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# federal register

THURSDAY, DECEMBER 11, 1975


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

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federal register

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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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# rules and regulations



## Title 7—Agriculture

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

### PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

#### Expenses and Rate of Assessment

This document authorizes expenses of $24,500 for the Indian River Grapefruit Committee, under Marketing Order 912, for the 1975–76 fiscal period and fixes a rate of assessment of two mills ($0.002) per box of grapefruit handled in such period to be paid to the committee by each handler as his pro rata share of such expenses.

On November 19, 1975, notice of rulemaking was published in the FEDERAL REGISTER (40 FR 53603) inviting written comments not later than December 5, 1975, regarding proposed expenses and the related rate of assessment for the period August 1, 1975, through July 31, 1976, pursuant to the marketing agreement, as amended, and order No. 912, as amended (7 CFR Part 912) regulating the handling of grapefruit grown in the Indian River District in Florida. None were received. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Indian River Grapefruit Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 912.215 **Expenses and rate of assessment.**

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Indian River Grapefruit Committee during the period August 1, 1975, through July 31, 1976, will amount to $24,500.

(b) *Rate of assessment.* The rate of assessment for said period payable by each handler in accordance with § 912.41, is fixed at $0.002 per standard packed box of grapefruit.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of grapefruit are now being made, (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the aforesaid period, and (3) such period began on August 1, 1975, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

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

Dated: December 8, 1975.

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

[FR Doc.75-33410 Filed 12-10-75;8:45 am]

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[Tangerine Regulation 47, Amendment 5]

### PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

#### Amendment of Size Regulation

Effective December 8, 1975, this amendment lowers the minimum diameter requirement applicable to fresh shipments of Florida tangerines from 2 2/16 inches (size 176) to 2 1/16 inches (size 210). The specification of such lower minimum size for Florida tangerines is necessary to satisfy the current and prospective demand for such fruit. The amended regulation recognizes the size composition and related quality factors of much of the Florida tangerines currently available for fresh shipment.

*Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the regulation of tangerine shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The amendment reflects the Department's appraisal of the current and prospective market demand conditions for Florida tangerines. This amendment relaxes current minimum size requirements applicable to fresh shipments of tangerines. The action is consistent with the size distribution and available supply of tangerines in the production area and recognizes that smaller fruit has generally attained higher levels of maturity. The amendment is designed to ensure an ample supply of fruit to consumers. For the season through November 30, 1975, fresh shipments of Florida tangerines totaled 1,793 carlots, and there were an estimated 2,707 carlots remaining for fresh shipment. This amendment is consistent with the objective of the act of promoting orderly marketing and protecting the interest of consumers.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of tangerines grown in Florida.

*Order.* In § 905.561 (Tangerine Regulation 47; 40 FR 42318, 49785, 51619, 54420, 54767) the provisions of paragraph (a)(2) are revised to read as follows:

§ 905.561 **Tangerine Regulation 47.**

(a) * * *

(2) Any tangerines, grown in the production area, which are of a size smaller than 2 1/16 inches in diameter, except that a tolerance for tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the United States Standards for Florida Tangerines.

* * * * *

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

Dated, December 8, 1975, to become effective December 8, 1975.

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

[FR Doc.75-33411 Filed 12-10-75;8:45 am]

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[Navel Orange Regulation 357]

### PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### Limitation of Handling

This regulation fixes the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period Dec. 12–18, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Or-

der No. 907. The quantity of Navel oranges so fixed was arrived at after consideration of the total available supply of Navel oranges, the quantity currently available for market, the fresh market demand for Navel oranges, Navel orange prices, and the relationship of season average returns to the parity price for Navel oranges.

§ 907.657 Navel Orange Regulation 357.

(a) *Findings.* (1) Pursuant to the marketing agreement and order, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Navel oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Navel orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Navel oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Navel oranges is firm. Prices f.o.b. averaged $4.44 a carton on a reported sales volume of 996 carlots last week, compared with an average f.o.b. price of $4.65 per carton and sales of 693 carlots a week earlier. Track and rolling supplies at 416 cars were up 104 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Navel oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 9, 1975.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 12, 1975, through December 18, 1975, are hereby fixed as follows:

(i) District 1: 1,472,000 cartons;

(ii) District 2: Unlimited movement;

(iii) District 3: 78,000 cartons."

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: December 10, 1975.

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

[FR Doc.75-33053 Filed 12-10-75;11:48 am]

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## CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER E—ACCOUNT SERVICING

[FmHA Instruction 451.6]

## PART 1865—ANALYZING CREDIT NEEDS AND GRADUATION OF BORROWERS

### Revision

Section 1865.3(c) of Part 1865, Title 7, Code of Federal Regulations (36 FR 17840) is revised. The purpose of this revision is to provide a new method for use by the Finance Office in preparing lists of active borrowers in determining their potential for obtaining credit from other sources based on date of the initial loan. It is unnecessary to publish notice of proposed rulemaking in the FEDERAL REGISTER because the change being made by this revision is merely restructuring the manner in which the Finance Office listings are made and borrower accounts are reviewed each year, thus eliminating unneeded retention of County Office records on previously reviewed borrower accounts.

As revised, § 1865.3(c) reads as follows:

§ 1865.3 Graduation of FmHA Borrowers to other sources of credit.

* * * * *

(c) *Review of borrower's status of progress.* Each October 1, the Finance Office will furnish county offices with lists of active borrowers who have been indebted for at least 2 years on Emergency loans, 4 years on Operating loans, and 6 years on Real Estate loans. These listings will be prepared on the basis of the date of the initial loan, i.e., during odd years the listings will include the names of all borrowers who received their loans during odd-numbered calendar years and are currently eligible for review. The same procedure will apply for those borrowers who received their loans during even-numbered calendar years. Their names will be on the listings provided during even-numbered calendar years. Between October 1 and March 1 of each year the County Committee with the assistance of the county supervisor, will make a biannual (every 2 years) graduation review of the status of appropriate borrowers as listed by the Finance Office. However, if the county supervisor or a county committeeman has knowledge of any other borrower(s) whose circumstances have changed sufficiently to enable him to possibly obtain suitable credit elsewhere, he will be included in the graduation review. A determination of the potential for obtaining credit from other sources will be made after considering the factors outlined in paragraph (b) of this Section. If reliable information on the borrower's income or equity and assets is not otherwise available, the county supervisor will obtain from the borrower an up-to-date financial statement and statement of income. Both will be verified. Financial information from farmer program borrowers will be obtained from guidelines developed for this purpose available in any FmHA office. Upon completion of the review Form FmHA 451-24, "Results of Borrower Graduation Review by County Committee and County Supervisor," will be prepared by the county supervisor, listing only those active borrowers who will be requested to refinance. The county supervisor will document on Form FmHA 451-24 the basis for requesting each borrower to refinance. The County Committee will execute the last page of that form in accordance with appropriate instructions.

*Effective date.* This revision shall become effective on December 11, 1975.

It is hereby certified that the economic and inflationary effects of the proposal have been carefully evaluated in accordance with effective Executive Order No. 11821.

Dated: November 20, 1975.

FRANK W. NAYLOR, Jr.,
*Acting Administrator, Farmers Home Administration.*

[FR Doc.75-33401 Filed 12-10-75;8:45 am]

SUBCHAPTER N—OTHER LOAN PROGRAMS

## PART 1980—GUARANTEED LOAN PROGRAMS

### Subpart E—Business and Industrial Loan Program Adoption and Establishment of New Subchapter

There is hereby established under Chapter XVIII, Title 7, a New Subchapter N—"Other Loan Programs," Part 1980, Guaranteed Loan Programs," Subparts A through E, in the Code of Federal Regulations. Subpart E, "Business and Industrial Loan Programs," (§§ 1980.401–1980.500) of this New Part is transferred and redesignated from Part 1842 of the Chapter XVIII.

On August 15, 1975, there was published a notice of proposed rulemaking in the FEDERAL REGISTER (40 FR 34368) proposing to revise Part 1842, Chapter XVIII, Title 7, Code of Federal Regulations (39 FR 34263; 39 FR 36852; 40 FR 21700; 40 FR 22536; 40 FR 22824; and 40 FR 27476). The revision was to consolidate all provisions pertaining to the Business and Industrial Loan Program into one regulation, Part 1842, and to clarify, expand, and expedite procedures in the Business and Industrial Loan Program. Interested persons were given the opportunity to submit, not later than September 15, 1975, comments, suggestions or objections regarding the proposed regulations. Numerous comments, suggestions and objections have been received and were given due consideration. They have resulted in editorial changes for clarification and in the substantive changes hereinafter mentioned. However, as a result of the transfer and redesignation of this Part 1842 under the New Subchapter N, a redesignation table has been provided.

The changes are as follows:

A. *Revisions and Amendments.* 1. A revision has been made to incorporate administrative provisions for the program. These have been identified as "administrative" and follow the appropriate section of the regulation.

2. A revision has been made to permit a lender to sell any amount of the nonguaranteed portion of the loan through participation.

3. A revision has been made which requires a lender to repurchase the guaranteed portions from a holder. If the lender is unable to repurchase, FmHA will purchase all guaranteed portions.

4. A requirement for a lender to use all reasonable efforts to cure a default has been added.

5. The Regulation has been amended to eliminate several restrictions imposed upon a lender seeking to replace a Contract of Guarantee with a Loan Note Guarantee.

6. The section on guaranteed industrial bond issues has been clarified.

7. The definition for rural area has been revised and clarified.

8. Regulation has been revised to eliminate restrictions on fees and charges by allowing reasonable and customary charges.

9. Regulation has been amended to allow lender to use compensating balances provided they are not used to eliminate lender's exposure on the nonguaranteed portion of loan.

10. A revision has been made to provide for lender to receive his Loan Note Guarantee concurrently with his payment of the guarantee fee.

11. The time limit for FmHA's response to lender's estimated loss payment has been shortened.

12. The amount of time allowed a lender to inform FmHA of the lender's proposed method of liquidation has been lengthened.

13. The section on environmental impact statements has been amended to provide that the lead agency is responsible for EIS if joint financing with other agencies occurs.

14. The Regulation has been revised to provide that lender's repurchase of loan for servicing will not be for arbitrage purposes and will require specific FmHA approval. FmHA may also purchase for servicing (at its option) if Lender is unable to do so.

15. The Regulation has been revised to provide for a preliminary conference by applicant; lender and FmHA for application processing.

16. The requirement for an appraisal of collateral at a "forced liquidation sales value" has been eliminated.

17. Requirements for collateral and personal and corporate guarantees has been revised and clarified.

18. The regulation has been revised to allow either the lender or borrower to pay the guarantee fee.

19. Regulations pertaining to eligibility of financing for housing development sites has been revised.

20. The regulation has been revised to require the lender to repurchase from holder if lender failed to remit to holder its pro rata share of any payment made by borrower within 30 days of its receipt.

21. Liquidation provisions have been clarified and a loss determination formula provided.

22. The requirement for approved lenders to have capital in an amount necessary to cover nonguaranteed portion of the loan has been eliminated.

23. The State Director's authority to approve cost overruns has been revised.

*B. Additions to regulation.* 1. The requirements of an FmHA loan identification number for each loan has been added.

2. A definition of A–95 agency has been included.

3. Objectives for the B&I program have been established and the introduction amended.

4. A section providing for Future Recoveries after a loan has been liquidated has been added.

5. A requirement that the lead lender be a local lender has been added.

6. Guidelines for appraisals of collateral in loan liquidations have been established.

7. A Memorandum of Understanding between FmHA and SBA has been added as Appendix A.

8. A provision allowing State Directors to supplement instruction to the extent necessary to carry out his duties has been included.

9. Provisions forbidding discrimination based upon sex or marital status have been added.

10. A requirement that corporations listed on major stock exchanges furnish 10K Reports to FmHA has been included.

11. Character evaluations on transfer and assumption cases will now be required.

12. When losses are paid to assure that the lender has properly liquidated all collateral an audit will now be required at the district, State, or National level.

13. Clean Air Act and Federal Water Pollution Control Act requirements have been added.

14. A section describing certain transactions which will not be guaranteed has been added.

Accordingly, a redesignation table and Subpart E of Part 1980 are set forth below.

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### Subparts A–D [Reserved]

### Subpart E—Business and Industrial Loan Program

Sec.

AUTHORITY: 7 U.S.C. 1989; Order of Secretary of Agriculture, 7 CFR 2.23; Order of Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70.

## Subpart E—Business and Industrial Loan Program

### § 1980.401 Introduction.

(a) This subpart contains regulations for Business and Industrial (B&I) loans guaranteed or insured by the Farmers Home Administration (FmHA), and applies to lenders, holders, borrowers, and other parties involved in making, guaranteeing, insuring, holding, servicing, or liquidating such loans.

(b) The purpose of the B&I program is to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities, including pollution abatement and control. This purpose is achieved through bolstering the existing private credit structure through guarantee of quality loans which will provide lasting community benefits. It is not intended that the guarantee authority be used for marginal or substandard loans or to "bail out" lenders having such loans.

(c) The B&I loan program, like other FmHA programs, is administered bythe Administrator through a State Director, serving each State through a District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for processing and servicing activities although this subpart refers in various places to the duties and responsibilities of other FmHA employees.

### § 1980.402 Definitions.

The following definitions apply:

(a) *A–95 Agency.* Office of Management and Budget Circular A–95 establishes project notification and review system to coordinate planning of Federal programs and projects with State and local agencies. Such agencies are referred to in this regulation as A–95 agencies.

(b) *Applicant (for loan).* An applicant may be a cooperative, corporation, partnership, trust, or other legal entity organized and operated on a profit or nonprofit basis; an Indian Tribe on a Federal or State reservation or other Federally recognized tribal group; a municipality, county, or other political subdivision of a State; or an individual. Such applicant must be engaged in or proposing to engage in improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural areas, including pollution abatement and control.

(c) *Assignment Guarantee Agreement Form FmHA 449–36.* The signed agreement among FmHA, the lender, and the holder, setting forth (specifically or by reference) the terms and conditions of an assignment of a guaranteed portion of a loan or any part thereof.

(d) *Borrower.* All parties liable for the loan or any part thereof.

(e) *Community facilities.* For the purpose of this subpart, community facilities are those facilities designed to aid in the development of private business and industry in rural areas. Such facilities include, but are not limited to, acquisition and site preparation of land for industrial sites (but not for improvements erected thereon), access streets and roads serving the site, parking areas, extension or improvement of community transportation system serving the site, and utility extensions all incidental to site preparation. Projects eligible for assistance under Part 1823 of this chapter (FmHA Ins. 442.1) are not eligible for assistance under this subpart.

(f) *Conditional Commitment for Guarantee Form FmHA 449–14.* FmHA's advice to the lender that the material it has submitted is approved subject to the completion of all conditions and requirements set forth in "Conditional Commitment for Guarantee."

(g) *Development cost.* These costs include, but are not limited to, those for acquisition, planning, construction, repair, or enlargement of the proposed facility; purchase of buildings, machinery, equipment, land easements, rights-of-way; payment of start-up operating costs, and interest during the period before the first principal payment becomes due, including interest on interim financing.

(h) *FmHA.* The United States of America, acting through the Farmers Home Administration, an agency of the United States Department of Agriculture. References to the National Office, Finance Office, State Office, County Office, State Director, Business and Industry Loan Chief, District Director, County Supervisor, or other FmHA office or official should be read as prefaced by "FmHA."

(i) *Guaranteed loan.* A loan made and serviced by a lender for which FmHA has entered into a Form FmHA 449–35, "Lender's Agreement" and issued a Form FmHA 449–34, "Loan Note Guarantee."

(j) *Holder.* The person or organization other than the lender who holds all or a part of the guaranteed portion of the loan with no servicing responsibilities. When the lender assigns a part(s) of the guaranteed loan to an assignee, the assignee becomes a holder only when he uses Form FmHA 449–36, "Assignment Guarantee Agreement."

(k) *Insured Business and Industrial loans.* A loan directly made and serviced by FmHA as lender with funds from the Rural Development Insurance Fund.

(l) *Joint financing.* Occurs when two or more lenders (or any combination of such lenders) make separate loans to supply the funds required by one applicant. Such joint financing may consist of FmHA financial assistance with the Economic Development Administration (EDA), Department of Housing and Urban Development (HUD), Small Business Administration (SBA), other Federal and State agencies, and private and quasi-public financial institutions.

(m) *Letter of conditions.* Letter issued by FmHA to a borrower setting forth the conditions under which FmHA will make a direct (insured) loan from the Rural Development Insurance Fund.

(n) *Lender.* The person or organization making and servicing the loan which is guaranteed under the provisions of this subpart. The lender is also the party requesting a loan guarantee.

(o) *Lender's Agreement (Form FmHA 449–35).* The signed agreement between FmHA and the lender setting forth (specifically or by reference) the lender's loan responsibilities when the Loan Note Guarantee is issued.

(p) *Loan Note Guarantee (Form FmHA 449–34).* The signed commitment

issued by FmHA setting forth (specifically or by reference) the terms and conditions of the guarantee.

(q) *Note.* An evidence of the debt. In those instances where FmHA makes an insured loan or guarantees a bond issue, "note" shall also be construed to include "Bond" or other evidence of indebtedness where appropriate.

(r) *Principals of borrowers.* Include owners, officers, directors, entities and others directly involved in the operation and management of the business.

(s) *Public body.* A municipality, political subdivision, public authority, district, or similar organization.

(t) *Rural area.* Includes all territory of a State, the Commonwealth of Puerto Rico, or the Virgin Islands that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing area with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States.

