G, NG	59.0–64.0	FIXED. MOBILE (except aeronautical mobile).			
64.0–65.0	G, NG 412J	64.0–65.0	SPACE RESEARCH (Passive).			
65.0–66.0	G, NG	65.0–66.0	EARTH EXPLORATION-SATELLITE. SPACE RESEARCH.			
66.0–71.0	G, NG	66.0–71.0	AERONAUTICAL MOBILE. AERONAUTICAL MOBILE-SATELLITE. MARITIME MOBILE. MARITIME MOBILE-SATELLITE. AERONAUTICAL RADIONAVIGATION. AERONAUTICAL RADIONAVIGATION-SATELLITE. MARITIME RADIONAVIGATION. MARITIME RADIONAVIGATION-SATELLITE.			

United States		Federal Communications Commission				
Band (GHz)	Allocation	Band (GHz)	Service	Class of Station	Frequency (GHz)	Nature of services of stations
(5)	(6)	(7)	(8)	(9)	(10)	(11)
* * *	* * *	* * *	* * *	* * *	* * *	* * *
71.0-76.0	G, NG	71.0-76.0	RADIOLOCATION. Amateur.			
76.0-84.0	G, NG	76.0-84.0	FIXED. MOBILE.			
84.0-86.0	G, NG	84.0-86.0	FIXED. BROADCASTING-SATELLITE. MOBILE.			
86.0-92.0	G, NG 412J US74	86.0-92.0	RADIO ASTRONOMY. SPACE RESEARCH (Passive).			
92.0-93.0	G, NG	92.0-93.0	FIXED. MOBILE.			
93.0-95.0	G, NG	93.0-95.0	FIXED. FIXED-SATELLITE. MOBILE.	Earth.		
95.0-101.0	G, NG	95.0-100.0	AERONAUTICAL MOBILE. AERONAUTICAL MOBILE-SATELLITE. MARITIME MOBILE. MARITIME MOBILE-SATELLITE. AERONAUTICAL RADIONAVIGATION. AERONAUTICAL RADIONAVIGATION-SATELLITE. MARITIME RADIONAVIGATION. MARITIME RADIONAVIGATION-SATELLITE.			
101.0-102.0	G, NG 412J	101.0-102.0	SPACE RESEARCH (Passive).			
102.0-103.0	G, NG	102.0-103.0	FIXED. MOBILE.			
103.0-105.0	G, NG	103.0-105.0	FIXED. FIXED-SATELLITE. MOBILE.	Space.		
105.0-110.0	G, NG	105.0-110.0	FIXED. MOBILE (except Aeronautical Mobile).			
110.0-117.5	G, NG	110.0-117.5	FIXED. INTER-SATELLITE. MOBILE (except Aeronautical Mobile).			
117.5-122.5	G, NG	117.5-122.5	FIXED. MOBILE (except Aeronautical Mobile).			
122.5-130.0	G, NG	122.5-130.0	FIXED. INTER-SATELLITE. MOBILE (except Aeronautical Mobile).			
130.0-140.0	G, NG 412J US74	130.0-140.0	RADIO ASTRONOMY. SPACE RESEARCH (Passive).			
140.0-141.0	G, NG	140.0-141.0	FIXED. MOBILE.			
141.0-142.0	G, NG	141.0-142.0	FIXED. FIXED-SATELLITE. MOBILE.	Earth.		
142.0-150.0	G, NG	142.0-150.0	AERONAUTICAL MOBILE. AERONAUTICAL MOBILE-SATELLITE. MARITIME MOBILE. MARITIME MOBILE-SATELLITE.			

United States		Federal Communications Commission				
Band (GHz)	Allocation	Band (GHz)	Service	Class of Station	Frequency (GHz)	Nature of services
(5)	(6)	(7)	(8)	(9)	(10)	(11)
• • •	• • •	• • •	• • •	• • •	• • •	• • •
			AERONAUTICAL RADIONAVIGATION. AERONAUTICAL RADIONAVIGATION-SATELLITE. MARITIME RADIONAVIGATION. MARITIME RADIONAVIGATION-SATELLITE.			
150.0-151.0	G, NG	150.0-151.0	FIXED. MOBILE.			
151.0-152.0	G, NG	151.0-152.0	FIXED. FIXED-SATELLITE. MOBILE.	Space.		
152.0-165.0	G, NG	152.0-165.0	FIXED. MOBILE.			
165.0-170.0	G, NG	165.0-170.0	RADIOLOCATION. Amateur.			
170.0-175.0	G, NG	170.0-175.0	FIXED. MOBILE (except Aeronautical Mobile).			
175.0-182.0	G, NG	175.0-182.0	FIXED. INTER-SATELLITE. MOBILE (except Aeronautical Mobile).			
182.0-185.0	G, NG 412J	182.0-185.0	SPACE RESEARCH (Passive).			
185.0-189.0	G, NG	185.0-189.0	FIXED. INTER SATELLITE. MOBILE (except Aeronautical Mobile).			
189.0-190.0	G, NG	189.0-190.0	FIXED. MOBILE (except Aeronautical Mobile).			
190.0-200.0	G, NG	190.0-200.0	AERONAUTICAL MOBILE. AERONAUTICAL MOBILE SATELLITE. MARITIME MOBILE. MARITIME-MOBILE-SATELLITE. AERONAUTICAL RADIONAVIGATION. AERONAUTICAL RADIONAVIGATION-SATELLITE. MARITIME RADIONAVIGATION. MARITIME RADIONAVIGATION-SATELLITE.			
200.0-220.0	G, NG	200.0-220.0	FIXED. MOBILE.			
220.0-230.0	G, NG	220.0-230.0	FIXED. FIXED-SATELLITE. MOBILE.			
230.0-240.0	G, NG 412J U874	230.0-240.0	RADIO ASTRONOMY. SPACE RESEARCH (Passive).			
240.0-250.0	G, NG	240.0-250.0	RADIOLOCATION. Amateur.			
250.0-265.0	G, NG	250.0-265.0	AERONAUTICAL MOBILE. AERONAUTICAL MOBILE-SATELLITE. MARITIME MOBILE. MARITIME MOBILE-SATELLITE. AERONAUTICAL RADIONAVIGATION.			

United States		Federal Communications Commission				
Band (GHz)	Allocation	Band (GHz)	Service	Class of Station	Frequency (GHz)	Nature of SERVICES of stations
(5)	(6)	(7)	(8)	(9)	(10)	(11)
* * *	* * *	* * *	* * *	* * *	* * *	* * *
			AERONAUTICAL RADIONAVIGATION-SATELLITE. MARITIME RADIONAVIGATION. MARITIME RADIONAVIGATION-SATELLITE.			
265.0-275.0	G, NG	265.0-275.0	FIXED. FIXED-SATELLITE. MOBILE.			
275.0-300.0	G, NG	275.0-300.0	FIXED. MOBILE.			
Above 300.0	G, NG	Above 300.0	Amateur.			

[FR Doc.75-27825 Filed 10-17-75;8:45 am]

[Docket No. 20371; FCC 75-1145]

PART 76—CABLE TELEVISION SERVICE

Surveys Showing Significantly Viewed Stations

In the matter of amendment of Part 76 of the Commission's rules and regulations to permit showings that certain television stations are significantly viewed based on county-wide surveys.

1. On March 5, 1975, (40 FR 11000) the Commission issued a notice of proposed rule making in Docket 20371 to "consider the application of § 76.54(b) of the Commission's Rules to television broadcast stations not operating during the original survey periods * * * used in formulating the significantly viewed list * * * ."[1] We advanced for comment a proposed amendment to § 76.54 which would permit post survey period stations to demonstrate significantly viewed status on the basis of county-wide audience surveys in lieu of the more burdensome community-by-community method presently prescribed by § 76.54(b). We believed the proposal worthy of consideration as a means of redressing the inherent inequity in applying a more lenient significantly viewed standard to some stations than to others, where the distinction between them derived solely from the fact that the stations operating at the time of our original audience surveys were subjected only to a county-wide survey. To supplement our current list of significantly viewed stations, a community-by-community survey is required. Comments in response to the notice have been received from both broadcast and cable television interests and are summarized below.

COMMENTS

a. *Broadcast Interests.* 2. The Association of Independent Television Stations, Inc. (INTV) agrees in principle with the proposed amendment, but argues that the Commission should go further. Specifically, INTV suggests that the Commission itself should periodically update the list of significantly viewed stations on the basis of county-wide data. This approach, it is contended, would have a number of advantages. First, Commission revision of the list would advance the goal of equitable treatment for post survey period stations in that they would not be required to bear the expense of individually demonstrating significantly viewed status. Second, periodic updating would assure the Commission of uniformity since "* * * its list would accurately reflect current significant viewing levels in all communities, not just those in which either the audience levels had not changed or where a local station or system had undertaken the burden of a special petition proceeding."[2] Finally, Commission updating would avoid the increased administrative burden on the Cable Television Bureau which is certain to result from the individual showing proposed in this proceeding. In the alternative, INTV argues that the Commission should at least extend the present proposal to permit stations existing at the time of the original surveys but which have since undertaken noticeable improvements in their technical facilities to demonstrate significantly viewed status on the basis of county-wide data. Otherwise INTV urges, the knowledge that they will obtain neither significantly viewed status nor mandatory signal carriage rights without a burdensome showing pursuant to Section 76.54(b), might well deter broadcasters from improving their facilities.

3. The Association of Maximum Service Telecasters, Inc. (AMST) appears to consider the proposed amendment unnecessary, but, in the event the Commission deems a rule change appropriate, recommends certain methodological modifications to the approach contained in the notice. Essentially, AMST argues that the two week survey period specified in our proposal is too brief to provide dependable results in view of the inherent unreliability of countywide data in the first instance. As an alternative, AMST suggests that the same twelve week survey period employed in compiling the original significantly viewed list be utilized, arguing that expense should be no barrier since professional survey organizations compile the relevant monthly data in the normal course of their operations. Hence, the only cost involved would be that necessary to have the specific data "broken out" for the station and counties in question. AMST adds that such an approach would also advance the concept of equal treatment for pre and post survey period stations in that both the countywide basis and the period of sample for the survey would be identical.

b. *Cable Television Interests.* 4. The National Television Association, Inc. (NCTA) expresses support for the concept inherent in our proposed rule, but submits that some modification and clarification are appropriate. Specifically, NCTA argues that the rule should be redrafted to preclude a signal shown to be significantly viewed under the proposed provisions from forcing the deletion of an existing signal on a cable television system operating at full channel capacity. NCTA contends that where such a conflict of carriage prerogatives would occur, the competing signals would necessarily be "non-market" in origin[3] and in balancing the equities between them the Commission should elect to preserve the *status quo.* In this regard, NCTA notes that the Commission has never granted significantly viewed stations the right to displace the programming of other stations, citing the syndicated program exclusivity and the recently revised network program nonduplication rules as examples. NCTA is particularly concerned that adoption and enforcement of these revisions to Section 76.54 might force the deletion of grandfathered signals. NCTA therefore proposes that any rule we adopt should at least require post survey period stations to demonstrate their significantly viewed status on a "per community" rather than a county-wide basis when enforcement of its newly-acquired carriage rights would otherwise displace an existing grandfathered signal.

5. NCTA also requests clarification of the proposed amendment in two respects. First, to clarify whether cable television systems, as well as television broadcast stations, may invoke the new rule and demonstrate significantly viewed status for post survey stations. Second, to explicitly recognize that a showing of sig-

[1] FCC 75-239, 51 FCC 2d 445 (1975).

[2] Comments of the Association of Independent Television Stations, Inc., in Docket 20371 at 3.

[3] This conclusion is based on the assumption that "market" stations with respect to a given cable television system are those which are within 35 miles of the system, if the station is licensed to a first 100 market, or which place a Grade B contour over the system, if the station is licensed to a smaller television market. In such cases, NCTA argues, significantly viewed status is not critical since it is not essential to a station's carriage rights.

nificantly viewed status made by a cable television system may be relied upon by any other cable television system operating in the same county as that of the petitioning system.

DISCUSSION

6. While not numerous, the comments filed in this proceeding have been of considerable assistance in evaluating the proposed amendment. Indeed, these comments have served to sharpen the focus of this proceeding and we have incorporated some of the proposed revisions in the rule we adopt today. Other changes resulted from our own reevaluation of the proposal. Of course, there were proposals which we could not adopt. For instance, we have eschewed INTV's proposal that the Commission itself periodically update the entire significantly viewed list. We believe such a decision should be taken only after careful consideration of many factors which are beyond the scope of the instant proceeding. The Commission is not now inclined to undertake regular revisions without the benefit of comments specifically directed to and staff evaluation of these factors. We have also considered the possibility of periodic Commission updating on a smaller scale, limited to those stations which commenced operations after the original survey period. However, we have concluded this approach is not appropriate at this time. A routine revision of this nature would necessarily be restricted to the addition of signals, since subjecting newly added stations to the risk of future deletion upon a subsequent updating would not only entail the potential disruption of subscribers' viewing habits, but would run counter to our fundamental objective of equal treatment for pre and post survey period stations. In view, therefore, of the extremely narrow applicability of the exception, creation of the anomalous administrative procedure of periodic updating does not appear justified. Moreover, present estimates of the costs inherent in requiring individual stations or systems to demonstrate significantly viewed status confirm our belief that the burden is not prohibitive.[4] We are convinced, therefore, that the *ad hoc* approach we adopt here is both viable and fair and better calculated to achieve equitable treatment among all stations.

7. We have also rejected INTV's alternative formulation of the rule which would permit stations effecting significant improvements in their technical facilities to utilize county-wide surveys to demonstrate significantly viewed status. Since INTV's proposal would not be limited to post survey stations, this proposition is outside the purview of the instant proceeding. However, we are not unmindful of the merits of the suggestion. Consequently, we shall seriously consider issuing a Notice of Proposed Rule Making on this matter in the near future.

8. AMST's contention that the two-week sample period prescribed in the initial proposal is too brief is persuasive. We agree that the reliability of county-wide surveys can be undermined by such an abbreviated sampling. We have, therefore, adopted AMST's proposed twelve-week sample period requirement, believing it will not only improve dependability but will further equalize the treatment of pre and post survey period stations.

9. While we sympathize with NCTA's concern over the possible mandatory deletion of existing signals on systems operating at full channel capacity, we are not persuaded that the potential hardship attributable to the instant rule change will either be widespread or unredressable pursuant to our special relief processes. Based on a five-year increase in the number of television broadcast stations of 75, the annual increase in operating stations since the original significantly viewed survey period ended, is approximately 15.[5] Of this small number, only a few can be expected to rely upon their significantly viewed status for mandatory carriage rights and a smaller portion still to be seeking carriage on systems operating at maximum channel capacity. The fact that we have infrequently permitted retention of a grandfathered signal on saturated systems in the face of carriage demands from a "must carry" station is simply a reflection of a considered policy and not the result of some procedural defect in our special relief provisions. We perceive no reason to carve out a complicating exception to that policy applicable only to newly added significantly viewed signals. Indeed, such a step would not only controvert our established precedent governing this type of carriage conflict,[6] but would further differentiate the treatment of pre and post survey period stations in direct contradiction of our stated objective in the instant proceeding. For these reasons the Commission must reject NCTA's proposal to preclude stations from asserting mandatory carriage rights on saturated systems, *vis-a-vis* existing "may carry" signals on the basis of their newly acquired significantly viewed status. For like reasons, we must also reject NCTA's alternative formulation which would require such stations to make an additional, community based showing of significantly viewed status before gaining preemptive carriage rights on systems operating at full channel capacity. We note, of course, that where a conflict of carriage occurs between "must carry" stations, a wholly different situation is presented which must be resolved consistent with applicable precedent.[7]

10. One further matter requires some explanation. We have required that any showing made pursuant to the new rule be based upon data derived from the first three years of broadcast operations. This provision does not require a station to meet the significantly viewed criteria of § 76.5(k)[8] for the entire three year period, however. It requires only that the three separate, consecutive four-week surveys be taken within the given three years. Our purpose here is to limit the data base so that all concerned parties may, within a reasonable time and with fair certainty, estimate their rights and obligations under the new rule. The period selected is a fair compromise between the competing interests of rapidly determining carriage rights and affording adequate time to affected stations to establish audience levels sufficient to meet the significantly viewed criteria. It should be noted, however, that while the data base is restricted to the first three years, there is no restriction on when a showing made pursuant to that data need be submitted. To do otherwise would unfairly prejudice future parties. It is also important to note that we have imposed no constraint on the number of showings a particular party may make pursuant to the new rule's provisions. For example, a station may elect to demonstrate significantly viewed status in one county at the end of its first two years of operation and, at a later date, again demonstrate such status with respect to other counties. While at first this may appear to create a disparity in the treatment of pre and post survey period stations, the distortion is largely illusory since, regardless of their number, all showings must be based on audience level surveys derived from a limited data base period. Thus, although a station may invoke the rule repeatedly, once its viewing levels for the first three years of operation have been established, the frequency or timing of subsequent showings will have no substantive effect.

11. Two final issues raised by NCTA should be clarified. First, as with those stations presently listed, once significantly viewed status has been established pursuant to the new rule, it is fixed, and, regardless of which party makes the demonstrations, may be relied upon by all parties. Furthermore, invocation of the new rule in no way precludes the demonstrating party from making future showings pursuant to the per-community provisions of § 76.54(b). This construction of the rule is not only consistent with the language of § 76.54(b), but directly parallels the treatment of stations

[4] Currently, for example, the per county cost of obtaining the requisite data from Arbitron is approximately $145.00 for a client-station and between $435.00 and $580.00 for a nonclient cable television system.

[5] As of January 1, 1971, there were some 881 operating stations as compared with 956 as of August 31, 1975. During this five year period, then, the total increase in television broadcast stations was 75, or on the average, 15 per year.

[6] See, e.g., TelePrompTer Cable Communications Corp., FCC 74-711, 47 FCC 2d 1222 (1974).

[7] See, e.g., TelePrompTer of San Bernardino, Inc., FCC 74-1356, 50 FCC 2d 444 (1974).

[8] Section 76.5(k) provides in pertinent part:

Viewed in other than cable television households as follows:

(1) For a full or partial network station—a share of viewing hours of at least 3 percent (total week hours), and a net weekly circulation of at least 25 percent; and

(2) for an independent station—a share of viewing hours of at least 2 percent (total week hours), and a net weekly circulation of at least 5 percent.

These share of viewing hours and net weekly circulation requirements continue to apply under the new rule.

now listed in that those stations may also be shown to be significantly viewed on a per-community basis. Second, the rule is not restricted in its use to television broadcast stations. Rather, it may be utilized by any interested party. In this regard, we also note that prior showings by one party do not foreclose the availability of the rule to others.

PROCEDURAL ISSUES

12. In the Notice of Proposed Rule Making for this proceeding we indicated that all petitions filed pursuant to the proposed rule would be treated as requests for declaratory rulings and placed on public notice for thirty days to permit the filing of comments and objections. Our object in so designating petitions under the new rule was to avoid the possibility of unrepresentative surveys resulting from our decision not to require compliance with the standard error and notice requirements of §§ 76.54 (b) and (c). While we now confirm our intention not to demand adherence to these requirements, we believe the need to consider all showings under the rule as petitions for declaratory rulings has been vitiated. In view of the longer sample period prescribed in the rule we adopt today, the potential for unrepresentative survey submissions has been considerably lessened. Moreover, it is now anticipated that showings pursuant to the rule will almost invariably arise in the context of an application for a certificate of compliance or petitions for an order to show cause of special relief, all of which entail adequate notice provisions. We shall, therefore, impose no particular restriction on the procedural character of showings filed pursuant to the rule we adopt today.

In view of the foregoing, we find that the public interest would be served by adoption of the rules set forth below. Authority for such rules is contained in Sections 2, 4(i) and (j), 301, 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

Accordingly, it is ordered, That effective November 24, 1975, Part 76 is amended as set forth below.

It is further ordered, That the proceeding in Docket 20371 is terminated.

(Secs. 2, 4, 301, 303, 307, 308, 309, 48 Stat. as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309).

Adopted: October 9, 1975.

Released: October 16, 1975.

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

Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 76.54, paragraph (b), the first sentence is revised and a new paragraph (d) added to read as follows:

§ 76.54. Significantly viewed signals; method to be followed for special showings.

* * * * *

(b) On or after March 31, 1973, significant viewing in a cable television community for signals not shown as significantly viewed under paragraphs (a) or (d) of this section may be demonstrated by an independent professional audience survey of noncable television homes that covers at least two weekly periods separated by at least thirty (30) days but no more than one of which shall be a week between the months of April and September. * * *

* * * * *

(d) Signals of television broadcast stations not encompassed by the surveys (for the periods May 1970, November 1970 and February/March 1971) used in establishing Appendix B of the *Memorandum Opinion and Order on Reconsideration of Cable Television Report and Order*, FCC 72-530, 36 FCC 2d 326 (1972), may be demonstrated as significantly viewed on a county-wide basis by independent professional audience surveys which cover three separate, consecutive four-week periods and are otherwise comparable to the surveys used in compiling the above-referenced Appendix B; *Provided, however*, That such demonstration shall be based upon audience survey data for the first three years of the subject station's broadcast operations.

[FR Doc.75-28146 Filed 10-17-75;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 5, Rev. S. O. No. 1156]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co. Authorized To Operate Over Tracks of Missouri Pacific Railroad Co. and Union Pacific Railroad Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 14th day of October, 1975.

Upon further consideration of Revised Service Order No. 1156 (38 FR 29220, 35002; 39 FR 7792, 24510, 35573; and 40 FR 2990, 29863), and good cause appearing therefor:

It is ordered, That:

Revised Service Order No. 1156 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

§ 1033.1156 Service Order No. 1156.

(a) Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of Missouri Pacific Railroad Company and over tracks of Union Pacific Railroad Company. * * *

* * * * *

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 15, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., October 15, 1975.

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

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-28176 Filed 10-17-75;8:45 am]

Title 7—Agriculture

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

PART 51—FRESH FRUIT, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

United States Standards for Grades of Florida Oranges, Tangelos, Grapefruit, Tangerines[1]

On September 3, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 40522) regarding amendments of United States Standards for grades of Florida oranges and tangelos (7 CFR 51.1140—51.1180), Florida grapefruit (7 CFR 51.750—51.784), and Florida tangerines (7 CFR 51.1810—51.1835).

These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621-1627), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers and consumers. Official grading services are also provided under this act upon request of any financially interested party and upon payment of a fee to cover the cost of such services.

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

Statement of considerations leading to the amendment of these grade standards. Following publication of the proposal in the Federal Register on September 3, 1975, copies were widely distributed to industry organizations and individuals for comment.

Interested persons were given until September 30, 1975 in which to submit written comments, suggestions, or objections regarding the proposed amendments. Only two written comments were received in response to the proposal. Both were from receivers expressing disapproval of the proposed amendments as, in their opinion, they would serve to "loosen" the requirements of the standards.

The Florida Fresh Citrus Shippers Association and the Florida Citrus Commission, Department of Citrus of the State of Florida have requested that the U.S. Grade Standards for Florida Oranges and Tangelos, Grapefruit and Tangerines be amended to provide for a tolerance for fruit affected by worms. The existing standards for these commodities provide no such tolerance.

It has been recognized that a zero tolerance for fruit affected by certain defects is too rigid and unrealistic. Producers find that citrus fruit totally free of natural defects such as worms is impractical to achieve under normal growing and harvesting conditions. Under inspection procedures, lots of citrus fruit offered for inspection and certification are sampled for examination. Adequate and representative samples of the entire lot are essential for accurate certification. However, it is recognized that no sampling plan short of 100 percent examination could assure that all fruits in the lot are free of certain damage. Therefore, these amendments would provide a one-half of one percent tolerance for fruit affected by worms. The tolerance is expressed in numbers of fruits permitted in existing tolerance tables, based on statistical sampling.

After consideration of all relevant matters presented by interested persons, these proposed amendments are hereby adopted without change pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; U.S.C. 1621–1627), and are set forth below.

These amendments are effective on November 22, 1975.

Dated: October 15, 1975.

DONALD E. WILKINSON,
Administrator.

As amended § 51.1152 *Tolerances*, and Tables I and II, in the U.S. Standards for Grades of Florida Oranges and Tangelos shall remain the same except for the addition of acceptance numbers for wormy fruit. The foregoing amendment without setting forth in entirety Tables I and II shall read as follows:

TOLERANCES

§ 51.1152 **Tolerances.**

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, based on sample inspection, the number of defective or offsize specimens in the individual sample, and the number of defective or offsize specimens in the lot, shall be within the limitations specified in Tables I and II.

TABLE I(A).—*Shipping point [1] for 1 through 20 samples*

Factor	Grades	AL [2]	Number of 50-count samples [3]																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers [4] (maximum permitted)																			
Wormy fruit	All	1	0	1	[5]1	1	2	[5]2	2	3	3	3	[5]3	3	4	4	[5]4	4	5	5	5	5
Very serious damage including decay and wormy fruit.	U.S. Fancy, U.S. No. 1, U.S. No. 2.	6	4	6	9	11	14	16	18	20	22	24	26	28	30	33	35	37	39	41	43	45
Total defects including decay, wormy fruit, and very serious damage.	All	8	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94

TABLE I(B).—*Shipping point [1] for 21 through 40 samples*

Factor	Grades	AL [2]	Number of 50-count samples [3]																			
			21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
			Acceptance numbers [4] (maximum permitted)																			
Wormy fruit	All	1	[5]5	6	6	6	6	[5]6	6	7	7	7	7	[5]7	7	8	8	8	[5]8	8	9	9
Very serious damage including decay and wormy fruit.	U.S. Fancy, U.S. No. 1, U.S. No. 2.	6	47	49	51	53	54	56	58	60	62	64	66	68	70	72	74	76	78	80	81	83
Total defects including decay, wormy fruit, and very serious damage.	All	8	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180

TABLE II.—*En route or at destination*

Factor	Grades	AL [1]	Number of 50-count samples [2]																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers [3] (maximum permitted)																			
Wormy fruit	All	1	0	1	[4]1	1	2	[4]2	2	3	3	3	[4]3	3	4	4	[4]4	4	5	5	5	5
Very serious damage other than decay and wormy fruit.	U.S. Fancy, U.S. No. 1, U.S. No. 2.	6	4	6	9	11	14	16	18	20	22	24	26	28	30	33	35	37	39	41	43	45
Total defects including very serious damage other than decay and wormy fruit.	All	8	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94

2. As amended § 51.761 Tolerances, and Tables I and II, in the U.S. Standards for Grades of Florida Grapefruit shall remain the same except for the addition of acceptance numbers for wormy fruit. The foregoing amendment without setting forth in entirety Tables I and II shall read as follows:

TOLERANCES

§ 51.761 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, based on sample inspection, the number of defective or offsize specimens in the individual sample, and the number of defective or offsize specimens in the lot, shall be within the limitations specified in Tables I and II.

TABLE I(A).—*Shipping point [1] for 1 through 20 samples*

Factor	Grades	AL [2]	Number of 33-count samples [3]																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers [4] (maximum permitted)																			
Wormy fruit	All	1	0	0	0	1	[5] 1	1	2	2	2	[5] 2	2	2	3	3	3	[5] 3	3	4	4	4
Very serious damage including decay and wormy fruit.	U.S. Fancy, U.S. No. 1, U.S. No. 2.	4	3	5	7	8	10	11	13	14	16	17	18	20	21	23	24	25	27	28	30	31
Total defects including decay, wormy fruit, and very serious damage.	All	5	5	9	12	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64

TABLE I(B).—*Shipping point [1] for 21 through 40 samples*

Factor	Grades	AL [2]	Number of 33-count samples [3]																			
			21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
			Acceptance numbers [4] (maximum permitted)																			
Wormy fruit	All	1	4	4	[5] 4	4	4	5	5	5	5	5	[5] 5	5	5	6	6	6	6	6	[5] 6	6
Very serious damage including decay and wormy fruit.	U.S. Fancy, U.S. No. 1, U.S. No. 2.	4	32	34	35	36	38	39	40	42	43	44	45	47	48	49	51	52	53	54	56	57
Total defects including decay, wormy fruit, and very serious damage.	All	5	67	70	73	76	79	82	84	87	90	93	96	99	102	105	107	110	113	116	119	122

TABLE II.—*En route or at destination*

Factor	Grades	AL [1]	Number of 33-count samples [2]																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers [3] (Maximum permitted)																			
Wormy fruit	All	1	0	0	0	1	[4] 1	1	2	2	2	[4] 2	2	2	3	3	3	[4] 3	3	4	4	4
Very serious damage other than decay and wormy fruit.	U.S. Fancy, U.S. No. 1, U.S. No. 2.	4	3	5	7	8	10	11	13	14	16	17	18	20	21	23	24	25	27	28	30	31
Total defects including very serious damage other than decay and wormy fruit.	All	5	5	9	12	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64

3. As amended § 51.1818 Tolerances, and Tables I and II, in the U.S. Standards for Grades of Florida Tangerines shall remain the same except for the addition of acceptance numbers for wormy fruit. The foregoing amendment without setting forth in entirety Tables I and II shall read as follows:

TOLERANCES

§ 51.1818 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, based on sample inspection, the number of defective or offsize specimens in the individual sample, and the number of defective or offsize specimens in the lot, shall be within the limitations specified in Tables I and II.

TABLE I(A).—*Shipping point [1] for 1 through 20 samples*

Factor	Grades	AL [2]	Number of 50-count samples [3]																			
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers [4] (maximum permitted)																			
Wormy fruit	All	1	0	1	[5] 1	1	2	[6] 2	2	3	3	3	[5] 3	3	4	4	[5] 4	4	5	5	5	5
Very serious damage including decay and wormy fruit.	U.S. Fancy, U.S. No. 1, U.S. No. 2.	6	4	6	9	11	14	16	18	20	22	24	26	28	30	33	35	37	39	41	43	45
Total defects including decay, wormy fruit, and very serious damage.	All	8	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94

TABLE I(B).—*Shipping point [1] for 21 through 40 samples*

Factor	Grades	AL [2]	Number of 50-count samples [3]																		
			21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
			Acceptance numbers [4] (maximum permitted)																		
Wormy fruit	All	1	[5] 5	6	6	6	6	[6] 6	6	7	7	7	7	[7] 7	7	8	8	8	[8] 8	8	9	9
Very serious damage including decay and wormy fruit.	U.S. Fancy, U.S. No. 1, U.S. No. 2.	6	47	49	51	53	54	56	58	60	62	64	66	68	70	72	74	76	78	80	81	83
Total defects including decay, wormy fruit, and very serious damage.	All	8	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180

TABLE II.—*En route or at destination*

Factor	Grades	AL [1]	Number of 50-count samples [3]																		
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers [3] (maximum permitted)																		
Wormy fruit	All	1	0	1	[1] 1	1	2	[2] 2	2	3	3	3	[3] 3	3	4	4	[4] 4	4	5	5	5	5
Very serious damage other than decay and wormy fruit.	U.S. Fancy, U.S. No. 1, U.S. No. 2.	6	4	6	9	11	14	16	18	20	22	24	26	28	30	33	35	37	39	41	43	45
Total defects including very serious damage other than decay and wormy fruit.	All	8	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94

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

[FR Doc.75-28160 Filed 10-17-75;8:45 am]

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS [1]

Miscellaneous Amendments

On page 33043 of the FEDERAL REGISTER of August 6, 1975, a notice of proposed rule making was published that would amend the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products (7 CFR 52.1–52.83). Interested persons were given 30 days (to September 8, 1975) in which to submit written data, views, or arguments regarding the proposal with the Hearing Clerk of the Department of Agriculture.

The proposed amendments to the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products included:

(1) Revised and additional definitions of terms for the types of Inspection Services;

(2) Revised sampling plans;

(3) Inclusion of new inspection marks; and

(4) Revised rules for the use of the sampling mark.

The previously defined pack certification inspection service was limited to designated lots. The pack certification type service is now expanded to include a "Quality Assurance" type of inspection contract.

This type of inspection was requested by some users of the inspection service to minimize duplication of inspection efforts between plant quality control and AMS and to reduce inspection costs.

This type of service provides assurance to the processor that his own quality control efforts are adequate and that the evaluations of product characteristics can be relied upon.

In § 52.38 Table III, for Groups 2 and 3, the "3 pound" reference is changed to 60 ounces. A common can size included in Group 2 sampling includes a can size which, when filled with certain products, may have a net weight slightly in excess of 48 ounces. This proposed increase in the Group 2 maximum weight does not change the sampling rate, but is intended to include this can size in Group 2 regardless of variations in net weight due to types of products contained within.

Tables IV and V in § 52.38 are amended by adding provisions for a smaller sample size for on-line inspection than for lot inspection. The smaller sample is practical because the on-line inspection includes additional information about the product from raw material through to the finished product.

A new inspection mark is included in § 52.53 so that plans operating under the new "Quality Assurance" type inspection contract may distinguish their products with an approved identification. It is the policy of the Department to provide inspection marks whereby products packed under, or monitored by various USDA inspection services may be so identified in the commercial trade.

The "officially sampled" mark has always been available to identify a product that has been officially sampled and inspected by the Department. The current regulations prohibit placing this stamp on any case with a grade designation on it or the packages within, until the product has been graded to verify that it meets the declared grade.

This restriction is being deleted to promote a more economical, efficient and orderly conduct of the inspection service. This is accomplished by:

(1) re-emphasizing the fact that the sampling mark denotes only that a particular lot was "officially sampled." The sampling mark is not intended to indicate compliance or non-compliance with a specification, requirement, regulation, or label declaration;

(2) reducing the applicant inspection costs in those instances where cases are not stamped at time of sampling and a return trip is required; and

(3) permitting the stamping of lots at time of sampling so that positive identification can be maintained. This is an important aspect in those situations where control of the lot by the Department is necessary or required.

As of the close of business on September 10, 1975 the Department's Hearing Clerk had received no submitted data, views, or arguments. Two (2) comments were indirectly received. The comments from a California consumers organization are not pertinent to the Regulations. The comments of a food industry member generally agreed with the proposal.

It is hereby found that it is impracticable and contrary to the public interest to postpone the effective date beyond October 20, 1975 (5 U.S.C. 553), in that:

1. The processing industry affected by the amended Regulations is familiar with the amendments;

2. Additional time is not need for the industry to make preparations for compliance with the amended Regulations;

3. The amendments were subjected to a request for comments, views and arguments prior to these rule making procedures. No adverse comments were received; and

4. Benefit to the consumer can accrue because of an immediate implementation of a new, less costly form of quality inspection.

[1] NOTE: Compliance with the provisions of these Regulations shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

The proposed amendments to the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products are hereby promulgated without change, and are set forth below pursuant to the authority contained in the Agricultural Marketing Act of 1946, as amended (Sec. 205, 60 Stat. 1090, as amended (7 CFR U.S.C. 1624)).

Effective date: October 20, 1975.

Dated: October 10, 1975.

DONALD E. WILKINSON,
Administrator.

The amendments are as follows:

1. In § 52.2 under the definition for "Inspection service; types of" paragraph (c) is revised as follows:

§ 52.2 Terms defined.

* * * * *

Inspection service; types of.

* * * * *

(c) Pack Certification is the conduct of inspection and grading services in an approved plant whereby one or more inspectors may make inspections of the preparation and processing of products but are not required to be present at all times the plant is in operation.

(1) Under a Designated Lot contract, inspectors will grade and certify only those lots designated by the applicant.

(2) Under a Quality Assurance contract, inspector(s) will use information available from the applicant's quality control records to certify lots, as requested, and will grade lots at random as often as necessary to verify the reliability of the applicant's quality control system.

* * * * *

§ 52.38 [Amended]

2. In § 52.38, Table III, under the Group 2 and Group 3 headings in the first column, the "3 pound" reference is changed to read "60 ounces."

3. In § 52.38, Tables IV and V are revised by deleting the bottom row (headed "Sample Size-Acceptance Number) and substituting the following in both tables:

Lot inspection:								
Sample size (No. of sample units) [1]	3	6	13	21	29	38	48	60
Acceptance number	0	1	2	3	4	5	6	7
On-line in-plant inspection:								
Sample size (No. of sample units) [2]	3	6	6	13	21	29	38	48
Acceptance number	0	1	1	2	3	4	5	6

(NOTE: There is no change proposed in the footnotes)

4. In § 52.53, paragraphs (a), (b), (c), (d), and (e) are revised to read as follows:

§ 52.53 Approved identification.

(a) *General.* Use of the approved identification marks described and illustrated in figures 1 through 10 of this section is restricted to processed products that:

(1) Are clean, safe, and wholesome;

(2) Have been produced in an approved plant;

(3) Are truthfully and accurately labeled;

(4) Meet the quality requirements for U.S. Grade C or better;

(5) Meet applicable fill weight and/or drained weight, condition of container criteria, Brix or other characteristics of a commodity related to market value; and

(6) Have been certified, or have been inspected and are eligible for certification, by an inspector; and, in addition, meet the specific requirements stated in paragraphs (b), (c), and (d) of this section.

(b) *Inspection (Continuous) grade and inspection marks.* The official marks approved for use by plants operating under USDA continuous inspection service contracts shall be similar in form and design to the examples in figure 1 through 10 of this section: *Provided,* That the official marks illustrated by figures 8 and 9 are limited to products packed by plants operating under an approved Quality Assurance type of inspection contract: *And provided further,* That the inspection marks illustrated in figures 1 through 4 may only be used on products packed by plants operating under USDA continuous inspection.



FIGURE 1.



FIGURE 2.



Statement enclosed within a shield.

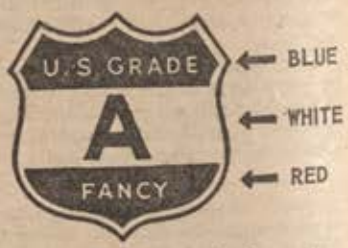
FIGURE 3.

PACKED UNDER CONTINUOUS INSPECTION OF THE U. S. DEPT. OF AGRICULTURE

Statement without the use of the shield.

FIGURE 4.

(c) *In-plant inspection (other than continuous) grade and inspection marks.* The official marks approved for use by plants operating under USDA inspection service contracts (other than continuous) requiring a resident inspector shall be limited to those similar in form and design to the examples in figures 5 through 10 of this section; *Provided,* That the official marks illustrated by figures 8 and 9 are limited to products packed by plants operating under an approved Quality Assurance type of an inspection contract.



Shield using red, white, and blue background or other colors appropriate for label.

FIGURE 5.



Shield with plain background.

FIGURE 6.



Shield with plain background.

FIGURE 7.



FIGURE 8

PACKED UNDER
QUALITY ASSURANCE
PROGRAM
of the
U.S. DEPT. OF AGRICULTURE

Statement without the use of the shield.

FIGURE 9

(d) *Approved plant-lot inspection grade marks.* Processed products that are produced in an approved plant and inspected and certified by an inspector on a lot basis may be labeled with an official grade mark, not in a shield design, such as is illustrated by marks (1) and (2) of figure 10. Failure to have all lots, bearing such official marks, inspected and certified shall be cause for the debarment of services and such other actions as provided for in the Agricultural Marketing Act of 1946.

(1) U. S. GRADE A

(2) U. S. CHOICE

Grade marks not in shield design.

FIGURE 10.

(e) *Sampling marks.* Processed products which have been packed under inspection as provided for in this section and products sampled for inspection on a lot basis as provided in this part may, at the option of the Department, be identified by an authorized representative of the Department by stamping the shipping cases and inspection certificate(s) covering such lot(s) with an officially drawn sampling mark similar in form and design to the example in figure 11 of this section.



FIGURE 11.

* * * * *

[FR Doc.75-28040 Filed 10-17-75;8:45 am]

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

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Japanese Beetle

EXEMPTIONS

● The purpose of this document is to amend the list of Japanese beetle exempted articles (7 CFR 301.48–2b). ●

This document amends the regulations supplemental to the Japanese Beetle Quarantine by deleting compost, decomposed manure, humus, and peat; true bulbs, corms, rhizomes, and tubers of ornamental plants; used mechanized soil-moving equipment.

These articles are being deleted from the list of exempted articles because they are no longer regulated under the Japanese Beetle Quarantine.

Pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), and in accordance with § 301.48–2 of the Japanese beetle quarantine regulations (7 CFR 301.48–2, as amended), the supplemental regulation exempting certain articles from specified requirements of the regulations, 7 CFR 301.48–2b, is hereby revised to read as follows:

§ 301.48–2b Exempted articles.[1]

The following articles are exempt from the certification, permit, or other requirements of this subpart if they meet

[1] The articles hereby exempted remain subject to applicable restrictions under other quarantines.

the applicable conditions prescribed in paragraphs (a) and (b) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraphs:

(a) Potting soil, if commercially prepared, packaged, and shipped in original containers.

(b) Transplants, if substantially free* of soil.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477, as amended; 38 FR 19141)

The Deputy Administrator of the Plant Protection and Quarantine Programs has found that facts exist as to the pest risk involved in the movement of such articles which make it safe to relieve the requirements as provided herein.

This amendment relieves certain restrictions heretofore imposed, and should be made effective promptly in order to be of maximum benefit to the persons subject to the restrictions that are being relieved. Also, it does not appear that additional information would be made available to the Department by public participation in rulemaking proceedings on the amendment. Accordingly, it is found, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to this amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date. The amendment shall become effective October 20, 1975.

Done at Washington, D.C., this 15 day of October 1975.

JAMES O. LEE, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.75-28163 Filed 10-17-75;8:45 am]

PART 301—DOMESTIC QUARANTINE NOTICES

Japanese Beetle Quarantine and Regulations

● The purpose of this document is to amend the list of Japanese beetle regulated articles. ●

This document amends § 301.48(b) of Japanese beetle quarantine and regulations (7 CFR 301.48(b)) by deleting compost, decomposed manure, humus, muck, and peat; plant crowns and roots for propagation; true bulbs, corms, rhizomes, and tubers of ornamental plants; and used mechanized soil-moving equipment from the list of regulated articles specified in subparagraph (1); and by deleting used mechanized soil-moving equipment from the list of regulated articles specified in subparagraph (2).

These articles are being deleted from these lists of regulated articles because empirical data in the Department indicates that the movement of the deleted articles would present only a minimal, if any, risk of spread of the Japanese beetle.

Section 301.48(b) of the Japanese beetle quarantine and regulations is further amended by excepting from the list of regulated articles specified in subparagraph (1), greenhouse-grown plants. Movement of greenhouse-grown plants present minimal, if any, risk of spread of the Japanese beetle.

Accordingly, § 301.48(b) of the Japanese beetle quarantine and regulations is hereby amended as set forth below:

1. Paragraph (b) of § 301.48 is revised to read as follows:

§ 301.48 Quarantine; restrictions on interstate movement of specified regulated articles.

* * * * *

(b) *Quarantine restrictions on interstate movement of specified regulated articles.* No common carrier or other person shall move interstate from any quarantined State any of the following articles (defined in § 301.48-1(p) as regulated articles), except in accordance with the conditions prescribed in this subpart:

(1) When moved from any generally infested area, or any area outside the regulated areas, in a quarantined State:

(i) Soil, separately or with other things;

(ii) Plants with roots except houseplants grown in the home and not for sale, greenhouse-grown plants, soil-free aquatic plants, moss, and Lycopodium (clubmoss or ground pine or running pine);

(iii) Grass sod;

(iv) Any other products, articles, or means of conveyance of any character whatsoever, not covered by paragraphs (b)(1)(i) through (iii) of this section, when it is determined by an inspector that they present a hazard of spread of the Japanese beetle, and the person in possession thereof has been so notified.

(2) When moved from any suppressive area in a quarantined State:

(i) Bulk soil;

(ii) Any other products, articles, or means of conveyance of any character whatsoever, not covered by paragraph (b)(2)(i) of this section, when it is determined by an inspector that they present a hazard of spread of the Japanese beetle, and the person in possession thereof has been so notified.

* * * * *

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477; 38 FR 19141.)

This action relieves restrictions heretofore imposed, and it should be made effective promptly in order to be of maximum benefit to the persons subject to the restrictions that are being relieved. Also, it does not appear that additional information would be made available to the Department by public participation in rulemaking proceedings concerning this amendment. Accordingly, it is found, under the administrative procedure provisions in 5 U.S.C. 553, that notice of rulemaking and other public procedure with respect to this amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date. This amendment shall become effective on October 20, 1975.

Done at Washington, D.C. this 15th day of October 1975.

JAMES O. LEE, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.75-28162 Filed 10-17-15;8:45 am]

*Not sufficient soil to harbor Japanese beetle larvae.

proposed rules

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

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Part 205]

GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

Standards of Personnel Administration

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Acting Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The regulations amend the current 45 CFR 205.200, Standards of Personnel Administration, with three changes necessitated by legislation enacted and regulations published since the last amendment (37 FR 14723, July 22, 1972). These changes are: (1) The addition of title XX in paragraph (a); (2) the delegation of authority to the U.S. Civil Service Commission to prescribe standards under the Intergovernmental Personnel Act of 1970 (Pub. L. 91-648); and, (3) the submittal of statements and citations providing assurance of conformity to the U.S. Civil Service Commission under the central submittal system published in 5 CFR, Part 900, § 900.604 (39 FR 31513, August 29, 1974).

Prior to the adoption of the proposed regulations, consideration will be given to written comments, suggestions, or objections thereto addressed to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, P.O. Box 2382, Washington, D.C. 20013, and received on or before November 19, 1975.

Such comments will be available for public inspection in Room 5225 of the Department's offices at 330 C Street, SW., Washington, D.C., beginning approximately two weeks after publication of this notice in the FEDERAL REGISTER, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (area Code 202 245-0950).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance No. 13.761, Public Assistance-Maintenance Assistance (State Aid); 13.714, Medical Assistance Programs, 13.724, Public Assistance-State and Local Training; 13.748, Work Incentive Program-Child Care-Employment Related Services, and 13.754, Public Assistance-Social Services.)

Dated: September 16, 1975.

JOHN A. SVAHN,
Acting Administrator, Social and Rehabilitation Service.

Approved: October 14, 1975.

DAVID MATHEWS,
Secretary.

Part 205, Chapter II, Title 45 of the Code of Federal Regulations is amended by revising § 205.200 to read as follows:

§ 205.200 Standards of personnel administration.

(a) A State plan under title I, IV-A, VI, X, XIV, XVI, XIX, or XX of the Social Security Act shall provide that methods of personnel administration will be established and maintained in the State agency administering or supervising the State plan and in local agencies administering the State plan in conformity with the Standards for a Merit System of Personnel Administration, 45 CFR Part 70 and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards. Under this requirement, State laws, rules, regulations, and policy statements effectuating such methods of personnel administration are a part of the State plan. Statements of acceptance of these standards by all official local agencies included in the State plan must be obtained and methods must be established by the State to assure compliance by local jurisdictions. These statements and citations of applicable State laws, rules, regulations, and policies which provide assurance of conformity to the standards in 45 CFR Part 70 or to modifying or superseding standards issued by the Commission must be submitted to the U.S. Civil Service Commission in accordance with 5 CFR Part 900 for determination as to adequacy. Copies of the materials cited and of similar local materials maintained by a State official responsible for compliance by local jurisdictions must be furnished to the Department of Health, Education, and Welfare on request.

(b) The Secretary of Health, Education, and Welfare shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods.

(c) The State plan must provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity in all aspects of personnel administration as specified in § 70.4 of this title. The affirmative action plan will provide for specific action steps and timetables to assure such equal opportunity. The plan shall be made available for review upon request.

[FR Doc.75-28128 Filed 10-17-75;8:45 am]

Social Security Administration

[20 CFR Part 416]

[Reg. No. 16]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Unearned Income; Support and Maintenance

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendment to the regulations which is set forth in tentative form is proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendment, set forth below revises Subpart K of Part 416 at § 416.1125 (Unearned income; support and maintenance).

The proposed amendment implements section 4 of Public Law 93-484 which amends section 1612(a)(2)(A) of the Social Security Act retroactive to January 1974 and which provides that the value of any support and maintenance provided to an individual residing in a nonprofit retirement home or similar nonprofit institution shall be excluded from income if such support and maintenance is provided by the institution itself without receiving any payment therefor, or if payment therefor is made by another nonprofit organization. However, section 4 of Public Law 93-484 further provides that the exclusion does not apply if the organization or institution has undertaken an express obligation to provide full support and maintenance without receiving any current or future payment therefor.

Conversely, it should be noted that section 4 of Public Law 93-484 is not applicable to support and maintenance provided through a public institution (or from a public source) or through a private for-profit facility, nor is it applicable to payments by third parties (such as friends or relatives) to an institution for support or maintenance. In those limited situations where an individual is eligible while in a public institution, support and maintenance provided by a public institution must be included in computing income. Ordinarily, payments by individuals to for-profit institutions are commercial transactions and do not result in in-kind income to those individuals. However, in all institutions—public, private nonprofit, or profit-making—payments by third parties give rise to in-kind income to the individual (except when a private nonprofit organization makes a payment to a private nonprofit institution). These policies will be set out in further amendments to § 416.1125 of the regulations to be published shortly as Notice of Proposed Rule Making.

The proposed amendment to the regulations also relates to situations in which an individual living in a household receives support or maintenance, or both support and maintenance, but the statutory requirements for a one-third reduction in the payment standard for living in the household of another does not apply. In such situations, the maximum value of the in-kind support or maintenance will be presumed to be that amount which, for an individual with no other income, would reduce the applicable supplemental security income payment standard by one-third. The individual may rebut this presumption by establishing that the current market value of such support and maintenance, less any payment he makes therefor, is less than the presumed value.

The proposed amendment to the regulations further provides that, where an individual lives in the household of another and the one-third reduction provision is applicable, the value of additional support or maintenance, or both support and maintenance, received in kind from a person other than the householder with whom the individual lives will be excluded from income for purposes of determining eligibility for and amount of supplemental security income payments.

In addition, the amendment makes clear that, unless otherwise specified, value means current market value.

Inasmuch as section 4 of Public Law 93-484 amends section 1612(a)(2)(A) of the Social Security Act retroactively to January 1974, the rules set forth in § 416.1125(f) of the proposed amendment to the regulations will be applied by the Social Security Administration during the period beginning January 1, 1974, when the new program became effective, until a final regulation is adopted. The rules set forth in § 416.1125(b)(2), (d) and (e) of the proposed amendment pertaining to support and maintenance provided to individuals living in households will be applied by the Social Security Administration with respect to supplemental security income benefits payable for months beginning with December 1974, until a final regulation is adopted.

It should be noted that § 416.1125 was first published as an interim regulation for comment on October 3, 1973, and a number of comments were received relating to the one-third reduction for living in the household of another. This section has been removed from Subpart K of the final regulations and will continue in effect, as here amended, on an interim basis until a final regulation is adopted.

Prior to the final adoption of the amendment to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, on or before November 19, 1975. Consideration will also be given to all comments received in response to the Notice of Proposed Rule Making published on October 3, 1973.

Copies of all comments received in response to this notice as well as to the earlier one will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendment is to be issued under the authority contained in sections 1102 and 1631(d)(1) of the Social Security Act, 49 Stat. 647, as amended, 86 Stat. 1476; 42 U.S.C. 1302, and 1383(d)(1); and section 1612 of the Social Security Act, 88 Stat. 1460; 42 U.S.C. 1382(a), as amended by Public Law 93-484.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: June 30, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: October 14, 1975.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

Section 416.1125 is revised to read as follows:

§ 416.1125 Unearned income; support and maintenance.

(a) *General.* Unearned income includes support and maintenance furnished in cash or in kind. Support and maintenance in kind may generally be defined as room and board, and would also include other incidentals, such as clothing, necessary to an individual's normal sustenance. Unless otherwise specified herein, the value of in-kind support and maintenance refers to its current market value.

(b) *One-third reduction for individual living in another person's household.* (1) In the case of an eligible individual (or eligible individual and eligible spouse) who lives in another person's household and receives support and maintenance in kind from such person, the payment standard for such eligible individual (or eligible individual and eligible spouse) will be reduced by one-third in lieu of including the value of such support and maintenance as unearned income to the eligible individual (or eligible individual and eligible spouse). The one-third reduction in the payment standard will apply only for months wholly spent in the household of another person. Thus, the reduction is made beginning with the first full calendar month in which an eligible individual (or eligible individual and eligible spouse) lives in another person's household and ends with the last such full calendar month. The one-third reduction will apply regardless of whether the individual (or eligible individual and eligible spouse) is making any payment for support and maintenance (room and board) to the person in whose household he is living.

(2) When the one-third reduction applies, any additional support or maintenance, or both support and maintenance, received in kind from a source other than the person in whose household the eligible individual (or eligible individual and eligible spouse) lives is not counted as income.

(3) For purposes of this section, "another person's" household refers to the household of a private individual. It does not include a commercial establishment (e.g., rooming or boarding house) or an institution.

(c) *Household situations not included under paragraph (b) of this section.* The reduction in the payment standard for living in the household of another and described in paragraph (b)(1) of this section will not apply in the following situations and support and maintenance provided in kind will be valued as provided herein and in paragraphs (d) and (e) of this section:

(1) In the case of an eligible individual (or eligible individual and eligible spouse) who lives in another person's household and receives only support or maintenance (i.e., only room or only board) from the householder.

(2) In the case of an eligible individual with an eligible spouse, where only the individual or the spouse is living in another person's household. Any support and maintenance received in kind will be included as unearned income. Absent evidence of a lesser value, such support and maintenance will be valued at one-sixth of the payment standard for a couple.

(3) In the case of an individual who is subject to the provisions of this part regarding the deeming of income (§ 416.1185 or § 416.1190) and who is living in the household of the person from whom income is or would be deemed. In such case, any support and maintenance furnished by the person in whose household the individual is living is not counted as income.

(4) In the case of an eligible individual (or eligible individual and eligible spouse) who lives in an institution or commercial establishment.

(d) *Valuation of support and maintenance for individuals in household situations.* When an eligible individual (or eligible spouse) lives in a household (i.e., is not in an institution) and the reduction in the payment standard described in paragraph (b) of this section is inapplicable and the provisions of §§ 416.1185 and 416.1190 do not apply, any support or maintenance, or both support and maintenance, received in kind is unearned income. In such cases, the maximum value of such support and maintenance is presumed to be that amount which will reduce the applicable payment standard by one-third; i.e., the value is presumed to be one-third of the payment standard, plus the exclusion applicable to unearned income. This presumption will be applied in determining

the benefits payable unless it is rebutted by the individual's establishing that the current market value of such support and maintenance, less any payment he makes therefor, is lower than the presumed value. This rule will apply in the following circumstances:

(1) When an eligible individual (or eligible individual and eligible spouse) lives in the household of another and receives only support or maintenance from the householder. These provisions do not apply, however, when the provisions of paragraph (c)(2) of this section apply.

(2) When an eligible individual (or eligible spouse) lives in his own household, including a commercial establishment, and receives support or maintenance, or both support and maintenance, in kind.

(e) *Individuals to whom income is deemed.* When an eligible individual (or eligible spouse) lives in the household of the person from whom income is, or would be, deemed (§ 416.1185 or § 416.1190) and receives support or maintenance, or both support and maintenance, from a source other than the householder from whom income is, or would be, deemed, the value of such support or maintenance will be treated as income in addition to any deemed income. The maximum value of such support or maintenance is presumed to be the same amount as described in paragraph (d) of this section and the same rules pertaining to application and rebuttal of that presumption will be applied.

(f) *Individual living in private nonprofit residential care institution.* In the case of an eligible individual (or eligible spouse) living in a nonprofit retirement home or similar nonprofit institution, the value of in-kind support and maintenance provided by that institution without receiving payment therefor, or for which payment is made by another nonprofit organization, is not income. However, if the nonprofit institution or organization has undertaken an express obligation to furnish full support and maintenance to an individual without receiving any current or future payment therefor, the current market value of the support and maintenance so provided is counted as unearned income. For purposes of this paragraph (f) of this section, the following definitions apply:

(1) *Nonprofit organization.* "Nonprofit organization" means a private organization which is tax-exempt under section 501(c) or (d) of the Internal Revenue Code of 1954.

(2) *Nonprofit retirement home or similar nonprofit institution.* A "nonprofit retirement home or similar nonprofit institution" means a private institution (as defined in § 416.231(b)) which, with respect to the individual, neither provides services which are (or could be) covered under the State's Medicaid plan nor is an institution for education or vocational training, and is itself, or is controlled by a private organization which is, tax-exempt under section 501(c) or (d) of the Internal Revenue Code of 1954.

(3) *Full support and maintenance.* When a nonprofit organization or institution is providing "full support and maintenance" to an individual as the result of an express obligation, it must be providing at least all of that individual's needs for food and shelter.

(g) *Effective dates.* The provisions set forth in paragraphs (b)(2), (d) and (e) of this section are effective beginning with amounts payable for December 1974. All other paragraphs are effective beginning with amounts payable for January 1974.

[FR Doc.75-28127 Filed 10-17-75;8:45 am]

FEDERAL AVIATION ADMINISTRATION

[14 CFR Part 71]

[Airspace Docket No. 75-NW-24]

ADDITIONAL CONTROL AREA

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate an additional control area over the Olympic Peninsula, Wash.[1] Coincident with the amendment, associated nonrule-making action would be taken to establish a Military Operations Area (MOA) within that airspace.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash., 98108. All communications received on or before November 19, 1975, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would designate Additional Control Area under § 71.163 as follows:

OLYMPIC PENINSULA, WASH.

That airspace extending upward from 5500 feet MSL beginning at Latitude 48°14' N, Longitude 124°45' W to Latitude 48°00' N, Longitude 124°07' W to Latitude 47°38' N, Longitude 123°40' W to Latitude 47°15' N, Longitude 123°40' W to Latitude 47°07' N, Longitude 124°11' W to Latitude 47°30' N, Longitude 124°21' W to Latitude 48°00' N, Longitude 124°45' W to point of beginning. That airspace below 1200 feet AGL is excluded.

[1] Map filed as part of the original document.

The Additional Control Area is required to provide controlled airspace for military IFR training operations.

The nonrule-making action associated with the proposed amendment would establish a MOA of defined vertical and lateral dimensions within which required IFR military training activities would be conducted. The description of the proposed MOA is as follows:

Name: Olympic.

Controlling Agency: Seattle ARTCC.

Scheduling Agency: Commander, Medium Attack Tactical Electronic Warfare Wing, U.S. Pacific Fleet NAS Whidbey Island, Wash.

Time of Operation: Seven days per week 0600-0000 local, other times by NOTAM.

Altitude: From 6000 MSL to but not including FL 180 excluding that airspace below 1200' AGL.

Boundaries: Same as Additional Control Area described above.

The proposed training activities that would be conducted within the MOA are not considered sufficient in volume or nature to justify restricted area airspace. The purpose of the MOA is to contain military training activities. IFR flights will be provided IFR separation from military operations within the area. The MOA would not impose flight restrictions or additional communications requirements on VFR flights. However, the agency has determined that flight safety would be improved if the area is made known to the public. Accordingly, the MOA would be identified and shown on appropriate aeronautical charts.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 14, 1975.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-28084 Filed 10-17-75;8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 75-WA-16]

JET ROUTES

Proposed Alteration and Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would reorganize certain U.S. segments of J/HL routes serving Eastern Canada.[1]

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. All communications received on or before November 19, 1975,

[1] Map filed as part of the original document.

will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the Office of the Regional Air Traffic Division Chief.

The proposed amendment would:

1. Renumber J/HL 553 between Beauce, Quebec; Houlton, Me. and Moncton, New Brunswick to J/HL 509.

2. Renumber J/HL 570 from Long Lake, N.Y., Intersection to Montreal, Quebec to J/HL 524.

3. Designate J/HL 570 from Long Lake, N.Y., Intersection to Mirabel, Quebec (Lat. 45°53'13" N., Long. 74°22'33" W).

4. Renumber J/HL 582 from Presque Isle, Me., to Mont Joli, Quebec to J/HL 561.

5. Designate J/HL 582 from Presque Isle to Sept Iles, Quebec.

Canada proposes to reorganize the high level altitude structure in Eastern Canada to better serve north atlantic traffic operating to and from the major terminals. This proposal would make the route segments that lie within U.S. airspace compatible with their high level altitude reorganization structure.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 10, 1975.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-28085 Filed 10-17-75;8:45 am]

MATERIALS TRANSPORTATION BUREAU

[49 CFR Parts 192 and 195]

[Docket Nos. OPSO-30, OPSO-35; Notices 75-4A, 75-5A]

OFFSHORE PIPELINE FACILITIES

Notice of Hearing and Extension of Comment Periods

By Notice 75-4, published in the FEDERAL REGISTER on September 23, 1975 (40 FR 43740), the Office of Pipeline Safety Operations (OPSO) proposed to amend Part 195 regarding the safety of offshore pipelines transporting petroleum, petroleum products, and other liquid hazardous materials. Also, by Notice 75-5, published on October 6, 1975 (40 FR 45192), OPSO proposed to amend Part 192 to enhance the safety of gas pipeline facilities and the transportation of gas offshore.

The American Petroleum Institute (API) has requested that the period for written comments to Notice 75-4 be extended 30 days to November 19, 1975. API argues that additional time is needed to prepare a response based on a study by its member carriers of the proposals contained in the Notice. Anticipating that its analysis of the issues may warrant the requesting of a public hearing, API further requests that the deadline to petition OPSO for a public hearing be extended to November 10, 1975.

For similar reasons, the Interstate Natural Gas Association of America has requested that OPSO extend the time for written comments to Notice 75-5 to December 1, 1975.

Likewise, in a petition requesting additional time to comment on both Notices 75-4 and 75-5, the Offshore Operators Committee, representing gas and oil producers, argues that the time for comment provided by each Notice is insufficient to complete a careful study upon which to base a response. Also, the Committee suggests that an "on-the-record exploratory conversation between industry and OPSO" is needed to clarify issues and to aid the Committee in preparing comments. It requests that the comment periods be extended 60 days from date of any conference.

After reviewing the matter, and particularly the proposals which would extend the applicability of Parts 192 and 195 to offshore gathering lines and subject pipelines crossing inland navigable waters to the requirements for offshore pipelines, OPSO has decided to grant the three requests for additional time to respond in writing by extending the deadline for written comments on both Notice 75-4 and Notice 75-5 to December 1, 1975. This extension allows interested persons at least 60 days to study the various rule making proposals and to make accurate and complete responses.

OPSO does not believe that a conference with industry representatives for purposes of explaining the rule makings is appropriate. Clarifying statements giving reasons for the various proposed rules are contained in the preamble to each Notice. Commenters who are uncertain about the intent of the proposed rules or who note possible ambiguities should make these points clear in their comments to the relevant Notice. OPSO will consider these comments and may conduct any additional rule making proceedings it finds necessary before a final rule is issued.

Further, OPSO has not granted the request by API for additional time to request a public hearing. Instead, OPSO will conduct a public hearing at 10:00 a.m. on November 17, 1975, in Room 3201, Trans Point Building, 2100 Second Street, S.W., Washington, D.C., on the subjects of both Notice 75-4 and Notice 75-5. The hearing will provide an opportunity for all interested persons to comment orally. It will be informal, not a judicial type of hearing. There will be no cross examination of persons making statements. A member of the OPSO staff will preside at the hearing, and each person will be allowed to make an initial oral statement, including statements of any witnesses. Those who wish to make rebuttal statements will be allowed to do so in the same order in which they made their initial statement. All statements will become a part of the public record of the respective rule making proceeding.

Persons who wish to make oral statements at the hearing should notify Peggy Tubbs, Office of Pipeline Safety Operations, 2100 Second Street, S.W., Washington, D.C. 20590 (Telephone: 202-426-0135), stating the approximate amount of time required for an initial statement.

This Notice is issued under the authority of Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 USC 1672); Section 105 of the Hazardous Materials Transportation Act (49 USC 1804); Sections 831-835 of Title 18, United States Code, Section 6(e)(4) of the Department of Transportation Act (49 USC 1655(e)(4)); § 1.64 of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.64), and the redelegation of authority to the Director, Office of Pipeline Safety Operations, set forth in Appendix A to Part 102 of the regulations of the Office of the Director, Materials Transportation Bureau (49 CFR Part 102).

Issued in Washington, D.C., on October 16, 1975.

CESAR DELEON,
Acting Director, Office of Pipeline Safety Operations.

[FR Doc.75-28330 Filed 10-17-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[OPP-300007; FRL 445-2]

CERTAIN INERT INGREDIENTS IN PESTICIDE FORMULATIONS

Proposed Exemptions From Requirement of Tolerance

At the request of several interested persons, the Administrator, Environmental Protection Agency (EPA), is proposing, pursuant to Section 408(e) of the Federal Food, Drug, and Cosmetic Act, to amend 40 CFR 180.1001 to exempt certain pesticide chemicals which are additional inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements.

The inert (or occasionally active) ingredients concerned, and the persons requesting that the Administrator propose exemptions with respect to them, are as follows:

Manganese carbonate—Leffingwell Chemical Co., P.O. Box 188, Brea, CA 92621.

D & C Green No. 6—Allied Chemical, Specialty Chemicals Div., P.O. Box 1087R, Morristown, NJ 07960.

Sodium mono- and dimethyl naphthalene sulfonate—Petrochemicals Co., Inc., 2001 N. Grove, P.O. Box 2199, Ft. Worth, TX 76101.

Partial sodium salt of *N*-lauryl-β-iminodipropionic acid—General Mills Chemicals, Inc., 2010 East Hennepin, Minneapolis, MN 55413.

Epoxidized soybean oil; Magnesium silicate, hydrated magnesium silicate; Sodium butylnaphthalene sulfonate—Ciba-Geigy Corp., Agricultural Div., P.O. Box 11422, Greensboro, NC 27409.

Zinc stearate USP—Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond, CA 94804.

α - alkyl(C_{12}-C_{18}) - ω - hydroxypoly (oxyethylene/oxypropylene) heteric polymer in which the oxyethylene content is 8–12 moles and the oxypropylene content is 3–7 moles; and α-alkyl (C_{12}-C_{18})-ω-hydroxypoly (oxyethylene/oxypropylene) heteric polymer in which the oxyethylene content averages 13–17 moles and the oxypropylene content averages 2–6 moles—BASF Wyandotte Corp., Wyandotte, MI 48192.

Xanthan gum—PM17; Gerald Harrison, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Based on available information on the chemistry and toxicity of these substances, as well as a review of the history of their use, it has been found that when used in accordance with good agricultural practice, these substances are useful as adjuvants and do not pose a hazard. It has, therefore, been concluded that the proposed amendment to the regulation (40 CFR 180.1001) will protect the public health.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before November 19, 1975, that this proposal be referred to an advisory committee in accordance with Section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW., Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the agency and others interested in inspecting them. The comments must be received on or before November 19, 1975, and should bear a notation indicating the subject [OPP-300007]. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: October 10, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)))

It is proposed that Part 180, Subpart D, § 180.1001 be amended by alphabetically inserting new items in paragraphs (d) and (e) as follows.

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *	*	* *
α-Alkyl (C_{12}-C_{18})-ω-hydroxypoly(oxyethylene/oxypropylene) heteric polymer in which the oxyethylene content is 8-12 moles and the oxypropylene content is 3-7 moles.		Surfactants, related adjuvants of surfactants.
* * * * *	*	* *
α-Alkyl (C_{12}-C_{18})-ω-hydroxypoly(oxyethylene/oxypropylene) heteric polymer in which the oxyethylene content averages 13-17 moles and the oxypropylene content averages 2-6 moles.		Surfactants, related adjuvants of surfactants.
* * * * *	*	* *
D & C Green No. 6		Dye.
* * * * *	*	* *
Manganese carbonate		Plant nutrient.
* * * * *	*	* *
Partial sodium salt of *N*-lauryl-β-iminodipropionic acid	Not more than 1 percent of pesticide formulation.	Surfactants, related adjuvants of surfactants.
* * * * *	*	* *
Zinc stearate, conforming to 21 CFR, section 121.101(d)(5)		Flow control agent.

(e) * * *

* * * * *	*	* *
Epoxidized soybean oil		Stabilizer.
* * * * *	*	* *
Magnesium silicate, hydrated magnesium silicate		Solid diluent, carrier.
* * * * *	*	* *
Sodium butylnaphthalene sulfonate	Not more than 0.5 pct of pesticide formulation.	Surfactants, related adjuvants surfactants.
* * * * *	*	* *
Sodium mono- and dimethyl naphthalene sulfonate, molecular weight 245-260.		Surfactants, related adjuvants surfactants.
* * * * *	*	* *
Xanthan gum		Thickener.
* * * * *	*	* *

[FR Doc.75-28066 Filed 10-17-75;8:45 am]

[40 CFR Part 52]

[FRL 446-1]

CONTROL OF SULFUR OXIDE; NEW MEXICO

Proposed Approval of Regulations

The purpose of this notice is to propose approval of the New Mexico Regulation for control of sulfur oxides in New Mexico including the New Mexico portion of the Four Corners Interstate Air Quality Control Region (AQCR) and propose rescinding the Federal Regulation identified as 40 CFR 52.1624(c) and the corollary portions of 40 CFR 52.1626.

Pursuant to Section 110 of the Clean Air Act, 42 USC 1857c-5, the Administrator on May 31, 1972 (37 FR 10881) approved with some exceptions, the plan submitted by the State of New Mexico for the implementation of the National Ambient Air Quality Standards (NAAQS). Specifically, the Administrator disapproved on July 27, 1972 (37 FR 15086) New Mexico's Plan and Regulation 602B (Air Quality Control Regulation, fossil fuel-fired steam generators in the Four Corners Interstate Region), since it did not provide the degree of control necessary for attainment of sulfur oxide standards.

On July 27, 1972 (37 FR 15094), the Administrator proposed regulations to correct deficiencies in the regulatory provisions of the plan and promulgated replacement regulations on March 23, 1973 (38 FR 7554) with amendments published on March 21, 1974 (39 FR 10582). At that time the Administrator determined that an extension of time was required to achieve the standards and that 70% control of sulfur oxide emission was necessary.

On October 3, 1975, the Governor of New Mexico submitted a revision to the State Implementation Plan which revises Regulation 602 with regard to existing plants to require 65% reduction in emissions for power plants of rated heat capacity greater than 250 British Thermal Units (BTU) and less than 3000 BTU, and 85% reduction for plants of rated heat capacity greater than 3000 BTU to be achieved by July 1977. The larger capacity units, greater than 3000 BTU, also are required to achieve 90% reduction in emissions by July 1979. The reductions specified in the revision, show an overall control effort greater than the 70% reduction of emissions required by the Administrator. Such reductions, more stringent than that required by the Administrator, are the prerogative of the State under Section 116 of the Clean Air Act. Therefore, notice is hereby given that the Administrator of the Environmental Protection Agency intends to approve the New Mexico regulation for control of sulfur oxides and intends to revoke the Federal promulgation.

The State of New Mexico subjected the revisions to public hearings on August 27 through 29, 1974 in accordance with 40 CFR 51.4. The regulations were

formally adopted by the State on December 13, 1974. Therefore, the Administrator does not plan to conduct further hearings regarding the revisions; however, interested persons may still participate in this rulemaking by submitting written comments to:

Regional Administrator, Environmental Protection Agency, Region VI, 1600 Patterson Street, Dallas, Texas 75201.

Relevant comments received on or before November 19, 1975. The material as submitted by the State of New Mexico is available for inspection during normal business hours at the above designated office and also at the following offices:

Environmental Protection Agency, Public Information Reference Unit, Room 2932, EPA Library, 401 "M" Street SW., Washington, D.C. 20460.

New Mexico Environmental Improvement Agency, College of Santa Fe, Cirrillos Road, Santa Fe, New Mexico 87503.

This notice of proposed approval is issued under the authority of section 110 (a) of the Clean Air Act as amended, 42 USC 1857c-5.

Dated: October 10, 1975.

JOHN C. WHITE,
Regional Administrator, Region VI, Environmental Protection Agency.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

Subpart GG—New Mexico

1. In § 52.1620, paragraph (c) (4) is revised to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

(4) Revisions to Air Quality Control Regulation 602, Coal Burning Equipment-Sulfur Dioxide, adopted by the New Mexico Environmental Improvement Board on December 13, 1974 and submitted by the Governor on October 3, 1975.

§ 52.1624 [Amended]

2. In § 52.1624 *Control strategy and regulations: sulfur oxides,* the following paragraphs are rescinded: (a)(1), (b)(1), and (c).

§ 52.1626 [Amended]

3. In § 52.1626 *Compliance schedules,* paragraphs (c) and (e) are rescinded.

[FR Doc.75-28179 Filed 10-17-75;8:45 am]

[40 CFR Part 52]

[FRL 446-2]

NEW HAMPSHIRE

Proposed Change in Recordkeeping Requirements and in the Review of New and Modified Indirect Sources

On May 31, 1972 (37 FR 10842) pursuant to Section 110 of the Clean Air Act and 40 CFR 51, the Administrator approved with exceptions the New Hampshire Implementation Plan for the attainment of national ambient air quality standards.

On May 28, 1975 the Director of the New Hampshire Air Pollution Control Commission submitted two proposed revisions to be included in the plan: (1) An amendment to the requirement that records be kept at facilities which discharge air contaminants (State Regulation 18 Section III-D in order to have the previous EPA disapproval rescinded), and (2) a requirement for review of new or modified indirect sources (State Regulation 20) in compliance with 40 CFR § 52.22(b). The purpose of Regulation 18 will be to eliminate a previous stipulation which allowed for the withholding of emission data which might destroy the confidentiality of a manufacturing process. Due to the recent court decision that all emission data should be made available to the public, this provision of Regulation 18 has to be deleted.

The change in Regulation 20 requires that an applicant who intends to construct any facility which might cause mobile source activity should submit a draft Environmental Impact Statement as opposed to the previously required final Impact Statement.

Regulation 20 was originally proposed in the FEDERAL REGISTER, Vol. 39, No. 82, Friday, April 26, 1974.

Copies of the New Hampshire submission are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, JFK Federal Building, Room 2113, Boston, Massachusetts 02203; Nashua Health Office, 18 Mulberry Street, Nashua; Manchester Health Office, 730 Elm Street, Manchester; Air Pollution Control Agency, Hazen Drive, Concord; Conway Public Library, Conway; Berlin Health Office, City Building, Berlin; and the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460.

The Regional Administrator hereby issues this notice setting forth the New Hampshire revisions as proposed rulemaking and advises the public that interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate to the Regional Administrator, EPA, Region I, JFK Federal Building, Room 2113, Boston, Massachusetts 02203. Relevant comments received within 30 days of this notice will be considered and acknowledged. Comments received will be available during normal working hours at the Region I office.

The Administrator's decision to approve or disapprove the plan is based on whether it meets the requirements of Section 110(a)(2) (A)-(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51. All relevant matter presented shall be evaluated and the agency will incorporate in the rules adopted a concise general statement of their basis and purpose. Authority Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5(a).

Dated: October 6, 1975.

KENNETH L. JOHNSON,
Acting Regional Administrator.