(u) *State.* Any of the fifty states, Puerto Rico, or the Virgin Islands.

(v) *Transfer and assumption.* The conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of the loan in return for the assuming party's binding promise to pay the debt outstanding. In relation to transfer and assumption cases, where appropriate, "liquidation" and "loan" shall be construed to mean "transfer and assumption"; "promissory note" shall be construed to mean "assumption agreement," and "borrower" shall be construed to mean "assuming party" or "transferee."

(w) *Working capital.* The excess of current assets over current liabilities. It identifies the relatively liquid portion of total enterprise capital which constitutes a margin or buffer for meeting obligations within the ordinary operating cycle of the business.

### § 1980.403 Citizenship of applicants.

Loans to individuals shall be made or guaranteed only to those who are citizens of the United States or reside in the United States after being legally admitted for permanent residence. At least 51 percent of the outstanding interest in any corporation or organization type applicant must be owned by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

### § 1980.404 Full faith and credit of the U.S.A.

The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the lender or holder has actual knowledge at the time it becomes such lender or holder or which lender or holder participates in or condones. The guarantee and right to require purchase will be directly enforceable by holder notwithstanding any fraud or misrepresentation by the lender or any unenforceability of the Loan Note Guarantee by lender. The Loan Note Guarantee will be unenforceable by the lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing.

### § 1980.405 Rural Area Determinations.

FmHA will determine if any area is rural for purposes of the Guarantee or Insured loan program. The following will be used by FmHA in making area eligibility determinations when it is not clear from the geographical location of the applicant:

(a) Urbanized area immediately adjacent to a city having a population of 50,000 or more: An urbanized area immediately adjacent to a city having a population of 50,000 or more is an area constituting for general social and economic purposes a single community having a boundary contiguous with that of the city. Such community may be incorporated or unincorporated and will extend from the contiguous boundary (ies) to recognizable open country, less densely settled areas, or natural boundaries such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities or public parks shall be disregarded. Outer boundaries of an incorporated community will extend at least to its legal boundaries. Cities which may have a contiguous border with another city but are located across a river from such city and recognized as a separate community and are not otherwise considered a part of an urbanized or urbanizing area as defined in this section are not in a non rural area.

(b) Urbanizing area: An urbanizing area is one defined as a community which is not now or within the foreseeable future not likely to be clearly separate from and independent of a city of 50,000 or more population and its immediately adjacent urbanized areas. A community will be considered as "separate from" when it is separated from the city and its immediately adjacent urbanized area by open country, less densely settled areas, or natural barriers such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities or public parks shall be disregarded. A community will be considered as "independent of" when its social and economic structure (*e.g.*, government; educational, health, and recreational facilities; business, industry, tax base, and employment opportunities) is not primarily dependent on the city and its immediately adjacent urbanized area.

(c) The State Director will proceed as follows in rural area determinations: When the FmHA State Director determine an area to be urbanizing, he must then determine the population density per square mile. If the area appears to be eligible, the State Director will request the National Office to provide him with the correct density figure. All such density determinations will be made on the basis of minor civil division or census county divisions as used by the Bureau of the Census. In making the density calculations, there will be excluded large nonresidential tracts devoted to urban land uses such as railroad yards, airports, industrial sites, parks, golf courses, and cemetaries or land set aside for such purposes.

### §§ 1980.406–1980.410 [Reserved]

### § 1980.411 Loan purposes.

Loans to borrowers with facilities located in both urban and rural areas will be limited to the amount necessary to finance the facility located in the eligible rural area.

(a) *Private entrepreneurs.* Loans may be for improving, developing, or financing business, industry, and employment and improving the economic and environmental climate, including pollution and abatement control, of rural areas, and may include but not be limited to:

(1) Business and industrial acquisitions, construction, conversion, enlargement, repair, modernization, or development cost.

(2) Purchasing and development of land, easements, rights-of-way buildings, facilities, leases, or materials.

(3) Purchasing of equipment, leasehold improvements, machinery or supplies.

(4) Pollution control and abatement including those in connection with farming and ranching operations.

(5) Transportation services incidental to industrial development.

(6) Start-up costs and working capital.

(7) The financing of housing development sites located in open country or cities, towns or villages with populations not in excess of those eligible for FmHA Rural Housing Loans, provided the community demonstrates a need for additional housing to prevent a loss of jobs in the area, or to house families moving to the area as a result of new employment opportunities.

(8) Loans for processing or marketing facilities, hatcheries, commercial nurseries and integrated poultry operations. This does not include loans for agricultural production; however, applicants who are in the business of processing, marketing, or packaging, as well as agricultural production, may be eligible for loan assistance for that portion of the business other than agricultural production, provided the agricultural production aspect is separate from the rest of the business; *i.e.*, the production aspects are handled through separate legal business entities or through maintenance of the accounting system in such manner as to clearly identify the use of and future accounting of the loan proceeds and operation of the business.

(9) Commercial custom feedlot operations. As used herein, commercial custom feedlot operations mean those lots primarily feeding, on a custom basis, livestock which belongs to other than the feedlot owner-operator. This would not preclude assistance to those borrowers whose principals or members are farmers and ranchers whose individually

owned livestock may be custom fed at the lot; provided, such principals' or members' personal financial conditions are not likely to adversely affect the financial success of the custom operation. In those cases where feedlot operators buy and feed for themselves, records and accounts of such operations shall be maintained in such manner that they may be identified separately from the custom feeding operation, and loan agreements and security instruments will specify that any losses incurred in the owner-operator operation shall not be chargeable to the custom feeding operations.

(10) Interest (including interest on interim financing) during the period before the first principal payment becomes due or the facility becomes income producing, whichever occurs first.

(11) Feasibility studies.

(12) Refinancing debts in connection with sound projects when it is determined by FmHA that it is necessary to help stabilize the economic base of the rural area and increase or maintain employment.

(13) Reasonable costs, including legal fees, incurred for services rendered by accountants, appraisers, architects, engineers, consultants, and other parties for services in connection with preparation of the loan applications, making the loan, developing the project, and verification of proper project completion. FmHA will determine what is reasonable.

(14) Lenders fees and charges including those for preparation and assembly of applications provided they do not exceed those customarily charged all borrowers in similar circumstances in the ordinary course of business and for fees.

(15) Acquisition of membership and/or stocks, bonds or debentures necessary to obtain a loan from Production Credit Associations, Banks for Cooperatives, Small Business Investment Companies, and other lenders; provided such acquisition is required of all their borrowers. However, a lender which requires membership fees in such organization or the purchase of securities issued by such organization will not use such proceeds to acquire, lease or improve property which does not benefit its members.

(b) *Public bodies.* See §§ 1980.481 and 1980.488.

### § 1980.412 Ineligible loan purposes.

Loans may *not* be made or guaranteed if the funds are used:

(a) To pay off a creditor in excess of the value of the collateral.

(b) For distribution or payment to the owner, partners, shareholders or beneficiaries of the applicant or members of their families when such persons will retain any portion of their equity in the business.

(c) For any project that is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by the operation of the applicant. This limitation shall not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such expansion is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(d) For any project which is calculated to or is likely to result in an increase in the production of goods, materials or commodities, or the availability of services or facilities in the area when there is not sufficient demand for such goods, materials, commodities, services or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

(e) For agricultural production.

(f) For the transfer of ownership of a business unless the loan will keep the business from closing, or prevent the loss of employment opportunities in the area, or provide expanded job opportunities.

### § 1980.413 Transactions which will not be guaranteed.

The following transactions will not be guaranteed by FmHA:

(a) The guarantee of lease payments.

(b) The guarantee of loans made by other Federal agencies. This does not preclude the guaranteeing of loans made by the Bank for Cooperatives, Federal Land Bank, or Production Credit Association.

### §§ 1980.414–1980.418 [Reserved]

### § 1980.419 Eligible lenders.

(a) This Subpart is designed to provide a mechanism whereby all lenders may participate by using the various sources of capital and segments of the money market to meet the necessary financing requirements for the B&I loan program. FmHA ordinarily will require that a local lender be involved for each project. A local lender is a lender in or near a community where the project is or will be located and routinely provides loan services to such community.

Although the project may involve other lenders, investors, or packagers, it is expected that a local lender will be the lead lender and be responsible to service and liquidate (if necessary) the loan. The local lender may use correspondents, branches, financial or other institutions to provide expertise for its responsibilities. FmHA ordinarily will use the local lender as a point of contact for the administration of the program.

(b) An eligible lender is: (1) Any Federal or State chartered bank, Federal Land Bank, Production Credit Association, Bank or Cooperatives, Savings and Loan Association, Building and Loan Association, or Small Business Investment Company, that is subject to credit examination and supervision by either an agency of the United States or a state is eligible to make and service guaranteed loans provided it is in good standing with its licensing authority and has met licensing, loanmaking, loan servicing, and other requirements of the state in which the collateral will be located and the loanmaking and/or loan servicing office requirements in paragraph (f) of this section, or

(2) Any other lender, including but not limited to, insurance companies, credit unions and mortgage loan companies that are approved for eligibility by FmHA. To qualify as a lender under this paragraph, the lender will submit to FmHA the material in paragraphs (i), (ii), (iii), (iv), and (v) of this section. Lenders will be considered by FmHA for eligibility under this paragraph for loanmaking on a nationwide, state, or loan-by-loan basis. They should indicate the type of eligibility requested in their submission. Lenders having sufficient experience, adequate organization for loan servicing, and sufficient capital and surplus to support the proposed loan program will be considered for eligibility on a national basis. Those licensed to do business only in specified states will be considered for eligibility only in those states. Material to be submitted is as follows:

(i) Form FmHA 449–18, "Lenders or Holders Request for Approval."

(ii) Evidence showing that it has the necessary capital and resources to indicate success in meeting its responsibilities.

(iii) Copy of any license, charter, or other evidence of authority to engage in the proposed loanmaking and loan servicing activity. If licensing by the state is not required, an attorney's opinion to this effect will be submitted.

(iv) Information on lending operations, including length of time in the lending business; experience in making loans; management capability; range and volume of lending and servicing activities; current financial statements; sources of funds for the proposed loan; status of loan portfolio; any special requirements for equity ownership, options or payment of profits of the prospective borrower's company in exchange for any financial assistance to the business, loanmaking and servicing office location and rates charged for servicing and any other fees; *e.g.*, loan origination, loan preparation, or brokerage fees. Such fees may not be greater than those charged by similarly situated lenders in the ordinary course of business.

(v) A copy of its loan agreement(s) ordinarily used.

(c) FmHA will make such investigation as it deems necessary and will notify the prospective lender whether its request for eligibility is approved or rejected. If rejected, the reasons for the rejection will be indicated to the prospective lender in writing and if the lender is able to overcome the objections, it may resubmit the request. (See § 1980.492.)

(d) Lenders who are not eligible lenders are not barred from participating in loans made by eligible lenders.

(e) Each prospective lender will inform FmHA whether it qualifies for eligibility under paragraphs (b)(1) or (b)

(2) of this section and if an eligible lender, which agency or authorities, if any, supervises such lender. This information will be furnished to FmHA on Form FmHA 449-1, "Application for Loan and Guarantee," or in letter form.

(f) Each lender must maintain an office (either its main or branch office or that of an agent) near enough to the collateral's location so it can properly and efficiently discharge its loanmaking and loan servicing responsibilities.

(g) All lenders will be owned and controlled as provided in paragraph V of Form FmHA 449-35, "Lender's Agreement."

(h) For possible lender-borrower conflict of interest, see paragraph VI of Form FmHA 449-35. All lenders will, for each proposed loan, inform FmHA as to whether the lender or its principal officers or the borrower or its principals or officers hold any stock or other evidence of ownership in the other. FmHA shall determine whether such ownership is sufficient to likely result in a conflict of interest.

(i) FmHA reserves the right to declare any lender ineligible to receive a loan guarantee when it determines that the lender may not have the capability to make or satisfactorily service the loan, the history of its operations appears unsatisfactory, or the provisions of previous Loan Note Guarantees or Lender's Agreements have not been satisfactorily fulfilled.

ADMINISTRATIVE

*par* (a) Requires National Office approval for any variations.

*par* (2)(h)(i) State Director submits information to National Office with his recommendations.

### § 1980.420 Loan guarantee limits.

The maximum loss covered under the Form FmHA 449-34, "Loan Note Guarantee," will not exceed ninety percent of the principal and accrued interest on the indebtedness represented by the borrower's guaranteed loan promissory note or assumed under an assumption agreement. Lenders and applicants will propose the percentage guarantee. The lender and applicant will be informed in writing on Form FmHA 449-14 by FmHA of any percentage of guarantee less than proposed by the lender and applicant and the reasons therefor. FmHA will determine the percentage guarantee after considering all credit factors involved, including but not limited to:

(a) The applicant's management, equity capital, history of operation, marketing plan, raw material requirements, and availability of necessary supporting utilities and services.

(b) Collateral.

(c) Financial condition of applicant's principals.

(d) The lender's exposure before and after the loan.

(e) Current trends and economic conditions within the industry.

### § 1980.421 Guarantee fee.

(a) The fee will be one percent (1%) of the principal loan amount multiplied by the percent of guarantee, paid one time only at the time the Loan Note Guarantee is issued. The fee will be paid to FmHA by the lender and is nonrefundable. The fee may be passed on to the borrower.

(b) In the event FmHA agrees to issue a Loan Note Guarantee in substitution for a Form FmHA 449-17, "Contract of Guarantee," issued under previous regulations (see § 1980.461(b)(2)) the lender will pay to FmHA at the time the substitution is made a nonrefundable, one-time fee of one percent (1%) of the current principal loan balance multiplied by the percent of guarantee.

### § 1980.422 Charges and fees by lenders.

Late payment charges will not be covered by the Loan Note Guarantee. Such charges may not be added to the principal and interest due under any guaranteed note. Late payment charges may be made only if:

(a) They are routinely made by the lender in all types of loan transactions.

(b) Payment has not been received within the customary time frame allowed by the lender. The term "payment received" means that the payment in cash or by check, money order, or similar medium has been received by the lender at its main office, branch office, or other designated place of payment.

(c) The lender agrees with the applicant in writing that the rate or method of calculating the charges will not be changed to increase charges while the Loan Note Guarantee is in effect.

### § 1980.423 Interest rates.

(a) *Guaranteed loans.* Rates will be negotiated between the lender and the borrower. They may be fixed or variable as long as they are legal.

(1) A variable interest rate must be a rate that is tied to a base rate published periodically in a financial publication specifically agreed to by the lender and borrower. It must rise and fall with the selected base rate and changes can be made no more often than quarterly. There will be no floor or ceiling on variable interest rates.

(2) Any change in the interest rate between the date of issuance of the Form FmHA 449-14 and before the issuance of the Loan Note Guarantee must be approved by the State Director. Approval of such change will be shown on an amendment to Form FmHA 449-14.

(b) *Insured loans.* (1) Loans for other than those in paragraph (b)(2) of this section shall bear interest at a rate prescribed by FmHA, and shall be announced periodically. The interest rate for insured loans will be the rate in effect at the time the loan is approved or at the time the loan is closed, whichever rate is lower.

(2) Loans to public bodies, nonprofit associations, and Indian Tribes used to finance community facilities shall bear interest at the rate of five (5%) per cent per annum.

### § 1980.424 Terms of loan repayment.

(a) Principal and interest on the loan will be due and payable as provided in the promissory note. The lender shall structure repayments as established in the loan agreement between the lender and borrower. Ordinarily, such installments shall be scheduled for payment as agreed upon by the lender and applicant but on terms that reasonably assure repayment of the loan. However, the first installment to include a repayment of principal may be scheduled for payment after the project is operable and has begun to generate income, but such installment shall be due and payable within three years from the date of the promissory note and at least annually thereafter. Interest shall be due at least annually from the date of the note. Ordinarily, monthly payments will be expected, except for seasonal-type businesses. When multinotes are used, each note shall bear the same interest rate.

(b) The maximum time allowable for final maturity of an FmHA guaranteed B&I loan shall be limited to thirty (30) years for land, buildings, and permanent fixtures; the usable life of the machinery and equipment purchased with loan funds, but not to exceed fifteen (15) years; and seven (7) years for the working capital portion of the loan. The term for a loan that is being refinanced may be based on the collateral the lender will take to secure the loan.

(c) The maximum time allowable for final maturity of an FmHA insured loan for community facilities shall not exceed 40 years.

### § 1980.425 Availability of credit from other sources.

(a) Inability to obtain credit elsewhere is not a requirement for guaranteed assistance under this Subpart.

(b) To be eligible for an insured loan under this subpart, the applicant must be unable to obtain the required credit from private or cooperative sources at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near the applicant's location(s) for loans for similar purposes and periods of time. The applicant's inability to obtain such credit elsewhere will be determined in accordance with 1823 of this chapter (FmHA Instruction 442.1).

### §§ 1980.426–1980.431 [Reserved]

### § 1980.432 Environmental impact assessments and statements.

The need for an environmental impact statement (EIS) will be determined by the FmHA State Director. The determination will be based upon FmHA's review of Form FmHA 449-10, "Applicant's Environmental Impact Evaluation," State and sub-State clearinghouse and other agency comments or other information available. If an EIS is necessary, applicants and lenders will be required to provide essential data for use in its preparation. FmHA State Directors will coordinate preparation and processing of any required EIS. If joint agency financing for the proposal is involved, the lead agency will be responsible for preparation of the EIS. In all cases FmHA is responsible for assuring that the requirement of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), and title 7 CFR Part 1824 of this chapter are met.

ADMINISTRATIVE

State Director will review Form FmHA 449–10 submitted by the applicant and a Form FmHA 440–46, "Environmental Impact Assessment," prepared by the County Supervisor or State Director Designee. The State Director will indicate his decision in the Form FmHA 440–46. If the State Director determines that an EIS is required, he will notify the applicant and lender in writing.

**§ 1980.433 Flood or mudslide hazard area precautions.**

(a) Projects located in special flood or mudslide hazard areas, as designated by the Federal Insurance Administration (FIA) of the Department of Housing and Urban Development may be financed under this subpart only:

(1) If the community, as a result of such designation by FIA as a special flood or mudslide prone area, has an approved flood plain area management plan.

(2) If the project location and construction plans and specifications for new buildings or improvements to existing buildings comply with an approved flood plain area management plan in paragraph (a) of this section.

(b) If flood insurance is available it will be purchased by the borrower prior to loan closing.

ADMINISTRATIVE

The State Director is responsible for determining if a project is located in a special flood or mudslide hazard area. Refer to FmHA Instruction 426.2.

**§ 1980.434 Equal opportunity and nondiscrimination requirements.**

(a) *Equal credit opportunity act.* In accordance with Title V of Pub. L. 93–495, the Equal Credit Opportunity Act, neither the lender nor FmHA will discriminate against any applicant on the basis of sex or marital status with respect to any aspect of a credit transaction. The lender will, within the requirements of this Act as set forth in the Federal Reserve Boards Regulation, implementing this Act, as published in 40 FR 49298. Such compliance will be accomplished prior to loan closing.

(b) *Forms and requirements.* In accordance with Executive Order 11246, the following equal opportunity and nondiscrimination forms and requirements are applicable to certain cases involving construction as indicated. The borrower is responsible for seeing that the requirements of paragraphs (c) through (g) of this section are met.

(c) *Compliance reports.* No prospective contractor or subcontractor will be eligible for a contract or subcontract financed with a guaranteed loan until he has filed all of the compliance reports required of him under any previous contracts.

(d) *Equal opportunity agreement.* Before loan closing, each borrower whose loan involves a construction contract of more than $10,000 must execute Form FmHA 400–1, "Equal Opportunity Agreement."

(e) *Contract or subcontract in excess of $10,000.* If the contract or a subcontract exceeds $10,000:

(1) The contractor or subcontractor must submit Form FmHA 400–6, "Compliance Statement," before or as a part of the bid or negotiation.

(2) An Equal Opportunity Clause must be part of each contract and subcontract. This clause is incorporated in Form FmHA 424–6, "Construction Contract," which may serve as a guide.

(3) With notification of the contract award, the contractor must receive:

(i) Form FmHA 400–3, "Notice to Contractors and Applicants," signed by the County Supervisor with an attached Equal Employment Opportunity Poster. Posters in Spanish must be provided and displayed where a significant portion of the population is Spanish speaking.

(ii) Form AD–425, "Contractor's Affirmative Action Plan for Equal Employment Opportunity Under Executive Order 11246 and Executive Order 11375," if the contractor or subcontractor is subject to the requirements of paragraph (g) of this section.

(f) *One hundred or more employees and contract or subcontract exceeds $10,000.* If the contractor or subcontractor has 100 or more employees and the contract or subcontract is for more than $10,000:

(1) In addition to meeting the requirements of paragraph (e) of this section, each such contractor or subcontractor must file Standard Form 100, "Employer Information Report EEO–1" with the Joint Reporting Committee within 30 days of the contract or subcontract award unless this report has already been submitted within the last 12 months.

(2) An annual report must be filed on or before March 31 as long as the contractor or subcontractor holds a contract equal to $10,000 or more which is financed with a guaranteed loan. Failure to file timely, complete and accurate reports constitutes noncompliance with the Equal Opportunity Clause. Report forms are distributed by the Joint Reporting Committee and any questions on this form should be addressed by the contractor or subcontractor to the Joint Reporting Committee, 1800 G Street, NW., Washington, D.C. 20006.

(g) *Fifty or more employees and contract or subcontract exceeds $50,000.* If the contract or subcontract is more than $50,000 and the contractor or subcontractor has 50 or more employees, in addition to the requirements of paragraph (e) of this section, each such contractor or subcontractor must be informed that he must develop a written affirmative action compliance program for each of his establishments and put it on file in each of his personnel offices within 120 days of the commencement of the contract or subcontract. Form AD–425 provides guidelines for the contractor or subcontractor in developing such a program.

(h) *Compliance reviews.* Compliance reviews must be made during construction inspections to determine whether the required posters are displayed, the facilities are not segregated, and there is no evidence of discrimination in employment. Findings of the borrower or lender (when inspections are made), will be shown on Form FmHA 424–12, "Inspection Report." If there is any evidence of noncompliance, the borrower or lender will try to achieve voluntary compliance. If the effort fails, such borrower or lender will report all the facts to FmHA.

(i) *Employee complaints.* Any employee of or applicant for employment with such contractors or subcontractors may file a written complaint of discrimination with FmHA.

(1) A written complaint of alleged discrimination must be signed by the complainant and should include the following information:

(i) The name and address (including telephone number, if any) of the complainant.

(ii) The name and address of the person committing the alleged discrimination.

(iii) A description of the acts considered to be discriminatory.

(iv) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(2) Such complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by FmHA for good cause shown by the complainant.

ADMINISTRATIVE

The State Director will assure that equal opportunity and nondiscrimination requirements are met. If there is indication of noncompliance with these requirements, such facts will be reported by the borrower, lender or County Supervisor in writing to the State Director for remedial action.

Should the State Director need assistance in handling any complaints of noncompliance, he will request assistance from the National Office.

**§ 1980.435 Clean Air Act and Water Polution Control Act requirements.**

(a) As a condition for FmHA's making or guaranteeing a loan in excess of $100,000 and unless otherwise exempted, an applicant for a loan will:

(1) Comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C., 1857 C–9) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. (Such regulations and guidelines can be found at 40 CFR 15.4 and 40 FR 17126, April 26, 1975.)

(2) As a condition for the award of contract, notify the FmHA of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities. (Prompt notification is required prior to contract award.)

(3) Certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed

on the EPA List of Violating Facilities pursuant to 40 CFR 15.20 as of the date of contract award; and

(4) Include or cause to be included the above criteria and requirements in every nonexempt subcontract and will take such action as the Government may direct as a means of enforcing such provisions.

(b) As a further condition for FmHA's making or guaranteeing a loan in excess of $100,000 but not otherwise exempted, the applicant for the loan will secure the services of a contractor who agrees to comply with the provisions in paragraph (a) above.

(c) For guarantee assistance under this Part, Lender will cause to be included in all solicitation and contract provisions the stipulations contained in paragraph (a) above provided the loan amount is $100,000 or more and not otherwise exempted.

(d) The term "facility" as used in this section only means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are colocated in one geographical area.

§§ 1980.436–1980.440 [Reserved]

§ 1980.441 Applicant equity requirements.

The applicant will be required to contribute sufficient tangible assets on both guaranteed and insured loans to provide reasonable assurance of a successful project. Normally, a minimum of 10 percent equity will be required on the applicant's balance sheet, at the time of loan closing for insured loans and at the time when the Loan Note Guarantee is issued for guaranteed loans. However, FmHA may require more equity depending on all other credit factors present in the particular project. Ordinarily, more than the minimum amount of equity will be required for new business ventures.

§ 1980.442 Feasibility studies.

FmHA may require an applicant to provide a feasibility study prepared by an independent recognized consultant. The cost of such study will be borne by the applicant and may be paid from funds included in the loan. On loans of one million dollars or more, feasibility studies by recognized independent consultants will ordinarily be required. FmHA may waive this requirement when the financial history of the business, the current financial conditions and guarantees or other collateral is more than adequate to indicate the feasibility of the enterprise. The feasibility study outline will be approved by FmHA. FmHA personnel may not recommend consultants but may provide the applicant with a list of consultants who have performed satisfactorily on previous projects. An acceptable feasibility study should include but not be limited to:

(a) *Economic feasibility.* Information related to the project site, availability of trained or trainable labor, utilities, rail, air and road service to the site, and the overall economic impact of the project.

(b) *Market feasibility.* Information on the sales organization and management, nature and extent of market and market area, marketing plans for sale of projected output, extent of competition and commitments from customers or brokers.

(c) *Technical feasibility.* An engineering evaluation of the site, type of construction, adequacy of the plant machinery and equipment, operating and maintenance program to produce the projected quantity, and quality of goods, facility layout, and overall business operations.

(d) *Financial feasibility.* An opinion on the reliability of the financial projections and the ability of the business to achieve the projected income and cash flow. An assessment of the cost accounting system, the availability of short term credit for seasonal business and the adequacy of raw material and supplies.

(e) *Management feasibility.* Evidence that continuity and adequacy of management has been evaluated and documented as being satisfactory.

§ 1980.443 Collateral, personal and corporate guarantees, and other requirements.

(a) *Collateral.* (1) The lender is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interests of the lender, the holder, and FmHA.

(2) Collateral must be of such a nature that repayment of the loan is reasonably assured when considered with the integrity and ability of project management, soundness of the project, and applicant's prospective earnings. Collateral may include, but is not limited to the following: land, buildings, machinery, equipment, furniture, fixtures, inventory accounts receivable, cash or special cash collateral accounts, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases or leaseholds interests, revenues, patents, and copyrights.

(3) All collateral must secure the entire loan. The lender may not take separate collateral to secure only that portion of the loan or loss not covered by the guarantee. The lender may not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compensating balances as used in the ordinary course of business may be used.

(b) *Personal and corporate guarantees.* (1) Personal guarantees from major stockholders or owners having a major interest in a corporation and all partners of partnerships usually will be required. Guarantees of parent, subsidiaries, or affiliated companies may also be required. Guarantees will be required in sufficient amounts depending on the credit factors in each loan to reasonably assure repayment of the loan and provide adequate security.

(2) The requirement for personal guarantees or corporate guarantees may be waived by FmHA if the proposed guarantors cannot provide such guarantee due to other existing contractual obligations or legal restrictions. For those applicants providing documented evidence of successful operations for the past three years, guarantees will be obtained as determined by FmHA.

(3) If a review of all credit factors indicates the need for additional security, FmHA may require additional personal and corporate guarantees. FmHA also may require that such guarantees be secured. Any collateral as referred to in paragraph (a)(2) of this section may be used to secure the guarantees.

(4) *Guarantors of applicants will:* (i) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing), signed by the guarantors and disclose community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing), certified by an officer of the corporation.

(iii) Provide written evidence to FmHA of their inability to provide a guarantee because of existing contractual arrangements or legal restrictions.

(c) *Other requirements.* (1) The lender must ascertain that no claims or liens of laborers, materialmen, contractors, subcontractors, suppliers of machinery and equipment or other parties are against the collateral of the borrower, and that no suits are pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(2) Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required on every loan in an amount that is at least the lesser of the depreciated replacement value of the property being insured or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, aircraft, vehicle, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, or any other hazard insurance that may be required to protect the collateral.

(3) Ordinarily, life insurance, which may be decreasing term insurance, is required for the principals and key employees of the borrower and will be assigned or pledged to the lender. A schedule of life insurance available for the benefit of the loan will be included as part of the application.

(4) Workmen's compensation insurance is required in accordance with State law.

**§ 1980.444 Appraisal of property serving as collateral.**

(a) Property that will serve as collateral for loans will be appraised by a qualified appraiser. The appraiser will give his opinion regarding the current market value of the collateral.

(b) The lender will be responsible for determining that appraisers (other than FmHA appraisers) have the necessary qualifications and experience to make the appraisals. If the lender has any questions in this regard, it should consult with FmHA before having an appraisal made.

(c) The lender must determine that the fees or charges of appraisers are reasonable.

(d) If the loan request is for $100,000 or less, an FmHA appraiser may make the appraisal.

(e) Appraisals will be made on forms approved by the lender, except when appraisals are made by an FmHA appraiser who may use regular FmHA forms.

**§§ 1980.445–1980.450 [Reserved]**

**§ 1980.451 Filing and processing applications.**

(a) *Applicants' and lenders' contact.* Applicants and lenders desiring FmHA assistance as provided in this subpart may file preapplications or applications with the County Supervisor servicing the area in which the project is to be located. The FmHA County Supervisor will promptly arrange an early meeting with the applicant and lender representatives to discuss assembly, preparation and processing of preapplications and applications.

(b) *Applications from cooperatives.* Applicants eligible for loans from the Bank for Cooperatives will be encouraged to obtain guaranteed loans from that source since the Bank for Cooperatives is experienced in making and servicing such loans and can provide substantial counsel to the applicant. Applications must be submitted to the Bank for Cooperatives as a test for credit elsewhere when an insured loan is being considered.

(c) *Applicants eligible for Small Business Administration (SBA) assistance.* All applicants for loan guarantees eligible for SBA assistance will be advised by FmHA at the time of receipt of the preapplication of the availabilty of such assistance and will be encouraged to apply to that agency. Appendix A to this subpart includes a copy of the current memorandum of understanding between SBA and FmHA.

(d) *Loan priorities.* Applications and preapplications received by FmHA will be considered in the order received. Priority shall be given to projects located in areas and cities having a population of less than twenty-five thousand.

(1) FmHA will cooperate fully with appropriate State agencies in guaranteeing and insuring loans in a manner which will assure maximum support of the State's strategies for development of its rural areas.

(2) When applications on hand otherwise have equal priority the applications from a veteran will have preference. A veteran is a person who has been discharged or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard under conditions other than dishonorable and who served on active duty in such forces: (i) During the period April 6, 1917, through March 31, 1921; (ii) during the period of December 7, 1941 through December 31, 1946; (iii) during the period of June 27, 1950, through January 31, 1955; or (iv) for a period of more than 180 days, any part of which occurred after January 31, 1955; but on or before May 7, 1975. Discharges under conditions other than dishonorable include "clemency discharges."

(3) In assigning priorities to applications and in selecting projects for funding, FmHA will consider State development strategies, and clearinghouse (A–95 Agency) comments and recommendations. Funds (Insurance or guarantee authority) allocated for use as prescribed in this regulation are to be considered for use by Indian tribes within the State regardless of whether State development plans include Indian reservations within the State's boundaries. It is essential that Indians residing on such reservations have equal opportunity to participate in any benefits of these programs. Priorities will be assigned by the FmHA State Director in accordance with the following:

(i) Those projects which will save existing jobs.

(ii) Those projects which will enlarge, extend, or otherwise improve existing business and industries.

(iii) Those projects which will create the highest number of permanent employment opportunities.

(iv) Those projects which will contribute to the overall economic stability of the rural areas but generate little or no permanent employment opportunities beyond the entrepreneur himself.

(e) *Filing preapplications and applications.* Applicants or lenders may file preapplications as described in paragraph (f) of this section if they desire an expression of FmHA interest prior to assembling the complete application and request for Loan Note Guarantee or they may present the complete application, in one package, including the material required in paragraphs (f), (i), (j), and (k) of this section.

(f) *Preapplications.* Applicants may file preapplications with the County Office including:

(1) A letter prepared by the applicant and the lender which shall include:

(i) Applicant's name, address, contact person and telephone number.

(ii) Amount of loan request.

(iii) Name of the proposed lender, address, contact person and telephone number.

(iv) Brief description of the project, products, and services provided.

(v) Type and number of employment opportunities and unemployment rate where the project will be located.

(vi) Amount of applicant's equity and guarantees offered.

(vii) Anticipated loan maturity and interest rates.

(viii) Availability of raw materials and supplies.

(2) Form FmHA 449–22, "Certification of Non-Relocation and Market and Capacity Information Report."

(3) Form FmHA 449–4, "Statement of Personal History," for a proprietor (owner), each partner, officer, director, key employee, and stockholders holding 20 percent or more interest in the applicant except for those corporations listed on a major stock exchange and for those so listed if required by FmHA. Failure to report full, complete and accurate information on the Statement of Personal History may result in FmHA's not making or guaranteeing the loan.

(4) A record of any pending or final regulatory or legal (civil or criminal) action against the applicant, guarantors, principal stockholders, officers, and directors.

(5) A current balance sheet and latest profit and loss statement, and financial statements of existing businesses for the last 3 years.

(6) A detailed projection of gross revenue, net earnings, and cash flow statements for 3 years including assumptions upon which such forecasts are based.

(7) Sales projections indicating the percent of the national and local market the business expects to obtain.

(8) Comments of substate and state A–95 agencies except that loans for smaller or local enterprises with no significant economic or environmental impact are exempt from A–95 review regulations. However, a notice of approval for information purposes must be sent to the A–95 agency. If such comments are not immediately available, they may be forwarded to the County Office after submission of the preapplication. Applicants requesting Federal assistance are required to notify the A–95 clearinghouse in the jurisdiction where the project is to be located. Normally, the preapplication material excluding financial information is submitted for A–95 review.

(g) *Preliminary determination by FmHA.* If preapplication information indicates the project will not meet FmHA's minimum credit standards for a sound loan, is ineligible, does not have sufficient priority, or that funds or guarantee authority are not available for the project, FmHA will so inform the applicant. The applicant will be notified in writing with all reasons for the decision indicated. If it appears that the project is eligible, has sufficient priority, is economically feasible and loan guarantee authority is available, FmHA will inform the lender and applicant in writing and request that they complete the application.

(h) *Department of Labor certifications.* FmHA will submit Form FmHA 449–22 to the Department of Labor for the necessary certification that the proposal will not be in conflict with § 1980.412 (c) and (d).