[FR Doc.75-28180 Filed 10-17-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 15]

[Docket No. 20620; RM-2426; FCC 75-1138]

WIDE-BAND SWEPT RF EQUIPMENT

Provision for Operation as Anti-Pilferage Devices; Notice of Inquiry

1. The Commission has before it for consideration a petition for rule making, RM 2426, to amend Part 15 to provide for the operation of a swept frequency anti-pilferage device, filed by Checkpoint Systems Inc. on July 30, 1974 [1] and pleadings related thereto.[2]

2. The petition was placed on public notice in Report No. 920, issued August 13, 1974. In response to this public notice, the Commission received comments from the 3M Company and from the Knogo Corporation. The 3M Company states that it manufactures an anti-pilferage device which uses a magnetic field and is not subject to regulation by the Commission. Knogo states that it is providing an anti-pilferage device which operates within the existing Part 15 Rules. Both of these comments imply that it may not be necessary to make additional provisions for anti-pilferage equipment. Subsequently, the Commission was informally advised that the Magnavox Co. is also manufacturing and distributing an anti-pilferage device which does not require the use of RF energy.

3. In view of these contentions, the Commission is instituting this inquiry seeking information as to the need for additional regulation for anti-pilferage devices; and if such a need exists, the form these regulations should take.

THE PETITION

4. Checkpoint is a manufacturer of electronic detection systems used as an anti-pilferage device in retail and department stores, libraries, and other commercial establishments. Greatly simplified, the technique employed by the Checkpoint equipment is to detect

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[1] Simultaneously with its petition for rule making, Checkpoint filed a petition for waiver of the present Part 15 requirements to permit it to market its proposed system during the pendency of the rule making. The requested waiver was granted by the Commission on December 13, 1974. A request from Knogo dated December 16, 1974 for a stay of this waiver was denied by the Commission on February 26, 1975.

[2] Supplement to petition for rule making filed October 7, 1974. Comment from the 3-M Company filed September 13, 1974. Opposition to petition filed by Knogo Corporation on November 19, 1974. Reply to opposition filed by Checkpoint Systems on December 4, 1974. Request for expedited action filed by Checkpoint Systems on May 7, 1975. Request for expedited action filed by Knogo Corporation on June 20, 1975.

a tag concealed in the protected article by use of an RF generator that sweeps over the frequency range of operation.[3] Checkpoint states that when the frequency sweep encounters one of the concealed tags, each of which contains a "resonant" printed circuit, the operator is alerted to the presence of a protected item.

5. Checkpoint claims that a system such as the one which it produces cannot operate efficiently in conformity with the Commission's present rules and regulations, which restrict field disturbance sensors operating on frequencies below 10 MHz to a field of 15 μV/m at a distance of $\lambda/2\pi$. Checkpoint contends that a higher level of signal—100 μV/m peak at 100 feet is required for the efficient operation of an anti-pilferage system in an area of high ambient noise, which is alleged to be typical of the locations where its system will be installed. Checkpoint also raises the question of measurement procedure to be used in determining compliance. It points out that the Commission's present regulations were promulgated to apply to a narrow band generator which can be measured with a field strength meter using an average detector. Since its system uses a frequency sweeping technique the output is a broad band signal that cannot be properly characterized in terms of microvolts per meter, nor can it be measured with a field strength meter using an average detector. The difficulty in interpreting the measurements of the Checkpoint output signal are clearly illustrated by the measurement report attached as Exhibit C(3) to the Checkpoint petition.

6. Checkpoint states the interference potential of its equipment to communication services has been analyzed and maintains that operation under the rules it has suggested in its petition would cause no harmful interference to radio communications services operating in the frequency bands specified. This claim is set out in paragraphs 4, 4.1, and 4.2 of Exhibit C attached to the petition and is elaborated upon in the supplement filed October 7, 1974. Checkpoint reports that this study showed that on a clear channel (one with no other signals present), the signals from the Checkpoint Mark II anti-theft device were not audible on a high-quality receiver at a distance of 560 feet. With a weak signal (in the order of 3–5 microvolts into the antenna) present on the channel, the signal from the Checkpoint transmitter was not significantly audible beyond 100 feet.

7. Checkpoint asserts that pilferage from stores is a pressing problem and that adoption of the rules they have proposed would facilitate an important advance in anti-pilferage equipment. To show the magnitude of the theft problem Checkpoint cites the following statistics:

Mr. H. Haimowitz, an executive of the National Retail Merchants Association claims shoplifting losses to be more than $8 million per day.

Mr. Thomas J. Mackell, District Attorney, Queens, New York, stated that over $600 million in merchandise was stolen in the New York City area.

The FBI reported in August 1971 that shoplifting incidents increased about 45% from 1969 to 1970.

Mr. David Yunich, retired president of Macy's in New York, stated that during 1970, Macy's lost $8 million in "shoplifting" or about 5% of total sales volume. (New York Times, Dec. 3, 1970)

The effectiveness of the system in containing such losses is alleged to be shown by the statistics presented by Checkpoint (Exhibit E page X). This table shows that the loss of books in 11 libraries was reduced on the average by about 87% after a Checkpoint system was installed.

The 3M Comment

8. The 3M Company has submitted an *amicus curiae* comment. 3M is supplying two book detection systems to libraries. These systems use a magnetic field at 1 kHz for detection. 3M disputes the claim by Checkpoint that its equipment is more efficient and less costly to operate than the 3M equipment, and calls attention to a 1974 survey by the American Library Association (3M Exhibit B) of detection systems offered by seven different manufacturers. 3M points out that this survey lists ten systems with prices comparable with those of Checkpoint II. 3M agrees with Checkpoint about the benefits to be derived from such a system. It cites the experience of its customers (3M Exhibit A) that the installation of its book detection systems has reduced book losses by 80% to 95% at various libraries.

The Knogo Opposition

9. The Knogo Corporation has filed a comment on the Checkpoint petition in which it opposes the institution of rule making requested by Checkpoint. Knogo manufactures and installs equipment to prevent loss of merchandise by theft which uses a swept radio frequency system similar to that of Checkpoint. However, the frequency of operation is significantly different. Whereas the Checkpoint system operates on a frequency between 4 and 10 MHz, the Knogo system operates on a frequency in the vicinity of 2 MHz.

10. Knogo agrees with Checkpoint's contention that there is a need for anti-pilferage equipment at present. However, it points out that there are at least nine companies supplying this market, that the market is highly competitive and that the current supply exceeds the demand for the equipment. Knogo also disputes Checkpoints characterization of its equipment as being subject to false alarms, having slow response time and being generally inferior.

11. In its comments Knogo asserts that there is nothing intrinsically new in the Checkpoint system. The swept frequency technique used by Checkpoint is almost identical to that used by Knogo since 1966. Moreover, the operating characteristics of the Knogo equipment were selected to bring it into conformance with the applicable FCC regulations although this caused increased development expense and higher production costs. The basic thesis of the Knogo opposition appears to be that since it is possible to manufacture and operate anti-pilferage equipment within the present specifications prescribed by the Commission there is no need to relax these standards and thereby increase the potential of interference to users of the radio spectrum.

12. Checkpoint in its response to Knogo's opposition urges the Commission to institute the requested rule making as the appropriate vehicle by which to resolve the diverse contentions and allegations.

The Question of Personal Hazard

13. On June 25, 1975, the Food and Drug Administration held an open public hearing[4] to allow interested persons an opportunity to present data, technical information, and views concerning the possible interference with cardiac pacemakers by anti-theft devices.[5] In its notice concerning this meeting FDA described the anti-theft devices in question as those used in retail outlets and libraries to detect shoplifting. Such devices create an electromagnetic field which when perturbed by a special tag attached to the protected article, will trigger the device and alert the store personnel to possible shoplifting or theft.

14. The possibility that the anti-theft anti-pilferage devices may be a hazard to persons using cardiac pacemakers is a public interest factor that the Commission will have to consider in making its decision in this proceeding. Accordingly, persons commenting in this proceeding are requested to address the question of personal hazard as well as the economic and technical questions raised in this Notice.

Commission Inquiry

15. Having reviewed Checkpoint's petition, the comments of 3M and the Knogo opposition, the Commission finds that there is sufficient merit in the Checkpoint proposal to argue against an outright denial as proposed by Knogo. The mere fact that there is equipment on the market to serve a particular need is not sufficient grounds for refusing to promulgate additional regulations to make it possible for a new, allegedly more efficient competing equipment to enter the market. However, we cannot overlook the contention that the market is adequately served by devices that either do not require Commission authorization or comply with the present regulations and that additional regulations may not be required.

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[3] In its petition, Checkpoint stated the frequencies of operation were either 4.5 to 5.7 MHz or 6.3 to 7.7 MHz. The waiver granted by the Commission (footnote[1] Supra) authorized operation on 4.5 to 5.7 MHz or 7.4 to 9.0 MHz.

[4] 40 FR 23500 (May 30, 1975).

[5] A transcript of the meeting and such written material that may have been submitted are available for review in the Office of the Hearing Clerk, Food & Drug Administration, Room 4–65, 6500 Fishers Lane, Rockville, Maryland 20852.

16. The Commission has studied the materials that have thus far been filed, but is not satisfied that sufficient information has been elicited to enable it to adequately consider the merits of continuing to allow the use of radio spectrum for wide-band, swept RF equipments used as anti-pilferage devices. Accordingly, the Commission is issuing this Notice of Inquiry seeking additional information to help it resolve the present controversy. All persons supplying anti-theft devices are requested to make themselves known to the Commission, to describe how their respective equipment operates, what the operating parameters are, and whether their equipment is subject to Commission regulation. The Commission is also seeking information on the relative costs of these equipments and the advantages vis-a-vis competing equipment.

17. Information is also sought on the following specific questions. Information concerning interference should be quantitative and should be based on measurements made under laboratory conditions as well as on-site in quiet as well as noisy locations.

(a) Knogo is currently using the frequency band 2±0.2 MHz for its anti-pilferage device. Checkpoint requested the use of 4.5–5.7 MHz and 6.3–7.7 MHz. In its waiver to Checkpoint, the Commission authorized the use of 4.5–5.7 MHz or 7.4–9.0 MHz. Are these frequencies the best suited for such anti-pilferage devices?

(b) What level of emission is required for the operation of an anti-pilferage device operating on the frequencies listed in paragraph (a) above, noting that the Knogo device is operating under the Commission's present technical specification (15 μV/m at $\lambda/2\pi$) whereas Checkpoint alleges that a level of 100 μV/m peak at 30 meters is required.

(c) What measurement procedure should be used to determine compliance of an anti-pilferage device using swept frequency techniques such as are used by Knogo and Checkpoint.

(d) What interference problems have been caused by the Knogo equipment now in use operating at 2 ± 0.2 MHz with a level of emission of 15 μV/m at $\lambda/2\pi$?

(e) What interference problems have been caused by the Checkpoint equipment now in use operating in the band 4.5–5.7 MHz or 7.4–9.0 MHz with a level of emission of 100 μV/m peak at 30 meters under a waiver of the technical specifications in Part 15?

(f) If anti-pilferage devices were authorized to operate on the frequencies listed in paragraph (a) with the level of emission requested by Checkpoint—100 μV/m peak at 30 meters, and the use of anti-pilferage devices were to proliferate, what interference problems could be expected to arise?

18. Since a question of personal hazard has been raised, information is also sought on this subject: The electromagnetic field that the wearer of a cardiac pacemaker must pass through and the effect of this field on the several pacemakers currently in use.

19. Authority for this proceeding is contained in Section 4(i), 302, 303(g) and 303(r) of the Communications Act of 1934, as amended.

20. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before November 24, 1975 and reply comments on or before December 5, 1975. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission also may take into account other relevant information before it, in addition to specific comments invited by this Notice.

21. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 11 copies of all statements, briefs, or comments shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: October 8, 1975.

Released: October 16, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[*]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.75-28150 Filed 10-17-75;8:45 am]

[47 CFR Part 73]

[Docket No. 20615; RM-2534]

FM BROADCAST STATIONS, OHIO

Table of Assignments

1. *Petitioner, Proposal and Comments:*

(a) *Notice of Proposed Rule Making* is given concerning amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's Rules and Regulations) as concerns Zanesville, Ohio.

(b) A petition for rule making was filed[1] on behalf of a partnership identified as Vichroski, Eddy, Taggart, and Thedwall ("Vichroski"), proposing that Channel 224A be assigned to Zanesville, Ohio, as a second FM assignment to the community. Since Zanesville's current channel is Class B, this would cause intermixture, a matter discussed below in paragraph 4.

2. *Community Data:*

(a) *Location:* Zanesville, the seat of Muskingum County, is located approximately 150 miles south of the Canadian-U.S. border,[2] and approximately fifty miles east of Columbus, Ohio.

(b) *Population:* Zanesville—33,045; Muskingum County—77,826.[3]

(c) *Local Broadcast Service:* Zanesville presently receives local aural service from one FM station (WHIZ–FM, Channel 273) and one AM station (WHIZ, Class IV–U), both of which are licensed to Southeastern Ohio Broadcasting System, Inc. ("Southeastern"). The community is served by one UHF television station, WHIZ, Channel 18, also licensed to Southeastern.

(d) *Economic:* Zanesville serves as a retail trading center for the surrounding rural counties. A varied assortment of items including glass, ceramic, and metal products are manufactured there.

3. *Preclusion Studies:*

(a) Preclusion would occur on co-channel 224A and third adjacent Channel 221A. Two of the six Ohio communities in the co-channel preclusion area, Crooksville (pop. 2,828) and New Concord (pop. 3,399), presently have no local aural service. Petitioner should indicate whether alternate assignments exist for those communities.

4. *Additional Considerations:*

(a) Petitioner admits that the proposal would intermix a Class A channel assignment with an existing Class B channel but asserts that an additional Class B channel is not available for assignment to Zanesville. Vichroski adds that despite the differences in coverage characteristics between a Class A and a Class B channel, it is willing to proceed and believes that it will be competitive with the existing facility. Where a channel of the class previously assigned to the community is not available and a Class A assignment exists as the only means of providing needed additional service, we have permitted an "intermixture" of channels in order to provide the service, particularly where, as here, a party expresses a desire to proceed with operation on a Class A channel.[4]

5. Assignment of the channel as proposed would be consistent with the population criteria governing FM channel assignments.[5] Moreover, operation of a station on the proposed channel at Zanesville would create a diversity of media ownership and thus further Commission policy. On this basis, we believe the proposal worthy of further exploration and conclude that "intermixture" does not constitute an impediment to favorable action in this case.

6. *Proposed Amendment to the FM Table of Assignments:*

The Commission proposes to amend the FM Table of Assignments, § 73.202 (b), with regard to the community of Zanesville, Ohio, as follows:

City	Channel No.	
	Present	Proposed
Zanesville, Ohio	273	224A, 273

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[*] Commissioner Hooks concurring in the result.

[1] Public notice of the filing of the petition was issued on April 7, 1975 (Rept. No. 941).

[2] Since Zanesville is located within 250 miles of the U.S.-Canada border, this proposal is subject to approval under the provisions of the Working Agreement of the U.S.-Canada FM Agreement of 1947.

[3] All population statistics cited are from the 1970 U.S. Census.

[4] See *Jackson, Tenn.*, 49 FCC 2d 785 (1974); *Columbus, Ind.*, 42 FCC 2d 718 (1973); and *Yakima, Wash.*, 42 FCC 2d 548 (1973).

[5] *Further Notice of Proposed Rule Making*, Docket 14185, and incorporated by reference in para. 25, *Third Report and Memorandum Opinion and Order*, 23 R.R. 1859 (1963).

7. *Authority:*
The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are set forth below.

8. *Comments and Replies:*
Interested parties may file comments on or before December 8, 1975, and reply comments on or before December 29, 1975.

Adopted: October 7, 1975.

Released: October 14, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this Notice of Proposed Rule Making.

2. Showings required. Comments are invited on the proposal(s) discussed in this notice of proposed rule making. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. Cut-off procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. Comments and reply comments; service. Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this Notice of Proposed Rule Making. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. Number of copies. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and eleven copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public inspection of filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc.75-28147 Filed 10-17-75;8:45 am]

[47 CFR Part 73]

[Docket No. 20616]

FM BROADCAST STATIONS IN CERTAIN STATES

Table of Assignments

In the matter of amendment of § 73.202 (b), Table of Assignments, FM Broadcast Stations. (Shallottee, N.C.; Rainelle, W. Va.; Pana, Illinois; Montgomery City, Missouri; Malta, Montana).

1. The Commission has under consideration five petitions which propose the amendment of § 73.202(b) of the Rules, the FM Table of Assignments, by assigning a first Class A FM channel to each of the above-mentioned communities. None of the five communities is located in or near any large urbanized area and the channels can be assigned consistent with minimum mileage separation requirements.[1] The five petitions are unopposed. The proposals and petitioners are as follows:

RM-2540, Channel 228A to Shallotte, North Carolina (Union Broadcasting Corporation)
RM-2546, Channel 244A to Rainelle, West Virginia (The R-B Company, Inc.)
RM-2548, Channel 265A to Pana, Illinois (Larry W. Craig)
RM-2549, Channel 280A to Montgomery City, Missouri (Vincent Charles Myles)
RM-2553, Channel 261A to Malta, Montana (W. L. Holter)

A brief description of each petition follows.

2. *Shallotte, North Carolina (RM-2540).* Union Broadcasting Corporation petitioned on March 27, 1975, for the assignment of Channel 228A to Shallotte, North Carolina (pop. 597). Shallotte is near the southern Atlantic coast of North Carolina, in Brunswick County (pop. 24,223). Minimum spacing requires the transmitter antenna be located southeast of Shallotte. Petitioner's engineering study speaks to assignment at Ocean Isle Beach, 6 miles south of Shallotte. Because petitioner requests the assignment at Shallotte, we request correction of this inconsistency in comments, informing us at which community it intends to operate a station if authorized. Shallotte has a daytime-only AM station.

3. Petitioner has filed data concerning the economic, social, and governmental situation of Shallotte. It states that this is a rural area, presently expanding because of condominium, retirement, and tourist business. It estimates the 1973 population to have been 675. Petitioner states that it intends to apply for use of the channel if it is assigned. For these reasons, consideration of the proposal for a first Class A FM channel which would provide a first nighttime local service to Shallotte, North Carolina, is warranted.

4. *Rainelle, West Virginia (RM-2546).* The R-B Company, Inc. of Rainelle, West Virginia, filed a petition on May 20, 1975, proposing assignment of Channel 224A to Rainelle (pop. 1,826). Petitioner is the licensee of WRRL, a daytime-only AM station, the only broadcast service in Rainelle.

5. Petitioner states that Rainelle's population has increased 180% since 1960. It is located in Greenbrier County (pop. 32,090). In addition, there are several unincorporated areas and communities adjacent to Rainelle, with an estimated population of 19,000. Petitioner has filed information on government, industry, banks, and economy in Rainelle. For the above reasons, we find the proposal to provide a first FM broadcast service to Rainelle, West Virginia, should be considered in rule making.

6. *Pana, Illinois (RM-2548).* Larry W. Craig filed a petition May 1, 1975, seeking the assignment of Channel 265A to Pana, Illinois (pop. 6,327). Pana has no broadcast facilities at this time.

7. Petitioner has supplied statistical information on governmental, social, educational, and economic conditions in Pana. He informs us that Pana, in Christian County, Illinois, is a railway center to major cities in the United States. Petitioner has also submitted letters from citizens of the community in support of his proposal. Mr. Craig states that he represents a group that will apply for a construction permit if the channel is assigned. In view of the foregoing, and the fact that Pana has no local broadcast service, this proposal merits exploration in a rule making proceeding.

8. *Montgomery City, Missouri (RM-2549).* By petition received May 8, 1975, Vincent Charles Myles, requests that Channel 280A be assigned to Montgomery City (pop. 2,700), seat of Montgomery County (pop. 11,000). It now has no local broadcast station.

9. Petitioner informs us that Montgomery City has 8 churches, 2 banks, 2 industrial parks, 8 manufacturers, 1 weekly newspaper, and 5 civic organizations. It is a farming and marketing community. Petitioner states that he intends to apply for and construct a broadcast station, if the channel is assigned, which would look to the demands of the local community. Because of these considerations, and the fact that this would provide for a first aural broadcast service for Montgomery City, we are inviting comments on the proposal.

[1] In order to meet the minimum spacing requirements of our rules, a site southeast of Shallottee, North Carolina, would be required.

10. Malta, Montana (RM-2553), W. L. Holter filed a petition on May 23, 1975, asking for the assignment of Channel 261A to Malta, Montana (pop. 2,195), seat of Phillips County (pop. 5,386). Malta is located in northeast Montana near the Canadian border. It presently has no broadcast facility. Petitioner owns an AM station 70 miles east of Malta in Glasgow, which maintains a studio in Malta for two hours of local programming on weekdays and local newscasting.

11. Petitioner states that he intends to apply for a construction permit and build a station if authorized in Malta. In support of the assignment, he informs us that Malta is a rural community with an economy based largely on agriculture and livestock, along with adjacent national recreational areas. We are informed that Malta is the trade center for its surrounding area with several businesses, churches, professionals, a work center for handicapped persons, transportation, social organizations, recreational and cultural opportunities. Because of these facts and in view of the proposal to provide a first local aural broadcast service to Malta, Montana, we are inclined to consider its merits in a rule making. This assignment will require coordination with the Canadian Government.

12. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as follows for the listed communities:

City	Channel No.	
	Present	Proposed
Shallotte, N.C.		228A
Rainelle, W. Va.		244A
Pana, Ill.		265A
Montgomery City, Mo.		280A
Malta, Mont.		261A

13. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are set forth below.

14. Interested parties may file comments on or before December 8, 1975, and reply comments on or before December 29, 1975.

Adopted: October 7, 1975.

Released: October 14, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this notice of proposed rule making.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rule making. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rule making. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and eleven copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.75-28148 Filed 10-17-75;8:45 am]

[47 CFR Part 76]

[Docket No. 20621; RM-2499; FCC 75-1141]

CABLE TELEVISION SERVICE

General Citizenship Requirements

1. The Commission has before it a "Petition for Proposed Rule Making" (RM-2499) filed by the law firm of Greeley, Bernard & Tierney seeking institution of a rule making proceeding considering amendment of the Commission's cable television rules to impose foreign ownership restrictions on those applying for cable television certificates of compliance. Petitioner requests that we propose in this proceeding the amendment of § 76.31 (franchise standards) of the Commission's Rules such that, to obtain a certificate of compliance, a proposed or existing cable television system shall demonstrate, under oath, that applicant is not:

1. An alien or a representative of any alien;

2. A foreign government or a representative of a foreign government;

3. A corporation organized under a foreign government;

4. A corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country;

5. Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or a representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by refusal of such certification.

2. The basic language of petitioner's proposed rule amendment is taken from the statutory provisions of Section 310 (a) and (b) of the Communications Act of 1934, as amended, which imposes alien ownership restrictions on the grant of licenses in, *inter alia*, the broadcast and common carrier services.[1] While noting that cable television systems are not licensed by the Commission,[2] and that the regulation of cable systems does not come within the purview of these statutory ownership restrictions, petitioner maintains that adoption of the proposed rule amendment, which would apply to cable television the same limitations of ownership by foreign powers and interests that are now applicable to certain other Commission authorizations, does appear desirable. Moreover, it is contended that initiation of the requested rule making proceeding is necessary to resolve any doubt that would otherwise exist as to the Commission's long range policy in this area of cable regulation.

3. In support for its proposal, petitioner suggests that the framers of the Communications Act did not forsee the emergence of cable television, nor anticipate its becoming a significant medium of communications. Petitioner maintains, however, that cable television has developed into a medium capable of influencing the lives and actions of people

[1] See footnote 6, *infra*, for the relevant provisions of amended Section 310 of the Communications Act.

[2] While cable television systems are not licensed, stations in the Cable Television Relay Service (CARS) are authorized by license. See further discussion of CARS, *infra*.

in this country with the potential of becoming one of the chief media of information and communication upon which the citizenry will depend. It is asserted that the Commission already has given cognizance to this development and further potential in its proceedings concerning newspaper-cable[2] and television-cable[3] cross-ownership and in the promulgation of rules governing origination cablecasting.[4] Petitioner cites the current financial problems confronting the cable industry and the fact that foreign interests are seeking investment opportunities in the United States. In view of these factors, it then asks the Commission to act immediately to inform the cable industry and potential investors whether unrestricted foreign investment in that industry is to be permitted or if restrictions similar to those imposed on broadcasting are to be made applicable to cable television. In comments filed in response to this petition for rule making, the National Cable Television Association declines to address the merits of petitioner's proposals yet agrees that the Commission should institute a rule making proceeding in this regulatory area. NCTA indicates that it does not have, at this time, sufficient data to determine the extent of foreign ownership of cable systems operating in the United States.

4. Having reviewed the subject petition, we believe it is appropriate to consider the adoption of rules, applicable to cable television, paralleling the provisions of Section 310 of the Communications Act to regulate cable television system ownership or control by foreign interests.[5] Cable is a hybrid form of communications with functions analogous to those carried out by both broadcaster and common carrier entities and with the capacity to provide additional services not now provided by either. A cable system can not only relay the information and entertainment product of others but can make its own original contribution to this electronic stream. Because of this capacity of cable systems to originate programming as well as to forward that of others, we believe it appropriate to concern ourselves with the question of whether control of these facilities might fall into the hands of those who would use them against our national interests. Inasmuch as the cable television industry in the United States is still in its growing stages and, as far as we can determine, is not now subject to extensive foreign domination or influence, action now in this regulatory area appears both appropriate and timely.

5. Until recently, all major segments of the cable television industry were subject to the limitations of Section 310 by virtue of their use of microwave radio stations in the Cable Television Relay Service (CARS). Section 310 applied to authorizations in the CARS service and, accordingly, cable operators applying for CARS facilities were subject to its limitations. Although clearly not adopted with this end in mind, the revision to Section 310 adopted by the Congress in Pub. L. 93-505 rendered that section, under a literal reading, no longer applicable to authorizations in the Cable Television Relay Service. While this specific limitation no longer appears applicable, we do not believe this reflects a Congressional determination that restrictions on foreign ownership of cable systems are not appropriate.[7] Even in the absence of a specific Congressional directive on this matter, the Commission has general statutory responsibilities in the granting of radio authorizations and regulatory authority over cable television which we believe mandate consideration of whether restrictions on foreign ownership of cable television systems should be adopted. While the primary focus of the present proceeding is on the application of rules of this type directly to the operation of cable systems, we also question, and seek comment on, whether rules of this type ought not again be applied to CARS station licensees. Because authorizations in the CARS service are generally granted only to cable television system owners or operators, the application of similar rules would generally appear to be redundant but could aid us in our enforcement of whatever policy may be adopted.

6. The nature of the amendment which we propose for Part 76 of the Commission's Rules is set forth in the Appendix attached.[8] Included are citizenship and alien interest restrictions not unlike those found in the Communications Act and in several sections of the Commission's Rules.[9] However, because of the various differences between our current cable television regulatory scheme and the licensing processes and policies adopted for regulation of other communications entities, certain accommodating modifications have been proposed. As proposed, § 76.503 refers to alien ownership and operation of cable systems, rather than to the grant or holding of a license,[10] and provides procedures by which cable systems with certain alien interests would be required to submit notifications of same to the Commission and, where applicable, seek Commission approval of such existing or proposed alien interests. Proposed paragraphs (a) (6) and (7), like the related provisions of Section 310(b)(4) of the Communications Act, refer to Commission action as a condition subsequent to election or to the sale or transfer of capital stock.[11] However, we hope that, to avoid placing systems in needless jeopardy, the preferable practice would be for a corporation to seek Commission approval prior to either election or the sale or transfer of capital stock.

7. We have not decided, as yet, whether it would be appropriate to require divestiture of any foreign interests in existence now or established during the pendency of this proceeding. A decision to grandfather any of these interests would be based on a showing that the current complement of foreign ownership and operation of domestic cable systems is small enough such that no overriding reason exists for demanding system divestiture or corporate reorganization. Systems in operation or applicants holding a valid franchise which possess a potentially proscribed complement of foreign ownership at this time will be permitted, subject to our final decision in this proceeding, to continue or begin cable television operation (on the grant

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[2] See, *e.g.*, *First Report in Docket 18891*, FCC 75-303, 52 FCC 2d 170 (1975).

[3] See, *e.g.*, *Report and Order in Docket 20243*, FCC 75- ——, —— FCC 2d —— (1975).

[4] See Sections 76.205, *et al*, of the Commission's Rules.

[5] Section 310, to the extent here pertinent, states:

(a) The station license required under this Act shall not be granted to or held by any foreign government or the representative thereof.

(b) No broadcast or common carrier or aeronautical en route or aeronautical fixed radio station license shall be granted to or held by—

(1) any alien or the repersentative of any alien;

(2) any corporation organized under the laws of any foreign government;

(3) any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country;

(4) any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

* * * * *

[7] Prior to its amendment, the alien restrictions of Section 310 generally applied to the holding of a "station license" required by the Communications Act. After the adoption of P.L. 93-505, enacted November 30, 1974, this section's alien ownership prohibitions applied only to "broadcast or common carrier or aeronautical en route or aeronautical fixed radio station" licenses. See footnote 6, *supra*. The legislative history of this change indicates that the intention was to permit the grant of radio licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, and foreign corporations. See Commission *Order*, —— FCC 2d ——, 40 FR 5565 (1975).

[8] The specific language of the rule proposed in the petition of Greeley, Bernard & Tierney has not been adopted because it related only to those cable systems seeking a Certificate of Compliance and would leave outside of the regulation systems who have already obtained Certificates or who have not yet been required to obtain a Certificate. It would not, moreover, provide a mechanism for regulating ownership changes during the term of a Certificate.

[9] See *e.g.* §§ 81.23 (Land Maritime Services) and 87.3 (Aviation Services).

[10] While we have, for the purpose of this Notice, substituted "owned or operated" for the holding or grant of a "license," the Commission realizes that such a substitution results in a rule which does not functionally parallel the alien restrictions found in Section 310(b) of the Communications Act. We seek specific comment and guidance on this matter.

[11] See in this regard, AVCO Broadcasting Corp., FCC 70-604, 23 FCC 2d 659 (1970).

of a certificate of compliance). However, during the pendency of this proceeding, all authorizations, whether Certificates of Compliance grants or construction permits or licenses in the Cable Television Relay Service, will be conditioned on the outcome of this proceeding. Those obtaining ownership interests or increasing ownership interests inconsistent with the rules proposed herein are cautioned that they will be doing so at their own risk.

8. We believe, subject to our analysis of the comments to be submitted herein by interested parties, that the rule amendments proposed today will serve the public without jeopardizing the ability of the cable television industry to attract the capital and expertise necessary for its continued operation and growth. In any event, however, the necessity of addressing these issues in a rule making proceeding is clearly apparent. We are not unmindful of the position, which may be taken by some of the parties commenting herein, that the Commission's imposition of citizenship restrictions in the area of cable television system regulation is statutorily improper and that enactment of any such restrictions should be left to the Congress. Such an opinion, as well as all other forms of guidance submitted in this proceeding, will be thoroughly considered and weighed well prior to our adoption of any amendment to the Commission's Rules.

9. Authority for the rule making proposed herein is contained in Sections 2, 3, 4 (i), and (j), 301, 303, 307, 308, 309, and 310 of the Communications Act of 1934, as amended. All interested parties are invited to file written comments on this rule making proposal on or before November 24, 1975, and reply comments on or before December 15, 1975. In reaching a decision on this matter the Commission may take into account any other relevant information before it, in addition to those invited by this Notice.

10. In accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, an original and 11 copies of all comments, replies, pleadings, briefs, or other documents filed in this proceeding shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission Public Reference Room at its Headquarters in Washington, D.C.

Adopted: October 8, 1975.

Released: October 15, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS, *Secretary.*

Part 76 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

[1] Commissioner Robinson's statement filed as part of the original document.

Subpart J—Diversification of Control and General Citizenship Restrictions

1. The title of Subpart J is revised to read as set forth above.

2. A new § 76.503 is added, as follows:

§ 76.503 General citizenship restrictions.

(a) No cable television system shall be owned or operated by:

(1) Any alien or the representative of any alien,

(2) Any foreign government or a representative thereof,

(3) Any corporation organized under the laws of any foreign government,

(4) Any corporation of which any officer or director is an alien,

(5) Any corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or the representative thereof, or by any corporation organized under the laws of a foreign country,

(6) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, if the Commission finds that such ownership or control would not be consistent with the public interest, or

(7) Any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or the representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that such ownership or control would not be consistent with the public interest.

(b) Corporations seeking Commission approval of existing or proposed interests as described in paragraphs (a) (6) and (7) of this section shall file with the Commission no later than ten days following the creation of any such interests, a notification clearly stating the extent and nature of such interests, and shall include therewith a copy of the ownership section of FCC Form 325 "Annual Report of Cable Television Systems," supplying the information requested, as if the alien interest were already in existence. The notice shall be filed in accordance with the procedural requirements of § 76.7 of the Commission's Rules.

[FR Doc.75-28149 Filed 10-17-75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 213]

REPORTING REQUIREMENTS

Proposed Elimination

Under § 213.23(c) of the Oil Import Regulations, the Federal Energy Administration (FEA) collects, from each importer, information concerning the quantity, country of origin, and further processing requirements of all imported crude oil and petroleum products. The reporting system was originally intended to facilitate the monitoring of accounts receivable, and to expedite information on importing trends (39 FR 1266, January 7, 1974). However, the information supplied by this system is no longer utilized, since it duplicates information more quickly available from Customs Forms 7501 and 7505, and from the telephone reports of District Directors of Customs. Accordingly, FEA hereby proposes to eliminate the reporting requirements of § 213.23(c) from the Oil Import Regulations.

Interested persons are invited to submit written data, views, or arguments with respect to these amendments to Executive Communications, Room 3309, Federal Energy Administration, Box EN, The Federal Building, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to the Federal Energy Administration with the designation "Elimination of Reporting Requirements." Fifteen (15) copies should be submitted. All comments received by 4:30 p.m., October 30, 1975, will be considered by the Federal Energy Administration in evaluating the revision and amendments.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

FEA has determined that since this proposal is procedural only, it is not "likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses." The requirements of Section 7(i) (c) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), concerning opportunity for the oral presentation of views and arguments under such circumstances, are therefore deemed not to apply.

Since this proposal will have no affect on the quality of the environment, the requirements of Section 7(c) (2) of the Federal Energy Administration Act, providing for review of proposed actions by the Administrator of the Environmental Protection Agency, are also deemed not to apply.

Finally, this proposal has been reviewed in accordance with Executive Order 11821 and OMB Circular No. A-107 and, since it is procedural in nature, has been determined not to require evaluation of its inflationary impact as provided therein.

(Federal Energy Administration Act of 1974, Pub. L. 93275; E.O. 11790, 39 FR 23185; Trade Expansion Act of 1962, P.L. 87794, as amended; Proclamation No. 3279, 24 FR 1781, as amended by Proclamation No. 4210, 38 FR 9645, Proclamation No. 4227, 38 FR 16195, Proclamation No. 4317, 38 FR 35103, Proclamation No. 4341, 40 FR 3956, Proclamation No. 4355, 40 FR 10437, Proclamation No. 4370, 40 FR 19421, and Proclamation No. 4377, 40 FR 23429)

In consideration of the foregoing, it is proposed that Part 213 of Chapter II, Title 10 of the Code of Federal Regulations be amended as set forth below.

Issued in Washington, D.C., October 15, 1975.

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

§ 213.23 [Amended]

Section 213.23 is amended by deleting paragraph (c), and by redesignating paragraphs (d) and (e) as paragraphs (c) and (d) respectively.

[FR Doc.75-28091 Filed 10-15-75;10:26 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

CANNED SWEETPOTATOES

Notice of Proposed Standards for Grades[1]

Notice is hereby given that the United States Department of Agriculture is proposing a revision of the United States Standards for Grades of Canned Sweetpotatoes (7 CFR 52.8041-52.2060). This grade standard is issued under authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended, 7 U.S.C. 1624), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this act upon request of the applicant and upon payment of a fee to cover the cost of such service.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same in duplicate by December 31, 1975 with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submittals made pursuant to this notice will be available for public review at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Statement of Consideration Leading to the Proposed Revision. The current United States Standards for Grades of Canned Sweetpotatoes have been in effect since 1951. Since that time there have been a number of significant changes in the preparation, processing and marketing of canned sweetpotatoes.

A previous notice of proposed rulemaking to revise these grade standards appeared in the FEDERAL REGISTER (38 FR 3195) of February 2, 1973. Interested persons were invited to submit to the Department not later than May 1, 1973, written data, views, or arguments in connection with the notice.

In response to a number of objections received from canners of sweetpotatoes regarding the recommended drained weights presented in the proposed revision, the Department conducted a study of the drained weight of different can sizes of sweetpotatoes. The analyses of that study have recently been completed.

This notice reflects the results of the study in that adjusted recommended minimum drained weights—both for an entire sample and for individual containers—are set forth. Also, a procedure for the determination of fill weights—as an optional supplement to, or in lieu of, drained weights—is set forth and the applicable limits for such fill weights are provided.

This second notice of proposed rulemaking includes a number of revisions or modifications that were made as a result of the comments submitted to the first notice.

In brief summary, in addition to the above referenced changes in the recommended fill weight and drained weight limits, this proposed revision contains the following major changes from the currently effective (1951) grade standards:

(1) Includes and defines a new style to be designated as "sections";

(2) Presents revised allowances for size and shape variations in tabular form and modifies the limiting rules which apply thereto;

(3) Provides for the determination of consistency in "solid-pack" sweetpotatoes only;

(4) Sets forth new and revised definitions of defects and character and includes allowances for each grade in tabular form;

(5) Provides for the color classification and style classification of individual sample units and of a lot; and

(6) Realigns the score points to allow a 10 point range in each grade and establishes U.S. Grade B, rather than U.S. Grade C, as the level of quality below U.S. Grade A. Such realignment conforms with the current practice in most U.S. grade standards for processed fruits and vegetables and does not alter the quality levels between the various grades.

(7) Deletes the terms "U.S. Fancy" and "U.S. Extra Standard" as alternative terms to U.S. Grade A and U.S. Grade B, respectively. Letters and studies have indicated consumer preferences for single letter designations to indicate different levels of quality and that the letter "A" most clearly and easily identified a product as being of the best or superior quality; the letter "B" implied a second or next best quality, and so on.

Therefore, in recognition of this preference and in the interest of clarity and understanding, these somewhat confusing alternative terms of "U.S. Fancy" and "U.S. Extra Standard" are deleted from these standards.

It is proposed to amend Part 52 by revising §§ 52.2041-52.2056 and adding new §§ 52.2057-52.2060 as follows:

Sec.
52.2041 Identity.
52.2042 Colors.
52.2043 Styles.
52.2044 Types of packs.
52.2045 Grades.
52.2046 Recommended designations of liquid media and Brix measurement.
52.2047 Recommended fill of container.
52.2048 Recommended minimum drained weights.
52.2049 Recommended fill weights.
52.2050 Determining the grade of a sample unit.
52.2051 Determining the rating for the factors which are scored.
52.2052 Color.
52.2053 Uniformity of size and shape.
52.2054 Consistency—"Solid-pack" only.
52.2055 Defects.
52.2056 Character.
52.2057 Determining the grade of a lot.
52.2058 Designating the color classification(s) of sample units and of a lot.
52.2059 Determining the style(s) of sample units and of a lot.
52.2060 Score sheet.

AUTHORITY: Agricultural Marketing Act of 1946, Sec. 205, 60 Stat. 1090, as amended, 7 U.S.C. 1624.

§ 52.2041 Identity.

Canned sweetpotatoes is the product as defined in the Definitions and Standards of Identity for Canned Vegetables (21 CFR 51.990), issued pursuant to the Federal Food, Drug, and Cosmetic Act. For the purposes of this subpart, canned sweetpotatoes include the product to which permitted optional flavorings, spices, artificial sweeteners, or garnish ingredients (such as pineapple, orange, or apple components) may be added Artificial coloring shall not be added to canned sweetpotatoes.

§ 52.2042 Colors. (See § 52.2058)

(a) Golden.
(b) Yellow.
(c) Mixed. A combination of the aforementioned colors in any proportions in a sample unit.

§ 52.2043 Styles. (See § 52.2059)

(a) "Whole" means that the canned sweetpotatoes have the appearance of being essentially whole, irrespective of size.

(b) "Halves" or "Halved" means canned sweetpotatoes that have been cut longitudinally into approximate halves.

(c) "Sections" means canned sweetpotatoes that have been cut transversely into approximate cylindrical units 2 inches or more in length and the length to diameter ratio is not less than 1.5 to 1.

(d) "Pieces," "Cuts," or "Cut' means canned sweetpotatoes that have been cut into:

(1) Portions of random size and/or shape;

(2) Approximate single or double cube-shaped units; or

(3) Any other form not otherwise defined in this section.

(e) Any combination of two or more of the foregoing styles constitutes a style and shall be considered as a mixture of the individual styles that comprise the combination.

(f) "Mashed" means canned sweetpotatoes that are wholly comminuted or pureed.

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

§ 52.2044 Types of packs.

(a) Canned sweetpotatoes of the style(s) other than "mashed" described in § 52.2043 may be processed as one of the following types of packs:

(1) Regular pack, to which a liquid packing medium is added.

(2) Vacuum pack, to which no liquid packing medium is added.

(b) Canned sweetpotatoes of the "mashed" style described in § 52.2043 are processed as:

(1) Solid-pack, to which no liquid packing medium is added.

§ 52.2045 Grades.

(a) "U.S. Grade A" is the quality of canned sweetpotatoes that has at least the following attributes:

(1) Good color;

(2) Reasonably uniform size and shape of the units in the regular pack or vacuum pack types;

(3) Good consistency in the solid-pack type;

(4) Practically free from defects;

(5) Good character;

(6) Good flavor and odor; and

(7) Score not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" is the quality of canned sweetpotatoes that has at least the following attributes:

(1) Reasonably good color;

(2) May possess considerable variation of size and shape of the units in the regular pack or vacuum pack types;

(3) Reasonably good consistency in the solid-pack type;

(4) Reasonably free from defects;

(5) Reasonably good character;

(6) Reasonably good flavor and odor; and

(7) Score not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) "Substandard" is the quality of canned sweetpotatoes that fails to meet the requirements of "U.S. Grade B."

§ 52.2046 Recommended designations of liquid media and Brix measurements.

(a) Brix measurement requirements for liquid media in canned sweetpotatoes are not incorporated in the grades of the finished product since sirup or any other liquid medium, as such, is not a factor of quality for the purposes of these grades.

(b) Brix measurements as referenced in this subpart means the degree of Brix of the liquid media of the equalized product. The recommended designations of liquid packing media and Brix measurement, where applicable, are as follows:

Recommended designation	*Brix measurement*
Extra heavy sirup	30° or more.
Heavy sirup	25° or more, but less than 30°.
Light sirup	18° or more, but less than 25°.
In water	Not applicable.
Artificially sweetened	Not applicable.

(c) The respective density of the packing media is measured on the refractometer or any other procedure which provides equivalent results, expressed as percent by weight sucrose ("degrees Brix") with correction for temperature to the equivalent at 20° C. (68° F.) but without correction for invert sugar or other substances.

(1) The "Brix" measurement may be made on the packing media only if the sweetpotatoes have been canned for 15 or more days and shall be considered as the "degree of Brix" of the liquid media of the equalized product.

(2) Any "Brix" measurement made on a blended homogenized slurry of the comminuted entire contents of the container shall be considered as the "degree of Brix" of the liquid media of the equalized product.

§ 52.2047 Recommended fill of container.

The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that each container of canned sweetpotatoes be filled with sweetpotatoes as full as practicable without impairment of quality.

§ 52.2048 Recommended minimum drained weight.

(a) *General.* (1) The drained weight recommendations are given in Table I. They are not incorporated in the grades of the finished product since drained weight, as such, is not a factor of quality for the purposes of these grades.

(2) The recommended minimum drained weights are based on the weight of the sweetpotatoes and other permitted garnish ingredients, if added, after the canned product has been allowed to equalize for 15 or more days after the product has been canned.

(b) *Method for determining drained weight.* (1) The drained weight of canned sweetpotatoes is determined by emptying the sample unit upon a U.S. Standard No. 8 circular sieve of proper diameter containing 8 meshes to the inch (0.0937-inch (2.3 mm), ± 3% square openings) so as to distribute the product evenly. Without shifting the product, incline the sieve to about a 17 to 20 degree angle to facilitate drainage and allow to drain for two (2) minutes.

(2) The drained weight is the weight of the sieve and sweetpotatoes less the weight of the dry sieve. A sieve 8 inches in diameter is used for No. 3 cans (404 x 414) and smaller sizes, and a sieve 12 inches in diameter is used for containers larger than the No. 3 size can. The temperature of the packing medium at time of drained weight determination shall be 20° Centigrade ± 10 degrees (68° Fahrenheit ± 18 degrees).

(c) *Compliance with recommended minimum drained weights.* Compliance with the recommended minimum weights in Table I is determined by averaging the drained weights from all sample units in the sample which represent a specific lot. Such lot is considered as meeting the recommended minimum drained weight if the following criteria are met:

(1) The sample average (average of all the sample units in the sample) meets the recommended minimum drained weight (designated as "$\overline{X}_d$" in Table I); and

(2) The number of sample units which fail to meet the recommended minimum drained weight for individuals (designated as "LL" in Table I) does not exceed the applicable acceptable number specified in the single sample plan contained in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products.

TABLE I.—*Recommended minimum drained weights for canned sweetpotatoes*

Container size	Regular pack		Vacuum pack	
	LL[1]	$\overline{X}_d$[2]	LL[1]	$\overline{X}_d$[2]
	ounces	*ounces*	*ounces*	*ounces*
8Z Tall	4.9	5.3		
No. 2 Squat	7.7	8.4		
No. 303	9.7	10.5		
No. 2	12.1	13.0		
No. 3 Squat	13.9	15.0	17.7	18.1
No. 2½	18.0	19.1		
No. 2½ Tall	23.5	24.6		
No. 3 Cylinder	32.7	33.8		
No. 10	71.2	73.0		

[1] LL means the minimum drained weight for individual sample units.

[2] $\overline{X}_d$ means the minimum average drained weights from all the sample units in the sample.

§ 52.2049 Recommended fill weights.

(a) *General.* Minimum fill weight recommendations for canned sweetpotatoes are given in Table II. They are not incorporated in the grades of the finished product since fill weight, as such, is not a factor of quality for the purposes of these grades.

(b) *Definitions of terms and symbols.* "Sample unit" for the determination of fill weights means the entire amount of prepared sweetpotatoes and other ingredients, if any, in a container, exclusive of any packing medium, prior to cooking.

"Subgroup" means a group of sample units representing a portion of a sample.

X'_{min} means the specified minimum lot average fill weight.

$LWL_{\bar{x}}$ means the lower warning limit for subgroup averages.

$LRL_{\bar{x}}$ means the lower reject limit for subgroup averages.

LWL means the lower warning limit for individual fill weight measurements.

LRL means the lower reject limit for individual fill weight measurements.

$\overline{R}'$ means a specified average range value.

R_{max} means a specified maximum range for a subgroup.

"Sampling allowance" is the amount that the sample quantity may deviate from the lot quantity due solely to the fact that only a portion has been taken from the whole lot.

(c) *Subgroup size.* The subgroup size for the determination of fill weights shall be 5 sample units.

(d) *Sampling frequency.* (1) Small lots—for lots consisting of 100 cases or

less which require 4 hours or more to pack use the optional fill weight procedure for small lots set forth in § 52.232 of the United States Standards for Determination of Fill Weights.

(2) Other than small lots—draw at least one subgroup per code approximately every 45 minutes.

(e) *Determining fill weights and compliance therewith.* The determination of compliance with the recommended fill weights for canned sweetpotatoes shall be in accordance with the U.S. Standards for Determination of Fill Weights, and U.S. Standards for Inspection by Variables.

TABLE II.—*Recommended fill weight values for canned sweetpotatoes*

Container size	$\bar{X}_{min}$	$LWL_{\bar{x}}$	$LRL_{\bar{x}}$	LWL	LRL	$\bar{R}'$	R_{max}	Sampling allowance code
	ounces	ounces	ounces	ounces	ounces	ounces	ounces	
8Z Tall	5.3	4.9	4.7	4.6	4.1	0.9	2.0	G
No. 2 Squat	8.0	7.5	7.2	6.8	6.2	1.4	3.0	J
No. 303	10.3	9.7	9.4	9.0	8.3	1.5	3.2	L
No. 2	12.7	12.0	11.6	11.1	10.3	1.9	3.9	O
No. 3 Squat	14.7	13.8	13.3	12.7	11.7	2.3	4.9	S
No. 2½	18.6	17.7	17.4	16.6	15.6	2.3	4.9	S
No. 2½ Tall	23.8	22.9	22.4	21.8	20.8	2.3	4.9	S
No. 3 Cylinder	33.6	32.4	31.8	31.0	29.7	3.0	6.4	V
No. 10	70.0	68.4	67.6	66.4	64.6	4.2	8.9	A-1
Vacuum pack								
No. 3 Squat	19.0	18.1	17.6	17.0	16.0	2.3	4.9	S
Solid pack								
No. 303	18.0	17.6	17.4	17.2	16.8	0.9	2.0	G
No. 3 Cylinder	53.6	52.9	52.5	52.0	51.2	1.9	3.9	O
No. 10	110.4	109.1	108.4	107.4	105.9	3.5	7.4	X

§ 52.2050 Determining the grade of a sample unit.

(a) *General.* The grade of a sample unit of canned sweetpotatoes is determined by considering the factor of flavor and odor which is not scored; the ratings for the factors of color, size and shape or consistency, defects, and character, which are scored; the total score; and the limiting rules which apply.

(b) *Definition of a sample unit.* A sample unit as applied to the determination of the grade and to the evaluation of quality factors shall consist of the entire contents of one container, irrespective of size.

(c) *Definition of a sample.* Any number of sample units used for the evaluation of the factors of quality as outlined in this subpart.

(d) *Definition of flavor and odor.* (1) "Good flavor and odor" means a good, distinctive flavor and odor which is characteristic of properly prepared and properly processed sweetpotatoes (including any packing medium or added garnish ingredients) that are free from objectionable flavors or objectionable odors of any kind.

(2) "Reasonably good flavor and odor" means that the processed sweetpotatoes (including any packing medium or added garnish ingredients) may be lacking in good flavor and odor but are free from objectionable flavors or objectionable odors of any kind.

(e) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

Factors	Points
Color	30
Size and shape or consistency	20
Defects	30
Character	20
Total score	100

§ 52.2051 Determining the rating for the factors which are scored.

The essential variations within each factor which is scored are so described that a value may be determined for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 52.2052 Color.

(a) *Evaluation of color.* The evaluation of color of canned sweetpotatoes is made as quickly as possible after opening the container. The evaluation of color is based upon the degree of brightness, intensity of color, degree of uniformity, and whether the sample unit is of a single color or mixed colors.

(b) *Visual Aids.* Models illustrative of the "yellow" or "golden" color classification are available for review at USDA Processed Products Inspection Offices. Information regarding the location of such offices is available upon request from:

Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250

(c) (*A*) *classification.* Canned sweetpotatoes that have a good color may be given a score of 27 to 30 points. "Good color" means a typical, bright color characteristic of either a yellow or golden—but not both—variety of sweetpotato. There may be moderate variations of such characteristic color throughout the sweetpotato units, within a single sweetpotato unit, or within the mass.

(d) (*B*) *classification.* Canned sweetpotatoes that have a reasonably good color may be given a score of 24 to 26 points. Canned sweetpotatoes that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good color" means that both golden and yellow varieties may be present in any amount in a sample unit and the following conditions, singly or in combination, may be present, but not to the degree that the appearance of the product is seriously affected:

(1) More than moderate variability throughout the sweetpotato units, within a single sweetpotato unit, or within a mass;

(2) Slight oxidation;

(3) Unit(s) having a distinct green external surface;

(4) Slightly dull, but not "off-color" unit(s) or mass; or

(5) Any condition which adversely affects the color of the sample unit.

(e) (*SStd*) *classification.* Canned sweetpotatoes that fail to meet the requirements of U.S. Grade B shall be given a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.2053 Uniformity of size and shape.

(a) (*A*) *classification.* Canned sweetpotatoes of the "vacuum pack" or "regular pack" types that are practically uniform in size and shape may be given a score of 18 to 20 points. "Practically uniform in size and shape" means that a sample unit of canned sweetpotatoes does not exceed the allowances specified in Table III, as applicable.

(b) (*B*) *classification.* Canned sweetpotatoes of the "vacuum pack" or "regular pack" types that are reasonably uniform in size and shape may be given a score of 16 or 17 points. "Reasonably uniform in size and shape" means that a sample unit of canned sweetpotatoes does not exceed the allowances specified in Table III, as applicable.

(c) (*SStd*) *classification.* Canned sweetpotatoes of the "vacuum pack" or "regular pack" types that fail to meet the requirements of U.S. Grade B shall be given a score of 0 to 15 points and shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule).

TABLE III.—*Allowances for size and shape variations of canned sweetpotatoes*

Grade	Shape variation within a sample unit (applies to a single style only)	Size variation within a sample unit (single style or mixtures of styles)—Maximum allowable weight ratio of largest to second smallest sweetpotato unit
A	May vary moderately	3:1.
B	do	4:1.
SStd [1]	May vary considerably.	Fails requirements for U.S. grade B.

[1] Sample unit is limited to no higher than Grade B.

§ 52.2054 Consistency. (Applies to "solid-pack" type only).

"Consistency" refers to the firmness of the sweetpotato mass and the tendency to resist flow characteristics and separation of free liquor. Consistency if evaluated by emptying the contents of

the container on a tray and noting the characteristics of the mass as a whole including slicing with a spatula or the equivalent thereof.

(a) *(A) classification.* Canned sweetpotatoes of the "solid-pack" type that have a good consistency may be given a score of 18 to 20 points. "Good consistency" means that the sweetpotatoes as a mass are sufficiently firm to retain the general shape of the container with no more than slight settling, are not dry, and may show more than a slight separation of free liquid after 2 minutes.

(b) *(B) classification.* Canned sweetpotatoes of the "solid-pack" type that have a reasonably good consistency may be given a score of 16 or 17 points. Canned sweetpotatoes that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good consistency" means that the sweetpotato mass is:

(1) Sufficiently soft so as to retain the general shape of the container, but may not be free flowing; or

(2) Noticeably firm not very dry or hard. There may be moderate separation of free liquid after 2 minutes.

(c) *(SStd) classification.* Canned sweetpotatoes of the "solid-pack" type that fail to meet the requirements of U.S. Grade B shall be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.2055 Defects.

(a) *General.* The factor of defects concerns the degree of freedom from defects defined in paragraph (b) of this section or from any other defects present which detract from the appearance of edibility of the product.

(b) *Definitions and kinds of defects.* (1) "Insignificant imperfections" refer to units with very slight abnormalities, scars, discolorations, or any other imperfections which may affect the appearance slightly but which do not affect the edibility of the unit.

(2) "Blemished unit" means any sweetpotato unit that has, singly or in the aggregate, darkened surface areas or definite abnormalities on or within the unit which materially affect the appearance of the sweetpotato unit.

(3) "Seriously blemished unit" means any sweetpotato unit that has, singly or in the aggregate, darkened surface areas or definite abnormalities on or within the unit which seriously affect the appearance and/or edibility of the sweetpotato unit.

(4) "Secondary rootlets" longer than one (1) inch are scoreable. "Secondary rootlets" of one (1) inch or less in length are individually regarded as insignificant but when considered collectively are scoreable as defects if the overall appearance and/or edibility of the product is affected.

(5) "Untrimmed fibrous ends" are the end portions of sweetpotatoes which have external fibers protruding more than ¼ inch.

(6) "Pitted" sweetpotatoes are those units which have external pockmarks to the degree that the appearance is materially affected.

(7) "Pathological or insect injury" refers to obvious pathological or insect damage on or in any sweetpotato unit which affects the appearance or edibility of the unit.

(8) "Sand, grit, or silt" means any kind of fine earthy material.

(9) "Peel" means the skin of the sweetpotato.

(10) "Harmless plant material" means harmless plant material which is part of the sweetpotato plant (such as leaves, stems, or roots) or other succulent material from indigenous plants and which is harmless.

(c) *(A) Classification.* Canned sweetpotatoes that are practically free from defects may be given a score of 27 to 30 points. "Practically free from defects" means that:

(1) All defects present, whether or not specifically defined or listed in this section, do not materially detract from the appearance or edibility of the product; and

(2) The defects that may be present in a sample unit and/or in the sample do not exceed the allowances specified in Table IV or Table VI, as applicable.

(d) *(B) classification.* Canned sweetpotatoes that are reasonably free from defects may be given a score of 24 to 26 points. Canned sweetpotatoes that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that:

(1) All defects present, whether or not specifically defined or listed in this section, do not seriously detract from the appearance or edibility of the product; and

(2) The defects that may be present in a sample unit and/or in the sample do not exceed the allowances specified in Table V or Table VI, as applicable.

(e) *(SStd) classification.* Canned sweetpotatoes that fail to meet the requirements of U.S. Grade B shall be given a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

TABLE IV.—*Allowances for defects in canned sweetpotatoes*

Defects	Of the vacuum pack type or regular pack type only	
	U.S. grade A—Maximum—per sample unit	U.S. grade A—Maximum—sample average
Blemished and seriously blemished sweetpotato units—total.	15 pct. by count, but not more than 5 pct. by count, or one (1) sweetpotato unit, whichever is greater, may be seriously blemished.	8 pct. by count, but not more than 2 pct. by count, may be seriously blemished.
Insignificant imperfections; untrimmed fibrous ends; secondary rootlets of one (1) inch or less in length.	Accumulative effect—does not materially detract from the appearance of the product.	Not applicable.
Unit(s) with one (1) or more secondary rootlets longer than one (1) inch.	15 pct. by count	5 pct. by count.
Harmless plant material	One (1) piece	1 piece per 120 oz of total contents.
Peel—per pound of total contents	½ in²	¼ in².
Pitted sweetpotato units	15 pct. by count	5 pct. by count.
Unit(s) affected by obvious pathological or insect injury.	One (1)	1 pct. by count.
Sand, grit, or silt	None	Not applicable.
Total—All defects specified above and/or and other defects.	Accumulative effect—does not materially detract from the appearance and/or edibility of the product.	Do.

TABLE V.—*Allowances for defects in canned sweetpotatoes*

Defects	Of the vacuum pack type or regular pack type only	
	U.S. grade B—Maximum—per sample unit	U.S. grade B—Maximum—sample average
Blemished and seriously blemished sweetpotato units—total.	30 pct. by count, but not more than 10 pct. by count, or two (2) sweetpotato units, whichever is greater, may be seriously blemished.	15 pct. by count, but not more than 4 pct. by count, may be seriously blemished.
Insignificant imperfections; untrimmed fibrous ends; secondary rootlets of one (1) inch or less in length.	Accumulative effect—does not seriously detract from the appearance of the product.	Not applicable.
Unit(s) with one (1) or more secondary rootlets longer than (1) inch.	25 pct. by count	10 pct. by count.
Harmless plant material	2 pieces	1 piece per 60 oz of total contents.
Peel—per pound of total contents	1 in²	½ in².
Pitted sweetpotato units	100 pct. by count	25 pct. by count.
Unit(s) affected by obvious pathological or insect injury.	Two (2)	2 pct. by count.
Sand, grit, or silt	Trace	Not applicable.
Total—All defects specified above and/or any other defects.	Accumulative effect—does not seriously detract from the appearance and/or edibility of the product.	Do.

TABLE VI.—*Allowances for defects in canned sweetpotatoes*

Defects	Solid-pack type only	
	U.S. grade A—Maximum—per sample unit	U.S. grade A—Maximum—entire sample
Total of all defects present	Accumulative effect—does not materially detract from the appearance and/or edibility of the product.	Not applicable.
	U.S. grade B—Maximum—per sample unit	U.S. grade B—Maximum—entire sample
Total of all defects present	Accumulative effect—does not seriously detract from the appearance and/or edibility of the product.	Not applicable.

§ 52.2056 Character.

(a) *General.* The factor of character refers to the texture and condition of the flesh, the degree of freedom from internal tough or internal coarse fibers, the tenderness of the sweetpotatoes, and tendency of sweetpotatoes packed in "regular pack" or as "vacuum pack" to retain their apparent original conformation.

(b) *Definition of terms.* For the purposes of evaluating character, the following definitions apply:

(1) "Internal tough" or "internal coarse" fibers means tough, stringy or fibrous material which does not substantially disintegrate easily upon chewing.

(2) "Firm" are those individual sweetpotato units which, either externally or internally, are slightly grainy and/or possess a somewhat stiff, yet yielding texture.

(3) "Very firm" are those individual sweetpotato units units which, either externally or internally, are noticeably grainy or have a hardened texture similar to that of an uncooked sweetpotato.

(4) "Soft" are those individual sweetpotato units which are tender but are not approaching disintegration.

(5) "Very soft" are those individual sweetpotato units which show slight to partial disintegration of the sweetpotato unit and a major portion of which is soft and yielding.

(6) "Mushy" sweetpotatoes are those which have materially or completely disintegrated into small pieces or puree-like consistency. The portions have lost their identity as an individual sweetpotato unit and there is a pulpy and/or pasty texture.

(7) "Broken" sweetpotato units are those which have been broken into pieces, or are noticeably crumbly, but are not soft nor mushy.

(c) (*A*) *classification.* Canned sweetpotatoes that have a good character may be given a score of 18 to 20 points. "Good character" has the following meanings with respect to the following types of packs:

(1) *"Vacuum pack" or "regular pack".* "Good character" means the sweetpotato units have a uniformly smooth texture, are practically free from internal tough or internal coarse fibers, may be slightly variable in tenderness but hold their apparent original conformation, and do not exceed the allowances in Table VII.

(2) *"Solid-pack".* "Good character" means that the mass has a smooth texture and that the product is practically free from tough or coarse fibers.

(d) (*B*) *classification.* Canned sweetpotatoes that have a reasonably good character may be given a score of 16 or 17 points. Canned sweetpotatoes that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good character" has the following meanings with respect to the following types of packs:

(1) *"Vacuum pack" or "regular pack".* "Reasonably good character" means that the sweetpotato units have a reasonably uniform smooth texture, are substantially free from internal tough or internal coarse fibers, may be variable in tenderness, may be very soft to very firm but hold their apparent original conformation, and do not exceed the allowances in Table VII.

(2) *"Solid-pack".* "Reasonably good character" means that the mass has a reasonably smooth texture which may be slightly grainy, and that the product is substantially free from tough or coarse fibers.

(e) (*SStd*) *classification.* Canned sweetpotatoes that fail to meet the requirements of U.S. Grade B shall be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

TABLE VII.—*Allowances for classification of character in canned sweetpotatoes*

Character classification	Regular pack or vacuum pack types only—Maximum percent per sample unit—by count	
	U.S. grade A	U.S. grade B
Soft to Firm, Mushy	100 pct: 2 percent, or one (1) sweetpotato unit, whichever is greater.	100 pct: 10 percent, or two (2) sweetpotato units, whichever is greater.
Tough or Coarse Fibers	2 percent, or one (1) sweetpotato unit, whichever is greater.	5 percent, or two (2) sweetpotato units, whichever is greater.
Very Soft; and Very Firm; and Broken.	Total—10 percent, or one (1) sweetpotato unit, whichever is greater—but not more than—	Total—100 percent—but not more than—
Limitation for: Broken	5 percent, or one (1) sweetpotato unit, whichever is greater.	10 percent, or two (2) sweetpotato units, whichever is greater.
or Very Firm	5 percent, or one (1) sweetpotato unit, whichever is greater.	10 precent, or two (2) sweetpotato units, whichever is greater.
or Any combination of Broken and Very Firm.	5 percent, or one (1) sweetpotato unit, whichever is greater.	10 percent, or two (2) sweetpotato units, whichever is greater.

§ 52.2057 Determining the grade of a lot.

The grade of a lot of canned sweetpotatoes covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Products (§§ 52.1 through 52.83).

§ 52.2058 Designating the color classification of a sample unit and of a lot.

(a) For the purposes of this subpart, the color of each sample unit of canned sweetpotatoes is designated as "yellow", "golden", or "mixed". "Mixed color" is given to any sample unit containing both "golden" and "yellow" sweetpotatoes in any proportion.

(b) A lot of canned sweetpotatoes in which all of the sample units are of the same color classification shall be designated as "golden", or "yellow", or "mixed", as appropriate.

(c) A lot of canned sweetpotatoes in which all of the sample units are not of the same color classifications shall be designated in terms of the number of sample units of each color classification present in the sample.

§ 52.2059 Determining the style of a sample unit and of a lot.

(a) This section applies to the "vacuum pack" and "regular pack" types only.

(b) A sample unit of canned sweetpotatoes is considered as a single style when the limits specified in Table VIII, as applicable, are met.

(c) A sample unit of canned sweetpotatoes which fails the limits set forth in Table VIII shall be considered as a mixture of the styles present in the sample unit.

(d) A lot of canned sweetpotatoes shall be assigned a single style designation when all of the sample units representing the lot meet the requirements of one single style.

(e) A lot of canned sweetpotatoes which fails the requirements for a single style classification shall be designated in terms of the styles present in the individual sample units.

Table VIII—Allowances for Single Style Classification in a Sample Unit of Canned Sweetpotatoes

Style classification:	*Minimum percentage, by count, of specified style contained in each sample unit*
Whole	80 percent; with balance essentially resembling whole sweetpotatoes.
Halved; halves	80 percent; with balance essentially resembling halved sweetpotatoes.
Sections	70 percent; with balance essentially resembling sections of sweetpotatoes.
Pieces; cuts; cut.	60 percent; with balance of any style except mashed.

§ 52.2060 Score Sheet.

Size and kind of container _____
Container marks or identification _____
Label _____
Net weight (ounces) _____
Vacuum (inches) _____
Drained weight (ounces) _____
Brix measurement (sirup, regular pack only) _____
Sirup designation (light, heavy, extra only) _____
Color (yellow, golden, or mixed) _____
Type of pack (regular, vacuum, solid) _____
Style (whole, halves, etc.) _____
Count _____

Factors		Score points	
Color	30	(A)	27-30
		(B)	[1] 24-26
		(SStd)	[1] 0-23
Size and shape or consistency.	20	(A)	18-20
		(B)	[2] 16-17
		(SStd)	[3] or [2] 0-15
Defects	30	(A)	27-30
		(B)	[1] 24-26
		(SStd)	[1] 0-23
Character	20	(A)	18-20
		(B)	[1] 16-17
		(SStd)	[1] 0-15
Total score	100		

Flavor and odor (A—good; B—reasonably good; SStd—Off _____
Grade _____

[1] Indicates limiting rule.
[2] Indicates partial limiting rule for size and shape only.
[3] Indicates limiting rule for consistency only.

Dated: October 10, 1975.

DONALD E. WILKINSON,
Administrator.

[FR Doc.75-28016 Filed 10-17-75;8:45 am]

[7 CFR Part 929]

CRANBERRIES GROWN IN CERTAIN STATES

Proposed Expenses and Rate of Assessment

In the matter of handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York.

This notice invites written comments relative to the proposed expenses of $62,725 and the assessment rate of $0.03 per barrel of cranberries to support the activities of the Cranberry Marketing Committee during the 1975–76 fiscal period under Marketing Order No. 929. This is a regulatory program effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Consideration is being given to the following proposals submitted by the Cranberry Marketing Committee, established under the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), as the agency to administer the terms and provisions thereof. Said agreement and order regulate the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York.

The proposals are as follows:

(a) That the expenses that are reasonable and likely to be incurred by said committee, during the fiscal period September 1, 1975, through August 31, 1976, will amount to $62,725.

(b) That the rate of assessment for such period, payable by each handler in accordance with § 929.41, be fixed at $0.03 per barrel or equivalent quantity of cranberries.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than November 10, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: October 14, 1975.

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

[FR Doc.75-28129 Filed 10-17-75;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM-5/117]

STUDY GROUPS 10 AND 11 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Notice of Meeting

The Department of State announces that Study Groups 10 and 11 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet jointly on November 5, 1975, under the chairmanship of Mr. Harold L. Kassens. The meeting will convene at 9:00 a.m., in Room A-110, Federal Communications Commission Annex, 1229 20th Street, N.W., Washington, D.C.

Study Group 10 deals with questions relating to sound broadcasting; Study Group 11 deals with questions relating to television broadcasting. The agenda for the meeting is:

1. Approval of the agenda.
2. Approval of minutes of October 15 meeting.
3. Reports on preparations for the 1976 meetings of the International Study Groups 10 and 11.
4. Any further business.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Dated: October 14, 1975.

DEXTER ANDERSON,
Executive Secretary,
U.S. CCIR National Committee.

[FR Doc.75-28144 Filed 10-17-75;8:45 am]

[Public Notice CM-5/116]

GOVERNMENT ADVISORY COMMITTEE ON INTERNATIONAL BOOK AND LIBRARY PROGRAMS

Notice of Meeting

The Government Advisory Committee on International Book and Library Programs is announcing its fifty-sixth meeting on November 12-13, 1975. The meeting is open to the public and the November 12 session will be held in the Pierre Suite, L'Enfant Plaza Hotel, 480 L'Enfant Plaza East, Washington, D.C. from 2:00 p.m. to 5:00 p.m. The November 13 session will be held in Room 1406 in the Department of State, 2201 C Street, N.W., Washington, D.C. from 9:00 a.m. to 1:00 p.m.

The session on November 12 will be devoted entirely to a discussion of the "Role of Books in Foreign Policy: Implementation of the Helsinki Agreement."

On November 13 the Committee will receive a report on U.S. participation at the Frankfurt Book Fair. It will also discuss reports of its Task Force on the Florence Agreement and Task Force on Double Taxation of Copyright Royalties.

Members of the public may submit written comments to the Chairman prior to November 7, 1975. The Chairman will, as time permits, entertain all comments made by the public attending the meeting.

For purposes of fulfilling building security requirements, anyone wishing to attend the meeting must advise the Executive Secretary by telephone in advance of the meeting. Telephone: (202)-632-2841.

Dated: October 9, 1975.

CAROL M. OWENS,
Executive Secretary.

[FR Doc.75-28109 Filed 10-17-75;8:45 am]

Agency for International Development

ASSISTANT ADMINISTRATOR FOR ASIA

Delegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 104, as amended, dated November 3, 1961, from the Secretary of State, (26 F.R. 10608), and in furtherance of my decisions relating to country composition of A.I.D. Geographic Bureaus as announced in A.I.D. General Notice of September 18, 1975, it is hereby ordered as follows:

SECTION 1. Each of the following delegations of authority is amended (1) by deleting the title "Assistant Administrator for East Asia," and (2) by inserting among the titles of the officers named in those delegations the title "Assistant Administrator for Asia."

A. Delegation of Authority No. 5, dated December 29, 1961 (27 FR 449), as amended, with respect to Loan Agreements;

B. Delegation of Authority No. 23, dated December 28, 1962 (23 FR 563), as amended, relating to the Agricultural Trade Development and Assistance Act of 1954, as amended;

C. Delegation of Authority No. 27, dated April 15, 1963, as amended, relating to Personnel;

D. Delegation of Authority No. 38, dated April 10, 1964 (29 FR 5280), as amended, relating to Project Agreements, Trust Fund Agreements, and Grants to International Organizations;

E. Delegation of Authority No. 40, dated April 17, 1964 (29 FR 5695), as amended, relating to Waivers of Procurement Source Requirements;

F. Delegation of Authority No. 41, dated May 8, 1964 (29 FR 6892), as amended, relating to the Furnishing of Services and Commodities pursuant to section 607 of the Foreign Assistance Act of 1961, as amended;

G. Delegation of Authority No. 43, dated June 12, 1964 (29 FR 8122), relating to the Acceptance of Donated Non-military Property and Services pursuant to section 635(d) of the Foreign Assistance Act of 1961, as amended;

H. Delegation of Authority No. 75, dated January 11, 1968 (33 FR 919), relating to Certifications under section 611 (e) of the Foreign Assistance Act of 1961, as amended;

I. Delegation of Authority No. 98, dated September 28, 1973 (38 FR 27628), with respect to the Order of Succession for the Deputy Administrator and Assistant Administrators;

J. Delegation of Authority No. 99, dated April 27, 1973 (38 FR 12834-12836), as amended, with respect to Contracting and Related Functions;

K. Delegation of Authority No. 100, dated May 8, 1974 (39 FR 17933), with respect to the determination of Adequacy of Assurances of Host Country Participants; and

L. Delegation of Authority No. 107, dated March 10, 1975 (40 FR 12685), with respect to transfer of funds pursuant to sections 38(b), 39(d) and 40(b) of the Foreign Assistance Act of 1974.

SEC. 2. In addition there is hereby delegated to the Assistant Administrator for Asia, with respect to the countries and areas within the responsibility of that officer, all those authorities or functions which are conferred on A.I.D. Assistant Administrators or Regional Assistant Administrators or delegated to the Assistant Administrators for East Asia and Near East and South Asia in any regulations (published or unpublished), manual orders, policy directives or determinations, manual circulars or circular airgrams or instructions or communications of any nature.

SEC. 3. The authorities made available hereunder may be exercised by an officer serving in an acting capacity and may be delegated successively according to the terms of the delegations set forth in Sections 1 and 2 of the Delegation of Authority.

SEC. 4. Currently effective redelegations of authority issued by prior Assistant Administrators affecting countries and areas within the responsibility of the Assistant Administrator for Asia are hereby continued in effect according to their terms until modified or revoked by appropriate authority.

SEC. 5. Delegation of Authority No. 102 dated October 15, 1974 (39 FR 37655) is hereby revoked.

SEC. 6. This Delegation of Authority shall be effective as of October 12, 1975.

Dated: October 8, 1975.

DANIEL PARKER,
Administrator.

[FR Doc.75-28110 Filed 10-17-75;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Notice of Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, November 4, 1975; Tuesday, November 11, 1975; Tuesday, November 18, 1975; and Tuesday, November 25, 1975 at 9:45 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower and Reserve Affairs) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552 (b) of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 USC 552(b)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 USC 552(b)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that this meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 USC 552(b)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence, (5 USC 552(b)(4)).

However, members of the public who may wish to do so, are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, The Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD(C).

OCTOBER 14, 1975.

[FR Doc.75-28130 Filed 10-17-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[INT FES 75-88]

WOLF CREEK NATIONAL FISH HATCHERY, KENTUCKY

Notice of Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a final environmental statement for the proposed Wolf Creek National Fish Hatchery in Russell County, Kentucky.