(i) *Applications will consist of:*

(1) Form FmHA 449-1, "Application for Loan and Guarantee."

(2) Form FmHA 449-2, "Statement of Collateral."

(3) Form FmHA 449-10, "Applicant's Environmental Impact Evaluation."

(4) Architectural or engineering plans, if applicable.

(5) Cost estimates and forecasts of contingency funds to cover inflation or project changes.

(6) Appraisal reports.

(7) For existing businesses, a pro forma balance sheet at start-up and for at least three additional projected years indicating the necessary start-up capital, operating capital and short-term credit based on financial statements for the last three years, or more (if available) and projected cash flow and earnings statements for at least three years supported by a list of assumptions showing the basis for the projections. If debt refinancing is requested, a debt schedule is to be prepared (correlated to the latest balance sheets) reflecting the debts to be refinanced including the name of the creditor, the original loan amount and loan balance, date of loan, interest rate, maturity date, monthly or annual payments, payment status, and collateral that secured such loans.

(8) For new businesses, a pro forma balance sheet at start-up and for the next three years, projected cash flow (monthly first year, quarterly for two additional years) and projected earnings statements for three years supported by a list of assumptions showing the basis for the projections.

(9) Any credit reports obtained by the lender or FmHA .

(10) Form FmHA 400-1, if construction costing more than $10,000 is involved.

(11) Copies of building permits, if applicable, and any necessary certifications and recommendations of appropriate regulatory or other agency having jurisdiction over the project including any pollution control agency.

(12) Personal and corporate financial statements of those guarantors named in § 1980.443.

(13) Proposed loan agreement. (See paragraph VIII of Form FmHA 449-35). Proposed loan agreements between the borrower and lender will be required. Ordinarily, such agreements include but are not limited to the following:

(i) Requirements for accounting and record keeping.

(ii) Periodic financial reporting.

(iii) An annual audited financial statement from the borrower prepared by an independent certified public accountant or by an independent licensed public accountant, who is certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(iv) Prohibitions against assuming liabilities or obligations of others.

(v) Restrictions on dividend payments.

(vi) Limitation on purchase or sale of equipment and/or fixed assets.

(vii) Limitation on compensation of officers and/or owners.

(viii) Minimum working capital requirements.

(ix) Minimum debt to net worth ratio.

(x) Restrictions concerning consolidation, mergers or other circumstances.

(xi) Limitations on selling the business without concurrence of the lender and FmHA.

(xii) Repayment and amortization of the loan.

(xiii) List of collateral for the loan.

(xiv) List of persons and/or corporations guaranteeing the loan.

(14) A complete feasibility study when required. (See § 1980.442.)

(15) A written statement of any effect the project will have on any district, site, building, structure, or object that has been included in the National Register of Historic Places as maintained by the Department of Interior in accordance with the National Historic Preservation Act of 1966. If the project has no effect as provided in this section, the applicant will so state. (Historic preservation as defined under this Act includes the protection, rehabilitation, restoration, and reconstruction of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology and culture). (See Part 1890 r of this chapter (FmHA Instruction 440.10)).

(16) Any additional information required by FmHA.

(17) For companies listed on major stock exchanges and/or subject to the Securities and Exchange Commission regulations, a copy of Form 10-K "Annual Report Pursuant to section 13 or 15 D of the Act of 1934."

(18) Documented evidence that the project is located within or without special flood or mudslide hazard areas.

(j) *Use of forms.* FmHA numbered forms will be used where shown in both preapplications and applications. Otherwise, lenders should use their forms, real estate mortgages, security instruments and other agreements, provided such forms do not contain any provisions that are in conflict or are inconsistent with provisions of this subpart.

(k) If the loan request is for health care facilities (*e.g.*, hospitals or nursing homes), a "Certificate of Need" will be obtained by the applicant from the appropriate regulatory or other agency having jurisdiction over the project. If a significant part of the project's income will be from third party payors, *e.g.*, medicare or medicaid, the project will be designed and operated in a manner necessary to meet the requirements of the third-party payors.

ADMINISTRATIVE

A. *The County Supervisor and District Director:* 1. Determines if material and information submitted is complete.

2. Prepares and submits to State Director their comments and recommendations. Such comments will include but are not limited to the following: Community attitude toward project; a summary of comments regarding the proposal by the lender county leaders, and other interested parties; whether the project is likely to result in the need for additional community facilities such as schools, water, sewer, and health care services and if so, the community's plan for providing such facilities; availability of any required additional labor force and training plans for such force, if needed; an economic forecast of the effect on the community should the project fail, if financed.

B. *The State Director:* 1. Will provide the County Supervisor with assistance as may be necessary to assure that the applicants and lenders are currently and correctly advised throughout preapplication and application processing.

2. Will prepare and submit Form FmHA 440-48, "Association or Organization Activity Report," in accordance with FmHA Instruction 440.9. However, the Standard Industrial Classification (SIC) manual will be used in coding of projects rather than the "Loan Purpose Codes" sections of the instructions.

3. Will forward immediately to the National Office on all projects:

(a) Form FmHA 449-22, (7 copies). If applicable, attach Form FmHA 449-33, "Small Loan Certification," for loans of $100,000 or less where loan proceeds are expected to result in employment of not more than five workers.

(b) For insured loans where the applicant leases facilities to another, submit Form FmHA 449-22 for such applicant. The lessor(s) will also be required to provide Form FmHA 449-22. Subsequent loan requests require resubmission of Form FmHA 449-22.

(c) Form FmHA 449-4 (4 copies).

NOTE: As soon as practical send the Forms FmHA 449-22 and 449-4 so that the Department of Labor and Character Evaluation processing may be completed without delay.

4. On all applications over one million dollars (including previously approved loans where additional subsequent loan brings the total over one million dollars), the State Director will submit a separate narrative report prepared in strict compliance with the following format:

Name and Address of Applicant:
Amount of Loan:
State:
County:

1. Background information. Include general description of business, type of applicant, products, availability of raw material and required supplies, length of time applicant has been in this business, any particular problems being encountered, and other such information.

2. Your appraisal of the gross and net effect of the FmHA loan on levels of employment in the local community. Include information on the labor force, number of unemployed, percent of the population unemployed, and what the loan may do to improve the employment picture. This information may be obtained from the local employment service office. Describe the need for training labor for proposed industry, if any, and applicant and county plans for providing such training. If a technical training school is available, identify it. Indicate the number of jobs to be created and/or saved.

| | | (Current fiscal year) |
|---|---|---|
| 3. Fund (obligation authority) situation in state. | | |
| (a) Allocation | | $ |
| (b) Projects approved to date | No. | $ |
| (c) Active loan applications currently in process (including this application) | | $ |
| (d) Those in (c) you expect to fund this fiscal year | No. | $ |
| (e) Estimated need for additional allocation (if any) for this fiscal year | | $ |

4. The record of any legal or regulatory actions taken by or against the applicant for the loan (including the principal officers of the proposed enterprise) and known to you, and any civil or criminal suits which are pending. Report any suits listed in any credit reports, financial statements, and disclosed to you by the applicant or any other source.

5. The total debt and the debt to net worth ratio of the applicant.

6. Detailed projections of profit and cash flow together with a list of assumptions showing the basis for the projections. (Provided in an attachment to this report.)

7. The general economic outlook for the type of business or industry, both nationally and in the prospective location. Indicate what percentage increase in sales can be expected nationally and in the applicant's market area, if any, and explain the rationale for this opinion. A good source of information—U.S. Department of Commerce publication, "U.S. Outlook—With Projections".

8. The impact of proposed project on local environment, transportation, and other local facilities and services. Indicate whether the present water, sewer, electric, and energy service facilities will be able to handle the needs of the business being financed, plus the increased need placed on the city school system and other public facilities due to the influx of employees.

9. Indicate if FmHA has previously guaranteed a loan to the proposed lender, and if so, comment on how it was serviced.

10. Any other considerations you feel are important.

Prepared by:

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(Signature)

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(Name typed)

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(Title)

Attach to the above report:

*For existing businesses*—Minimum three years and current audited financial statements or balance sheets, profit and loss statements, and the requirements for new businesses.

*For new businesses*—Projections for 3 years of gross revenues and net earnings, a cash flow statement with proper assumptions, and a pro-forma balance sheet at start-up.

5. *par (g)* State Director informs applicant of any decision. (copy sent to County Supervisor).

6. *par (i)* State Director submits a transmittal letter with recommendations on loan applications requiring National Office review. Included are:

(a) Loan File.

(b) Form FmHA 449-29, "Project Profile," including State Director's spread sheets, financial history and projections (use attachments to profile if necessary).

(c) Proposed Form FmHA 449-14.

(d) Copy of FmHA State Loan Review Board Minutes.

(e) Notification of required financial and other reports, their frequency, due dates, and fiscal year end.

7. *par (i) 9. Credit Reports.*

(a) The National Office has contracted with Dun and Bradstreet, Inc. (the contractor, D&B) for a complete credit reference and monitoring system for use by FmHA National and State Offices. The system will provide an independent source of credit information for analyzing applications and provides a continuous monitoring of all loans.

(b) The State Director will appoint a member of his staff to act as a State Coordinator for the service. Such coordinator will be provided with instructional material necessary to use this service. The contractor will assign a D&B account executive from the nearest D&B office for assistance to the FmHA State Office Coordinator, answer inquiries, assure proper service, deliver the National Reference Books, and deliver inquiry request forms to the State Office Coordinator.

(c) The Credit Reference and Monitoring System Service consists of:

(1) *Credit Reference Service*—Three sets of Dun & Bradstreet National Reference Books will be delivered to each state office. These reference books provide an easy-to-use credit information source.

(2) *Business Information Report Service*—When the State Director has determined that a preapplication or application will be considered for further processing, he will instruct the State Office Coordinator to order a credit report on an existing business.

The contractor will provide each state office with a supply of pre-numbered (separate number for each state) Dun & Bradstreet, Inc. Subscriber Inquiry forms JTC 25592 for use in ordering the credit report. The form must contain a complete and correct business name and address. Insert in the "Remarks" section a list of the names of principal(s). The inquiry form is mailed to the designated D&B office for processing. The credit report will be sent by D&B directly to the State Office Coordinator.

For urgent inquires a telephone request to the local D&B office may be used. (Telephone number will be provided by the account executive.)

If loan dockets are sent to the National Office for review, they will contain a copy of the D&B credit report. (Note: The National Office may also initiate requests for these reports and will notify the State Office.)

(3) *Key Account Report Service*—This is a special comprehensive report on businesses and principals providing an indepth investigation and detailed information. All Key Account Reports will be ordered by the National Office. If a State Director feels a Key Account Report is needed to assist in his review of an application, he may request such report from the National Office, by submitting a memo with reasons for the request. In most new business proposals this service will be a valuable tool in the evaluation of the loan and should be requested.

(4) *Change Notification Service*—This is a continuous monitoring service whereby D&B in Washington, D.C. will coordinate with the National Office for providing certain data relating to then existing Business and Industry Loans.

(i) Each State Coordinator will provide the National Office with an initial listing of all existing business names and addresses where Loan Note Guarantees or letter of conditions has been issued and thereafter, on a monthly basis, a listing of additional names or deletions.

(ii) The National Office will forward the combined listings to D&B, who thereafter will provide a continuous monitoring of these businesses. D&B will report any significant changes that may have developed which affect the business. Such changes will be reported on a D&B change notice Form 9W2-11 and sent by D&B to the National Office. The National Office will review the change notice and send a copy to the State Office Coordinator who may request a D&B updated credit report or take any appropriate follow-up action required. (This system is to be used as a supplement for FmHA's monitoring functions).

8. Applications will be organized in a loan file in accordance with FmHA Instruction 151.1, Exhibit B. An 8-position folder will be utilized. The State Director may supplement the Position Guides to include specific legal requirements within their state. If the applicant prepares a complete application package, it may accompany the loan file provided the file is organized in a binder, indexed, tabbed, and feasibility studies are kept separate.

9. On loan applications within the State Director's loan approval authority, the State Director will submit to the National Office items 6 (b) through (e) above, copy of Borrower and Lender Loan Agreement, and comments as per ADMINISTRATIVE A 2 above.

### § 1980.452 FmHA evaluation of application.

FmHA will evaluate the application. FmHA will make a determination whether the borrower is eligible, the proposed loan is for an eligible purpose, there is reasonable assurance of repayment ability, sufficient collateral, and sufficient equity. If FmHA determines it is unable to guarantee the loan, the lender will be informed in writing. Such notification will include the reasons for denial of the guarantee. If FmHA is able to guarantee the loan, it will provide the lender and the applicant with Form FmHA 449-14, listing all requirements for such guarantees. The Conditional Commitment for Guarantee may not be issued on any loan until the State Director has been notified by the National Office that the Statement of Personal History(s) has been cleared. FmHA State Directors are authorized to execute Form FmHA 449-14.

ADMINISTRATIVE

State Director evaluates the application and considers:

A. Rural Area determinations. (See § 1980.-405).

B. Community Impact of the proposal which includes: 1. Number of Businesses and Industries in the town or city.

2. Employment impact upon the community.

3. Availability of skilled and unskilled labor and permanency of employment opportunities.

4. Vocational and educational facilities to provide skilled labor, if applicable.

5. Policies of applicant regarding unemployment, lay-offs, wage scales, etc.

C. If debt refinancing is requested; consider in accordance with § 1980.411(a)(12) and: 1. A complete review will be made to determine whether it is essential to restructure the company's debts on a schedule that will allow the business to operate successfully rather than merely converting an unsound loan to a guaranteed basis.

(a) Obtain a Borrower's complete debt schedule. Schedule should agree with applicant's latest balance sheet.

(b) Determine from lender if the applicant's present loan(s) is on the lender's regulatory examiners report and if so determine the loan classification.

(c) Analyze lender's liability ledger on the borrower, individual customer credit files, installment Loan Ledger Card or Computer printouts, and other credit reports.

D. Applications will be analyzed by a FmHA State Loan Review Board prior to execution of Form FmHA 449-14.

1. Generally, the review board consists of the State Director as Chairman, Business and Industrial Loan Chief (Specialist), and either the Community Programs Chief, Rural Housing Chief, or Farmer Programs Chief, as appropriate.

2. The State Director may wish to contact non-FmHA sources for expertise, such as bankers or other lenders, industrial develop-

ment specialists from state commissions, academicians, certified public accountants, tax attorneys, successful business and professional leaders, management consultants, and officials from other Federal agencies. Outside resource consultants may be reimbursed for only their travel costs (transportation and subsistence). (See FmHA Instruction 160.1).

3. The Rural Housing Loan Chief will be a member of the FmHA State loan review board if a site development loan (see § 1980.411(a)(7)) is being considered. The Community Programs Chief will be a member if a loan for facilities of the type financed under the provisions of Part 1823 of this Chapter (FmHA Instruction 442.1) is being considered. The Farmer Program Chief will be a member of the board if a project, the success of which is dependent on the production of agricultural products, is being considered. If the proposed project covers more than one program area, all the chiefs for those programs involved will be members of the Board. If the approval of an application for a B&I loan may result in benefiting or hindering other FmHA programs the review board will determine whether the making of such loan or guarantee is likely to result in embarrassment for FmHA as a result of a possible conflict of interest whereby other parties may accuse the agency of giving loan preference to housing borrowers (in the case of site development) or producers (in the case of agricultural processing plant) or other FmHA Programs.

4. The County Supervisor and District Director will attend the review board meeting to the extent practical taking into consideration other work requirements and travel.

All review board meetings will be fully documented and signed by those FmHA employees serving on the board. A copy of such documentation will be retained in the loan file.

5. If the request for guarantee is acceptable, the State Director will obligate the project by submitting Form FmHA 440-3, "Record of Actions," in an original and three copies. The State Director signs the original and one copy. The remaining copies will be conformed. The original and one copy will be forwarded to the Finance Office and a signed copy will be concurrently forwarded to the lender.

The State Director will also direct a letter to the lender informing him that the purpose of the Form FmHA 440-3 is to establish an obligation of guarantee authority, and the lender will be notified when such authority is established, and will be provided with a list of loan guarantee conditions and requirements. The Finance Office will return one copy to the State Director indicating whether the amount of guarantee authority requested has been obligated. Such submission for obligation will not be made until the State Director is ready to issue the Form FmHA 449-14, "Conditional Commitment for Guarantee," except with prior written authorization from the National Office.

The State Director will not issue the Form FmHA 449-14, "Conditional Commitment for Guarantee," until the Finance Office has made notification that the authority has been obligated. This procedure will be used to obligate funds until the Form FmHA 440-3 is obsolete and Form FmHA 440-1, "Request for Obligation of Funds," has been issued for use. Proceed as follows upon the issuance of Form FmHA 440-1 (Revised).

The State Director will obligate funds or authority for the project by preparing Form FmHA 440-1, "Request for Obligation of Funds," in an original and four copies. The State Director will sign the original and one copy and conform two copies. The original and one conformed copy will be forwarded to the Finance Office and the other copies held pending notification from the Finance Office that guarantee or insurance authority is available. The Finance Office will reserve fund or authority for the project and notify the State Director of such reservation by forwarding the original and one copy of Form FmHA 440-57, "Acknowledgement of Obligated Funds/Checks Requested." Unless the State Director notifies the Finance Office to cancel the reservation or to complete obligation at an earlier date, the Finance Office will complete the obligation on the 15th working day following the date of Form FmHA 440-57. The State Director will time his report to the National Office as required by FmHA Instruction 2015-C in order that notification required by the instruction may be accomplished and the applicant (for an insured loan) or the lender (for a guaranteed loan) is informed of loan approval not later than the date of obligation. Notice of approval to the applicant or lender will be accomplished by providing the applicant or lender with the signed copy of Form FmHA 440-1 and a copy of Form FmHA 449-14, "Conditional Commitment for Guarantee," unless the National Office has given prior written authorization to forward Form FmHA 440-1 to the applicant or lender in advance of issuance of Form FmHA 449-14.

The State Director will record the actual date of applicant or lender notification on the remaining copy of Form FmHA 440-1 and make such copy a permanent part of the County Office loan file.

6. State Director, through the County Supervisor, notifies the lender and applicant if he will not issue the Form FmHA 449-14.

### § 1980.453 Review of requirements.

(a) Immediately after reviewing the conditiones and requirements in Form FmHA 449-14, and the options listed on the back of the form, the lender and applicant should complete and sign the "Acceptance or Rejection of Conditions," and return a copy to the FmHA State Director. If certain conditions cannot be met, the lender and borrower may propose alternate conditions to FmHA.

(b) If the lender indicates in the "Acceptance or Rejection of Conditions" that it desires to obtain a Loan Note Guarantee and subsequently decides at any time after receiving a conditional commitment that it no longer wants a Loan Note Guarantee, the lender should immediately advise the FmHA State Director.

ADMINISTRATIVE

The State Director will negotiate with the lender and applicant any changes made to the initially issued or proposed Form FmHA 449-14, "Conditional Commitment for Guarantee." A copy of Form FmHA 449-14 and any amendments thereto will be included when the loan file is submitted to the National Office for review. When the National Office recommends modifications or additions to Form FmHA 449-14, the State Director will further negotiate these recommendations with the lender and applicant. If as a result of these further negotiations the lender, applicant or State Director presents alternate conditions which would modify recommendations of the National Office, the State Director will submit them by memorandum to the National Office for consideration with a copy of the revised Form FmHA 449-14 and any amendments thereto.

### § 1980.454 Conditions precedent to issuance of the Loan Note Guarantee.

(a) Form FmHA 449-34 will not be issued until the lender certifies to FmHA that:

(1) No major changes have been made in the lender's loan conditions and requirements since the issuance of the Conditional Commitment for Guarantee except those approved in the interim by FmHA in writing.

(2) All planned property acquisition has been completed, all development has been substantially completed in accordance with plans and specifications, and all costs have not exceeded the amounts approved by the lender and FmHA.

(3) Required hazard, flood, workman's compensation and personal life insurance is in effect.

(4) Truth in lending requirements have been met.

(5) All equal employment opportunity and nondiscrimination requirements have been or will be met at the appropriate time.

(6) The loan has been properly closed, and the required security instruments have been obtained, or will be obtained on any after acquired property that cannot be covered initially under State law.

(7) The borrower has title marketable in fact to the collateral then owned by him or it, subject to the instruments securing the loan to be guaranteed and subject to any other exceptions approved in writing by FmHA.

(8) The entire amount of loan for working capital has been disbursed except in cases where the State Director has approved disbursement over an extended time.

(9) Required personal, partnership or corporate guarantees have been obtained.

(10) All other requirements to the Conditional Commitment for Guarantee have been met.

**(b) The lender** will see that FmHA is notified so that it can make inspections at various stages of construction, repair, or development if FmHA has advised the lender that it desires to do so.

(c) When it is determined that there will be a cost overrun or a change in funds by line item, paragraphs (1) and (2) of this section will apply.

(1) Minor changes in the project which do not affect the approved loan purposes, increase the cost, or adversely affect the objectives or soundness of the loan may be approved by the borrower and lender. If any line item as reflected in the use of proceeds on Form FmHA 449-1 is changed 10 percent or less and the total loan remains the same, the lender may approve the change.

(2) If the change or overrun cannot be handled as in paragraph (c) of this section, the lender and borrower, with the advice of FmHA, will determine how the change or overrun costs will be met. FmHA will determine and inform the lender in writing whether the loan can still be guaranteed. The State Director may approve cost overruns and line item changes:

(i) On all loans within his approval authority, or

(ii) Where the total loan does not exceed his approval authority plus 20 percent, or

(iii) Not more than 10 percent on loans up to $10,000,000.

(d) Should cost overruns exceed the parameters set forth in paragraph (c)(2) of this section, further disbursements, if any, will be withheld until satisfactory arrangements to complete the project have been made with concurrence of the FmHA National Office.

(e) The lender has executed and delivered to FmHA Form 449–35.

(f) Department of Labor Certification has been obtained by FmHA.

(g) Character evaluation clearance has been obtained by FmHA.

(h) The lender advises FmHA of its plans to sell or assign any part of the loan as provided in Form FmHA 449–35.

(i) When loan closing plans are established, the lender will notify the FmHA County Supervisor so that an FmHA representative may attend the loan closing.

ADMINISTRATIVE

A. *The State Director reviews:* 1. The loan agreement between the borrower and lender which provides for the frequency of submission of financial statements to the County Supervisor. Monthly financial statements should be required on new business enterprises or those needing close monitoring. However, the annual audit report will always be required.

2. Plans for inspection made on construction projects. These should be coordinated with the lender and borrower. (See Appendix B of FmHA Instruction 442.1). Form FmHA 424–12 may be used by the County Supervisor who will make the majority of the inspections. However, the District Directors, Engineers or B&I Chief may also make inspections as designated by the State Directors. Copies are to be furnished the County Supervisor.

3. Cost overruns, if any, and how they will be met.

4. Basic credit requirements of all loans.

B. *par (f)* State Director will designate representative(s) to attend. However, in all cases the District Director will conduct a pre-closing audit to assure that all requirements of the application, Conditional Commitment for Guarantee, and Loan Agreement have been met and will provide such verification in the loan file.

§§ 1980.455–1980.460 [Reserved]

**§ 1980.461 Issuance of lender's agreement, loan note guarantee and assignment guarantee agreement.**

(a) *Lender's Agreement.* If FmHA finds that all requirements have been met, the lender and FmHA will execute Form FmHA 449–35, "Lender's Agreement." The original will be delivered to FmHA and a signed duplicate original retained by the lender. There will be a Form FmHA 449–35 executed for all loans guaranteed by FmHA. The Lender's Agreement will be executed at the time the Loan Note Guarantee is signed and FmHA receives the guarantee fee.

(b) *Loan Note Guarantee.* (1) Upon receipt of the Form FmHA 449–35 and after all requirements have been met, FmHA will execute Form FmHA 449–34. All original(s) will be provided to the Lender and attached to the note. A conformed copy with copies of notes attached will be retained by FmHA.

(2) In the event a lender has made a B&I loan guaranteed by FmHA under previous regulations and has obtained a Form FmHA 449–17, "Contract of Guarantee," the lender may request the State Director to substitute a Loan Note Guarantee governed in all respects by these regulations for the previously issued Contract of Guarantee. The State Director will review the lender's written request for substitution of guarantees and may authorize the issuance of the new Loan Note Guarantee in exchange for the Contract of Guarantee. The lender will:

(i) Prepare and submit to FmHA a written request for such substituted guarantee.

(ii) Certify to FmHA that there is no adverse change in the borrower's financial situation, the collateral and terms of the loan remain the same as under the original guarantee, and the loan is in good standing.

(iii) Pay the required guarantee fee in accordance with § 1980.421.

(iv) Certify to FmHA the outstanding principal amount of the loan.

(v) Execute a Form FmHA 449–35.

(3) If the lender has selected the multi-note system as provided in paragraph III A 2 of the lender's agreement, a Loan Note Guarantee will be prepared and attached to each note the borrower issues. All the notes must be listed on Form FmHA 449–34.

(4) If the lender requests a series of new notes to replace previously issued guaranteed notes as provided in paragraph III A 2 (b) of the Lender's Agreement, the State Director may reissue the new Loan Note Guarantees in exchange for the original loan note Guarantees.

(c) *Assignment Guarantee Agreement.* In the event the lender assigns the guaranteed portion of the loan to a holder(s) in accordance with provisions of § 1980.462, the lender, holder, and FmHA will execute Form FmHA 449–36, "Assignment Guarantee Agreement." The original of the agreement(s) will be provided to the holder with conformed copy(s) to the lender and FmHA. If the lender desires to assign a part(s) of the guaranteed loan to a holder(s), an Assignment Guarantee Agreement will be executed for each assigned portion. Attached to the Assignment Agreement will be a copy of the borrower's note(s) and a copy of the Loan Note Guarantee.

(d) *Refusal to execute contract.* If FmHA determines that it cannot execute the Loan Note Guarantee because all requirements have not been met, it will promptly inform the lender on Form FmHA 449–13, "Denial Letter" of the reasons, and give the lender a reasonable period within which to satisfy FmHA objections. If the lender writes FmHA within the period allowed requesting additional time to satisfy the objections, FmHA may, in writing, grant such additional time as it considered necessary and reasonable under the circumstances. If the lender satisfies the objections within the time allowed, the guarantee will be issued.

(e) *Payment of guarantee fee.* The lender will prepare and deliver Form FmHA 449–19, "Guarantee Fee Report," and deliver the guarantee fee to the County Supervisor who concurrently delivers the Loan Note Guarantee(s).

(f) *Authorized FmHA Representatives to execute forms.* State Directors and County Supervisors are authorized to execute the Lender's Agreement, Loan Note Guarantee or Assignment Guarantee Agreement. State Director and County Supervisors are authorized to execute agreements necessary to the making of an insured loan.

ADMINISTRATIVE

A. *par (a)* The original Form FmHA 449–35 will be kept in the County Office, a copy may be retained in the State Office.

B. *par (b)(1)* Copy(s) of the Loan Note Guarantee(s) will be kept in the County Office. Additional copy(s) may be retained by the State Office. Copies of all issued Loan Note Guarantees will be kept in the loan file.

C. *par (b)(2)* The State Director will approve all substitutions of Loan Note Guarantees for Contracts of Guarantee.

D. It is imperative that the original loan covered by a Contract of Guarantee is current.

E. *The Registered Holder will transmit to the County Supervisor.* 1. Request for substitution together with the original Contract of Guarantee.

2. Copies of notes with lender's identification numbers. (All requirements of the Lender's Agreement must be complied with before any new notes are issued.)

3. Certification that the loan is current and in good standing.

4. Certification of outstanding principal amount of the loan.

5. Executed Lender's Agreement. (FmHA provides form to Lender).

6. Executed Form FmHA 449–19, "Guarantee Fee Report," (Indicate at top of form, "one time substituted guarantee fee.") (See § 1980.421 for calculation of fee due).

7. Payment for appropriate guarantee fee.

F. *County Supervisor will:* 1. Review all the requirements of paragraph E of this section.

2. If the request is appropriate and complete, forward the request to the State Director.

G. *State Director will:* 1. Verify the submitted request and if in order; send the guarantee fee and guarantee fee report to Finance Office with a notation of the date the new Loan Note Guarantee will be issued. (Note: The substitution of a Loan Note Guarantee for the Contract of Guarantee is not to be considered as a new loan for record keeping purposes.)

2. Complete the Loan Note Guarantee (appropriate number for attachment to each note), date and sign the instrument. The following statement will be entered at the top of the form: "This Loan Note Guarantee is issued in substitution of Contract of Guarantee dated _____." The State Director will transfer from the Contract of Guarantee all information pertaining to the loan to the Loan Note Guarantee.

3. Execute Lender's Agreement.

4. Cancel the original Contract of Guarantee.

5. Transmit to the County Supervisor the Loan Note Guarantee, Lender's Agreement and cancelled Contract of Guarantee.

6. State Director may retain for his file copies of the Loan Note Guarantee, Lender's Agreement and Guarantee Fee Report.

H. *County Supervisor:* Will then transmit to the Lender the original Loan Note Guarantee, and a copy of executed Lender's Agree-

ment and retain in loan file copies of Loan Note Guarantee with attached original cancelled Contract of Guarantee copy of Guarantee Fee Report and the original Lender's Agreement.

All provisions of regulation 1980-E will apply to the loan when the Loan Note Guarantee is signed.

I. *Alternate Procedure:* If the Registered Holder does not want to deliver his original Contract of Guarantee with his request for substitution the County Supervisor will accept a copy of the Contract of Guarantee and proceed as above. However, the Loan Note Guarantee will be delivered only upon receipt of the original Contract of Guarantee. The County Supervisor will forward the original Contract of Guarantee to the State Director for cancellation. State Director will return the cancelled Contract of Guarantee to the County Supervisor for retention in the loan file.

J. *par* (b)(3) For reporting purposes where multi-notes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued.

K. *par* (b)(4) The State Director will notify the Finance Office of the transaction.

L. *par* (c) A copy of Form FmHA 449-36 will be kept in the loan file.

M. *par* (d) State Director signs all Forms FmHA 449-13.

N. *par* (e) *The County Supervisor will:*

1. Review Form FmHA 449-19 for completeness.

2. Forward the guarantee fee and original Form FmHA 449-19 to Finance Office.

3. Forward a copy of Form FmHA 449-19, Form FmHA 449-34, Form FmHA 449-35 and Form FmHA 449-36, if applicable, to the State Director.

4. Originals or copies, as appropriate, will be retained in the FmHA loan file.

5. See that the State Director is notified of any discrepancies.

### § 1980.462 Lender's sale or assignment of guaranteed portion of the loan.

Any sale or assignment by the lender of the guaranteed portion of the loan may be accomplished in accordance with the conditions in paragraph III of Form FmHA 449-35. Should the lender know at the time the loan application is being prepared that it plans to sell or assign any part of the guaranteed portion of the loan as provided in Form FmHA 449-35, the lender should provide this information with the application to FmHA.

### §§ 1980.463-1980.468 [Reserved]

### § 1980.469 Loan servicing.

The lender is responsible for loan servicing. See paragraph X of Form FmHA 449-35.

ADMINISTRATIVE

A. While the lender has the primary responsibility for loan servicing and protecting the collateral, the State Director is responsible for seeing that required servicing is properly accomplished. Loan servicing is a preventive rather than a curative action. Prompt follow up on delinquent payments and early recognition and solution of problems are keys to resolving many delinquent loan cases.

B. *The State Director will assure that:* 1. A time table for FmHA field visit inspections is established before the Loan Note Guarantee is issued. Field visits to new business borrowers should be made on a monthly basis for the first few months until the business is stabilized. Visits to non-seasoned (current and less than three years old) loan borrowers should be made at least quarterly; seasoned loans (current and more than three years old) at least annually; and special attention loan borrowers as frequently as the need calls for.

2. A review or adequate analysis on all financial statements and filed reports is made. A complete update of any "spread sheet" analysis of the borrower's financial condition is made and will take any appropriate action necessary. A memorandum of the analysis and a copy of the updated "spread sheet" are forwarded to the National Office, Attention: Business and Industrial Loan Division.

3. A proper followup with the District Director and County Supervisor is made if reports and financial statements are not being transmitted on time or if there are servicing actions needed.

4. Meetings are arranged between the lender, borrower and FmHA to resolve any problems of late payment, etc.

C. *For projects in amounts not in excess of his loan approval authority, the State Director is authorized to approve:* 1. Alterations in the loan agreement with borrower which will not prejudice the Governments interest.

2. Any replacement of collateral for the loan.

3. All lien coverage and lien priorities on the collateral established by the lender before issuance of the Loan Note Guarantee.

D. *Within his loan approval authority, the State Director is authorized to concur in:* 1. Any deferment and reamortization of the loan in concurrence with Holder(s).

2. Use of proceeds from disposition of collateral meeting the provisions of paragraph X of the Lender's Agreement.

E. *The State Director:* May consult with the National Office on any servicing problem and if it cannot be handled at the State level, the file will be forwarded to the National Office with proposed recommendations.

F. *County Supervisor:* 1. Assists in loan monitoring at the direction of the State Director.

2. Will make periodic field inspections (with the lender, if possible) to borrower's place of business in accordance with a preestablished schedule. He will complete the field visit report and transmit it with any recommendations through the District Director to the State Director.

3. Will submit to Finance Office semiannually a lender's statement reflecting the unpaid principal balances on the loan in order to meet U.S. Treasury reporting requirements. This procedure will remain in effect until reporting system is converted to automatic processing system.

4. Will obtain from the lender the necessary financial statements, and will check the statements and any other reports for proper certification and signatures. When the County Supervisor has been notified by the lender of borrowers failure to fulfill any conditions of the Loan Agreement, the County Supervisor will immediately contact the State Director to determine the action to be taken. He will then forward the financial reports and any recommendations through the District Director to the State Director indicating the date reports were received in the County Office.

5. Will notify in writing the District Director and State Director, upon receipt of notice from the Lender when any guaranteed or insured B&I loan is delinquent more than 30 days or when the loan otherwise appears to be developing into a problem case. See paragraph XI of Form FmHA 449-35.

6. Is responsible for establishing an office management system for guaranteed and insured loans in accordance with FmHA Instruction 405.1 to insure timely followup on all required financial statements, audit reports, and any special requirements as set forth in the Loan Agreement with the borrowers.

G. *District Director:* 1. Will assure that the County Supervisor obtains from the Lender the necessary financial statements and reports and transmit the statements with his recommendations to the State Director.

2. Will accompany the County Supervisor on initial field visits to the borrower's place of business and at least annually thereafter. Such visits should be coordinated with the Lender.

3. Will provide guidance and assistance to the County Supervisor if a loan develops into a problem case.

4. Will review all Field Visit Reports and makes recommendations or comments and transmit to the State Director.

### § 1980.470 Defaults by borrower.

Refer to paragraph XI of Form FmHA 449-35.