The Wolf Creek National Fish Hatchery below Wolf Creek Dam in Russell County, Kentucky will be constructed, operated and maintained for the propagation of rainbow trout. When completed, the Wolf Creek Hatchery will produce about 500,000 trout annually, weighing approximately 150,000 pounds. The fish are needed for the management of streams, lakes, reservoirs, and tailwaters in Kentucky. Most of the production will support the fishery in waters associated with Federal dam construction projects.

Copies of the final statement are available for inspection at the following locations:

Dale Hollow National Fish Hatchery, P.O. Box C, Celina, Tennessee 38551.
U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329.
U.S. Fish and Wildlife Service, Branch of Environmental Coordination, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.
Lake Cumberland Development District, P.O. Box 387, Jamestown, Kentucky 42629.

Single copies may be obtained by writing the Chief, Branch of Environmental Coordination, Division of Ecological Services, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments concerning the proposed action should also be addressed to the Chief, Branch of Environmental Coordination, Division of Ecological Services. Please refer to the statement number above.

Dated: October 14, 1975.

STANLEY D. DOREMUS,
Deputy Assistant Secretary, Program Development and Budget.

[FR Doc.75-28107 Filed 10-17-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE

Public Meeting Cancellation and Notice of Scheduled Committee Meetings

This document cancels the October 21, 1975, meeting of the Shippers Advisory Committee, announced in the October 3, 1975, issue of the FEDERAL REGISTER (40 FR 45861), and gives notice of the time and location of meetings of the committee to be held November 4 and November 11, 1975. This notice is issued pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (86 Stat. 770). The committee is established under Marketing Order No. 905 (7 CFR Part 905), which regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This regulatory program is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The cancellation of the October 21 meeting is based on the committee's assessment that present regulations are appropriate to the prevailing supply situation.

The committee plans to reconsider current information concernnig the available crop, shipments and supplies of each variety and recommendations for regulation of shipments of the named fruits at meetings to be held November 4 and November 11, 1975, at 10:30 A.M. in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida. The meetings will be open to the public and a brief period will be set aside at each meeting for public comments and questions.

The names of committee members, agenda, and other information pertaining to each meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-682-3103.

Dated: October 15, 1975.

DONALD E. WILKINSON,
Administrator.

[FR Doc.75-28159 Filed 10-17-75;8:45 am]

Farmers Home Administration

[Notice of Designation No. A262]

LOUISIANA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, and aquaculture operations have been substantially affected in Pointe Coupee Parish, Louisiana, as a result of continuous and excessive rainfall with flooding March 18 to July 14, 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 Public Law

94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Edwin Edwards that such designation be made.

Applications for Emergency loans must be received by this Department no later than November 24, 1975, for physical losses and June 28, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 10th day of October, 1975.

FRANK W. NAYLOR, Jr.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.75-28164 Filed 10-17-75;8:45 am]

[Notice of Designation No. A180, Amdt. 1]

LOUISIANA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Richland Parish, Louisiana, as a result of excessive rainfall with flooding in some areas January 1 to June 18, 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 Public Law 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Edwin Edwards that such designation be made.

Applications for Emergency loans must be received by this Department no later than November 25, 1975, for physical losses and June 28, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 10th day of October, 1975.

FRANK W. NAYLOR, Jr.,
Acting Administrator,
Farmers Home Administration.

[FR Doc.75-28165 Filed 10-17-75;8:45 am]

Forest Service

PRESCOTT NATIONAL FOREST GRAZING ADVISORY BOARD

Notice of Meeting

The Prescott National Forest Grazing Advisory Board will meet at 1:30 p.m. on November 14, 1975, at the Forest Supervisor's Office in Prescott, Arizona.

The purpose of this meeting is to review items of mutual interest to grazing permittees and the Forest Service.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Prescott National Forest, 344 South Cortez Street, Prescott, Arizona, telephone number 602-445-4860, Extension 311. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation:

Members of the public will be given an opportunity for comments and questions following discussion by the Advisory Board.

JOHN W. BOHNING,
Acting Forest Supervisor.

OCTOBER 9, 1975.

[FR Doc.75-28074 Filed 10-17-75;8:45 am]

Soil Conservation Service

DELAWARE CREEK WATERSHED, OKLAHOMA

Notice of Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8(b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Delaware Creek Watershed Project, Atoka, Coal, Johnston and Pontotoc Counties, Oklahoma.

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. Hampton Burns, State Conservationist, Soil Conservation Service, USDA, Agricultural Center Office Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074, 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 and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by two single-purpose floodwater retarding structures.

Single copies of the negative declaration are available upon request and the environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service, USDA Building, Farm Road and Brumley Street, Stillwater, Oklahoma 74074.

No administrative action on implementation of the proposal will be taken until 15 days after the date of this publication.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: October 10, 1975.

JOSEPH W. HAAS,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.75-28106 Filed 10-17-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

LAFAYETTE COLLEGE

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 F.R. 12253 et seq, 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00554-98-77030. Applicant: Lafayette College, Easton, Pennsylvania 18042. Article: NMR Spectrometer, Model CPS-2. Manufacturer: Spin Lock Electronics Ltd., Canada. Intended use of article: The article is intended to be used in the study of the volume change at the liquid-solid phase transition and molecular motion in the solid near the melting point so as to test quasi-lattice models of liquids and shed more light on the mechanism of melting itself.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability to measure relaxation in the rotating reference frame. The most closely comparable domestic instrument, the Model CFT-20, manufactured by Varian Associates is not suitable for measuring relaxation in the rotating reference frame. The National Bureau of Standards (NBS) advises in its memorandum dated September 25, 1975 that the capability to measure relaxation in the rotating reference frame is pertinent to the applicant's intended purposes. We, therefore, find that the Model CFT-20 is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.75-28100 Filed 10-17-75;8:45 am]

NATIONAL RADIO ASTRONOMY OBSERVATORY ASSOCIATED UNIVERSITIES, INC., ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230 on or before November 10, 1975.

Amended regulations issued under cited Act, (40 FR 12253 et seq., 15 CFR 701, 1975) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00146-18-80050. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 1000 Bullock Blvd., Socorro, New Mexico 87801. Article: (20mm Diameter) Flexible Helix Waveguide Length. Manufacturer: Fujikura Cable Works, Ltd., Japan. Intended use of article: The article is intended to be used as part of the Very Large Array radio telescope to transmit radio wavelengths radiation received from extraterrestrial objects to recording apparatus. The study of this radiation enables astronomers to study the sources of energy, origin and evaluation of the universe. Application received by Commissioner of Customs: September 29, 1975.

Docket Number: 76-00147-33-90000. Applicant: University of Florida-Shands Teaching Hospital, Dept. of Radiology, Box J-374, J. Hillis Miller Health Center, Gainesville, Florida 32610. Article: EMI Scanner System with Magnetic Tape Storage system. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for noninvasive investigation of intracranial structures of patients in research into the basic nature, character, and clinical course of intracranial disease processes. With particular emphasis in the following areas:

a. Further definition of reconstruction scan's role in acute head trauma.

b. Efficiency of diagnosis and prognosis in Stroke.

c. Efficiency of differentiation between occult hydrocephalus and brain atrophy.

d. Efficiency of identification of the demyelinating (or degenerative) diseases (multiple sclerosis, Parkinson's disease, etc.).

e. Efficiency of identification of intracranial tumors.

f. Contrast enhancement potential; i.e., which diseases can most efficiently be diagnosed with the reconstruction scanner in conjunction with intravenous contrast administration.

g. Efficiency of identification of tumors outside of the CNS but still within the scan range-retroglobar tumors of the orbit, nasopharyngeal tumors, etc.

The article will also be used for the following educational purposes:

(1) Physician or medical student education in neurology.

(2) Post-graduate education (Radiologists particularly) in the handling of the reconstruction scanner.

(3) Neuro-anatomy training.

Application received by Commissioner of Customs: September 29, 1975.

Docket Number: 76-00148-33-46500. Applicant: University of South Carolina, School of Medicine, Columbia, South Carolina 29208. Article: Ultramicrotome, Model OMU-3. Manufacturer: C. Reichert Optische Werke AG, Austria. Intended use of article: The article is intended to be used to thin section single neurosecretory neurons that have been previously subjected to scanning electron microscopy (SEM). Individual neurons are dissected and prepared for SEM. After examination, specimens are embedded in plastic, sectioned, and examined by transmission electron microscopy. This procedure allows for both external (SEM) and internal (TEM) examination of neurosecretory neurons at different physiologically different times. Application received by Commissioner of Customs: September 29, 1975.

Docket Number: 76-00149-25-64000. Applicant: Loyola Marymount University, 7101 West 80th Street, Los Angeles, CA 90045. Article: Polariscope, Model 109. Manufacturer: Norwood Instruments Ltd., United Kingdom. Intended use of article: The article is intended to be used for studies of photoelasticity of objects under static loading in a laboratory course by undergraduate engineering students. Application received by Commissioner of Customs: September 29, 1975.

Docket Number: 76-00150-33-90000. Applicant: National Institutes of Health, Bethesda, Md. 20014. Article: EMI Scanner System with Magnetic Tape Unit, Head holders, support device and interchangeable collimators. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article will be used to study the brain, the cerebrospinal fluid cavities and the cerebral circulation in human beings and experimental animals (primates). The investigations will include determination of the absorption coefficients of the various tissues in and around the brain. Systemic introduction of high atomic number tracers will also be employed to enhance the differential in absorption coefficients. Application received by Commissioner of Customs: September 29, 1975.

Docket Number: 76-00151-33-46040. Applicant: University of Pennsylvania, Department of Biology, 210 Biology Bldg. G5, Philadelphia, Pa. 19174. Article: Electron Microscope, Model JEM 100S and accessories. Manufacturer: JEOL, Japan. Intended use of article: The article is intended to be used for examination of biological tissues after they have been fixed, dehydrated, embedded in plastic, and sectioned. Some of the tissues to be examined will be muscle specimens from animals, with or without previous experimental treatment for the study of the mechanisms of control of muscle activity, muscle tissues from normal and diseased human biopsies, and other tissues in a variety of studies in basic cell biology. The experiments to be conducted will be aimed at obtaining information both qualitative and quantitative, on the structure of muscle and other biological tissues of different types (comparative morphology) and under different physiological states (experimental morphology) and in different disease states (pathology). The article will also be used in the course Biology/Biochemistry 530, Electron Microscopy Techniques, an introductory course as well as for informal teaching of undergraduate and graduate students. Application received by Commissioner of Customs: September 29, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.75-28103 Filed 10-17-75;8:45 am]

NEROC, HAYSTACK OBSERVATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 F.R. 12253 et seq., 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00059-00-41200. Applicant: NEROC, Haystack Observatory, Off Route 40, Westford, Massachusetts 01886. Article: Two Varian CW klystrons, Model #VRE-2103B. Manufacturer: Varian Associates Ltd., Canada. Intended use of article: The article is a component part of a K-band maser microwave radiometric receiver used at a

radio/radar observatory engaged in radio spectral-line studies.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a 42–53 gigahertz frequency range with 150 millivolts (mV) guaranteed output power (350mW target). The National Bureau of Standards (NBS) advises in its memorandum dated September 25, 1975 that (1) the capability of the article described above is pertinent to the applicant's research purposes and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.75-28101 Filed 10-17-75;8:45 am]

WASHINGTON STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq, 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76–00045–65–86300. Applicant: Washington State University, Division of Purchasing, Pullman, Washington 99163. Article: Rheovibron Viscoelastometer. Manufacturer: Toyo Baldwin Co., Ltd., Japan. Intended use of article: The article is intended to be used in studies of the structure-property correlations of epoxy composites and polymers in which dynamic mechanical properties will be evaluated as a function of frequencies at constant temperature and of different temperature at constant frequencies. The article will also be used for educational purposes in the courses: MSE 543 Natural and synthetic polymers; MSE 501 Advanced Topics in Materials Science.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability to measure dynamic properties of solids in the form of thin films and fibers. The National Bureau of tandards (NBS) advises in its memorandum dated September 26, 1975 that (1) the capability described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.75-28102 Filed 10-17-75;8:45 am]

National Bureau of Standards

POLYTETRAFLUOROETHYLENE PLASTIC-LINED STEEL PIPE AND FITTINGS

Notice of Intent To Withdraw Voluntary Product Standard

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the intent to withdraw Voluntary Product Standard PS 33–70, "Polytetrafluoroethylene (PTFE) Plastic-Lined Steel Pipe and Fittings." This withdrawal action is being taken for the reason that the product is covered by American Society for Testing and Materials' ASTM F 432–75, "Polytetrafluoroethylene (PTFE) Plastic-Lined Ferrous Metal Pipe and Fittings," and the continued duplication of this standard is inappropriate.

Any comments or objections concern-this intended withdrawal of this standard should be made in writing to the Standards Development Services Section, National Bureau of Standards, Washington, D.C. 20234, on or before November 19, 1975. The effective date of withdrawal, if appropriate, will be not less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: October 15, 1975.

ERNEST AMBLER,
Acting Director.

[FR Doc.75-28133 Filed 10-17-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Federal Council on the Aging

SENIOR SERVICES COMMITTEE

Notice of Meeting

The Federal Council on the Aging was established by the 1973 amendment to the Older Americans Act of 1965 (Pub. L. 93–29) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging, and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to Pub. L. 92–463, that the Council's Senior Services Committee will meet on November 6, 1975 from 9:30 a.m. to 5:00 p.m. and on November 7, 1975 from 9:00 a.m. to 3:00 p.m., in Room 4563, Donohoe Building, 400 Sixth Street, S.W., Washington, D.C. 20201. The agenda will consist of: Final Committee Action on Benefits Study, Further Strategies on Services for the Frail Elderly, Future Implications of Relationships Between Social Service Programs Under the Older Americans Act and the Social Security Act and Review of Possible Reforms in Medicare and Medicaid.

This meeting is open for public observation.

Further information on the Council may be obtained from Cleonice Tavani, Executive Director, Federal Council on the Aging, Room 4022, Donohoe Building, 400 Sixth Street, S.W., Washington, D.C. 20201, telephone; (202)–245–0441.

CLEONICE TAVANI,
Executive Director,
Federal Council on the Aging.

OCTOBER 10, 1975.

[FR Doc.75-28122 Filed 10-17-75;8:45 am]

Office of the Assistant Secretary for Planning and Evaluation

[Modification of Contract No. HEW–OS–74–122]

NEW FEDERAL CASH TRANSFER PROGRAM—WELFARE REFORM STUDIES

Notice of Contract Modification

Pursuant to Section 606 of the Community Services Act of 1974 (Pub. L. 93–644), 42 USC 2946, this agency announces the modification of Contract Number HEW–OS–74–122 awarded to Mathematica, Inc., Princeton Station, P.O. Box 2392, Princeton, New Jersey 08540 for a research project entitled "New Federal Cash Transfer Program—Welfare Reform Studies." This project supports analyses of data which will provide information concerning the planning and possible implementation of a comprehensive assistance program. Analyses will focus on lower income population statistics using data from the Census Bureau and the Income Maintenance Experiments conducted by this Office. The estimated cost of this modification is $154,893.00 and the intended completion date is January 30, 1976.

Dated: October 14, 1975.

WILLIAM A. MORRILL,
Assistant Secretary for Planning and Evaluation.

[FR Doc.75-28124 Filed 10-17-75;8:45 am]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to women and to make recommendations to the Secretary on how to better the services of HEW's programs to meet these special needs of women, will meet on Thursday, and Friday, November 6–7, 1975, from 9:00 a.m. to 5:00 p.m. each day in Room 5169, HEW-North Building, 330 Independence Avenue, S.W., Washington, D.C. The agenda includes the consideration of new priorities for 1976 and a report on the status of the Committee and its 1975 projects.

Interested persons wishing to address the Committee, should contact the Executive Secretary by COB Friday, October 31, Phone: 202–245–8454. Written statements received by October 31 will be duplicated and distributed to the members. Members of the public are invited to attend the meeting.

Dated: October 10, 1975.

SANDRA S. KRAMER,
Acting Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc.75-28123 Filed 10-17-75;8:45 am]

Public Health Service

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

Statement of Organization, Functions, and Delegations of Authority

Part 11 of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, Chapter 11, entitled Office of the Assistant Secretary for Health (38 FR 18571–74, as amended) is amended in Section 11–B, *Organization and Functions*, to realign activities relating to quality assurance and health care standards among appropriate organizational components as follows:

Retitle and amend the functions of the Office of Professional Standards Review by deleting reference to the *Office of Professional Standards Review (1N04)* in its entirety and substituting the following statement:

Office of Quality Standards (1N04). The Director of the Office of Quality Standards provides technical advice on programs of health care standards and quality assurance matters to the Assistant Secretary for Health. In conjunction with the Office of Policy Development and Planning, Public Health Service, coordinates the development of all Department policies relating to quality assurance and standards of health care with the Social Security Administration and the Social Rehabilitation Service and other Departmental components. Coordinates, in particular, such activities for the Assistant Secretary regarding Professional Standards Review Organizations, Utilization Review, and the quality assurance aspects of the Health Maintenance Organizations and the End-Stage Renal Disease programs. Also, provides staff support to the Assistant Secretary for Health in carrying out his responsibilities for the Maximum Allowable Cost of Drugs program. Serves as the Executive Secretariat to the National Professional Standards Review Council, and provides staff support to other appropriate committees as necessary. Reviews and evaluates the implementation of the Professional Standards Review Organization evaluation plan in conjunction with the National Professional Standards Review Council.

Amend the *Office of the Deputy Assistant Secretary for Quality Assurance (1N12)* in its entirety by substituting the following statement:

Office of the Deputy Assistant Secretary for Quality Assurance (1–12). The Deputy Assistant Secretary for Quality Assurance is responsible for the Department's overall national effort regarding quality assurance and health care standards. Serves as Departmental focal point for interagency clearance of major policy issues, plans, agreements and standards related to quality assurance and health care standards. Serves as the principal advisor to the Assistant Secretary for Health on matters dealing with quality assurance and health care standards and is the principal representative of the Assistant Secretary for Health in dealing with Congress and other Departments and agencies in these matters. Coordinates the activities of the Office of Quality Standards, the Office of Nursing Home Affairs and the Office of Population Affairs, as they affect quality assurance and standards of health care.

Amend the statement for the *Office of Policy Development and Planning (1N33)*, by substituting the following for the last function: "serves as staff to the ASH Policy Board (comprised of the heads of the PHS Agencies and Offices); and provides staff support for the Health Insurance Benefits Advisory Council, including development of policy proposals for consideration by that Council."

Dated: October 9, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.75-28125 Filed 10-17-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-488-DR; NFD-307]

ALABAMA

Amendment To Notice of Major Disaster

Notice of Major Disaster for the State of Alabama, dated October 2, 1975, and amended October 8, 1975, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declation of October 2, 1975:

The Counties of:
Crenshaw Henry

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: October 10, 1975.

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.75-28153 Filed 10-17-75;8:45 am]

Office of the Secretary

[Docket No. D-75-374]

REGIONAL ADMINISTRATOR AND DEPUTY REGIONAL ADMINISTRATOR, REGION III

Redelegation of Authority

Section A. *Authority redelegated.* Pursuant to Section C of the redelegation of authority to the Regional Administrator and Deputy Regional Administrator, Region III (Philadelphia), at 40 FR 28659, July 8, 1975, there is hereby redelegated to the Area Director and the Deputy Area Director, Washington, D.C. Area Office, the power and authority of the Secretary to convey to the District of Columbia Redevelopment Land Agency title to those portions of the Fort Lincoln property located in Washington, D.C. together with any improvements and related personal property located thereon which were transferred to the Secretary by the Administrator of General Services on June 4, 1973, pursuant to Section 108 of the Housing Act of 1949 (42 U.S.C. 1458) and a certain agreement between the Department of HUD and the GSA.

Section B. *Further authority redelegated.* Pursuant to Section C of the redelegation of authority at 40 FR 28659, the Area Director and the Deputy Area Director, Washington, D.C. Area Office, each is further authorized to exercise the power and authority of the Secretary to return those portions of the Fort Lincoln property as may be delineated public use parcels by Development Area Plans under the Urban Renewal Plan for the Fort Lincoln Urban Renewal Area to the Administrator of General Services for subsequent disposition to appropriate Federal or District of Columbia public agencies.

(Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d); Delegation of Authority to the Assistant Secretary for Community Planning and Management, 36 FR 5004; Delegation of Authority to the Assistant Secretary for Community Planning and Development, 38 FR 8011).

Effective Date. This redelegation is effective on October 20, 1975.

VINCENT A. MARINO,
Acting Regional Administrator, Region III (Philadelphia)

[FR Doc.75-28154 Filed 10-17-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRPORT NOISE POLICY

Notice of Public Hearings

The Federal Aviation Administration will hold a series of public hearings on its airport noise policy. These hearings will afford interested persons the opportunity to present views, data, and arguments regarding the subjects and issues stated in a general notice published in the FEDERAL REGISTER on July 9, 1975 (40 FR 28844). In addition to the afternoon sessions of the hearings, evening sessions are provided to accommodate the general public. Additional hearings at other locations will be announced at later dates.

The hearings for the months of November and December will be conducted at the following times and locations:

Nov. 3, 1975—Richmond, Virginia: Convening at 1:00 p.m. and 6:00 p.m. at the Ramada Inn—Airport, 5700 Williamsburg Rd., Sandston, Virginia.

Nov. 7, 1975—Buffalo, New York: Convening at 1:00 p.m. and 6:00 p.m. at Amherst Municipal Building, 5583 Main Street, Williamsville, New York.

Nov. 10, 1975—Denver, Colorado: Convening at 1:00 p.m. and 6:00 p.m. at the Marriott Hotel, I-75 & Hamdon, Denver, Colorado.

Nov. 11, 1975—Aspen, Colorado: Convening at 1:00 p.m. and 6:00 p.m. at the Holiday Inn, Aspen, Colorado.

Nov. 13, 1975—Salt Lake City, Utah: Convening at 1:00 p.m. and 6:00 p.m. at the Hilton Hotel, 150 W. 5th South, Salt Lake City, Utah.

Nov. 13-14, 1975—Boston, Massachusetts: Convening on Nov. 13 at 1:00 p.m. and 7:00 p.m., and Nov. 14 at 9:30 a.m. in the TSC Auditorium, Transportation Systems Center, 55 Broadway, Kendall Square, Cambridge, Massachusetts.

Nov. 17, 1975—Omaha, Nebraska: Convening at 1:00 p.m. and 7:00 p.m. in the Legislative Chamber, Civic Center Building, 1819 Barnum Street, Omaha, Nebraska.

Nov. 18, 1975—St. Louis, Missouri: Convening at 1:00 p.m. and 7:00 p.m. at the Federal Mart Building, 2nd floor auditorium, 405 South 12th Street, St. Louis, Missouri.

Dec. 1, 1975—Washington, D.C.: Convening at 1:00 p.m. and 6:00 p.m. at the Stouffer National Center Hotel, 2399 South Jefferson Davis Highway, Arlington, Virginia.

Dec. 10, 1975—Ft. Lauderdale, Florida: Convening at 2:00 p.m. and 7:30 p.m. at Florida Department of Transportation Auditorium, 780 S.W. 24th Street, Ft. Lauderdale, Florida.

Dec. 11, 1975—Miami, Florida: Convening at 2:00 p.m. and 7:30 p.m. at Airport Lakes Holiday Inn, 1101 N.W. 57th Avenue, Miami, Florida.

Dec. 15, 1975—New York, New York: Convening at 1:00 p.m. and 6:00 p.m. at the Town Meeting Pavilion, Town Hall Plaza, Main Street, Hempstead, New York.

Dec. 16, 1975—New York, New York: Convening at 1:00 p.m. and 6:00 p.m. at the Holiday Inn, La Guardia, 100-15 Ditmars Boulevard, East Elmhurst, New York.

The hearings will be informal in nature and will be conducted by a designated representative of the Administrator.

Since the hearings will not be evidentiary or judicial in nature, there will be no cross-examination or other adjudicatory procedure applied to the presentations. However, interested persons wishing to make rebuttal statements will be given the opportunity to do so at the conclusion of the presentations in the same order in which initial statements are made.

Interested persons are invited to attend the hearings and to participate by making oral or written statements concerning the respective topics, their substance and issues. Written statements should be submitted in duplicate and will be made a part of the record of proceedings. Persons wishing to make oral statements at the hearings must notify the FAA that they desire to be heard, and indicate the amount of time requested for their initial statements. Presentations will be scheduled on a first-come-first-served basis, as time may permit. Requests to receive additional information should be made as follows:

For the hearings in Richmond, Buffalo, Washington, and New York, write or call:

Public Affairs Officer, Eastern Region (AEA-5), Federal Aviation Administration, Federal Building, JFK International Airport, Jamaica, New York 11430; (212) 995-9684.

For the hearings in Denver, Aspen, and Salt Lake City, write or call:

Public Affairs Officer, Rocky Mountain Region (ARM-5), Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colorado 80207; (303) 837-4992.

For the hearings in Boston, write or call:

Public Affairs Officer, New England Region (ANE-5), Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; (617) 273-7391.

For the hearings in Omaha and St. Louis, write or call:

Public Affairs Officer, Central Region (ACE-5), Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; (816) 374-5449.

For the hearings in Ft. Lauderdale and Miami, write or call:

Public Affairs Officer, Southern Region (ASO-5), Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; (404) 526-7201.

In addition to materials presented at the hearing, persons not participating in the hearings are invited to submit written comments on the airport noise policy in accordance with the notice published in the FEDERAL REGISTER on July 9, 1975.

Such communications should be addressed to:

Federal Aviation Administration: Associate Administrator for Policy Development and Review, 800 Independence Avenue, SW., Washington, D.C. 20591, Attention: Airport Noise Policy Proceedings.

The closing date for submitting written comments is January 1, 1976. All comments will be available for examination both before and after the closing date for comments.

The general notice (40 FR 28844, July 9, 1975) regarding the FAA's airport noise policy identifies a number of possible airport use-restriction options which may be considered for inclusion in an airport noise relief program. In addition, the FAA identified four potential policy options and their implications. Those policy options are as follows:

1. Airport proprietor actions unconstrained by the FAA.
2. Airport proprietor completely constrained by the FAA with a correlated development of a Federal airport noise abatement plan.
3. Airport proprietor to establish a noise abatement plan.
4. Continue the present policy.

The notice presents analysis of the respective options and contains the material that is the subject of these public hearings. While all comments are of interest, the FAA specifically invites statements or comments regarding the policy options in terms of the specific questions stated in the notice.

Before taking final action regarding its airport noise policy, the FAA will consider the statements presented at the hearings and all written comments submitted.

Transcripts of each hearing will be made and anyone may purchase copies from the reporter. A transcript of each hearing will be available for examination in the office of the Associate Administrator for Policy Development and Review, Room 1000W, 800 Independence Avenue SW., Washington, D.C.

Since the hearings contained in this notice have been previously announced in their respective localities in which they will be held, it is determined that publication of the notice of public hearing in the FEDERAL REGISTER less than 15 days before the first hearing is reasonable under 44 U.S.C. 1508.

Issued in Washington, D.C., on October 15, 1975.

FREDERICK A. MEISTER,
Associate Administrator for Policy Development and Review (Acting).

[FR Doc.75-28300 Filed 10-17-75;8:45 am]

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

ADVISORY COMMITTEE ON RACIAL, ETHNIC AND NATIVE AMERICAN PARTICIPATION IN THE BICENTENNIAL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, (Pub. L. 92-463), notice is hereby given that a meeting of the American Revolution Bicentennial Committee on Racial, Ethnic and Native American Participation in the Bicentennial will be held on November 10, 1975, in Room 2010 of the New Executive Office Building in Washington, D.C. The meeting will begin at 8:30 a.m.

The tentative agenda includes the review of six prototypical Bicentennial programs and a presentation regarding July 4, 1976.

The meeting will be open to the public on a space available basis. Further information can be obtained from Verna E. Clayborne, Director of Ethnic Racial Programs, American Revolution Bicentennial Administration, 2401 E Street, N.W., Washington, D.C., 20276, Telephone (202) 634-1767.

JOHN W. WARNER,
Administrator.

[FR Doc.75-28132 Filed 10-17-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 27067; Order 75-10-46]

ALLEGHENY AIRLINES INC., ET AL

Authorization of Discussions Concerning Pricing Policies and Related Practices of Fuel Suppliers

ORDER EXTENDING AUTHORIZATION

Issued under delegated authority October 14, 1975.

By order 75-5-15, May 2, 1975, the Board extended the authorization of all U.S. certificated air carriers and foreign air carriers to participate in discussions concerning the pricing policies and related practices of fuel suppliers for an additional period of 90 days from April 21, 1975, through July 20, 1975.[1]

By application filed with the Board on July 21, 1975, various U.S. and foreign air carriers now request that the authorization be extended for an additional period of 90 days.[2]

In support of their request, the applicants state that precipitous increases in the price of fuel have continued, and that international uncertainties also continue with the threat of embargo not entirely dissipated and with a substantial risk of further pricing disruptions by the Organization of Petroleum Exporting Countries (OPEC). The applicants further state that significant progress has already been made toward collective judgment on numerous courses of action. Specifically, the applicants state that the Information Exchange Subcommittee has developed an information exchange agreement which has been signed by nine participants and is in circulation to all other carrier participants; that the Standard Form Contract Subcommittee is presently reviewing a contract manual, including a model contract; that the Joint Negotiation/Operations Subcommittee is preparing a report on the potential for developing new competition for jet fuel supply through joint action including the related problems of storage, transportation, and geographic distribution. The applicants also state that in view of the current debate over national energy policy and the absence of clarification of future petroleum pricing it is extremely difficult for the carrier participants to make definitive judgments on the effect and efficiency of collective arrangements.

Upon consideration of the foregoing, it is concluded that a continuation of the discussions for an additional period of time is reasonable. In view of the complexity of the task undertaken by the carriers, as asserted by the applicants, it appears that the participants have demonstrated their willingness, if not their ability, to accomplish that task in a reasonable time frame.[3] In these circumstances, it has been concluded to extend the authorized discussions for a period of 90 days from the date of this order. It is noted that three discussion meetings were held during the first 120-day period initially authorized by the Board on December 23, 1974 (i.e., on January 30, April 8, and April 17, 1975). However, during the 90-day authorized extension period no discussion meetings have been held by the carrier participants. Nor does it appear that the workings of the technical subcommittees have been periodically reported to the carrier participant group for review and action thereon at any discussion meeting during this period as contemplated under the conditions of the orders authorizing such discussions. Further, as recognized by the applicants, the Board authorized the discussion in order that the participant carriers determine for themselves and present to the Board their position as to whether a genuine contribution, through such discussions, can be rendered by any appropriate collective action. Conditions established by order 74-12-89 will remain in effect for the extended discussions authorized herein.

Pursuant to authority duly delegated by the Board's Regulations, 14 CFR 385.13 and 385.3, and pursuant to subparagraph (h) of ordering paragraph 1 of order 74-12-89, and order 75-5-15, it is found that the applicants' record should be granted.[4]

ACCORDINGLY, IT IS ORDERED THAT: Order 74-12-89 be and it hereby is modified by the amendment of subparagraph (g) of ordering paragraph 1 therein to read as follows:

(g) The authorization granted herein shall expire after January 13, 1976.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 15 days of the date of service of this order. This order shall be effective immediately, and the filing of a petition for review shall not preclude such effectiveness.

This order shall be served on all U.S. certificated carriers, including supplemental air carriers; on all interested persons described in order 74-12-89; on the Departments of Justice (Antitrust Division), State, and Transportation; and on the Federal Energy Administration.

This order shall be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-28155 Filed 10-17-75;8:45 am]

[1] The initial period for discussions as authorized by order 74-12-89, Dec. 23, 1974 was limited to 120 days.

[2] The joint applicants herein are the same as those in the application for the first extension request filed on Apr. 15, 1975, with the following exceptions: Air New England is an applicant herein, and Aeronaves de Mexico, Capitol International Airways, Inc., and Mexicana have not joined in the application.

[3] On Sept. 26, 1975, Congress extended oil price controls until Nov. 15, 1975. Also, Federal Energy Administration has stated that the $2-per-barrel tariff on imported oil will continue to be collected during any period of extension of the old controls. (A Federal appeals court has ruled that the tariff was imposed illegally, and the case is pending before the Supreme Court.) On Sept. 27, 1975, the Organization of Petroleum Exporting Countries (OPEC) imposed a 10 percent increase on world petroleum prices, effective Oct. 1, 1975. (Wall Street Journal, Sept. 29, 1975.)

[4] It is further found, pursuant to 14 CFR 385.6, that the action taken herein is governed by prior Board precedent and policy, and immediate action is required to permit the prompt continuation of the discussions. Therefore, it is determined that the filing of petitions for review of this order will not preclude the order from becoming effective immediately.

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 2:00 p.m. on Wednesday, November 5, 1975. This meeting will be held in room 5A06A of the U.S. Civil Service Commission building, 1900 E Street, NW., and will consist of continued discussions on future comparability adjustments for the statutory pay systems of the Federal Government.

The Chairman of the U.S. Civil Service Commission is responsible for the making of determinations under section 10(d) of the Federal Advisory Committee Act as to whether or not meetings of the Federal Employees Pay Council shall be open to the public. He has determined that this meeting will consist of exchanges of opinions and information which, if written, would fall within exemptions (2) or (5) of 5 U.S.C. 552(b). Therefore, this meeting will not be open to the public.

For the President's Agent:

RICHARD H. HALL,
Advisory Committee Management Officer for the President's Agent.

[FR Doc.75-28098 Filed 10-17-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary—Congressional and Legislative Affairs, Office of the Assistant

Secretary—Congressional and Legislative Affairs, Office of the Secretary.

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

[FR Doc.75-28095 Filed 10-17-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Solicitor—Program Coordination, Solicitor's Immediate Office, Office of the Solicitor, Office of the Secretary.

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

[FR Doc.75-28097 Filed 10-17-75;8:45 am]

DEPARTMENT OF JUSTICE

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Justice to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Attorney General, Office of Legislative Affairs.

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

[FR Doc.75-28096 Filed 10-17-75;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on October 14, 1975. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC form are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed form, comments (in triplicate) must be received on or before November 7, 1975, and should be addressed to Mr. Carl F. Bogar, Assistant Director, Office of Special Programs, United States General Accounting Office, Room 5216, 425 I Street, N.W., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

NUCLEAR REGULATORY COMMISSION

Request clearance of a revision to the Nuclear Material Transaction Report, Form NRC/ERDA-741 and Form NRC/ERDA-741A which serve as a shipping and transfer document for special nuclear material, source material, and tritium. The frequency of the use of the report is on occasion; potential respondents are approximately 400 NRC licensees authorized to possess and use special nuclear material, source material, or tritium; respondent burden is estimated to be 15 minutes a report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.75-28181 Filed 10-17-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

LOWER RIO GRANDE VALLEY DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Lower Rio Grande Valley District Advisory Council will hold a public meeting at 9:30 a.m., Tuesday, November 4, 1975, at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, Texas, to discuss such business as may be presented by members, staff of the Small Business Administration, and others present.

For further information, write or call James R. Woodall, P.O. Box 2567, Harlingen, Texas 78550, (512)-888-4533.

Dated: October 10, 1975.

ANTHONY S. STASIO,
Chief Counsel for Advocacy Small Business Administration.

[FR Doc.75-28186 Filed 10-17-75;8:45 am]

ANCHORAGE DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Anchorage District Advisory Council will hold a public meeting at 9:30 a.m., Monday, November 24, 1975, at the Small Business Administration, 1016 West 6th Avenue, Suite 200, Anchorage, Alaska to discuss such business as may be presented by members, staff of the Small Business Administration, and others present.

For further information write Frank D. Cox at the above address, or call 272-5561.

Dated: October 15, 1975.

ANTHONY S. STASIO,
Chief Counsel for Advocacy, Small Business Administration.

[FR Doc.75-28137 Filed 10-17-75;8:45 am]

COLUMBIA DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Columbia District Advisory Council will hold a public meeting at 10 a.m., Tuesday, November 11, 1975, at the Carolina Inn, 937 Assembly Street, Columbia, South Carolina, to discuss such business as may be presented by members, staff of the Small Business Administration, and others present.

For further information, write or call Vern F. Amick, 1801 Assembly Street, Columbia, South Carolina 29201, (803) 765-5373.

Dated: October 15, 1975.

ANTHONY S. STASIO,
Chief Counsel for Advocacy, Small Business Administration.

[FR Doc.75-28138 Filed 10-17-75;8:45 am]

HARTFORD DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Hartford District Advisory Council will hold a public meeting at 10 a.m., Wednesday, November 12, 1975, at the Federal Building, 450 Main Street, Hartford, Connecticut, to discuss such business as may be presented by members, staff of the Small Business Administration, and others present.

For further information, write Thomas E. Higgins at the above address, or call (203) 244-2511.

Dated: October 14, 1975

ANTHONY S. STASIO,
Chief Counsel for Advocacy, Small Business Administration.

[FR Doc.75-28139 Filed 10-17-75;8:45 am]

MONTPELIER DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Montpelier District Advisory Council will hold a public meeting at 11 a.m., Wednesday, November 5, 1975, at the Holiday Inn, Waterbury, Vermont, to discuss such business as may be presented by members, staff of the Small Business Administration, and others attending.

For further information, write or call David C. Emery, P.O. Box 605, Montpelier, Vermont 05602, (802) 223-8422.

Dated: October 14, 1975.

ANTHONY S. STASIO,
Chief Counsel for Advocacy, Small Business Administration.

[FR Doc.75-28136 Filed 10-17-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 444-8]

1975 MODEL YEAR VOLUNTARY AUTOMOBILE FUEL ECONOMY LABELING PROGRAM

Correction to Listing of Specific Label Data

On August 26, 1975 the Environmental Protection Agency published a listing in

the FEDERAL REGISTER of vehicles for which specific fuel economy labels for 1975 model year vehicles had been approved (40 FR 37250). Those labels had been approved in accordance with the provisions of the 1975 Model Year FEA/EPA Voluntary Fuel Economy Labeling Program for automobiles (39 FR 36890). While the list which was published on August 26 was thought to be a complete listing of 1975 model year vehicles for which specific labels had been approved, it has since come to our attention that the vehicles of four manufacturers were omitted from the list. Therefore, to publish the specific label figures for those vehicles, this notice has been prepared.

Dated: October 14, 1975.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management, U.S. Environmental Protection Agency.

Additional fiscal year 1975 specific labels which need to be added to "Federal Register" publication

Car line	Displacement (CID)	Carburetor (barrels)	Transmission	Axle ratio	Catalyst	Weight (pounds)	City (miles per gallon)	Highway (miles per gallon)	Date approved
1975 50-STATE SPECIFIC LABELS									
Honda:									
Civic CVCC	91	3	M5	4.7		2,000	28	42	Nov. 8, 1974
Do	91	3	M4	4.7		2,000	28	38	Do.
Do	91	3	A	4.1		2,000	23	28	Do.
Rolls Royce:									
Silver Shadow	412	2x1	A	3.07	X	5,500	9	12	Dec. 11, 1974
1975 49-STATE SPECIFIC LABELS									
BMW:									
530	182	Fuel injection	M4	3.64		3,500	13	23	Dec. 20, 1974
530	182	do	A	3.64		3,500	14	21	Do.
3.0	182	do	M4	3.64		3,500	13	23	Do.
3.0	182	do	A	3.64		3,500	14	21	Do.
Honda:									
Civic	76	2	M4	4.9		2,000	28	41	[1] Dec. 16, 1974
Do	76	2	A	4.1		2,000	24	30	Dec. 16, 1974
Saab:									
99	121	Fuel injection	M4	3.89		3,000	22	32	Oct. 17, 1974
99	121	do	A	3.89		3,000	21	23	Do.
1975 CALIFORNIA SPECIFIC LABELS									
Saab:									
99	121	do	M4	3.89		3,000	21	28	Do.
99	121	do	A	3.89		3,000	21	23	Do.

[1] Revised Apr. 18, 1975.

[FR Doc.75-28068 Filed 10-17-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20610; File No. BR-4842; FCC 75-1121]

MID-STATE BROADCASTING CO.

Memorandum Opinion and Order Designating Application for Hearing

1. On March 3, 1972, Mid-State Broadcasting Company (Mid-State) filed an application for renewal of the license of radio Station WHLW, Lakewood, New Jersey. The principal stockholders and officers of Mid-State are Melvyn Lieberman, President; Seymour Abramson, Vice-President; and Del Sharbutt, Secretary-Treasurer. A petition to deny the application for renewal of the license for radio Station WHLW, Lakewood, New Jersey, was filed April 28, 1972, by John McAuliffe and Arthur Reid.[1] Lieberman, on behalf of Mid-State, filed an opposition to the petition to deny on July 5, 1972. A field investigation was conducted at Lakewood, Toms River and Neptune, New Jersey, and New York, New York, from June 27 through July 7, 1972, by investigators in the Complaints and Compliance Division.

OWNERSHIP REPORTING

2. Mid-State filed an application for a construction permit with the Commission, January 18, 1966. Since Mid-State's application was mutually exclusive with several others, it was consolidated in a comparative hearing. On March 6, 1970, the Commission granted Mid-State's application.

PETITIONERS' ALLETATIONS

3. Petitioners allege that in 1968, while Mid-State had pending before the Commission an application for construction permit to serve the community of Lakewood, New Jersey, representatives of Mid-State solicited from McAuliffe "substantial contributions of capital," stating that he would become a principal stockholder in Mid-State, through succeeding to the interest of Dr. Solomon Zinkin, one of the owners listed in the pending application. Further, petitioner McAuliffe states he obtained letters of credit from a bank in favor of Mid-State at the request of Lieberman, as additional consideration for McAuliffe's becoming a stockholder.

4. The petitioners charge that Lieberman, "with an intent to deceive and wrongfully, influence the Commission, knowingly and wilfully, made false statements of ownership, neglected and refused to amend the said application so as to reveal and disclose to the Commission the ownership interest of the petitioner, alleging as the reason therefor, a desire to preserve an impression of complete local ownership." McAuliffe says he was told subsequently by Lieberman that an attorney for a contending applicant was inquiring into McAuliffe's interest in Mid-State, and Lieberman asked McAuliffe to falsely swear that he never had an interest in Mid-State, but McAuliffe refused. McAuliffe then demanded the return of his capital contribution—the amount of which is not set out in the petition—but Lieberman and Abramson refused.

LICENSEE'S REPLY

5. In an opposition filed by Lieberman, Mid-State said that Sharbutt, Abramson and Lieberman requested that McAuliffe lend money or guarantee a bank letter of credit to replace the credit that Dr. Zinkin had guaranteed prior to his withdrawal of ownership in Mid-State. Mid-State explains further: "However, Mid-State was not disposed to grant him any equity in the corporation by virtue of his making this commitment. It was further stated, however, that after a grant, Mr. McAuliffe was free to bring the subject up again and the circumstances surrounding a possible participation in ownership would then be reviewed." A $100,000.00 bank letter was obtained by McAuliffe and sent to Lieberman along with a letter stating that he was making the guarantee solely on the basis of his friendship with Sharbutt. Later a new bank letter for $150,000 was obtained and filed with the Commission along with another letter from McAuliffe stating that he was "doing this solely due to his friendship with Mr. Sharbutt." Concurrently, Sharbutt obtained from

[1] By letter dated June 11, 1975, John McAuliffe withdrew his name from the petition to deny.

McAuliffe $1,300 and gave Mid-State his personal check for $1,300 in order to repay Dr. Zinkin for his investment upon his withdrawal. Again, there was no understanding that Mr. McAuliffe was to become an officer or stockholder of the corporation. Altogether, Sharbutt obtained from McAuliffe funds totaling $4,800 without any promise or guarantee by Abramson or Lieberman that McAuliffe would become a participant in Mid-State's ownership.

6. Between January, 1968 and March, 1969, Lieberman discussed with Mr. McAuliffe's attorney, Morris Friedman, "the nature of the McAuliffe guarantee." At that time, Lieberman emphasized to Friedman that there was no understanding with McAuliffe concerning ownership, that possible ownership might possibly be discussed in the future, but there were no present understandings by virtue of McAuliffe's guarantees or cash advances.

7. On May 18, 1969, the Broadcast Bureau inquired into possible agreements between McAuliffe and Mid-State in regard to the loan guarantee. In response to that inquiry, McAuliffe was asked to sign an affidivit denying the promise of any ownership interest. But he declined, saying that it was his understanding that he was to have an ownership interest. Lieberman alleges that this is contrary to the views expressed to McAuliffe by himself and Abramson; therefore, Mid-State "determined to withdraw the commitment of Mr. McAuliffe from the application." An amendment to this effect and the bank letters guaranteed by McAuliffe were filed with the Commission. Friedman demanded the return of McAuliffe's $4,800 advance through Sharbutt to Mid-State but the corporation was unable to pay this demand, and Sharbutt persuaded McAuliffe to withdraw his demand, which McAuliffe did until after the license grant. WHLW commenced operation in November, 1970, and additional financing was requested of Sharbutt who refused and suggested that others should be enlisted for ownership positions, citing McAuliffe as a possible owner. McAuliffe was subsequently asked to purchase a sizable amount of stock, which he refused to do. He demanded the return of his $4,800.00, to which Lieberman responded that he could be paid in cash or stock. McAuliffe chose to receive stock and was issued 350 shares to himself and 150 shares to his wife, which was reported on Form 323, filed May 4, 1971. Both remain stockholders.

F.C.C. INVESTIGATION

8. Commission investigators took a statement of McAuliffe on June 28, 1972. McAuliffe stated that he was approached by Sharbutt in the fall of 1967 about his becoming a one-fourth partner in Mid-State, through his purchase of the Zinkin interest, which was later verified by a letter from Sharbutt dated January 16, 1968. This letter confirms the receipt of McAuliffe's check for $2,300.00 and asserts that the purpose of this payment is to "buy out" the interest of Dr. Solomon Zinkin "* * *" in a project to attempt to secure from the FCC a franchise to build a five kw radio station in Lakewood." The $2,300.00 contribution is broken down into $1,300.00 original investment repayment to Zinkin and $1,000.00 to meet calls for capital which Zinkin had refused to meet, and which Abramson, Lieberman and Sharbutt had met. Next Sharbutt expressed the understanding that McAuliffe was to replace Zinkin in his obligation to purchase ten shares of common stock for $10,000.00 upon F.C.C. approval of the application and "be a full partner in Mid-State Broadcasting Company, with Sharbutt, Lieberman and Abramson." The letter further specifies that McAuliffe has agreed to guarantee a letter of bank credit for $85,000.00 and concludes that it "constitutes an understanding between you and myself as treasurer of Mid-State Broadcasting Company." McAuliffe provided his personal check to Del Sharbutt in the amount of $2,300.00 and dated January 11, 1968. His statement alleges that Lieberman and Abramson asked him to make his checks payable to Sharbutt rather than to Mid-State. In retrospect, this request was intended to prevent McAuliffe from taking an active part of the operation and management of Mid-State, according to McAuliffe's statement.

9. On March 4, 1968, Sharbutt responded to Friedman's inquiries concerning whether McAuliffe was the only guarantor of the $100,000.00, whether McAuliffe would receive a 25 percent interest in the business, and whether and in what amounts McAuliffe would be required to make additional contributions of capital. Sharbutt warned that McAuliffe's investment entailed great risk of capital loss. He stated that each of the original investors had obligated themselves to a $10,000 investment, with Zinkin agreeing to guarantee a $75,000 bank letter of credit for one year of operating costs. Zinkin had met each capital call until his investment reached $1,300, and then he refused to make further contributions while the other three investors' capital investment reached $2,300 each. Finally, Zinkin requested the return of his $1,300 investment. When he learned that McAuliffe was interested in an investment, Sharbutt states that without asking Lieberman and Abramson, he asked McAuliffe to "take Dr. Zinkin's place." McAuliffe then met with Lieberman and Abramson, and he later sent Sharbutt a check for $2,300, "which brought all four partners even." The $100,000 bank letter of credit was never to be drawn down in the form of a loan but was merely to be presented to the Commission. Sharbutt explains to Friedman that McAuliffe was being asked to take Zinkin's place in guaranteeing the bank loan "since Jack [referring to McAuliffe] was taking over his interest." Once the license is granted, Sharbutt stated, "it will be very valuable and no guarantee by McAuliffe would be necessary for Mid-State to get a loan." In answer to Friedman's question concerning who would be the guarantors of the loan, Sharbutt replied, "the three other partners" would also be liable.

10. Six months later, McAuliffe's June 28, 1972, statement continues, Lieberman told him that a competing applicant had discovered that McAuliffe was listed as an owner, and Lieberman asked McAuliffe to sign a disclaimer of any ownership interest. McAuliffe claims that this action indicated to him that his name had been omitted in Commission filings causing him to request that Friedman convey to Mid-State counsel Sam Miller, McAuliffe's request for the return of his investment—now $4,800.00. McAuliffe provided a Miller letter of June 13, 1969, to Friedman, which enclosed a June 10, 1969 amendment to the application withdrawing the proposed bank commitment guaranteed by McAuliffe. McAuliffe also gave our investigators a copy of the supplement to petition to amend, dated June 10, 1969, in which Mid-State sought to substitute a $150,000.00 loan commitment from Miller and his wife for the bank letter guaranteed by McAuliffe.

11. A February 1, 1968 letter from Lieberman to McAuliffe was given to investigators by McAuliffe, requesting McAuliffe to sign a letter stating that he had no interest—current or proposed—in ownership of Mid-State. The final paragraph of the letter proposed by Lieberman reads:

> So as to avoid any question, this is to state that I have no ownership interest, nor have I been promised any such interest in Mid-State Broadcasting Company as an inducement for this letter, or for any other purpose. As stated above, my guarantee is based upon my long time friendship with Mr. Sharbutt.

McAuliffe claims that he refused to sign the letter containing the above-quoted paragraph and later signed one omitting that statement. The relevant paragraph of the letter which McAuliffe signed and which was filed with the application reads as follows:

> As you know, I have been a long time friend of Del Sharbutt, who is one of the principals in the application for a radio station in Lakewood, New Jersey. As a personal favor, I am willing to guarantee the note as required by the bank, and to be of assistance to him and his associates in securing a grant.

12. At the request of F.C.C. investigators, Del Sharbutt sent a letter to the Chief of the Complaints and Compliance Division containing his recollection of the events surrounding the involvement of McAuliffe in Mid-State. Sharbutt states that Lieberman called McAuliffe and told him to send his initial check for $2,300 and subsequent checks to Sharbutt in New York. Lieberman then called Sharbutt to say that McAuliffe's check would be made out to Sharbutt and instructed Sharbutt to send his own personal check to Mid-State including McAuliffe's payment. Although Sharbutt served as treasurer of the company and

his home was in New York City, Mid-State's bank account was in Lakewood, New Jersey. When Sharbutt questioned Lieberman concerning this method of receiving McAuliffe's payment, Lieberman replied this would make "for simpler bookkeeping for the time being." Lieberman allegedly told Sharbutt that McAuliffe's name was not on the application form because his residence was outside Lakewood, and this would harm their chances for the Commission to award them the license. Following the grant of the construction permit, Sharbutt states that Lieberman gave McAuliffe $5,000 worth of stock in Mid-State and told Sharbutt that he considered the matter closed.

13. Sharbutt gave our investigators copies of his personal checks in the amounts of $1,300, $500 and $500, dated January 15, 1968, February 28, 1968 and March 7, 1968, respectively. These checks were made out to Mid-State Broadcasting Company and were marked either "Reimbursement to Dr. Zinkin for pre-construction permit expenses for radio station in Lakewood, New Jersey. (McAuliffe)," or "McAuliffe."

14. Our investigators also obtained copies of the minutes of two meetings of the Mid-State Board of Directors. The first was held on June 30, 1970 and its minutes note an indebtedness "due to Mr. Sharbutt in the amount of $4,800 should be secured by a note bearing interest from March 10, 1969 with interest at eight percent." March 10, 1969, was the date of the final contribution from McAuliffe to Sharbutt, which raised his total of contributed capital to $4,800. Sharbutt maintains that this notation in the minutes was intended as a subterfuge to keep McAuliffe's name out of Mid-State's records before the Commission. The other board meeting was held March 28, 1971.

15. A joint statement by Lieberman and Abramson was offered on August 22, 1972, stating their belief that in past business dealings with Sharbutt and McAuliffe, money had transferred back and forth between them. They further deny that they were ever given any indication that money received from Sharbutt had come from McAuliffe. In support of this position, they allege that Sharbutt never indicated the source of any of the funds which he gave to Mid-State nor did he ever disclose any arrangements with McAuliffe concerning payment of funds or use of the funds which were obtained from McAuliffe or others. Sharbutt was not asked nor did he volunteer the source of funds transmitted to Mid-State, according to Lieberman and Abramson. Additionally, they maintain that Sharbutt lacked the authority from the corporation to accept stock certificates or substitute stockholders. Lieberman and Abramson conclude that there was never an agreement by Mid-State, expressed or implied, whereby McAuliffe would become a stock subscriber, prior to "the circumstances" which led to the issuance of 500 shares of stock to him and to his wife. They emphasize that their discussions concerning McAuliffe made clear that they would consider his participation only after the grant, if at all, but no commitments were made.

CONCLUSION—OWNERSHIP REPORTING

16. Section 1.613(b) of the Commission's rules requires that licensees or permittees file with the Commission any contracts relating to present or future ownership or control, to include oral agreements which must be reduced to writing, or any changes in ownership or control. Where such changes occur through the issuance of new stock, § 1.615(c)(3)(ii) mandates the filing of Form 323, ownership reports, within thirty (30) days of the change. Although Mid-State's opposition claims that McAuliffe's stock interest was reported to the Commission in an ownership report filed December 10, 1970, our records indicate that no such report was filed on that date. A supplemental report was filed on May 1, 1971, following the February 1, 1971, grant of Mid-State's license, which contained the first notice to the Commission of McAuliffe's stock interest and stated that this stock had been issued on December 10, 1970. While confusion between the filing and issuance dates might account for the licensee's error, there remains an apparent violation of § 1.615(c)(3)(ii) through Mid-State's failure to file within thirty days an ownership report of the issuance of McAuliffe's stock.

17. Regarding the representations of ownership of WHLW, petitioners charge licensee, specifically Lieberman, with "an intent to deceive and wrongfully influence" the Commission in the matter of ownership reporting (para. 4) and with solicitation of one of the aggrieved, McAuliffe, to declare to the Commission that he did not hold, and had not been promised, any ownership interest in Mid-State Broadcasting Company (para. 11). Additionally, there is uncontradicted evidence that Mid-State's treasurer, Sharbutt, acted without consulting his fellow principals, Lieberman and Abramson, before soliciting from McAuliffe the $2,300 in cash (later rising to $4,800) that, according to Sharbutt, was to enable McAuliffe to replace Zinkin, an original subscriber. (para. 9). Lieberman and Abramson met with McAuliffe and Sharbutt after Sharbutt's initial solicitation of McAuliffe, but the understanding reached at that meeting is disputed. John McAuliffe indicates that he understood he was purchasing Zinkin's interest in the corporation.

18. In a letter signed by McAuliffe, and which was filed with Mid-State's application for a construction permit, Sharbutt is referred to as "one of the principals" and further mentioned as "him and his associates" in the third person. The purpose of this letter was to indicate that McAuliffe's guarantee of a bank letter of credit to Mid-State (initially $100,000, later $150,000) had been tendered as "a personal favor" to a "long time friend," Del Sharbutt. (para. 11). Yet McAuliffe, in a statement to Commission investigators some four years later, indicates his belief that by the time he signed this letter he had purchased a one-quarter interest in Station WHLW.

19. Petitioners claim that McAuliffe's purchase of a present interest in the WHLW application was understood by all, but that Lieberman and Abramson engaged in the following subterfuges to hide McAuliffe's participation: arranging for a two-step payment from McAuliffe to Sharbutt and Sharbutt to Mid-State (pars. 5 and 8); soliciting from McAuliffe, unsuccessfully, a complete denial of any present or future interest (para. 11); and characterizing the eventual $4,800 in cash contributions from McAuliffe as a debt "due to Sharbutt." While petitioners infer from these facts subterfuge and deceit on the part of Lieberman and Abramson, the same facts support licensee's explanation that McAuliffe as yet had no interest in the WHLW application, and would not be considered for participation in the station until after the grant, if at all. More tellingly, McAuliffe's own letter concerning the guarantee of the bank letter of credit tends to support that explanation, as does the eventual issuance to McAuliffe, after grant of operating authority to WHLW, of stock valued at some $5,000.

20. As noted above, we are presented with two conflicting interpretations of the participation of John McAuliffe in the ownership of WHLW. These questions of fact are material to the license renewal of WHLW, due to possible misrepresentations of fact by the licensee concerning the events prior to the initial license grant.

21. Accordingly, we cannot make the required finding that a grant of the subject license renewal application would be in the public interest and will therefore institute an administrative hearing to inquire into the substantial and material questions of fact regarding the ownership of WHLW and the licensee's representations to the Commission concerning said ownership.

SHARBUTT'S RESPONSIBILITY

PETITIONERS' ALLEGATIONS

22. McAuliffe and Reid maintain that the licensee misled the Commission by representing in the construction permit application that Sharbutt, using his thirty-plus years of broadcast experience, would serve as general manager and engage actively in station programing and advertising. They charge that Lieberman and Abramson did not intend for Sharbutt to exercise either administrative or supervisory control, and further, that within three months of beginning operation of WHLW, Sharbutt was divested of all authority and control, which was shifted to Lieberman and Abramson.

LICENSEE'S REPLY

23. Mid-State claims that in the summer of 1970 it became apparent that Sharbutt either did not intend, or lacked

the capacity, to fulfill his commitment of working forty hours per week at the station. The licensee states that only one afternoon per week was devoted to station affairs by Sharbutt, and that his absence was felt during the balance of the week since the station was constructed and became operational. An example of Sharbutt's inability or unwillingness to assist in managing the station, according to the licensee, was his lack of specificity in suggesting methods of satisfying the corporation's critical need for operating funds. Mid-State charges that Sharbutt's role had to be "rearranged" because of evidence that he lacks administrative and supervisory expertise.

SHARBUTT LETTER OF JULY 3, 1972

24. Sharbutt rebuts the licensee's argument that he was unwilling or unable to suggest means of obtaining station operating funds by stating that he suggested soliciting contributions of capital from new investors, citing two prospective "partners" who had contacted him as possible sources of funds, but he alleges that Abramson refused to "allow his ownership to be diluted." On one occasion described by Sharbutt, he brought a group of potential investors to discuss with Abramson and Lieberman a capital contribution, but they "brushed the group off." Sharbutt concluded that his association with Mid-State was no longer desired by Lieberman and Abramson and offered to either allow them to buy out his interest or to bring in others who would buy theirs. Lieberman and Abramson refused to sell, and at first mentioned buying Sharbutt's interest, but later threatened to "freeze" him out of ownership, which led to his locating a buyer for his interest who was not acceptable to Abramson, according to Sharbutt, which resulted in his bringing court action against them.

CONCLUSION—SHARBUTT'S RESPONSIBILITY

25. No material and substantive question of fact, has been raised concerning the intentions of Mid-State in reporting in its construction permit application that Sharbutt was to control the supervision and administration of the station. Petitioners' allegations that the licensee intended to mislead the Commission are wholly unsupported by any sworn statement setting out specific examples within their own knowledge of such intentions during the pendency of the application, apart from their general conclusion after the grant of the license that such intentions existed.

PREFERENTIAL TREATMENT OF CANDIDATES

PETITIONERS' ALLEGATIONS

26. Petitioners allege the violation of § 73.120 (b), (c) and (d) of the rules by Mid-State. McAuliffe and Reid contend that Lieberman and Abramson prevented the broadcast of news releases distributed to the station by a candidate for the state legislature. Later, they charge, after WHLW employees arranged for distribution of these releases directly to the news staff, Lieberman and Abramson took steps to learn the contents of these releases and disclose the contents to an opposing candidate so that rebuttals could be prepared before the releases were broadcast. Additionally, according to the petitioners, Lieberman and Abramson allowed one candidate to hear campaign commercials supplied by an opposing candidate, who had paid to have WHLW broadcast them, and to use the station facilities to tape record rebuttals which were broadcast sometimes prior to the commercials. These actions violated § 73.120 (b), (c) and (d) of the rules, in the opinion of McAuliffe and Reid.

LICENSEE'S REPLY

27. Mid-State denies the claims of petitioners that Lieberman and Abramson either intercepted news releases from a candidate for the state legislature to prevent their being broadcast or divulged the contents of political commercials by one candidate to an opponent, allowing use of station facilities to record rebuttals for broadcast prior to the airing of the commercials. The licensee states that a receptionist, not Lieberman or Abramson, receives the mail as delivered and distributes it within the station. Thus, if a letter is directed to the news department, it would not be seen by Lieberman or Abramson. Mid-State offers an affidavit by John F. Russo, who identifies himself as the candidate alleged by petitioners to have been favored by Station WHLW in his campaign for the state legislature. Russo also denies that his opponent's news releases were divulged to him prior to their being broadcast and that he reviewed his opponent's commercials and recorded rebuttals before the commercials were aired. Russo admits he requested, and was allowed, to hear commercials after they were broadcast on local stations, including WHLW, but reaffirms that he never heard a commercial prior to broadcast.

COMPLAINTS AND COMPLIANCE DIVISION'S INVESTIGATION

28. Statement of Lieberman and Abramson—Ceemel Company is a partnership of Lieberman and Abramson which produced political radio announcements for Russo, who paid $295.00 for the service. Jack Tracksler, a WHLW employee, was hired by Ceemel to direct the production, and he employed and supervised two additional employees in the project. Ceemel used WHLW equipment in producing the announcement without payment to the licensee for two reasons: the utilization of the facilities involved was incidental, and the licensee used personal equipment of Lieberman and Abramson without compensation.

29. Licensee's Employees' Statement—Five employees of Mid-State—Tracksler; Arthur Reid, a petitioner herein; Robert Dowd; John Calure and Richard Davidson—gave signed statements to Commission investigators. Each claims to have witnessed Lieberman or Abramson, or both, playing tape recordings of the political announcements of John Brown, a candidate for the state legislature, for Russo, his opponent, prior to the airing of these tapes. They maintain that Russo prepared rebuttal announcements, using WHLW facilities, from the information on Brown's tapes disclosed to him in this manner. Additionally, Dowd cites two instances in which, after recording Brown's announcements by telephone, he would call Russo upon Lieberman's instructions, and play the tapes for Russo to review before they were broadcast. Tracksler alleges that after Lieberman and Abramson played Brown's tapes for Russo prior to broadcast, he wrote the rebuttal for Russo to tape record for broadcast on WHLW. Tracksler also states that he once conveyed one of Brown's announcements to Russo by telephone, following Lieberman's instructions.

CONCLUSION—PREFERENTIAL TREATMENT OF CANDIDATES

30. We must question the licensee's principals' practice of actively participating on one side of a political campaign through the establishment of a business entity for the purpose of producing announcements for one candidate. In *Ubiquitous Corp.*, 51 FCC 2d 780 (1975), we stated our belief that it was indiscreet for a licensee to permit an employee to produce a political commercial using the station's facilities which gave rise to a suspicion of bias, and we criticized the licensee "for not recognizing that—like Caesar's wife—he must remain above suspicion." *Id.* at 800. In the instant case, the indiscretions exceed in gravity those noted in *Ubiquitous, supra*, because the licensee's principals are directly involved by creating a company and hiring a station employee to staff it with additional station employees. These errors of judgment led to the appearance of involvement on one side of a political contest. We must fault even the appearance of using a license invested with the public interest for furtherance of the private concerns of the licensee's principals, which would be antithetical to the scheme of the Communications Act and the numerous decisions interpreting it.

31. Section 73.120(c)(2) of our rules provides:

> In making time available to candidates for public office no licensee shall make any discriminations between candidates in charges, practices, regulations, facilities, or services * * *, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; * * *

From the evidence obtained in the investigation it appears that the principals of WHLW may have violated § 73.120(c)(2) by giving preferential treatment to the Democratic candidate for State Senate in Ocean County and thereby subjecting the Republican candidate for the same office to prejudice and disadvantage. Jack Tracksler, former WHLW chief announcer, stated that Lieberman and Abramson disclosed the information as alleged. Tracksler stated that he was present when Lieberman and Abramson

telephoned the Democratic candidate and played for him the opponent's announcements prior to their broadcast. Three other former employees corroborated Tracksler's statement. This evidence reveals that Lieberman and Abramson may have engaged in the conduct complained of in the petition to deny; that is, they delayed the broadcast of political advertisements of the Republican candidate and made them available to the Democratic candidate prior to broadcast thus enabling the opposing candidate to prepare immediate rebuttal statements. In *WANV, Inc.*, FCC 75-533, released May 23, 1975, we held that Section 73.120(c)(2) had been violated when, with only four days remaining in the campaign, one candidate was permitted to preview the other's reply to a station editorial in order to prepare a rebuttal for broadcast immediately following the reply. The circumstances in the instant case, while differing as to some details, are substantially similar. We believe that, based on the rationale expressed in *WANV, Inc.*, affording one candidate the singular opportunity to obtain an opponent's comments discriminates against a candidate for public office in contravention of § 73.120(c)(2). In view of the evidence tending to support petitioners' allegations, versus Lieberman's contention—accompanied by the affidavit of Democrat Russo—that he and Abramson had not so discriminated against the Republican candidate, an issue is specified to determine whether or not Mid-State has violated Section 73.120 of the rules by its conduct concerning the political broadcasts.

FRAUDULENT BILLINGS

PETITIONERS' ALLEGATIONS

32. A "turkey shoot" contest was conducted in 1971, according to the petitioners, with prizes consisting of turkeys given by a local merchant who exchanged them for advertising, to those named winners by Mid-State. McAuliffe and Reid charged that Lieberman sent letters to employees and their relatives, under fictitious names and arbitrary dates, designating them winners because an insufficient number of turkeys had been awarded in the contest to justify the amount of advertising given the merchant. Petitioners claim that this distribution of turkeys to employees and their relatives perpetrated a "fraudulent distribution of prizes."

33. The Philadelphia local of the American Federation of Television and Radio Artists, AFL-CIO, claim party-in-interest status in this matter as bargaining representative for announcers and newsmen employed at WHLW. In its letter of March 29, 1972, the union stated that licensee should not be renewed because station management misled the public by predetermining that a number of turkeys would be given to the families of station employees rather than being awarded to the public. Also, the union alleges that the licensee's management had engaged in unfair bargaining practices involving bad-faith bargaining and failure to comply with a court order relating to the employment of two dismissed employees.

LICENSEE'S REPLY

34. In an April 10, 1972, letter to the Commission, Mid-State states that following the end of the contest, since only thirteen turkeys had been awarded to winners out of an anticipated fifty that had been projected, the decision was made by management to provide turkeys to employees as Thanksgiving gifts. Mid-State maintains that no minimum or maximum numbers of turkeys were ever announced to the public as part of the contest promotion. Lieberman states that Abramson's arrangement with the merchant for the turkeys, in exchange for advertising, provided only that up to fifty turkeys might be awarded, and in the event that this number of turkeys was not awarded, "we would be free to provide as Thanksgiving gifts to our employees additional turkeys." The licensee explains that it felt justified in giving fourteen turkeys to employees, bringing the total number of turkeys received to 27, because WHLW had carried 160 sixty-second announcements for the meat market, valued at $1,200.00. The union's charges relating to the unfair bargaining issue are dismissed by Mid-State as having been brought in the wrong forum, alleging that our rules exempt labor union contracts from the filing requirements.

COMMISSION LETTER

35. We wrote to the union's attorneys on April 28, 1972, explaining the procedure to be followed by parties objecting to the renewal of a license: i.e., filing an affidavit with sufficient specificity to support allegations contained in the union's letter of March 29, 1972. Concerning the complaint about bargaining practices, we emphasized our refusal to enter disputes between licensee and labor organizations that do not involve violations of the Act or our rules.

COMPLAINTS AND COMPLIANCE DIVISION'S INVESTIGATION

36. Six letters awarding turkeys to the families of WHLW employees were delivered to our investigators. The employees maintain that these letters were never exchanged for turkeys, but the merchant's records show that turkeys were awarded the recipients. The letters were addressed to wives, in either their married or maiden names, or to one employee's mother. Statements of four of the employees—Reid, Dowd, Calure and Davidson—were given to us recounting the receipt of the contest letters. Reid states he was given a letter addressed to his wife using her married name; Dowd said that his mother received a letter through the mail; Calure declared that he was given a letter by Lieberman addressed to his wife in her maiden name; and Davidson alleges that he never saw the letter made out to his wife such as was received by Reid, but that he authorized Reid to send it to the union. All four claim they and their families neither participated in the contest nor received turkeys in exchange for the letters.

37. Richard L. Berberian, the owner of Granny's Meat Market and the merchant who supplied the turkeys, maintains in a July 6, 1972 statement that he had no agreement with Abramson requiring him to award fifty turkeys and states: "I never agreed with Mr. Abramson or WHLW to give any turkeys to any employees of WHLW, only to winners of the turkey shoot contest." Mr. Berberian gave our investigators a copy of the advertising contract executed by Abramson and dated October 29, 1971. The contract provided for 90 commercial announcements of sixty-second duration. Pertinent details of the contract follow:

> WHLW will run daily six turkey shoot contests and for winners will issue a letter entitling the winner to free *10* lb. turkey from Granny's Meats. During the six daily contests WHLW will acknowledge that the turkeys are from Granny's plus read prepared messages about Granny's Meats. Granny's agrees to honor letters from WHLW winners for turkeys.

Commission investigators examined the program logs and found approximately 150 sixty-second commercial announcements had been run for Granny's Meat Market for the period November 3 through November 23, 1971. Mr. Berberian also delivered forty-six cards containing the names and addresses of turkey recipients and the date the turkey was awarded. These cards list the families of WHLW employees as having received turkeys.

38. In their August 22, 1972, statement, Lieberman and Abramson point out the reasons for sending the same letters to the families of employees, as those sent to contest winners. It was "simpler" to send the same letters to employees and winners than to have a secretary type two different sets. Each employee was asked to specify to whom the employee's letter should be sent, according to Lieberman and Abramson, and this explains why some letters were addressed to the wives or mothers of employees. Finally, they allege that 160 announcements for Granny's Meat Market were aired, instead of the 90 called for by the contract, and that their value was $1,200.00 based on a $7.50 average rate.

CONCLUSION—FRAUDULENT BILLING

39. Fraudulent billing practices are addressed by § 73.1205 of our rules, which provides:

> No licensee * * * shall knowingly issue to any local, regional or national advertiser, * * * , any bill, invoice, affidavit or other document, which contains false information concerning the amount actually charged by the licensee for the broadcast advertising for which such bill, invoice, affidavit or other document is issued * * *

The Commission has explained that this rule was promulgated chiefly to prohibit "double billing," defined as the furnishing of false information concerning broadcast advertising to any party contributing to the payment of such advertising, the purpose being to induce such

party to pay more than the actual rate for the advertising. See 1 FCC 2d 1068 (1965).

40. While the instant case does not fit the model of "double billing," since payment comes from a lone advertiser who is neither reimbursed nor represented by an agent, Section 73.1205 clearly proscribes the issuance of a document containing false information concerning the amount charged for advertising related to such document. Absent the oral agreement between Abramson and Berberian regarding the distribution to employees of turkeys, which Berberian contradicts, the letters sent to employees' families by the licensee contain false information in that addressees are not winners of the contest, as specified by the written advertising contract. Since each letter represents a bill for advertising, these documents containing false information obviously concern the amount actually charged by the licensee for the broadcast advertising relating to the letters. Hence, the more winning letters Berberian honored, the more his cost for the advertising. Therefore, in supplying false letters to its employees to be given in turn to Granny's, WHLW apparently issued documents which misrepresented the nature or content of the advertising and the amount actually charged by the licensee for the advertising in apparent violation of Section 73.1205 of the rules. Accordingly, we are designating an issue to inquire into this disputed agreement for a determinaton of whether the licensee has engaged in a fraudulent billing practice.

REFUSAL TO AIR COMMUNITY APPEALS

PETITIONERS' ALLEGATIONS

41. Two examples of the licensee's refusal to serve the public interest are cited by petitioners. The licensee would not broadcast appeals for a fund drive to provide a kidney machine for an ailing nineteen-year old girl or for donations to an impoverished family for extensive hospital and medical costs incurred by their four-year old son who had been severely mutilated by wild dogs.

LICENSEE'S REPLY

42. The licensee maintains that Arthur Reid (para. 22) told management the fund drive for the nineteen-year old girl was a fraud because the family was misapplying the collection proceeds. As to the boy who was attacked by dogs, the licensee states that Reid was requested to investigate the circumstances. Reid first reported that no free air time was justified because the parents were "well off," and then later, the licensee alleges, Reid reported that the family could use the funds, but by then another station was broadcasting appeals so it was felt unnecessary to broadcast similar appeals. Further, the licensee countered these charges by citing two instances of fund drive participation by the station, one involving a hospital, for which $1,200.00 was raised by the station, and the other relating to the Heart Fund, which netted $8,000.00.

CONCLUSION—REFUSAL TO AIR COMMUNITY APPEALS

43. Petitioners fail to raise a material and substantial question of fact regarding the licensee's obligation to program to meet the community's needs, problems and interests because the two instances cited as violative of this duty are within the wide discretion granted licensees by the Commission to program in the public interest. *RadiOhio, Inc.*, 38 FCC 2d 721 (1973) *aff'd sub nom. Columbus Broadcasting Coalition* v. *F.C.C.*, 505 F. 2d 320, 30 RR 2d 981 (D.C. Cir. 1974).

LETTERS OF COMPLAINT

44. Two letters of complaint precipitated the aforementioned investigation by the Complaints and Compliance Division. Reid sent a letter to the Commission on March 27, 1972, alleging the unfair treatment of a candidate for the state legislature, which was later more fully described in statements offered by him and other employees. (See paras. 26–31 *supra*) Paul I. Feinman, another WHLW employee, wrote to the F.C.C. on March 28, 1972, reporting the failure of Abramson to pay over to Deborah Hospital in Browns Mills, New Jersey, all of the money collected during a fund raising campaign. Specifically, he charges that $100.00 was withheld by Abramson.

45. The Reid letter contained only allegations which were later repeated in the petition which Reid joined McAuliffe in filing April 28, 1972. These allegations have been discussed. However, the Feinman letter touched on subjects not included in the petition, which were made a subject of the investigation.

46. Commission investigators obtained from Abramson a copy of a March 3, 1972, check for $94.00 from Village Liquors, which Abramson owns, made out to cash and endorsed "For Deposit Mid-State Broadcasting Co." They also were furnished a March 3, 1972, check for $174.00 from Mid-State Broadcasting Company to Deborah Hospital. Lieberman and Abramson explained to our investigators that one contribution of $100.00 had been accepted in the form of a Diners Club credit card draft to Village Liquors because the donor preferred not to make a cash gift. After deducting the six percent service charged him by Diners Club, Abramson placed the $94.00 balance in the licensee's bank account through the first check described above, and then forwarded it along with some cash and silver which was "accumulated" following the campaign to Deborah Hospital by the second check noted above.

47. This evidence that the monies were paid over to the hospital and the explanation of the tardiness and diminution of the final payment established that no material and substantial question of improprieties surrounded the transfer to Deborah Hospital of funds collected during the campaign for it.

TECHNICAL VIOLATIONS

48. Complaints and Compliance Division requested on March 27, 1974, that the Enforcement Division of the Field Operations Bureau, monitor, record and inspect Station WHLW. On April 18, 1974, the Engineer in Charge of the Philadelphia Field Operations Office reported the results of that investigation, which disclosed the following violations:

(a) Four times the station was identified "WHLW 1170 near New York" which violates § 73.1201(b)(1) and (b)(3) concerning required station identification.

(b) On twelve days in March of 1974, operators failed to either sign on and/or off, the program logs, as required by § 73.111(a).

(c) Mutual News was not broadcast during the period monitored, 2 p.m. to 7:30 p.m. on April 1, 1974, and 6 a.m. to 11 a.m. on April 2, 1974. The reason given by station employees was that the phone line used was too noisy and distorted. The failure to correct the notation on the program logs showing that Mutual News had been broadcast is a violation of § 73.112(d).

An Official Notice of Violation, Form 793, was sent to the licensee concerning the above violations on April 19, 1974. However, the time for assessing forfeitures for these violations has passed.

49. These violations do not raise such serious questions of the licensee's ability to continue proper operation of the station as would adversely affect the renewal of the license. *Lakes Area Broadcasting Co.*, 48 FCC 2d 640 (1974).

CONCLUSION

50. Accordingly, *it is ordered*, That the application is designated for hearing pursuant to Section 309(e) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine all the facts and circumstances surrounding the past and present participation of John Edward McAuliffe, Jr., in the ownership of licensee; specifically, whether there existed at any time any arrangements, agreements or understandings, written or oral, relative to the present or future ownership, control or operation of the proposed station (BP–1708) and whether there were any documents, instruments, contracts or understandings relating to such ownership, management, use or control of the proposed station, or any right or interest therein, which was not disclosed to the Commission.

(b) To determine, in light of the evidence adduced under issue (a) above, whether the principals of the applicant misrepresented, or concealed facts from the Commission with regard to any interest of John Edward McAuliffe, Jr., in the applicant.

(c) To determine, in light of the evidence adduced under issues (a) and (b) above, whether the applicant violated § 1.514 of the Commission's rules concerning the content of applications.

(d) To determine all the facts and circumstances surrounding the filing by the applicant of all Ownership Reports (FCC Form 323) and to determine whether the reports are accurate.

(e) To determine, in light of the evidence adduced under issue (d) above, whether the applicant violated § 1.613 of the Commission's Rules and Regulations concerning the timely filing of correct Ownership Reports.

(f) To determine all the facts and circumstances surrounding the preparation and broadcast of political advertising by WHLW with specific regard to the conduct of the applicant with respect to the 1971 campaigns of the Democratic and Republican candidates for State Senate from Ocean County, New Jersey.

(g) To determine, in light of the evidence adduced under issue (f) above, whether the applicant violated § 73.120 of the Commission's Rules and Regulations concerning broadcasts by candidates for public office.

(h) To determine all the facts and circumstances surrounding a "turkey shoot" contest conducted by the applicant in the fall of 1971, including whether the applicant awarded prizes to its own employees under false pretenses.

(i) To determine, in light of the evidence adduced under issue (h) above, whether the applicant violated § 73.1205 of the Commission's Rules and Regulations concerning fraudulent billing practices.

(j) To determine, in light of the evidence adduced under the preceding issues, whether the applicant possesses the requisite qualifications to be or to remain a licensee of the Commission, and whether a grant of the application would serve the public interest, convenience and necessity.

51. *It is further ordered*, That the petition to deny the above-captioned license renewal application, filed by John McAuliffe and Arthur Reid, is granted to the extent indicated above.

52. *It is further ordered*, That Arthur Reid is made Party Respondent to the hearing ordered herein.

53. *It is further ordered*, That, in accordance with section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence and the burden of proof with respect to all of the issues herein shall be upon Mid-State Broadcasting Company.

54. *It is further ordered*, That to avail themselves of the opportunity to be heard, Mid-State Broadcasting Company and Parties Respondent, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, shall within twenty (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

55. *It is further ordered*, That, Mid-State Broadcasting Company shall pursuant to § 3.11(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: October 1, 1975.

Released: October 16, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-28151 Filed 10-17-75;8:45 am]

[Docket No. 20604; File No. BR-2578; FCC 75-1085]

NORTHWESTERN INDIANA BROADCASTING CORP.

Application for Renewal of License of Station WLTH, Gary, Indiana

1. Before the Commission for consideration are: (i) the application of Northwestern Indiana Broadcasting Corporation for renewal of license of Station WLTH, Gary, Indiana, filed April 30, 1973 (WLTH or licensee); (ii) a petition to deny that application filed July 2, 1973, by the Gary Human Relations Commission of Gary, Indiana (HRC or petitioners); (iii) the licensee's opposition to the petition to deny, filed October 1, 1973, and supplement to its opposition, filed October 23, 1973; (iv) petitioners' reply of November 16, 1973; and (v) various related and responsive pleadings and items of correspondence.[1]

2. Briefly, HRC alleges that WLTH has: (i) misrepresented facts and/or was lacking in candor to the Commission with regard to its ascertainment efforts; (ii) conducted an inadequate survey of community problems; (iii) engaged in news distortion; (iv) intimidated its audience on its phone-in talk shows; (v) misrepresented facts to the Commission in its employment reports; and (vi) has not performed as promised in its 1970 renewal application by failing to abide by an agreement entered into with petitioners. For the reasons set forth herein, we believe that substantial questions have been raised as to the truthfulness of several of the representations made in the licensee's 1973 renewal application, as amended, and whether WLTH has made any efforts to honor the terms of an agreement entered into with petitioners. Therefore, in accordance with Section 309(e) of the Communications Act of 1934, as amended, a hearing is required to determine if renewal of WLTH's license would serve the public interest, convenience and necessity.

ASCERTAINMENT

3. As Exhibit 3-A of its 1973 renewal application, WLTH submitted two surveys it had conducted to ascertain local community needs. In this exhibit, licensee represented that a survey of the general public "was conducted on a random selection basis by the station staff and others," and that a survey of 116 community leaders, "was conducted by Warren Freiberg, Vice President of the applicant, and George Uzelac, Executive Assistant to Mr. Freiberg." The results of these surveys were tabulated, according to licensee, "with the assistance of Information Research Associates of Merrillville, Indiana, professional statistical assistance . . . [and] evaluated by Freiberg, Uzelac and the other responsible officers of the applicant."

4. An analysis of petitioners' pleadings discloses that they contacted 56 of the 116 community leaders listed as being interviewed by WLTH in its 1973 renewal application. HRC submits affidavits from 27 of these persons who answered an unqualified "no" to the following questions set forth in the affidavits:

a. Were you contacted by Warren Freiberg or George Uzelac, as a representative of WLTH, with respect to this survey? Yes/No If yes, When? By Whom?

b. Were you contacted by any representative of Station WLTH with respect to the needs and problems of the Gary area? Yes/No If yes, When? By Whom?

In addition to the 27 who said they were not contacted, two persons stated that they could not recall being contacted, six stated that they were contacted and 21 statements were not supported by affidavits. Petitioners also submit that WLTH failed to follow the requirements of the Commission's Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650 (1971), because at least three persons were contacted by phone, in contradiction of the Primer's requirement of face-to-face interviews, and principals or management-level employees did not contact all of the community leaders. Specifically, they claim that George Uzelac was not, and is not, employed at WLTH in a management-level position as the licensee represented in Exhibit 3-A of its renewal application for WLTH (see paragraph 3, supra). Rather, petitioners state that Uzelac is an officer of Information Research Associates of Merrillville, the organization which tabulated the results of the ascertainment survey. They further allege that, although some community leaders were contacted, they were not contacted about needs and interests of the community; that two of the leaders who were interviewed indicated that they were contacted in April, although the licensee represented in its application that the survey was conducted between February 9 and March 20; and that the methods used by WLTH to conduct its community leader and general public surveys were not described in the application.

5. In defense of its survey, licensee states that H. B. Snyder, Jr., President and majority owner of WLTH, ". . . is satisfied that the contacts claimed to have been made were, in fact, made, although not necessarily by George Uzelac,

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[2] Commissioner Hooks concurring in the result; Commissioners Quello and Washburn dissenting.

[1] These include an amendment to the licensee's renewal application, petitioners' motion to strike that amendment, the licensee's opposition to that motion to strike, and petitioners' reply, which are discussed in paragraph 7, infra; and correspondence between the parties dealing with WLTH's contested ascertainment survey, which is discussed in paragraph 16, infra.

personally," and that ". . . Mr. Uzelac delegated portions of the survey work to others, who contacted or claimed to contact the individuals listed in the renewal application." Also, in his affidavit attached to the licensee's opposition, Snyder states that at a meeting with his lawyers, ". . . counsel explained in detail the F.C.C. requirement that the survey be taken by management-level personnel and nobody else . . . I came to the conclusion that the Primer standards had not been met." Licensee also notes that Warren Freiberg, the person chiefly responsible for the preparation of the application, has left employment with the station, and that his separation is ". . . complete and permanent." WLTH also submits affidavits from seven persons, including George Uzelac, who conducted the community leader survey. The affidavits state: [3]

a. That I was retained by Information Research Associates, Inc., to perform a survey for the purpose of ascertaining community attitudes and needs of northwestern Indiana.

b. That during the months of February and March, 1973, I interviewed either in person, by persons designated by me, in writing or by telephone the following persons, to-wit: (list follows)

c. That upon completion of said interviews, I submitted my records of said interviews with the above named persons to Information Research Associates, Inc.

Licensee further submits sixteen statements, unsupported by affidavits, from persons on petitioners' list of those not contacted (12 of whom had previously executed affidavits to the contrary for petitioners). These statements claim:

a. That I was contacted by [name of interviewer] by telephone, by mail, or in person during the month of March 1973.

b. That I was asked questions concerning my opinion of community attitudes and community needs relative to northwest Indiana.

c. That I stated my opinions of such community attitudes and needs in such interview as above taken.

6. Additionally, in its opposition, WLTH submits the unsigned and unsworn statement of George Uzelac, Jr., claiming that the survey was made by the interviewers under his supervision "without disclosing to the persons being interviewed, the name of the client or the specific purpose of the survey. The reason for this non-disclosure was to avoid a biased response from the person being interviewed."

7. Having determined that the Primer requirements had not been met, licensee submitted an October 23, 1973, amendment to its application ". . . to remove any and all possible questions concerning the survey." The amended survey, conducted by Freiberg and Snyder during July, August and September of 1973, contains 118 interviews with many of the same persons who were contacted in the original survey. Also included was information concerning the dates of the contacts, when and by whom the contacts were made, as well as the needs ascertained as a result of the survey and the programs to be broadcast to meet those needs.

8. HRC then filed a motion to strike the amendment as improper, citing Stone v. F.C.C., 466 F. 2d 316, reh. den. 466 F. 2d 331 (1972), and attacking it on the merits. Petitioners allege that the amended survey fails to meet the requirements of the Primer, and that it contains misrepresentations to the Commission. Petitioners first assert that the licensee contacted community leaders by telephone, rather than conducting person-to-person interviews, and that it misinformed the Commission about the number of persons contacted by telephone. They allege that the Primer explicitly requires face-to-face interviews, and that, while the licensee admits it conducted eleven of the "re-make" interviews by telephone, the application alone reveals it conducted at least fourteen. They further claim that of 20 of the "re-make" interviewees contacted by petitioners, nine who were listed as having been contacted in person stated that Snyder had contacted them by telephone. They also alleged that the interviewees were not asked specifically about community problems, but, rather, the licensee referred in its interviews to community "needs" and even titled its survey form "Community Needs Survey Form" in violation of the Primer's explicit use of the word "problems."

9. HRC also states that it contacted 20 of the 21 persons residing in Gary claimed by WLTH to have been contacted in its "re-make" survey, and that five of these stated that they were not contacted by Snyder or by anyone from WLTH for the survey. However, no affidavits from the five were submitted. Additionally, petitioners claim the survey shows "the licensee's lack of rapport with its community," due to the great number of people (12% of those contracted) who did not wish to participate in WLTH's ascertainment survey. Also, petitioners charge that no persons presently at the station in a management position were involved in the survey. Further, HRC contends that the programs proposed by WLTH to meet local needs are "grossly inadequate."

10. In defense of its amendment, WLTH responds that two of the five community leaders claimed by petitioners not to have been contacted, Henry Coleman and Juanita Butler, were identified in the interview forms as unreachable, but were inadvertently included on the list of those contacted by the person typing the list. Two others, Joel Johnson and Jon Evans, submitted unsworn statements that they were, in fact, contacted by Mr. Snyder. The licensee also claims that one of its interviewees, a Reverend Brooks, ". . . was contacted, whether Rev. Brooks remembers the contact or not." [4] WLTH also defended its telephone contacts with community leaders, stating that the nine persons claimed by petitioners to have been listed wrongly as contacted in person were, in fact, contacted by phone, but were mistakenly listed as "in-person" due to different tabulation methods of the persons preparing the list for WLTH's amendment.

11. In considering petitioners' allegations with respect to WLTH's survey efforts, we turn first to the amended community leader survey. As noted, petitioners moved to strike the amendment, citing *Stone* (see paragraph 8, *supra*). However, referring specifically to Section 1.522 of the Commission's Rules,[5] the *Stone* Court held that:

> [I]t was not harmful to the public interest to allow a licensee to submit an amendment to its prospective ascertainment findings, even after a Petition to Deny has been filed. 466 F.2d at 331.

The *Stone* prohibition against multiple amendments speaks to repeated and fragmentary ascertainments, ostensibly submitted in bad faith simply in order to thwart petitions to deny. Here, the amendment serves the very purpose petitioners would seem to pursue; that is, the licensee has discovered, through petitioners efforts, that its original effort was lacking and accordingly has made a new effort to ascertain community needs, problems and interests, in compliance with the Commission's Rules. The purpose of petitions to deny is not to vindicate personal rights, but to enforce the public's right to have its licensees, as public trustees, perform in the public interest. Such purpose seems to have been accomplished here. Therefore, we find that the amendment is acceptable under our rules, and accordingly, petitioners' motion to strike will be denied. See *Roy H. Park Broadcasting of Virginia, Inc.*, FCC 75-939, released August 12, 1975.

12. Having accepted WLTH's amendment, the questions raised by petitioners as to whether the original survey was adequate are rendered moot. There remain, of course, the allegations of misrepresentation in WLTH's reporting of that initial ascertainment. See *Roy H. Park Broadcasting of Virginia, Inc., supra*.

13. In fact, we believe petitioners have raised serious questions concerning the truthfulness and accuracy of WLTH's representations with regard to both its original and amended community leader surveys. In the first instance, we note that the licensee never directly confronts petitioners' accusation that George Uzelac is not a management-level employee as represented in Exhibit 3-A of WLTH's

[3] In particular, the affidavit of George Uzelac, Jr., stated that he acted as "president of Information Research Associates, Inc.," and that, "I, as President . . . received the reports and working papers of all members of my staff conducting said survey and that under my supervision John Maiolo and Inder Khera made an analysis and evaluation of the results of said survey and prepared a report of their findings."

[4] See discussion regarding the Reverend Brooks controversy in paragraph 16, *infra*.

[5] Section 1.522 of the Rules provides, in pertinent part, that ". . . any application may be amended as a matter of right prior to the adoption date of an order designating such application for hearing."

renewal application, nor does it rebut the allegation that it misrepresented Uzelac and Freiberg as the sole ascertainment interviewers. Uzelac describes himself, in an affidavit attached to the opposition to the petition to deny, as "President of Information Research Associates, Inc." (see note 2, *supra*). Uzelac does not, however, state that he was a principal or manager of licensee corporation, or otherwise deny petitioners' charges in this regard. Moreover, the licensee does not respond to this charge in either its opposition pleadings or the affidavit of H. B. Snyder, Jr. Thus, the Commission believes that a question has been raised which warrants further inquiry in hearing, and an appropriate misrepresentation issue will be specified herein.

14. With respect to the interviewers used by WLTH in its original ascertainment, WLTH admits that not all of the community leaders interviews were conducted by Freiberg and Uzelac, as represented in its application: "* * * Mr. Snyder is satisfied that the contacts claimed to have been made were, in fact, made, *although not necessarily by George Uzelac, personally.*" (emphasis added). Also, in his affidavit attached to the opposition as "Exhibit B," Snyder states that, in discussing the survey, "* * * I came to the conclusion that the Primer standards had not been met." Further, WLTH relies on the affidavits of six persons, not employed at WLTH, who state that they contacted community leaders for Information Research Associates, Inc., (see paragraph 5, *supra*). Thus, by the evidence presented from petitioners, and by licensee's own admission, it appears that Uzelac and Freiberg did not, in fact, contact all community leaders, as represented, and that licensee may have misrepresented the facts regarding the WLTH officials who conducted its community leader survey. This matter may be explored under the misrepresentation issue to be specified herein.

15. A similar misrepresentation issue is raised by the affidavits from 27 persons claiming not to have been interviewed. Although licensee has submitted statements from 12 persons on this list of "no contacts," contradicting their previous sworn statements, they are unsupported by affidavit as required by Section 309(d) of the Act and, thus, we are unable to attach evidentiary weight to them. See *Itawamba County Broadcasting Co., Inc.*, 46 FCC 2d 60, 62 (Rev. Bd. 1974). Also, 15 of the affidavits submitted by HRC remain uncontroverted by WLTH. The applicant claims that "the survey was made by these persons without disclosing to the persons being interviewed [either] the name of the client or the specific purpose of the survey. The reason for this non-disclosure was to avoid a biased response from the person being interviewed." [5] However, this claim is made in the unsigned and unsworn statement of Mr. Uzelac, attached to the licensee's opposition to the petition. Having the same procedural failing as WLTH's other statements, it may not be accorded evidentiary value sufficient to rebut HRC's sworn allegations. While licensee's explanation may well account for the numerous affidavits of leaders who state that they were not contacted by WLTH, we cannot be sure without the benefit of a full evidentiary inquiry, in light of petitioners' showing. This question will be explored under the misrepresentation issue to be specified herein.

16. Finally, in the face of one particular contested interview, that of "Rev. Brooks," the Commission believes that yet another serious question has been raised by the pleadings and related correspondence. In its original survey, WLTH listed "Rev. Brooks" as a black male, community agency executive. In its petition, HRC lists Brooks as one of those not contacted, and submitted an affidavit from "William M. Brooks" to this effect in support of its claim. WLTH responded with an unsworn statement, Item 18 attached to its opposition, from "William M. Brooks" stating that he was contacted by one of Mr. Uzelac's interviewers. In addition, John Maiolo, an interviewer employed by Uzelac, stated, in an affidavit, that he, or someone designated by him, interviewed "Rev. William M. Brooks." In WLTH's amended survey, "Rev. Brooks" is again listed as a black male, but is further identified as a minister. In their motion to strike the amendment, petitioners again assert that "Rev. Brooks" was not contacted. In response, by letter of April 16, 1974, counsel for WLTH states that licensee agrees that it did not contact Reverend William Brooks, but rather, that it contacted Reverend Georgia Brooks, who formerly was a broadcaster on WLTH, and who was erroneously listed as a male on the interview sheet and in the applications.[6] The licensee follows with an affidavit from Snyder, filed May 20, 1974, supporting this claim. By letter of November 14, 1974, petitioners respond with an affidavit from "Georgia Brooks, missionary" (sic) who formerly was a moderator on a WLTH program, stating that she never has been referred to as "Reverend." To this charge, WLTH replies with a letter on December 6, 1974, enclosing a brochure used by Georgia Brooks, which refers to her as "missionary" (sic) and states, "most lay persons regard her as a radio minister and would address her as 'Reverend.'" It also states that Ms. Brooks is indebted to WLTH under contracts for radio time for her show.[7]

17. In view of the above, we believe a question is raised as to whether the licensee misrepresented its contact with "Rev. Brooks." Of particular interest to us, is that, after being confronted with petitioners' affidavit from "William M. Brooks," the licensee responded with a statement from "William M. Brooks" that he has been interviewed, although six months later, in its April 16, 1974, letter to the Commission, WLTH contends that no William Brooks was interviewed. Despite twice listing Brooks as a male in its ascertainment surveys, it now contends that Brooks is a female lay minister. This appears to cast doubt on licensee's claim that it made the contact as represented in both its original and amended surveys. Since, "Rev. Brooks" was listed in both surveys as having been contacted, the misrepresentation issue must include the amended survey and subsequent correspondence. However, petitioners have failed to show that four other persons, listed in the amended survey, were not contacted (see paragraph 9, *supra*) in that they failed to submit affidavits to this effect and later admitted that two of the five were, in fact, contacted.

18. The charges relating to WLTH telephone interviews are without merit. We have stated in the past that telephone interviews are not *per se* unacceptable if the licensee has contacted a cross-section of the community and a meaningful dialogue has been established. See *California Stereo, Inc.*, 39 FCC 2d 401 (Rev. Bd. 1973); and *Further Notice of Proposed Inquiry and Notice of Proposed Rule-making on Ascertainment of Community Problems by Broadcast Applicants*, FCC 75-540, Docket No. 19715 (released May 15, 1975), at paragraph 46. Further, we find no issue raised by the licensee's failure to show all telephone interviews on its amended survey, since clerical inadvertence seems to have been the cause. Also, the failure of an applicant to inform the Commission that interviews were conducted by phone does not necessarily warrant addition of any issue. See *California Stereo, supra*.

19. HRC's assertion that the licensee did not ask specifically about community "problems" is also without merit. Although the Commission has designated "problems" as the short form of the phrase "problems, needs, and interests," no adherence to such language is required in contacts with members of the community as long as the information ultimately solicited is that which the applicant is expected to acquire under the *Primer, supra*.

20. We further find no issue raised by the vague and unsupported claim that the licensee has exhibited a "lack of rapport" with the community, nor by the assertion that no person conducting the amended survey presently holds a management-level position, at the station. Moreover, ascertainment of community needs is a prospective effort. While we encourage the establishment of person-to-person relationships between community leaders and broadcast stations management, it would be unreasonable

[5] By letter of July 16, 1975, counsel for WLTH again stated ". . . the record shows that Mr. Uzelac allowed assistants to make community leader interviews . . . and [they] failed to identify themselves as being from WLTH . . ."

[6] In its January 30, 1974 opposition to the motion to strike amendment, WLTH encloses a copy of an interview sheet, giving "Rev. Brooks" as the name of the respondent, and noting the sex as female.

[7] Letters of December 31, 1974, from HRC, and of January 15, 1975, from WLTH also were exchanged but added no further evidence to the debate.

to fault a survey simply because the person conducting it had left the station's employment. See, *Key Stephens*, 53 FCC 2d 389 (Rev. Bd. 1975).

21. Finally, regarding petitioners' charge that WLTH has proposed insufficient programming to meet local needs, we find no serious question raised. A review of licensee's application and subsequent amendments [*] shows that WLTH proposed three programs to meet specifically enumerated local needs:

Viewpoint, aired daily from 12:15 to 1:30 p.m., a telephone talk show; *Harriet Fuller Show*, broadcast 11:05 to 12 noon daily; and *Senator Clay's Rap Line*, aired 4 to 5 p.m. It appears that, acting within its discretion, WLTH has proposed programs that are satisfactorily correlated to meet the local needs ascertained, and thus, we find no merit to HRC's allegation.

News Distortion

22. Petitioners next allege that the management of WLTH is guilty of news distortion, citing a number of specific instances of such distortion, all of which are directed at Warren Freiberg, WLTH's former vice-president and general manager. Referring in particular to *The Warren Freiberg Show* and *Warren Freiberg's Viewpoint*, petitioners claim that "the licensee regularly resorts to distortion of news, half truths, and fabrications." One instance, listed by petitioners, concerned the rape of a local high school girl near her school. Petitioners state that Freiberg broadcast that the girl had been raped in the school cafeteria, although the police report made no mention that the girl had been attacked at the school. The school principal called Freiberg to tell him of the error and was rebuffed, with Freiberg refusing to correct his story. According to petitioners, WLTH was the only one of all of the local media which referred to the rape as having taken place at the school. In another instance, HRC states that Freiberg gratuitously added racial overtones to a story about a fight at a school, claiming that "inter-racial beatings" had taken place, when, in fact, the fight had taken place between two white students, as the mother of one of the students reportedly informed him. Petitioners claim that Freiberg even ran a tape of his conversation with this parent about the fight, but cut out the section in which she stated that both participants were white. Three other similar instances of such alleged distortion, and refusal to make corrections when confronted with the facts, are alleged by HRC, from their own monitoring of the station and from letters of complaint from local citizens.[*]

23. Petitioners also allege that the licensee engaged in intimidation of its audience, and thereby, failed to afford the public free and open discussion of controversial issues of public importance. HRC contends that Freiberg, in hosting his talk shows, was consistently rude to callers who disagreed with his views, to the point of degrading them, and engaging in "a pattern of operation which includes intimidation, harassment, and ridicule," and thereby denying the public free and open discussion. Here again, petitioners cite a number of letters of complaint from local citizens who claim that they were not allowed freely to express their views on Freiberg's listener phone-in talk shows. They claim they were met instead with sarcasm and rudeness, that they were generally intimidated from talking freely, and in some instances were disconnected if they disagreed with Freiberg. They also mentioned a November 10, 1971, letter to the licensee from the Complaints and Compliance Division of the Commission admonishing the station for Freiberg's discouragement of "robust-wide-open debate" on controversial issues of public importance by intimidating and harassing callers.

24. In opposition to these charges, WLTH contends that petitioners' allegations are directed exclusively toward Warren Freiberg, and that any investigation would involve inquiry into his "journalistic decisions, as well as his confidential news sources." The licensee claims, therefore, that, since Freiberg has left employment at the station, "no useful purpose would be served by any attempted investigation on the part of the licensee into Freiberg's stewardship of the WLTH news department." Licensee declines further comment, contending that this would be detrimental to its ongoing negotiations with petitioners.

25. Regarding petitioners' allegations of news distortion, we must first reject WLTH's claim of mootness owing to Freiberg's departure from the station. Petitioners' charges go not only to an individual employee, but to the conduct of the licensee, as it has long been held that a licensee is liable for the wrongful acts of its employees. *Empire Broadcasting Corp.*, 25 FCC 2d 68, 69 (1970). However, we are proscribed from taking any further action with regard to these complaints. The Commission traditionally has refused to supervise in any way the programming or news judgment of a broadcast licensee. See section 326 of the Communications Act of 1934, as amended, 47 U.S.C. 326. We are not the national arbiter of truth, and, indeed, must eschew such a role as it would constitute a worse danger than possible unfairness or distortion. See *Columbia Broadcasting System, Inc.* v. *Democratic National Committee*, 412 U.S. 94 (1973). The Commission cannot commence action on complaints of distortion of news unless accompanied by significant extrinsic evidence that news deliberately has been distorted or fabricated. This evidence must implicate the licensee, its top management, or its news management, and be from a source with direct personal knowledge of the intentional attempt to falsify the news. Letter to Mrs. J. R. Paul, 26 FCC 2d 591 (1969). Here, petitioners have failed to submit any such evidence, nor have they supported their allegation with affidavits. Accordingly, although we would be concerned by these charges if true, we have insufficient evidence to warrant further inquiry on news distortion.

26. As to HRC's allegation that the station, particularly Freiberg, intimidated its talk show callers, the cited letters of complaint as shown in the Commission's complaints folder for WLTH (see paragraph 23, *supra*), suggest that licensee's behavior might be of the same variety for which the Commission has admonished WLTH in the past. As such, the licensee should be forewarned that evidence of a continuation or pattern of the kind of conduct complained of here could adversely affect its qualifications to remain a Commission licensee. However, as no hard evidence supported by affidavit is submitted by petitioners, and since there is no record of such conduct in the complaints file since mid-1973, we find no issue warranted.

WLTH's List of Employees

27. HRC also alleges that the licensee misrepresented the number of persons employed by WLTH. Specifically, petitioners claim that the staff list submitted by the licensee in answer to Question 31 of Section IV–A of the station's renewal application includes the names of several persons who were not actually on the paid staff of the station when the application was filed. Two persons listed by the licensee as full-time employees, Bill Fisher and Robert Guerrero, Jr., are claimed to have left the station in mid-February, two months before the employment list was filed. In addition, Kirby Jefferies, listed as full-time, allegedly was working only 10–12 hours per week. Further, three others also are claimed not to be paid employees: George Uzelac (paragraph 13, *supra*), is said to be president of a research corporation, and not a full-time assistant to Freiberg; Roy Harris, listed as a part-time announcer, is claimed to be an unsalaried public service announcer; and Robert Guerrero, Sr., listed as a part-time news

[*] WLTH submitted an additional amended ascertainment survey on August 15, 1975, almost two and one-half years after its application was filed. Although we accept this amendment in accordance with Section 1.522 of the Commission's Rules, this is not to be construed as Commission approval of lengthy delays in the amendment of applications. We wish to make clear that we are using this amendment only for the limited purposes of determining the implementation of WLTH's proposed programming as set forth in its 1973 renewal application, as amended. We do not intend, and would not permit, any "upgrading" of the licensee's past programming performance, which properly must be confined to the 1970–73 period covered by the challenged application.

[*] Also, the station's complaints folder contains a number of letters from Gary area citizens complaining of these incidents, of racially divisive rhetoric and of distroted news.

and sports announcer, is alleged to be unpaid also, working on a trade-out basis with the station in exchange for free advertising for his barber shop. Finally, petitioners state that only five of the station's 26 employees are members of minority groups, "a dismal record in a city over 60 percent non-white."

28. In opposition to these allegations, the licensee concedes petitioner's charges about the status of "employees" Fisher, Guerrero, Jr., Harris and Guerrero, Sr. However, it states that Guerrero, Jr. has resumed full-time employment and that Jefferies, since he works every day, even though only from 3:00 to 5:00 p.m., is correctly classified as a full-time employee.

29. In analyzing HRC's allegations regarding WLTH's alleged misrepresentation of its employment profile, and of the status of six named employees, we note that licensee offered no explanation why these persons were incorrectly represented as station employees (with the exception of reasons for considering Jefferies full-time). It is a fundamental principle of Commission operation, that the Commission must be able to rely upon the representations made in applications, pleadings and correspondence. *KORD, Inc.*, 31 FCC 85 (1961). Having failed to explain away the discrepancies raised by petitioners with respect to its list of employees, we find that a material question is raised as to whether WLTH misrepresented facts, or was lacking in candor, concerning its employment list. This matter must, therefore, be fully explored under the misrepresentation issue to be specified herein.

30. However, we find no question raised by the applicant's minority employment figures. In a Standard Metropolitan Statistical Area (SMSA) of 23.9 percent total minority population,[10] the station's FCC Form 395's showed that it employed 21 percent minorities (four of 19 full-time employees) in 1973, 24 percent (four of 17 employees) in 1974, and 18 percent (three of 17 employees) in 1975. We find that this percentage is within a "zone of reasonableness." See *Bilingual Bicultural Coalition of Mass Media, Inc.*, v. *F.C.C.*, 492 F.2d 656, 29 RR 2d 745 (D.C. Cir. 1974).

THE 1970 AGREEMENT

31. Additionally, petitioners claim that WLTH has not abided by an agreement it entered into with HRC. They contend that they withdrew a complaint against the licensee on September 10, 1970, in reliance upon the August 21, 1970 agreement which, they state, was "an amendment to the pending renewal application." They contend that the agreement states that any "material variance shall be deemed to be failure [of the licensee] to operate substantially as set forth in the license." HRC specifies that the station: (i) did not invite HRC to assist in its ascertainment; (ii) failed to make monthly announcements of its desire to discuss community needs with all citizens; (iii) did not convene meetings with HRC on a regular basis (at least once every four months);[11] (iv) failed to establish an affirmative action training program; (v) did not make the promised weekly announcements concerning equal employment opportunity; (vi) continues to distort the news;[12] (vii) failed to broadcast programming dealing specifically with poverty; (viii) failed to hire a full-time black announcer to handle news from the black community; (ix) did not air announcements indicating that all groups have the opportunity to have PSA's aired; and (x) has not determined its programming through a continuing ascertainment of community interests, needs and desires. Licensee, however, does not address itself to these charges in its opposition or any subsequent correspondence. Indeed, the only reference made by WLTH to this issue is in its opposition where it states that it "* * * does not now propose to enter into a debate concerning its * * * agreements with HRC."

32. We are concerned by licensee's refusal to respond to these serious charges involving an amendment to its 1970 renewal application. Without such a response, we are unable to determine whether WLTH made any efforts to honor the terms of its agreement with petitioners. Based on the information now before us, it appears that WLTH may have entered into the 1970 agreement solely for the purpose of obtaining petitioners' dismissal of its prior petition to deny, rather than with an intent to honor the agreement once the petition was withdrawn. Such an abuse of the process of community dialogue cannot be tolerated and falls well below the standard of conduct expected of a broadcast licensee. In this regard, the Commission has stated that ". . . on a showing of reasonable cause to believe that either party has abused the process of community dialogue, we will seek to ascertain whether action by the Commission would be appropriate." *Proposed Policy Statement and Notice of Proposed Rulemaking Re: Agreements Between Broadcast Licensees and the Public*, FCC 75-633, released June 10, 1975. In our view, licensee's failure to rebut petitioners' allegations, or even respond to these allegations, warrants evidentiary inquiry upon licensee's efforts, if any, to honor the terms of the agreement.

33. Moreover, even if our further inquiry finds no abuse of the agreements process, this would not necessarily dispose of the "promise versus performance" question presented by petitioners, since any substantial variation from the representations in an application may affect not only our view of the licensee's past performance but also our confidence in its future stewardship. Accordingly, the promise-versus-performance element can be explored under Issue (ii) below.

34. Accordingly, *it is ordered*, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned license renewal application, is designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

(i) To determine whether the licensee of WLTH made misrepresentations of fact or was lacking in candor in its representations to the Commission in its 1973 renewal application and subsequent amendment and correspondence related thereto.

(ii) To determine the efforts, if any, made by the licensee of WLTH to comply with the terms of an amendment to its 1973 renewal application encompassing an agreement which it entered into with the Gary Human Relations Commission.

(iii) To determine whether, in light of the evidence adduced pursuant to the foregoing issues, a grant of the subject license renewal application would serve the public interest, convenience and necessity.

35. *It is further ordered*, That the petition to deny the above-captioned license renewal application, filed by the Gary Human Relations Commission of Gary, Indiana is granted to the extent indicated herein, and is denied in all other respects.

36. *It is further ordered*, That the "Motion to Strike Amendment for Limited Purposes" filed by petitioners is denied.

37. *It is further ordered*, That the Gary Human Relations Commission of Gary, Indiana is made a party to the hearing ordered herein.

38. *It is further ordered*, That, in accordance with Section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence upon issues (i) and (ii) shall be upon the petitioners, Gary Human Relations Commission, and the burden of proof shall be upon the applicant, WLTH, with respect to all issues herein.

39. *It is further ordered*, That to avail themselves of the opportunity to be heard, applicant and petitioners shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in the Order.

[10] See 1970 U.S. Census Bureau General Social and Economic Characteristics for Indiana.

[11] HRC contends that only one meeting was ever held, on March 3, 1971, and that such meeting was called at its insistence, rather than the licensee's.

[12] While we believe that licensee's efforts to meet the terms of the 1970 agreement should be explored in hearing (see paragraph 32, *infra*), we have already determined that petitioners have failed to raise a question concerning news distortion at WLTH (see paragraph 25, *supra*). Accordingly, the hearing issue specified below is not intended to explore the unsupported allegations of news distortion.

40. It is further ordered, That WLTH shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: September 24, 1975.

Released: October 7, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-28152 Filed 10-17-75;8:45 am]

INDUSTRY ADVISORY COMMITTEE TO THE FCC STEERING COMMITTEE

Notice of Meeting

OCTOBER 15, 1975.

A meeting of the Industry Advisory Committee to the Federal Communications Commission Steering Committee for the 1979 General World Administrative Radio Conference is scheduled to be held on Monday, November 3, 1975, at 10:00 A.M. in Room 8210 of the Commission's offices located at 2025 M Street NW., Washington, D.C.

This meeting will be held to consider the progress of the various WARC '79 preparatory sub-elements, to evaluate that progress, and to solicit suggestions from the Advisory Committee regarding the WARC '79 preparatory effort. Additionally, issues identified at the previous meeting on September 29, 1975, will be discussed. Membership on the Committee is limited to Commission invitation; however, attendance at this meeting will be open to the general public and any written comments will be accepted.

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

[FR Doc.75-28281 Filed 10-16-75;2:24 pm]

[1] Commissioner Hooks absent.

FEDERAL ENERGY ADMINISTRATION

MODIFICATION OR TERMINATION OF THE STATE SET-ASIDE PROGRAM

Notice of Schedule for Regional Public Hearings

On July 16, 1975, the Federal Energy Administration issued a notice of proposed rulemaking and public hearing concerning a proposal to modify or terminate the State set-aside program (40 FR 30500, July 21, 1975). By notice issued August 7, 1975, the public hearing scheduled for August 12, 1975, in Washington, D.C., was postponed in light of a number of requests by interested parties that public hearings in this matter be held on a regional basis. (40 FR 33724, August 11, 1975).

In response to these requests FEA has scheduled the following regional hearings with respect to the modification or termination of the state set-aside program:

Location	Date	Address
Boston, Mass.	Tuesday, Nov. 18, 1975.	1 Ashburton Place, 21st Floor Conference Room.
Atlanta, Ga.	Wednesday, Nov. 19, 1975.	Environmental Protection Agency Bldg., 1421 Peachtree St., 5th Floor Conference Room.
Chicago, Ill.	Thursday, Nov. 20, 1975.	Everett McKinley Dirksen Federal Bldg., 219 South Dearborn St., 23d Floor Public Hearing Room (Room 2203).
San Francisco, Calif.	Friday, Nov. 21, 1975.	U.S. Patent Office and Court of Appeals, 7th and Mission Sts., Courtroom 14, 2d Floor.

NOTE.—Each of the scheduled hearings will begin at 9:30 a.m., local time, on the date indicated.

Any person who has an interest in the subject of the hearings or who is a representative of a group or class of persons which has such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, Room 3309, Federal Energy Administration, Box EK, The Federal Building, Washington, D.C. 20461 and must be received before 4:30 p.m., e.s.t., October 31, 1975. Such a request may be hand delivered to Executive Communications at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. The person making the request should specify the location and date of the hearing for which the request is made; describe the interest concerned; if appropriate, state why he or she is a proper representative of a group or class of persons which has such an interest; and give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through November 14, 1975. Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.s.t., November 3, 1975 and must submit 100 copies of his or her statement to FEA by 9:30 a.m. on the day of the hearing at the location where the hearing will be held.

In addition to providing this general notice, FEA will attempt to contact all persons who requested an opportunity to make an oral presentation on August 12, to inform them of the regional hearings.

The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested persons may submit questions to be asked of any person making a statement at the hearings to Executive Communications, FEA, before 4:30 p.m., e.s.t. November 7, 1975. Any person who makes an oral statement and who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained by the FEA and made available for inspection in the Administrator's Reception Area, Room 3400, Federal Building, 12th and Pennsylvania Avenue, N.W., Monday through Friday. Any person may purchase copies of the transcript from the reporter.

In addition to the scheduled regional hearings, FEA will continue to receive written data, views, and arguments with respect to the proposed modification or termination of the State set-aside program through November 10, 1975. All such written comments should be addressed to Executive Communications, Room 3309, Federal Energy Administration, Box EK, Federal Building, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to the Federal Energy Administration with the designation "State Set-Aside Program." Fifteen (15) copies should be submitted. All comments received by 4:30 p.m., November 10, 1975, will be considered by FEA in evaluating the proposals.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing in accordance with the procedures stated in 10 CFR 205.9(f), one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to FEA's determination.

Issued in Washington, D.C., October 15, 1975.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

[FR Doc.75-28135 Filed 10-15-75;1:35 pm]

STATE REGULATORY ADVISORY COMMITTEE, EXECUTIVE SUBCOMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 85 Stat. 770), notice is hereby given that the Executive Subcommittee of the State Regulatory Advisory Committee will meet Tuesday, November 4, 1975, at 2:30 p.m., Board Room, Sheraton Boston Hotel, Prudential Center, Boston, Massachusetts.

The purpose of the meeting will be to discuss the structure of the Advisory Committee, the scheduling of future Committee meetings, and the future role of the Committee in advising FEA on matters related to the utility industry and its regulations.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management, (202)-961-7022 at least 5 days before the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection at the Federal Energy Administration, Washington, D.C.

Issued at Washington, D.C. on October 15, 1975.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

[FR Doc.75-28219 Filed 10-16-75;10:53 am]

MANDATORY BEVERAGE CONTAINER DEPOSIT LEGISLATION; ECONOMIC AND ENERGY IMPACT

Availability of Study for Comment

The Federal Energy Administration has conducted a study of the economic and energy impact of mandatory beverage container deposit legislation. A draft copy of this study will be available for inspection in the Federal Energy Administration Public Reading Room, Room 206, Old Post Office Building, 11th and Pennsylvania Avenue, NW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday. A draft copy of the study will also be available for inspection in each regional office of the Federal Energy Administration during regular working hours.

Interested persons are invited to submit data and/or comments with respect to the study to the Office of Energy Conservation and Environment, FEA, Washington, D.C. 20461. Comments should be sent to the attention of M. Zusman. All comments received by November 14, 1975, will be considered by FEA for incorporation into the final report.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., October 14, 1975.

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

[FR Doc.75-28072 Filed 10-15-75;9:42 am]

FEDERAL MEDIATION AND CONCILIATION SERVICE

ARBITRATION SERVICES ADVISORY COMMITTEE

Meeting

NOTE.—The following document, which originally appeared in the FEDERAL REGISTER of October 3, 1975 at page 45874, is being republished because it did not appear in the table of contents of that issue.

Notice is hereby given that the Federal Mediation and Conciliation Service Arbitration Services Advisory Committee, in accordance with section 10 of the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776), will meet on Thursday, November 6, and Friday, November 7, 1975, in the Toulouse Room of the Delta Towers Hotel, 1732 Canal Street, New Orleans, Louisiana. The meeting will commence at 2 p.m. on November 6 and 9 a.m. on November 7.

The agenda for the meeting is as follows:

1. Review of Committee suggestions and actions since prior meeting.
2. Proposed revision of rules and regulations, including removal procedure.
3. Structuring Office of Arbitration Services with regional representation.
4. Current statistical report.
5. Additions to roster of arbitrators.
6. Arbitrator symposiums.
7. Code of professional responsibility.
8. Arbitration development program.

The meeting shall be open to the public.

Communications regarding this meeting should be addressed as follows:

Mr. Lawrence B. Babcock, Jr., Executive Assistant to the National Director, Federal Mediation and Conciliation Service, Washington, D.C. 20427.

Signed at Washington, D.C., this twenty-ninth day of September 1975.

W. J. USERY, Jr.,
National Director.

[FR Doc.75-26538 Filed 10-2-75;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (75-82)]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL

Notice of Meeting

The NASA Research and Technology Advisory Council will meet on November 6-7, 1975, in Room 625 of Federal Office Building 10B at NASA Headquarters, 600 Independence Avenue, SW., Washington, DC 20546. The meeting will be open to the public on a first-come, first-served basis up to the seating capacity of the room, which is about 40 persons.

The NASA Research and Technology Advisory Council was established to advise NASA's senior management in the area of aeronautics and space research and technology. The Council studies issues, pinpoints critical problems, determines gaps in needed technology, points out desirable goals and objectives, summarizes the state of the art, assesses ongoing work, and makes recommendations to help NASA plan and carry out a program of greatest benefit to the nation. The Chairman is Dr. Ronald Smelt. There are 17 members on the Council itself and additional members on five committees and four panels which report to the Council.

The following list sets forth the approved agenda and schedule for the meeting. For further information, please contact the Executive Secretary, Mr. C. Robert Nysmith, Area Code 202, 755-3150.

NOVEMBER 6, 1975

Time	*Topic*
8:30 a.m.	NASA Program Overview (Purpose: To brief the Council on the status of the NASA FY 1976 program and potential future programs.)
9:30 a.m.	Office of Aeronautics and Space Technology (OAST) Program Overview (Purpose: To brief the Council on the status of the OAST FY 1976 program and possible future thrusts in aeronautics and space technology.)
10:30 a.m.	Update on Status of OAST Outlook for Aeronautics and Aircraft Energy Efficiency Technology (Purpose: To discuss activities in progress and issues identified by these studies.)
11:00 a.m.	NASA/Air Force Program Relationships (Purpose: To brief the Council on activities and plans to implement suggestions made at the last Council meeting with regard to joint NASA/Air Force programs.)

NOVEMBER 7, 1975—Continued

Time	Topic
11:30 a.m.	Discussion of FY 1977 Congressional Activities (Purpose: To inform the Council of FY 1977 Congressional activities and afford an opportunity to discuss participation by the Research and Technology Advisory Council.)
1:00 p.m.	Status of Issues and Recommendations (Purpose: To discuss NASA actions in response to previous issues and recommendations from the Council.)
	Committee and Panel Reports (Purpose: To permit the Chairman of each committee and panel to identify issues and recommendations from the last meeting of his committee/panel, including background briefings where necessary to familiarize the Council with selected issues, and to allow time for the Council to discuss the committee/panel issues and recommendations. Background briefings planned are identified under the appropriate committee or panel name.)
1:30 p.m.	Committee on Energy Technology and Space Propulsion (Proposed to be changed to Committee on Space Propulsion and Power)—Space Propulsion and Power Report
2:30 p.m.	Committee on Guidance, Control and Information Systems—Flight Computer Software Plan
4:15 p.m.	Panel on General Aviation Technology
3:30 p.m.	Panel on Space Vehicles—Critique of Outlook for Space—Long-Duration Exposure Facility (LDEF) Review
5:15 p.m.	Panel on Research

NOVEMBER 7, 1975

Committee and Panel Reports (Continued)

8:00 a.m.	Committee on Materials and Structures
8:45 a.m.	Panel on Aeronautical Operating Systems
9:30 p.m.	Committee on Aerodynamics and Configurations
10:15 a.m.	Committee on Aeronautical Propulsion—NASA's Involvement in Future Engine Development Programs—Report on Activities of Ad Hoc Panel on Jet Engine Hydrocarbon Fuels
11:15 a.m.	Council Deliberations and Preparation of Report to NASA (Purpose: To allow time for the Council to categorize and document recommendations and observations to be reported to NASA.)

NOVEMBER 6, 1975—Continued

Time	Topic
2:00 p.m.	Informal Council Report to NASA (Purpose: The Council will report recommendations to senior NASA officials, and other highlights of the meeting will be discussed.)
3:30 p.m.	Adjournment

WILLIAM W. SNAVELY,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

OCTOBER 15, 1975.

[FR Doc.75-28140 Filed 10-17-75;8:45 am]

[Notice 75-83]

SPACE SCIENCE STEERING COMMITTEE, AD HOC ADVISORY SUBCOMMITTEE TO REVIEW THE PHASE 1 DEFINITION STUDIES OF THE SOLAR MAXIMUM MISSION PAYLOAD

Notice of Meeting

The NASA Ad Hoc Advisory Subcommittee of the Space Science Steering Committee to review the Phase 1 Definition Studies of the Solar Maximum Mission Payload will meet at the Goddard Space Flight Center in Greenbelt, Maryland on November 4, 5 and 6, 1975. The meetings will be held in Room 200 in Building 26 from 9:00 am to 5:00 pm on 4 and 5 November and from 9:00 am to 12:30 pm on 6 November. The Subcommittee will evaluate the results of the Solar Maximum Mission (SMM) Experiment Phase 1 Definition Studies and will recommend an experiment complement which will achieve the primary objectives of the SMM mission. Throughout the Subcommittee sessions, the professional qualifications of the proposers and their potential scientific contributions to the Solar Maximum Mission as well as the merits of their proposed instruments will be candidly discussed and appraised.

Discussion of these matters in a public session would invade the privacy of the Principal Investigators and the other individuals involved. The meeting will be closed to members of the public.

Since the Subcommittee session will be concerned throughout with matters listed in 5 USC 552(b)(6), it has been determined that the session will be closed to the public.

For further information please contact Dr. Adrienne F. Timothy at 202-755-8490.

WILLIAM W. SNAVELY,
Assistant Administrator for DOD and Interagency Affairs.

OCTOBER 15, 1975.

[FR Doc.75-28217 Filed 10-17-75;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

FEDERAL-STATE PARTNERSHIP ADVISORY PANEL

Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal-State Partnership Advisory Panel to the National Council on the Arts will be held on November 5, 6, and 7, 1975 from 9:30 a.m.-5 p.m. On November 5, this Panel will meet in the banquet room of the Performing Arts Center in Milwaukee, Wisconsin; on November 6, in the Wingspread Conference Center in Racine, Wisconsin; on November 7, in the board room of the Performing Arts Center, Milwaukee, Wisconsin.

A portion of this meeting will be open to the public on November 5 and 6 from 9:30 a.m.-5 p.m. on a space available basis. Accommodations are limited. During the open session on November 5, Regional Program, Program Development, and Services to the Field will be discussed; on November 6, Basic State, Grants, Community Development, General Programs, and General Discussion. Each discussion will open with panel-coordinator-staff participation. The Chairman will open up the discussion to guests at the appropriate point. Douglas Richards will present a report at the November 5 Regional discussion.

The remaining sessions of this meeting on November 7 from 9:30 a.m.-5 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552 (b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.75-28108 Filed 10-17-75;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR ENVIRONMENTAL BIOLOGY

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Environmental Biology. Date: November 6 and 7, 1975. Time: 9:00 a.m. each day. Place: Rm. 643, National Science Foundation, 1800 G Street, NW., Washington, D.C. Type of meeting: Closed.

Contact person: Dr. Paul G. Risser, Program Director for Environmental Biology, Rm. 336, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-7324.

Purpose of advisory panel: To provide advice and recommendations concerning support for research in Environmental Biology.

Agenda: Review and evaluate research proposals that have been assigned to the Environmental Biology Program.

Reason for closing: The proposals being reviewed contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b), (4), (5), and (6).

Authority to close meeting: A determination was made on February 21, 1975, by the Director of the National Science Foundation pursuant to provisions of Section 10(d) of Pub. L. 92-463.

GAIL A. MCHENRY,
Acting Committee Management Officer.

OCTOBER 15, 1975.

[FR Doc.75-28145 Filed 10-17-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-488, STN 50-489, STN 50-490]

DUKE POWER CO.

Availability of Final Environmental Statement for Perkins Nuclear Station, Units 1, 2, and 3

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, related to the proposed Perkins Nuclear Station, Units 1, 2, and 3, by Duke Power Company to be located in Davie County, North Carolina, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and in the Davie County Public Library, 461 N. Main Street, P.O. Box 158, Mocksville, North Carolina. The Final Environmental Statement is also being made available at the Office of Intergovernmental Relations, 116 West Jones Street, Raleigh, North Carolina, and at the Piedmont Triad Council of Governments, P.O. Box 8945, 5506 W. Friendly Avenue, Greensboro, North Carolina.

The notice of availability of the Draft Environmental Statement for the Perkins Nuclear Station, Units 1, 2, and 3, and requests for comments from interested persons was published in the FEDERAL REGISTER on May 9, 1975 (40 FR 20370). The comments received from Federal, State, local and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (Document No. NUREG-75/088 may be purchased, $7.50 for printed copies and $2.25 for microfiche, from the National Technical Information Service, Springfield, Va. 22161.

Dated at Rockville, Maryland, this 15th day of October 1975.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 4, Division of Reactor Licensing.

[FR Doc.75-28194 Filed 10-17-75;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE ARCHITECT-ENGINEER BALANCE OF PLANT

Meeting Cancellation

The meeting of the Advisory Committee on Reactor Safeguards Subcommittee on the Architect-Engineer Balance of Plant, originally scheduled for October 8, 1975 and subsequently rescheduled for October 24, 1975 is being postponed. Notices were published at 40 FR 43779, September 23, 1975 and 40 FR 44894, September 30, 1975. A new time and date for the meeting will be announced when a firm schedule has been established.

Dated: October 14, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75-28090 Filed 10-17-75;8:45 am]

[Docket Nos. STN 50-528, STN 50-529, and STN 50-530]

ARIZONA PUBLIC SERVICE COMPANY, ET AL. (PALO VERDE NUCLEAR GENERATING STATION, UNITS 1, 2, AND 3)

Availability of Safety Evaluation Report

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed construction of the Palo Verde Nuclear Generating Station, Units 1, 2 and 3, to be located in Maricopa County, Arizona. Notice of receipt of the application filed by Arizona Public Service Company, on behalf of itself and five joint applicants, the Salt River Project Agricultural Improvement and Power District, Tucson Gas & Electric Company, El Paso Electric Company, Public Service Company of New Mexico, and Arizona Electric Power Cooperative, Inc., to construct and operate the Palo Verde Nuclear Generating Station, Units 1, 2 and 3 was published in the FEDERAL REGISTER on October 22, 1974 (39 FR 37527).

This application has been filed utilizing the "reference system" option of the Commission's standardization policy for nucelar power plants, wherein a standard design that involves a major fraction of a nuclear facility may be referenced in license applications. This application references the standard nuclear steam supply system design of Combustion Engineering's Standard Safety Analysis Report (CESSAR), Docket No. STN 50-470, which is currently under staff review.

The Safety Evaluation Report for the Palo Verde Nuclear Generating Station is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Phoenix Public Library, Science and Industry Division, 12 East McDowell Road, Phoenix, Arizona 85004, for inspection and copying. The report (Document No. NUREG-75/098) can also be purchased, at current rates, from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland this 10th day of October 1975.

For the Nuclear Regulatory Commission.

RALPH A. BIRKEL,
Acting Chief, Light Water Reactors, Project Branch 1-3, Division of Reactor Licensing.

[FR Doc.75-28088 Filed 10-17-75;8:45 am]

[Docket Nos. 50-282, 50-306]

NORTHERN STATES POWER CO. (PRAIRIE ISLAND NUCLEAR GENERATING PLANT, UNITS 1 AND 2)

Postponement of Evidentiary Hearing

Notice is hereby given that the evidentiary hearing on the steam generator tube integrity issue, previously scheduled to commence on October 28, 1975 (see FR Doc. 75-26181, 40 FR 45237, October 1, 1975), has been postponed to a date to be later determined by the Appeal Board.

Dated: October 14, 1975.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.75-28089 Filed 10-17-75;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE PILGRIM NUCLEAR POWER STATION, UNIT 2

Notice of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on the Pilgrim Nuclear Power Station, Unit 2, will hold a meeting on November 4, 1975 in the Blue Room of Memorial Hall, Plymouth, Massachusetts. The purpose of this meeting is to develop information to be considered by the ACRS in its review of the application of Boston Edison Company, et al., for a permit to construct this nuclear power plant. The facility is located on the western shore of Cape Cod Bay in the Town of Plymouth. The site is about 4.4 miles east-southeast of the center of the Town of Plymouth, and is about 38 miles southeast of Boston, Massachusetts.

The agenda for the subject meeting shall be as follows:

Tuesday, November 4, 1975, 8:30 a.m. The Subcommittee will meet in closed Executive Session, with any of its consultants who may be present, to exchange opinions and discuss preliminary views and recommendations of Subcommittee members relating to the above evaluation.

9:00 a.m. until the conclusion of business. The Subcommittee will meet in open session to hear presentations by representatives of the Nuclear Regulatory Commission (NRC) Staff and Boston Edison Company and their consultants and will hold discussions with these groups pertinent to its review of the application of Boston Edison, et al., for a permit to construct this plant.

At the conclusion of the open session, the Subcommittee may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the project is ready for review by the full Committee. During this session, Subcommittee members and consultants will discuss their final opinions and recommendations on these matters. Upon conclusion of this caucus, the Subcommittee will meet again in brief open session to announce its determination.

In addition to these closed deliberative sessions, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with the NRC Staff and the Applicant matters involving proprietary information, particularly with regard to specific features of the plant design and plans related to plant security.

I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Subcommittee's deliberative process (5 U.S.C. 552(b)(5)) and to protect confidential proprietary or plant security information (5 U.S.C. 552(b)(4)). Separation of factual material from individuals' advice, opinions and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing 15 copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than October 28, 1975 to Mr. G. Quittschreiber, ACRS, NRC, Washington, D.C. 20555 will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, D.C. 20555 and at the Plymouth Public Library, North Street, Plymouth, MA 02360.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on November 3, 1975 to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mr. G. Quittschreiber) between 8:15 a.m. and 5:00 p.m., EST.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physcial installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information, other than plant security information, may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. G. Quittschreiber, of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion of the meeting will be available for inspection on or after November 11, 1975 at the NRC Public Document Room, 1717 H St., N.W., Wash., D.C. 20555, and at the Plymouth Public Library, North Street, Plymouth, MA 02360. Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St., N.W., Wash., D.C. 20555 after February 4, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: October 16, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75-28343 Filed 10-17-75;9:36 am]

OFFICE OF THE FEDERAL REGISTER

INFLATION IMPACT STATEMENTS

Certification Language and Form

The purpose of this notice is to inform Federal agencies of standard language to be used for Inflation Impact Certification and to revise draft instructions previously published in the FEDERAL REGISTER on June 23, 1975 (40 FR 26312).

Executive Order No. 11821 (39 FR 41501) November 29, 1974) requires all executive branch agencies to prepare evaluations of the inflationary impact of major proposals for legislation and for the promulgation of regulations and rules.

The Executive order requires that major proposals "be accompanied by a statement which certifies that the inflationary impact of the proposal has been evaluated." It makes no requirement on proposals which are determined not major.

To this end, it is important first that appropriate documents clearly announce that proper consideration has been given to the potential inflationary impact of a major regulation. Second, it is important that interested parties have a way of finding out that such a certification

exists. To achieve these purposes, the Office of the Federal Register and Office of Management and Budget have determined that each Federal agency shall use the following standard certification language.

It is hereby certified that the economic and inflationary effects of this proposal have been carefully evaluated in accordance with Executive Order No. 11821.

To facilitate the finding of each statement within a document, such statement shall be placed immediately above the signature of the authorizing official. A sample excerpt of a typed document follows which shows the proper placement of the certification language.

FEDERAL TRADE COMMISSION

[16 CFR Part 444]

CREDIT PRACTICES

Proposed Trade Regulation

The purpose of this document * * *

Authority: * * *.

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with Executive Order 11821.

JOHN BURTON HOLMES,
Secretary.

After Federal agencies have begun to implement this recommendation, the Office of the Federal Register plans to establish in the FEDERAL REGISTER a finding aid that will make it easy for users to determine when an agency has made an inflation impact certification.

Persons with comments or questions concerning this announcement may direct them to the Director of the FEDERAL REGISTER, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

Dated: October 15, 1975.

FRED J. EMERY,
Director of the Federal Register.

[FR Doc.75-28134 Filed 10-17-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 8986; 811-1019]

AID INVESTMENT FUND, INC.

Filing of Application

OCTOBER 14, 1975.

Notice is hereby given that AID Investment Fund, Inc. ("Applicant"), 701 5th Avenue, Des Moines, Iowa 50304, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 (the "Act"), filed an application on June 23, 1975, and an amendment thereto on September 22, 1975, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, organized under the laws of Maryland in 1960, registered under the Act in January of 1961. At such time Applicant also filed a Registration Statement ("Registration Statement") on Form S-5 under the Securities Act of 1933 ("1933 Act"), offering for sale 700,000 shares of its capital stock. As of March 14, 1975, 78,902 of such shares had been sold.

On March 26, 1975, shareholders of Applicant adopted a Plan of Liquidation and Dissolution. Pursuant thereto, Articles of Dissolution were filed on Applicant's behalf pursuant to the Maryland General Corporation Law, and on June 2, 1975, the State Department of Assessments and Taxation approved and filed same. Thus, under Maryland law, Applicant has been dissolved, subject to continuing its corporate existence for the purpose of winding up its business and affairs.

On March 17, 1975, Applicant filed a Post-Effective Amendment 1975-2 to the Registration Statement, for the purpose of deregistering the 621,098 unsold shares covered by such Registration Statement. On March 25, 1975, such post-effective amendment was declared effective and said shares deregistered.

Subsequent to the adoption of its Plan of Liquidation and Dissolution, and until its dissolution on June 2, 1975, Applicant continued to honor requests for redemption of shares by shareholders at the regular net asset value thereof. Subsequent to such dissolution, and to the date of the application, Applicant has paid out the liquidating distributions payable to all shareholders of record on the date of dissolution, except for three shareholders who have not surrendered their stock certificates and ten shareholders whose current addresses are unknown to the Applicant. These 13 shareholders hold 436.5 shares, having an approximate net asset value of $4.03 each, or an aggregate of approximately $1,761. The directors of Applicant, as statutory liquidating trustees, will continue for a period of three years as required by Maryland law to locate such shareholders for purposes of making final distribution.

Thus, Applicant represents that it has less than 100 shareholders, owns no securities, is not making and does not propose to make a public offering of its securities, and under state law has been dissolved.

Section 3(c)(1) of the Act excepts from the definition of an investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 10, 1975 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued by the Commission as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28112 Filed 10-17-75;8:45 am]

[Rel. No. 8984; 812-3855]

AMCAP FUND, INC., ET AL.

Notice of Application for Exemption

OCTOBER 14, 1975.

Notice is hereby given that AMCAP Fund, Inc., American Mutual Fund, Inc., The Bond Fund of America, Inc., The Growth Fund of America, Inc., The Income Fund of America, Inc., The Investment Company of America, New Perspective Fund, Inc., and Washington Mutual Investors Fund, Inc. (herein collectively referred to as the "Funds" and each individually as a "Fund"), and American Fund of Government Securities, Inc. ("AFGS"), each of which is registered as an open-end investment company under the Investment Company Act of 1940 (the "Act") and American Funds Distributors, Inc. ("AFD") (collectively referred to with the Funds and AFGS as the "Applicants") 611 West Sixth Street, Los Angeles, California 90017, have filed an application for an order (1) pursuant to Section 11(a) of the Act to permit the Funds to offer to exchange their shares for shares of AFGS on a basis other than their relative net asset value per share at the time of the exchange and (2) pursuant to Section 6(c) of the Act grant-

ing exemptions from Section 22(d) of the Act and Rule 22d-1 thereunder in connection with such exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

AFD, as principal underwriter for each of the Funds and AFGS, maintains a continuous public offering of the shares of each of the Funds and AFGS at their respective net asset values, plus a sales charge. The maximum sales charge for each of the Funds is 8.5% on purchases of less than 015,000; the sales charge is reduced on larger purchases. Shares of each of the Funds may be exchanged for shares of any of the other Funds on the basis of the relative net asset value per share at the time of the exchange without a sales or other charge. The maximum sales charge for AFGS is 1.75% on purchases of less than $15,000; the sales charge is reduced on larger purchases.

Each of the Funds proposes to offer its shares to shareholders of AFGS in exchange for shares of AFGS on the following bases: (1) Shares of AFGS which were acquired through a share exchange or acquired as a result of the reinvestment of dividends or distributions will be exchanged for shares of any of the Funds on the basis of their relative net asset value per share at the time of the exchange; (2) Shares of AFGS acquired other than through a share exchange or reinvestment of dividends or distributions will be exchanged for shares of any of the Funds on the basis of their relative net asset value per share at the time of the exchange, plus the sales charge described in the prospectus of each of the Funds (maximum 8.5%), less an amount equal to the sales charge previously paid on the AFGS shares being exchanged. As a result, a shareholder acquiring shares of one of the Funds through exchange of shares of AFGS would pay approximately the same overall sales charge that he would have paid had he directly purchased the same number of shares of one of the Funds.

With shareholders of the Funds having the right to exchange their shares for shares of AFGS without payment of any sales charges, a shareholder who acquired his shares of a Fund by way of an exchange of shares of AFGS would be able to re-exchange the shares of the Fund for shares of AFGS at net asset value since such shareholder would have paid a normal sales charge on the shares of the Fund when he had previously exchanged AFGS shares for shares of the Fund. No further sales charges would be assessed on any future exchange of the shares so acquired. No refund of sales charges will be made on any of the exchanges permitted hereunder.

In the event a shareholder desires to exchange only a portion of his shares of AFGS, those shares which may be exchanged at relative net asset value without sales charge will be exchanged first. The remaining shares to be exchanged will be selected from those shares which are entitled to be exchanged upon payment of the lowest additional sales charge. For example, if a shareholder who desired to exchange 1,000 shares of AFGS owned 2,000 shares of AFGS on which he had paid a sales charge of 1.75% and 250 shares of AFGS which had been acquired upon the reinvestment of dividends, the shares to be exchanged and the sales charge due would be as follows: 250 shares would be exchanged at net asset value and the remaining 750 shares would be exchanged upon the payment of sales charge of 8.5% less the sales charge paid on the 750 shares at the time they were acquired. If, because of rights of accumulation at the time of the exchange, the shareholder would be entitled to directly purchase shares of the Fund to be acquired at a lower sales charge, he will be assessed the lower sales charge less the sales charge previously paid.

Section 11(a) of the Act provides, in part, that it shall be unlawful for any registered open-end investment company or any principal underwriter for such company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange said security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except either to or through a principal underwriter for distribution or at a current public offering price described in the prospectus. The sales charge described in the prospectus of each of the Funds and AFGS differs from and may be greater than the sales charge which would be applicable to the proposed exchange offer.

Applicants state that the purpose of the proposed exchange offer is to permit a shareholder of AFGS who changes his investment objective to change his investment to a different investment company without paying the full sales charge otherwise applicable. It is submitted by Applicants that the exchange offer to shareholders of AFGS cannot be made at the relative net asset value of the Fund to be acquired because the shareholder of AFGS would have paid substantially less sales charges on his investment than similarly situated investors in the Fund to be acquired. Applicants further submit that if shares of the Funds could be acquired by a shareholder of AFGS at net asset value in an exchange, it is possible that the exchange would be in violation of Section 22(d) of the Act since an investor would be able to purchase shares of one of the Funds at a sales charge other than that described in its prospectus merely by purchasing shares of AFGS and subsequently exchanging those shares at net asset value for shares of one of the Funds.

Section 6(c) provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or any class of persons, securities, or transactions from any provision or provisions of the Act and the Rules promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given, that any interested person may, not later than November 10, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his request, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following November 10, 1975, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28113 Filed 10-17-75;8:45 am]

[Rel. No. 19209; 70-5747]

COLUMBIA GAS SYSTEM, INC.

Proposed Issue and Sale of Debentures at Competitive Bidding

OCTOBER 14, 1975.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Columbia proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to $75,000,000 principal amount of __% debentures due November 1995. The interest rate of the debentures (which shall be a multiple of ⅛ of 1%) and the price, exclusive of accrued interest, to be paid to Columbia (which shall be not less than 98½% nor more than 101½% of the principal amount thereof), will be determined by the competitive bidding. The debentures will be issued under an Indenture between Columbia and Morgan Guaranty Trust Company of New York, Trustee, dated as of June 1, 1961, as heretofore supplemented by various indentures and as to be further supplemented by a Twenty-Fourth Supplemental Indenture to be dated as of November 1, 1975.

The supplemental indenture will prohibit redemption of any of the debentures prior to November 1, 1980, directly or indirectly, with borrowed funds, or in anticipation of funds to be borrowed, having an effective annual interest cost to Columbia of less than the effective annual interest cost of the debentures to Columbia. The proposed debentures will be subject to a sinking fund providing for retirement of $70,500,000 (94%) thereof prior to maturity through annual payments of $4,700,000 commencing in 1980. Columbia will also have the non-cumulative option to redeem on any sinking fund day, at the then current sinking fund redemption price, not more than $4,700,000 principal amount of this debentures.

The net proceeds from the sale of the debentures will be added to the general funds of Columbia and, together with other funds then available and funds thereafter to be generated from operations, will be used by Columbia to finance, among other things, the remainder of its 1975 capital expenditures program and part of the 1976 capital expenditures program of Columbia's subsidiary companies, which involves expenditures of approximately $350,000,000. The capital expenditures program involves additions and improvements to the properties of the Columbia system necessary to explore for, produce, receive, transport, store, and distribute the quantities of gas required by the system's customers. Columbia estimates that additional long-term financing of up to $90,000,000 may be required in 1976 to complete this program. Such additional financing, to the extent necessary, will be the subject of future filings with this Commission.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. A statement of the fees, commissions, and expenses related to the proposed transaction is to be filed by amendment.

Notice is further given that any interested person may, not later than November 7, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issue of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28114 Filed 10-17-75;8:45 am]

[Rel. No. 8983; 811-963]

DANA ASSOCIATES

Filing of Application

OCTOBER 14, 1975.

Notice is hereby given that Dana Associates ("Applicant"), 52 Marginal Way Portland, Maine 04104 a Maine corporation, registered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified management investment company, filed an application on August 5, 1975, and an amendment thereto on September 9, 1975, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that on June 11, 1975, pursuant to a Plan and Agreement of Reorganization ("Agreement"), it transferred to Chemical Fund, Inc. ("Chemical"), substantially all of its portfolio securities and cash or cash equivalents in return for shares of Chemical.

Applicant further states that the Securities and Exchange Commission issued an order on May 21, 1975, pursuant to Section 17(b) of the Act exempting Applicant and Chemical from the provisions of Section 17(a) of the Act with respect to the transactions contemplated by and carried out under the Agreement (Investment Company Act Release No. 8795). Applicant represents that the Agreement was approved by the holders of two-thirds of its shares at a Special Meeting held on June 10, 1975.

Applicant further represents that all of its shares of Chemical, received pursuant to the Agreement, have been distributed to its former shareholders who have surrendered their shares of Applicant. Applicant also states that its only present assets consist of approximately $4,000 in cash and the rights to tax refunds of approximately $36,000 from the Internal Revenue Service and the State of Maine expected to be received in the fall of 1975. Applicant represents that following receipt of such refunds and the payment of outstanding liabilities relating to accounting and legal matters, the remaining cash will be distributed pro rata to its former shareholders and Applicant, which has filed a Statement of Intent to dissolve with the State of Maine, will be dissolved.

Section 8(f) provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 10, 1975 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28115 Filed 10-17-75;8:45 am]

[Rel. No. 8987; 812-3862]

FINANCIAL INTERNATIONAL CORP. ET AL.

Filing of Application

OCTOBER 14, 1975.

Notice is hereby given that Financial International Corporation, a Delaware corporation ("FIC"), 1701 Pennsylvania Avenue N.W., Washington, D.C. 20006, registered as a closed-end non-diversified management investment company under the Investment Company Act of 1940, as amended (the "Act"), Financial General Bankshares, Inc., a Virginia corporation ("FG"), 1701 Pennsylvania Avenue, N.W. Washington, D.C. 20006, a bank holding company registered under the Bank Holding Company Act of 1956 (the "Bank Holding Company Act"), Empire Shares Corporation, a Delaware Corporation ("Empire"), 1701 Pennsylvania Avenue, N.W. Washington, D.C. 20006, a wholly-owned subsidiary of FG and a registered bank holding company under the Bank Holding Company Act, and Bank of Buffalo, a New York State banking corporation ("Buffalo"), 17 Court Street, Buffalo, New York 14202, which is a majority-owned subsidiary of Empire, have filed an Application on September 19, 1975 pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder for an order of the Commission permitting the parties to participate as principals in a certain joint transaction. The aforementioned persons hereinafter are referred to collectively as "Applicants." All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein which are summarized below.

FIC is the owner of 402,229 shares (7.9%) of the outstanding common stock of FG and holds an irrevocable proxy from International Bank, an Arizona corporation ("IB"), empowering FIC to vote an additional 363,720 shares (7.1%) of the outstanding common stock of FG. IB is the owner of 1,129,674 shares (22.2%) of the outstanding common stock of FG but, as noted above, has granted to FIC an irrevocable proxy to vote 363,720 of such shares, so that FIC and IB each possesses the power to vote approximately 15.1% of the outstanding common stock of FG, the aggregate voting power of FIC and IB together being approximately 30.2%.

Applicants state that FIC and IB may be considered to be affiliated with each other since approximately 35% of the outstanding shares of voting stock of FIC and approximately 32% of the outstanding voting stock of IB is beneficially owned, directly or indirectly, by Mr. George Olmsted. While neither FIC nor IB owns or holds the power to vote 25% or more of the outstanding voting shares of FG, the aggregate number of shares held by the two companies exceeds 25%. For this reason, applicants say, without admitting, FIC may be deemed for purposes of Section 2(a)(9) of the Act to be a part of the control of FG.

FG is the sole stockholder of Empire, which in turn owns approximately 61% of the outstanding capital stock of Buffalo. Accordingly, if and to the extent that FIC would be deemed to control FG within the meaning of the Act, it would, therefore, also control Empire and Buffalo.

FG, Empire and Buffalo have entered into an Acquisition Agreement ("Agreement"), dated May 15, 1975, with The Bank of New York Company, Inc. ("BNY Company"), a registered bank holding company under the Bank Holding Company Act, and Niagara Frontier Bank of New York ("Niagara"), a New York State banking corporation which is a wholly-owned subsidiary of BNY Company with its principal office and banking activities in Buffalo, New York.

Applicants state that the Agreement provides that BNY Company will purchase from Empire the shares of capital stock of Buffalo owned by Empire at a price of $30 per share or an aggregate of $6,067,920, subject to the conditions set forth in the Agreement, and will also make an offer to all other stockholders of Buffalo to purchase their shares at the same price of $30 per share. Applicants represent that the consummation of the purchase of stock of Buffalo from Empire and other tendering stockholders is contingent upon acceptance of the cash offer of BNY Company by holders of at least 80% of the stock of Buffalo or such lesser percentage, not less than 66⅔%, as BNY Company may elect and to the fulfillment of other conditions, including approval by all applicable regulatory authorities, including the Board of Governors of The Federal Reserve System and the New York State Banking Department. Applicants further state that the Agreement provides for the merger of Buffalo and Niagara on terms whereby minority stockholders of Buffalo would receive the sum of $30 per share in cash, subject to appraisal rights under New York law. Applicants anticipate that, concurrently or immediately following the making of the tender offer, proxy material for a special meeting of stockholders of Buffalo to consider the merger with Niagara will be mailed to said stockholders and that such material will comply with the Proxy Rules under the Securities Exchange Act of 1934.

Applicants assert that there are no affiliations between BNY Company or Niagara and any of FIC, FG, IB, Buffalo or any affiliates known to any of the applicants and that, accordingly, the sale by Empire and the merger of Buffalo with Niagara would not fall within the scope of Section 17(a) of the Act.