ADMINISTRATIVE

A. In case of default, the lender will arrange with the County Supervisor or District Director a meeting with the borrower to resolve the problem. A memorandum of the meeting, individuals who attended, a summary of the problem and proposed solutions will be forwarded to the State Director with a copy retained in the loan file. The State Director will report any problem loans to the National Office on the monthly status report. The State Director will notify the lender and borrower through the County Supervisor of any decision reached by FmHA.

B. *Purchase of Guarantee Portions by FmHA: See Lenders Agreement and Assignment Guarantee Agreement.* 1. The County Supervisor monitoring the loan will coordinate and process any requests for FmHA to purchase in all instances where the Holder(s) are located in close proximity to the local Lender. If several Holders are located outside the area, the State Director may handle the transaction and notify the County Supervisor.

2. The County Supervisor will review the material submitted, verify the amounts due the Holder(s) and transmit the request by memorandum to the State Director. Copies of evidence of ownership will be included. Any original evidence of ownership will be retained in the County Office. A proposed payment date will be established in order to calculate the interest due the holder(s).

3. The State Director will verify the amounts payable to the Holder(s) and assure that all necessary material has been obtained. The State Director will request a check to pay the holder(s) on the appropriate data entry form.

4. Any evidences of ownership retained in the County Office will be considered in any future report of loss calculations. A rescind of any purchase will be maintained in the loan file.

### § 1980.471 Liquidation.

Refer to paragraph XII. of Form FmHA 449-35.

ADMINISTRATIVE

A. State Director determines which FmHA personnel will attend meetings with the Lender.

B. *Paragraph XII B.* FmHa will exercise the option to liquidate only when there is reason to believe the lender's liquidation plan will likely not result in maximum recovery. State Directors are authorized to approve lender liquidation plans or exercise the FmHA option to liquidate when out-

standing guarantee is not in excess of his loan approval authority. All other proposals for liquidation will be submitted to the National Office.

C. *Paragraph XII D.* State Directors are responsible for review and acceptance of accounting reports as submitted by lenders and for submission of such reports to lenders when FmHA is conducting liquidation.

D. *Paragraph XII E 2.* County Supervisors are authorized to accept Report of Loss determinations on Form FmHA 449-20 in those cases where loss will not exceed $50,000; District Directors for loss not to exceed $100,000; and State Directors for all others. The State Director will submit to the Finance Office for payment of any losses on the Form FmHA 449-20. The Finance Office forwards loss payment checks to the State Director for delivery to lender.

E. *Paragraph XII E 3.* Final loss payments will be made within the 60 days required but only after an audit to assure all collateral for the loan has been properly accounted for. State Directors are responsible to see that such audits are accomplished in time to be reviewed and accepted or otherwise resolved within the 60 day period. County Supervisors may conduct such audits when the loss does not exceed $50,000; District Directors $100,000; and State Directors for amounts not to exceed their loan approval authority. All audits involving losses in excess of the amounts equal to the State Directors loan approval authority will be submitted to the National Office for review. If the State Director wishes National Office assistance in the conduct of any audit, he may so request.

### § 1980.472 Protective advances.

Refer to paragraph XIII, Form FmHA 449-35.

ADMINISTRATIVE

A. It is not intended that protective advances be made in lieu of additional loans. The State Director is authorized to approve all protective advances; he will consider the following when approving such advances:

1. The total amount of outstanding advances, the amount of those for which approval is requested, the outstanding loan balance, whether the account is current and, if not, the extent of the delinquencies.

2. The borrower's ability to pay the remaining loan balance and any future advances in accordance with the existing repayment schedule.

### § 1980.473 Additional loans or advances.

Refer to paragraph XIV of Form FmHA 449-35, "Lender's Agreement."

ADMINISTRATIVE

The State Director may approve additional loans or advances provided that he determines there will be no adverse changes in the borrower's financial situation and that such loan or advance is not likely to adversely affect the collateral or the guaranteed loan.

### §§ 1980.474–1980.475 [Reserved]

### § 1980.476 Transfer and assumptions.

(a) All transfers and assumptions must be approved in writing by FmHA. Such transfers and assumptions must be to an eligible applicant.

(b) Transfer and assumptions will be considered without regard to § 1980.451 (d).

(c) The applicant will submit to FmHA Form FmHA 449-4 for the required character evaluation prior to the execution of the Assumption Agreement.

(d) Available transfer and assumption options to eligible applicants include the following:

(1) The total indebtedness may be transferred to another borrower on the same terms.

(2) The total indebtedness may be transferred to another borrower on different terms not to exceed those terms for which an initial loan can be made.

(3) A part of the total indebtedness may be transferred to another borrower on the same terms.

(4) A part of the total indebtedness may be transferred to another borrower on different terms.

(e) In any transfer and assumption case, the transferor, including any guarantor(s) may be released from liability by the lender with FmHA written concurrence only when the value of the collateral being transferred is at least equal to the amount of the loan or part of the loan being assumed. If the transfer is for less than the entire debt:

(1) FmHA must determine that the transferor has no reasonable debt-paying ability considering his assets and income at the time of transfer.

(2) The FmHA County Committee must certify that the transferor has cooperated in good faith, used due diligence to maintain the collateral against loss, and has otherwise fulfilled all of the regulations of this Subpart to the best of his ability.

(f) If there is any cash downpayment in connection with the transfer and assumption, it will be applied on the loan in inverse order of maturity and any proceeds from collateral sold before the transfer and assumption should be credited on the transferor's loan debt in inverse order of maturity before the transfer and assumption transaction is approved.

(g) The lender must make a credit analysis on the prospective transferee in all cases and submit it to FmHA for approval. The assumption will be made on the lender's form of assumption agreement. The assumption agreement must contain the FmHA case number of the transferor and the transferee. Changes may be made in the loan terms if agreed to in advance by FmHA, any Holder(s) and the lender; however, FmHA will not issue a new Loan Note Guarantee.

(h) In the case of a transfer and assumption, it is the lender's responsibility to see that all such transfer and assumptions will be noted on all originals of the Loan Note Guarantee(s). The lender must give FmHA a copy of the transfer and assumption agreement. Notice must be given by the lender to FmHA indicating whether the borrower or guarantor has been released from liability.

(i) The Holder(s), if any, will not be consulted on a transfer and assumption case.

ADMINISTRATIVE

A. *Within his loan approval authority, the State Director may consent:* 1. To all transfer and assumption cases.

2. To the release of the transferor and guarantor(s) from liability on the loan. The State Director may approve or disapprove the transfer and will notify the lender and the appropriate parties of his decision in writing.

3. Any changes in the loan terms provided the Holder(s) if any and lender agree.

NOTE.—This should be reviewed as if it were a new loan.

The Loan Note Guarantee will be endorsed in the space provided on the form.

B. A copy of the Assumption Agreement will be retained in the County Office file. The State Director will notify Finance Office of all approved Transfer and Assumption Cases in order that finance records may be adjusted accordingly.

### §§ 1980.477–1980.480 [Reserved]

### § 1980.481 Insured loans.

Applications from private parties for whom FmHA and such applicants agree that a guaranteed lender is not available, and from public bodies shall be processed as insured loans in accordance with the applicable provisions of this Subpart and Subpart A of Part 1823 of this Chapter (FmHA Instruction 442.1), including the credit elsewhere requirement, except as provided in § 1980.488 which provides for the guarantee of taxable bond issues of public bodies. Loans to public bodies may be used only to finance:

(a) Community facilities as defined in § 1980.402(e) and

(b) Constructing and equipping industrial plants for lease to private businesses (not including loans for operating such businesses) when the requested loan is not available under Subpart A of Part 1823 of this Chapter (FmHA Instruction 442.1).

ADMINISTRATIVE

A. All insured loans require National Office concurrence prior to approval.

B. Applications from private parties for insured loans should not be encouraged.

C. Loan closings on insured loans will be in accordance with Instructions of the Regional Attorney and applicable provisions of Subpart A of Part 1823 of this Chapter (FmHA Instruction 442.1).

### §§ 1980.482–1980.487 [Reserved]

### § 1980.488 Guaranteed industrial development bond issues.

Loans to public bodies may be guaranteed only in connection with the issuance of any class or series of industrial development bonds (as defined in section 103 (c)(2) of the Internal Revenue Code of 1954, as amended (IRC)), the interest on which is includable in gross income under IRC. No part of the loan guaranteed by FmHA may extend to any class or series of industrial development bonds the interest on which is excludable from gross income under section 103(a)(1) of such Code. Prior to the execution of any Loan Note Guarantee, lender shall furnish FmHA evidence regarding interest on bonds being taxable for Federal income tax purposes. Such evidence may be in the form of an unqualified opinion of a recognized bond counsel or a ruling from the Internal Revenue Service.

Loans to public bodies may be guaranteed for the purpose of acquiring, constructing and equipping industrial plants for lease to private businesses (not in-

cluding loans for operating such businesses).

If FmHA and the applicant agree that a guaranteed lender is not available, the application may be considered for an insured loan under the provisions of § 1980.481.

ADMINISTRATIVE

A. Guaranteed loans to public bodies may be used only for constructing and equipping the industrial plants for lease to private business and does not provide for funds for debt refinancing, working capital, and other fees or services. The leasee will have to provide necessary working capital and have sufficient financial strength to provide for a sound project.

B. The lender will notify the State Director of the taxability of the proposed bond issues.

§§ 1980.489–1980.491 [Reserved]

§ 1980.492 Method of review.

Any adverse decision by the County Supervisor will be reviewed by the State Director. Upon any adverse decision by the State Director the aggrieved party may request the Administrator of FmHA to review the State Director's decision. His address is: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250.

(a) The request for review must be in writing and must be accompanied by supporting information and documentation. A copy of the request and supporting material must be sent by the requesting party to the State Director at the same time such party forwards the original to the Administrator.

(b) Upon receipt of the copy of this material, the State Director will furnish a full report on the matter to the Administrator.

(c) The Administrator will act on the request as expeditiously as possible under all the circumstances, and will notify the requestor and the State Director in writing of his decision and the reason therefor.

§ 1980.493 Access to records of lenders.

Upon request the Lender will permit representatives of FmHA (or other agencies of the U.S. Department of Agriculture authorized by that Department) to inspect and make copies of any of the records of the Lender pertaining to FmHA guaranteed loans. Such inspection and copying may be made during regular office hours of the lender, or any other time the Lender finds convenient.

§ 1980.494 State supplements to this regulation.

FmHA State Directors may supplement this regulation subject to National Office review to the extent necessary to properly implement the program in their States.

§ 1980.495 FmHA Forms.

Forms FmHA 449-34, "Loan Note Guarantee," FmHA 449-35, "Lender's Agreement," and FmHA 449-36, "Assignment Guarantee Agreement," are incorporated as Appendices B–D and made a part hereof.

§§ 1980.496–1980.500 [Reserved]

GENERAL ADMINISTRATIVE

*Office of the General Counsel (OGC)*: In performing the FmHA functions with respect to B&I loans, the advice and assistance of OGC may be sought and followed on any legal matter. However, in loanmaking, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are duly met. If FmHA has any questions concerning the Lender's resolution of these matters, it should consult with OGC.

APPENDIX A—MEMORANDUM OF UNDERSTANDING BETWEEN SMALL BUSINESS ADMINISTRATION (SBA) AND THE UNITED STATES DEPARTMENT OF AGRICULTURE FARMERS HOME ADMINISTRATION (USDA–FmHA)

PREAMBLE

This joint memorandum reaffirms the mutual desire of the Farmers Home Administration (FmHA) and the Small Business Administration (SBA) to cooperate in the use of their respective loan making authorities to complement the activities of each other and to improve the economic climate in the rural areas of the country.

GENERAL GUIDELINES

1. The FmHA administers its Business and Industrial (B&I) loans and grant program through its State and County Offices. The SBA programs are handled by its District Offices.

2. FmHA State Directors and SBA District Directors, or their designees, and appropriate officials at the National Office level will establish a liaison and periodically coordinate their activities to (a) assure that intended recipients of their programs are served, (b) define areas of cooperation for each of the two agencies, (c) enable both agencies to serve the public more expeditiously, and (d) provide maximum public benefit from the utilization of their respective resources.

3. The National Offices of the SBA and the FmHA believe that each agency will achieve better utilization of available resources and the public will be benefited by the following:

(a) When it appears that the needs of inquirers or prospective borrowers contacting either agency can be served as well or better by the other agency they will be advised of the other agency's programs so the inquirer can evaluate which will more effectively or expeditiously meet the business needs of the borrower. FmHA State Directors and SBA District Directors are responsible for establishing lines of communication between their offices to exchange lists of referrals between their program personnel.

(b) Whenever an inquirer meets SBA eligibility criteria and size standards and the loan needs are within SBA's dollar limits, he will be encouraged to apply to SBA for assistance.

(c) Inquirers seeking SBA assistance who do not meet the size and eligibility criteria will be referred to FmHA.

(d) Neither Agency will refuse to accept an eligible application when the lender or applicant insists that he wants to file with a specific agency regardless of agency advice.

4. SBA District Directors will provide FmHA State Directors with notices of all SBA sponsored or cosponsored prebusiness workshops, training courses, etc., as well as providing FmHA with reasonable supplies of lists of free publications and for the sale publications.

COMPANION LOANS

5. In certain circumstances, the two agencies may participate in a total project but will normally have separate borrowers, loan agreements, notes, mortgages, and other legal documents. Due to the differences in the guaranty of the two agencies, sharing of a lien position in collateral will not be encouraged; however, cross pledging of collateral may be appropriate.

6. An illustration of total project in which both FmHA and SBA may be requested to provide financial assistance might call for FmHA to financially assist, either directly or indirectly, in the acquisition and construction of the land and buildings (an industrial park could be part of the total project), and SBA is requested to finance the commercial tenant's machinery and equipment and to provide working capital.

7. Separate applications are necessary for each agency and will be processed independently. However, the loan specialist for each agency is required to establish a liaison with his counterpart in the other agency when an applicant applies to both agencies for assistance in different aspects of the total project.

8. Copies of the same feasibility, technical, or market studies, business plans, appraisals, and other supporting documents will be supplied with the application to each agency where combined funding is contemplated.

9. The approval by either agency of its loan will be conditioned on the like approval by the other agency of its loan. A copy of each agency's terms and conditions for approval (SBA's loan authorization and FmHA's conditional commitment for guarantee) will be supplied to the other agency.

10. Within the limits of their regulations, each agency must approve changes in their own approval documents, such as change of tenants, scope of operation, methods of financing, etc., after discussion with the other agency and notify the other agency of their action on each material change request received.

11. Loan closing and disbursing functions will be performed by each agency in accordance with their respective regulations.

12. Loan servicing procedure prescribed by each agency will apply to each agency's loans. However, if either agency receives any indication of an adverse change, including notice of past due payments, it will immediately provide the other agency with the adverse information and, when possible, the corrective action being proposed. Within the confines of each agency's regulations, no corrective action will be taken by either agency without discussing proposed corrective action with the other agency and determining the possible adverse impact on the other's loan, guaranty, or grant.

13. All liquidation situations will be handled on a case by case basis. FmHA State Directors and SBA District Directors are responsible for determining that their personnel are guided by the principle of minimizing the total loss to the government and that all liquidation action or options adopted are guided by this principle.

14. Each agency will normally take a prior lien on those assets purchased with its loan proceeds. The loan specialists for each agency will mutually determine their respective lien position on other assets available as collateral.

OTHER GUIDELINES

15. The services of FmHA and SBA to lenders and applicants are, by mutual agreement, those that each agency would provide any eligible applicant in the normal course of business and there will be no reimbursement by either agency to the other for such services.

16. The National Office of FmHA, B&I Division, and the Central Office of SBA, Office of Financing, or Office of Portfolio Management, as appropriate, will cooperate with each other in counseling their field offices

and in resolving problems in specific cases.

17. This agreement may be amended at any time by written agreement of both parties.

18. This agreement shall take effect upon the date of the execution thereof.

THOMAS S. KLEPPE,
*Administrator, Small Business Administration.*

FRANK B. ELLIOTT,
*Administrator, Farmers Home Administration.*

APPENDIX B—FORM FmHA 449-34

LOAN NOTE GUARANTEE

State: _____
County: _____

Date of note: _____
Borrower: _____
_____
Type of Loan FmHA Ident. No.
Lender: _____
_____
Lender's IRS ID Tax No.
Lender's address: _____
Principal Amount of Loan: $_____

The guaranteed portion of the loan is $_____ which is _____ (— %) percent of loan principal. The principal amount of loan is evidenced by _____ note(s) (includes bonds as appropriate) described below. The guaranteed portion of each note is indicated below. This instrument is attached to note _____ in the face amount of $_____ and is number _____ of _____.

| Identifying number | Face amount | Percent of loan principal | Amount guaranteed |
|---|---|---|---|
| # | $ | % | $ |
| Total | $ | 100% | $ |

In consideration of the making of the subject loan by the above named Lender, the United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture (herein called "FmHA"), pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), does hereby agree that in accordance with and subject to the conditions and requirements herein, it will pay to:

A. Any Holder 100 percent of any loss sustained by such Holder on the guaranteed portion and on interest due on such portion.