Section 17(d) of the Act and Rule 17d–1 thereunder taken together provide, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, to participate in, or effect any transaction in connection with any joint enterprise or arrangement in which any such registered company, or a company controlled by such registered company, is a participant unless an application regarding such arrangement has been granted by an order of the Commission, and that, in passing upon such an application, the Commission will consider whether the participation of such registered or controlled company in such arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants state that, in view of the assumption for purposes of this application that, FIC will be deemed to be in control of FG and therefore also of Empire and Buffalo within the meaning of Section 2(a)(9) of the Act, the proposed arrangements involved in the Agreement would be deemed to involve a joint participation by controlled affiliates of an investment company within the meaning of Section 17(d) of the Act and Rule 17d–1 thereunder and the transaction is not one which would fall within the exceptions from the filing of applications provided by subparagraph (5) of Rule 17d–1(d). Accordingly, the applicants jointly apply for an order under Section 17(d) of the Act and Rule 17d–1 thereunder permitting the proposed transaction.

In support of such application, the Applicants urge the following:

1. The Agreement, involving a proposed sale of stock of Buffalo by Empire to BNY Company and the subsequent merger of Buffalo with Niagara, was arrived at as a result of arm's-length negotiations involving FG, as sole stockholder of Empire, Buffalo, and BNY Company, as sole stockholder of Niagara. No affiliations exist between any of the applicants and BNY Company or Niagara.

2. The sum to be paid to Empire as a controlling stockholder of Buffalo and to each minority stockholder of Buffalo accepting the BNY Company tender offer will be the same, i.e., $30 per share. Moreover, the proposed terms of merger will provide for payment of the same cash price of $30 per share, subject to appraisal rights, to stockholders of Buffalo who do not accept the tender offer.

3. To the extent that any minority stockholder of Buffalo feels that the price of $30 per share is not fair, he is entitled to exercise appraisal rights under the New York Banking Law.

4. The interest of the public community in the proposed transaction is protected by the regulatory approvals required from the Board of Governors of The Federal Reserve System and the New York State Banking Department, which must pass upon the acquisition of the shares by BNY Company and upon the merger.

The applicants submit that the proposed transaction is fair and equitable to each of the participating parties and to their respective stockholders, is the result of arm's-length negotiations with non-affiliated persons, does not involve

overreaching or any special benefits or consideration to any participating party and is consistent with the provisions, policies and purposes of the Act.

Notice is further given that any interested person may, not later than November 10, 1975, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants at their addresses stated above. Proof of service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the application will be issued as of gated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of hearing (if ordered) and any postponements thereof.

For the Commission by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28116 Filed 10-17-75;8:45 am]

[Rel. No. 8985; 811-1695]

FINANCIAL VENTURE FUND, INC.

Filing of Application

OCTOBER 14, 1975.

Notice is hereby given that on August 18, 1975, Financial Venture Fund, Inc. ("Applicant"), 1050 South Broadway, Denver, Colorado 80209, registered as an vestment company under the Invest- open-end diversified management investment company under the Investment Company Act of 1940 ("Act") filed application pursuant to Section 8(f) of the Act for an order of the Commission declaring that it has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which is summarized below.

Applicant was incorporated under the laws of Colorado on July 19, 1968, and registered under the Act on July 26, 1968. On July 18, 1975, at an annual meeting of shareholders, 69% of the outstanding voting securities of Applicant were voted in favor of an agreement and plan of reorganization (Plan) dated March 31, 1975, which provided for the following: an exchange of substantially all of the assets of Applicant for shares of Financial Dynamics Fund, Inc. (Dynamics), based upon the relative net asset values of Applicant and Dynamics at the valuation time as defined in the Plan; the distribution of the Dynamics shares to shareholders of Applicant; and the liquidation and dissolution of the Applicant. Since Applicant and Dynamics were parties to certain litigation identified in the Plan, it provided for the assignment to Dynamics of all claims asserted by Applicant in the law suits in which Applicant was a plaintiff and for the assumption by Dynamics of all liability in law suits in which Applicant was a defendant.

The Exchange was consummated on July 21, 1975, after conditions of the Plan had been satisfied, including approval of the Plan by a vote of two-thirds of the outstanding shares of Applicant pursuant to the laws of Colorado. In accordance with the Plan, all Dynamics shares were distributed to the shareholders of Applicant, and active operations of Applicant have ceased. All liabilities of Applicant have been paid or provided for.

Section 8(f) of the Act provides, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 4, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request as provided by Rule 0-5 of the Rules and Regulations promulgated under the Act. An order disposing of the application herein will be issued as of course following November 4, 1975, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28117 Filed 10-17-75;8:45 am]

[Rel. No. 8981; 812-3844]

NORTHWESTERN MUTUAL LIFE INSURANCE CO.

Notice of Application

OCTOBER 10, 1975.

NOTICE IS HEREBY GIVEN that the Northwestern Mutual Life Insurance Company ("Northwestern Mutual"), a mutual life insurance company organized in 1857 by a special statute of the legislature of the State of Wisconsin, NML Variable Annuity Account B ("Account B") and NML Variable Annuity Account 2 ("Account 2"), 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, unit investment trusts registered under the Investment Company Act of 1940 ("Act"), (hereinafter collectively called "Applicants") have filed an application on July 29, 1975 and an amendment thereto on September 8, 1975 for an order approving certain offers of exchange. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Account B and Account 2 were established by Northwestern Mutual in connection with the sale of certain variable annuity contracts (the "Contracts"). Net purchase payments under the Contracts are allocated to the appropriate Account and invested in shares of NML Fund, Inc. (the "Stock Fund"), a diversified open-end management company registered under the Act which invests primarily in equity securities. Northwestern Mutual has organized a second investment company, NML Bond Fund, Inc. (the "Bond Fund"), which will invest primarily in debt securities and provide an alternative investment medium for the Accounts. Registration statements under the Act and under the Securities Act of 1933 have recently been filed with the Commission on behalf of the Bond Fund.

Applicants propose to create within each Account a Stock Division and a Bond Division, assets of which will be invested in shares of the Stock Fund and the Bond Fund, respectively. Applicants will then offer revised Contracts which will permit the purchasers of the Contracts to direct the apportionment of their net purchase payments between the Stock Division and the Bond Division (the "Divisions"). In the case of Deferred Contracts, the owner will be entitled to transfer accumulated funds from one Division to the other on an ongoing basis. After annuity payments commence, under either a Deferred Contract or an Immediate Contract, a similar transfer privilege will be available. During the accumulation phase, the minimum amount which may be transferred

will be the lesser of $1,000 or the entire amount in the Division from which the transfer is being made.

In regard to a transfer during the annuity payment period, the amount to be transferred will be based on the present value of the remaining payments due, reflecting the attained age of the annuitant and mortality and interest assumptions. The present value must be equal to or greater than the minimum reserve required by state insurance laws. The participant will receive his monthly payments thereafter based on the investment experience of the newly selected Division. Applicants assert that, aside from the slight reduction in his monthly payments which will result from the deduction of a $5 administrative fee from the amount transferred and the fact that such payments will be subject to the investment experience of the newly selected Division, the transfer will have no impact on the value of the participant's payments. They further assert that such transfer will have no impact on other contract owners and payees in either Division.

The right to transfer will be subject to limitations described in the Contracts, including the limitation that repeat transfers will be permitted only if at least twelve months have elapsed since the last transfer and the $5 administrative charge for each transfer mentioned above. The transfer privileges are to be included in the revised Contracts, which will also be extended to owners and payees under existing Contracts which are outstanding on the date the revised Contracts are first offered for sale.

Section 11(a) makes it unlawful for any registered open-end company or principal underwriter therefor to make an offer to the holder of a security of such company or of any other open-end investment company to exchange its security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) of the Act provides that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any type of offer of exchange of the securities of a registered unit investment trust for the securities of any other investment company.

Although Applicants consider that transfers pursuant to these transfer privileges would not appear to involve any exchange of a security of a registered unit trust for the security of any other investment company, Applicants are requesting an order pursuant to Section 11 approving the transfer privilege to avoid any question that might be raised. Applicants assert that the transfer privileges discussed in the application and summarized herein are consistent with the policy of Sections 11 (a) and (c) and would benefit contract owners.

Applicants state that the apparent purpose of Section 11 is to protect investors against unfair exchange offers and, since the transfer privilege to be included in the revised Contracts will be based on the respective net asset values of the underlying mutual fund shares, and the $5 charge on each transaction will not exceed the actual administrative expenses incurred by Northwestern Mutual, the investor is assured that the arrangement is fair. Applicants note that Northwestern Mutual stands to gain nothing from these transactions, except that the attractiveness of the Contracts for its customers and prospective customers will be enhanced by the transfer privileges.

Applicants submit that a variable annuity contract is normally purchased as a long-term investment and it is appropriate to allow investors to reevaluate their investment objectives from time to time and change from one investment vehicle to another without paying additional charges for sales expenses when they conclude that the alternative investment is more suitable in their present circumstances.

Notice is further given that any interested person may, not later than November 5, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following such date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28118 Filed 10-17-75;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-126]

DORSEY TRAILERS INC., ELBA, ALA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-126: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 25, 1975 in response to a worker petition received on August 12, 1975 which was filed by workers formerly producing truck bodies and trailers at Dorsey Trailers Incorporated.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 41207) on September 5, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dorsey Trailers Incorporated, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers declined 50 percent in the 12 months ending September 1975 when compared to the 12 months ending September 1974.

Sales or Production, or Both, Have Decreased Absolutely. Production of trailers at Dorsey Trailer Incorporated declined 50 percent in the 12 months ending September 1975 when compared to the previous 12 months.

Increased Imports Contributed Importantly. Imports like or directly competitive with truck bodies and trailers produced by Dorsey Trailers Incorporated have been negligible in the past several years. In addition products like or directly competitive with alleged increases of imports of seagoing ISO containers constituted about one percent of total company production in recent years.

Evidence developed in the Department's investigation indicates that separations at the Dorsey plant of workers producing trailers and truck bodies resulted from decreased orders due to the depressed economic conditions. Ninety-nine percent of production at Dorsey Trailers Incorporated consists of truck bodies and trailers for inland transportation. Separations of these employees were totally unrelated to allegedly increased imports of seagoing ISO containers.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with trailers produced at Dorsey Trailers Incorporated did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 10th day of October 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.75-28156 Filed 10-17-75;8:45 am]

[TA-W-116]

RANDY MANUFACTURING CO., INC., RANDOLPH, MASS.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-116: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 14, 1975 in response to a worker petition received on August 12, 1975 which was filed by employees of Randy Manufacturing Company, Inc. on behalf of workers formerly producing canvas footwear at the Randolph, Massachusetts plant.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 37277) on August 26, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Randy Manufacturing Company, Inc., its customers, the Rubber Manufacturers Association, the U.S. International Trade Commission, the Department of Commerce and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers at the Randolph plant decreased 14 percent in the first half of 1975 compared to the first half of 1974. Average weekly hours decreased 43 percent in the first half of 1975 compared to the first half of 1974.

Sales or Production, or Both, Have Decreased Absolutely. Sales and production at the Randolph plant declined 24 percent and 18 percent, respectively in the first half of 1975 compared to the first half of 1974.

Increased Imports Contributed Importantly. Imports of canvas footwear like or directly competitive with that produced at the Randolph plant increased from 24.2 million units in 1973 to 26.3 million in 1974. Imports increased from 14.0 million units in the first six months of 1974 to 14.1 million units in the first 6 months of 1975.

The ratios of imports to domestic consumption and production increased from 14.0 percent and 16.3 percent, respectively in 1973 to 15.4 percent and 18.2 percent, respectively in 1974. The ratios of imports to domestic consumption and production increased from 14.8 percent and 17.4 percent, respectively in the first 6 months of 1974 to 15.2 percent and 18.0 percent, respectively in the first 6 months of 1975. Major customers of Randy Manufacturing Company have increased amounts of imported canvas footwear while reducing purchases from Randy.

The evidence developed by the Department's investigation indicates that the separation of workers engaged in employment related to the production of canvas footwear at the Randolph plant was caused by the increase of competitive imports.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with canvas footwear produced at the Randolph plant contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All hourly, piecework, and salaried workers engaged in employment related to the production of canvas footwear at the Randolph, Massachusetts plant of Randy Manufacturing Company, Inc. who become totally or partially separated from employment on or after April 5, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 8th day of October 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.75-28157 Filed 10-17-75;8:45 am]

[TA-W-114]

ROCKFORD CABINET PLANT OF THE GENERAL ELECTRIC CO., ROCKFORD, ILL.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-114: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 13, 1975 in response to a worker petition received on August 12, 1975 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers formerly producing wood console television cabinets at General Electric's Rockford Cabinet Plant, Rockford, Illinois.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 36634) on August 21, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of General Electric, the Electric Industries Association, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers declined 62 percent in the first half of 1975 compared to the like period in 1974. The average number of salaried workers dropped 45 percent in the first half of 1975 compared to the like period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Production at the Rockford plant declined 53 percent in the first half of 1975 compared to the first half of 1974.

Increased Imports Contributed Importantly. Imports of articles like or directly competitive with those produced at the Rockford plant decreased from 17 thousand units ($1.3 million) in 1973 to 13 thousand units ($900 thousand) in 1974. Imports of console television cabinets have comprised less than one percent of the United States market in each year since 1970. The ratios of imports to domestic consumption and production in terms of quantity remained unchanged at .5 percent during 1973 and 1974. In terms of dollar value, both ratios fell from .9 percent in 1973 to .8 in 1974.

The evidence developed in the Department's investigation indicates that the separation of workers engaged in the production of wood console television cabinets at the Rockford plant was not caused by an increase in competitive imports. The Rockford plant was a "captive supplier," producing cabinets only for G.E.—made televisions with screen sizes larger than 19 inches. In 1974, G.E. imported cabinets that amounted to four percent of Rockford's 1974 production. However, over 80 percent of these imports were specially made wood cabinets which could not have been produced at Rockford. Further, imports of console televisions with screen sizes larger than 19 inches are negligible according to industry analysts.

The declining demand in recent years for console televisions plus the adverse impact of the economic recession on 1974 year-end television sales caused production and employment at Rockford to drop sharply after October 1974. G.E. announced the closing of the Rockford plant in March 1975, after a corporate decision to purchase console cabinets from other more competitive domestsic cabinet manufacturers.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the wood console television cabinets produced at the Rockford, Illinois plant of the General Electric Company did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C., this 9th day of October 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.75-28158 Filed 10-17-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

OCTOBER 15, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before October 30, 1975. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 564 (Sub-No. E13), filed June 4, 1974. Applicant: DUDLEY'S TRANSCONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods;* (1) Between points in that part of Michigan east of a line beginning at Lake Superior at L'Anse, thence along U.S. Highway 41 to junction U.S. Highway 141, thence along U.S. Highway 141 to the Wisconsin-Michigan State line, on the one hand, and, on the other, Yankton and North Sioux City, S. Dak.; and (2) between points in Michigan on and south of a line beginning at Lake Michigan and extending along U.S. Highway 10 to junction Michigan Highway 25, thence along Michigan Highway 25 to Port Huron, Mich., on the one hand, and, on the other, points in South Dakota. The purpose of this filing is to eliminate the gateway of points in Illinois within 150 miles of Austin, Minn.

No. MC 564 (Sub-No. E22), filed June 4, 1974. Applicant: DUDLEY'S TRANSCONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods;* (1) Between points in Iowa within 150 miles of Austin, Minn., on the one hand, and, on the other, points in that part of Oregon on and west of U.S. Highway 97 and points in Wheeler, Morrow, Gilliam, Grant, and Umatilla Counties, Oreg. (Wenatchee, Wash., and points in Montana)*: (2) between points in that part of Iowa on, east, and north of a line beginning at the Iowa-Wisconsin State line, thence along U.S. Highway 61 to junction U.S. Highway 92, thence along U.S. Highway 92 to the Iowa-Illinois State line, on the one hand, and, on the other, points in that part of Oregon described in (1) above (Wenatchee, Wash., points in Montana; and points in that part of Illinois within 150 miles of Austin, Minn.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 564 (Sub-No. E29), filed June 4, 1974. Applicant: DUDLEY'S TRANSCONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transport-

ing: *Household goods*, between points in that part of Texas on and west of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 271 to Paris, thence along Texas Highway 24 to Greenville, thence along Interstate Highway 30 to junction Interstate Highway 635, thence along Interstate Highway 635 to junction Interstate Highway 45, thence along Interstate Highway 45 to Richland, thence along Texas Highway 14 to junction Highway 6 to Bryan, thence along Texas Highway 21 to junction U.S. Highway 77, thence along U.S. Highway 77 to Victoria, thence along U.S. Highway 87 to the Gulf of Mexico, on the one hand, and, on the other, points in that part of Indiana on and north of U.S. Highway 30. The purpose of this filing is to eliminate the gateways of points in Illinois; points in Iowa within 150 miles of Austin, Minn.; and points in that part of Missouri south of U.S. Highway 54 and west of Missouri Highway 5.

No. MC 564 (Sub-No. E45), filed June 4, 1974. Applicant: DUDLEY'S TRANSCONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Maryland, on the one hand, and, on the other, points in that part of Kansas on, west, and south of a line beginning at the Nebraska-Kansas State line and extending along U.S. Highway 75 to junction Kansas Highway 68, thence along Kansas Highway 68 to the Missouri-Kansas State line. The purpose of this filing is to eliminate the gateways of (1) Points in Lincoln, Nebr., and points in Illinois; or (2) points in Illinois; points in Iowa within 150 miles of Austin, Minn.; and points in that part of Missouri south of U.S. Highway 54 and west of U.S. Highway 5.

No. MC 564 (Sub-No. E50), filed June 4, 1974. Applicant: DUDLEY'S TRANSCONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods;* (1) Between points in that part of Kansas on, south, and west of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 75 to junction U.S. Highway 56, thence along U.S. Highway 56 to the Missouri-Kansas State line, on the one hand, and, on the other, points in New York; and (2) between Leavenworth, Kans., on the one hand, and, on the other, Plattsburgh, N.Y. The purpose of this filing is to eliminate the gateways of (1) Lincoln, Nebr., and points in Illinois; or (2) points in Missouri south of U.S. Highway 54 and west of Missouri Highway 5, points in Iowa within 150 miles of Austin, Minn., and points in Illinois.

No. MC 564 (Sub-No. E51), filed June 4, 1974. Applicant: DUDLEY'S TRANSCONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Kansas on, west, and south of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 77 to junction U.S. Highway 56, thence along U.S. Highway 56 to the Missouri-Kansas State line, on the one hand, and, on the other, points in Minnesota within a 150 miles of Austin. The purpose of this filing is to eliminate the gateway of Lincoln, Nebr., or points in that part of Missouri south and west of a line beginning at the Kansas-Missouri State line, thence along U.S. Highway 54 to junction Missouri Highway 5, thence along Missouri Highway 5 to the Missouri-Arkansas State line.

No. MC 564 (Sub-No. E53), filed June 4, 1974. Applicant: DUDLEY'S TRANSCONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods;* (1) Between points in that part of Kansas on, west, and south of a line beginning at the Kansas-Nebraska State line and extending along Kansas Highway 99 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Missouri-Kansas State line, on the one hand, and, on the other, points in that part of Illinois on and north of U.S. Highway 30 (Lincoln, Nebr., or points in Iowa within 150 miles of Austin, Minn., and points in that part of Missouri south of U.S. Highway 54 and west of Missouri Highway 5)*; and (2) between Kansas City, Mo., on the one hand, and, on the other, points in that part of Illinois on and north of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 34 to junction Illinois Highway 17, thence along Illinois Highway 17 to the Indiana-Illinois State line (points in Iowa within 150 miles of Austin, Minn.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 564 (Sub-No. E54), filed June 4, 1974. Applicant: DUDLEY'S TRANSCONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in that part of Indiana on and north of U.S. Highway 24, on the one hand, and, on the other, points in that part of Kansas on and west of Kansas Highway 99. The purpose of this filing is to eliminate the gateways of (1) Lincoln, Nebr., and points in Illinois; or (2) points in Illinois; points in Iowa within 150 miles of Austin, Minn.; and points in that part of Missouri south of U.S. Highway 54 and west of Missouri Highway 5.

No. MC 564 (Sub-No. E56), filed June 4, 1974. Applicant: DUDLEY'S TRANSCONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in Iowa within 150 miles of Austin, Minn., on the one hand, and, on the other, points in that part of Kansas on, west, and south of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 77 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Kansas-Missouri State line. The purpose of this filing is to eliminate the gateways of Lincoln, Nebr., or points in that part of Missouri south of U.S. Highway 54 and west of Missouri Highway 5.

No. MC 564 (Sub-No. E64), filed June 4, 1974. Applicant: DUDLEY'S TRANSCONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods;* (1) Between points in that part of Kansas on; west, and north of a line beginning at the Nebraska-Kansas State line and extending along U.S. Highway 77 to Manhattan, thence along Interstate Highway 70 to junction U.S. Highway 281, thence along U.S. Highway 281 to the Oklahoma-Kansas State line and points in Riley and Geary Counties, Kans., on the one hand, and, on the other, points in Ohio; and (2) between points in that part of Ohio, on, north, and east of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 6 to Fremont, thence along U.S. Highway 20 to Norwalk, thence along U.S. Highway 18 to Akron, thence along Interstate Highway 77 to Canton, thence along U.S. Highway 30 to the Pennsylvania-Ohio State line, on the one hand, and, on the other, points in that part of Arkansas, on and west of a line beginning at the Nebraska-Kansas State line extending along U.S. Highway 77 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Missouri-Kansas State line. The purpose of this filing is to eliminate the gateways of (1) Lincoln, Nebr., and points in Illinois; or (2) points in that part of Missouri south of U.S. Highway 54 and west of Missouri Highway 5; points in Iowa within 150 miles of Austin, Minn.; and points in Illinois.

No. MC 564 (Sub-No. E65), filed June 4, 1974. Applicant: DUDLEY'S TRANSCONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in that part of Kansas on, west, and south of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 75 to junction Kansas Highway

68, thence along Kansas Highway 68 to the Kansas-Missouri State line, on the one hand, and, on the other, points in that part of Wisconsin on and south of Wisconsin Highway 77. The purpose of this filing is to eliminate the gateways of (1) Lincoln, Nebr.; points in Iowa or Wisconsin within 150 miles of Austin, Minn; and points in Illinois; or (2) points in that part of Missouri south of U.S. Highway 54 and west of Missouri Highway 5 and points in Illinois within 150 miles of Austin, Minn.

No. MC 564 (Sub-No. E136), filed June 4, 1974. Applicant: DUDLEY'S TRANSCONTINENTAL MOVERS, P.O. Box 82046, Lincoln, Nebr. 68501. Applicant's representative: Rolland C. Dudley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods;* (1) Between points in Okanogan, Chelan, Douglas, Grant, and Ferry Counties, Wash., on the one hand, and, on the other, points in Josephine, and Jackson Counties, Oreg., and Klamath Falls, Oreg.; (2) between points in Kings County, Wash., on the one hand, and, on the other, points in Malheur County, Oreg.; (3) between points in Harney County, Oreg., on the one hand, and, on the other, points in Whatcom County, Wash.; (4) between points in Grays Harbor County, Wash., on the one hand, and, on the other, points in Malheur County, Oreg.; (5) between points in Pierce County, Wash., on the one hand, and, on the other, points in Baker County, Oreg.; (6) between points in Josephine and Jackson Counties, Oreg., on the one hand, and, on the other, points in Ferry, Stevens, and Pend Oreille Counties, Wash.; (7) between points in Multnomah County, Oreg., on the one hand, and, on the other, points in Chelan and Douglas Counties, Wash.; and (8) between points in Sherman, Hood River, Multnomah, Tillamook, Yamhill, Clackamas, Wasco, Marion, Polk, Lincoln, Benton, Jefferson, Deschutes, Lane, Douglas, Klamath, Coos, Curry, Lake, and Linn Counties, Oreg., on the one hand, and, on the other, points in Ferry, Grant, Douglas, Chelan, and Okanogan Counties, Wash. The purpose of this filing is to eliminate the gateway of Wenatchee, Wash.

No. MC 61825 (Sub E378), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Virginia on and west of a line beginning at the West Virginia-Virginia State line and extending south along Interstate Highway 77 to junction Virginia Highway 606, thence east along Virginia Highway 606 to junction Virginia Highway 42, thence west along Virginia Highway 42 to junction Virginia Highway 738, thence south along Virginia Highway 738 to junction Virginia Highway 100, thence south along Virginia Highway 100 to junction U.S. Highway 221, thence west along U.S. Highway 221 to junction U.S. Highway 52, thence south along U.S. Highway 52 to the Virginia-North Carolina State line, on the one hand, and, on the other, the District of Columbia and points in Maryland and West Virginia on and east of U.S. Highway 522. The purpose of this filing is to eliminate the gateways of Pulaski and Lynchburg, Va.

No. MC 61825 (Sub E379), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Henry County, Va., and those points in Pittsylvania County, Va., on and bounded by a line beginning at the North Carolina-Virginia State line and extending north along U.S. Highway 29 to junction Virginia Highway 41, thence north along Virginia Highway 41 to junction Virginia Highway 57, thence west along Virginia Highway 57 to the Pittsylvania-Henry County line, thence south along the Pittsylvania-Henry County line to the Virginia-North Carolina State line, thence east along the Virginia-North Carolina State line to point of beginning, to points in Delaware, the District of Columbia, Illinois, Indiana, Iowa, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub E380), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture;* from points in Henry County, Va., to points in Virginia on and north of a line beginning at the West Virginia-Virginia State line and extending east along U.S. Highway 33 to junction U.S. Highway 11, thence south along U.S. Highway 11 to junction Virginia Highway 659, thence south along Virginia Highway 659 to junction U.S. Highway 340, thence south along U.S. Highway 340 to junction U.S. Highway 250, thence east along U.S. Highway 250 to junction Virginia Highway 208, thence northeast along Virginia Highway 208 to junction Virginia Highway 606, thence east along Virginia Highway 606 to junction Virginia Highway 2, thence south along Virginia Highway 2 to junction U.S. Highway 301, thence north along U.S. Highway 301 to the Potomac River. The purpose of this filing is to eliminate the gateway of Martinsville and Lynchburg, Va.

No. MC 61825 (Sub-No. E413), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the Tennessee-North Carolina State line extending along U.S. Highway 421 to junction U.S. Highway 321, thence along U.S. Highway 321 to junction North Carolina Highway 16, thence along North Carolina Highway 16 to junction Interstate Highway 77, thence along Interstate Highway 77 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to junction U.S. Highway 52, thence along U.S. Highway 52 to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to the North Carolina-Tennessee State line, thence along the North Carolina-Tennessee State line to points of beginning, to those points in New Jersey, New York, and Pennsylvania on, north, and east of a line beginning at the United States-Canada International Boundary line extending along New York Highway 5 to junction New York Highway 75, thence along New York Highway 75 to junction New York Highway 391, thence along New York Highway 391 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 46, thence along Pennsylvania Highway 46 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Interstate Highway 95, thence along Interstate Highway 95 to the Hudson River, thence along the Hudson River to Upper New York Bay, thence through The Narrows to Lower New York Bay and thence to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Pulaski and Martinsville, Va.

No. MC 61825 (Sub-No. E414), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on, south and west of a line beginning at the Tennessee-North Carolina State line extending along U.S. Highway 421 to junction U.S. Highway 321, thence along U.S. Highway 321 to junction North Carolina Highway 16, thence along North Carolina Highway 16 to junction Interstate Highway 77, thence along Interstate Highway 77 to the North Carolina-South Carolina State line to those points in Delaware, New Jersey, New York, and Pennsylvania on, north, and east of a line beginning at Youngstown, N.Y., extending along the United States-Canada International Boundary line to junction New York Highway 5, thence along New York Highway 5 to junction New York Highway 75, thence along New York Highway 75 to junction U.S. Highway 62, thence along U.S. Highway 62 to junc-

tion New York Highway 17, thence along New York Highway 17 to junction New York Highway 60, thence along New York Highway 60 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 948, thence along Pennsylvania Highway 948 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 36, thence along Pennsylvania Highway 36 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway 641, thence along Pennsylvania Highway 641 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction Pennsylvania Highway 230, thence along Pennsylvania Highway 230 to junction U.S. Highway 222, thence along U.S. Highway 222 to junction Pennsylvania Highway 741, thence along Pennsylvania Highway 741 to junction Pennsylvania Highway 896, thence along Pennsylvania Highway 896 to junction Delaware Highway 896, thence along Delaware Highway 896 to junction Delaware Highway 273, thence along Delaware Highway 273 to the Delaware River, thence along the Delaware River to the Delaware Bay, and thence to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Pulaski and Martinsville, Va.

No. MC 61825 (Sub-No. E415), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Robbinsville, N.C., to points in Delaware, New Jersey, New York, and Pennsylvania on and northeast of a line beginning near Youngstown, N.Y., extending along the United States-Canada International Boundary line to New York Highway 5, thence along New York Highway 5 to junction New York Highway 75, thence along New York Highway 75 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 60, thence along New York Highway 60 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction Pennsylvania Highway 36, thence along Pennsylvania Highway 36 to junction Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to junction Pennsylvania Highway 359, thence along Pennsylvania Highway 359 to junction Pennsylvania Highway 56, thence along Pennsylvania Highway 56 to junction Pennsylvania Highway 156, thence along Pennsylvania Highway 156 to junction Pennsylvania Highway 981, thence along Pennsylvania Highway 981 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Pennsylvania Highway 381, thence along Pennsylvania Highway 381 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 219, thence along U.S. Highway 219 to Berlin, Pa., thence along Pennsylvania Highway 160 to the Pennsylvania-Maryland State line, thence along the Pennsylvania-Maryland State line to the Maryland-Delaware State line, thence along the Maryland-Delaware State line to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Pulaski and Martinsville, Va.

No. MC 61825 (Sub-No. E416), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the Tennessee-North Carolina State line extending along U.S. Highway 421 to junction U.S. Highway 321, thence along U.S. Highway 321 to junction North Carolina Highway 16, thence along North Carolina Highway 16 to junction Interstate Highway 77, thence along Interstate Highway 77 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to junction U.S. Highway 52, thence along U.S. Highway 52 to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to the North Carolina-Tennessee State line, thence along the North Carolina-Tennessee State line to points of beginning, to those points in West Virginia, Maryland and the District of Columbia on and bounded by a line beginning at the Pennsylvania-Maryland State line extending along U.S. Highway 522 to the West Virginia-Virginia State line, thence along the West Virginia-Virginia State line to the Maryland-Virginia State line, thence along the Maryland-Virginia State line to the District of Columbia-Virginia boundary line, thence along the District of Columbia-Virginia boundary line to junction Interstate 495, thence along Interstate Highway 495 to junction Maryland Highway 4, thence along Maryland Highway 4 to junction Maryland Highway 260, thence along Maryland Highway 260 to the Chesapeake Beach, thence along the Chesapeake Bay to Honga, Md., thence along Maryland Highway 335 to junction Maryland Highway 16, thence along Maryland Highway 16 to junction Maryland Highway 392, thence along Maryland Highway 392 to the Maryland-Delaware State line, thence along the Maryland-Delaware State line to the Maryland-Pennsylvania State line, thence along the Maryland-Pennsylvania State line to points of beginning. The purpose of this filing is to eliminate the gateway of Pulaski and Lynchburg, Va.

No. MC 61825 (Sub-No. E417), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and southwest of a line beginning at the Tennessee-North Carolina State line extending along U.S. Highway 421 to junction U.S. Highway 321, thence along U.S. Highway 321 to junction North Carolina Highway 16, thence along North Carolina Highway 16 to junction Interstate Highway 77, thence along Interstate Highway 77 to the North Carolina-South Carolina State line, to those points in the District of Columbia, Maryland, and West Virginia on and bounded by a line beginning at the Pennsylvania-West Virginia-Maryland State line extending along the West Virginia-Maryland State line to junction U.S. Highway 219, thence along U.S. Highway 219 to junction West Virginia Highway 32, thence along West Virginia Highway 32 to junction U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line, thence along the West Virginia-Virginia State line to the Potomac River, thence along the Potomac River to the Chesapeake Bay, thence across the Chesapetake Bay to Nanticoke, Md., thence along Maryland Highway 349 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Maryland Highway 528, thence along Maryland Highway 528 to the Maryland-Delaware State line, thence along the Maryland-Delaware State line to the Maryland-Pennsylvania State line, thence along the Maryland-Pennsylvania State line to point of beginning. The purpose of this filing is to eliminate the gateway of Pulaski and Lynchburg, Va.

No. MC 61825 (Sub-No. E418), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Robbinsville, N.C., to points in Maryland and the District of Columbia, and those in West Virginia on and northeast of a line beginning at the Pennsylvania-West Virginia State line extending along U.S. Highway 19 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction West Virginia Highway 38, thence along West Virginia Highway 38 to junction West Virginia Highway 72, thence along West Virginia Highway 72 to junction West Virginia Highway 32, thence along West Virginia Highway 32 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction U.S. Highway 220, thence along U.S. Highway 220 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Pulaski and Lynchburg, Va.

No. MC 61825 (Sub-No. E419), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Beaver

County, Pa., on the one hand, and, on the other, points in Amelia, Amherst, Appomattox, Bedford, Botetourt, Buckingham, Campbell, Charlotte, Cumberland, Floyd, Franklin, Halifax, Henry, Lunenburg, Mecklenburg, Montgomery, Mottoway, Patrick, Pittsylvania, Prince Edward, Washington, and Wythe Counties, Va., including independent cities bounded by the above-named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E420), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Butler County, Pa., on the one hand, and, on the other, points in Amherst, Appomattox, Bedford, Buckingham, Campbell, Charlotte, Cumberland, Floyd, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, and Prince Edward Counties, Va., including independent cities bounded by the above-named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E421), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Crawford County, Pa., on the one hand, and, on the other, points in Amelia, Amherst, Appomattox, Bedford, Botetourt, Buckingham, Campbell, Charlotte, Cumberland, Floyd, Franklin, Halifax, Henry, Lunenburg, Mecklenburg, Montgomery, Nottoway, Patrick, Pittsylvania, Prince Edward, Roanoke, Washington, and Wythe Counties, Va., including independent cities bounded by the above-named counties. The purpose of this filing is to eliminate the gateway of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E422), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Erie County, Pa., on the one hand, and, on the other, points in Amelia, Amherst, Appomattox, Bedford, Botetourt, Buckingham, Campbell, Carroll, Charlotte, Cumberland, Floyd, Franklin, Grayson, Halifax, Henry, Lunenburg, Mecklenburg, Montgomery, Nottoway, Patrick, Pittsylvania, Prince Edward, Pulaski, Roanoke, Smyth, Washington, and Wythe, Counties, Va., including independent cities bounded by the above-named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E423), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Forest County, Pa., on the one hand, and, on the other, points in Appomattox, Bedford, Campbell, Charlotte, Halifax, Henry, Lunenburg, Mecklenburg, Patrick, and Pittsylvania Counties, Va., including independent cities bounded by above-named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E424), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Lawrence County, Pa., on the one hand, and, on the other, points in Amelia, Amherst, Appomattox, Bedford, Botetourt, Buckingham, Campbell, Charlotte, Cumberland, Floyd, Franklin, Halifax, Henry, Lunenburg, Mecklenburg, Montgomery, Nottoway, Patrick, Pittsylvania, Prince Edward, Washington, and Wythe Counties, Va., including independent cities bounded by the above-named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E425), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Mercer County, Pa., on the one hand, and, on the other, points in Appomattox, Bedford, Campbell, Charlotte, Floyd, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, and Prince Edward Counties, Va., including independent cities in the above-named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E426), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Venango County, Pa., on the one hand, and, on the other, points in Amherst, Appomattox, Bedford, Buckingham, Campbell, Charlotte, Cumberland, Floyd, Franklin, Halifax, Henry, Lunenburg, Mecklenburg, Montgomery, Nottoway, Patrick, Pittsylvania, and Prince Edward Counties, Va., including independent cities bounded by the above-named counties. The purpose of this filing is to eliminate the gateway of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E427), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Warren County, Pa., on the one hand, and, on the other, points in Appomattox, Bedford, Campbell, Carroll, Charlotte, Floyd, Grayson, Halifax, Henry, Lunenburg, Mecklenburg, Montgomery, Nottoway, Patrick, Pittsylvania, Prince Edward, Pulaski, Roanoke, Smyth, Washington, and Wythe Counties, Va., including independent cities bounded by the above-named counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E428), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Lawrence and Venango Counties, Pa., on the one hand, and, on the other, points in North Carolina bounded by a line beginning at the North Carolina-Virginia State line extending along North Carolina Highway 8 to junction U.S. Highway 421 to Villas, thence along U.S. Highway 321 to the North Carolina-Tennessee State line, thence along the North Carolina-Tennessee State line to the North Carolina-Tennessee-Georgia State lines, thence along the North Carolina-Georgia and North Carolina-South Carolina State lines to the Atlantic Ocean, thence along the Atlantic Ocean to Morehead City, N.C., thence along U.S. Highway 70 to New Bern, thence along U.S. Highway 17 to Windsor, thence along North Carolina Highway 308 to Rice Square, thence along North Carolina Highway 305 to Jackson, thence along U.S. Highway 158 to Garysburg, thence along U.S. Highway 301 to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to the point of beginning, including all points on the highways named. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E429), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Mercer and Warren Counties, Pa., on the one hand, and, on the other, points in North Carolina bounded by a line beginning at

the North Carolina-Virginia State line extending along U.S. Highway 8 to Winston Salem, thence along Interstate Highway 40 to Hickory, thence along U.S. Highway 321 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to the Atlantic Ocean, thence along the Atlantic Ocean to Morehead City, N.C., thence along U.S. Highway 70 to New Bern, thence along U.S. Highway 17 to Washington, thence along North Carolina Highway 33 to Bethel, thence along North Carolina Highway 11 to Oak City, thence along North Carolina Highway 125 to junction U.S. Highway 301, thence along U.S. Highway 301 to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to point of beginning, including all points in the highways named. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E430), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Beaver, Crawford, and Erie Counties, Pa., on the one hand, and, on the other, points in North Carolina on and west of a line beginning at the North Carolina-Virginia State line extending along U.S. Highway 301 to Garysburg, thence along U.S. Highway 158 to Jackson, thence along North Carolina Highway 305 to Rich Square, thence along North Carolina Highway 308 to Windsor, thence along U.S. Highway 17 to New Bern, thence along U.S. Highway 70 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E431), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between Pittsburgh, Pa., and points in Allegheny County, Pa., on the one hand, and, on the other, points in North Carolina bounded by a line beginning at the North Carolina-Virginia State line extending along U.S. Highway 220 to Madison, thence along U.S. Highway 311 to Winston-Salem, thence along Interstate Highway 40 to Statesville, thence along U.S. Highway 21 to Charlotte, thence along U.S. Highway 29 to junction North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to the Atlantic Ocean, thence along the Atlantic Ocean to Morehead City, N.C., thence along U.S. Highway 70 to New Bern, thence along U.S. Highway 17 to Washington, thence along North Carolina Highway 33 to Greenville, thence along North Carolina Highway 43 to Rocky Mount, thence along U.S. Highway 301 to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to the point of beginning, including all points on the highways named. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E432), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Armstrong and Butler Counties, Pa., on the one hand, and, on the other, points in North Carolina bounded by a line beginning at the North Carolina-Virginia State line extending along North Carolina Highway 8 to Winston Salem, thence along Interstate Highway 40 to Newton, thence along U.S. Highway 321 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to the Atlantic Ocean, thence along the Atlantic Ocean to Morehead City, thence along U.S. Highway 70 to New Bern, thence along U.S. Highway 17 to Washington, thence along North Carolina Highway 33 to Bethel, thence along U.S. Highway 258 to Scotland Neck, thence along North Carolina Highway 125 to junction U.S. Highway 301, thence along U.S. Highway 301 to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to the point of beginning, including all points on the named highways. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E557), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture* from points in Indiana south of a line beginning on the Indiana-Kentucky State line and extending along Indiana Highway 256 to junction U.S. Highway 31, thence north on U.S. Highway 31 to junction Indiana Highway 250, thence west on Indiana Highway 250 to junction Indiana Highway 39, thence west on Indiana Highway 39 to junction U.S. Highway 50, thence west on U.S. Highway 50 to junction Indiana Highway 37, thence north on Indiana Highway 37 to junction Indiana Highway 46, thence west on Indiana Highway 46 to junction Interstate Highway 70, thence west on Interstate Highway 70 to the Indiana-Illinois State line to points in Virginia on, east and south of a line beginning on the North Carolina-Virginia State line and extending along Virginia Highway 104 to junction Virginia Highway 773, thence east on Virginia Highway 773 to junction Virginia Highway 614, thence north on Virginia Highway 614 to the Blue Ridge Parkway, thence north along the Blue Ridge Parkway to junction Virginia Highway 8, thence north along Virginia Highway 8 to junction U.S. Highway 221, thence north along U.S. Highway 221 to junction U.S. Highway 460, thence north along U.S. Highway 460 to the Blue Ridge Parkway, thence north along the Blue Ridge Parkway to U.S. Highway 60, thence east along U.S. Highway 60 to junction U.S. Highway 29, thence north along U.S. Highway 29 to junction U.S. Highway 250, thence east along U.S. Highway 250 to junction Virginia Highway 20, thence east along Virginia Highway 20 to junction Virginia Highway 3, thence east along Virginia Highway 3 to junction Virginia Highway 218, thence east along Virginia Highway 218 to junction U.S. Highway 301, thence east along U.S. Highway 301 to the Maryland-Virginia State line, thence east along the Maryland-Virginia State line to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E558), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture* from points in Indiana on and north of a line beginning on the Indiana-Ohio State line and extending along U.S. Highway 33 to junction Indiana Highway 19, to the Indiana-Michigan State line to points in Georgia on and east of a line beginning on the Florida-Georgia State line and extending along U.S. Highway 441 to junction U.S. Highway 221, to the Georgia-South Carolina State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E559), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture*, from those points in Indiana on and north of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 40 to junction U.S. Highway 27, thence north on U.S. Highway 27 to junction Interstate Highway 70, thence west on Interstate Highway 70 to junction Indiana Highway 38, thence west on Indiana Highway 38 to junction Indiana Highway 32, thence west on Indiana Highway 32 to junction U.S. Highway 136, thence west on U.S. Highway 136 to the Indiana-Illinois State line and south of a line beginning on the Indiana-Ohio State line and extending along U.S. Highway 33 to junction State Highway 19 to the Indiana-Michigan State line to points in Georgia on and east of U.S. Highway 17. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E560), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture*, from points in Indiana on and north of a line beginning on the Indiana-Ohio State line, thence north on U.S. Highway 33 to junction Indiana Highway 19, thence north on State Highway 19 to the Indiana-Michigan State line to points in Florida on and east of a line beginning on the coast of the Gulf of Mexico and extending along Florida Highway 24 to junction Florida Highway 345, thence north on Florida Highway 345 to junction U.S. Highway 129, thence north on U.S. Highway 129 to junction Florida Highway 47, thence north on Florida Highway 47 to junction U.S. Highway 441, thence north on U.S. Highway 441 to the Florida-Georgia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E561), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture* from those points in Indiana on and north of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 40 to junction U.S. Highway 27, thence north on U.S. Highway 27 to junction Interstate Highway 70, thence west on Interstate Highway 70 to junction U.S. Highway 35, thence west on U.S. Highway 35 to junction Indiana Highway 67, thence west on Indiana Highway 67 to junction Interstate Highway 69, thence north on Interstate Highway 69 to junction Indiana Highway 32, thence west on Indiana Highway 32 to junction Indiana Highway 9, thence north on Indiana Highway 9 to junction Indiana Highway 28, thence west on Indiana Highway 28 to junction Indiana Highway 13, thence north on Indiana Highway 13, to junction Indiana Highway 26, thence west on Indiana Highway 26 to junction U.S. Highway 31, thence north on U.S. Highway 31 to junction U.S. Highway 35, thence north on U.S. Highway 35 to junction U.S. Highway 24, thence west on U.S. Highway 24 to the Indiana-Illinois State line and south of a line beginning on the Indiana-Ohio State line and extending along U.S. Highway 33 to junction Indiana Highway 19, to the Indiana-Michigan State line to points in Florida on and east of a line beginning on the Gulf of Mexico and extending along U.S. Highway 19 to junction Interstate Highway 75, thence north on Interstate Highway 75 to junction Florida Highway 48, thence east on Florida Highway 48 to junction Florida Highway 33, thence north on Florida Highway 33 to junction U.S. Highway 27, thence north on U.S. Highway 27 to junction U.S. Highway 441, thence east on U.S. Highway 441 to junction Florida Highway 19, thence north on Florida Highway 19 to junction Florida Highway 20, thence east on Florida Highway 20 to junction U.S. Highway 17, thence north on U.S. Highway 17 to the Florida-Georgia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E562), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture*, from those points in Indiana on and north of a line beginning at the Indiana-Ohio State line and extending along Interstate Highway 74 to junction Indiana Highway 32, thence west on Indiana Highway 32 to junction U.S. Highway 136, thence west on Indiana Highway 136 to the Indiana-Illinois State line and south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 40 to junction U.S. Highway 27, thence north on U.S. Highway 27 to junction Interstate Highway 70, thence west on Interstate Highway 70 to junction U.S. Highway 35, thence west on U.S. Highway 35 to junction Indiana Highway 67, thence west on Indiana Highway 67 to junction Interstate Highway 69, thence north on Interstate Highway 69 to junction Indiana Highway 32, thence west on Indiana Highway 32 to junction Indiana Highway 9, thence north on Indiana Highway 9 to junction Indiana Highway 28, thence west on Indiana Highway 28 to junction Indiana Highway 13, thence north on Indiana Highway 13 to junction Indiana Highway 26, thence west on Indiana Highway 26 to junction U.S. Highway 31, thence north on U.S. Highway 31 to junction U.S. Highway 35, thence north on U.S. Highway 35 to junction U.S. Highway 24, thence west on U.S. Highway 24 to the Indiana-Illinois State line to points in Florida on, east and south of a line beginning on the Atlantic Ocean and extending along Florida Highway 520 to junction Interstate Highway 95, thence south on Interstate Highway 95 to junction Florida Highway 60, thence east on Florida Highway 60 to junction U.S. Highway 1, thence south on U.S. Highway 1 to junction Florida Highway 70, thence west on Florida Highway 70 to junction U.S. Highway 98, thence south on U.S. Highway 98 to junction Florida Highway 78, thence south on Florida Highway 78 to junction U.S. Highway 27, thence west on U.S. Highway 27 to junction Florida Highway 78, thence west on Florida 78 to Pine Island Sound. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E563), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture* from points in Delaware in Sussex County to points in South Carolina west of a line beginning on the Atlantic Ocean near Sullivans Island, S.C., thence west on South Carolina Highway 703 to junction U.S. Highway 17, thence west on U.S. Highway 17 to U.S. Highway 52, thence north on U.S. Highway 52 to the South Carolina-North Carolina State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. 564), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture* from points in Delaware in New Castle and Kent Counties to points in South Carolina. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E565), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture* from points in Delaware in New Castle and Kent Counties to points in North Carolina on and west of a line beginning at the South Carolina-North Carolina State line and extending along North Carolina Highway 41 to junction Interstate Highway 95, thence north on Interstate Highway 95 to junction North Carolina Highway 87, thence north on North Carolina Highway 87 to junction U.S. Highway 15, thence north on U.S. Highway 15 to junction North Carolina Highway 86, thence north on North Carolina Highway 86 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E566), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture*, from points in Delaware in Sussex County to points in North Carolina on and west of a line beginning on the North Carolina-South Carolina State line and extending along U.S. Highway 1 to junction U.S. Highway 74, thence north on U.S. Highway 74 to junction U.S. Highway 220, thence north on U.S. Highway 220 to junction North Carolina Highway 24, thence east on North Carolina Highway 24 to junction North Carolina Highway 705, thence north on North Carolina Highway 705 to Robbins, thence north

on an unnumbered highway to High Falls, thence north on North Carolina Highway 22 to junction North Carolina Highway 62, thence north on North Carolina Highway 62 to junction North Carolina Highway 86, thence north on North Carolina Highway 86 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E567), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture* from points in Delaware to points in Alabama, Florida, Georgia, Louisiana, Mississippi and Tennessee. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub E569), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture*, from points in Delaware to points in Kentucky on and south of a line beginning at the West Virginia-Kentucky State line and extending along Kentucky Highway 32 to junction Kentucky Highway 7, thence south on Kentucky Highway 7 to junction U.S. Highway 460, to the Ohio River. The purpose of this filing is is eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub E570), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials used in the manufacture of furniture*, from Chicago, Illinois to points in Florida, Georgia, North Carolina, South Carolina and Virginia, bounded by a line beginning at Key West, Florida, thence north along the Gulf of Mexico coastline to St. Petersburg, Fla., thence north on U.S. Highway 19 to junction Interstate Highway 75, thence north along Interstate Highway 75 to junction U.S. Highway 41, thence north on U.S. Highway 41 to junction Florida Highway 121, thence north on Florida Highway 121 to the Florida-Georgia State line, thence north on Georgia Highway 121 to junction U.S. Highway 1, thence north on U.S. Highway 1 to junction Georgia Highway 56, thence north on Georgia Highway 56 to junction U.S. Highway 25, thence north on U.S. Highway 25 to the Georgia-South Carolina State line, thence north on U.S. Highway 25 to junction South Carolina Highway 121, thence north on South Carolina Highway 121 to junction U.S. Highway 176, thence north on U.S. Highway 176 to junction South Carolina Highway 114, thence north on South Carolina Highway 114 to junction South Carolina Highway 18, thence north on South Carolina Highway 18 to the Blue Ridge Parkway, thence north along Blue Ridge Parkway to the North Carolina-Virginia State line, thence north along the Blue Ridge Parkway to State Highway 89, thence north along South Carolina Highway 89 to junction U.S. Highway 58, thence north on U.S. Highway 58 to junction South Carolina Highway 100, thence north along South Carolina Highway 100 to junction U.S. Highway 11, thence north on U.S. Highway 11 to junction U.S. Highway 340, thence east on U.S. Highway 340 to junction U.S. Highway 250, thence east along U.S. Highway 250 to junction South Carolina Highway 605, thence east on South Carolina Highway 605 to junction U.S. Highway 33, thence east on U.S. Highway 33 to junction South Carolina Highway 54, thence east on South Carolina Highway 54 to junction Interstate Highway 95, thence north on Interstate Highway 95 to junction South Carolina Highway 30, thence east on South Carolina Highway 30 to junction U.S. Highway 360, thence east on U.S. Highway 360 to junction South Carolina Highway 624, thence east on South Carolina Highway 624 to the Maryland-Virginia State line, thence east along the Maryland-Virginia State line to the Atlantic Ocean, thence south along the Atlantic Shore to point of beginning including points on highways specified. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub E571), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and, those injurious or contaminating to other lading between Norfolk, Newport News, and Hampton, Va., and points in the Counties of Northampton and Accomack, on the one hand, and, on the other, points in Virginia on and west of a line beginning at the West Virginia-Virginia State line at Virginia Highway 39, and extending southeast along Virginia Highway 39 to junction Virginia Highway 252, thence along Virginia Highway 252 to junction Virginia Highway 606, thence along Virginia Highway 606 to junction Virginia Highway 56, thence along Virginia Highway 56 to junction Virginia Highway 655, thence along Virginia Highway 655 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Virginia Highway 26, thence along Virginia Highway 26 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Virginia Highway 24, thence along Virginia Highway 24 to junction U.S. Highway 501, thence south along U.S. Highway 501 to junction Virginia Highway 761, thence south along Virginia Highway 761 to junction Virginia Highway 699, thence west along Virginia Highway 699 to junction U.S. Highway 29, thence south along U.S. Highway 29 to junction Virginia Highway 57, thence southwest along Virginia Highway 57 to junction U.S. Highway 220, thence south along U.S. Highway 220 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub E572), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading between points in Virginia, on and bounded by a line beginning at U.S. Highway 301 at the Potomac River and extending south along U.S. Highway 301 to junction Virginia Highway 218, thence west along Virginia Highway 218 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction U.S. Highway 1, thence south along U.S. Highway 1 to the James River, thence southeast along the James River to the Chesapeake Bay, thence north along the Chesapeake Bay to the Potomac River, thence northwest along the Potomac River to the point of beginning, on the one hand, and, on the other, points in Virginia on and west of a line beginning at the West Virginia-Virginia State line and extending along Virginia Highway 311 near Paint Bank, thence extending along Virginia Highway 311 to junction Virginia Highway 18, thence north along Virginia Highway 18 to junction Virginia Highway 619, thence along Virginia Highway 619 to junction Virginia Highway 616, thence along Virginia Highway 616 to junction Virginia Highway 621, thence along Virginia Highway 621 to junction Virginia Highway 615, thence along Virginia Highway 615 to junction Virginia Highway 43, thence along Virginia Highway 43 to junction Interstate Highway 81, thence north along Interstate Highway 81 to junction Virginia Highway 130, thence along Virginia Highway 130 to junction U.S. Highway 29, thence south along U.S. Highway 29 to junction U.S. Highway 460, thence east along U.S. Highway 460 to junction Virginia Highway 24, thence south along Virginia Highway 24 to junction U.S. Highway 501, thence south along U.S. Highway 501 to junction Virginia Highway 761, thence south along Virginia Highway 761 to junction Virginia Highway 640, thence along Virginia Highway 640 to junction U.S. Highway 29, thence south along U.S. Highway 29 to junction Virginia Highway

86, thence south along Virginia Highway 86 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub E577), filed May 23, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading between points in North Carolina on and south of a line beginning at the Atlantic Ocean and extending along the Neuse River to junction U.S. Highway 17, thence west along U.S. Highway 17 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction U.S. Highway 70A, thence along U.S. Highway 70A to junction U.S. Highway 301, thence south along U.S. Highway 301 to the North Carolina-South Carolina State line, on the one hand, and, on the other, points in Virginia on and northwest of a line beginning at the West Virginia-Virginia State line and extending south along Virginia Highway 311 to junction U.S. Highway 11, thence east along U.S. Highway 11 to junction Virginia Highway 24, thence along Virginia Highway 24 to junction U.S. Highway 501, thence north along U.S. Highway 501 to junction Virginia Highway 24, thence east along Virginia Highway 24 to junction U.S. Highway 460, thence east along U.S. Highway 460 to junction Virginia Highway 24, thence along Virginia Highway 24 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction U.S. Highway 15, thence north along U.S. Highway 15 to junction Virginia Highway 229, thence along Virginia Highway 229 to junction U.S. Highway 211, thence east along U.S. Highway 211 to junction Virginia Highway 688, thence along Virginia Highway 688 to junction Virginia Highway 647, thence north along Virginia Highway 647 to junction U.S. Highway 17, thence south along U.S. Highway 17 to junction Virginia 55, thence east along Virginia Highway 55 to junction Virginia Highway 626, thence along Virginia Highway 626 to junction U.S. Highway 50, thence east along U.S. Highway 50 to junction U.S. Highway 15, thence north along U.S. Highway 15 to the Maryland-Virginia State line. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub E578), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B Explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along Interstate Highway 85 to junction U.S. Highway 70, thence east along U.S. Highway 70 to the Atlantic Ocean, on the one hand, and, on the other, points in Virginia within an area bounded by a line beginning at the West Virginia-Virginia State line and extending along U.S. Highway 250 to junction U.S. Highway 220, thence south along U.S. Highway 220 to junction Virginia Highway 39, thence east along State Highway 39 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 60, thence east along U.S. Highway 60 to junction U.S. Highway 29, thence south along U.S. Highway 29 to junction U.S. Highway 501, thence south along U.S. Highway 501 to junction Virginia Highway 24 West, thence along Virginia Highway 24 to junction U.S. Highway 11, thence west along U.S. Highway 11 to junction Virginia Highway 311, thence along Virginia Highway 311 to the West Virginia-Virginia State line, and thence along the Virginia-West Virginia State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub E579), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in West Virginia located on and south of U.S. Highway 60, on the one hand, and, on the other, the District of Columbia. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub E580), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Euscarawas County, Ohio, on the one hand, and, on the other, Amelia, Amherst, Appomattox, Bedford, Brunswick, Buckingham, Campbell, Carroll, Charlotte, Chesterfield, Cumberland, Dinwiddie, Floyd, Franklin, Greensville, Halifax, Henry, Isle of Wight, Lunenburg, Mecklenburg, Nelson, Nottoway, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Southampton, Surry, Sussex Counties, Va., including independent cities bounded by the above named Counties, and Chesapeake, Nansemond, Newport News, Norfolk, Princess Anne, and Virginia Beach, Va. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub E581), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Maryland on the eastern shore on and south and east of a line beginning at the Chesapeake Bay and extending along the Nanticoke River to Maryland Highway 313, thence south along Maryland Highway 313 to junction Maryland Highway 348, thence southeast along Maryland Highway 348 to the Maryland-Delaware State line, thence along the Maryland-Delaware State line to the Atlantic Ocean, on the one hand, and, on the other, points in Georgia except points east of a line beginning at the South Carolina-Georgia State line and extending southwest along Georgia Highway 119 to junction U.S. Highway 82, to junction U.S. Highway 17, to junction Georgia Highway 38, thence southeast along Georgia Highway 38 to Saint Catherines Sound and to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Lynchburg, Va.

No. MC 61825 (Sub E582), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Delaware on and south of a line beginning at the Maryland-Delaware State line and extending east along Delaware Highway 24, to junction unnumbered Highway near Lowes Crossroads, Del., to junction Delaware Highway 26, to the Atlantic Ocean, on the one hand, and, on the other, points in Georgia. The purpose of this filing is to eliminate the gateway of Pulaski, Va.

No. MC 61825 (Sub E583), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in District of Columbia and Maryland on and north of a line beginning at the West Virginia-Maryland State line and extending along the West Virginia-Maryland State line to the Virginia-Maryland State line, thence along the Virginia-Maryland State line to the Virginia-District of Columbia line, thence southeast along the Virginia-District of Columbia line, to junction Interstate Highway 495, thence east along Interstate Highway 495 to junction Maryland Highway 4, thence east along Maryland Highway 4 to junction Maryland

Highway 260, thence southeast along Maryland Highway 260 to the Chesapeake Bay, thence east across the Chesapeake Bay to Tilgham, Md., thence northeast along Maryland Highway 33 to junction U.S. Highway 50, thence south along U.S. Highway 50 to junction Maryland Highway 328, thence northeast along Maryland Highway 328 to junction Maryland Highway 404, thence east along Maryland Highway 404 to junction Maryland Highway 313, thence along Maryland Highway 313 to junction Maryland Highway 317, thence along Maryland Highway 317 to the Maryland-Delaware State line, to points in South Carolina. The purpose of this filing is to eliminate the gateways of Lynchburg, and Martinsville, Va.

No. MC 61825 (Sub E584), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from New York, N.Y., and points in New Jersey and Pennsylvania on, south and east of a line beginning at the New York-New Jersey State line and extending along U.S. Highway 202 to Norristown, Pa., thence west along U.S. Highway 422 to Harrisburg, Pa., thence southwest along U.S. Highway 15 to junction U.S. Highway 15 Business, to junction U.S. Highway 15, thence southwest along U.S. Highway 15 to the Pennsylvania-Maryland State line, to points in South Carolina. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub E585), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above) Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: New furniture, from points in Delaware on and north of a line beginning at the Maryland-Delaware State line and extending along Delaware Highway 14 to junction Delaware Highway 36, thence east along Delaware Highway 36 to the Atlantic Ocean, to points in South Carolina on and west of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 21 to junction U.S. Highway 321, thence south along U.S. Highway 321 to junction South Carolina Highway 119, thence south along South Carolina Highway 119 to the South Carolina-Georgia State line. The purpose of this filing is to eliminate the gateways of Pulaski and Martinsville, Va.

No. MC 61825 (Sub E586), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Pennsylvania on and bounded by a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 522 to junction Pennsylvania Highway 104, thence north along Pennsylvania Highway 104 to junction Pennsylvania Highway 45, thence east along Pennsylvania Highway 45 to junction Pennsylvania Highway 642, thence east along Pennsylvania Highway 642 to junction Interstate Highway 80, thence east along Interstate Highway 80 to junction U.S. Highway 11, thence northeast along U.S. Highway 11 to junction U.S. Highway 6, thence east along U.S. Highway 6 to junction Pennsylvania Highway 652, thence northeast along Pennsylvania Highway 652 to the Pennsylvania-New York State line, thence southeast along the Pennsylvania-New York State line to the Pennsylvania-New Jersey State line to junction U.S. Highway 202, thence southwest along U.S. Highway 202 to Norristown, Pa., thence west along U.S. Highway 422 to Harrisburg, Pa., thence southwest along U.S. Highway 15 to junction U.S. Highway 15 (Business), thence southwest along U.S. Highway 15 (Business) to junction U.S. Highway 15, thence southwest along U.S. Highway 15 to the Pennsylvania-Maryland State line, thence west along the Pennsylvania-Maryland State line to point of beginning and points in New Jersey, on and northwest of U.S. Highway 202 and, points in New York on and south of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 97 to junction New York Highway 52, thence northeast along New York Highway 52 to junction U.S. Highway 209, thence northeast along U.S. Highway 209 to junction New York Highway 213, thence east along New York Highway 213 to junction New York Highway 32, thence north along New York Highway 32 to junction New York Highway 199, thence east along New York Highway 199 to junction U.S. Highway 44, thence northeast along U.S. Highway 44 to the New York-Connecticut State line, to points in South Carolina on and west of a line beginning at the North Carolina-South Carolina State line and extending south along U.S. Highway 521 to junction U.S. Highway 15, thence south along U.S. Highway 15 to junction South Carolina Highway 303, thence south along South Carolina Highway 303 to junction U.S. Highway 17, thence southwest along U.S. Highway 17 to junction U.S. Highway 21, thence southeast along U.S. Highway 21 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Pulaski and Martinsville, Va.

No. MC 62825 (Sub E587), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from those points in New York and Pennsylvania on, north and west of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 522 to junction Pennsylvania Highway 104, thence north along Pennsylvania Highway 104 to junction Pennsylvania Highway 45, thence east along Pennsylvania Highway 45 to junction Pennsylvania Highway 642, thence east along Pennsylvania Highway 642 to junction Interstate Highway 80, thence east along Interstate Highway 80 to junction U.S. Highway 11, thence northeast along U.S. Highway 11 to junction U.S. Highway 6, thence east along U.S. Highway 6 to junction Pennsylvania Highway 652, thence northeast along Pennsylvania Highway 652 to junction New York Highway 97, thence southeast along New York Highway 97 to junction New York Highway 52, thence northeast along New York Highway 52 to junction U.S. Highway 209, thence northeast along U.S. Highway 209 to junction New York Highway 213, thence east along New York Highway 213 to junction New York Highway 32, thence north along New York Highway 32 to junction New York Highway 199, thence east along New York Highway 199 to junction U.S. Highway 44, thence northeast along U.S. Highway 44 to the New York-Connecticut State line, those points in Ohio on, north, and east of a line beginning at the West Virginia-Ohio State line and extending northwest along Ohio Highway 60 to junction Ohio Highway 179, thence north along Ohio Highway 179 to junction Ohio Highway 89, thence north along Ohio Highway 89 to junction Ohio Highway 58, thence north along Ohio Highway 58 to Lorain, Ohio, thence to Lake Erie and those points in the Lower Peninsula of Michigan, on, north and east of a line beginning at Lexington, Michigan and extending along Michigan Highway 90 to junction Michigan Highway 24, thence north along Michigan Highway 24 to junction Michigan Highway 46, thence west along Michigan Highway 46 to junction Michigan Highway 15.

Thence northwest along Michigan Highway 15 to junction Michigan Highway 25, thence west along Michigan Highway 25 to junction Interstate Highway 75, thence northwest along Interstate Highway 75 to junction Michigan Highway 32, thence west along Michigan Highway 32 to junction Michigan Highway 66, thence northwest along Michigan Highway 66 to Lake Michigan, and those points in the Upper Peninsula of Michigan east of a line beginning at Lake Michigan and extending along Michigan Highway 94 to junction Michigan Highway 28, thence west along Michigan Highway 28 to Marquette, Mich., thence to Lake Superior and those points in West Virginia on and bounded by a line beginning at the Virginia-West Virginia State line and extending northwest along U.S. Highway 250 to junction U.S. Highway 219, thence south along U.S. Highway 219 to junction West Virginia Highway 15, thence west along West Virginia Highway 15 to junction West Virginia Highway 20, thence north along West Virginia Highway 20 to junction U.S. Highway 33, thence west along U.S. Highway 33 to junction West Virginia Highway 47, thence west along West Virginia 47 to junction U.S. Highway 50, thence west along U.S. Highway 50 to the West Virginia-Ohio State line, thence

along the West Virginia-Ohio State line to the West Virginia-Pennsylvania State line, thence along the West Virginia-Pennsylvania State line to the West Virginia-Maryland State line, thence along the West Virginia-Maryland State line to junction U.S. Highway 522, thence south along U.S. Highway 522 to the West Virginia-Virginia State line, thence southwest along the West Virginia-Virginia State line to the point of beginning, to points in South Carolina. The purpose of this filing is to eliminate the gateways of Pulaski and Martinsville, Va.

No. MC 61825 (Sub E588), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Tuscarawas County, Ohio, on the one hand, and, on the other, points in North Carolina except points in Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Catawba, Cherokee, Clay, Cleveland, Davie, Graham, Haywood, Henderson, Iredell, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rowan, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin and Yancey Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va. and Lynchburg, Va.

No. MC 61825 (Sub E589), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Washington County, Pa., on the one hand, and, on the other, points in Campbell, Charlotte, Halifax, Mecklenburg, Pittsylvania, and Prince Edward Counties, Va., including independent cities bounded by the above named Counties. The purpose of this filing is to eliminate the gateway of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub E590), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Belmont County, Ohio, on the one hand, and, on the other, points in Campbell, Charlotte, Halifax, Lunenburg, Mecklenburg, Prince Edward, and Pittsylvania Counties, Va., including independent Cities bounded by the above named Counties. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub E591), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Guernsey County, Ohio, on the one hand, and, on the other, points in Amelia, Amherst, Appomattox, Bedford, Brunswick, Buckingham, Campbell, Charlotte, Cumberland, Dinwiddie, Greenville, Halifax, Isle of Wight, Lunenburg, Mecklenburg, Nottoway, Pittsylvania, Powhatan, Prince Edward, Prince George, Roanoke, Southampton, Surry and Sussex Counties, Va., including independent Cities in the above named Counties, and Chesapeake, Nansemond, Norfolk, Princess Anne, and Virginia Beach, Va. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lunchburg, Va.

No. MC 61825 (Sub E595), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products, and hardware*, restricted against the transportation of commodities in bulk, Classes A and B Explosives, and those requiring special equipment, between points in Lawrence County, Pa., within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of points in Brooke County, W. Va., which are within the Steubenville, Ohio, commercial zone, Clarksburg, and Lynchburg, Va.

No. MC 61825 (Sub E596), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Virginia on and bounded by a line beginning at the Virginia-West Virginia State line and extending east along U.S. Highway 250 to junction Virginia Highway 151, thence south along Virginia Highway 151 to junction U.S. Highway 29, thence south along U.S. Highway 29 to junction Virginia Highway 668, thence southeast along Virginia Highway 668 to junction Virginia Highway 603, thence southeast along Virginia Highway 603 to junction U.S. Highway 501, thence south along U.S. Highway 501 to the Virginia-North Carolina State line, thence west along the Virginia-North Carolina State line to junction U.S. Highway 220, thence north along U.S. Highway 220 to junction Virginia Highway 419, thence north along Virginia Highway 419 to junction Virginia Highway 311, thence north along Virginia Highway 311 to the Virginia-West Virginia State line, thence north along the Virginia-West Virginia State line to the point of beginning, and Henry County, Va., on the one hand, and, on the other, points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line at Interstate Highway 65 and extending south on Interstate Highway 65 to junction U.S. Highway 41A, thence south along U.S. Highway 41A to junction U.S. Highway 231, thence south along U.S. Highway 231 to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateways of points in Smyth County, and Lynchburg, Va.

No. MC 61825 (Sub E597), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Virginia on and bounded by a line beginning at the Virginia-North Carolina State line at U.S. Highway 220 and extending north along U.S. Highway 220 to junction U.S. Highway 460, thence east along U.S. Highway 460 to junction U.S. Highway 29, thence south along U.S. Highway 29 to junction Virginia Highway 668, thence south along Virginia Highway 668 to junction Virginia Highway 603, thence south along Virginia Highway 603 to junction U.S. Highway 501, thence south along U.S. Highway 501 to the Virginia-North Carolina State line, thence west along the Virginia-North Carolina State line to the point of beginning, and Henry County, Va., on the one hand, and, on the other, points in Kentucky west of a line beginning at the Kentucky-Indiana State line at Kentucky Highway 79 and extending south along Kentucky Highway 79 to junction Kentucky Highway 54, thence east along Kentucky Highway 54 to junction Kentucky Highway 187, thence south along Kentucky Highway 187 to junction Kentucky Highway 70, thence west along Kentucky Highway 70 to junction Kentucky Highway 185, thence south along Kentucky Highway 185 to junction U.S. Highway 31W, thence south along U.S. Highway 31W to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateways of points in Smyth County and Lynchburg, Va.

No. MC 61825 (Sub E598), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Virginia on and east of a line beginning at the Virginia-District of Columbia line at U.S. Highway 1 and extending south along U.S. Highway 1 to junction Virginia Highway 208, thence west along Virginia Highway 208 to junction U.S. Highway 522, thence south along U.S. Highway 522 to junction U.S. Highway 60, thence west along U.S. Highway 60 to junction U.S. Highway 29, thence south along U.S. Highway 29 to junction Virginia Highway 668, thence south along Virginia Highway 668 to junction Virginia Highway 603, thence south along Virginia Highway 603 to junction U.S. Highway 501 to the North

Carolina-Virginia State line, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateways of Lynchburg and Pulaski or points in Smyth County, Va.

No. MC 61825 (Sub E599), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 220 to junction North Carolina Highway 770 to the North Carolina-South Carolina State line and extending along U.S. Highway 221 to junction South Carolina Highway 215, to junction South Carolina Highway 34 to junction U.S. Highway 52, to junction Interstate Highway 95 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub E600), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the Cape Fear River at U.S. Highway 421 and extending north along U.S. Highway 421 to junction North Carolina Highway 210, to junction North Carolina Highway 87, to junction North Carolina Highway 42, to junction North Carolina Highway 22, to junction North Carolina Highway 62, to junction U.S. Highway 311, to junction U.S. Highway 421, to junction U.S. Highway 52, to junction U.S. Highway 74, to junction U.S. Highway 17, to junction U.S. Highway 421, to the point of beginning, to points in Mississippi on and west of a line beginning at the Arkansas-Mississippi State line and extending east along Mississippi Highway 8 to junction U.S. Highway 61, to junction Mississippi Highway 448, to junction U.S. Highway 49W, to junction U.S. Highway 49, to junction U.S. Highway 51, to junction Mississippi Highway 27, to junction U.S. Highway 84, to junction Mississippi Highway 13, to junction Mississippi Highway 35, to the Mississippi-Louisiana State line. The purpose of this filing is to eliminate the gateways of Martinsville, Va. and points in Georgia.

No. MC 61825 (Sub E601), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the North Carolina-South Carolina State line and extending north along U.S. Highway 52 to junction U.S. Highway 74, to junction U.S. Highway 17, to the Cape Fear River, thence south along the Cape Fear River to the Atlantic Ocean, thence along the shore of the Atlantic Ocean to the North Carolina-South Carolina State line, thence northwest along the North Carolina-South Carolina State line to the point of beginning, to points in Mississippi on and west of a line beginning at the Mississippi-Louisiana State line and extending along U.S. Highway 80 to junction U.S. Highway 61, to junction Mississippi Highway 547, to junction Mississippi Highway 28, to junction Mississippi Highway 550, to junction U.S. Highway 51, to the Mississippi-Louisiana State line. The purpose of this filing is to eliminate the gateways of Martinsville, Va., and points in Georgia.

No. MC 61825 (Sub E602), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on, east, and north of a line beginning at the North Carolina-Virginia State line and extending south along U.S. Highway 52 to junction U.S. Highway 421, thence east along U.S. Highway 421 to junction U.S. Highway 311, to junction North Carolina Highway 62, to junction North Carolina Highway 22, to junction North Carolina Highwy 42, to junction North Carolina Highway 87, to junction North Carolina Highway 210, to junction U.S. Highway 421, to the Cape Fear River, thence south along the Cape Fear River to the Atlantic Ocean to points in Mississippi. The purpose of this filing is to eliminate the gateways of Martinsville, Va., and points in Georgia.

No. MC 61825 (Sub E603), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the Virginia-North Carolina State line and extending south along U.S. Highway 52 to junction U.S. Highway 421, to junction U.S. Highway 311, to junction U.S. Highway 70, to junction U.S. Highway 15, to junction U.S. Highway 158, to junction U.S. Highway 1, to the North Carolina-Virginia State line, thence west along the North Carolina-Virginia State line to the point of beginning to points in Florida. The purpose of this filing is to eliminate the gateways of Martinsville, Va., and points in Georgia.

No. MC 61825 (Sub E604), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and bounded by a line beginning at the Virginia-North Carolina State line and extending south along U.S. Highway 1 to junction U.S. Highway 158, to junction U.S. Highway 15, to junction U.S. Highway 70, to junction U.S. Highway 64, to the Atlantic Ocean, thence north along the shore of the Atlantic Ocean to the Virginia-North Carolina State line, thence west along the Virginia-North Carolina State line to the point of beginning to points in Florida on and south of a line beginning at the Atlantic Ocean and extending west along Florida Highway 405 to junction Florida Highway 50, to the Gulf of Mexico. The purpose of this filing is to eliminate the gateways of Martinsville, Va., and points in Georgia.

No. MC 61825 (Sub E605), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and east of U.S. Highway 52 to points in Louisiana on and west of a line beginning at the Arkansas-Louisiana State line and extending south along Louisiana Highway 33 to junction Louisiana Highway 143, to junction Louisiana Highway 2, to junction U.S. Highway 165, to junction Louisiana Highway 15, to junction U.S. Highway 65, to junction Louisiana Highway 131, to junction Louisiana Highway 15, to junction Louisiana Highway 1, to junction Louisiana Highway 10, to junction U.S. Highway 61, to junction Interstate Highway 10, to junction Louisiana Highway 1, to junction Louisiana Highway 69, to junction Louisiana Highway 70, to junction U.S. Highway 90 to the Lower Atchafalaya River, to the Gulf of Mexico. The purpose of this filing is to eliminate the gateways of Martinsville, Va., and points in Georgia.

No. MC 61825 (Sub E606), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 501 to junction U.S. Highway 158, to junction North Carolina Highway 39, to junction North Carolina Highway 581, to junction U.S. Highway 117, to junction North Carolina Highway 133, to the Cape Fear River, to the Atlantic Ocean, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateways of Lynchburg, Va., and points in Smyth County, Va.

No. MC 61825 (Sub E607), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: New furniture, between points in North Carolina on and bounded by a line beginning at the Cape Fear River and extending along North Carolina Highway 133 to junction U.S. Highway 117, to junction North Carolina Highway 581, to junction North Carolina Highway 39, to junction U.S. Highway 158, to junction North Carolina Highway 501, to junction North Carolina Highway 55, to junction North Carolina Highway 210, to junction U.S. Highway 401, to junction North Carolina Highway 210, to junction U.S. Highway 421, to junction North Carolina Highway 133, to the point of beginning, on the one hand, and, on the other, points in Kentucky on and west of a line beginning at the Ohio-Kentucky State line and extending along U.S. Highway 68 to junction Kentucky Highway 61, to junction Kentucky Highway 88, to junction U.S. Highway 31 E to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateways of Lynchburg and Pulaski and points in Smyth County, Va.

No. MC 61825 (Sub E608), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line at U.S. Highway 220 and extending along U.S. Highway 220 to junction North Carolina Highway 770, to junction North Carolina Highway 87, to junction North Carolina Highway 120, to junction U.S. Highway 421, to the Cape Fear River, to the Atlantic Ocean, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line and extending along Tennessee Highway 118 to junction Tennessee Highway 54, to junction U.S. Highway 45E, to junction Tennessee Highway 18, to junction Tennessee Highway 125, to the Mississippi-Tennessee State line. The purpose of this filing is to eliminate the gateways of Lynchburg and Smyth County, Va.

No. MC 61825 (Sub E609), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in North Carolina on and east of a line beginning at the North Carolina-Virginia State line and extending along North Carolina Highway 62, to junction North Carolina Highway 57, to junction U.S. Highway 158, to junction U.S. Highway 15, to junction North Carolina Highway 96, to junction North Carolina Highway 56, to junction North Carolina Highway 39, to junction U.S. Highway 264, to junction North Carolina Highway 581, to junction U.S. Highway 70, to junction U.S. Highway 258, to the New River at Jacksonville, to the Atlantic Ocean, on the one hand, and, on the other, points in Tennessee on and west of a line beginning at the Tennessee-Virginia State line and extending along U.S. Highway 25E to junction Tennessee Highway 33, to junction Tennessee Highway 61, to junction U.S. Highway 27, to junction Tennessee Highway 30, to junction U.S. Highway 127, to junction Tennessee Highway 28, to junction Tennessee Highway 27, to junction U.S. Highway 41, to junction U.S. Highway 72, to the Tennessee-Alabama State line. The purpose of this filing is to elimiate the gateways of Lynchburg and points in Smyth County, Va.

No. MC 61825 (Sub E610), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in North Carolina on and east of a line beginning at the North Carolina-Virginia State line and extending south along U.S. Highway 52 to junction U.S. Highway 421, to junction U.S. Highway 311, to junction North Carolina Highway 62, to junction U.S. Highway 70, to the Atlantic Ocean to points in Alabama on and west of a line beginning at the Tennessee-Alabama State line and extending south along U.S. Highway 231 to junction U.S. Highway Alt. 231, to junction U.S. Highway 280, to junction Alabama Highway 49, to junction Alabama Highway 120, to junction Alabama Highway 14, to junction Alabama Highway 81, to junction U.S. Highway 29, to junction U.S. Highway 331, thence south along U.S. Highway 331 to the Alabama-Florida State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub E611), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Washington County, Pa., on the one hand, and, on the other, points in Alamance, Anson, Bladen, Brunswick, Cabarrus, Carteret, Caswell, Chatham, Columbus, Craven, Cumberland, Duplin, Durham, Franklin, Granville, Greene, Harnett, Hoke, Johnston, Jones, Lee, Lenoir, Mecklenburg, Montgomery, Moore, Nash, New Hanover, Onslow, Orange, Pender, Person, Randolph, Richmond, Robeson, Sampson, Scotland, Stanly, Union, Vance, Wake, Wayne, and Wilson Counties, North Carolina. The purpose of this filing is to eliminate the gateways of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub E612), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Monroe County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in Pennsylvania *except* points in Beaver, Fayette, Greene, and Washington Counties. The purpose of this filing is to eliminate the gateway of Weirton, W. Va.

No. MC 61825 (Sub E613), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products, and hardware*, restricted against the transportation of commodities in bulk, Classes A and B Explosives, and those requiring special equipment, between points in Butler County, Pa., within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of points in Brooke County, W. Va., which are within the Steubenville, Ohio, commercial zone, Clarksburg, and Lynchburg, Va.

No. MC 61825 (Sub E614), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products, and hardware*, restricted against the transportation of commodities in bulk, Classes A and B Explosives, and those requiring special equipment, between points in Beaver County, Pa., on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of points in Brooke County, W. Va., which are within the Steubenville, Ohio, Commercial zone, Clarksburg, and Lynchburg, Va.

No. MC 61825 (Sub E615), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products, and hardware, restricted against the transportation* of commodities in bulk, classes A and B explosives, and those requiring special equipment, between points in Allegheny County, Pa., on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateway of points in Brooke County, W. Va., which are within the Steubenville, Ohio, commercial zone, Clarksburg, and Lynchburg, Va.

No. MC 61825 (Sub E616), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Joe Clyde Wilson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, machinery, mine supplies, glassware, paper products, and hardware*, restricted against the transportation of commodities in bulk, classes A and B explosives, and those requiring special equipment, between points in Wetzel County, W. Va., within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in Berkeley, Charleston, and Georgetown Counties, S.C. The purpose of this filing is to eliminate the gateway of points in Brooke County, W. Va., which are within the Steubenville, Ohio, commercial zone, Clarksburg, and Lynchburg, Va.

No. MC 65941 (Sub E9), filed April 28, 1974. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, W. Va. 26003. Applicant's representative: George V. Thieroff (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *oil, grease*, and *materials, equipment* and *supplies* used or useful in the production and packing of metal and clay products restricted to the petroleum products (except petrochemicals), in containers, (1) from points in Pennsylvania on and west of U.S. Highway 219, to points in Alabama, Florida, Tennessee, Kentucky, and points in Georgia on and south of a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 1 to junction Georgia Highway 24, to junction Georgia Highway 22 to the Georgia-Alabama State line. (2) From points in Erie, Crawford, Mercer, Lawrence, Beaver, Butler, Clarion, Venango, Forest and Warren Counties, Pa., to points in Virginia north and east of a line beginning at the Atlantic Ocean and extending along U.S. Highway 60 to junction U.S. Highway 15 to the Virginia-Maryland State line, and the District of Columbia. (3) From points in Pennsylvania on and west of U.S. Highway 219 (except Fayette, Somerset, Cambria, Clearfield, Westmoreland, Indiana and Jefferson Counties), to points in Virginia on and south of U.S. Highway 60, and those points in North Carolina and South Carolina east of U.S. Highway 1. (4) From points in Ashtabula, Lake Medina, Georgia, Trumbull, Mahoning, Belmont, Wayne, Tuscarawas, Portage, Carroll, Jefferson, Harrison, Summit, Cuyahoga, Columbiana and Stark Counties, Ohio, to points in Alabama and Tennessee. (5) From points in Ashtabula, Trumbull, Mahoning and Columbiana Counties, Ohio, to points in Kentucky. (6) From points in Ohio on and east of Ohio Highway 60, to points in Florida west of the Apalochicola River and points in Georgia south of a line beginning at the South Carolina-Georgia State line and extending along U.S. Highway 1 to junction Georgia Highway 22 to the Georgia-Alabama State line. (7) From points in Ohio on and east of a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway 50 to junction U.S. Highway 33, to junction U.S. Highway 23, to the Ohio-Michigan State line, to points in Florida east of the Apalochicola River. (8) From points in Ohio on, north and east of a line beginning at the Ohio-West Virginia State line and extending along Interstate Highway 70 to junction Ohio Highway 13, to junction Ohio Highway 95, to junction U.S. Highway 30S, to junction U.S. Highway 30 to the Indiana-Ohio State line, to points in Virginia on and north of U.S. Highway 60. (10) From points in Ohio on, north and east of a line beginning at the Ohio-West Virginia State line and extending along Interstate Highway 70 to junction U.S. Highway 33, to junction Interstate Highway 75 to the Ohio-Michigan State line, to those points in North Carolina and South Carolina on and east of U.S. Highway 1. (11) From points in Monongalia, Marion, Tyler, Ohio, Hancock, Harrison, Wetzel, Marshall, and Brooke Counties, W. Va., to points in Alabama, Florida, Kentucky, Tennessee, those points in North Carolina and South Carolina on and east of U.S. Highway 1, and points in Georgia on and south of a line beginning at the Georgia-South Carolina State line and extending along U.S. Highway 1 to junction Georgia Highway 24, to junction Georgia Highway 22 to the Georgia-Alabama State line. The purpose of this filing is to eliminate the gateway of Congo or St. Marys, W. Va.

No. MC 65941 (Sub E11), filed May 15, 1974. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, W. Va. 26003. Applicant's representative: Geo. V. Thieroff (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *aluminum sheets*, (except commodities requiring special equipment or in bulk), from points in Pennsylvania on and west of U.S. Highway 219, points in Ohio on and east of Ohio Highway 60, and points in Monongalia, Marion, Tyler, Ohio, Hancock, Harrison, Wetzel, Marshall, and Brooke Counties, W. Va., to points in Georgia on and north of a line beginning at the Atlantic Ocean and extending along U.S. Highway 80 to junction U.S. Highway 280, to the Georgia-Alabama State line, which are on and south of a line beginning at the Atlantic Ocean and extending along U.S. Highway 1 to junction Georgia Highway 24, to junction Georgia Highway 22, to the Georgia-Alabama State line. The purpose of this filing is to eliminate the gateway of Dallas, W. Va., Greene, Washington or Allegheny Counties, Pa., and Fairmont, W. Va.

No. MC 65941 (Sub E13), filed May 9, 1974. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, W. Va. 26003. Applicant's representative: George V. Thieroff (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *oil, grease, paper, roofing, metal* and *clay products*, and *materials, equipment* and *supplies* used or useful in the production and packing of metal and clay products, and *building stone, structural steel* and *heavy machinery* and *equipment*, (except commodities in bulk and those requiring special equipment), (1) from points in Pennsylvania on and west of U.S. Highway 219, to points in South Carolina on and west of U.S. Highway 1, and points in Georgia on and north of a line beginning at the Atlantic Ocean and extending along U.S. Highway 1 to junction Georgia Highway 24, to junction Georgia Highway 22 to the Georgia-Alabama State line. (2) From those points in Erie, Warren, McKean, Crawford, Venango, Forest, Elk, Mercer, Clarion, Lawrence, Butler, Armstrong, Allegheny, Beaver, Washington and Greene Counties, Pa., which are on and west of U.S. Highway 219, to points in North Carolina on and west of U.S. Highway 1. (3) From those points in Jefferson, Clearfield, Indiana, Cambia, Somerset, Gayette and Westmoreland Counties, Pa., which are on and west of U.S. Highway 219 to points in North Carolina on and west of U.S. Highway 52. (4) From points in West Virginia north and west of a line beginning at the West Virginia-Ohio State line and extending along U.S. Highway 50 to junction U.S. Highway 119, to the West Virginia-Pennsylvania State line, and points in Ohio on and east of Ohio Highway 60, to points in Georgia on and north of a line beginning at the Atlantic Ocean and extending along U.S. Highway 1 to junction Georgia Highway 24, to junction Georgia Highway 22, to the Georgia-Alabama State line, and points in South Carolina on and west of U.S. Highway 1. (5) From points in Ohio, on, north, and east of a line beginning at the Ohio-West Virginia State line and extending along Interstate Highway 70 to junction Ohio Highway 60, to junction Ohio Highway 39, to junction Ohio Highway 13, to Lake Erie, to points in North Carolina on and west of U.S. Highway 1. The purpose of this filing is to eliminate the gateway of Wheeling, W. Va.

No. MC 66900 (Sub-No. E8), filed June 4, 1974. Applicant: HOUFF TRANSFER, INC., P.O. Box 91, Weyer Cave, Va. 24486. Applicant's representative: Harold G. Hernly, Jr., 118 N. St. Asaph St., Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, Classes A and B explosives, household goods, as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities requiring special equipment, articles exceeding 20 feet in length or 6 feet in height, or 7 feet in width, except in special arrangements, and articles requiring refrigeration), between Cumberland, Md., on the one hand, and, on the other, points in Virginia within 80 miles of Staunton, Va., including Staunton, Va., but excluding Roanoke, Va.; (2) *general commodities* (with the same exceptions as in (1) above and except commodities in bulk), between Cumberland, Md., on the one hand, and, on the other, points in that

part of Virginia on and east of a line beginning at the North Carolina-Virginia State line extending along Interstate Highway 85 to Petersburg, Va., and in and south of Prince George, Sury, James City, and York Counties, Va. (including Newport News, Hampton, Norfolk, Portsmouth, Chesapeake, Virginia Beach, Suffolk, and Williamsburg, Va.); and (3) *general commodities* (except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities requiring special equipment, and commodities in bulk, in tank vehicles), between Hagerstown, Md., on the one hand, and, on the other, points in Virginia on and south of U.S. Highway 33 which are within 80 miles of Staunton, Va., including Staunton, Va., but excluding Roanoke, Va. The purpose of this filing is to eliminate the gateways of points in Virginia which are within 50 miles of Washington, D.C., and within 80 miles of Staunton, Va., in (1) above, points in Virginia within 50 miles of Washington, D.C. and within 80 miles of Staunton, Va., and points in Augusta County, Va., in (2) above, and points in Rockingham County, Va., in (3) above.

No. MC 72243 (Sub-No. E6), filed February 3, 1975. Applicant: THE AETNA FREIGHT LINES, INC., P.O. Box 350, Warren, Ohio 44482. Applicant's representative: Edward G. Villalon, Suite 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron, steel, and iron and steel articles*, which because of size or weight require the use of special equipment, between points in Alabama, Arkansas, Kentucky, Louisiana, Mississippi and Tennessee, on the one hand, and, on the other, (A) points in Connecticut and Massachusetts, (Boyd County, Ky., Lawrence County, Ohio or Wayne County, W. Va., and New York, N.Y.)*; (B) points in Delaware, Maryland and New Jersey (Boyd County, Ky., Lawrence County, Ohio or Wayne County, W. Va., and points in Pennsylvania within 150 miles of Philadelphia)*, restricted in (A) and (B) above against the transportation of (1) traffic originating at Anniston, Birmingham, Decatur, Gadsden, and Tuscaloosa, Ala., or points within 10 miles thereof, and (2) pipe, pipeline, dope, and values used in, or in connection with the construction, operation, repair, maintenance, servicing, or dismantling of pipelines. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 72243 (Sub-No. E7), filed February 3, 1975. Applicant: THE AETNA FREIGHT LINES, INC., P.O. Box 350, Warren, Ohio 44482. Applicant's representative: Edward G. Villalon, Suite 1032 Penn. Bldg., Penn. Ave., & 13th St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron, steel, and iron and steel articles*, which because of size or weight require the use of special equipment, between points in Alabama, Arkansas, Louisiana, Mississippi, points in Tennessee on and west of Interstate Highway 24, and points in Kentucky on and west of U.S. Highway 41, on the one hand, and, on the other, points in West Virginia on and east of Interstate Highway 77 and on and north of U.S. Highway 60, restricted against the transportation of (1) traffic originating at Anniston, Birmingham, Decatur, Gadsden and Tuscaloosa, Ala., or points within 10 miles thereof, and (2) pipe, pipeline dope, and valves used in, or in connection with the construction, operation, repair, maintenance, servicing, or dismantling of pipelines, including the stringing or picking up of pipe in connection therewith. The purpose of this filing is to eliminate the gateways of Boyd County, Ky., and Wayne Counties, W. Va.

No. MC 72243 (Sub-No. E8), filed February 3, 1975. Applicant: THE AETNA FREIGHT LINES, INC., 2507 Youngstown Rd., SE., P.O. Box 350, Warren, Ohio 44482. Applicant's representative: Edward G. Villalon, Suite 1032 Penn. Bldg., Penn. Ave., & 13th Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron, steel, and iron and steel articles*, which because of size or weight require the use of special equipment, between points in Alabama, Arkansas, Louisiana, Kentucky, Mississippi and Tennessee, on the one hand, and, on the other, points in Pennsylvania and New York, restricted against the transportation of (1) traffic originating at Anniston, Birmingham, Decatur, Gadsden and Tuscaloosa, Ala., or points within 10 miles thereof, and (2) pipe, pipeline dope, and values used in or in connection with the construction, operation, repair, maintenance, servicing, or dismantling of pipelines. The purpose of this filing is to eliminate the gateways of Boyd County, Ky., and Wayne County, W. Va.

No. MC 78228 (Sub E98), filed July 31, 1975. Applicant: J. MILLER EXPRESS, INC., 2310 Grant Building, Pittsburgh, Pa. 15219. Applicant's representative: Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as defined by the Commission, from points in New York bounded by a line beginning at Lake Ontario, and extending along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16A, to the New York-Pennsylvania State line, thence along the New York-Pennsylvania State line to junction U.S. Highway 62, thence along U.S. Highway 62 to Jamestown, N.Y., thence along New York Highway 60 to junction New York Highway 5, thence along New York Highway 5 to Buffalo, N.Y., thence along the International Boundary line between the United States and Canada to Lake Ontario, thence along Lake Ontario to the place of beginning to points in Illinois. The purpose of this filing is to eliminate the gateway of the Bethlehem Steel Corp., plant site at Lackawanna, N.Y.

No. MC 78228 (Sub E208), filed July 31, 1975. Applicant: J. MILLER EXPRESS, INC., 2310 Grant Building, Pittsburgh, Pa. 15219. Applicant's representative: Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as defined by the Commission, from points in New York on, north and west of a line beginning at Lake Ontario, and extending along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 245, thence along New York Highway 245 to junction New York Highway 19A, thence along New York Highway 19A to junction New York Highway 98, thence along New York Highway 98 to junction New York Highway 39, thence along New York Highway 39 to junction U.S. Highway 62, thence along U.S. Highway 62 to junction New York Highway 39, thence along New York Highway 39 to junction New York Highway 428, thence along New York Highway 428 to Silver Creek, N.Y., thence along New York Highway 5 to Lake Erie to points in Indiana. The purpose of this filing is to eliminate the gateway of the Bethlehem Steel Corp., plantsite at Lackawanna, N.Y.

No. MC 78228 (Sub E209), filed July 31, 1975. Applicant: J. MILLER EXPRESS, INC., 2310 Grant Building, Pittsburgh, Pa. 15219. Applicant's representative: Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as defined by the Commission, from points in New York on or west of a line beginning at Lake Ontario, and extending along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16A to the New York-Pennsylvania border to points in Indiana on or west of U.S. Highway 41. The purpose of this filing is to eliminate the gateway of the Bethlehem Steel Corp., plant site at Lackawanna, N.Y.

No. MC 78228 (Sub E210), filed July 31, 1975. Applicant: J. MILLER EXPRESS, INC., 2310 Grant Building, Pittsburgh, Pa. 15219. Applicant's representative: Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel arti-*

cles, as defined by the Commission, from points in New York west of a line beginning at Lake Ontario, and extending along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20, to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16A to the New York-Pennsylvania Border to points in Illinois on or west of a line beginning at the Illinois-Wisconsin border, thence along U.S. Highway 51 to junction U.S. Highway 150, thence along U.S. Highway 150 to Champaign, Ill., thence along U.S. Highway 45 to junction Interstate Highway 57, thence along Interstate Highway 57 to the Illinois-Kentucky border. The purpose of this filing is to eliminate the gateway of the Bethlehem Steel Corp., plant site at Lackawanna, N.Y.

No. MC 78228 (Sub E211), filed July 31, 1975. Applicant: J. MILLER EXPRESS, INC., 2310 Grant Building, Pittsburgh, Pa. 15219. Applicant's representative: Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as defined by the Commission, from Bradford, Pa., to points in Illinois. The purpose of this filing is to eliminate the gateway of the Bethlehem Steel Corp., plant site at Lackawanna, N.Y.

No. MC 78228 (Sub E212), filed July 31, 1975. Applicant: J. MILLER EXPRESS, INC., 2310 Grant Building, Pittsburgh, Pa. 15219. Applicant's representative: Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as defined by the Commission, from points in New York on or west of a line beginning at Lake Ontario, thence along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16A to the New York-Pennsylvania Border to points in the Lower Peninsula of Michigan on or north of a line beginning at Lake Huron, thence along Michigan Highway 32 to junction U.S. Highway 131, thence along U.S. Highway 131 to junction Michigan Highway 72, thence along Michigan Highway 72 to Lake Michigan. The purpose of this filing is to eliminate the gateway of the Bethlehem Steel Corp., plant site at Lackawanna, N.Y.

No. MC 78228 (Sub E213), filed July 31, 1975. Applicant: J. MILLER EXPRESS, INC., 2310 Grant Building, Pittsburgh, Pa. 15219. Applicant's representative: Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as defined by the Commission, from points in Pennsylvania bounded by a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 219 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 62, thence along U.S. Highway 62 to the New York-Pennsylvania State line, thence along the New York-Pennsylvania State line to the place of beginning to points in Illinois on or west of U.S. Highway 51. The purpose of this filing is to eliminate the gateway of the Bethlehem Steel Corp. plant site at Lackawanna, N.Y.

No. MC 78228 (Sub E214), filed July 31, 1975. Applicant: J. MILLER EXPRESS, INC., 2310 Grant Building, Pittsburgh, Pa. 15219. Applicant's representative: Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as defined by the Commission, from points in New York bounded by a line beginning at Lake Ontario, thence along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 245, thence along New York Highway 245 to junction Alternate New York Highway 19A, thence along New York Highway 19A to junction New York Highway 98, thence along New York Highway 98 to junction New York Highway 39, thence along New York Highway 39 to junction New York Highway 428, thence along New York Highway 428 to Silver Creek, N.Y., thence along New York Highway 5 to Buffalo, N.Y., thence along the New York-Canadian border to Lake Ontario, thence along Lake Ontario to the place of beginning to points in the Lower Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of the Bethlehem Steel Corp., plant site at Lackawanna, N.Y.

No. MC 83745 (Sub E31), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* requiring special equipment, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor, or consignee, or both, between Allenport, Pa., on the one hand, and, on the other, points in Ohio (except points in Belmont, Harrison, Jefferson and Monroe Counties), and points in Maryland on and east of U.S. Highway 522. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa., and points in its Commercial Zone.

No. MC 83745 (Sub E34), filed June 4, 1974. Applicant: BOND TRANSPORT, INC., 4620 Rolling Road, Pittsburgh, Pa. 15236. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* requiring special equipment, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor, or consignee, or both, between points in that part of Washington County, Pa., which is within 25 miles of Pittsburgh, Pa., and on and west of a line beginning at the Pennsylvania-West Virginia State line and extending along Pennsylvania Highway 50 to junction Pennsylvania Highway 231, thence along Pennsylvania Highway 231 to the Greene County, Pennsylvania line, on the one hand, and, on the other, points in Ohio on and west of Interstate Highway 75, and points in Maryland on and east of U.S. Highway 220. The purpose of this filing is to eliminate the gateway of Pittsburgh, Pa., and points in its Commercial Zone.

No. MC 106603 (Sub-No. E24), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials*, which are building contractors' materials, from those points in Illinois on and north of a line beginning at the Illinois-Iowa State line and extending along U.S. Highway 34 to junction Illinois Highway 17, thence along Illinois Highway 17 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line, to points in Ohio. The purpose of this filing is to eliminate the gateway of Whiting, Ind.

No. MC 106603 (Sub-No. E28), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building contractors' materials*, from Chicago Heights, Ill., to points in Ohio. The purpose of this filing is to eliminate the gateway of Gary, Ind.

No. MC 106603 (Sub-No. E30), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building contractors' materials*, restricted to facing tile and flooring tile, from Kankakee, Ill., to points in Ohio. The purpose of this filing is to eliminate the gateway of Indiana.

No. MC 100603 (Sub-No. E32), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8008, Grand Rapids, Mich. 49508. Applicant's

representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and Roofing materials*, which are building contractors' materials, from points in Ohio to those points in Illinois on and north of a line beginning at the Illinois-Iowa State line and extending along U.S. Highway 34 to junction Illinois Highway 17, thence along Illinois Highway 17 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of Whiting, Ind.

No. MC 102298 (Sub-No. E2), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Florida, on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E3), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Florida, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E4), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Florida, on the one hand, and, on the other, points in Maine. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E5), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Florida, on the one hand, and, on the other, points in Vermont. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E6), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Florida, on the one hand, and, on the other, points in New Hampshire. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E7), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Florida, on the one hand, and, on the other, points in New York on and east of New York Highway 14. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E8), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Florida, on the one hand, and, on the other, points in New Jersey north of New Jersey Highway 541 from the Pennsylvania-New Jersey State line to junction New Jersey Highway 530, thence along New Jersey Highway 530 to Seaside Heights, N.J. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E9), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Florida, on the one hand, and, on the other, points in South Dakota. The purpose of this filing is to eliminate the gateways of Lebanon, Mo., and Albia, Iowa.

No. MC 102298 (Sub-No. E10), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Florida, on the one hand, and, on the other, points in Minnesota. The purpose of this filing is to eliminate the gateways of Lebanon, Mo., and Albia, Iowa.

No. MC 102298 (Sub-No. E11), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Florida, on the one hand, and, on the other, points in Iowa on and west of U.S. Highway 63. The purpose of this filing is to eliminate the gateways of Lebanon, Mo., and Albia, Iowa.

No. MC 102298 (Sub-No. E12), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Georgia, on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E13), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Georgia, on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E14), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Georgia, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E15), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Georgia, on the one hand, and, on the other, points in Maine. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E16), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Georgia, on the one hand, and, on the other, points in Vermont. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E17), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

transporting: *Household goods*, as defined by the Commission, between points in Georgia, on the one hand, and, on the other, points in New Hampshire. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E18), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Georgia, on the one hand, and, on the other, points in New York on and east of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 11 to junction New York Highway 57, thence along New York Highway 57 to Oswego, N.Y. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E19), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Georgia, on the one hand, and, on the other, points in New Jersey on and north of New Jersey Highway 33. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E20), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in North Carolina, on the one hand, and, on the other, points in Massachusetts. The purpose of this filing is to eliminate gateway of New York, N.Y.

No. MC 102298 (Sub-No. E21), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in North Carolina, on the one hand, and, on the other, points in Connecticut. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 102298 (Sub-No. E22), filed May 30, 1974. Applicant: STAR VAN LINES, INC., P.O. Box 669, Pacific Grove, Calif. 93950. Applicant's representative: K. A. Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in North Carolina, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateway of New York, N.Y.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-28166 Filed 10-17-75; 8:45am]

[Amdt. No. 1 to I.C.C. Order No. 149, under Rev. S.O. No. 994]

WESTERN MARYLAND RAILWAY CO.

Rerouting of Traffic

Upon further consideration of I.C.C. Order No. 149 (WM), and good cause appearing therefor:

It is ordered, That:

I.C.C. Order No. 149 be, and it is hereby, amended by sustituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., November 15, 1975, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., September 29, 1975, and that this order 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 it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 29, 1975.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE, *Agent.*

[FR Doc.75-28172 Filed 10-17-75;8:45 am]

[Notice No. 889]

ASSIGNMENT OF HEARINGS

OCTOBER 15, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 67450, Sub 52, Peterlin Cartage Co., now being assigned December 9, 1975, (2 days), at Chicago, Illinois, in a hearing room to be later designated.

MC 129529 Sub 7, Thruway Messenger Service, Inc., now assigned November 5, 1975 at *Newark, New Jersey*, is canceled and reassigned on November 5, 1975, (3 days) at *White Plains, New York*, in the White Plains Hotel, S. Broadway & Lyon Place.

MC 8214 Sub 3, Port Jersey Transportation, now assigned November 3, 1975, at New York, New York; will be held in Room A-238 U.S. Court of Claims, 26 Federal Plaza.

MC 113362 Sub 283, Ellsworth Freight Lines, Inc., now assigned November 4, 1975, at New York, New York; will be held in Room A-238 U.S. Court of Claims, 26 Federal Plaza.

MC 112801 Sub 171, Transport Service Co., MC 116273 Sub 193, D. & L. Transport, Inc., and MC 119777 Sub 317, Ligon Specialized Hauler, Inc., now being assigned December 9, 1975 (2 days), at Chicago, Illinois, in a hearing room to be later designated.

MC 123872 Sub 40, W. & L. Motor Lines, Inc., now assigned November 3, 1975 at Wichita, Kansas, is cancelled and application dismissed. No. 36095, Investigation Into Lawfulness of Off-Line Limitations Placed on Non-Assigned Hopper Cars now being assigned for Continued hearing on December 1, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 114632 Sub 81, Apple Lines, Inc., now being assigned December 11, 1975 (2 days), at Chicago, Illinois, in a hearing room to be later designated.

I. & S.M. 2874, General Increase, C.S.M.F.B. and I. & S.M. 28743 Sub 1, Increased Rates-Missouri-Illinois Traffic Services, Inc., now assigned November 5, 1975, at Washington, D.C., is postponed until December 17, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 106920 Sub 59, Riggs Food Express, Inc., now being assigned December 8, 1975 (2 days), at Atlanta, Ga. in a hearing room to be designated later.

MC 104004 Sub 180, Associated Transport, Inc. Extension-T.V.A. Power Plan, now assigned November 17, 1975, at New York, New York; will be held in Room 238 Court Room A, 26 Federal Plaza.

MC-F-12431, Akers Motor Lines, Incorporated—Control—P. & K. Transportation, Inc., and MC 72442 Sub 45, Akers Motor Lines, Incorporated, now assigned November 19, 1975, at New York, New York; will be held in Room 238 Court Room A, Court of Claims, 26 Federal Plaza.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-28168 Filed 10-17-75;8:45 am]

[I.C.C. Order No. 150 under Rev. S.O. No. 994]

ERIE LACKAWANNA RAILWAY CO.

Rerouting of Traffic

In the opinion of Lewis R. Teeple, Agent, the Erie Lackawanna Railway Company, Thomas F. Patton and Ralph S. Tyler, Trustees (EL) is unable to transport traffic over its line between Northumberland, Pennsylvania, and Pittston, Pennsylvania, because of high water and flooding.

It is ordered, That:

(a) *Rerouting traffic.* The EL being unable to transport traffic over its line between Northumberland, Pennsylvania, and Pittston, Pennsylvania, because of high water and flooding, that line is hereby authorized to reroute or divert such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to di-

vert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 2 p.m. September 29, 1975.

(g) *Expiration date.* This order shall expire at 11:59 p.m. October 4, 1975, unless otherwise modified, changed, or suspended.

It is further ordered, That this order 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 it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 29, 1975.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.75-28169 Filed 10-17-75;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 15, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before November 4, 1975.

FSA No. 43062—*Joint Water-Rail Container Rates—Seatrain International, S.A.* Filed by Seatrain International, S.A. (No. WEE-12), for itself and interested rail carriers. Rates on general commodities, between rail terminal in Lake Charles, Louisiana, and European ports and terminals.

Grounds for relief—Water competition.

Tariffs—Seatrain International, S.A., tariffs I.C.C. Nos. 9, 10, 11, 12, 13 and 14. Rates are published to become effective on November 13, 1975.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-28167 Filed 10-17-75;8:45 am]

[AB 103]

KANSAS CITY SOUTHERN RAILWAY CO.

Abandonment of Line

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon requests; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Jefferson County, Texas, on or before October 28, 1975, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 8th day of October, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

KANSAS CITY SOUTHERN RAILWAY COMPANY ABANDONMENT IN PORT ARTHUR, GRIFFING PARK, AND LAKEVIEW, JEFFERSON COUNTY, TEXAS

The Interstate Commerce Commission hereby gives notice that by order dated October 8, 1975, it has been determined that the proposed abandonment by the Kansas City Southern Railway Company of its line of railroad in Port Arthur, Griffing Park, and Lakeview, all in Jefferson County, Tex., a distance of 3.31 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action will not be significant because no traffic has moved over the line since September 1974, alternative rail access is available through the Griffing team track, and there are no developmental plans dependent upon continued rail service over the line.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C., 20423, on or before November 4, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-28173 Filed 10-17-75;8:45 am]

[AB 12 (Sub-No. 18)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment of Line

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Colorado County, Texas, on or before October 28, 1975, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 8th day of October, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

SOUTHERN PACIFIC TRANSPORTATION COMPANY ABANDONMENT BETWEEN ALTAIR AND HELMS, IN COLORADO COUNTY, TEXAS

The Interstate Commerce Commission hereby gives notice that by order dated October 8, 1975, it has been determined that the proposed abandonment by the Southern Pacific Transportation Company of its line of railroad between Altair and Helms, in Colorado County, Tex., a distance of 9.02 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332 (2) (C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are not considered significant because no traffic has moved over the line since November 1974, and there is no identifiable demand for future service, no diversion of traffic from rail to motor carrier will occur, and there are no development plans or land use policies in the tributary territory which are dependent on the availability of rail service. The property comprising the right-of-way will revert to adjoining land owners upon abandonment.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before November 4, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-28175 Filed 10-17-75;8:45 am]

[AB 108]

TEXAS EXPORT RAILROAD CO.

Abandonment of Line

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Wise, Jack, and Young Counties, Texas, on or before October 28, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 8th day of October, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD, *Secretary.*

TEXAS EXPORT RAILROAD COMPANY ABANDONMENT OF OPERATIONS BETWEEN BRIDGEPORT AND GRAHAM, IN WISE, JACK, AND YOUNG COUNTIES, TEXAS

The Interstate Commerce Commission hereby gives notice that by order dated October 8, 1975, it has been determined that the proposed abandonment of operations by the Texas Export Railroad Company over a line of railroad between Bridgeport and Graham, in Wise, Jack, and Young Counties, Tex., a distance of 54.34 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are not considered significant because traffic is no longer moving over the line, having been previously diverted to motor carriers and no development plans exist which are dependent on the continuation of rail operations.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before November 4, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-28174 Filed 10-17-75;8:45 am]

[Ex Parte No. 241, Rule 19; 9th Rev. Exemption No. 99]

UNITED STATES RAILROADS

Utilization of Plain Gondolas, Mandatory Car Service Exemption

It appearing, That the U.S. railroads own numerous plain gondolas less than 61 ft.; that under present conditions, there are substantial surpluses of these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain gondolas, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 396, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GA", "GB", "GD", "GH", "GS" and "GW", which are less than 61 ft. 0 in. long, and which bear the reporting marks assigned to United States Railroads, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b). (See Exceptions 1, 2 and 3)

Exception 1: This exemption does not supersede United States customs regulations applicable to cars owned by Canadian or Mexican railroads.

Exception 2: This exemption shall not apply to cars subject to service orders issued by the Interstate Commerce Commission or to Directives issued by the Car Service Division of the Association of American Railroads, restricting the use of designated cars.

Exception 3: This exemption shall not apply to plain gondola cars owned by the railroads named below:

The Central Railroad Company of New Jersey, Robert D. Timpany, Trustee
Reporting Marks: CNJ
Florida East Coast Railway Company
Reporting Marks: FEC
[1] Grand Trunk Western Railroad Company
Reporting Marks: GTW
The Kansas City Southern Railway Company
Reporting Marks: KCS
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisiana & Arkansas Railway Company
Reporting Marks: LA
Maine Central Railroad Company
Reporting Marks: MEC
Missouri-Kansas-Texas Railroad Company
Reporting Marks: BKTY-MKT-MKTT
Penn Central Transportation Company (Robert W. Blanchette, Richard C. Bond and John H. McArthur, Trustees)
Reporting Marks: PC-PRR-NYC
Richmond, Fredericksburg and Potomac Railroad Company
Reporting Marks: RFP
Union Pacific Railroad Company
Reporting Marks: UP

Effective October 10, 1975.

Expires November 30, 1975.

Issued at Washington, D.C., October 1, 1975.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[1] Addition.

[FR Doc.75-28171 Filed 10-17-75;8:45 am]

[I.C.C. Order No. 149 Under Rev. S.O. No. 944]

WESTERN MARYLAND RAILWAY CO.

Rerouting of Traffic

In the opinion of Lewis R. Teeple, Agent, the Western Maryland Railway Company, (WM) is unable to transport traffic over its lines east of Hagerstown, Maryland, because of high water and flooding.

It is ordered, That:

(a) *Rerouting traffic.* The WM being unable to transport traffic over its lines east of Hagerstown, Maryland, because of high water and flooding, that line is hereby authorized to reroute or divert such traffic via any available route. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers: or upon failure of the carriers to so agree, said diversions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4:30 p.m., September 26, 1975.

(g) *Expiration date.* This order shall expire at 11:59 p.m., September 29, 1975, unless otherwise modified, changed, or suspended.

It is further ordered, That this order 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 it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 26, 1975.

INTERSTATE COMMERCE COMMISSION,
[SEAL] LEWIS R. TEEPLE,
Agent.

[FR Doc.75-28170 Filed 10-17-75;8:45 am]

federal register

MONDAY, OCTOBER 20, 1975

PART II:

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

TRICHLOROETHYLENE

Proposed Occupational Exposure Standard

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-048]

OCCUPATIONAL EXPOSURE TO TRICHLOROETHYLENE

Notice of Proposed Rulemaking

Pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 ("the Act") (84 Stat. 1593, 1599; 29 U.S.C. 655, 657), and Title 29, Code of Federal Regulations ("CFR") Part 1911, it is proposed to amend Part 1910 of 29 CFR by deleting the present standard for trichloroethylene ("TCE") contained in § 1919.1000, Table Z–2 (formerly § 1910.93, Table G–2), and by adding a new occupational safety and health standard for exposure to TCE as § 1910.-1027. This standard would apply to all employments in all industries covered by the Act, including "general industry," construction, and maritime. In addition, pursuant to section 4(b)(2) of the Act (84 Stat. 1592, 29 U.S.C. 653), if the new standard, when promulgated, is determined to be more effective than corresponding standards now applicable to the maritime and construction industries contained in Subpart B of Part 1910, Parts 1915, 1916, 1917, 1918, and 1926 of 29 CFR, the new TCE standard will supersede the corresponding maritime and construction standards for exposure to TCE. Appropriate conforming amendments will be made in Subpart B of Part 1910, and amendments to delete the superseded standards will be made in 29 CFR 1926.55 and in similar sections of Parts 1915–1918.

The accompanying document is a proposed standard issued pursuant to sections 6(b) and 8(c) of the Act. The agency requests the submission of written comments, data, and arguments from any interested persons on the issues addressed or implicit in the proposal. In addition, interested persons may also file written objections to the proposal requesting an informal hearing with respect thereto.

The proposed new standard would retain the current eight-hour time-weighted average limit for exposure to airborne concentrations of TCE of 100 parts per million (ppm) as presently listed in Table Z–2, and would reduce the ceiling limit from 200 ppm to 150 ppm. In addition, the acceptable maximum peak of 300 ppm for five minutes in any two hour period would be deleted. Moreover, the proposed standard would add detailed requirements on measuring employee exposures, methods of compliance, respiratory protection, hazardous and emergency situations, protective equipment, housekeeping, training, signs and labels, medical surveillance, and recordkeeping.

The issues raised in the proposal include, among others, the following:

1. The selection of an appropriate time-weighted average and a ceiling level for TCE;

2. The possibility that TCE may be an animal carcinogen, and, if so, whether it should be treated as posing a carcinogenic risk to humans;

3. The requirement for shielding and ventilation in hazardous operations to prevent employee exposure to the breakdown products of TCE;

4. The provisions for, among other things, employee exposure measurements, methods of compliance, medical surveillance, and protective equipment and clothing, hygiene facilities, signs and labels and recordkeeping;

5. Whether it is appropriate to permit initial determinations to be made without monitoring, or whether initial monitoring should be required in all cases; and

6. The environmental and inflationary impact of this proposal.

In the development of this proposal, OSHA has considered recommendations contained in the document "Criteria for a Recommended Standard . . . Occupational Exposure to Trichloroethylene," which was developed for the Secretary of Labor by the National Institute for Occupational Safety and Health (NIOSH), Department of Health, Education, and Welfare, as well as numerous reference works, studies, case histories, and journal articles, many of which are included in the reference section of this notice.

I. Introduction

A. *Background.* Trichloroethylene ("TCE"), Chemical Abstracts Service Registry Number 76016, is a clear, colorless, noncorrosive, nonflammable liquid with the "sweet" odor characteristic of chlorinated hydrocarbons. It is primarily produced by chlorination and oxyhydrochlorination of ethylene. Although TCE is not highly reactive, it does slowly decompose upon exposure to light and water vapor to form hydrogen chloride and, at elevated temperatures, chlorine. Upon contact with certain metals, open flames or ultraviolet radiation, TCE decomposes almost instantly to form phosgene and/or hydrogen chloride. It may also react with strong alkalis to form the very toxic substance, dichloroacetylene, and other explosive mixtures (*1*).

Annual production of TCE in the United States is on the order of 2.34×10^8 kg or about 234,000 metric tons. Approximately 90 percent of the substance consumed in the United States is used as a solvent in vapor degreasing operations. Five percent is used as a dry-cleaning solvent or as an extractive solvent, especially in processes which require the selective extraction of medicines and foods. The remainder is utilized as a solvent or chemical intermediate in a variety of operations including the production of pesticides, waxes, gums, resins, tars, paints, varnishes and specific chemicals, such as chloroacetic acid (*1*). TCE has also found application as a general anesthetic and analgesic (*1, 8*).

B. *History of Regulation.* In 1943, the U.S. Public Health Service published a "Manual of Industrial Hygiene and Medical Service in War Industries," which listed maximum allowable concentrations for workplace air contaminants. For TCE, the limit listed in the manual was 200 ppm based on an eight-hour daily exposure.

As noted in the NIOSH Criteria Document, the list of concentrations in this manual was critically reviewed, unified, and extended by Cook in 1945. Cook supplemented the Public Health Service's list with lists of acceptable concentrations supplied by other sources, including the California Industrial Accident Commission, the American Standards Association and the states of Connecticut, Massachusetts, New York, Oregon and Utah. All of these sources listed a value of 200 ppm for TCE. Cook considered these sources and the works of Seifter, Morse and Goldberg when he also recommended a maximum allowable concentration of 200 ppm (*39*).

In 1946, the American Standards Association's (now the American National Standards Institute or ANSI) Z–37 Committee published a standard for exposure to TCE which recommended a maximum exposure of 200 ppm as averaged over an eight-hour day. However, in 1967, this limit was changed to 100 ppm with a ceiling limit of 200 ppm. Further, the revised standard allowed peak exposures to concentrations of 300 ppm for a duration of not more than five minutes, provided these levels were not encountered more than once in two hours during an eight-hour workday.

During the years 1947 through 1961, the American Conference of Government Industrial Hygienists (ACGIH) listed a Threshold Limit Value (TLV) for TCE of 200 ppm. In 1961, based on the work of Adams et al., ACGIH lowered its TLV to 100 ppm (*1*). Adams has reported that there was an extremely low probability of adverse effects on human subjects if the vapor concentrations of TCE were kept below 100 ppm.

The Hygienic Guides Committee of the American Industrial Hygiene Association also recommended a time-weighted average concentration of 100 ppm for an eight-hour workday with fluctuations to be kept below 200 ppm (*1*).

In 1972, under the section 6(a) rulemaking procedures of the Act, OSHA adopted the ANSI standard for exposure to TCE of 100 ppm as averaged over an eight-hour workday, a 200 ppm acceptable ceiling concentration and allowance for peak exposures of 300 ppm occurring not more frequently than five minutes in any two hours. This is the current OSHA standard for occupational exposure to TCE, found in Table Z–2 of § 1910.1000. As noted, the proposal would retain the 100 ppm time-weighted average and would reduce the permissible ceiling concentration to 150 ppm, and would delete the peak exposure concentration.

II. Toxicology

A. *Effects of Trichloroethylene.* The predominant effect of overexposure to TCE appears to be depression of the

central nervous system. Such exposures often result in visual disturbances, mental confusion, fatigue, tremors, dizziness, nausea and vomiting (*1, 3, 14*). Continued overexposure may produce unconsciousness eventually leading to death.

TCE also has toxic action on the cardiovascular and gastrointestinal systems. Deaths have been reported from ventricular fibrillation and cardiac arrest following severe exposure to the substance (*1, 16, 21*). Cases of injury to the liver and kidney have also been observed (*18, 19, 20*).

Chronic exposure to the substance may produce double vision, changes in color perception, blindness, loss of coordination and sense of smell, and impairment of the tactile sense (*1, 21, 29*).

Effects of TCE on the skin and eyes include reddening and dermographism, contact skin burns and generalized dermatitis (*29, 30*). Studies have indicated that TCE is not significantly absorbed through the skin unless it is trapped against the skin, as for example under tight clothing (*25*).

TCE is rapidly absorbed by the lungs with 50–70 percent being retained and metabolized in the body. The metabolites excreted include monochloroacetic acid, accounting for 4 percent of the retained TCE; trichloroacetic acid, 10–30 percent; and trichloroethanol, 32–59 percent. There is an initial conversion to chloral hydrate, a sedative-hypnotic. This converts into trichloroacetic acid and trichloroethanol, which are then excreted in the urine (*1*). Because the metabolism has a requirement for the reduced form of nicotinamide adenine dinucleotide phosphate (NADPH) and oxygen, it is felt that TCE is metabolized in the liver microsomes by enzymes known as the mixed-function oxidase system (*33*). This has been verified by the studies of Byington and Leibman (*31, 32*).

The biological half-life of TCE is approximately 41 hours, which suggests that TCE may accumulate in the body (*34*). Because of this fairly extended half-life, the effects of TCE may depend upon the duration as well as the intensity of exposure. A study by Grandjean showed that as the duration of exposure increases, the rate of incidence of various nervous disorders also increases (*3*).

B. *Animal Studies.* The bulk of animal study data is concerned with either the systemic toxicity or neurotoxicity of TCE.

In a 1944 study, which attempted to demonstrate a relationship between exposure to TCE and hepatic injury, Seifter reported that dogs exposed by inhalation to levels ranging from 150 ppm to 300 ppm showed no liver injury. Dogs exposed to concentrations of 500–750 ppm showed a progressive impairment of liver function, with the degree of toxic effect directly proportional to the intensity of exposure. However, the changes in liver function were transient, returning to normal within five weeks after discontinuance of TCE exposure (*9*).

In a study by Wirtschafter and Cronyn, rats given a single subcutaneous injection of TCE (0.004 mole/kg) showed elevated serum glutamic oxalacetic transaminase (SGOT) values during the 12th to 16th hours following the injection. Also, histological examination showed "mild degenerative changes of the liver parenchyma" at the 12th hour following injection (*10*). As in the Seifter study, the changes were transient, returning to normal by the 24th hour.

In 1967, Mazza and Brancaccio examined the myelograms and blood indices of rabbits exposed to 2790 ppm of TCE by inhalation. An increase in lymphatic and reticuloendothelial cells, hypoplasia of erythroblastic parenchyma, leukopenia and thrombocytopenia were found. In addition, the investigators found a severe normochromic anemia which they attributed to the toxic action of TCE on bone marrow (*45*).

A study by Battig and Grandjean (1963) examined the effects of chronic exposure to TCE vapors on rat behavior. Ten rats, exposed to an eight-hour average concentration of 400 ppm TCE, five days per week, for 14 weeks, were subjected to four tests. The rats' performances in swimming, a Hebb or rat "intelligence" test, exploratory behavior, and conditioned avoidance response tests were compared against the performance of ten control rats exposed only to fresh air. The researchers found that chronic exposure to TCE vapors detrimentally affected the rats neuromuscular efficiency in the swimming tests, but enhanced exploratory behavior performance in a maze situation. These results appeared to stem from the narcotic effects of TCE, which reduce both neuromuscular coordination and inhibitions. However, exposure to TCE did not appear to affect performance in either the intelligence or conditioned avoidance response tests (*26*).

Although TCE alone is initially a strong depressant on the central nervous system, its toxic effects are compounded by the fact that one of its primary metabolites, trichloroethanol, is six times as strong a depressant. This has been verified in studies done using guinea pigs (*37*). As one-third to one-half of the retained amount of TCE is metabolized to trichloroethanol, this quantity in combination with chloral hydrate, a hypnotic, probably contributes to the pharmacodynamic and toxic effect of TCE.

In a 1960 study, Grandjean investigated the effect of TCE vapor inhalation on food-motivated conditioned responses in rats. The animals were conditioned to climb a rope in order to reach food. Grandjean found that rats exposed to TCE climbed more frequently without previous signals than did the control rats. He observed that TCE in the doses studied (200 and 800 ppm) modified the psychological equilibrium of the rats by decreasing inhibitions and increasing excitability (*35*).

Adams et al. (1951 studied the effects of TCE inhalation on various animal species. The study sought to determine both the quantitative measures of acute toxicity by using single exposure tests on rats and the effects of chronic toxicity by using repeated exposure tests on several species.

In the single exposure tests, groups of rats were exposed to various concentrations of TCE vapor ranging from 100 to 20,000 ppm for periods of six minutes to 20 hours to determine (1) the lowest exposure at which all the animals would die, (2) the highest exposure at which all the animals would survive, and (3) the highest exposure at which all the animals would survive and remain free of organic injury. No testing was performed to determine functional impairment. The results were plotted on a graph, and typical results showed that 100 percent survival was achieved at 20,000 ppm for 24 minutes, 12,000 ppm for 36 minutes, 6400 ppm for 84 minutes and 3000 ppm for seven hours. No organic injuries were found at 20,000 ppm for 18 minutes, 12,000 ppm for 36 minutes, 4800 ppm for 84 minutes, and 3000 ppm for five hours.

Of the rats that survived, the only toxic effects observed were depressions of the central nervous system (anesthetic effect), from which the rats recovered rapidly. Other effects noted were some loss of body weight and minor tissue changes which were considered insignificant by the authors.

Adams' test for chronic toxicity was performed on rats, rabbits, monkeys and guinea pigs. They were exposed to various concentrations up to 3000 ppm of TCE for seven hours a day, five days a week for six months. Not all species were exposed to all concentrations. Maximum TCE concentrations inhaled without adverse effects were 400 ppm for the monkeys, 200 ppm for the rats and rabbits and 100 ppm for the guinea pigs. Above these concentrations the same adverse effects observed in the single exposure test were noted, and minor importance was likewise ascribed to them.

Comparing these results with existing human studies, Adams concluded that "for uniform daily exposure of about seven hours' duration there is little probability of any adverse effects on human subjects if trichloroethylene concentrations are kept below 200 ppm; the probability of any effect whatsoever is extremely small if concentrations are kept below 100 ppm." (*36*).

C. *Human Studies.* Much research has been conducted on human subjects' response to TCE exposure. The following studies are representative of the literature that OSHA has relied upon in developing this proposed standard.

While attempting to devise tests that would be sensitive enough to measure changes in psychophysiological functions of a single subject exposed to low vapor concentrations of TCE (100, 200, 300, and 500 ppm), Stopps and McLaughlin (1967) found that psychomotor performance on various tests was not significantly affected at 100 ppm, but did deteriorate as the concentration of TCE was increased. Between 100 and 200 ppm, a slight decline in performance was observed, and in one test, a manual dexterity test, no difference in results was found. At the 300 and 500 ppm concen-

trations, declines in performance were significantly pronounced.

At all exposures, the subject reported "a slight tendency toward somnolence, and, in addition, at the 500-ppm concentration, mild irritation in the upper respiratory tract and a dull woolyheaded feeling."

Dr. Richard D. Stewart of the Medical College of Wisconsin, has conducted extensive research on TCE exposure. In a 1970 study, Stewart et al. tested for neurophysiological effects of TCE exposure. In nine separate experiments, he exposed subjects to 200 ppm for seven hours for five days. Some subjects reported a variety of mild subjective symptoms such as throat and eye irritation. Yet these subjects did not again experience these symptoms when exposed to TCE on consecutive days. All of the subjects, however, reported feelings of fatigue and sleepiness. Further, although the investigators found normal results on all performance tests taken by the subjects, 50 percent of the subjects reported that a greater effort was required for them to perform normally in a modified Romberg test for coordination (*24*).

Salvini, Binaschi and Riva (1971) studied the performances of six male university students exposed to average concentrations of 110 ppm in tests of perception, memory, and manual dexterity. The subjects were exposed to TCE in two four-hour sessions separated by one and one-half hours. The investigators found a "statistically significant decrease in performance ability when the subjects were exposed to TCE, indicating that 100 ppm was very close to the average concentration capable of interfering with psychophysiological efficiency."

In an attempt to test their findings, the investigators repeated the entire experiment using workmen who regularly worked with TCE. The results of the second experiment confirmed the conclusions drawn from the results of the tests with university students (*7*).

An expanded version of the Salvini experiment was performed by Stewart et al. (1974), but failed to corroborate Salvini's findings of interference with pyschophysiological efficiency at 110 ppm. Stewart et al. attributed the different results to three possible deficiencies in the Salvini study: ". . . questionable statistical analysis of the data, an inaccurate TCE vapor exposure, or poor experimental execution. . . ." (*28*).

Foster, Newton, Soto, and Stewart (1974) conducted a study to determine the effect of daily exposure to low levels (20, 100, 200 ppm) of TCE on the spontaneous and evoked electrical activity of the brain. The exposures resulted in electroencephalogram (EEG) changes at 200 ppm in one of the six (three male, three female) subjects. Exposure to 100 ppm for one week resulted in a reduced amplitude in the Visual Evoked Response (VER) readings for all of the female subjects. Exposure to concentrations of TCE at 100 and 200 ppm resulted in a reduced amplitude in the VER readings for only one of the three male subjects. As a result of these responses, the researchers hypothesized that "TCE may . . . directly stimulate cortical neurons and/or it may influence subcortical facilitory or inhibitory centers." (*28*). At this time it is unknown what effect, if any, these changes have on the health of employees. However, as Stewart noted, at concentrations of 300 or 400 ppm, the changes could become sufficiently significant to suggest harmful effects.

In all of Stewart's work he did not find ". . . that TCE has a well defined deleterious effect upon humans either at 100 ppm or 200 ppm in the atmosphere for the 7½ hour per day, 5 days per week." He concluded that ". . . the 100 ppm concentration probably has a three- to four-fold margin of safety for most individuals." (*28*).

In a review of the criteria document published by NIOSH, Messite (1974) cited several authors in establishing her reasons for lowering the TWA to 75 ppm (*14*). She stated that:

> . . . the psychophysiological effects of human exposures to trichloroethylene at levels approximately those of the proposed standard and the clinical impressions expressed by a number of other authors of subjective symptoms . . . do not appear to be sufficiently appreciated in the document.

Among the authors primarily relied upon were Grandjean (1955) and Bardodej (1955).

Grandjean et al. made 96 air analyses in 24 different workshops which showed concentrations of TCE between 1 and 355 ppm, with the majority between 20 and 40 ppm. Either through case histories (30 people) or clinical examinations (50 people), Grandjean found symptoms such as fatigue, dizziness, and inability to tolerate alcohol among exposed employees.

Grandjean pointed out that the air monitoring "provided insufficient indication of the total extent of exposure of the workers," because there was no long term air sampling and the ten minute air samples did not fully take into account such job tasks as special tank cleaning, removal of TCE, etc. Both because the study did not measure the extent of employee exposure and because there was no control group, this study cannot be utilized to definitely establish a dose-response level for TCE (*3*).

In concluding that NIOSH should have recommended a level of 75 ppm, Messite also relied upon a study by Bardodej and Vyskocil (*46*). Seventy-five workers employed in dry-cleaning and degreasing occupations were studied. The workers' length of employment varied from six months to 25 years. The authors reported that the TCE concentrations in the plants ranged between 5 and 630 ppm. They found a statistically significant correlation between the duration of exposure and toxic effects of TCE. NIOSH, in its review, criticized this report because "no controls were used, the areas sampled were not reported, and the general health of the worker population was not given." Therefore, this study is also not that helpful in establishing a dose-response level for TCE.

Effects of exposure to TCE on the skin and eyes have also been studied by Stewart. In 1964, Stewart and Dodd published results of investigations of the rate of skin absorption for five industrial solvents including TCE. Volunteer subjects were exposed by immersion of the thumbs into containers of the substances for 30 minutes. The amount of skin absorption was estimated by comparing concentrations of the solvents found in the expired alveolar breath of the subjects following the skin exposure, with previously obtained data on alveolar breath concentrations following exposure to known vapor levels of the solvents.

All of the subjects experienced burning sensations during skin contact with TCE. Erythema and fine scales were also noted in all subjects with the erythema subsiding in two hours. The researchers found that the rate of skin absorption of TCE was comparatively slow, and hypothesized that the substance would probably not be absorbed through the skin in toxic quantities during similar contact with hand and forearms (*25*).

In one study, mild eye irritation was reported for exposures as low as 160 ppm for a total exposure period of 83 minutes (*43*).

D. *Case histories.* Most of the facts obtained concerning the effects of occupational exposure to TCE have come from case histories. Although these case histories are important, they often involved exposures to high, although unknown, concentrations.

For example, there are numerous reported cases of deaths from inhalation of TCE vapors during degreasing operations (*16, 18, 19, 21*). There are also reports of deaths resulting from the intentional "sniffing" of TCE vapors by workers and children (*15, 23*). Other effects noted from case histories such as nausea, dizziness, sleepiness, etc., parallel effects seen under the controlled-condition studies. Effects such as renal and hepatic failures due to either occupational or deliberate inhalation of TCE vapors have not been seen in human experimental studies, but are readily apparent in the case histories (*17, 19, 20*). Acute illnesses have been documented by reports of unconsciousness among workers exposed to concentrations between 1,700 and 3,300 ppm for as little as ten minutes (*29*) and dysfunctions of the central nervous system at exposures of 1,000 ppm for even short periods of time (*42*).

While these case studies are useful in identifying severe symptoms of exposure to extremely high levels of TCE, they are not helpful in determining the lower toxic limits of TCE exposures.

III. The Consideration of Carcinogenicity

OSHA has received an alert as to the potential carcinogenicity of TCE from the National Cancer Institute (NCI) and from NIOSH. Both alerts, which were based on a carcinogenesis bioassay of TCE conducted by NCI, state that a preliminary evaluation of the bioassay indicates the substance to be carcinogenic in mice. However, NCI emphasized that

its memorandum represents "only a statement of concern" and that "no definite conclusions as to the carcinogenicity of the substance may be reached until all of the data from histopathology examinations have been received and evaluated." NIOSH's memorandum was based upon the same NCI study and was intended to "alert members of the occupational and health community to new information on a potential occupational hazard."

OSHA shares the concern expressed by NCI and NIOSH as to the possible carcinogenicity of TCE. However, we believe it is inappropriate at this time to treat TCE as a human carcinogen based solely on the preliminary information now available. OSHA solicits and will give serious consideration to all data concerning the carcinogenic potential of TCE, including data on whether TCE is an animal carcinogen and other data which may indicate that TCE should be regulated in the workplace as a carcinogen. If the evidence submitted during the course of this rulemaking proceeding, including the final NCI data, indicates that TCE should be regulated as a carcinogen, the final standard promulgated as a result of this proceeding may set a maximum exposure limit significantly below the limit set out herein. In addition to possibly requiring employers to reduce exposures to the lowest feasible level, the final standard may, in the circumstances noted above, contain other provisions, such as for regulated areas, appropriate to the regulation of a carcinogen (see, e.g., 29 CFR 1910.1017).

In any event, we solicit any data, views or arguments on the issue of carcinogenicity, feasibility and related matters.

IV. Pertinent Legal Authority

The primary purpose of the Act is to assure so far as possible safe and healthful working conditions for every working man and woman. One means prescribed by Congress to achieve this goal is the authority vested in the Secretary of Labor to set mandatory safety and health standards. The standards-setting process under section 6 of the Act is an integral part of an occupational safety and health program in that the process permits the participation of interested parties in consideration of scientific data, industrial processes and other factors relevant to the identification of hazards and the selection of appropriate control measures. Occupational safety and health standards establish the requisite conduct or exposure level and provide a basis for ensuring the existence of safe and healthful workplaces.

The Act provides that:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. (Section 6(b)(5))

Sections 2(b) (5) and (6), 20, 21, 22, and 24 of the Act reflect Congress' recognition that conclusive medical or scientific evidence including causative factors, epidemiological studies or dose-response data may not exist for many toxic materials or harmful physical agents. Nevertheless, standards cannot be postponed because definitive medical or scientific evidence is not currently available. Indeed, while final standards are to be based on the best available evidence, the legislative history makes it clear that "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." House Comm. on Education and Labor, H.R. Rep. No. 91–1291, 91st Cong., 2d Sess. 18 (1970). This congressional judgment is supported by the courts which have reviewed standards promulgated under the Act. In sustaining the standard for occupational exposure to vinyl chloride (29 CFR 1910.1017), the U.S. Court of Appeals for the Second Circuit stated that "it remains the duty of the Secretary to act to protect the workingman, and to act even in circumstances where existing methodology or research is deficient." "Society of Plastics Industry, Inc. v. Occupational Safety and Health Administration," 509 F. 2d 1301, 1308 (2d Cir. 1975), *cert. denied*, — U.S. —, 95 S.Ct. 1998, 44 L.Ed.2d 482 (1975).

A similar rationale was applied by the U.S. Court of Appeals for the District of Columbia Circuit in rereviewing the standard for occupational exposure to asbestos (29 CFR 1910.1001). The Court stated that:

> some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual analysis.

"Industrial Union Department, AFL–CIO v. Hodgson," 499 F.2d 467, 474 (D.C. Cir. 1974).

In setting standards, the Secretary is expressly required to consider the feasibility of the proposed standards. Senate Comm. on Labor and Public Welfare, S. Rep. No. 91–1282, 91st Cong., 2d Sess. 58 (1970). Nevertheless, considerations of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. "Society of Plastics Industry, Inc. v. Occupational Safety and Health Administration," 509 F.2d at 1309.

Where appropriate, the standards are required to include provisions for labels or other forms of warning to apprise employees of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, and appropriate medical examinations. Where a standard prescribes medical examinations or other tests, they must be made available at no cost to the employee (Section 6(b)(7)). Standards may also prescribe recordkeeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (Section 8(c)).

V. The Proposal

The following discussion analyzes significant provisions of the proposed standard for occupational exposure to TCE:

A. *Scope and application.* The proposed standard would apply to all workplaces in all industries, including construction and maritime as well as "general industry," where TCE is produced, released, packaged, repackaged, stored, handled, used or transported, except to the extent that this section will not apply to working conditions with respect to which other Federal agencies, such as, but not limited to, the Environmental Protection Agency or the Department of Transportation, have exercised their statutory authority to prescribe or enforce standards affecting occupational safety or health. Although the scope of this proposal is broad, covering nearly every use or handling of TCE, the specific provisions of the proposed standard that would apply to any particular employer depend upon the amount of the toxic substance actually released into the workplace air, or upon whether employees are likely to have eye or repeated skin contact with liquid TCE. It should be noted, however, that certain provisions of the proposed standard, such as employee training and information, apply wherever TCE is relased as a result of operations, without regard to the airborne concentrations.

B. *Exposure limits.* The proposed standard establishes limits for exposure to airborne concentrations of TCE and for dermal and eye exposure.

1. *Permissible airborne exposure limits.* The proposed standard would retain the eight-hour time-weighted average limit (TWA) based on a 40-hour work week of 100 parts of TCE per million parts of air (100 ppm) currently listed in § 1910.1000, Table Z–2. However, the 200 ppm ceiling concentration currently listed in § 1910.1000 would be changed to 150 ppm, as averaged over a 15 minute period, and the concept of a peak concentration would be completely eliminated.

Based on the studies discussed above, it is OSHA's judgment that there is a significant probability that well-defined symptoms of TCE exposure will appear in employees exposed to approximately 300 ppm or greater. In addition, fatigue and sleepiness, probably resulting from the anesthetic effects of TCE, have been observed at 200 ppm. There are also data

to suggest that milder symptoms and effects may appear at levels below 200 ppm, although probably not under 100 ppm.

It is apparent that we must protect against well-defined symptoms of TCE exposure. Moreover, we believe that it is inappropriate to permit employees to be exposed to a known anesthetic at levels which produce even mild anesthetic effects, such as fatigue and sleepiness. Therefore, in OSHA's judgment and in accordance with NIOSH's recommendations, the current TWA for TCE appears to be both necessary and adequate for the protection of employees. We believe the proposed TWA provides an appropriate margin of safety to protect employees from well-defined symptoms of TCE exposure and from its anesthetic effects. It also provides significant protection from milder symptoms and effects.

However, as previously mentioned, studies indicate that the current ceiling level of 200 ppm may be too high. Thus, for example, subjects exposed to concentrations between 150 and 200 ppm experienced eye irritation, fatigue and sleepiness even when exposure durations were for less than eight hours, and especially when continued for five days per week. Therefore, OSHA proposes to set the ceiling limit, as averaged over any 15 minute period, at 150 ppm to protect workers from experiencing toxic effects from exposure.

2. *Dermal and eye exposure limit.* As in the case of most organic solvents, TCE acts as a defatting agent on skin tissues, resulting in irritation and dermatitis. Repeated or prolonged exposures may even result in skin burns. Eye contact with TCE results in severe pain and irritation often lasting for several days.

For these reasons, the proposed standard would prohibit employers from exposing employees to eye and repeated skin contact with liquid TCE.

C. *Effects of overtime on exposure.* The permissible exposure limits are based on an eight-hour time-weighted average (TWA) concentration for a 40-hour work week. OSHA recognizes, however, that work shifts can extend beyond the regular eight-hour period as the result of overtime or other alterations of the work schedule. This extension of work time also extends the time during which the employee is exposed. The effects of this additional exposure time must be considered in arriving at a level of exposure.

For the purpose of calculating an exposure level, the relationship of concentration and time of exposure has been assumed to be linear. As the exposure time increases, the factor of concentration multiplied by time (C x T) must remain constant. Thus, for example, employees exposed to TCE for ten hours could not be exposed to more than 80 ppm on the average.

It is believed that by equating exposure with the eight-hour TWA, reasonable assurance of maintaining a safe exposure level is retained.

D. *Action level.* In addition to time-weighted average and ceiling limits, the proposed standard prescribes an action level which is a concentration of TCE equal to one-half of the TWA, at or above which certain precautionary measures such as exposure measurements and medical surveillance must be initiated.

The proposed action level for TCE is any concentration greater than or equal to 50 parts per million (50 ppm). Like the TWA, the action level is based on an eight-hour time-weighted average.

In OSHA's judgment, two kinds of uncertainties can affect an employer's efforts to be reasonably confident of the results of his exposure measuring program. First, he must know if his sampling and analysis accurately informs him of his employee's actual exposure level on the day of measurement. Assuming that an employee's exposure has been properly measured (excluding such things as precision and accuracy of the sampling method) an employer can be reasonably sure of the employee's exposure on the day of measurement.

Second, the employer must also know whether the measured exposure level on one day is indicative of exposure levels on days he does not measure. It is known that the level of contamination in occupational environments varies from day to day in a random fashion. This variation in levels is unavoidable; it is only minimally connected to the precision and accuracy of the method of measurement, and does not include variations due to changes in work processes or controls.

OSHA has determined statistically that even though all measurements of exposure level may fall below the permissible limit, some possibility exists that on unmeasured days the employee's actual exposure may exceed the permissible limit. (Leidel, N.A. et al. "Exposure Measurement Action Level and Occupational Environmental Variability," DHEW, PHS, CDC, NIOSH, DLCK (August 1975).) Where exposure measurements are above one half the permissible limit, i.e., the action level, the statistical risk is such that an employer can not reasonably be confident that his employees may not be overexposed. Therefore, requiring exposure measurements to begin at the action level provides the employer with a reasonable degree of confidence in the results of his measurement program.

In view of these considerations and in order to provide maximum employee protection, the proposal would also require the employer to commence medical surveillance at the action level.

E. *Determination and measurement of exposure.* The employer would be required by the proposal to make an initial determination of employee exposure to airborne or liquid TCE. This determination may be an observation based on the amount of TCE present in the workplace, type of operations being performed, the amount and type of ventilation, and the proximity of employees to the TCE. Also, the employer's determination must consider any employee complaints of symptoms that may be attributable to TCE exposure.

When making this determination, the employer is not required to sample or measure airborne concentrations of TCE. However, if the employer has performed any measurements, these must also be considered in the initial determination. In making the initial determination, the employer must be certain that the determination accurately reflects employee exposure conditions over the entire workday.

In establishments having more than one work operation involving the use of TCE, an initial determination must be made for each operation. Also, the determination must be repeated each time there is a change in production, process or control measures which could result in new or additional exposures, or whenever the employer has any other reason to suspect that a change in exposure conditions has occurred.

If the results of the initial determination are negative, that is, if the employer determines that no employee is exposed to eye or repeated skin contact and that no employee is exposed to airborne concentrations of TCE vapor at or above the action level or above the ceiling limit, a written record of this determination must be made. This record must contain any information or observations that indicate an employee may be exposed to liquid or airborne concentrations of TCE, including employee complaints of symptoms that may be attributable to such exposure. Further, the determination record must include measurements of TCE that have been made, even though such measurements are not required to be made for the initial determination, and the names and social security numbers of the employees considered in reaching the determination.

When results of the initial determination of dermal or eye exposure indicate that any employee may be exposed to liquid TCE, the employer must provide affected employees with impermeable protective clothing and devices to protect the areas of the body likely to come in contact with liquid TCE.

When the initial exposure determination indicates that any employee may be exposed in excess of the action level, the employer must measure the exposure of the employee most likely to have the highest exposure. If the results of this measurement indicate that the employee is exposed to concentrations in excess of the action level, or the ceiling limit the employer must implement a program to measure the exposures of all employees similarly affected. Because a positive determination triggers the exposure measurement program, with its own recordkeeping requirements, no written record of positive determination need be made.

When the results of the single employee's exposure measurement reveal exposures in excess of the action level or the ceiling limit, the employer would be required to identify all other employees who may be similarly exposed, and to measure the exposures of each of these employees. Detailed instructions for monitoring the exposures of such employees are contained in the proposed standard.

The measurement procedure may be terminated as to a particular employee if the employee exposure measurement does not indicate exposures in excess of the action level or ceiling limit. However, it should be noted that if an employer has knowledge of a change in production, process or control measures which could result in increased exposures to TCE, or if the employer has any other reason to suspect that a change in exposure conditions has occurred, the initial determination procedure must be repeated.

The monitoring provisions are designed so that employers who have workplaces in which exposures to TCE are below the action level would not be required to make continual measurements. Further, those employers having establishments with exposures at or above the action level, but below the permissible exposure limits, would be required to make only the minimum number of exposure measurements necessary for protection of employees. The intent of these procedures is to provide adequate protection for employees while minimizing the burden on employers.

F. *Methods of measurement.* The proposal would require that exposure measurements reflect the actual exposure conditions for each employee. No specification is made for the location of the samples taken. Thus, the employer may perform either personal breathing zone or general air sampling, provided that the method chosen gives an accurate indication of each employee's exposure. Further, any appropriate combination of long-term or short-term samples would be acceptable. However, the proposal requires that all exposures be calculated on an eight-hour time-weighted average basis, with the exception of the ceiling concentration measurements. The sampling method must have an accuracy, to a confidence level 95%, of ± 35% up to 100 ppm and ± 25% above 100 ppm. The term "accuracy" refers to the difference between the measured value and the true concentration. It allows for both the random variation of the method (its precision) and the difference between the average result from the method and the true value (bias of the method). As noted, the required accuracy for concentrations of TCE above 100 ppm is 25% at a 95% confidence level. This means that out of a long series of measurements, 95% must be within 25% of the true value.

G. *Methods of compliance.* The proposed standard would require the employer to immediately institute engineering controls to reduce employee exposures to or below the permissible exposure limits, except in situations where such controls are infeasible. Further, in situations where the engineering controls that can be instituted immediately will not reduce exposures to the permissible exposure limits, they must nonetheless be used to reduce exposures to the lowest practicable level, and be supplemented by the use of work practices.

Where engineering controls and work practices will not reduce exposures to the permissible exposure limits, they must nonetheless be implemented to reduce exposures to the lowest practicable limit, and be supplemented by the use of personal protective devices. In addition, a program must be established and implemented to reduce exposure to within the permissible exposure limits, or to the greatest extent feasible, solely by means of engineering controls. Written plans for this program must be developed and furnished upon request for examination and copying to representatives of the Secretary and the Director. These plans must be reviewed and updated periodically to reflect the current status of exposure control.

In the compliance priorities set out in the proposal, engineering controls are the preferred means of compliance because they reduce exposure hazards in the workplace environment by removing the airborne contaminants. Engineering controls may include the installation of local exhaust ventilation or the modification of a process so as to reduce emission of the contaminant into the workplace. When mechanical ventilation is used for engineering control, checks of air system efficiency, such as capture velocity, duct velocity or static pressure must be made at least every three months. These checks are necessary to assure that the primary control system (mechanical ventilation), is functioning effectively at all times.

When engineering controls prove to be infeasible or inadequate, work practice controls must be instituted. Work practice controls include, for example, adherence to proper process techniques and proper maintenance. However, the effectiveness of work practice controls is dependent on strong supervisory controls being continuously maintained, and they are therefore generally less reliable than engineering controls. For this reason the proposal establishes work practice controls as the secondary means of controlling employee exposures.

Where both engineering and work practice controls are infeasible or insufficient to reduce the exposure to permissible levels, they must nonetheless be used to reduce exposure to the lowest practicable level, and be supplemented by the use of respirators. Respirators are the least satisfactory means of control because of certain difficulties inherent in their use. Respirators are capable of providing good protection only if they are properly selected for the concentrations of airborne contaminants present, properly fitted to the employee, worn by the employee, and replaced when they have ceased to provide adequate protection. While it is possible for all of these conditions to be met, it is often the case that they are not, and, as a consequence, the protection of employees by respirators is not as effective as the other methods of compliance. Where respirators are used, the proposed standard would establish requirements for their selection and maintenance.

H. *Hazardous operations and emergency situations.* As discussed above, TCE decomposes rapidly into several hazardous breakdown products such as chlorine, hydrogen chloride, phosgene and dichloroacetyl chloride, upon exposure to high temperatures, open flames or ultraviolet light (*1*). For this reason, the proposed standard would require operations involving high temperatures, open flames or ultraviolet light to be performed outside of areas in which TCE vapors are present, unless such operations are appropriately shielded and ventilated.