B. The Lender the lesser of 1. or 2. below:

1. Any loss sustained by such Lender on the guaranteed portion including:

a. Principal and interest indebtedness as evidenced by said note(s) or by assumption agreement(s), and

b. Principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization, including but not limited to, advances for taxes, annual assessments, any ground rents, and hazard or flood insurance premiums affecting the collateral, or

2. The guaranteed principal advanced to or assumed by the Borrower under said note(s) or assumption agreement(s) and any interest due thereon. If FmHA conducts the liquidation of the loan, loss occasioned to a Lender by accruing interest after the date FmHA accepts responsibility for liquidation will not be covered by this Loan Note Guarantee. If Lender conducts the liquidation of the loan, accruing interest shall be covered by this Loan Note Guarantee to date of final settlement when the Lender conducts the liquidation expeditiously in accordance with the liquidation plan approved by FmHA.

DEFINITION OF HOLDER

The Holder is the person or organization other than the Lender who holds all or part of the guaranteed portion of the loan with no servicing responsibilities. When the Lender assigns a part(s) of the guaranteed loan to an assignee, the assignee becomes a Holder only when he uses Form FmHA 449-36 "Assignment Guarantee Agreement."

DEFINITION OF LENDER

The lender is the person or organization making and servicing the loan which is guaranteed under the provisions of 7 C.F.R. Part 1980, Subpart E. The Lender is also the party requesting a loan guarantee.

CONDITIONS OF GUARANTEE

1. LOAN SERVICING

Lender will be responsible for servicing the entire loan, and Lender will remain mortgagee and/or secured party of record notwithstanding the fact that another party may hold a portion of the loan. When multiple notes are used to evidence a loan, Lender will structure repayments as provided in the loan agreement.

2. PRIORITIES

The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan will not be paid first nor given any preference or priority over the guaranteed portion.

3. FULL FAITH AND CREDIT

The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which Lender or any Holder has actual knowledge at the time it became such Lender or Holder or which Lender or any Holder participates in or condones. In addition, the Loan Note Guarantee will be unenforcible by Lender to the extent any loss is occasioned by the violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing.

4. RIGHTS AND LIABILITIES

The guarantee and right to require purchase will be directly enforceable by Holder notwithstanding any fraud or misrepresentation by Lender or any unenforceability of this Loan Note Guarantee by as to Lender. Nothing contained herein will constitute any waiver by FmHA of any rights it possesses against the Lender. Lender will be liable for and will promptly pay to FmHA any payment made by FmHA to Holder which if such Lender had held the guaranteed portion of the loan, FmHA would not be required to make.

5. PAYMENTS

Lender will receive all payments of principal or interest on account of the entire loan and will promptly remit to Holder(s) its pro rata share thereof determined according to its respective interest in the loan, less only Lender's servicing fee.

6. PROTECTIVE ADVANCES

Protective advances made by Lender pursuant to the regulations will be guaranteed against a percentage of loss to the same extent as provided in this Loan Note Guarantee notwithstanding the guaranteed portion of the loan is held by another.

7. REPURCHASE BY LENDER

The Lender agrees to repurchase the unpaid guaranteed portion of the loan from the Holder(s) within 30 days of written demand by the Holder(s) when: (a) the borrower is in default not less than 60 days on principal or interest due on the loan or (b) the Lender has failed to remit to the Holder(s) its pro rata share of any payment made by the borrower within 30 days of its receipt thereof. The repurchase by the Lender will be for an amount equal to the unpaid guaranteed portion of principal and accrued interest less the Lender's servicing fee. Holder(s) will concurrently send a copy of demand to FmHA. The Lender will accept an assignment without recourse from the Holder(s) upon repurchase.

8. FMHA PURCHASE

If Lender does not repurchase as provided by paragraph 7 hereof, FmHA will purchase from Holder the unpaid principal balance of the guaranteed portion together with accrued interest to date of repurchase, less Lender's servicing fee, within thirty (30) days after written demand from Holder. Such demand will recite Lender's reasons for failure to repurchase within the period set forth in paragraph 7, and include a copy of the written demand made upon the Lender. The Holder(s) or its duly authorized agent will also include evidence of its right to require payment from FmHA. Such evidence will consist of either the original of the Loan Note Guarantee properly endorsed to FmHA or the original of the Assignment Guarantee Agreement properly assigned to FmHA without recourse including all rights, title, and interest in the loan. FmHA will be subrogated to all rights of Holders(s). The Holder(s) will include in its demand the amount due including unpaid principal, unpaid interest to date of demand and interest subsequently accruing from date of demand to proposed payment date. Unless otherwise agreed to by FmHA, such proposed payment will not be later than 30 days from the date of demand.

The FmHA County Supervisor will promptly notify the Lender of the Holder(s)'s demand for payment. The Lender will promptly provide the FmHA County Supervisor with the information necessary for FmHA's determination of the appropriate amount due the Holder(s). Any discrepancy between the amount claimed by the Holder(s) and the information submitted by the Lender must be resolved before payment will be approved. FmHA will notify both parties who must resolve the conflict before payment by FmHA will be approved. Such a conflict will suspend the running of the 30 day payment requirement. Upon receipt of the appropriate information, FmHA County Supervisor will review the demand and submit it to the State Director for verification. After reviewing the demand the State Director will transmit the request to the FmHA Finance Office for issuance of the appropriate check. Upon is-

suance, the Finance Office will notify the County Supervisor and State Director and remit the check(s) to the Holder(s).

9. LENDER'S OBLIGATIONS

Lender consents to the purchase by FmHA and agrees to furnish on request by FmHA a current statement certified by an appropriate authorized officer of the Lender of the unpaid principal and interest then owed by Borrowers on the loan and the amount then owed to any Holder(s). Lender agrees that any purchase by FmHA does not change, alter or modify any of the Lender's obligations to FmHA arising from said loan or guarantee nor does it waive any of FmHA's rights against Lender, and that FmHA will have the right to set-off against Lender all rights inuring to FmHA as the Holder of this instrument against FmHA's obligation to Lender under the Loan Note Guarantee.

10. REPURCHASE BY LENDER FOR SERVICING

If, in the opinion of the Lender, repurchase of the guaranteed portion of the loan is necessary to adequately service the loan, the Holder will sell the portion of the loan to the Lender for an amount equal to the unpaid principal and interest on such portion less Lender's servicing fee.

a. The Lender will not repurchase from the Holder(s) for arbitrage purposes or other purposes to further its own financial gain.

b. Any repurchase will only be made after the lender obtains FmHA written approval.

c. If the Lender is unable to repurchase the portion from the holder(s), FmHA at its option may purchase such guaranteed portions for servicing purposes.

11. CUSTODY OF UNGUARANTEED PORTION

The Lender may retain, or sell the unguaranteed portion of the loan only through participation. Participation, as used in this regulation, means the sale of an interest in the loan wherein the Lender retains the note, collateral securing the note, and all responsibility for loan servicing and liquidation.

12. WHEN GUARANTEE TERMINATES

This Loan Note Guarantee will terminate automatically (a) upon full payment of the guaranteed loan, or (b) upon full payment of any loss obligation hereunder.

13. SETTLEMENT

The amount due under this instrument will be determined and paid as provided in the FmHA Business and Industrial regulations Part 1980 Subpart E in effect on the date of this instrument.

14. NOTICES

All notices and actions will be initiated through the FmHA County Supervisor for _____ (County) _____ (State) with mailing address at the date of this instrument: _____

_____

UNITED STATES OF AMERICA FARMERS HOME ADMINISTRATION

By: _____

Title _____

_____

(Date)

Assumption Agreement by _____ dated _____ 19—

Assumption Agreement by _____ dated _____ 19—

APPENDIX C—FORM FmHA 449-35

UNITED STATES DEPARTMENT OF AGRICULTURE

FARMERS HOME ADMINISTRATION

LENDER'S AGREEMENT

FmHA Loan Ident. No.

_____

_____ (Lender) of _____ has made a loan(s) to _____ (Borrower) _____ in the principal amount of $_____ as evidenced by _____ note(s) include Bond as appropriate) described as follows: _____

_____

The United States of America, acting through Farmers Home Administration (FmHA) has entered into a "Loan Note Guarantee" (Form FmHA 449-34) or has issued a "Conditional Commitment for Guarantee" (Form FmHA 449-14) to enter into a Loan Note Guarantee with the Lender applicable to such loan to participate in a percentage of any loss on the loan not to exceed — % of the amount of the principal advance and any interest thereon. The terms of the Loan Note Guarantee are controlling. In order to facilitate the marketability of the guaranteed portion of the loan and as a condition for obtaining a guarantee of the loan(s), the Lender enters into this agreement.

The parties agree: I. The maximum loss covered under the Loan Note Guarantee will not exceed — percent of the principal and accrued interest on the above indebtedness.

II. *Full Faith and Credit.* The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones.

The Loan Note Guarantee will be unenforceable by the Lender to the extent any loss is occasioned by violation of usury laws, use of loan funds for unauthorized purposes, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing.

III. *Lender's Sale or Assignment of Guaranteed Loan.* A. The Lender may retain all of the guaranteed loan. If the Lender desires to market all or part of the guaranteed portion of the loan the Lender may proceed under the following options:

1. *Assignment.* Assign all or part of the guaranteed portion of the loan to one or more Holders by using Form FmHA 449-36, "Assignment Guarantee Agreement." Holder(s), upon written notice to Lender and FmHA, may reassign the unpaid guaranteed portion of the loan sold thereunder. Upon such notification the assignee shall succeed to all rights and obligations of the Holder(s) thereunder. If this option is selected, the Lender may not at a later date cause to be issued any additioned notes.

2. *Multi-Note System.* When this option is selected by the Lender, upon disposition the Holder will receive one of the Borrower's executed notes and Form FmHA 449-34, "Loan Note Guarantee" attached to the Borrower's note. However, all rights under the security instruments (including personal and/or corporate guarantees) will remain with the Lender and in all cases inure to its and the Government's benefit notwithstanding any contrary provisions of state law.

a. *At Loan Closing:* Provide for no more than 10 notes, unless the Borrower and FmHA agree otherwise, for the guaranteed portion and one note for the unguaranteed portion. When this option is selected, FmHA will provide the Lender with a Form FmHA 449-34, for each of the notes.

b. *After Loan Closing:* (1) Upon written approval by FmHA, the Lender may cause to be issued a series of new notes, not to exceed the total provided in 2 a above, as replacement for previously issued guaranteed note(s) provided:

(a) The borrower agrees and executes the new notes.

(b) The interest rate does not exceed the interest rate in effect when the loan was closed.

(c) The maturity of the loan is not changed.

(d) FmHA will not bear any expenses that may be incurred in reference to such re-issue of notes.

(e) There is adequate collateral securing the note(s).

(f) No intervening liens have arisen or have been perfected and the secured lien priority remains the same.

(2) FmHA will issue the appropriate Loan Note Guarantees to be attached to each of the notes then extant in exchange for the original Loan Note Guarantee which will be cancelled by FmHA.

3. *Participations.* a. The Lender may obtain participation in its loan under its normal operating procedures. Participation means a sale of an interest in the loan wherein the Lender retains the note, collateral securing the note, and all responsibility for loan servicing and liquidation.

b. The Lender may retain or sell any amount of the unguaranteed portion of the loan as provided in this section only through participation. However, the lender will retain the responsibility for loan servicing and liquidation.

c. When a guaranteed portion of a loan is sold by the Lender to a Holder(s), the Holder(s) shall thereupon succeed to all rights of Lender under the Loan Note Guarantee to the extent of the portion of the loan purchased. Lender will remain bound to all the obligations under the Loan Note Guarantee, and this agreement, and the FmHA program regulations found in Title 7 CFR Part 1980 Subpart E, and to future FmHA program regulations not inconsistent with the express provisions hereof.

The Holder(s) upon written notice to the Lender may resell the unpaid guaranteed portion of the loan sold under provisions III A.

IV. The Lender agrees loan funds will be used for the purposes authorized in Title 7 CFR Part 1980 Subpart E and in accordance with the terms of Form FmHA 449-14.

V. The Lender certifies that it is a citizen of the United States of America, or, if an organization, that the ownership of at least 51 percent of any outstanding interests of the Lender is owned by citizens of the United States. Further, such Lender certifies that any guarantees received shall be only on loans made by it, operating for itself and not on behalf of foreign citizens or organizations.

VI. The Lender certifies that none of its officers or directors, stockholders or other owners has a substantial financial interest in the borrower. The Lender certifies that none of the borrower's officers or directors, stockholders or other owners has a substantial financial interest in the Lender.

VII. The Lender certifies that it has no knowledge of any material adverse change, financial or otherwise, in the Borrower, his business, or any parent, subsidiaries, or affiliates since it requested a Loan Note Guarantee.

VIII. Lender certifies that a loan agreement concurred in by FmHA has been or will be signed with the Borrower.

IX. Lender certifies it has paid the required guarantee fee.

X. *Servicing.* A. The Lender will service the entire loan and will remain mortgagee and/or secured party of record, notwithstanding the fact that another may hold a portion of the loan. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. Lender may charge Holder a servicing fee. The unguaranteed portion of a loan will not be paid first nor

given any preference or priority over the guaranteed portion of the loan.

B. Disposition of the guaranteed portion of a loan may be made prior to full disbursement, completion of construction and acquisitions only with the prior written approval of FmHA. Subsequent to full disbursement, completion of construction, and acquisition, the guaranteed portion of the loan may be disposed of as provided herein.

It is the lender's responsibility to see that all construction is properly planned before any work proceeds; that any required permits, licenses or authorizations are obtained from the appropriate regulatory agencies; that the borrower has obtained contracts through acceptable procurement procedures; that periodic inspections during construction are made and that FmHA's concurrence on the overall development schedule is obtained.

C. Lender's servicing responsibilities include, but are not limited to:

1. Obtaining compliance with the covenants and provisions in the note, loan agreement, security instruments, and any supplemental agreements. None of the aforesaid instruments will be altered without FmHA's prior written concurrence.

2. Receiving all payments on principal and interest on the loan as they fall due and promptly remitting and accounting to any Holder(s) for their pro rata share thereof determined according to their respective interests in the loan, less only Lender's servicing fee. The loan may be reamortized only with agreement of the Lender and Holder(s) of the guaranteed portion of the loan and only with FmHA concurrence.

3. Inspecting the collateral as often as necessary to properly service the loan.

4. Assuring that adequate insurance is maintained.

5. Assuring that: taxes, assessment or ground rents against or affecting collateral are paid; the loan and collateral are protected in foreclosure, bankruptcy, receivership, insolvency, condemnation, or other litigation; insurance loss payments, condemnation awards, or similar proceeds are applied on debts in accordance with lien priorities on which the guarantee was based, or to rebuilding or otherwise acquiring needed replacement collateral with the written approval of FmHA; proceeds from the sale or other disposition of collateral are applied in accordance with the lien priorities on which the guarantee is based, except that proceeds from the disposition of collateral, such as machinery, equipment, furniture or fixtures, may be used to acquire property of similar nature in value up to $50,000 without written concurrence of FmHA; the Borrower complies with all laws and ordinances applicable to the loan, the collateral and operation of the business or industry.

6. Assuring that if personal or corporate guarantees are part of the collateral, current financial statements from such loan guarantors will be obtained and copies provided to FmHA at such time and frequency as required by the loan agreement or Conditional Commitment for Guarantee. In the case of guarantees secured by collateral, assuring the security is properly maintained.

7. Obtaining the lien coverage and lien priorities specified by the Lender and agreed to by FmHA, properly recording or filing lien or notice instruments to obtain or maintain such lien priorities during the existence of the guarantee by FmHA.

8. Assuring that the borrower obtains title marketable in fact to the collateral.

9. Assuring that the Borrower (any party liable) is not released from liability for all or any part of the loan, except in accordance with FmHA regulations.

10. Providing FmHA a statement certified by an officer of the Lender of the unpaid principal balance of the guaranteed loan semiannually as of June 30 and December 31.

11. Obtaining from the borrower periodic financial statements under the following schedule: ----------

Lender is responsible for analyzing the financial statements, taking any servicing actions needed, and providing copies of statements and record of actions to the County Supervisor.

XI. *Defaults by Borrower.* A. The Lender will notify FmHA when a Borrower is thirty (30) days past due on a payment and is unlikely to bring its account current within sixty (60) days, or if the Borrower has not met its responsibilities of providing the required financial statements to the Lender or is otherwise in default. A meeting will be arranged by the Lender with the Borrower and FmHA to resolve the problem. Actions taken by the Lender with concurrence of FmHA may include but are not limited to the following or any combination thereof:

1. Deferment of principal payments (subject to rights of any Holder(s)).

2. An additional temporary loan by the Lender to bring the account current.

3. Reamortization of or rescheduling the payments on the loan (subject to rights of any Holder(s)).

4. Transfer and assumption of the loan in accordance with Title 7 CFR Part 1980 Subpart E.

5. Reorganization.

6. Liquidation.

B. The Lender will negotiate in good faith in an attempt to resolve any problem and to permit the Borrower to cure a default, where reasonable.

C. The Lender agrees to repurchase the unpaid guaranteed portion of the loan from the holder(s) within 30 days of written demand by the Holder(s) when: (a) the borrower is in default not less than 60 days in payment of principal or interest due on the loan or (b) the Lender has failed to remit to the Holder(s) its pro rata share of any payment made by the borrower within 30 days of its receipt thereof. The repurchase by the Lender will be for an amount equal to the unpaid guaranteed portion of principal and accrued interest less the Lender's servicing fee. Holder(s) will concurrently send a copy of demand to FmHA. The Lender will accept an assignment without recourse from the holder(s) upon repurchase.