A TWA for dichloroacetyl chloride is not included in Table Z–1 at this time, but it is known that a concentration of approximately 10 ppm will immediately cause coughing and eye irritation to an extent that most employees cannot tolerate it for more than a short time. Dahlberg states that dichloroacetyl chloride, not phosgene, is the main decomposition product caused by welding in areas where TCE vapors are present. The rate of creation of dichloroacetyl chloride is dependent on the amount of TCE present, and welding is very hazardous where levels of TCE exceed 30 ppm (*5*). Dahlberg points out that even 30 ppm may be too high in certain cases, and recommends that precautions be taken to eliminate TCE from the work area altogether. Therefore, to prevent irradiation and consequent oxidation of TCE, the proposed standard requires hazardous operations, such as welding, to be screened and adequately ventilated.

Degreasing and storage tanks which have been emptied for cleaning, maintenance or inspection purposes may contain concentrations of TCE vapors which are immediately hazardous to the lives and health of employees. For this reason, the proposed standard cross-references § 1910.94(d)(11)(ii)–(v) which contain provisions for safe entry into tanks.

I. *Employee information and training.* Information and training are essential for the protection of employees because an employee can do much to protect himself if, and only if, he is informed of the nature of the hazards in his workplace. To be effective, an employee education system must apprise the employee of the specific hazards associated with his work environment. For this reason, the employer would be required to inform each employee of the effects of TCE, the necessity for controlling exposure, the emergency procedures and the purpose and description of the medical surveillance and exposure monitory programs. Further, the employee must be instructed to report promptly the development of symptoms or conditions which could be attributed to overexposure to TCE. The proposal also contains requirements for warning signs and labels.

J. *Medical surveillance.* The proposed standard would require employers to institute a program of medical surveillance for employees who may be exposed to concentrations of TCE vapor at or above the action level or in excess of the ceiling limit. As in the case of exposure determinations, the level of an employee's exposure is considered without regard to the use of respirators. The purposes of

the medical surveillance requirements include: determining the effects of exposure on the health of employees, ensuring to the extent possible that no employee is exposed to concentrations of TCE which are above his own level of tolerance and ensuring that if symptoms of overexposure do occur, they are recognized as early as possible and that appropriate action is taken.

The proposal requires a comprehensive medical and work history to be taken at the time of initial assignment or upon institution of the medical surveillance program. The purpose of these histories is to identify those individuals whose past experiences indicate hypersusceptibility to various chlorinated hydrocarbons and whose exposures, therefore, might need to be reduced.

The proposal also calls for an initial and an annual medical examination which must include an electrocardiogram, pulmonary function testing, urinalysis and a complete blood count. Because exposures to TCE have been reported as the cause of cardiac arrhythmias in some workers, the electrocardiogram is necessary for identifying workers with heart problems that might be affected by TCE exposure. Also, since TCE is a chlorinated solvent, overexposure has the potential for causing liver and kidney impairments. Urinalysis is useful for screening for individuals who have or may develop liver or kidney dysfunctions. Pulmonary function testing is necessary for determining whether an employee is able to wear certain types of respiratory protective equipment.

Although the proposal specifies the type of medical tests and examinations to be given affected employees, the employer may allow the examining physician to use other types of medical examinations, provided the alternative procedures can give at least equal assurance of detecting medical conditions pertinent to protecting employees against TCE exposure. If the examining physician elects to use such alternative medical examinations, the employer must obtain a statement from the physician setting forth the alternative medical examinations to be used and the rationale for their substitution and submit that to the Secretary. The employer must also inform affected employees that medical examinations other than those prescribed in the standard are to be made available.

The employer must provide the examining physician with a copy of the standard for TCE, including appendixes, a description of the employer's duties, a description of any personal protective equipment used by the employee, the results of the employee's exposure measurement, and an estimate of the levels to which the employee will be exposed. The employer must also provide any available employee medical history information requested by the physician.

Following the medical examination, the employer must obtain a written opinion from the examining physician stating whether the employee has any medical condition that would place him at increased risk to his health or that would be aggravated through exposure to TCE. Additionally, the opinion must state any recommended limitations upon the employee's exposure or upon the employee's use of protective equipment and respirators. The opinion must also state that the employee has been informed of any medical conditions which require further examinations or treatment, although the written opinion must not contain specific findings or diagnoses unrelated to the employee's exposure to TCE. The employer must provide a copy of the physician's opinion to the affected employee.

If, based on the physician's opinion, the employer determines that exposure of an employee to TCE would materially impair the employee's health, the employer must place specific limitations on the employee's continued exposure to TCE so as to remove the employee from increased risk.

If an employee refuses to take an examination, the proposed standard contains a provision requiring the employer to inform the employee of the risks that may be incurred by his refusal, and to obtain a signed statement from the employee attesting to the fact that the employee fully understands the potential risks, but still does not wish to be examined. The purpose of this provision is not to encourage employees to avoid medical examinations. On the contrary, OSHA believes the positive action taken by employers to inform employees of the risk involved will encourage employees to undergo the examinations.

K. *Recordkeeping.* The proposed standard would require employers to keep written records of the following: initial determinations which indicate that employees are not exposed at or above the action level or above the ceiling limit; measurements of employee exposure; tests of mechanical ventilation system efficiency (where such systems are used for engineering control); annual training and information sessions; medical examinations; and preplacement histories.

Besides showing that an employer has made an examination of the workplace, records of negative determinations also assist the employer in pinpointing areas of his operations where there might be potential for exposure above the action level in the future. Records of initial positive determinations, however, are not needed, because a positive determination requires the employer to take other actions which carry their own recording requirements.

When symptoms of organic damage appear, a physician often needs information as to the patient's previous medical conditions to make an accurate diagnosis of the problem and its apparent cause. Records of previous occupational medical examinations could be an invaluable aid to the physician treating a patient with organic damage which may be due to exposure to a toxic chemical substance. For this reason, the proposal would require the employer to retain records of employee exposure measurements and medical examinations for a period of no less than ten years, even if the employee ceases to work for the employer.

A record of the tests of mechanical ventilation system efficiency is required to be maintained so that the employer can ensure that tests of the system are being made at the required time intervals. Further, the record is useful to the employer since a comparison of the most recent test with previous tests will assist in the evaluation of the effectiveness of the ventilation system, and will enable the employer to detect any progressive loss of efficiency before it becomes critical.

Section 8(c)(3) of the Act requires, and paragraph (n) of this proposal contains provisions for access to records of exposure measurements by employees, former employees or their representatives, and for access to medical records made pursuant to paragraph (m) by physicians designated by employees or former employees. It should be noted that such access is limited only to the records of determinations, exposure measurements, and medical examinations that are being maintained by the employer in accordance with the recordkeeping requirements. It should also be noted that the employer is not required to retain or make those records accessible for periods longer than those required in paragraph (o) of the proposed standard.

The proposal provides for the transfer of monitoring and medical records, when: (1) one employer succeeds another, and (2) an employer ceases to do business and there is no successor. An employer succeeding another is merely required to receive and maintain those records which his predecessor would have been required to keep. Employers closing out their businesses without successors are required to send their records to NIOSH and notify each employee and former employees of the transfer.

OSHA is aware that certain provisions of this proposal, such as medical surveillance and the extended retention period for medical and monitoring records may pose special problems to some employers, especially those who have small numbers of employees, operate with non-fixed places of employment, or use workforces which are highly transient in nature.

This awareness has been expressed by the Department of Labor in a statement submitted to the House Subcommittee on Environmental Problems Affecting Small Business on 26 June 1975, as follows: "It has become increasingly evident that the combined body of Federal regulations imposes a substantial, and, to some extent, unnecessary burden upon employers, particularly those who run small businesses. While most of these requirements serve a necessary and useful purpose, a definite potential exists for duplication, conflicting standards, and inappropriate recordkeeping requirements. In an effort to eliminate problems where any exist in the Department of Labor, I have requested my agency heads to assess the small business impact of the laws they administer and determine what can be done to ease the burden on the small employer, while still assuring compliance with the law."

Although it is clear that OSHA's first and prime responsibility is to assure employees safe and healthful places of em-

ployment, the Act and its legislative history recognize that economic and technological feasibility are legitimate factors to be considered in the setting of occupational safety and health standards.

In addition, the Act explicitly takes cognizance of its impact upon affected small businesses, specifically with respect to any recordkeeping requirements which are imposed.

Pursuant to section 8(d) of the Act, OSHA is exploring methods of reducing, to the maximum extent possible, the administrative and economic burdens of the proposal's various recordkeeping requirements.

While the proposal does not address itself to specific alternatives, OSHA invites comments concerning options which would both provide full protection to affected employees and at the same time minimize the administrative and economic burden on affected employers—especially those with small numbers of employees, non-fixed workplaces, or highly transient workforces.

L. *Observation of monitoring.* Section 8(c)(3) of the Act requires employers to provide employees or their representatives with the opportunity to observe monitoring of employee exposures to toxic materials or harmful physical agents. To ensure that the right to observe is meaningful, observers would be entitled to receive an explanation of the measurement procedure, to observe all steps related to the measurement procedure and to record the results obtained.

It should be noted that the observer, whether an employee or designated representative, must be provided with and is required to use any personal protective devices required to be worn by employees working in the area that is being monitored, and must comply with all other applicable safety procedures.

M. *Appendixes.* Three appendixes have been included in this proposal: Appendix A, "Substance Safety Data Sheet;" Appendix B, "Substance Technical Guidelines;" and Appendix C, "Medical Surveillance Guidelines." It should be noted that the appendixes have been included primarily for informational purposes. None of the statements contained therein should be construed as establishing a mandatory requirement not otherwise imposed by the standard or as detracting from an obligation which the standard does impose.

The information contained in Appendixes A and B is meant to aid the employer in complying with requirements of the standard. This information is also to be provided to employees as part of the annual training and education program.

Appendix C gives the employer a means of providing the examining physician with an explanation of the potential health effects of TCE exposure and provides information needed by the physician to make an accurate interpretation of the medical examination results. Appendix C also lists other types of examinations, not required by the standard, which may help the physician in making an accurate assessment as to whether any limitation should be placed upon the employees exposure to TCE.

VI. Environmental Impact Assessment

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347), requires, among other things, that Federal agencies assess their proposed major actions, including rulemaking, to determine whether a significant impact on the quality of the human environment may result. Furthermore, 29 CFR 1999.3(d) requires that where OSHA determines that an environmental impact statement should be prepared, the determination to do so must be published in the Federal Register. Accordingly, it is hereby noticed that OSHA intends to prepare an environmental impact statement on the proposed standard for occupational exposure to trichloroethylene in accordance with the requirements of 29 CFR Part 1999.

Once the draft environmental impact statement has been prepared, a copy of it will be made available by OSHA to any member of the public who requests an opportunity to comment on it. Any person or agency submitting comments on it to OSHA must at the same time forward five copies of the comments to the Council on Environmental Quality (CEQ), 722 Jackson Place NW., Washington, D.C. A 45-day period will be allowed for the submission of comments after the publication of the notice of availability of the draft environmental impact statement. The draft statement will be available, where practicable, at least 15 days prior to a public hearing on the proposed standard. The environmental impact of the proposal would be an appropriate issue at such hearing.

It appears at present that the preceding preamble to the proposed standard for occupational exposure to trichloroethylene adequately assesses the impact of the proposal on the workplace environment. It further appears that the proposed standard for occupational exposure to trichloroethylene will have no significant effects on the quality of the human environment external to the workplace. The proposal does not increase the amount of TCE permitted to be released into the ambient air, nor does the proposal call for changes of industry practice in disposal of trichloroethylene wastes. For these reasons, OSHA does not anticipate any increased impact on the community contiguous to establishments in which trichloroethylene is used or produced.

Interested persons may submit comments that may be helpful in preparing the draft environmental impact statement on the proposed standard. Any person having relevant information or data not readily available in the open literature is invited to submit it to David R. Bell, Office of Standards Development, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N3669, Washington, D.C. 20210, by November 19, 1975. Comments submitted in regard to the proposed standard need not be resubmitted. All material received on environmental impact will be available for public inspection and copying at the above address.

VII. References

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VII. Public Participation

Interested persons are invited to comment on the proposed standard on or before December 19, 1975. Written data, views, and arguments concerning the proposal must be submitted in quadruplicate to the Docket Officer, Docket No. H–048, Room N–3620, 200 Constitution Avenue NW., Washington, D.C. 20210 (Telephone 202/523–8076). Written submissions must clearly identify the provision of the proposal addressed and the position taken with respect to each such provision. The data, views, and arguments will be available for public inspection and copying at the above address. All written submissions received will be made a part of the record of this proceeding.

Pursuant to 29 CFR 1911.11 (b) and (c), interested persons may, in addition to filing written comments as provided above, file objections to the proposal and request an informal hearing with respect thereto, in accordance with the following conditions:

1. The objections must include the name and address of the objector;

2. The objections must be postmarked on or before December 19, 1975;

3. The objections must specify with particularity the provision of the proposed rule to which objection is taken, and must state the grounds therefor;

4. Each objection must be separately stated and numbered; and

5. The objections must be accompanied by a detailed summary of the evidence proposed to be adduced at the requested hearing.

In addition to the comments and objections invited above, concerning the proposal and its environmental impact, OSHA hereby solicits comments from interested parties regarding the potential inflation impact of the proposed standard. Comments must be submitted in accordance with the above requirements for comments on the proposal and may be directed toward any or all of the following subjects:

1. Cost impact on consumers, businesses and markets, or Federal, State, or local governments;

2. Effect on the productivity of wage earners, businesses, or government;

3. Effect on competition;

4. Effect on supplies of important materials, products, or services;

5. Effect on employment; and

6. Effect on energy supply or demand.

It is OSHA's intention to prepare an inflationary impact statement and analysis, if appropriate, or a certification that the standard has no substantial inflationary impact, and to make such statement or certification available at least 30 days prior to any public hearings on the proposed standard. The potential inflationary impact of the proposed standard would be an appropriate issue at such hearings.

This procedure has been concurred in by the Council on Wage and Price Stability in accordance with the Office of Management and Budget Circular A–107 (January 28, 1975), issued pursuant to Executive Order 11821 (39 FR 41501, November 27, 1974).

Accordingly, pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 1599; 29 U.S.C. 655, 657) and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of Title 29 of the Code of Federal Regulations as set forth below.

Signed in Washington, D.C., this 10th day of October, 1975.

John T. Dunlop,
Secretary of Labor.

§ 1910.1000 [Amended]

1. Table Z–2 in § 1910.1000 is proposed to be amended by deleting the entry for Trichloroethylene (Z37.19–1967).

* * * * *

2. A new § 1910.1027 is proposed to be added to Part 1910 of Title 29 of the Code of Federal Regulations, reading as follows:

§ 1910.1027 Trichloroethylene.

(a) *Scope and application.* This section applies to the production, release, packaging, repackaging, storage, transportation, handling, or use of trichloroethylene except that this section will not apply to working conditions with respect to which any other Federal agency has exercised statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health hazards covered by this section.

(b) *Definitions.* "Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or his designee.

"Emergency" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which is likely to or does, result in the release of trichloroethylene in excess of the ceiling limit.

"Hazardous operation" means any procedure or activity where a release of the decomposition products of trichloroethylene such as chlorine, hydrogen chloride, phosgene and dichloroacetyl chloride might be expected as a consequence of the operation.

"Secretary" means the Secretary of Labor, or his designee.

(c) *Action level.* Action level means a concentration of trichloroethylene of 50 parts per million parts of air (50 ppm) as determined on an eight-hour time-weighted average, based on a 40-hour work week.

(d) *Exposure limits*—(1) *Permissible exposure limits*—(i) *Time-weighted average limit (TWA).* No employee may be exposed to an airborne concentration of trichloroethylene in excess of 100 parts per million parts of air (100 ppm), as determined on an eight-hour time-weighted average based on a 40-hour week; and

(ii) *Ceiling limit.* No employee may be exposed to an airborne concentration of trichloroethylene in excess of 150 parts per million parts of air (150 ppm) as averaged over any 15 minute period during the working day.

(2) *Dermal and eye exposure limit.* No employee may be exposed to eye contact or repeated skin contact with liquid trichloroethylene.

(e) *Determination and measurement of exposure*—(1) *Employee exposure.* For the purpose of this paragraph, employee exposure is that exposure which would occur if the employee were not using a respirator.

(2) *Determination of requirement for measurement.* Each employer who has a place of employment in which trichloroethylene is occupationally produced, released, packaged, repackaged, stored, transported, handled or used, shall inspect each workplace and work operation to determine if any employee may be exposed to airborne concentrations of trichloroethylene at or above the action level or in excess of the ceiling limit, or to eye contact or repeated skin contact with liquid trichloroethylene. Such a determination shall be based on the following, along with any other relevant considerations:

(i) Any information, observations, or calculations which would indicate employee exposure to trichloroethylene;

(ii) Any measurements which may have been taken of airborne concentrations of trichloroethylene; and

(iii) Any employee complaints of symptoms which may be attributable to exposure to trichloroethylene.

(3) *Negative determination.* When a determination is made that no employee is exposed to airborne concentrations of trichloroethylene at or above the action level or in excess of the ceiling limit, and that no employee is exposed to eye contact or repeated skin contact with liquid trichloroethylene, the employer shall make a record of such determination. This record shall include at least the information specified in paragraph (e)(2) of this section, and shall also include the date of the determination, the work being performed at the time, the location within the work site, and the names and the social security numbers of employees considered.

(4) *Positive determination.* When a determination conducted under paragraph (e)(2) of this section indicates the possibility of any employee exposure to airborne concentrations of trichloroethylene at or above the action level or in excess of the ceiling limit, the employer shall measure the exposure of the employee believed to have the greatest exposure in each work operation in which a positive determination is made. The exposure measurement shall be representative of the maximum exposure to the employee.

(5) If the exposure measurement taken pursuant to paragraph (e)(4) of this section reveals any employee exposure to airborne concentrations of trichloroethylene in excess of the action level or ceiling limit, the employer shall:

(i) Identify all employees who may be similarly exposed; and

(ii) Measure the exposures of the employees so identified.

(6) If exposure measurements taken pursuant to paragraph (e)(5) of this section reveal employee exposure at or above the action level, but below the permissible exposure limits, the employer shall repeat measurements for such employees at least every two months.

(7) If exposure measurements taken pursuant to paragraph (e)(5) of this section reveal employee exposure to be above the permissible exposure limits, the employer shall:

(i) Inform the employee in writing of the exposure as required by paragraph (e)(12) of this section;

(ii) Measure the exposure of the employee at least monthly; and

(iii) Institute control measures as required by paragraph (f) of this section.

(8) If two consecutive employee exposure measurements, taken at least one week apart, reveal that the employee is exposed to airborne concentrations of trichloroethylene below the action level and the ceiling limit, the employer may terminate monitoring for that employee.

(9) A record of all measurements shall be made and shall include at least the information required in paragraph (n)(2) of this section.

(10) Where a determination conducted under paragraph (e)(2) of this section shows that an employee may be exposed to eye contact or repeated skin contact with liquid trichloroethylene, the employer shall provide such employee with protective equipment and clothing in accordance with paragraph (h) of this section.

(11) *Redetermination.* Whenever there has been a production, process or control change which may result in new or additional exposures, or whenever the employer has any other reason to suspect a change in exposure conditions, a new determination under paragraph (e)(2) of this section shall be made.

(12) *Employee notification.* The employer shall individually notify in writing, within five working days after receipt of measurement results, every employee who is found to be exposed to trichloroethylene above the permissible exposure limits. Such notification need not be given more frequently than once per month. The employee shall also be notified of the corrective action being taken to reduce exposure to within permissible limits.

(13) *Method and accuracy of measurement.* (i) An employee's exposure shall be obtained by a combination of long-term or short-term samples which represent the employee's actual exposure as averaged over an 8 hour work shift (See Appendix B).

(ii) The method of measurement shall have an accuracy, to a confidence level of 95%, of not less than that given in Table 1 below.

TABLE 1

Concentration	*Minimum Required Accuracy*
At or below permissible exposure.	±35%
Above permissible exposure.	±25%

(Methods meeting these accuracy requirements are available from NIOSH.)

(f) *Methods of compliance.* Employee exposures to trichloroethylene shall be controlled to or below the permissible exposure limits provided in paragraph (d) of this section by engineering controls, work practices, and personal protection controls as follows:

(1) *Control priorities.* (i) Engineering controls shall be instituted immediately to reduce exposures to or below the permissible exposure limits, except to the extent that such controls are not feasible.

(ii) Wherever engineering controls which can be instituted immediately are not sufficient to reduce exposures to or below the permissible exposure limits, they shall nonetheless be used to reduce exposures to the lowest practicable level, and shall be supplemented by work practice controls.

(iii) Where engineering controls and supplemental work practice controls are insufficient to reduce exposures to or below the permissible exposure limits, they shall nonetheless be used to reduce exposures to the lowest practicable level, and shall be supplemented by the use of respirators in accordance with paragraph (f)(4) of this section.

(2) *Compliance program.* (i) A program shall be established and implemented to reduce exposures to or below the permissible exposure limits, or to the

greatest extent feasible, solely by means of engineering controls.

(ii) Written plans for such a program shall be developed and furnished upon request for examination and copying to the Secretary or the Director or both. Such plans shall be reviewed and revised at least every six months to reflect the current status of the program.

(3) *Mechanical ventilation.* When mechanical ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system in controlling the exposure, such as capture velocity, duct velocity, or static pressure, shall be made at least every three months. Measurements of the system's effectiveness to control exposure shall also be made within five days of any change in production, process or control which might result in any change in airborne concentrations of trichloroethylene.

(4) *Respiratory protection*—(i) *Required use.* Respirators shall be used where required under this section. Compliance with the permissible exposure limits may not be achieved by the use of respirators except:

(*a*) During the time period necessary to institute engineering controls or work practice controls or both;

(*b*) In work operations in which engineering controls and supplemental work practice controls are not feasible;

(*c*) In work situations in which engineering controls and supplemental work practice controls are insufficient to reduce exposures to or below the permissible exposure limits; or

(*d*) In emergencies.

(ii) *Respirator selection.* (*a*) Where respirators are required under this section, the employer shall select and provide the appropriate respirator from Table 2 below and shall ensure that the employee uses the respirator provided.

(*b*) Respirators shall be selected from those approved by the Mining Enforcement and Safety Administration (formerly called the Bureau of Mines) or by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

TABLE 2: REQUIRED RESPIRATORY PROTECTION

Trichloroethylene concentration in air in part per million (ppm).	Equipment selection options (Respirators designated for higher concentrations of trichloroethylene may be used for any lower concentrations).
less than 1,000	(1) Chemical cartridge respirator with replaceable organic vapor cartridge(s) and half-mask facepiece (30 CFR 11.150); (2) A Type C supplied-air respirator, with one-half facepiece operated at a pressure demand mode. (30 CFR 11.110).
less than 5,000	(3) A supplied-air respirator, with a full facepiece operated at a pressure demand mode or continuous flow; (4) Gas mask, chin style with organic vapor canister and full facepiece.
greater than 5,000 and/or unknown.	(5) A supplied-air respirator, with a full facepiece operated at a pressure-demand mode or continuous flow; (6) Self-contained breathing apparatus, pressure demand type, with full facepiece (30 CFR 11.70(a)(2)(ii)).
firefighting	(7) A self-contained breathing apparatus with a full facepiece operated in pressure-demand (positive pressure) mode (30 CFR 11.70).

(iii) *Respirator program.* (*a*) The employer shall institute a respiratory protection program in accordance with § 1910.134 (b), (d), (e) and (f).

(*b*) Employees who wear respirators shall be allowed to leave work areas to wash their face and respirator facepiece to prevent potential skin irritation associated with respirator use.

(g) *Hazardous operations and emergency situations*—(1) *Hazardous operations.* (i) Any operation which generates or involves a high temperature source, open flame or ultraviolet light may not be performed in areas where airborne concentrations of trichloroethylene are present or may be present unless such operations are shielded and adequately ventilated. Examples of hazardous operations are those involving open flames, unshielded (unventilated) resistance heating, and arc welding or cutting.

(ii) Cleaning of or entry into tanks which have contained trichloroethylene shall be performed in accordance with § 1910.94 (d)(11)(ii), (iii), (iv) and (v).

(2) *Emergencies.* (i) A written plan for emergency situations shall be developed for each facility involved in a trichloroethylene operation in which there is a possibility of an emergency as defined in paragraph (b) of this section. Appropriate portions of the plan shall be implemented in the event of an emergency.

(ii) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in paragraphs (f)(4) and (h) of this section until the emergency is abated.

(iii) Employees not engaged in correcting the emergency shall be restricted from the area and normal operations in the affected area shall not be resumed until the emergency is abated.

(h) *Protective equipment.* (1) Where splashes, sprays, spills, or eye or repeated skin contact with liquid trichloroethylene may ocur, employers shall provide and ensure that employees wear impermeable clothing, gloves, or coverings to protect the area of the body likely to come in contact with liquid trichloroethylene.

(2) Eye and face protection shall be provided in accordance with § 1910.133 (a)(2), (4), (5), and (6).

(i) *Housekeeping.* (1) Spills of trichloroethylene which could result in exposure in excess of the permissible exposure limits or which could expose employees to the risk of eye or repeated skin contact shall be cleaned up immediately by persons wearing appropriate respirators and protective equipment. Persons not wearing appropriate respiratory protection and protective equipment shall not be allowed in areas of the spills until cleanup has been completed or the concentration of trichloroethylene is within the permissible levels.

(2) The workplace shall be kept clean in accordance with § 1910.141(a)(3).

(3) Trichloroethylene waste shall be collected and disposed of in closed metal containers.

(j) *Sanitation.* (1) The employer shall provide adequate washing facilities in accordance with § 1910.141(d).

(2) The employer shall provide eye wash facilities which are immediately accessible to each operation and are suitable for quick drenching or flushing of the eyes for emergency use where trichloroethylene is used.

(k) *Employee information and training*—(1) *Training program.* (i) The employer shall provide a training program for employees assigned to workplace areas in which trichloroethylene is produced, released, packaged, repackaged, stored, handled or used.

(ii) The training program shall be provided at the time of initial assignment, and at least annually thereafter, and shall include informing each employee of:

(*a*) The information contained in the substance data sheets for trichloroethylene, which are contained in Appendixes A and B of this section;

(*b*) The quantity, location, manner of use, release or storage of trichloroethylene and the specific nature of operations which could result in exposure at or above the action level or ceiling limit as well as necessary protective steps;

(*c*) The purpose, proper use, and limitations of respiratory devices as specified in § 1910.134;

(*d*) The purpose and a description of the medical surveillance program required by paragraph (m) of this section and the information contained in Appendix C of this section;

(*e*) Emergency procedures required by paragraph (g)(2) of this section; and

(*f*) The contents of this standard.

(2) *Access to training materials.* (i) A copy of this standard and its appendixes shall be made readily available to all employees exposed to trichloroethylene.

(ii) The employer shall, upon request, provide the Secretary or the Director all materials relating to the employee information and training program.

(l) *Signs and labels.* (1) *General.* (i) Signs or labels required by this paragraph may be in addition to or in combination with signs or labels required by other statutes, regulations or ordinances.

(ii) No statement shall appear on or near any required sign, label or instruction which contradicts or detracts from the message of any such required sign, label or instruction.

(2) *Signs.* (i) All entrances or access ways to areas where trichloroethylene is present to the extent that an employee may be exposed in excess of the action level shall be marked with legible signs bearing at least the following information:

CAUTION (or WARNING)
TRICHLOROETHYLENE
AVOID SKIN CONTACT AND INHALATION OF VAPOR

(ii) In addition to the signs required by paragraph (l) (2) (i), all areas where concentrations of trichloroethylene exceed the TWA or ceiling shall be posted with legible signs bearing at least the following information:

CAUTION (or WARNING)
TRICHLOROETHYLENE VAPORS
USE RESPIRATORS IN THIS AREA

(3) *Labels.* Precautionary labels shall be applied to all containers, packages or equipment containing trichloroethylene. The label shall provide at least the following information:

(i) The word "CAUTION" or "WARNING,"

(ii) The word "TRICHLOROETHYLENE," and

(iii) A warning statement against breathing vapors or having skin or eye contact with liquid trichloroethylene.

(m) *Medical surveillance*—(1) *General requirements.* (i) For the purposes of this paragraph, employee exposure is that exposure which would occur if the employee were not using a respirator.

(ii) Each employer shall institute a medical surveillance program for all employees who are or will be exposed to concentrations of trichloroethylene at or above the action level or in excess of the ceiling level.

(iii) The program shall provide each affected employee with an opportunity for medical examinations in accordance with this paragraph.

(iv) All medical examinations and procedures shall be performed by or under the supervision of a licensed physician, and shall be provided during the employee's normal working hours, without cost to the employee.

(v) If any employee refuses any required medical examination, the employer shall inform the employee of the possible health consequences of such refusal and shall obtain a signed statement from the employee indicating that the employee understands the risk involved in the refusal to be examined.

(2) *Preplacement examinations.* At the time of initial assignment, or upon institution of medical surveillance, the following shall be performed by the physician:

(i) A medical history, which shall cover at least:

(*a*) Cardiac problems and pulmonary diseases;

(*b*) Seizure disorders;

(*c*) Liver disease;

(*d*) Incidence of headache, nausea, and dizziness;

(*e*) Eye complaints;

(*f*) Irritation of mucous membranes;

(*g*) Skin irritations;

(ii) A complete work history; and

(iii) A medical examination which must include at least the following:

(*a*) A general physical examination;

(*b*) Electrocardiogram (EKG);

(*c*) Urinalysis;

(*d*) Pulmonary function test; and

(*e*) Complete blood count.

(3) *Periodic examinations.* Examinations and medical and work histories specified in paragraph (m) (2) of this section shall be provided at least annually for all employees specified in paragraph (m) (1) of this section.

(4) *Interim examinations.* (i) Each employee exposed to trichloroethylene due to the occurrence of an emergency shall be provided the medical examinations prescribed in paragraph (m) (2) of this section.

(ii) If the employee is accidentally or otherwise exposed by ingestion, inhalation or by skin or eye contact under conditions known or suspected to be hazardous or for any reason develops signs and symptoms commonly associated with toxic exposure to trichloroethylene, the employer shall provide appropriate emergency medical treatment.

(5) *Alternative medical examinations.* If the examining physician determines that medical examinations alternative to those specified in paragraph (m) (2) of this section will provide at least equal assurance of detecting medical conditions pertinent to protecting the employee against overexposure to trichloroethylene, the employer may accept such alternative medical surveillance examinations and tests as meeting the requirements of paragraph (m) (2) of this section, provided that the employer:

(i) Obtains a statement from the examining physician setting forth the alternative medical examinations or tests and the rationale for their substitution and submits such statement to the Secretary; and

(ii) Informs each exposed employee of the fact that medical examinations or tests alternative to those required in paragraph (m) (2) of this section are to be made available.

(6) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this regulation for trichloroethylene including Appendixes A, B, and C;

(ii) A description of the affected employee's duties as they relate to exposure to trichloroethylene;

(iii) A description of any personal protective equipment used;

(iv) The results of the employee's exposure measurements, if available;

(v) The employee's anticipated exposure level; and

(vi) Upon request of the physician, information from previous medical examinations of the affected employee.

(7) *Physician's written opinion.* (i) The employer shall obtain, and furnish the employee with a copy of, a written opinion from the examining physician containing the following:

(*a*) Signs and symptoms of toxic effects of trichloroethylene manifested by the employee, if any;

(*b*) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at increased risk of material impairment to the employee's health from exposure to trichloroethylene, or would directly or indirectly aggravate any detected medical condition;

(*c*) Any recommended limitations upon the employee's exposure to trichloroethylene or upon the use of protective equipment and respirators; and

(*d*) A statement that the employee has been informed by the physician of any medical conditions which require further examination or treatment.

(ii) The written opinion obtained by the employer may not reveal specific findings or diagnoses unrelated to occupational exposure to trichloroethylene.

(iii) If the employer determines, on the basis of the physician's written opinion, that any employee's health would be materially impaired by maintaining the existing exposure to trichloroethylene, the employer shall place specific limitations, based on the physician's written opinion, on the employee's continued exposure to trichloroethylene. In no case shall any employee be placed at increased risk of material impairment of health from such exposure.

(n) *Recordkeeping.*—(1) *Exposure determinations.* The employer shall keep an accurate record of all determinations required by paragraphs (e) (2) and (e) (3) of this section.

(i) This record shall include the written determination and any supporting documentation required by paragraphs (e) (2) and (e) (3) of this section.

(ii) This record shall be maintained for at least two years or until replaced by a more recent determination, whichever is longer.

(2) *Measurements.* The employer shall keep an accurate record of all measurements taken to monitor employee exposure to trichloroethylene.

(i) This record shall include:

(*a*) The date of measurements;

(*b*) The operation involving exposure to trichloroethylene which is being monitored;

(*c*) Sampling and analytical methods used and evidence of their accuracy;

(*d*) Number, duration, and results of samples taken;

(*e*) Type of protective devices worn, if any; and

(f) Name and social security number and exposure levels of the employee monitored.

(ii) This record shall be maintained for at least ten years.

(3) *Mechanical ventilation measurements.* When mechanical ventilation is used as an engineering control, the employer shall maintain a record of the measurements demonstrating the effectiveness of such ventilation as required by paragraph (f)(3) of this section.

(i) This record shall include:

(a) Date of measurement;

(b) Type of measurement taken; and

(c) Result of measurement.

(ii) This record shall be maintained for at least two years.

(4) *Employee training.* The employer shall keep an accurate record of all employee training required by paragraph (k) of this section.

(i) This record shall include:

(a) Date of training;

(b) Name and social security number of employee trained; and

(c) Content or scope of training provided.

(ii) This record shall be maintained for at least one year.

(5) *Medical surveillance.* The employer shall keep an accurate medical record for each employee subject to the medical surveillance program required by paragraph (m) of this section.

(i) The record shall include:

(a) The physician's written opinion;

(b) Any employee medical complaints related to exposure to trichloroethylene;

(c) A copy of the information provided to the physician as required by paragraph (m)(6) of this section; and

(d) A signed statement of any refusal to be examined.

(ii) This record shall be maintained for at least ten years.

(6) *Availability.* (i) Employers shall, upon request, make available to the Secretary or Director for examination and copying all records required to be maintained by this section.

(ii) Written determinations and employee exposure measurements records required by paragraphs (n)(1) and (n)(2) of this section shall be made available for examination and copying upon request of employees, former employees, or their designated representatives.

(iii) Employee medical records required to be maintained by this section shall be made available for examination and copying upon request of a physician designated by the affected employee or former employee.

(7) *Transfer of records.* (i) In the event the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) In the event the employer ceases to do business and there is no successor to receive and retain the records, these records shall be transmitted by registered mail to the Director, and each employee and former employee shall be individually notified in writing of this transfer.

(o) *Observation of monitoring*—(1) *Employee observation.* The employer shall give his employees or their representatives an opportunity to observe any measuring of their exposure to trichloroethylene which is conducted pursuant to this section.

(2) *Observation procedures.* (i) When observation of the monitoring of employee exposure to trichloroethylene requires entry into an area where the use of personal protective equipment is required, the observer shall be provided with and required to use such equipment and shall comply with all other applicable safety procedures.

(ii) Without interfering with the measurement, observers shall be entitled to:

(a) Receive an explanation of the measurement procedures;

(b) Observe all steps related to the measurement of airborne concentrations of trichloroethylene performed at the place of exposure; and

(c) Record the results obtained.

(p) *Effective date.* This standard shall become effective 30 days following publication of the final standard in the FEDERAL REGISTER.

(q) *Startup dates*—(1) *Determination and measurement.* Determinations and measurements prescribed in paragraph (e) of this section shall be instituted within three months of the effective date of the final standard, except that for new production areas or operations begun after the effective date, such determinations and measurements shall be instituted within 30 days of startup of operation.

(2) *Medical surveillance.* Medical surveillance prescribed in paragraph (m) of this section shall be instituted within three months of the effective date of the final standard.

(r) *Appendixes.* The information contained in the following appendixes of this section is advisory in nature and is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

APPENDIX A—SUBSTANCE SAFETY DATA SHEET TRICHLOROETHYLENE

I. Substance Identification

A. *Substance:* Trichloroethylene.

B. *Permissible exposure:*

1. *Airborne.* One hundred (100) parts of trichloroethylene vapor per million parts of air (100 ppm), time-weighted average (TWA) for an eight-hour workday, with a ceiling limit of 150 ppm.

2. *Dermal.* No employee may be exposed to any eye or repeated skin contact with tricholoroethylene.

C. *Appearance and odor:* Trichlorcethylene is clear, colorless liquid with a "sweet" odor. You can generally smell trichlorcethylene at levels lower than the permissible exposure limits.

II. Health Hazard Data

A. *Ways in which trichloroethylene affects your body:* Trichloroethylene can affect your body if you inhale it, swallow it, or if it comes in contact with your eyes or skin.

B. *Effects of overexposure:*

1. *Short-term overexposure.* If you are overexposed to trichloroethyene, your eyes may become irritated and your throat may feel dry. Trichloroethylene splashed in the eyes is very painful. You may have a feeling of lightheadedness or "drunkenness," and also have a headache, feel dizzy, nauseous, sleepy, and fatigued. Trichloroethylene can produce unconsciousness rapidly, and death may result.

2. *Long-term (chronic) overexposure.* Repeated and prolonged overexposure can cause reddening and irritation of the skin, possible damage to the nervous system, liver damage, lightheadedness, and dizziness.

III. Reporting Symptoms

You should inform your employer if you develop any of the above symptoms and suspect that they may be caused by exposure to trichloroethylene.

IV. Emergency and First Aid Procedures

A. *Breathing.* If you breathe in large amounts of trichloroethylene or if you develop any of the symptoms listed above, leave the contaminated area and get to fresh air immediately. Artificial respiration should be applied if breathing has stopped. Call a doctor as soon as possible.

B. *Eye or face exposure:* If trichloroethylene is splashed in your eye, wash it out immediately with large amounts of water. Remove contact lenses at the same time. Wash the face immediately if splashed by trichloroethylene. Call a doctor as soon as possible.

V. Protective Equipment and Clothing

A. *Respirators:* Suitable respirators are to be worn:

(1) During the time period necessary to install engineering controls to reduce the airborne concentration of trichloroethylene below 100 ppm.

(2) In work situations in which engineering controls are not feasible to reduce the airborne concentration of trichloroethylene below the permissible exposure limits; or

(3) In emergencies. Where new respirators are worn, they must have a NIOSH label of approval. Older respirators which have a Mining Enforcement and Safety Administration (MESA) or Bureau or Mines (BM) approved label may be used. If you experience difficulty in breathing while wearing a respirator, tell your employer.

VI. Precautions for Safe Use, Handling and Storage

Trichloroethylene should be stored in a cool, dry, and well ventilated area. Operations producing a high temperature and ultraviolet light, such as open flames, unshielded resistance heating, arc welding, etc., may not be done where trichloroethylene vapors are present. Your supervisor must tell you where trichloroethylene is used in your area and what additional plant safety procedures are used.

APPENDIX B—SUBSTANCES TECHNICAL GUIDELINES TRICHLOROETHYLENE

I. Physical and Chemical Data

A. *Substance identification:*

1. *Synonyms:* Trichloroethylene, TCE

2. Formula: $ClCH=CCl_2$

B. *Physical data:*

1. Boiling Point (760 mm Hg): 87.1 C (188.7°F).

2. Specific Gravity at 20/4 C (68/39 F). (Water —1): 1.464.

3. Vapor Density (air=1.0): 4.5.

4. Melting Point: —73 C (—99.4°F).

5. Vapor Pressure at 25 C: 74.3 mm Hg.

6. Solubility in Water at 25 C: 0.1 part.

7. Appearance and Odor: Colorless liquid, sweet odor.

II. Fire, Explosion and Reactivity Hazard Data

A. *Fire:*

1. Auto Ignition Temperature: 463.0°C.

2. Flammable Limits in Air, % by Volume: Lower Upper 41% at 100°C. "Trichloroethylene does not form flammable mixtures with air at ordinary temperature and pressure."

B. *Reactivity:*

1. *Conditions contributing to instability:* Light, water vapor, ultraviolet radiation, open flames.

2. *Incompatibility:* Strong alkalis and certain metals.

3. *Hazardous decomposition products:* Phosgene, hydrogen chloride, dichloroacetylene.

III. Spill and Leak Procedures

A. *Steps to be taken if the material is released or spilled:* Respirators should be available nearby for possible evacuation and for clean-up. Flush floors with water, not into a confined place such as a sewer.

B. All employees engaged in clean-up operations shall wear protective clothing and equipment.

(c) *Waste disposal method:* Trichloroethylene-contaminated waste should be stored in a ventilated area in closed metal drums, and disposed of in properly designated incinerators.

IV. Addiction to Trichloroethylene

Addicts can show mental changes in such things as irritability, changes in personality, increased dreaminess, and decreases in coordination. They also experience tremors, nausea, and mild delirium.

V. Monitoring and Measurement Procedures

A. *Monitoring program below permissible limits:* Measurements taken for the purpose of determining employee exposure under this section are best taken in such a fashion that the average eight-hour exposure may be determined from a single eight-hour or two four-hour samples. Short time interval samples (up to 30 minutes) may also be used to determine average exposure level if a minimum five measurements are taken in a random manner over the eight-hour work shift. Random sampling means that any portion of the work shift has the same chance of being sampled as any other. The arithmetic average of all such random samples taken in one work shift is an estimate of an employee's average level of exposure for the work shift. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee). Sampling and analysis may be performed by instruments, such as detector tubes certified by NIOSH under 42 CFR Part 84, portable direct-reading instruments, gas and vapor absorption tubes with subsequent chemical analysis dosimeters or with continuous monitoring systems that can sample and analyze those areas that would accurately represent the highest airborne concentrations of trichloroethylene where employees are exposed. The analytical method must determine the concentrations of trichloroethylene to plus or minus 35%.

B. *Monitoring program above permissible limit:* The monitoring under this section should be essentially the same as described above, except that portable direct-reading instruments should be NIOSH certified and should receive regular maintenance and calibration. Laboratories performing chemical analyses should be accredited in Industrial Hygiene Chemistry by the American Industrial Hygiene Association (AIHA). The analytical method must determine the concentrations of trichloroethylene to plus or minus 25%.

APPENDIX C—MEDICAL SURVEILLANCE GUIDELINES

I. Route of Entry

Primarily inhalation; also ingestion and skin and eye contact.

II. Toxicology

This substance, trichloroethylene, is a central nervous system depressant. It can also cause cardiac arrhythmia, and with high enough levels—renal and hepatic impairment. Skin tests on human subjects caused irritation only when trapped against the skin. Reports have been made of loss of smell, sight, and and intolerance to alcohol.

III. Signs and Symptoms

Headache, nausea, dizziness, uncoordination, mental confusion, fatigue, irritation of eyes and skin, and irritation of respiratory tract.

IV. Special Tests

None in common usage.

V. Treatment

Remove from exposure. Flush eyes and skin with water. If swallowed; do not make person vomit.

VI. Surveillance and Preventive Considerations

A. *Preplacement:* A routine medical examination and a complete medical and work history are required to be made available. Those employees giving a positive history on these conditions (listed below) should not be placed where there is increased risk from trichloroethylene.

1. *Skin disease.* Trichloroethylene can cause dermatitis on prolonged exposure. Persons with preexisting skin disorders may be more susceptible to the effects of this agent.

2. *Liver and kidney disease.* There have been reported cases of liver impairment due to inhalation of trichloroethylene. Although this is not common, because trichloroethylene is a chlorinated solvent, people with liver disease should not be placed in an area of possible exposure.

3. *Heart disease.* Trichloroethylene has caused arrhythmias, fibrillation, and extrasystoles; therefore, persons who have a heart condition should not be placed in areas of exposure.

4. *Alcoholics.* People are much more intolerant to alcohol when they have been exposed to trichloroethylene.

5. *Exceedingly fleshy or undernourished individuals.* These people are unduly susceptible to various chlorinated hydrocarbons.

6. *Those suffering from paralysis, convulsive seizures, and highly nervous states.* As trichloroethylene is a central nervous system depressant, people with these types of problems should not be exposed to high levels of this solvent.

C. *Periodic examinations:* Annual physical examinations are required to be made available. These should include as a minimum a urinalysis, CBC, a pulmonary function test, and an electrocardiogram.

REFERENCES.—1. Chemical Safety Data Sheet: Trichloroethylene, Revised 1956, MCA. 2. Patty, Frank A., *Ind. Hyg. and Tox.*, Vol. II, pp 1309–1313, 1963.

(Secs. 4, 6, 8, 84 Stat. 1592, 1593, 1599 (29 U.S.C. 653, 655, 657) and 29 CFR Part 1911)

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PART III:

ENVIRONMENTAL PROTECTION AGENCY

■

NATIONAL AMBIENT AIR QUALITY STANDARDS

Implementation Plans

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 51]

[FRL 418-6]

MAINTENANCE OF NATIONAL AMBIENT AIR QUALITY STANDARDS

Requirements for Preparation, Adoption, and Submittal of Implementation Plans

INTRODUCTION

The regulations proposed below pertain to the analysis and development of plans for air quality maintenance areas (AQMAs), required under 40 CFR 51.12. The regulations specify the minimum requirements for the form and content of the AQMA analyses and plans and attainment plan revisions required in AQMAs.

Briefly, the process for developing a maintenance plan consists of the following tasks:

Projecting emissions into the future.
Allocating emissions according to estimated projections of location.
Calculating air quality resulting from the future emission pattern.
Developing a control strategy if needed to maintain the national ambient air quality standards.
Adopting regulations to make the control strategy enforceable.

The proposed regulations set up the technical and procedural framework for the States to develop revisions to their implementation plans to cover maintenance. The regulations leave entirely in the hands of the States the choice of measures that are needed to maintain the national air quality standards. EPA intends to be flexible with regard to these plans to allow maximum consideration of varying local conditions.

BACKGROUND

On May 31, 1972 (37 FR 10842), the Administrator of the Environmental Protection Agency published his initial approvals and disapprovals of State implementation plans to attain and maintain the national ambient air quality standards (NAAQSs). These plans were submitted to EPA pursuant to section 110 of the Clean Air Act, as amended in 1970. These actions of approval and disapproval were codified in 40 CFR part 52. Thereafter, the Natural Resources Defense Council, Inc. (NRDC) and various other petitioners challenged the Administrator's approvals in the United States Court of Appeals for the District of Columbia Circuit on several grounds, including the contention that the plans approved were not adequate to ensure maintenance of the NAAQSs once they were attained.

Regarding this issue, the Court ruled in NRDC v. EPA, 475 F.2d 968 (D.C. Cir. 1973) that the record before the court was insufficient to ascertain whether the Administrator had made a State-by-State determination as to the adequacy of the maintenance provisions in the State plans. Accordingly, the Court ordered the Administrator to review these provisions and disapprove those plans that did not (1) contain measures necessary to ensure maintenance of the primary standards after the statutory attainment date and (2) analyze maintenance in a manner consistent with the Administrator's regulations.

Upon further review, the Administrator determined that no State plan contained all the measures necessary to ensure maintenance of the standards and that no plan had adequately analyzed the impact of growth on air quality maintenance for any significant period of time into the future. Accordingly, on March 8, 1973 (38 FR 6279), the Administrator disapproved all State plans with respect to maintenance of standards.

In the notice of disapproval, the Administrator noted that several mechanisms already available under the Act and in regulations would serve to mitigate the impact of overall community growth on air quality maintenance. These measures included: (1) review of new and modified stationary sources and prevention of their construction or modification if air quality standards will be violated, (2) new source performance standards promulgated under section 111 of the Act, and (3) standards for emissions from new motor vehicles promulgated under section 202 of the Act.

The Administrator determined, however, that such measures alone would not be adequate to ensure maintenance, particularly for pollutants resulting from general urban and commercial development. Accordingly, the Administrator determined that the new source review procedures then existing should be expanded.

On April 18, 1973 (38 FR 9599), this expanded scope of new source review was proposed by the Administrator. In the preamble to the proposed amendments, the Administrator called attention to the importance of analyzing the general growth of population, industrial activity, and mobile sources in relation to regional air quality. The Administrator did not propose at that time to require such analysis but urged that States consider the use of such procedures. A number of comments were received on the proposal urging that such analysis be required on the grounds that preconstruction review of relatively larger individual sources on a source-by-source basis could not adequately deal with generalized growth and its impact on regional air quality.

Consequently, the Administrator determined in concurrence with public comments that, in addition to review of new and modified sources, comprehensive growth analyses and, where shown necessary, plan revisions should be specifically required of the States in order to make the maintenance provisions of implementation plans fully acceptable. On June 18, 1973 (38 FR 15834), the Administrator promulgated additional regulations amending 40 CFR 51.12, which regulations implement this determination.

40 CFR 51.12, as amended on June 18, 1973, and subsequently amended on May 8, 1974 (39 FR 16343), requires in part that State implementation plans identify by May 10, 1974, areas that may, as a consequence of current air quality and/or the projected growth rate of the area, have the potential for exceeding any national standard within the subsequent 10-year period. The Administrator is to publish, based upon the information submitted by the States, a list of potential problem areas that must then be analyzed in more detail by the States. By June 18, 1975, each State was required to submit a detailed analysis of the impact on air quality of projected growth in each potential problem area designated by the Administrator. Where the analysis indicated that an area will not maintain the primary and secondary NAAQSs, once attained, for the following 10 years, the State was to have also submitted a plan containing measures to ensure the maintenance of the NAAQS during the ensuing 10-year period. Furthermore, to ensure the continued maintenance of the national standards, States would have had to perform the area identification-analysis-plan development process at least every 5 years under the current regulations.

In the FEDERAL REGISTER of June 19, 1975 (40 FR 25814), the Administrator rescinded the June 18, 1975, date for submission of the analyses and plans for the problem areas. Instead of specifying a new submission date applicable to all analyses and plans in that action, the Administrator will specify: (1) those areas that need plans from among those he has or will have identified as problem areas and (2) individual dates for submission of each area's analysis and plan depending on the individual needs of each area.

As expeditiously as practicable but no later than July 1, 1976, the Administrator will determine which areas need plan revisions to provide for the maintenance of the national standards. The proposed regulations below would require States to submit AQMA analyses by April 1, 1976, but the Administrator could modify that date. This would allow the Administrator to make his determination by July 1, 1976.

Although dates for submission of AQMA plans will vary, the Administrator will require that the plan be submitted as expeditiously as practicable for areas that will fail to maintain NAAQSs in the near future; for areas that will not fail to maintain standards until the more distant future, the Administrator will generally require the AQMA plan to be submitted at least 3 to 5 years before measures are actually needed to maintain the standards.

The maintenance revision must include all regulations that are necessary to be implemented within the time period that is covered by the maintenance revision in order to be effective in preventing a standards violation at some time in the future. That is, if the 10 year air quality analysis reveals maintenance problems, and to solve the problem requires an action 7 years in advance, then the necessary action must be in the first maintenance revision. No matter how many years the revision covers, the necessary

lead time from action to prevention of air quality standards violation must be considered.

The States will have to identify, at least every 5 years, those areas that may fail to maintain the national standards. Under the existing regulations, EPA was to have identified new AQMAs based upon information submitted by the States. As discussed below, the proposed regulation will change this procedure so that no new AQMAs will be identified; rather, plan revisions to ensure maintenance of the standards will be called for under the usual plan revision procedures.

On January 15, 1974, EPA issued to the States *Guidelines for Designation of Air Quality Maintenance Areas* (OAQPS No. 1.2-016), in which techniques for the States to use in identifying potential problem areas were described. Opportunity for public inspection of this document was announced in the FEDERAL REGISTER of February 25, 1974 (39 FR 7196). These guidelines specified that the States should consider, as a minimum, all Standard Metropolitan Statistical Areas (SMSAs).

The Administrator identified in the FEDERAL REGISTER a list of these areas, herein referred to as "air quality maintenance areas" (AQMAs), in three actions: the first on April 29, 1975 (39 FR 18726), the second on June 2, 1975 (40 FR 23746), and the third on September 9, 1975 (40 FR 41941). In these three actions the Administrator identified a total of 168 AQMAs for at least one pollutant. Of these, he identified 159 with regard to particulate matter, 61 for sulfur dioxide, 24 for carbon monoxide, 49 for photochemical oxidants, and 5 for nitrogen dioxide.

GUIDELINES DOCUMENTS

To provide guidance to the States on techniques for analyzing the air quality impact of growth and development and for developing air quality maintenance plans, the Administrator has published *Guidelines for Air Quality Maintenance Planning and Analysis*. Titles and brief descriptions of the volumes in this guidelines series follow:

Volume 1: Designation of Air Quality Maintenance Areas—This document was originally published in January, 1974, as *Guidelines for Designation of Air Quality Maintenance Areas*, OAQPS No. 1.2-016. This volume contains a description of the minimum requirements and procedures for identifying AQMAs.

Volume 2: Plan Preparation—This volume provides a general overview of the AQMA planning process and presents information and guidance in preparing the AQMA plan. It describes tasks that should be undertaken, such as intergovernmental cooperation and coordination, review of existing data and resources, AQMA analysis, maintenance strategy development, and AQMA plan preparation and assembly.

Volume 3: Control Strategies—This volume describes the various maintenance measures that may be used as part of a maintenance strategy. The listing of measures is not exhaustive but does provide those measures that appear to have broad application to all States. States are encouraged to develop additional measures that may be required for the air quality maintenance problems peculiar to their areas of responsibility.

Volume 4: Land Use and Transportation Considerations—This volume describes the relationship of air quality maintenance to comprehensive planning and elaborates on items presented in Volume 3.

Volume 5: Case Studies in Plan Development—This volume describes the experiences of four EPA contractors who developed trial AQMA plans for Denver, San Diego, St. Louis, and Baltimore. Problems and solutions are included along with illustrative portions of trial plans.

Volume 6: Overview of Air Quality Maintenance Area Analysis—This document presents an overview of Guideline Volumes 7 through 12 and discusses ways to enhance the analytical capabilities of local agencies, the role of analysis in AQMA plan development, and the advantages of including provisions for augmenting analytical capabilities in an AQMA.

Volume 7: Projecting County Emissions—This document presents a three-step procedure to project future emissions on a county-wide basis. Step 1 is the determination of base period emissions through a systematized routine updating procedure of the National Emission Data System (NEDS) and other emission data; step 2 is a projection of economic and demographic growth; and step 3 is an estimation and projection of relationships between economic/demographic parameters and emissions.

Volume 8: Computer-Assisted Area Source Emissions Gridding Procedure (CAASE)—This document is a user's manual for a computerized technique that apportions area source emissions within a county. The apportionment is based on population data from U.S. Census Bureau tapes.

Volume 9: Evaluating Indirect Sources—This volume presents methodologies for estimating carbon monoxide (CO) concentrations in the vicinity of indirect sources. Simple methods are presented for the following kinds of indirect sources: highways, airports, regional shopping centers, sports complexes, municipal parking lots, amusement parks, and recreational areas. More detailed methodologies for estimating emissions from indirect sources and the resulting impact on air quality are presented in appendices to this volume.

Volume 10: Reviewing New Stationary Sources—This document describes methods for estimating the impact of point sources on ground-level concentrations of stable pollutants after certain design parameters are identified and the source's location is known. Concentrations estimated using these guidelines would be superimposed over the general background concentrations (actual or estimated) to determine whether the proposed new source is likely to result in an unacceptable threat to air quality standards.

Volume 11: Air Quality Monitoring and Data Analysis—This volume contains infomation on the following eight areas:

Air quality monitoring network design and instrument siting;
Acceptable air quality monitoring methods;
Monitoring site description;
Procedures for flow and auditing of air quality data;
Air quality trends evaluation;
Air quality data evaluation;
Interpretation of air quality data as it relates to the NAAQSs;
Establishment of baseline air quality levels.

Volume 12: Applying Atmospheric Simulation Models to Air Quality Maintenance Areas—This volume discusses models that are available and that are suitable for estimating representative concentrations over spatial scales ranging from approximately 1 km^2 to city-wide averages. Model discussed in this volume include modified rollback, Miller-Holzworth, Hanna-Gifford, HIWAY, APRAC-IA, AQDM, CDM, the Sampled Chronological Input Model (SCIM), and the SAI photochemical model.

Volume 13: Allocating Projected Emissions to Sub-County Areas—This volume presents techniques for spatial assignment of emissions that are projected both of a county-wide basis, using the techniques presented in Volume 7, and directly from sub-county areas. Spatial assignment of emissions to sub-county areas, as described in Volume 7 and Volume 13, is essential to determine the efficacy of land use and/or emission density patterns as a means for maintaining the NAAQSs. An appendix to Volume 13 contains the results of a trial application of the emission allocation procedure in Atlanta, Georgia. This appendix will be made available upon request.

In addition to these 13 volumes, the Administrator may issue, from time to time, other guideline documents or revisions to the above-listed volumes as the need arises.

The Administrator is making these volumes available to all State air pollution control agencies and to local air pollution control agencies and planning agencies that are located in the AQMAs that the Administrator identified. Other interested persons may obtain copies of any or all volumes in the guidelines series. Copies are available free of charge to Federal employees, current contractors and grantees, and nonprofit organizations, as supplies permit, from the Air Pollution Technical Information Center, Environmental Protection Agency, Research Triangle Park, North Carolina 27711. Other interested persons may obtain copies at a nominal cost from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22151. These guidelines documents are also available for public inspection at each of the EPA Regional Offices and at the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460.

These guidelines are intended to provide States with background and suggestions for developing adequate AQMA analyses and plans. To clarify the requirements for acceptable AQMA analyses and plans, the Administrator is proposing below revisions to 40 CFR part 51. While the guidelines are offered as suggestions, the actual requirements for preparation, adoption, and submission of AQMA analyses and plans are contained in 40 CFR Part 51.

The Administrator wishes to emphasize that the basic requirement for identification, analysis, and plan development for AQMAs was promulgated on June 18, 1973. EPA has been distributing detailed guidelines to the States containing suggestions on how to comply with the basic requirement since the beginning of 1974. Therefore, States that have not already done so can begin work on their AQMA analyses and plans. While the accompanying regulations are in proposed form, they (and the already-distributed guidelines) offer sufficient general guidance on EPA's basic approach to allow the States to proceed with appropriate AQMA analysis and plan development pending final promulgation of these regulations.

PROPOSED REQUIREMENTS FOR MAINTENANCE OF AIR QUALITY STANDARDS

In the action below, the administrator proposes to revise several portions of the existing 40 CFR 51 requirements and to add a new subpart D, which would apply solely to the AQMA analysis and plan and to attainment plan revisions needed in AQMAs. Many of the proposed changes are self-explanatory and therefore need no further elaboration here. Other changes are relatively new and will be discussed in detail.

The AQMA plan (and similarly the transportation control plan, regulations to prevent significant deterioration, and provisions for indirect source review), once approved by the Administrator, constitutes an official revision of the State implementation plan. As such, the AQMA plan is subject to all the applicable procedural requirements set forth in 40 CFR 51. (These items are not separate "plans", but simply revisions to the implementation plan; it has been convenient to refer to them as "plans" however.)

As noted above, there are several other mechanisms available under the Act and in regulations that are designed to assist in maintaining the NAAQSs. These mechanisms include: (1) preconstruction review of new and modified air pollution sources, (2) new source performance standards promulgated under section 111 of the Act, and (3) standadrs for emissions from new motor vehicles promulgated under section 202 of the Act. The AQMA plans are intended to provide for any additional mechanisims that may be necessary to ensure full maintenance of the standards.

Maintenance in Areas Outside SMSAs. One criticism of EPA's *Guidelines for Designation of Air Quality Maintenance Areas* was EPA's emphasis on considering SMSAs as potential AQMAs. This would appear to imply that areas outside SMSAs do not present a potential for a violation of NAAQSs over the next 10 years. It was EPA's intent that States consider SMSAs *at a minimum*.

It is the Administrator's judgment that standards will be maintained in most areas outside SMSAs through currently-imposed mechanisms, particularly review of new and modified sources under 40 CFR 51.18, new source performance standards promulgated or to be promulgated by EPA under section 111 of the Clean Air Act, and motor vehicle emission standards promulgated under section 202 of the Clean Air Act.

Certain situations in areas outside SMSAs do not seem to be effectively regulated by existing mechanisms, however. Since substantial new changes in growth or land development patterns or both could arise between the 5-year periodic reassessments of maintenance problems under § 51.12, the Administrator is proposing in § 51.12 an additional requirement that the State plan contain a procedure for obtaining information on land development as it relates to air quality in all areas of the State. It is expected that States will utilize available data files from cognizant planning agencies for this purpose. Where an area is undergoing an amount of growth sufficient to threaten a standard over the subsequent 10-year or longer period, the State would be required to notify the Administrator. The Administrator would then determine whether to call for a plan revision to maintain the national standards in the area.

All areas of the State, including AQMAs, would be subject to the proposed information-gathering regulations, because a significant amount of development in an AQMA might jeopardize a standard for a pollutant for which that AQMA was not designated. The Administrator will develop guidance for States to follow in establishing a procedure to implement the regulation. The Administrator expects to complete his guidance on this system by the time these regulations are promulgated. The Administrator particularly wishes to solicit comments on ways to implement this procedure.

Elimination of Future AQMA Identifications. In June, 1973, EPA promulgated the requirement that States must identify areas that had the potential for not maintaining the national standards over the subsequent 10-year period. EPA took this action as part of a program to correct all State implementation plans, which were inadequate to maintain the NAAQSs. Now that AQMAs have been identified, States must begin to analyze the areas to determine if they will maintain the standards and then develop corrective strategies if necessary. The Administrator believes that this action will assist in correcting the original plan deficiencies regarding maintenance.

Under the existing regulations, the States must reassess the area identification at least every 5 years to determine whether additional areas should formally be identified as AQMAs. The Administrator believes that this formal AQMA identification in the future is no longer necessary, because the Act already has provision for calling for revisions to plans that, once approved, have been found substantially inadequate to attain or maintain the national standards. It is EPA's intent to call for revisions to plans that are substantially inadequate.

Therefore, the Administrator is proposing that § 51.12 be revised to eliminate future AQMA identifications. The regulations would still require States to reassess, at intervals of not more than 5 years, all areas to determine whether any areas need plan revisions. The Administrator believes that this 5-year reassessment, together with the proposed system for collecting information on growth and development that may affect air quality, discussed above, will provide a procedure for determining which areas may need further plan revisions in the future.

Requirements for AQMA Analysis and Plan Development. To provide specific guidance and requirements concerning AQMA analyses and plans and any attainment plan revilson in AQMAs, the Administrator is proposing to add a new subpart D to part 51. Some of the proposed requirements, such as presentation of data, legal authority, resources, and intergovernmental cooperation, differ from existing requirements for State implementation plans in subparts A and B of part 51. The Administrator is therefore proposing a new § 51.23 to indicate that subpart D will govern where the requirements of subpart D conflict with the requirements of subparts A and B regarding AQMA analyses and plans and any plan revisions in AQMAs to provide for attainment of NAAQSs.

The following discussion concerns the requirements proposed for the new subpart D.

Retention of Authority to Modify Certain Requirements. The Administrator is proposing to retain the authority to modify certain of the new Part 51 requirements upon application by the State or on his own initiative on an AQMA-by-AQMA basis. The requirements that could be modified are:

§ 51.12(g)(1)(i) Date for submission of AQMA analysis.

§ 51.41 (b) Interstate consistency of data bases; (c) Air quality data bases; (d) Emission inventory data bases.

§ 51.42 *Techniques for projecting emissions.*

§ 51.43 *Techniques for allocating future emissions.*

§ 51.44 *Techniques for projecting air quality concentrations.*

§ 51.49(b) Format for submission of descriptions of resources available for implementation of the AQMA plan.

The Administrator recognizes that each area may have different problems, different amounts and kinds of resources available to develop the AQMA analyses and plans, different data bases, and different approaches to solving their air

quality problems. By specifying only one way of performing the analysis and developing a plan, EPA would ignore these differences. Therefore, the Administrator is retaining the option of modifying, on application by the State or on his own initiative, many of the requirements concerning the techniques used in the analysis and plan and the formats for submission of results. This will allow the States to tailor each plan to the individual needs of each AQMA.

The procedures for processing modification applications are being proposed as § 51.51. The procedures are designed to assure that the interested public will be informed of a modification prior to the time a State's AQMA analysis or plan is submitted to public hearings so that the public can more intelligently participate in the rulemaking process. EPA is required to make its decision public in a FEDERAL REGISTER notice.

In order to expedite the handling of such applications and to carry out EPA's policy of augmenting the responsibility of its Regional Offices, the Administrator plans to delegate the authority to grant modifications under § 51.51 to his Regional Administrators. (The Administrator also plans to delegate to the Regional Administrators the authority to determine for each State whether AQMA plans are needed, when they must be submitted, and the time period for which such plans must assure maintenance of the national standards.)

AQMA Analysis. The Administrator is proposing requirements for the AQMA analysis in §§ 51.41, 51.42, 51.43, and 51.44. The requirements concern the applicable period that the analysis must cover, interstate AQMAs, air quality and emission data bases, methods of analysis, and retention of data on growth and development.

The AQMA analysis is currently required under § 51.12(g)(1) for the purpose of determining whether or not the existing State implementation plan is adequate to maintain the NAAQSs for the designated pollutants for a 10-year period in the AQMA identified under § 51.12 (e) and (f). Although States may have performed some analysis already in identifying AQMAs under paragraph (e), the AQMA analysis required under paragraph (g) is intended to be more detailed and sophisticated than the original analysis used to identify the AQMA and should provide for a separate analysis of each AQMA-pollutant combination. As mentioned above, the date for submission of the AQMA analysis would be April 1, 1976, but the Administrator could modify that date.

Several federally-sponsored planning programs that may have an air quality impact require States or substate entities to submit plans that may cover periods longer than 10 years. Examples of such programs are the Department of Transportation's 3-C ("continuing, comprehensive, cooperative") planning process under the Federal Aid Highway Act of 1962, the Department of Housing and Urban Development-sponsored comprehensive plans under section 701 of the Housing and Urban Development Act of 1965, the EPA-sponsored areawide waste treatment plans under section 208 of the Federal Water Pollution Control Act of 1972. The Administrator believes that the periods covered by these plans should be considered in the AQMA analyses and plans. Therefore in AQMAs where plans developed under these and other federal programs cover periods of more than 10 years, the regulations would require that the analysis address the longest period covered by one of these federal plans. If no such plans covering more than 10 years exist in an area, the AQMA analysis would have to address at least the 10 year period from the date of AQMA identification. The Administrator recognizes that some of these other federal plans may not have enough detail upon which to base a thorough projection of air quality beyond the initial 10-year period. In such cases, the Administrator, using his discretion to modify the techniques used in projecting air quality, may permit a less-detailed AQMA analysis for the period beyond the initial 10 years than for the initial 10-year period.

Although it is not necessary for the agency that prepares the AQMA analysis to prepare the AQMA plan, the Administrator believes it would be advantageous to at least have that agency be responsible for the assessment of the control strategy.

For interstate AQMAs, the constituent States must base their AQMA analyses on the same regional emission inventory and air quality baseline wherever possible, but the Administrator may modify this requirement. Where there is disagreement among the States concerning the data bases, the proposed regulations would require that the States consult with the appropriate Regional Offices before they select those data bases.

Emission data used in performing the AQMA analysis is to be submitted to EPA in National Emission Data System (NEDS) format for data that are not already in the NEDS. This data may be submitted in machine-readable format at the State's discretion. The reason for this requirement is the Administrator's desire to have the capability to evaluate projections of emissions and analyses of air quality on a valid data base that can easily be used as input to an automated atmospheric simulation model and to be able to make these data available to others who may have need for them.

For AQMAs designated for nitrogen dioxide, the Administrator recognizes that uncertainty exists regarding the acceptability of air quality data upon which the States must base their AQMA analyses and plans. EPA has not yet defined a single reference method for collecting NO_2 data but has proposed three candidate reference methods in the FEDERAL REGISTER of June 5, 1974 (38 FR 15174). EPA is still evaluating these methods. For purposes of the AQMA analyses and plans, the Administrator proposes below in § 51.41 to allow a State to use the most meaningful data from any one of the three proposed reference methods after consultation with and approval by the Administrator.

§§ 51.42, 51.43, and 51.44 propose that States follow techniques in EPA's *Guidelines for Air Quality Maintenance Planning and Analysis* for projecting emissions, allocating emissions to sub-county areas, and relating projected emissions to air quality concentrations unless States have satisfactory alternative techniques. The proposed regulations specify that several forms contained in the guidelines be completed and submitted as a portion of the AQMA analysis. States that have satisfactory alternative techniques for performing these tasks could, however, employ them, subject to EPA approval. States would have to identify and describe these alternative techniques, justify their use in lieu of EPA's techniques and summarize the calculations made. The alternative techniques would have to be comparable in scope and in level of detail of results to the EPA-specified techniques. Also, the States would have to obtain approval from the Administrator before using such alternative techniques. Procedures for approval are being proposed in a new § 51.51, discussed above.

Although Volume 12 of the *Guidelines for Air Quality Maintenance Planning and Analysis, Applying Atmospheric Simulation Models to Air Quality Maintenance Areas*, allows for the use of several models for each of the pollutants, the regulations proposed below require the States to use the Air Quality Display Model (AQDM) or an equivalent model for particulate matter and sulfur dioxide where appropriate. AQDM has the advantage over other models in that it presents a table indicating the contribution of the air quality at each site from each point source and area source grid. Such a source contribution table is highly desirable when developing a strategy to maintain the national standards, especially when the strategy contains land use measures, and the State must have a fairly detailed estimate of how new sources of emissions will locate in the region.

States can obtain the AQDM program on punched cards through the Regional Offices from the Air Pollution Technical Information Center (APTIC), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. The program now incorporates the Briggs' Plume Rise equation for point sources. The user's manual, *Air Quality Display Model* (NTIS No. PB 189194), November 1969, can be obtained from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22151.

States would have to obtain concurrence from EPA on any decision by the State that AQDM or an equivalent model is not appropriate in a particular situation. The State should determine whether such a model is appropriate based on the compatibility of its data bases with the needs of the model, the agency's resources in relation to those needed to

run the model, and any other relevant factors.

States must also determine whether the short-term particulate matter (24-hour primary and secondary) and sulfur dioxide (24-hour primary and 3-hour secondary) NAAQSs will be maintained for the appropriate period. Since AQDM and similar models yield long-term concentrations (seasonal or annual), States must apply a model to relate the long-term concentrations to short-terms concentrations. The recommended model for obtaining the short-term concentrations for the general urban area is found in Larsen, Ralph I., "An Air Quality Data Analysis System for Interrelating Effects, Standards, and Needed Source Reductions—Part 2," *Journal of the Air Pollution Control Association, 24:* 551 (June, 1974); for large point sources, however, the regulations would require that the short-term localized air quality impact of individual sources be considered. The Administrator will issue guidance on a procedure for considering these cases.

Proportional modeling should be used for carbon monoxide and nitrogen dioxide. To determine the reduction in hydrocarbon emissions required to maintain the photochemical oxidant standard, States may use the model contained in 40 CFR 51, appendix J. It is preferable, however, for States that have adequate air quality data for both photochemical oxidants and hydrocarbons to develop relationships between oxidants and hydrocarbons unique to their area of interest. States that do this should consult with EPA on the application of such a derived relationship.

The Administrator also encourages States to perform an areal allocation of projected emissions for all AQMAs, using *Guidelines for Air Quality Maintenance Planning and Analysis, Volume 13: Allocating Projected Emissions to Sub-County Areas*, even where States will be using proportional air quality modeling, to understand the spatial distribution of their future emissions and thus be able to develop a more meaningful control strategy.

The Administrator is aware of the problems inherent in the assessment of the impact of growth and development on air quality. Such factors as the completeness of the current emission inventory, uncertainty in demographic and economic projections, uncertainty about where new sources of pollution will locate, and hard-to-identify relationships between demographic and economic projections and future emissions all combine to create uncertainty in the emission projections. Furthermore, the models used to relate these future emissions to future air quality concentrations have inherent uncertainties regarding the variability of meteorological conditions, the variability in emission rates over time, the unevenness of topography, and, in the case of reactive pollutants, the relationships between the pollutant emitted and the secondary pollutants that form in the atmosphere after emission. Consequently, the quantitative computation should, where appropriate, be supplemented by empirical knowledge in judging whether the NAAQSs will be maintained.

Therefore, the Administrator is proposing that the determination of whether the national standards will be maintained may be based, not only on the quantitative comparison of the calculated air quality concentrations with the national standards, but also on the consideration of a number of factors that affect the accuracy of the projections of air quality concentrations. These factors include, among others, the degree of completion of abatement activities, year-to-year variations in air quality concentrations, adequacy of the emission inventory, the degree of confidence in the data and methods used to project air quality, and the frequency and magnitude of air pollution episodes.

De-Designation of AQMAs. Where the AQMA analysis indicates that an AQMA will maintain a particular national standard, and where the Administrator determines that no AQMA plan is required, it is not necessary for the State to consider the requirements in §§ 51.45, 51.46, 51.47, 51.48, 51.49, and 51.50 which pertain to the AQMA plan. Where the Administrator agrees with the State's determination that the area in fact will not violate a NAAQS for the particular pollutant, the Administrator will rescind his identification of the area for the pollutant. The AQMA analysis, in this case, will not be a part of the AQMA plan and therefore does not have to be subjected to a public hearing.

AQMA Plan. The existing provisions of 40 CFR 51.12 require that an AQMA plan provide for the maintenance of NAAQS for at least ten years from the time the plan is submitted. The Administrator recognizes that a ten year period for maintenance planning may not be appropriate in all cases. For instance, an area may have only a minor amount of growth such that it will marginally fail to maintain the NAAQS. Consequently, the area may need only a modest revision of its existing regulations to offset the small growth in emissions anticipated; a full 10-year plan may not be necessary. On the other hand, an area may have plans for major growth that is anticipated over the next 20 years. A plan for only ten years in such a case would probably not be sufficiently far-reaching to account for the air pollution impact of this growth.

As a result, the Administrator is proposing that the AQMA plan provide for maintenance of the NAAQS for a period of time to be determined by the Administrator, acting through his Regional Administrators, for each AQMA and each pollutant for which the AQMA was identified. The Administrator feels that in no case should this period be less than 3 years and in many cases should probably be for 10 to 20 years. Plans for less than 3 years appear impractical because they would have to be revised too often to provide for continuous maintenance of NAAQS. On the other hand, census data and projections are generally available on a 10- and 20-year basis for transportation, water supply, and waste water treatment. Thus, from 10 to 20 years appears to be an appropriate period of time for planning for air quality maintenance in most areas.

As mentioned above in the discussion on the AQMA analysis, several federally-sponsored planning programs require that States or substate entities submit plans that may cover periods longer than 10 years. The proposed regulations would require that the AQMA plan consider the same period as Department of Transportation-sponsored "3-C" plans, Department of Housing and Urban Development-sponsored 701 comprehensive plans and EPA-sponsored 208 areawide waste treatment plans and any other plans that may have an air quality impact if these plans cover a period of more than 10 years. If no such plan in the area covers a period of more than 10 years, the AQMA plan would only have to consider the 10 year period.

The AQMA plan, however, would not necessarily have to provide a firm, specific strategy for maintenance of the national standards for all of this applicable period. If the AQMA plan provides for maintenance for a period less than the applicable period (for example, 10 years or longer depending on the existence of other federally-sponsored plans with longer time periods), the plan would have to discuss the air quality maintenance problem in the AQMA for the period from the year to which the AQMA plan provides for the maintenance of standards to the end of the applicable period. This discussion would have to outline:

The kinds of control strategies that could be applied to solve the maintenance problem for the applicable time period, and

The kinds of actions that would need to be taken to adopt the necessary laws or regulations in a timely manner.

To provide for continued maintenance of the national standards, States originally had to revise their 10-year plans every 5 years under § 51.12(h). Because the proposed regulations would remove the requirement that the AQMA plan must, in all cases, provide for maintenance of the national standards for 10 years, the proposed regulations would require that the States revise the AQMA plans on a schedule that the Administrator will establish for each area, rather than every 5 years. The Administrator will assess the requirement for revisions of the AQMA plan at least every 5 years, but may require revisions more frequently, if the period over which the plan maintains the standards is less than 5 years. The revisions would have to be submitted in sufficient time, usually at least 2 years, before the period of an existing plan expires. The analysis associated with each revision would have to

account for at least the following 10 years, although any plan revision would only have to provide for the maintenance of standards for a period of time specified by the Administrator.

Also, the Administrator recognizes that providing for the continued maintenance of air quality standards will require different degrees of effort in different areas. Some areas may require merely a simple strengthening and expansion of existing implementation plan regulations. Other areas may have to examine thoroughly the air quality aspects of their general land development and transportation plans, if such exist, and determine whether the growth and development projected by these plans are consistent with continued maintenance of air quality standards. Where no such plan exists, the area's existing legal restrictions on land development, such as zoning restrictions, may have to be examined for their consistency with air quality standards. EPA's *Guidelines for Air Quality Maintenance Planning and Analysis*, specifically, *Volume 4: Land Use and Transportation Considerations* would be helpful in such an examination. Through 40 CFR 51.12 and the regulations proposed below, the Administrator intends to encourage State and local governments to incorporate air quality considerations into plans for growth and development so that air quality standards will be maintained.

The Administrator recognizes that local land use plans themselves will be modified over time irrespective of any air quality considerations. Changes will be made to reflect changing community and regional objectives. Where these and use plans form an integral part of the AQMA plan, changes in the land use plans should be reflected in the AQMA plan.

The Administrator realizes that where States do elect to modify their land use and transportation plans, the States will probably not be able to accomplish the necessary studies, develop new institutional arrangements, obtain the necessary legal authority and measures to ensure adherence to those plans to maintain air quality standards, incorporate the plans into the AQMA plans, and submit them to EPA within a short time. Therefore, under the proposed regulations, the State could submit an AQMA plan that ensures maintenance of the standards for several years and then use those several years to develop a longer range, more comprehensive AQMA plan.

Even though EPA proposes to allow a flexible period over which the NAAQS must be maintained, the State must still submit an analysis covering the 10-year period from AQMA identification. The States and EPA identified AQMAs as areas that have the potential for failing to maintain the standards within the subsequent 10-year period. Therefore, the AQMA analysis must be done for that period of time to determine if this potential really exists.

Among other requirements, § 51.45 specifies that the AQMA plan be submitted in a format indicated in Appendix S, and § 51.46 specifies the content of the AQMA plan strategy.

The Administrator intends to follow the progress of the States in the development of the AQMA plans and in the implementation of all elements of the plans. The Regional Offices will monitor such progress through the process of the semi-annual report required under a proposed amendment to § 51.7. This section would require the States to report in their semi-annual report the status and progress of such items as the acquisition of additional resources, the adoption of new laws or regulations, studies to provide a basis for further actions directed toward the maintenance of the national air quality standards, and the initiation of new programs or the expansion of existing program for the maintenance of the NAAQSs.

Where the Administrator determines that an AQCR will not attain a NAAQS by the specified attainment date, he will call for a plan revision for both attainment and maintenance. As discussed further below, the notice to revise a plan will indicate that the maintenance plan should be submitted with the attainment plan. For the combined attainment/maintenance plan, the Administrator will require the submission by July 1, 1977, of all needed regulations, up to reasonably available control technology (RACT) for emission limitations and other reasonable measures, that will ensure the attainment of national standards as expeditiously as practicable. If RACT and other reasonable measures are not sufficient to attain and maintain the standards, the State would have to submit by July 1, 1978, the complete plan to attain and maintain the standards. The State would have to follow the requirements of Subpart D in preparing attainment/maintenance plan revisions for AQMAs.

Assumptions for quantification of measure effectiveness. The following discussion concerns assumptions that States may make in calculating the effectiveness of various air quality maintenance measures; these are not being proposed below in regulatory form but are presented for the benefit of agencies preparing AQMA plans.

EPA has published revisions to the document, *Compilation of Air Pollutant Emission Factors* (EPA publication No. AP-42). These revisions contain new emission factors for light- and heavy-duty vehicles and motorcycles based upon future estimated control of all pollutants resulting from EPA's requirements for control of emissions from new motor vehicles and from control of fuel additives. Such control should be accounted for in projecting emissions from vehicles in developing AQMA plans.

EPA has provided a best judgment of the emission rates for the groups of sources for which EPA, between now and 1985, will promulgate new source performance standards (NSPSs) under section 111 of the Clean Air Act. States should account for any emission reduction due to these emission rates in projecting emissions from new sources. EPA will provide guidance on procedures for doing so in future supplements to the *Guidelines for Air Quality Maintenance Planning and Analysis.*

States should account for the reduction in emissions of particulate matter, as is the case in control of asbestos and asbestos-containing material, required by the National Emission Standards for Hazardous Air Pollutants, which have been promulgated under section 112 of the Clean Air Act.

Additionally, the Administrator will distribute guidance from time to time to the States on other assumptions to be used concerning the effect of measures to maintain air quality standards.

Quantification of the impact of maintenance measures. As indicated above, the Administrator is aware of the shortcomings in the techniques used to project air quality. The assessment of the impact of measures designed to maintain standards also contains uncertainties. For some individual maintenance measures, the projected effects on reduction of either emissions or the growth in emissions will not readily lend themselves to specific quantification. Therefore, the Administrator is proposing a variation on the computational technique. Where the quantification of the reduction of emissions or growth in emissions resulting from a measure cannot be done with a substantial degree of precision, the State would be allowed to combine that measure with other similar measures and estimate an aggregate effect, based on best available quantitative data and sound scientific judgment. One should bear in mind that the Clean Air Act requires that implementation plans ensure the attainment and maintenance of the national ambient air quality standards; although some calculations that are used to demonstrate that plans will ensure attainment and maintenance defy absolute precision, States and the Administrator must use their best judgement to develop workable plans to carry out the Congressional mandate.

AQMA Plan: Legal Authority. The proposed requirements for legal authority in the new § 51.48 differ from the requirements of § 51.11 in that it provides for approval by EPA of legal authority for certain kinds of measures that local government will be expected to enforce, even though such measures may not also be enforceable by the State.

The proposed regulations would require that the plan demonstrate that the State or substate entity has adequate legal authority to implement the measures contained in the plan.

The Administrator recognizes that in some areas the State may have to include in its AQMA plan measures that local governments have traditionally enforced or that would be more effectively enforced by a local government or, in some cases, that must be enforced by local governments as a matter of State law. Examples of these measures are (1) local zoning ordinances that would preserve a specific emission density limitation and (2) minimum thermal insulation requirements for all new buildings that are designed to reduce consumption of fuel used for space heating and thereby reduce pollutant emissions from such combustion. Under the existing regulations in § 51.11, the State would have to obtain the necessary legal authority to enforce these measures.

Furthermore, since the acquisition of such authority is a time-consuming process in some States, States may not be able to acquire such authority in time to submit an acceptable plan. Therefore, the Administrator is proposing that the State need only demonstrate in the AQMA plan that a local government has the legal authority to enforce such measures.

AQMA Plan: Intergovernmental Cooperation and Coordination. The Administrator recognizes that the development of AQMA plans in many areas may involve measures not traditionally employed by air pollution control agencies, such as measures that may affect the distribution of new emission-producing or emission-inducing facilities. Many air pollution control agencies have neither the expertise in developing and implementing these measures nor the authority to implement them. The Administrator realizes that these air pollution control agencies by themselves may not be able to develop and implement AQMA plans that will be politically and socially acceptable. It may be more appropriate for the Governor of a State to designate an agency other than the air pollution control agency as the lead agency in the development of the AQMA plan. In any case, the agency developing the plan will have to draw upon the resources of a great many State, regional, and local agencies and local governments. Furthermore, the implementation of a comprehensive AQMA plan will undoubtedly require the services of other State and local agencies and local governments in addition to those of the air pollution control agencies.

To provide for such coordination, the regulations proposed below contain provisions to ensure participation in the AQMA plan preparation and implementation process by other agencies and local governments. Specifically, the proposed regulation would require the State to consider which governmental offices should participate in AQMA plan development and implementation. A list of agencies to be considered is included in appendix U to the proposed regulations. The regulations would also require the lead agency responsible for the development of the AQMA plan, regardless of whether it is a State or local agency, to consult with the appropriate agencies established to administer planning under section 701 of the Housing and Urban Development Act of 1965, the appropriate urban transportation planning agencies established under the Federal Aid Highway Act of 1962, and the Urban Mass Transportation Act of 1964, the agencies responsible for planning and implementation of requirements under Section 208 of the Federal Water Pollution Control Act Amendments of 1972, the appropriate agencies designated under the Coastal Zone Management Act of 1972, and cognizant clearinghouses established under Office of Management and Budget Circular A-95 (published in the FEDERAL REGISTER of November 28, 1973 (39 FR 32874)) if such lead agency does not have continuing responsibilities for the management of land use and transportation facilities. If the State or local lead agency is not an air pollution control agency, then the agency would also have to consult with the appropriate State and local air pollution control agencies.

Each AQMA plan would also have to contain (1) an identification of the agency designated by the governor as primarily responsible for the implementation of the AQMA plan, (2) an identification of other State agencies and substate agencies responsible for the implementation of the AQMA plan, and (3) a definition of their responsibilities. The State would still, however, have the ultimate responsibility for the implementation of the plan. Also, AQMA plans must include:

A description of the relationships between air quality management and State, regional, and local programs for land use management, transportation and parking management, water quality and solid waste management, and other processes substantially affecting or affected by air quality management; and

A description of the existing and proposed relationships for coordinating the development and implementation of the AQMA plan with the development and implementation of comparable plans in any adjacent AQMA.

It is important that the agencies responsible for developing an AQMA plan coordinate with agencies responsible for developing an Areawide Waste Treatment Management Plan under section 208 of the Federal Water Pollution Control Act for the same or overlapping area. Aspects of 208 planning and AQMA planning are interrelated in the sense that both utilize an areawide planning approach to deal with significant pollutant problems, and both can affect decisions regarding such things as industrial location and general growth and development. Therefore, the regulations would require that the AQMA plan not conflict with the applicable requirements of the Federal Water Pollution Control Act Amendments of 1972.

Guidelines for Air Quality Maintenance Planning and Analysis, Volume 2: Plan Preparation presents a discussion of several modes of intergovernmental coordination concerning who will develop and who will implement the AQMA plan.

The proposed regulations would also provide for additional transmission of information among agencies responsible for AQMA plan implementation. Furthermore, to provide for a comprehensive review by all appropriate State, regional, and local agencies and governments, the State would have to submit the AQMA plan and any substantive regulatory revisions thereof for review and comment for a period of 30 days to the cognizant clearinghouses as established under Office of Management and Budget Circular A-95. This 30-day review could occur simultaneously with the 30-day period before the public hearing on the AQMA plan.

The Administrator also encourages the Governors of the States to appoint an advisory committee to assist in the development of the AQMA plan. Such a committee could meet periodically during the preparation of the AQMA plan and could be given the opportunity to review and comment on the AQMA plan prior to its submission to EPA. Such a committee could include representatives of appropriate governmental offices, public interest groups, commercial, industrial and institutional interests, and members of the scientific and academic communities.

Although the proposed regulations would not specifically require that AQMA plans for State portions of interstate AQMAs be compatible, the Administrator encourages the constituent States of interstate AQMAs to develop compatible plans in such areas. The plan must, however, under section 110(a)(2)(E) of the Act, provide for measures that are necessary to ensure that emissions from sources in one region will not interfere with the attainment or maintenance of national standards in any region outside the State or in any other region.

Other Proposed Revisions. The Administrator is also proposing other revisions to 40 CFR 51 concerning air quality maintenance in addition to the items discussed above. These include the following: definitions, public hearings, submission and preliminary review of AQMA analyses and plans, reporting requirements, AQMA plan format, air quality and source surveillance, and resources. The Administrator encourages States to work closely with the EPA Regional Offices in performing their AQMA analyses and developing their AQMA plans. The States are particularly urged to submit draft copies of the AQMA analysis for preliminary review by the Regional Office prior to beginning development of the AQMA plans.

WORKLOAD ON STATES

Undoubtedly, the requirements for AQMA analysis and plan development will necessitate a large expenditure by the States of financial, technical, and human resources. The Administrator was aware of this from the time of promulgation of the original regulations concerning AQMAs on June 18, 1973, and has taken all the steps in his power to minimize this workload on the States and still abide by the Clean Air Act. For instance, EPA's development of techniques to identify AQMAs, project emissions, allocate projected emissions, and develop plans will reduce the burden of the States considerably, since States will not have to develop their own techniques. EPA will also be able to provide a limited amount of contractual assistance to States in performing tasks related to air quality maintenance. Even with this assistance, States must still make a substantial effort to complete these tasks. The Administrator's judgment, however, is that the effort must be made to satisfy the requirements of the Clean Air Act.

PUBLIC PARTICIPATION

Since the AQMA plan is a substantive revision to the State implementation

plan, the public hearing requirements of § 51.4 apply to its development. The Clean Air Act strongly emphasizes the necessity for broad public participation in the implementation plan development process. This emphasis particularly applies to the consideration of measures that may affect existing growth patterns and transportation modes.

Periodic Reassessment

Essential to any continuing air quality management program is the periodic assessment of both current status of air quality and projected air quality. States should at least annually upgrade their emission inventory, reassess the distribution of emissions, and familiarize themselves with latest advances in techniques for projecting emissions and relating them to air quality concentrations. Although the Administrator will require States to perform a repetition of the process of problem area reanalysis at least every five years, the Administrator encourages States to perform this process, in whole or at least in part, more frequently, particularly when newer data and techniques become available. Presumably, as a result of this present iteration, much information will be gained to enable the development of more accurate projection techniques.

Although the proposed regulations below do not require air quality monitors for AQMAs beyond those already required in 40 CFR 51.17, the Administrator encourages States to consider establishing more sites as the need for such becomes evident. Furthermore, the Administrator is contemplating the proposal of a revised minimum requirement for additional monitors beyond those in 40 CFR 51.17.

Relationship to Significant Deterioration Regulations

In the Federal Register of December 5, 1974 (39 FR 42510), and June 12, 1975 (40 FR 25004), the Administrator published regulations requiring the prevention of significant deterioration of air quality as defined in those regulations.

Aside from the differences in procedural requiremnts for the non-significant deterioration regulations and the air quality maintenance regulations, the difference between the two regulations is mainly one of emphasis: the non-significant deterioration regulations are designed to maintain air quality in certain areas at a level superior to the NAAQSs; the air quality maintenance regulations are designed to maintain air quality areas at a level superior to the NAAQSs; Both the regulations to prevent significant deterioration and the AQMA plan are portions of the State implementation plan.

The non-significant deterioration regulations provide for State designation of areas under three classifications: Class I applies to areas in which practically any change in air quality would be considered significant; Class II applies to areas in which deterioration normally accompanying moderate orderly growth would be considered insignificant; Class III applies to those areas in which deterioration up to the standard would be considered insignificant. Counties or other functionally equivalent areas that pervasively exceed any NAAQSs for particulate matter or sulfur dioxide are exempt from the classification. Until the State (or Federal Land Manager or Indian Governing Body, as appropriate) reclassifies areas, all areas (except those areas exempted) are classified Class II.

The mechanism for enforcing the air quality deterioration limits is the review of new and modified stationary sources of 18 categories for their impact on particulate matter and sulfur dioxide limitations. An affected source built in an area of one classification (or in an exempt area) also cannot violate the deterioration limit in another area.

Where an AQMA has been designated because of projected problems in maintaining the NAAQSs for either particulate matter or sulfur dioxide, the significant deterioration increment is applicable only to those portions of the AQMA that are cleaner than either standard. By design, many AQMA boundaries will be designated to include areas that are relatively clean. This will be done to ensure that the planning area corresponds to the entire area where projected new growth in emissions is likely to occur and where regional planning for public services, housing, and employment is focused.

Although there seemed to be a general assumption that AQMAs should be designated as Class III, there are several situations where a State may wish to leave the clean air portions of an AQMA as Class II or even to redesignate the area to a Class I. This would force very restrictive controls on peripheral growth so as to complement the goals of the AQMA plan and in this context, the significant deterioration limits would actually be a mechanism for partially implementing the AQMA plan. In addition, there are several clean air areas that have been proposed as AQMAs due to anticipated large-scale development of natural resources. A Class I or Class II designation for such areas may eliminate the need for an AQMA plan for particulate matter or sulfur dioxide since the air quality constraint would be the Class I or Class II air quality increment. Therefore, a "de-designation" of the AQMA for particulate matter or sulfur dioxide may be appropriate if growth in emissions due to facilities other than those reviewed under the non-significant deterioration regulations is not expected to prevent the maintenance of the NAAQSs. In any case, the Administrator recommends that any proposed significant deterioration redesignation have boundaries consistent with AQMA boundaries where necessary to facilitate the development of the AQMA plan.

A Class III designation does not necessarily mean that an AQMA plan would be required. For example, a Class III area's air quality concentrations may be expected to increase up to the NAAQS but not beyond.

Furthermore, it is important to recognize that area classifications need not necessarily be based on current air quality or current and use patterns. Instead, classifications should reflect the desired degree of change from current levels and patterns.

Correction of Plan Deficiencies

The Administrator is concerned about the deficiencies other than those regarding air quality maintenance and non-significant deterioration that still exist in some implementation plans. (All 55 plans are still deficient regarding air quality maintenance and non-significant deterioration.) As of March 1, 1975, all 55 plans still had other regulatory deficiencies requiring EPA promulgation. These regulatory deficiencies include lack of adequate provisions for the following: variance procedures, public availability of emission data, source record keeping, review of new and modified sources, obtaining adequate compliance schedules, transportation control measures, and emission limitations. Also, non-regulatory deficiencies exist in some State implementation plans for air quality surveillance, periodic source testing and inspection, resources, and intergovernmental cooperation. The Administrator strongly recommends that the States correct these deficiencies, especially the regulatory ones, so that the Administrator can withdraw his disapproval and rescind his promulgation. The States are encouraged to use the AQMA analysis and plan submittal as a vehicle for transmitting their plan revisions to EPA to correct the deficiencies, if not transmitted earlier.

Relationship to Energy Supply and Environmental Coordination Act of 1974

In June, 1974, Congress passed and the President signed the Energy Supply and Environmental Coordination Act (ESECA) of 1974. As stated in section 1 of this Act, the purposes of the Act are "(1) to provide for a means to assist in meeting the essential needs of the United States for fuels, in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment, and (2) to provide for reports respecting energy resources." To carry out these purposes, the Act (1) gives the Federal Energy Administration (FEA) the authority to increase the use of coal in major fuel-burning installations, (2) gives EPA the authority to apply environmental requirements to such installations as necessary to protect the public, (3) defers automobile emission standards and places limitations on transportation control plans, and (4) requires FEA, EPA, and other agencies to report to Congress on matters pertinent to energy and the environment.

The provisions of ESECA are difficult to summarize here without a lengthy explanation; the reader is referred to ESECA for details. The provisions of ESECA may, however, cause an increase in emissions in some areas as a result of the increased use of coal in fuel-burning installations and the possible tem-

porary relaxation of emission limitations. States should familiarize themselves with the provisions of ESECA and should account for potential increases in emissions resulting from the application of the ESECA provisions when they develop their AQMA analyses and plans.

EPA has recently revised its *Compilation of Air Pollution Emission Factors* (EPA document AP-42, Second Edition, April 1973), which is used to project emissions from mobile sources (such as automobiles). The revision now accounts for the fact that the full statutory automobile emission standards have been delayed for two years: one year (to 1977) by ESECA and another year (to 1978) by the Administrator's granting of a discretionary suspension, which is permitted under ESECA.

Failure To Attain Air Quality Standards by Attainment Date

In March, 1974, the Administrator forwarded to Congress a proposed amendment to the Clean Air Act which would provide EPA with greater flexibility in implementing the Act. One aspect of the proposed amendment concerns the transportation controls required for some urban areas. Many of these urban areas can achieve the national photochemical oxidant and carbon monoxide ambient air quality standards by mid-1977 through the application of new motor vehicle emission standards, stringent stationary source standards, and in some cases additional control efforts, such as institution of motor vehicle inspection and maintenance programs and greater use of mass transit and car pools. A number of communities, however, are so heavily impacted by motor vehicle-related pollutants that extreme measures such as severe gasoline rationing would be necessary to achieve air quality standards within the statutory deadline even after all other control measures were instituted.

Under the proposed Act amendment, EPA would be authorized to allow up to five additional years for compliance with the mobile source-related air quality standards for those communities where attainment of those standards by 1977 would cause serious economic and social disruption. EPA would grant this extra time only if all reasonable control measures under existing plans have been or will be instituted. EPA would be authorized to provide a further five-year extension in those cases where it would not be possible to achieve compliance within the first five years. It is anticipated that only a few cities may need more than a single five-year extension. Providing this additional time in appropriate cases will allow for the full impact of federal regulations applicable to new motor vehicles to be realized and grant communities the flexibility they need to develop long-term transportation system solutions necessary to help meet air quality standards.

In January, 1975, the Administrator also forwarded to Congress, another proposed amendment to the Clean Air Act that would allow more time to attain the particulate matter standard where attainment by 1977 would require measures that are not reasonably available. Under the proposed amendment, EPA would be able to allow up to five additional years for attainment of the particulate standard, but would only grant this extra time if all reasonable control measures under existing plans have been or will be instituted. EPA would be authorized to provide a further extension up to five years in those cases where it would not be possible to achieve compliance within the first five years.

Until the time that these Act amendments are passed by Congress, it is possible that an area may not attain an air quality standard by the mandatory deadline. The Administrator intends to continue to monitor both the States' progress toward attainment of air quality standards and their status in maintaining those standards after attainment.

In any area where there appears to be a genuine problem in attaining or maintaining an air quality standard, the Administrator will take action and either enforce a regulation with which sources may not be complying or issue a notice to revise the plan if all sources are in compliance and the apparent cause for the discrepancy is a substantially inadequate plan. If there appears to be a potential for non-maintenance of a national standard in an area that had not been designated as an AQMA, the Administrator will decide whether to call for a plan revision to maintain standards in the area. As discussed above, however, EPA will not identify any more AQMAs.

The Administrator will be conducting a review of all areas throughout the States, including AQMAs, prior to July 1, 1976, to assess the adequacy of the existing State implementation plans to attain the national standards. Assessment of the adequacy of State implementation plans is a continuing task of the Administrator; this review will insure consideration of those areas which were not identified by the Administrator as AQMAs. The Administrator will notify the States by July 1, 1976, as to which State implementation plans are substantially inadequate to attain the standards and will require those States to revise their implementation plans to provide for attainment and maintenance. Dates for submission of these revisions are discussed above. An attainment plan revision for an AQMA would also have to follow the requirements of subpart D of 40 CFR 51.

Where the Administrator calls for a plan revision, one should note that until the plan is actually revised (i.e., subjected to public hearing, adopted by the State, submitted to and approved by the Administrator), the existing implementation plan (including, of course, transportation control strategies which are part of the plan) remains in effect. The Administrator expects sources to comply fully with the plan in the interim. Furthermore, many sections of the plan will be unaffected by a revision.

If sources delay in coming into compliance on the grounds that the plan may be revised to require more stringent controls, States should commence enforcement proceedings against such sources. Where the States neglect to take such action, it is the Administrator's intent to proceed against the sources. States may, however, delay compliance with the new, more stringent regulations, once adopted, for those sources that have recently installed control equipment that met the previously effective regulations. The Administrator realizes that such a "grandfather clause" is often appropriate so that sources may amortize their recently-acquired control equipment over a reasonable time before being required to replace existing equipment with more effective equipment. Such "grandfathering", however, must not be allowed to interfere with attainment or maintenance of a standard.

The Administrator realizes that in performing their AQMA analyses, States may discover that the area in question may not attain the national secondary air quality standards by the attainment date specified in 40 CFR Part 52. In these instances, States may request an extension to attain the secondary standards, as long as the date for such attainment is within a "reasonable time" as described under 40 CFR 51.13(b).

Environmental Impact Statement

In the Federal Register of October 21, 1974 (39 FR 37419), the Administrator published procedures for the voluntary preparation of environmental impact statements on the Environmental Protection Agency's most significant regulatory actions. Those procedures apply to "regulations prescribing substantive criteria with major significance for the preparation, adoption, and submittal of implementation plans by States under section 110 [of the Clean Air Act]." The Administrator promulgated the substantive requirement that the States identify AQMAs and submit analyses and plans for these AQMAs under § 51.12 on June 18, 1973 (38 FR 15834). He amended these substantive requirements on June 19, 1975 (40 FR 25814). The regulations proposed below are intended as a clarification and amplification of those basic requirements and are essentially procedural rather than substantive in nature. As such, this proposal does not require an environmental impact statement.

EPA regional offices

[The following are the addresses of EPA's regional offices. These are presented here for the benefit of those who wish to inspect any of the volumes in the series, "Guidelines for Air Quality Maintenance Planning and Analysis".]

Region	States	Address
I	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.	2113 John F. Kennedy Federal Bldg., Boston, Mass. 02203.
II	New Jersey, New York, Puerto Rico, Virgin Islands.	26 Federal Plaza, New York, N.Y. 10007.
III	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.	Curtis Bldg., 6th and Walnut Sts., Philadelphia, Pa. 19106.
IV	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.	1421 Peachtree St., N.E., Atlanta, Ga. 30309.
V	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.	Federal Bldg., 230 South Dearborn, Chicago, Ill. 60604.
VI	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.	1600 Patterson St., Suite 1100, Dallas, Tex. 75201.
VII	Iowa, Kansas, Missouri, Nebraska.	1735 Baltimore Ave., Kansas City, Mo. 64108.
VIII	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming	1860 Lincoln St., Suite 900, Denver, Colo. 80203.
IX	American Samoa, Arizona, California, Guam, Hawaii, Nevada.	100 California St., San Francisco, Calif. 94111.
X	Alaska, Idaho, Oregon, Washington.	1200 6th Ave., Seattle, Wash. 98101.

PUBLIC COMMENT

Interested persons are invited to participate in this rulemaking.

Written comments on this proposal may be submitted to the Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attn. Mr. Jean Schueneman. Comments should be submitted preferably in triplicate to facilitate distribution to staff personnel and for public availability. All relevant comments received on or before November 19, 1975, will be considered. Comments received will be available for public inspection during normal business hours at the Freedom of Information Center, EPA, 401 M St., S.W., Washington, D.C. 20460.

AUTHORITY: Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857c-5, 1857g(a)).

Dated: October 9, 1975.

RUSSELL E. TRAIN,
Administrator.

It is proposed to amend 40 CFR Part 51 as follows:

1. Section 51.1 is amended by adding paragraphs (ee), (ff), and (gg) as follows:

§ 51.1 Definitions.

* * * * *

(ee) "Air quality maintenance area" (AQMA) means any area that has been identified by the Administrator under § 51.12(f) of this part as having the potential for exceeding any national standard.

(ff) "Air quality maintenance are (AQMA) analysis" means an analysis of the impact of emissions from existing sources and emissions associated with projected growth and development on air quality in an AQMA, which analysis is required to be submitted under § 51.12 (g) of this part.

(gg) "Air quality maintenance area (AQMA) plan" means a plan to prevent any national standard from being exceeded in an AQMA, which plan is required to be submitted:

(1) Under § 51.12(g) of this part; or

(2) At the notification of the Administrator to provide for both the attainment and maintenance of the national standards.

2. In § 51.4, paragraph (b) is amended by adding subparagraph (6) as follows:

§ 51.4 Public hearings.

* * * * *

(b) * * *

(6) In the case of hearings on AQMA analyses and plans, notification to the chief executives of affected local governments, planning agencies, transportation agencies, environmental control agencies, economic development agencies, and any other affected States.

* * * * *

3. Section 51.5 is amended by adding paragraph (f) as follows:

§ 51.5 Submission of plans; preliminary review of plans.

* * * * *

(f) Submission of the AQMA analysis and plan to the Administrator shall be accomplished by delivering six copies of the AQMA analysis and plan to the appropriate Regional Office. Such AQMA analysis and plan shall be adopted by the State and submitted by the Governor by the date prescribed by the Administrator.

4. Section 51.7 is amended by adding paragraph (e) as follows:

§ 51.7 Reports.

* * * * *

(e) Where an AQMA plan prescribes that the State or any governmental subdivision

(1) Obtain additional resources; or

(2) Adopt new laws or regulations; or

(3) Conduct studies to provide a basis for further actions directed toward the maintenance of national standards; or

(4) Initiate new programs or expand existing programs for the maintenance of national standards;

the State shall report on the status and progress of such in the semi-annual report, commencing with the first semi-annual reporting period following submission of the AQMA plan and ending with the completion of such programs. The Administrator shall identify those matters on which the State must report.

5. In § 51.12, paragraphs (e)(3), (g), and (h) are revised, and paragraph (i) is added as follows:

§ 51.12 Control strategy: General.

* * * * *

(e) * * *

(3) At intervals of no more than 5 years, the State shall reassess all areas of the State to determine if any additional areas are in need of plan revisions because of a substantially inadequate plan. The State shall retain its written reassessment for inspection by the Administrator.

* * * * *

(g)(1) For each area identified by the Administrator pursuant to paragraph (f) of this section, the State shall submit the following:

(i) An analysis of the impact on air quality of projected growth and development over the applicable period specified in § 51.41(a) of this part. The State shall submit this analysis by April 1, 1976, but the Administrator may modify this date pursuant to the procedures set forth in § 51.51 of this part.

(ii) A plan to prevent any national standards from being exceeded. This plan shall include, as necessary, control strategy revisions and/or other measures to ensure that projected growth and development will be compatible with maintenance of the national standards. This plan shall be subject to the provisions of § 51.6 of this part. The State shall submit the plan according to a time schedule to be specified by the Administrator.

(h) The plan required under paragraph (g) of this section shall, for all purposes, be considered as a portion of the applicable State implementation plan within the contemplation of § 110(d) of the Act and shall be subject to all of the applicable procedural requirements set forth in this part. More specific regulations concerning the AQMA analysis and plan appear in Subpart D of this part.

(i)(1) For all areas of the State, the State implementation plan shall, within 1 year of the effective date of this regulation, provide for a procedure for the continual acquisition of information about new and modified land development.

(2) The State shall collect and retain annual data for all areas of the State on actual growth and development in terms of parameters and information used in projecting emissions, such as population, earnings, employment, production, building starts, land use development, vehicle miles traveled, and gasoline sales.

(3) The State shall notify the Administrator if it determines, based upon the information required to be collected under paragraphs (i)(1) and (2) of this section, that an area is undergoing an amount of development such that it presents the potential for a violation of national standards within a period of 10 years or longer.

6. Subpart B is amended by adding § 51.23 as follows:

§ 51.23 Exceptions.

To the extent that Subpart D conflicts with the requirements of Subparts A or B with respect to the air quality maintenance area analysis or plan, Subpart D shall govern.

7. Subpart D is added as follows:

Subpart D—Maintenance of National Standards

§ 51.40 Scope.

(a) The requirements of this subpart shall cover:

(1) The AQMA analysis of the impact on air quality of emissions from existing sources and emissions associated with projected growth and development as required under § 51.12(g)(1) of this part.

(2) The AQMA plan to prevent any national standard from being exceeded as required under § 51.12(g)(2) of this part; the Administrator will identify those AQMA's for which the State must submit an AQMA plan.

§ 51.41 Air quality maintenance area analysis: General.

(a) *Applicable analysis period.* The AQMA analysis shall provide a projection of the impact on air quality of projected growth and development over:

(1) The longest period covered by any of the following federally-sponsored plans in the AQMA if such federally-sponsored plans cover a period that extends beyond the 10-year period following the date on which the Administrator identified the AQMA:

(i) Transportation plans developed under the Federal Aid Highway Act of 1962;

(ii) Comprehensive plans developed under section 701 of the Housing and Urban Development Act of 1965;

(iii) Areawide waste treatment plans developed under section 208 of the Federal Water Pollution Control Act of 1972; and

(iv) Any other federally-sponsored plan that may have an air quality impact; or

(2) A period of at least 10-years from the date on which the Administrator identified the AQMA, if no federally-sponsored plan under paragraph (a)(1) of this section in the AQMA covers a period that extends beyond the 10-year period following the date on which the Administrator identified the AQMA.

(b) *Interstate AQMAs.* For interstate AQMAs, the AQMA analysis from each constituent State shall be based upon the same regional emission inventory and air quality baseline. Prior to selecting an emission inventory and an air quality baseline, the constituent States in which the interstate AQMA lies shall consult with the appropriate EPA Regional Offices where there is disagreement among the constituent States as to the data bases.

(c) *Air quality data base.* (1) All applicable data collected from all existing sites since October 1, 1972, must be considered in the development of the baseline air quality in the AQMA for the AQMA analysis, which is to be submitted by the date specified by the Administrator. The following identification and submission requirements shall apply to all air quality data used for computing baseline levels:

(i) Data used in computing baseline levels previously submitted to EPA pursuant to § 51.7 of this part must be identified by the SAROAD identification number of all applicable sites, the time period(s) utilized (month, calendar year quarter, etc.), and the Universal Transverse Mercator (UTM) coordinates of each of the applicable sites.

(ii) Air quality data collected since October 1, 1972, that have been used in computing baseline levels but have not previously been submitted to EPA pursuant to § 51.7 of this part shall be recorded and submitted in accordance with the procedures and data forms specified in the "Storage and Retrieval of Aerometric Data (SAROAD) Users Manual," USEPA, OAP, APTD-0663. Sampling site information for each sampling site shall be submitted in the SAROAD Site Identification Form to the appropriate EPA Regional Office prior to submission of the air quality data to EPA.

(2) Where an AQMA has been identified for nitrogen dioxide, the air quality baseline shall be based upon measurements by one of the three proposed candidate reference methods described in the FEDERAL REGISTER of June 8, 1973 (38 FR 15174). Before selecting the data, the State shall obtain from the Administrator approval of the choice of data on which to base the nitrogen dioxide air quality baseline.

(d) *Emission inventory data base.* All source emissions data used in the AQMA analysis baseline inventory that have not previously been transmitted to EPA must be submitted in National Emissions Data System (NEDS) format in conjunction with, but not as part of, the plan. The data required by this paragraph shall be recorded and submitted according to the respective formats for point source data and area source data specified in the "Guide for Compiling a Comprehensive Emission Inventory," Revised (March 1973) U.S. Environmental Protection Agency, Office of Air and Water Programs, APTD-1135, or latest revision or supplement thereof.

(e) For each AQMA and for each pollutant for which the AQMA is identified, the AQMA analysis shall contain identification of the sources of projections of growth and development used in projecting and allocating emissions for the period being analyzed by source category and a justification of the choice of such parameters. Projections may be in terms of such parameters and information as earnings, employment, production, building starts, land use development, vehicle miles traveled, and gasoline sales.

(f) The State shall retain a detailed data and calculations and shall submit such to the Administrator at his request. Such data and calculations shall not be considered part of the applicable plan.

(g) In making the determination of whether a national standard will be violated in an AQMA within the applicable period, the State may account for factors such as those listed below, that may affect the accuracy of the calculations of projected air quality concentrations. Where the State considers such factors in its determination of whether a national standard will be violated the AQMA analysis shall contain a full discussion of the factors.

(1) The degree of completion of abatement activities for which regulations currently exist;

(2) Current air quality concentrations, the magnitude of past year-to-year variations in air quality concentrations, and the degree to which the national standard is currently being violated;

(3) The future date when currently applicable measures will no longer be able to ensure maintenance of national standards;

(4) The stringency and comprehensiveness of existing regulations;

(5) The adequacy of the existing emission inventory;

(6) The adequacy of the current air quality surveillance procedures and enforcement activities;

(7) The adequacy of the current new source review procedures;

(8) The degree of confidence in the projected demographic and economic data that was used to project emissions;

(9) The degree of confidence in the methods used to project emissions, allocate projected emissions and determine the air quality concentrations resulting from the projected emissions;

(10) Local and regional meteorological and topographical conditions;

(11) The frequency and severity of air pollution episodes since the adoption of the existing implementation plan;

(12) Progress made in reducing pollutant concentrations in the last three years;

(13) The adequacy of the manpower and financial resources that the State will obtain to implement current and future regulations and the growth of the control program since the adoption of the existing plan.

(h)(1) Where the State or the Administrator determines that a national standard for which an AQMA is identified will be violated within that AQMA within the applicable analysis period, the State shall submit to EPA an AQMA plan under this subpart and § 51.12(g)(2) of this part.

(2) The State shall submit the AQMA analysis.

(i) In a preliminary form to the Administrator by the date he specifies; such preliminary analysis shall not be considered a part of the AQMA plan at the time of submission;

(ii) In final form as a part of the AQMA plan to the Administrator by the date he specifies, if the Administrator requires the State to submit an AQMA Plan.

(i) Where the State determines that a national standard for which an AQMA is identified will not be violated within that AQMA within the applicable analysis period, the State shall submit to EPA only the AQMA analysis under this section and § 51.12 of this part. Such analysis shall not be considered a part of the applicable plan.

(j) The Administrator shall have the authority to modify the requirements of paragraphs (b), (c), and (d) of this sec-

tion pursuant to the procedures set forth in § 51.51 of this part.

§ 51.42 Air quality maintenance area analysis: Projection of emissions.

(a) For each AQMA and for each pollutant for which the AQMA is identified, the AQMA analysis shall contain projections of emissions for the period being analyzed by county and by source category. Except as otherwise provided under paragraph (c) of this section, the State shall project emissions by following the techniques for projecting emissions specified in "Guidelines for Air Quality Maintenance Planning and Analysis, Volume 7, Projecting County Emissions," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. (OAQPS No. 1.2–026) (hereinafter referred to as "Volume 7"); any subsequent revision or supersedure of this document shall take precedence over the existing document. The AQMA analysis shall indicate the level of analysis performed, except as otherwise provided under paragraph (c) of this section.

(1) A projection of emissions shall be presented:

(i) For at least the fifth and tenth years following the date of the Administrator's identification of the AQMA and for the end of the applicable analysis period, if the AQMA analysis is used to determine the effect of growth and development on air quality under § 51.12 (g) (1) of this part;

(ii) For the last year of the period for which the AQMA plan is designed to maintain the national standards and for any other preceding years the Administrators specifies, if the AQMA analysis is used to evaluate the effect of a control strategy in an AQMA plan submitted under § 51.12(g) (2) of this part.

(2) If the State allocates emissions under § 51.43 of this part, Volume 7 shall be used to project emissions from all source categories except (i) transportation, if an Order 2 or 3 allocation (as specified in "Guidelines for Air Quality Maintenance Planning and Analysis, Volume 13: Allocating Projected Emissions to Sub-County Areas," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C.) is performed for the transportation category and (ii) industrial (both process and fuel combustion sources).

(3) If the State does not allocate emissions under § 51.43 of this part, volume 7 shall be used to project emissions from all source categories.

(b) (1) If an allocation of emissions is performed under § 51.43 of this part, the State shall submit as a part of the AQMA analysis a summary of baseline emissions and projected emissions for the years specified in paragraph (a) of this section for at least the entire AQMA in a format similar to that in Table 7.1, "County Base Year Emissions Report," contained in Volume 7.

(2) If an allocation of emissions is not performed under § 51.43 of this part, the State shall submit as a part of the AQMA analysis completed Tables 7.1, "County Base Year Emissions Report," and 7.2, "Projected County Emissions Report," contained in Volume 7, for each county in the AQMA; Table 7.1 shall present the base year emissions and Table 7.2 shall present projections for the years specified in paragraph (a) of this section.

(c) A State may project emissions using techniques other than those specified in paragraph (a) of this section; where a State uses alternative techniques, the following requirements shall be met:

(1) Prior to using alternative techniques, the State shall obtain approval to use these techniques from the Administrator pursuant to the procedures set forth in § 51.51 of this part.

(2) The alternative techniques shall be comparable in scope and level of detail of results to the techniques specified in paragraph (a) of this section.

(3) The AQMA analysis shall contain:

(i) An identification, complete description, and justification for the use of the alternative techniques;

(ii) A summarization of the calculations used in projecting emissions;

(iii) A summarization of present emissions and the emissions projected for the years specified in paragraph (a) of this section. These tables need only be completed for those pollutants for which the AQMA was designated.

(4) Such alternative emission projection techniques shall include the effect on emission rates due to:

(i) Standards of Performance for New Stationary Sources under section 111 of the Act,

(ii) National Emissions Standards for Hazardous Air Pollutants under section 112 of the Act,

(iii) Motor Vehicle Emission and Fuel Standards under part A and Aircraft Emission Standards under part B of title II of the Act,

(iv) All other effective regulations in the State implementation plan for the period analyzed.

(5) The State shall retain all detailed calculations for inspection by the Administrator, and submit them at his request.

§ 51.43 Air quality maintenance area analysis: Allocation of emissions.

(a) For each AQMA and for each pollutant for which the AQMA is identified, the AQMA analysis shall contain an allocation of projected emissions to subcounty areas if the method used to project air quality concentrations required under § 51.44 of this part is not a proportional model. Except as otherwise provided under paragraph (c) of this section, the State shall use the techniques for allocating emissions to sub-county areas specified in "Guidelines for Air Quality Maintenance Planning and Analysis, Volume 13, Allocating Projected Emissions to Sub-County Areas," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. (OAQPS No. 1.2–032); any subsequent revision or supersedure of this document shall take precedence over the existing document. The AQMA analysis shall indicate the order of analysis performed. An allocation of emissions shall be presented:

(1) For at least the fifth and tenth years following the date of the Administrator's identification of the AQMA and for the end of the applicable analysis period, if the AQMA analysis is used to determine the effect of growth and development on air quality under § 51.12 (g) (1) of this part;

(2) For the last year of the period for which the AQMA plan is designed to maintain the national standards and for any other preceding years the Administrator specifies, if the AQMA analysis is used to evaluate the effect of a control strategy in an AQMA plan submitted under § 51.12(g) (2) of this part.

(b) Completed Table 4.2, "Master Grid Emissions," contained in the document cited in paragraph (a) of this section and a map indicating the master grid shall be submitted with the AQMA analysis except as otherwise provided under paragraph (c) of this section; Table 4.2 shall present emission allocations for the years indicated in paragraph (a) of this section.

(c) A State may allocate projected emissions using techniques other than those specified in paragraph (a) of this section; where a State uses such alternative techniques, the following requirements shall be met:

(1) Prior to using alternative techniques, the State shall obtain approval to use these techniques from the Administrator pursuant to the procedures set forth in § 51.51 of this part.

(2) The alternative techniques shall be comparable in scope and level of detail of results to the techniques specified in paragraph (a) of this section.

(3) The AQMA analysis shall contain:

(i) An identification, complete description, and justification for the use of the techniques;

(ii) A summarization of the calculations used in allocating projected emissions;

(iii) A summarization of the emissions allocated to each subcounty area for the years specified in paragraph (a) of this section.

(4) The State shall retain all detailed calculations for inspection by the Administrator and submit them to the Administrator at his request.

§ 51.44 Air quality maintenance area analysis: Projection of air quality concentrations.

(a) (1) For each AQMA and for each pollutant for which the AQMA is identified, the AQMA analysis shall contain projections of air quality concentrations resulting from the emissions projected under § 51.42 of this part. Except as otherwise provided under paragraph (b) of this part, the State shall use the techniques for relating emissions to air quality concentrations specified in "Guidelines for Air Quality Maintenance Planning and Analysis, Volume 12, Ap-

plying Atmospheric Simulation Models to Air Quality Maintenance Areas," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. (OAQPS No. 1.2-031); any subsequent revision or supersedure of this document shall take precedence over the existing document.

(2) For projection of air quality concentrations of particulate matter and sulfur dioxide, the Air Quality Display Model (AQDM) or an equivalent model shall be used where appropriate; where the State determines that these models are inappropriate, the State shall obtain concurrence on that determination from the Administrator.

(3) To determine short-term (24- and 3-hour) air quality concentrations for particulate matter and sulfur dioxide, the model used, if not a proportional model, shall provide for consideration of the short-term localized air quality impact of individual large point sources.

(4) A projection of air quality concentrations shall be presented:

(i) For at least the fifth and tenth years following the date of the Administrator's identification of the AQMA and for the end of the applicable analysis period, if the AQMA analysis is used to determine the effect of growth and development on air quality under § 51.12(g)(1) of this part;

(ii) For the last year of the period for which the AQMA plan is designed to maintain the national standards and for any other preceding years the Administrator specifies, if the AQMA analysis is used to evaluate the effect of a control strategy in an AQMA plan submitted under § 51.12(g)(2) of this part.

(b) A State may project air quality concentrations using techniques other than those specified in paragraph (a) of this section; where a State uses alternative techniques, the following requirements shall be met:

(1) Prior to using alternative techniques, the State shall obtain approval to use such techniques from the Administrator pursuant to the procedures set forth in § 51.51 of this part.

(2) The alternative techniques shall be comparable in scope and level of detail of results to the techniques specified in paragraph (a) of this section.

(3) The AQMA analysis shall contain an identification, complete description, and justification for the use of the techniques.

(4) The State shall retain all detailed calculations for inspection by the Administrator and submit them to the Administrator at his request.

(c) Air quality levels for the years specified in paragraph (a)(4) of this section shall be presented either in tabular form or as an isopleth map showing maximum pollutant concentrations and concentration gradients. Computer printouts of the input and output data associated with the use of an atmospheric simulation model shall be retained and made available for inspection by the Administrator.

§ 51.45 Air quality maintenance area plan: General.

(a) The AQMA plan shall:

(1) Provide for the maintenance of national standards for the pollutants for which the AQMA was identified for a period to be specified by the Administrator;

(2) Demonstrate that the measures contained in the AQMA plan are adequate to ensure that the national standards will be maintained for that period. In providing such a demonstration, the State shall follow the requirements of §§ 51.41 to 51.44, inclusive, of this part pertaining to the AQMA analysis.

(b) The State shall revise the AQMA plan on a schedule that the Administrator will establish to provide for continued maintenance of the national standards. The Administrator shall require a review of the AQMA plan at least every 5 years. The analysis associated with such review shall account for at least the following 10 years as provided under § 51.46 of this part.

(c) The AQMA plan shall be submitted in the general format indicated in Appendix S to this part.

(d) The air quality and emission baselines and the air quality and emission projection methods used in calculating the limitation of emissions obtained through the application of the maintenance measures shall be the same as those used in performing the AQMA analysis.

(e) The AQMA plan shall provide a detailed description of each revision to the existing State implementation plan that the AQMA plan effects, together with a list of any documents or portions of the plan that are being revised.

(f) Upon request of a State, the Administrator will provide preliminary review of the draft AQMA plan submitted in advance of the date the plan is due. Such requests shall be made as provided in § 51.5(c) of this part and shall not operate to relieve a State of its responsibility for adopting and submitting the AQMA plan in accordance with prescribed due dates.

(g) The State shall retain all detailed data and calculations and shall submit such to the Administrator at his request. Such data and calculations shall not be considered part of the applicable plan.

§ 51.46 Air quality maintenance area plan: Strategies.

(a) The AQMA plan shall contain the following:

(1) Measures as necessary to provide for the maintenance of the national standards for the pollutants for which the AQMA was identified, once such standards are attained. The Administrator will specify the period over which the AQMA plan shall maintain the national standards.

(2) Duly adopted enforceable rules and regulations that implement the measures that provide for maintenance of the national standards for a period to be specified by the Administrator.

(3) A description of each measure that is incorporated into the AQMA plan.

(4) A summary of the computations, assumptions, and judgments used to determine the reduction of emissions or reduction of the growth in emissions that will result from the application of the AQMA plan.

(5) A summary of emission levels expected to result from application of each measure of the control strategy. Where the quantification of the reduction in either emissions or growth in emissions resulting from a measure cannot be done with a substantial degree of precision, that measure may be combined with other similar measures and an aggregate effect estimated. The summary of emission levels expected to result from application of the control strategy shall be included as specified under § 51.42(b) of this part.

(6) A presentation of the air quality levels expected to result from application of the overall control strategy presented either in tabular form or as an isopleth map showing maximum pollutant concentrations and expected concentration gradients. The plan must provide these results for the last year of the period for which the AQMA plan is designed to maintain the national standards and for any other preceding years the Administrator specifies.

(7) A description of administrative procedures to be used in implementing each selected maintenance measure.

(8) A description of enforcement methods including, but not limited to, procedures for monitoring compliance with each of the selected maintenance measures, procedures for handling violations, and designation of enforcement responsibilities.

(9) Identification and responsibilities of the State and sub-state agencies designated under § 51.50(e) of this part to implement the AQMA plan in each AQMA.

(b)(1) The AQMA plan shall contain a discussion of the air quality maintenance problem in the AQMA for the period from the year to which the AQMA plan provides for maintenance of the national standards to the end of the longest period covered by any federally-sponsored plan that may have an air quality impact if:

(i) Any of the following federally-sponsored plans in the AQMA cover a period that extends beyond the 10-year period following the date on which the Administrator identified the AQMA:

(*a*) Transportation plans developed under the Federal Aid Highway Act of 1962;

(*b*) Comprehensive plans developed under section 701 of the Housing and Urban Development Act of 1965;

(*c*) Areawide waste water treatment plans developed under section 208 of the Federal Water Pollution Control Act of 1972;

(*d*) Any other federally-sponsored plan that may have an air quality impact; and

(ii) The AQMA plan does not provide for maintenance of the national standards for the period covered by such a federally-sponsored plan.

(2) The AQMA plan shall contain a discussion of the air quality maintenance problem in the AQMA for the period from the year to which the AQMA plan provides for maintenance of the national standards to the end of the 10-year period following the date on which the Administrator identified the AQMA if:

(i) No federally-sponsored plan specified under subparagraph (1)(i) of this paragraph in the AQMA covers a period that extends beyond the 10-year period following the date on which the Administrator identified the AQMA, and

(ii) The AQMA plan does not provide for maintenance of the national standards for the 10-year period following the date on which the Administrator identified the AQMA.

(3) The discussion of the air quality maintenance problem required under paragraphs (b) (1) and (2) of this section shall address the following:

(i) The kinds of control strategies that could be applied to solve the maintenance problem for the applicable time period and

(ii) The kinds of actions that would need to be taken to adopt the necessary laws or regulations in a timely manner.

(4) All rules and regulations that are necessary to maintain the national standards in an AQMA must be adopted in sufficient time before compliance is necessary to ensure the maintenance of the national standards. The State shall consult with the Administrator in determining what constitutes "sufficient time". When these rules and regulations are adopted, the State shall submit them as portions of the plan.

§ 51.47 Air quality maintenance area plan: Legal authority.

(a) The AQMA plan shall demonstrate that the State has adequate legal authority to implement any adopted measures that are submitted in the AQMA plan.

(b) The State is not required to have the legal authority to enforce measures contained in the AQMA plan if the State provides a demonstration that a local government or substate agency has the legal authority to enforce the measures specified in the AQMA plan subject to the provisions of paragraph (a) of this section.

§ 51.48 Air quality maintenance area plan: Surveillance.

(a) *Air quality surveillance*—(1) *Description of the existing monitoring network.* The AQMA plan shall contain a discussion of the adequacy of the existing network that is part of the applicable plan in meeting the air quality monitoring objectives of maintenance of air quality standards.

(2) *Description of proposed monitoring network.* The AQMA plan shall provide for the installation of any necessary additional monitoring sites and contain a description and installation schedule of any new monitoring sites proposed, if:

(i) The AQMA plan identifies monitoring deficiencies in the existing network that is described in the applicable plan, or

(ii) The Administrator determines that additional monitoring sites are needed in the AQMA.

(3) *Reporting of data from new monitors.* On a quarterly basis commencing with the reporting period following establishment of a new air quality monitor in an AQMA described under subparagraph (2) of this paragraph, the State agency shall report to the Administrator information on air quality from the new site. Data shall be reported and submitted in accordance with the procedures specified in § 51.7(a) of this part.

(b) *Source surveillance.* The AQMA plan shall contain a description of the source surveillance procedures, such as those required under § 51.46, paragraph (a)(8) of this part, to be followed under the AQMA plan beyond those contained in the existing applicable State implementation plan.

§ 51.49 Air quality maintenance area plan: Resources.

(a) The AQMA plan shall include:

(1) A description of the resources available to the State and local agencies and other offices and agencies that are involved and will participate in the implementation of the AQMA plan at the date of submission of the AQMA plan;

(2) A description of any additional resources needed to carry out the plan for the applicable period;

(3) A description of any revisions to the resources indicated in the applicable plan under § 51.20 of this part to account for the implementation of the AQMA plan; and

(4) Written assurances from the Governor or local government chief executive or both that they will actively seek additional resources needed to implement the AQMA plan, if any.

(b) Descriptions under paragraphs (a) (1) and (2) of this section for each AQMA shall be provided in a form similar to that in appendix T to this part and shall include projections of the extent to which resources will be acquired at the end of at least the first and last years of the period for which the AQMA plan is designed to maintain standards, and at any other time the Administrator specifies. Upon application by the State pursuant to the procedures set forth in § 51.51 of this part, the Administrator shall have the authority to modify the required form for submission of the descriptions required under this paragraph.

§ 51.50 Air quality maintenance area plan: Intergovernmental cooperation and coordination.

(a) The agency responsible for implementing national standards in any portion of an interstate AQMA shall furnish any available data on emissions, air quality, control strategy development, growth projections, and AQMA plan development upon request to any other State or local agency having such responsibility in any other portion of such interstate AQMA. Such data need not include data concerning specific source operating parameters and processes certified by the State to be confidential. Confidential data shall not be construed to include data on actual emissions to the atmosphere.

(b) The agency responsible for implementing national standards in any AQMA or portion of an AQMA shall consider which governmental institutions, such as those listed in appendix U to this part, should participate in the development and implementation of the AQMA plan and seek such participation wherever appropriate. Copies of written comments from governmental agencies on the AQMA plan shall be retained by the State for inspection by the Administrator and the public.

(c)(1) Where the lead responsibility for the development of an AQMA plan is assigned to the State air pollution control agency, and if that agency does not also have continuing responsibilities for the management of land use and transportation facilities, it shall consult with the appropriate agencies established to administer planning under section 701 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3101), the appropriate urban transportation planning agencies established under the Federal Aid Highway Act of 1962 (23 U.S.C. 134) and the Urban Mass Transportation Act of 1964 (49 U.S.C. 1602), the appropriate agencies designated under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) and cognizant clearinghouses established under Office of Management and Budget Circular A-95, published in the FEDERAL REGISTER of November 28, 1973 (38 FR 32874), in the development of the AQMA plan.

(2) Where the lead responsibility for the development of an AQMA plan is assigned to a State-level agency that is not the air pollution control agency, that lead agency shall consult with the State air pollution control agency and appropriate local air pollution control agencies, the appropriate agencies established to administer planning under section 701 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3101), the appropriate urban transportation planning agencies established under the Federal Aid Highway Act of 1962 (23 U.S.C. 134) and the Urban Mass Transportation Act of 1964 (49 U.S.C. 1602), the appropriate agencies designated under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) and cognizant clearinghouses established under Office of Management and Budget Circular A-95, published in the FEDERAL REGISTER of November 28, 1973 (38 FR 32874), in the development of the AQMA plan.

(3) The AQMA plan shall be developed in consultation with the agencies responsible for comprehensive local and areawide planning including, as a minimum, those responsible for areawide waste treatment management planning under Section 208 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1151), transportation planning under the Federal Aid

Highway Act of 1962 (23 U.S.C. 134) and the Urban Mass Transportation Act of 1964 (49 U.S.C. 1602), planning for coastal areas under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq), and comprehensive planning under section 701 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3101).

(d) Where the State chooses to delegate authority for the development of all or a portion of an AQMA plan to one or more substate agencies, any agency delegated such authority shall:

(1) Have authority on its own or on behalf of local governments of general jurisdiction in the AQMA, to develop a plan covering the entire geographical area of its portion of the AQMA.

(2) Consult with the appropriate State and local air pollution control agencies in the development of the plan if the substate agency is not an air pollution control agency.

(3) Consult with the agencies established to administer planning under section 701 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3101), the urban transportation planning agencies established under the Federal Aid Highway Act of 1962 (23 U.S.C. 134) and the Urban Mass Transportation Act of 1964 (49 U.S.C. 1602), the appropriate agencies designated under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) and cognizant clearinghouses established under Office of Management and Budget's Circular A-95, published in the FEDERAL REGISTER of November 28, 1973 (38 FR 32874), in the Development of the plan if the substate agency does not have continuing responsibility for the management of land use and transportation facilities.

(4) Give assurances that there will be adequate provision for participation of the public in the development of the plan.

(5) Agree that the State retains the ultimate responsibility for assuring compliance with the plan, except as otherwise provided under § 51.47(b) of this part pertaining to local governmental responsibility.

(e) The AQMA plan shall contain:

(1) An identification of the agency designated by the governor as primarily responsible for the implementation of the AQMA plan.

(2) An identification of other State agencies and substate agencies that have responsibilities in the implementation of the AQMA plan, a definition of their responsibilities, and assurances from each such agency that it will implement its responsibilities indicated in the plan.

(3) A description of the relationships between air quality management and State, regional, and local programs for:

(i) Land use management,

(ii) Transportation and parking management,

(iii) Water quality and solid waste management,

(iv) Other processes substantially affecting or affected by air quality management.

(4) A description of the existing and proposed relationships for coordinating the implementation of the AQMA plan, including further AQMA plan development, with the development and implementation of comparable plans in any adjoining AQMA in the State or adjoining State.

(f) Each AQMA plan shall provide assurances that the State agency having primary responsibility for implementing national standards in any AQMA or portion thereof will promptly transmit to other State and local agencies having similar or related responsibility in the same or other States and any other State agency that participated in the development and implementation of the AQMA plan information on factors (e.g., construction of new stationary or indirect sources) which may substantially affect air quality in any portion of any adjoining region.

(g) The AQMA plan shall not conflict with the applicable requirements of the Federal Water Pollution Control Act Amendments of 1972 (33 USC 1151), or any subsequent amendments thereto.

(h)(1) Prior to submission to EPA, the State shall submit the AQMA plan for review and comment for a period of thirty days to the cognizant clearinghouses as established under Office of Management and Budget Circular A-95, published in the FEDERAL REGISTER of November 28, 1973 (38 FR 32874). Comments received from the clearinghouses within that 30-day period shall be considered before the AQMA plan is submitted to EPA. Copies of these comments shall be retained by the State for inspection by the Administrator and the public.

(2) The State shall submit any substantial regulatory revisions to the AQMA plan for review and comment to the cognizant A-95 clearinghouse in a manner similar to that under paragraph (h)(1) of this section.

§ 51.51 Modification of certain requirements.

(a) Whenever a State applies for a modification to the requirements of this part as permitted by §§ 51.12(g)(1)(i), 51.41(j), 51.42(c)(1), 51.43(c)(1), 51.44(b)(1), and 51.49(b) of this part, the following requirements shall apply:

(1) The State shall apply for the modification in writing to the Administrator; the application shall include a statement of reasons why a modification would be appropriate.

(2) Modifications shall be considered on a separate AQMA-by-AQMA basis.

(3) The Administrator may grant a modification if he determines in his judgment that such a modification would be appropriate in the circumstances of the particular case presented, considering such factors as the air quality problems, financial and manpower limitations, administrative feasibility, and existing commitments by the State.

(4) The Administrator shall act upon a request for modification within 45 days after receipt of a properly prepared and filed request.

(5) The Administrator shall publish his determination on and a description of each modification request in the FEDERAL REGISTER.

(6) The State shall not propose its AQMA analysis or AQMA plan (as the case may be) for public hearing within the State until the Administrator has acted upon the State's application pursuant to paragraph (a)(5) of this section.

(7) When the State provides notice of its public hearing(s) pursuant to the requirements of section 51.4(b) of this part, the State shall recite in its notice the extent to which the Administrator has modified the requirements of this part.

(b) Whenever the Administrator proposes his own AQMA plan provisions, he may also modify, on an AQMA-by-AQMA basis, the requirements of this part as permitted by §§ 51.12(g)(1)(i), 51.41(j), 51.42(c)(1), 51.43(c)(1), 51.44(b)(1), and 51.49(b) of this part. For each such modification, the Administrator will, when he publishes notice of his proposed AQMA plan provision in the FEDERAL REGISTER recite in such notice the extent to which he has modified the requirements of this part.

8. Appendices S, T, and U are added as follows:

APPENDIX S—AQMA PLAN FORMAT

The AQMA plan shall be submitted in the following format:

1. *Introduction.*

1.1 *Designation of AQMA.* The geographical definition of the AQMA and the pollutants for which designated.

1.2 *Summary of the AQMA plan.*

1.1.1 Reason why plan is necessary.

1.1.2 Results of the AQMA analysis.

1.1.3 List of control measures employed.

1.1.4 Legal authority needs.

1.1.5 Brief description of air quality and source surveillance needs.

1.1.6 Resource needs.

1.1.7 Brief description of intergovernmental coordination aspects.

2. *AQMA analysis.* Demonstrations and information that may be required under §§ 51.41, 51.42, 51.43 and 51.44 of this part.

3. *AQMA control strategies.* Demonstrations and information required under §§ 51.45 and 51.46 of this part.

4. *Legal authority.* Demonstrations and information required under § 51.47 of this part.

5. *Surveillance.* Information required under § 51.48 of this part.

6. *Resources.* Information required under § 51.49 of this part.

7. *Intergovernmental cooperation and coordination.* Information required under § 51.50 of this part.

8. *Miscellaneous.* Certification that public hearings were held pursuant to § 51.4 of this part.

APPENDIX T.—*Agency functions for air quality maintenance area plans—Funds estimates by function for the ..... AQMA in the State of ..... for the year .....*

Agencies [1]—Control measures	State air pollution control agencies	Local air pollution control agencies	Implementation plan review agencies (A-95, 3-C)	Planning Agencies	Transportation agencies	Other (water control, public works, etc.)
Measure a						
Measure b						
Measure m						
Total funds						

[1] Specific agencies should be identified in a narrative attachment.

NOTE.—Report funds as $1,000.

APPENDIX T—*Agency functions for air quality maintenance area plans. Man-year estimates by function for the ..... AQMA in the State of ..... for the year .....*

Agencies [1]—Control measures	State air pollution control agencies	Local air pollution control agencies	Implementation plan review agencies (A-95, 3-C)	Planning agencies	Transportation agencies	Other (water control, public works, etc.)
Measure a						
Measure b						
Measure m						
Total						

[1] Specific agencies should be identified in a narrative attachment.

APPENDIX U—GENERAL LIST OF INSTITUTIONS AND OFFICES OF STATE, REGIONAL, AND LOCAL GOVERNMENT WHICH SHOULD BE CONSIDERED FOR PARTICIPATION IN AQMA PLAN DEVELOPMENT AND IMPLEMENTATION

STATE

Governor's Office
State Office of Planning
Environmental Agency
Water Quality Board
Department of Health
State Recreation Department
Regional Office of Air Quality (part of State Environmental Agency or Department of Health)
Department of Transportation
Highway Administration
Department of Urban Development and Housing
Office of Intergovernmental Relations
Office of Economic Development

REGIONAL

Air Quality Control Agency
Regional Planning Council
Council of Governments
Land-Use Planning Department
Environmental Quality Agency
Transportation Planning Department
Economic Development Planning Department
Recreation and Open Space Planning Department
Citizens and Agency Air Quality Review or Advisory Committee (Task Force)
Water Quality Control Boards
Area-Wide Waste Water Treatment Planning Agencies (established under section 208 of the Federal Water Pollution Control Act Amendments of 1972)

LOCAL

Air Quality Control Agency
Chief Executive of the City and County Local Board or Committee charged with responsibility for activities in the conduct of the urban transportation planning process (3-C process)
Municipal (City, County, Township) elected officials
Municipal Planners (community, transportation, environmental, parks, and recreation)
Local Departments (health, water and sewer solid waste disposal)
Local Development Offices
Local Zoning Administrators

[FR Doc.75-27901 Filed 10-17-75;8:45 am]

federal register

MONDAY, OCTOBER 20, 1975



PART IV:

FEDERAL ELECTION COMMISSION

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ADVISORY OPINION REQUESTS

FEDERAL ELECTION COMMISSION

[Notice 1975-63, AOR 1975-60 and 1975-79—1975-81]

ADVISORY OPINION REQUESTS

In accordance with the procedures set forth in the Commission's Notice 1975-4, published on June 24, 1975 (40 FR 26660), Advisory Opinion Requests 1975-60 and 1975-79 through 1975-81 are published today.

Interested persons wishing to comment on the subject matter of any Advisory Opinion Request may submit written views with respect to such requests within 10 calendar days of the date of the publication of the request in the FEDERAL REGISTER. Such submission should be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Section, 1325 K Street, NW., Washington, D.C. 20463. Persons requiring additional time in which to respond to any Advisory Opinion Request will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered by the Commission before it issues an advisory opinion. The Commission recommends that comments on pending Advisory Opinion Requests refer to the specific AOR number of the Request commented upon, and that statutory references be to the United States Code citations, rather than to the Public Law Citations.

AOR 1975-60: LABOR UNION SPONSORSHIP OF FUNDRAISING RAFFLE FOR FEDERAL CANDIDATE (REQUEST EDITED BY THE COMMISSION)

Note: The following supplements the original request AOR 1975-60 published on September 18, 1975, at 40 FR 43166.

DEAR CHAIRMAN CURTIS: This is to submit additional questions relating to a fundraising raffle contemplated by supporters of U.S. Congressman Toby Moffett, Sixth District, Connecticut. * * *

* * * * *

1. If a raffle ticket purchaser chooses to pay by check, must the check be written to the sponsoring organization, which is likely to be a union or Democratic Town Committee, or to the benefiting organization, Citizens for Moffett, or may it be written to either?

2. If the net total of funds raised exceeds the total debt of Citizens for Moffett, can Citizens for Moffett retain the surplus; if it cannot, should the surplus funds be retained by the sponsoring organization, returned to ticket purchasers, or disbursed in some other fashion?

SALVATORE GIONFRIDDO,
Chairman,
Citizens for Moffett.

Source: Salvatore Gionfriddo, Chairman, Citizens for Moffett, 110 Jones Drive, New Britain, Connecticut (September 10, 1975).

AOR 1975-79: ESTABLISHMENT OF POLITICAL COMMITTEE BY CORPORATION UNDER 18 U.S.C. § 610 AND § 611. (REQUEST EDITED BY THE COMMISSION)

DEAR COMMISSIONERS: This is a request for an advisory opinion made on behalf of the USS Employees Good Government Fund (the "Fund") pursuant to Section 437f of Title 2 of the United States Code. The Fund has been established by United States Steel Corporation (the "Corporation") pursuant to Sections 610 and 611 of Title 18 of the United States Code. The details of the organization and proposed operation of the Fund are as follows:

The Fund is unincorporated and neither the contributors to it nor any other individuals will have any membership status or property rights in regard to the Fund. The offices of the Fund include those of Chairman, Vice Chairman, Treasurer, and Assistant Treasurer, and it also has a Selection Committee comprised of the Chairman, the Treasurer and such other individuals as the Chairman may from time to time designate. * * *

It is expected that the Fund will solicit contributions initially from only salaried employees of the Corporation and of certain of its domestically-incorporated, wholly-owned subsidiaries, who are exempt from the provisions of the Fair Labor Standards Act. Unsolicited contributions may be accepted from other employees, including retired employees and employees represented by unions, of the Corporation and such subsidiaries, and from stockholders of the Corporation. Such other employees, retired employees and stockholders may, at some future date, be solicited to contribute to the Fund. It is anticipated that initially solicitation of contributions to the Fund will be made by means of material mailed to the employees' home addresses. * * * Subsequent solicitation may be made at group meetings by individuals who have no supervisory power over those employees present. You will note that the proposed solicitation material enclosed bears a legend prohibiting foreign nationals or individuals entitled to, or receiving relief from contributing. Contributions will be solicited on a voluntary basis only and moneys will not be secured by physical force, job discrimination, or financial reprisals, or the threat thereof, or required as a condition of employment, or obtained in any commercial transaction. Contributions will be permitted by means of check or payroll deduction only.

Contributions to the Fund will be maintained in a bank account separate from the accounts of the Corporation. The account may bear interest. Only the Chairman and Treasurer of the Fund and their duly designated agents will be able to draw on the account.

Contributors to the Fund will be able, if they so desire, to require the disbursement of their contributions to candidates and political committees affiliated with a political party designated by them. While specific candidates and committees will receive distributions from the Fund, the amount of each distribution and when distributions will be made, will be determined by the Selection Committee, within the party designations (if any) made by the contributors and the limits imposed on the size of contributions by applicable law. In selecting candidates and committees to receive distributions the Selection Committee will be guided by the principle that the general business interests of the Corporation are served by fostering a political and economic environment conducive to the preservation of a competitive fee enterprise system. The Fund will be used to support, primarily, candidates for Federal offices, and committees supporting such candidates, but will also support candidates for state and local offices, if permitted by applicable state and local laws.

The Fund has been registered with the Commission as a political committee and will maintain the records and file the reports required under Federal law and applicable regulations.

I would appreciate your opinion as to whether the organization and proposed operation of the Fund, including its procedures and proposed methods of solicitation, as detailed above, would comply with the provisions of the Federal Election Campaign Act Amendments of 1974, and with Sections 608, 610, 611 and 613 to 617 of Title 18 of the United States Code. You may assume that the Corporation is at all times party to a contract with the United States.

* * * * *

M. G. HEATWOLE,
General Counsel.

Source: M. G. Heatwole, General Counsel, U.S. Steel Corporation, 600 Grant Street, Pittsburgh, Pennsylvania 15230 (September 23, 1975).

AOR 1975-80: Cost of Hosting Voluntary Advisory Committee Luncheon in a Member's District (Request Edited by the Commission)

GENTLEMEN: An advisory opinion is requested in regard to the question of reportability in the following-described circumstances:

In the ordinary course of his official duties, a Representative in Congress organizes a voluntary advisory committee, consisting of representatives of major elements of the economy of the Congressional district he represents.

The purpose of the advisory group is to meet with the Representative on an irregular basis to provide current information on the state of the economy of the Congressional district, and to offer comments on the possible effects of pending legislation, or administrative actions of federal agencies, on that economy.

The meetings of the advisory group are shifted from place to place in the geographically large Congressional district, in order that travel inconvenience not be of a constant degree for each member.

The informal conferences include a "Dutch treat" luncheon, and a member of the committee residing in the community in which a particular meeting is to be held makes the arrangements, with each individual attending paying the pro-rated cost of the luncheon.

On occasion, a member of the committee has offered to host the luncheon and pay the total cost. If such an offer were accepted, would the cost of the luncheon be reportable as a contribution to the representative in Congress—the representative in Congress not being a declared candidate for re-election at the time—or would the cost of the luncheon be regarded as a consolidation of contributions of individual luncheons to the members of the group attending?

J. KENNETH ROBINSON,
Member of Congress.

Source: Honorable J. Kenneth Robinson, House of Representatives, 418 Cannon House Office Building, Washington, D.C. 20515 (September 16, 1975).

AOR 1975-81: STATUS AND REPORTING REQUIREMENTS OF FREEDOM OF CHOICE, INC. (REQUEST EDITED AND PARAPHRASED BY THE COMMISSION; CONDENSATION OF TWO LETTERS)

DEAR CHAIRMAN CURTIS: This letter will serve to provide the Federal Election Commission with formal notification concerning the establishment of a new organization, to be known as Freedom of Choice, a nonprofit corporation chartered under the laws of the Commonwealth of Virginia [Freedom of Choice, Inc., has registered as a political committee with the Commission].

The officers of Freedom of Choice, Inc. are: Chairman—William A. Rusher, 150 East 35th Street, New York, New York 10016; Treas-

urer—Howard Phillips, 9520 Bent Creek Lane, Vienna, Virginia 22180.

Freedom of Choice, Inc., is not now committed to support any candidate for either President of the United States, Vice President of the United States, Senator in Congress, or Representative in Congress.

Its entire purpose is to assure that, in the 1976 Presidential election at least, the American voter will, in each state, have the option of supporting an independent conservative alternative slate of electors for the offices of President and Vice President.

To this end, the officers of Freedom of Choice will raise and expend funds in support of a small staff, based in the Washington, D.C. area, which shall undertake to obtain information concerning legal requirements, and to secure the views of knowledgeable individuals in each state, on the combined basis of which, members of the staff will recommend to the officers particular alternative courses of action which may be pursued in each state to assure the presence of an independent conservative choice on the November 1976 ballot.

In some cases, the officers may decide to cooperate with the officials of an already established political party which has ballot position in a given state—for example, the Conservative Party of New York, the American Party of Massachusetts, or the American Independent Party of California.

In other states, Freedom of Choice may wish to participate in the choice of electors of either the Republican or Democratic Party.

The situation in certain states may, on the other hand, require the constitution of a new political instrument, whether a new party, or a petition drive for independent electors, perhaps pledged to particular candidates, perhaps not.

Freedom of Choice will not directly commit resources to the implementation of preferred strategies. It will simply decide on such strategies. The cost and responsibility of implementation will repose with committees to be formed for such purposes in each state where the initiation of independent action seems necessary.

* * * * *

Specifically, our request for an advisory opinion is twofold:

1. Is Freedom of Choice, Inc. a "political committee" such that it must meet the requirements of Public Law 93-443?

2. If the answer to inquiry 1 is affirmative, what must Freedom of Choice, Inc. do to comply with Public Law 93-443? What reports must it file and what restrictions, if any, would be placed on its activities?

* * * * *

HUGH C. CREGGER, Jr.

Source: Hugh C. Cregger, Jr., Counsel, Freedom of Choice, Inc., P.O. Box 667 Court House Station, Arlington, Virginia 22216 (September 18, 1975).

Dated: October 15, 1975.

NEIL STAEBLER,
Vice Chairman of the Federal Election Commission.

[FR Doc.75-28131 Filed 10-17-75;8:45 am]

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