D. If Lender does not repurchase as provided by paragraph C, FmHA will purchase from Holder(s) the unpaid principal balance of the guaranteed portion herein together with accrued interest to date of repurchase, within 30 days after written demand to FmHA from the Holder(s). Such demand will recite Lender's reasons for failure to repurchase within the period set forth in paragraph C, and include a copy of the written demand made upon the Lender. The Holder(s) or its duly authorized agent will also include evidence of its right to require payment from FmHA. Such evidence will consist of either the original of the Loan Note Guarantee properly endorsed to FmHA or the original of the Assignment Guarantee Agreement properly assigned to FmHA without recourse including all rights, title, and interest in the loan. FmHA will be subrogated to all rights of Holder(s). The Holder(s) will include in its demand the amount due including unpaid principal, unpaid interest to date of demand and interest subsequently accruing from date of demand to proposed payment date. Unless otherwise agreed to by FmHA, such proposed payment will not be later than 30 days from the date of demand.

The FmHA County Supervisor will promptly notify the Lender of the Holder(s)'s demand for payment. The Lender will promptly provide the FmHA County Supervisor with the information necessary for FmHA's determination of the appropriate amount due the Holder(s). Any discrepancy between the amount claimed by the Holder(s) and the information submitted by the Lender must be resolved before payment will be approved. FmHA will notify both parties who must resolve the conflict before payment by FmHA will be approved. Such a conflict will suspend the running of the 30 day payment requirement. Upon receipt of the appropriate information, the FmHA County Supervisor will review the demand and submit it to the State Director for verification. After reviewing the demand, the State Director will transmit the request to the FmHA Finance Office for issuance of the appropriate check. Upon issuance, the Finance Office will notify the County Supervisor and State Director and remit the check(s) to the Holder(s).

E. Lender consents to the purchase by FmHA and agrees to furnish on request by FmHA a current statement certified by an appropriate authorized officer of the Lender of the unpaid principal and interest then owed by the Borrower on the loan and the amount due the Holder(s). Lender agrees that any purchase by FmHA does not change, alter or modify any of the Lender's obligations to FmHA arising from said loan or guarantee, nor does such purchase waive any of FmHA's rights against Lender, and FmHA will have the right to set-off against Lender all rights inuring to FmHA from the Holder against FmHA's obligation to Lender under the Loan Note Guarantee.

F. If the Lender was charging the Holder(s) a service fee, the Lender agrees that the service fee will terminate upon the date of the Holder(s) demand for purchase to FmHA.

G. Lender will also repurchase the guaranteed portion of the loan consistent with paragraph 9 of the Loan Note Guarantee. Lender will automatically repurchase the guaranteed portion of the loan in the event of commencement by or against Borrower of any bankruptcy proceeding, reorganization, dissolution, or institution of a creditor's rights proceeding.

XII. *Liquidation:* If the Lender concludes that liquidation of a guaranteed loan account is necessary because of one or more defaults or third party actions that the Borrower cannot or will not cure or eliminate within a reasonable period of time, a meeting will be arranged by the Lender with FmHA. When FmHA concurs with the Lender's conclusion or at any time concludes independently that liquidation is necessary, it will notify the Lender and the matter will be handled as follows:

The Lender will liquidate the loan unless FmHA, at its option, decides to carry out liquidation.

When the decision to liquidate is made, the Lender has the responsibility to immediately proceed to purchase from Holder(s) the guaranteed portion of the loan. The Holder(s) will be paid according to the provisions in the Loan Note Guarantee or the Assignment Guarantee Agreement.

If the Lender is unable to purchase the guaranteed portion of the loan, FmHA will be notified immediately in writing of the reasons for the Lender's inability to repurchase. FmHA will then purchase the guaranteed portion of the loan from the Holder(s). If FmHA holds any of the guaranteed portion, FmHA will be paid first its share of the proceeds from liquidation of the collateral.

A. *Lender's proposed method of liquidation.* Within 30 days after the decision to liquidate is made, the Lender will advise FmHA of its proposed method of liquidation and will provide FmHA with:

1. Such proof as FmHA requires to establish the Lender's ownership of the guaranteed loan promissory note(s) and related security instruments.

2. Information lists concerning the Borrower's assets including real and personal property, fixtures, claims, contracts, inventory (including perishables), accounts receivable, personal and corporate guarantees, and other existing and contingent assets, advice as to whether or not each item is serving as collateral for the guaranteed loan.

3. A proposed method of making the maximum collection possible on the indebtedness.

4. If the outstanding principal loan balance including accrued interest is less than $200,000, the Lender will obtain an estimate of the market and potential liquidated value of the collateral. On loan balances in excess of $200,000( the Lender will obtain an independent appraisal report on all collateral securing the loan, which will reflect the current market value and potential liquidation value. The appraisal report is for the purpose of permitting the lender and FmHA to determine the appropriate liquidation actions. Any independent appraiser's fee will be shared equally by FmHA and the Lender.

B. *FmHA's response to Lender's liquidation proposal.* FmHA will inform the Lender whether it concurs in the Lender's proposed method of liquidation within 30 days after receipt of such notification from the Lender. If FmHA needs additional time to respond to the liquidation plan, it will advise the Lender of a definite time for such response. Should FmHA and the Lender not agree on the Lender's liquidation proposal, FmHA will proceed with the liquidation as follows:

1. The Lender will transfer to FmHA all its rights and interests necessary to allow FmHA to liquidate the loan. In this event, the Lender will not be paid for any loss until after the collateral is liquidated and the final loss is determined by FmHA.

2. FmHA will attempt to obtain the maximum amount of proceeds from liquidation.

3. Options available to FmHA include any one or combination of the usual commercial methods of liquidation.

C. *Acceleration.* The Lender or FmHA, if it liquidates, will proceed as expeditiously as possible when acceleration of the indebtedness is necessary including giving any notices and taking any other legal actions required by the security instruments. A copy of the acceleration notice or other acceleration document will be sent to FmHA or the Lender, as the case may be.

D. *Liquidation: Accounting and Reports.* When the Lender conducts the liquidation, it will account for funds during the period of liquidation and will provide FmHA with periodic reports on the progress of liquidation, disposition of collateral, resulting costs, and additional procedures necessary for successful completion of liquidation. When FmHA liquidates, the Lender will be provided with similar reports on request.

E. *Determination of Loss and Payment.* In all liquidation cases, a final settlement will be made with the Lender after the collateral is liquidated. FmHA will have the right to recover losses paid under the guarantee from any party liable.

1. Estimated and final loss determinations will be made as follows:

(a) Form FmHA 449-20 "Report of Loss," will be used for calculations of all estimated and final loss determinations until such time as the form is revised or replaced. Items IX and X of Form FmHA 449-20 will not be used for the determination of loss. If no authorized protective advances were made, lines 1C and 1D of Form FmHA 449-20 should not be completed.

(b) The *basic* formula for loss determination is:

(i) Addition of:

(A) Principal balance and accrued interest due on the guaranteed loan note; plus

(B) Protective advances if any and accrued interest, if any, plus

(C) Prior liens owed, if any (used only in paying estimated loss).

(ii) The sum of item (i) is the "Secured Indebtedness" and is inserted on line III of Form FmHA 449-20.

(iii) The amount received from the sale of collateral including personal and/or corporate guarantees is inserted on line IV C.

(iv) Item (iii) is then subtracted from item (ii) and entered in line V of Form FmHA 449-20 as "Basic Loss".

(v) The percentage of the loan guaranteed (as provided in the Loan Note Guarantee) is entered on line VI of the Form FmHA 449-20 and multiplied by "Basic Loss" (line V). The result is also entered on line VI as of the "Amount of Basic Loss Guaranteed."

(vi) Adjustments (which includes amounts of other assets of the borrower not pledged as security for the loan from which collection can readily be made) will be multiplied by the percentage of guarantee and the product deducted from line VI. The result is entered on line VIII on the Form FmHA 449-20 as the "Adjusted Basic Loss."

(vii) The following calculations will be made as an attachment to the form FmHA 449-20:

(A) If authorized protective advances were made the amount authorized as adjusted in item (vi) is deducted from the "Adjusted Basic Loss" and is paid to the Lender. (The amount of line VIII attributable to authorized protective advances will be paid to the Lender.) The remaining balance of the "Adjusted Basic Loss" is multiplied by the percentage of the guaranteed portion held by the Lender. This latter amount will be paid to the Lender.

(B) If no other authorized protective advances were made, the "Adjusted Basic Loss" is multiplied by the percentage of the guaranteed portion held by the Lender and paid to the Lender.

2. When the Lender is conducting the liquidation, and owns any of the guaranteed portion of the loan, he may request a tentative loss estimate by submitting to FmHA an estimate of the loss that will occur in connection with liquidation of the loan. Such estimate will be prepared on Form FmHA 449-20, using the basic formula as provided in E 1 above except that the appraisal value will be used in lieu of the amount received from the sale of collateral and will be clearly labeled at the top of the form: "Report of Loss Estimate."

After the Report of Loss, Estimate has been approved by FmHA, and within 30 days, thereafter, FmHA will send the original Report of Loss Estimate to FmHA Finance Office for issuance of a Treasury check in payment of the estimated amount due the Lender.

After liquidation has been completed, a final loss report will be submitted on Form FmHA 449-20 by the Lender to FmHA and clearly labeled, "Final Report of Loss."

3. After the Lender has completed liquidation FmHA, upon receipt of the final accounting and report of loss, may audit and will determine the actual loss. If FmHA has any questions regarding the amounts set forth in the Final Report of Loss, it will investigate the matter. The Lender will make its records available to and otherwise assist FmHA in making the investigation. If FmHA finds any discrepancies, it will contact the Lender and arrange for the necessary corrections to be made as soon as possible. When FmHA finds the Final Report of Loss to be proper in all respects, it will be tentatively approved in the space provided on the form for that purpose.

4. When the Lender has conducted liquidation and after the Final Report of Loss has been tentatively approved:

a. If the loss is greater than the estimated loss payment, FmHA will send the original of the Final Report of Loss to the Finance Office for issuance of a Treasury check in payment of the additional amount owed by FmHA to the Lender.

b. If the loss is less than the estimated loss, the Lender will reimburse FmHA for the overpayment plus interest at the note rate from date of payment.

5. If FmHA has conducted liquidation, it will provide an accounting and report of loss to the Lender and will pay the Lender in accordance with the Loan Note Guarantee.

6. In those instances where the Lender has made authorized protective advances, it may claim recovery for the guaranteed portion of any loss of monies advanced as protective advances and interest resulting from such protective advances as provided above, and such payment will be made by FmHA when the final Report of Loss is approved. On the "Report of Loss," Form FmHA 449-20 "future advances" means "protective advances."

F. *Maximum amount of interest loss payment.* Notwithstanding any other provisions of this agreement, the amount payable by FmHA to the Lender cannot exceed the limits set forth in the Loan Note Guarantee. If FmHA conducts the liquidation, loss occasioned by accruing interest will be covered by the guarantee only to the date FmHA accepts this responsibility. Loss occasioned by accruing interest will be covered to the extent of the guarantee to the date of final settlement when the liquidation is conducted by the Lender provided it proceeds expeditiously with the liquidation plan approved by FmHA. The balance of accrued interest payable to the Lender, if any, will be calculated on the final Report of Loss form.

G. *Application of FmHA loss payment.* The total amount of the loss payment remitted by FmHA will be applied by the Lender on the guaranteed loan debt. At time of final loss settlement the Lender will notify the Borrower that the loss payment has been so applied.

H. *Income from collateral.* Any net rental or other income that has been received by the Lender from the collateral will be applied on the guaranteed loan debt.

I. *Liquidation costs.* Certain liquidation costs will be allowed during the liquidation process. Such costs will be deducted from gross proceeds from the disposition of collateral. The amount allowed will be the amount agreed upon by FmHA and the Lender as being reasonable under the circumstances and should be determined prior to liquidation.

J. *Foreclosure.* The parties owning the guaranteed portion and unguaranteed portions of the loan will join to institute foreclosure action or, in lieu of foreclosure, to take a deed of conveyance to such parties. When the conveyance is received and liquidated net proceeds will be applied to the guaranteed loan debt.

K. *Payment.* Such loss will be paid by FmHA within 60 days after the Lender has submitted the final Report of Loss form.

XIII. *Protective advances.* Protective advances must constitute an indebtness of the borrower to the Lender and be secured by the security instrument(s). FmHA written authorization is required on all protective advances. Protective advances include, but are not limited to, advances made for taxes, annual assessments, ground rent, haz-

ard or flood insurance premiums effecting the collateral, and other expenses necessary to preserve or protect the security.

XIV. *Additional Loans or Advances.* The Lender will not make additional expenditures or new loans without first obtaining the written approval of FmHA even though such expenditures or loans will not be guaranteed.

XV. *Future Recovery.* After a loan has been liquidated and a final loss has been paid by FmHA, any future funds which may be recovered by the lender, will be pro-rated between FmHA and the Lender. FmHA will be paid such amount recovered in proportion to the percentage it guaranteed for the loan and the lender will retain such amounts in proportion to the percentage of the unguaranteed portion of the loan.

XVI. *Transfer and Assumption Cases.* Refer to Title 7 CFR Part 1980 Subpart E.

XVII. *Other Requirements.* This agreement is subject to all the requirements of Title 7 CFR Part 1980 Subpart E, and any future amendments of these regulations not inconsistent with this agreement. Interested parties may agree to abide by future FmHA regulations inconsistent with this agreement.

XVIII. *Execution of Agreements.* If this agreement is executed prior to the execution of the Loan Note Guarantee, this agreement does not impose any obligation upon FmHA with respect to execution of such contract. FmHA in no way warrants that such a contract has been or will be executed.

XIX. *Notices.* All notices and actions will be initiated through the FmHA County Supervisor for _____ (County) _____ (State) with mailing address at the date of this instrument: _____

Dated this _____ day of _____ 19—.

LENDER

Attest: _____ [SEAL]
By _____
Title _____

UNITED STATES OF AMERICA DEPARTMENT OF AGRICULTURE

FARMERS HOME ADMINISTRATION

By _____
Title _____

APPENDIX D—FORM FmHA 449-36

FmHA Loan Identification Number: _____

UNITED STATES DEPARTMENT OF AGRICULTURE

FARMERS HOME ADMINISTRATION ASSIGNMENT GUARANTEE AGREEMENT

_____ of _____ (Lender) has made a loan to _____ in the principal amount of $_____ as evidenced by a note(s) dated _____. The United States of America, acting through Farmers Home Administration (FmHA) entered into a Loan Note Guarantee (Form FmHA 449-34) with the Lender applicable to such loan to guarantee the loan not to exceed —% of the amount of the principal advanced and any interest due thereon as provided therein.

_____ of _____ (Holder) desires to purchase from Lender —% of the guaranteed portion of such loan. Copies of Borrower's note(s) and the Loan Note Guarantee are attached hereto as a part hereof.

Now, therefore, the parties agree:

1. The principal amount of the loan now outstanding is $_____. Lender hereby assigns to Holder —% of the guaranteed portion of the loan representing $_____ of such loan now outstanding in accordance with all of the terms and conditions hereinafter set forth.

The Lender and FmHA certify to the Holder that the Lender has paid and FmHA has received the Guarantee Fee in exchange for the issuance of the Loan Note Guarantee.

2. *Loan Servicing.* The Lender will be responsible for servicing the entire loan and will remain mortgagee and/or secured party of record. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan.

The Lender will receive all payments on account of principal of, or interest on, the entire loan and shall promptly remit to the Holder its pro rata share thereof determined according to their respective interests in the loan, less only Lender's servicing fee.

3. *Servicing Fee.* Holder agrees that Lender will retain a servicing fee of _____ percent per annum of the unpaid balance of the guaranteed portion of the loan assigned hereunder.

4. *Purchase by Holder.* The guaranteed portion purchased by the Holder will always be a portion of the loan which is guaranteed. The Holder will hereby succeed to all rights of the Lender under the Loan Note Guarantee to the extent of the assigned portion of the loan. The Lender, however, will remain bound by all the obligations under the Loan Note Guarantee and the program regulations found in 7 CFR Part 1980 Subpart E now in effect and future FmHA program regulations not inconsistent with the provisions hereof.

5. *Full Faith and Credit.* The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Holder has actual knowledge at the time of this assignment, or which it participates in or condones.

6. *Rights and Liabilities.* The guarantee and right to require purchase will be directly enforceable by Holder notwithstanding any fraud or misrepresentations by Lender or any unenforceability of the Loan Note Guarantee by Lender. Nothing contained herein shall constitute any waiver by FmHA of any rights it possesses against the Lender, and the Lender agrees that Lender will be liable and will promptly reimburse FmHA for any payment made by FmHA to Holder which if such Lender had held the guaranteed portion of the loan FmHA would not be required to make.

7. *Repurchase by the Lender (Defaults).* The Lender agrees to repurchase the unpaid guaranteed portion of the loan from the Holder(s) within 30 days of written demand by the Holder(s) when: (a) the borrower is in default not less than 60 days on principal or interest due on the loan or (b) the Lender has failed to remit to the Holder(s) its pro rata share of any payment made by the borrower within 30 days of its receipt thereof. The repurchase by the Lender will be for an amount equal to the unpaid guaranteed portion of principal and accrued interest, less the Lender's servicing fee. Holder(s) will concurrently send a copy of demand to FmHA. The Lender will accept an assignment without recourse from the Holder(s) upon repurchase.

8. *Purchase by FmHA.* If Lender does not repurchase as provided by paragraph 7, FmHA will purchase from Holder the unpaid principal balance of the guaranteed portion together with accrued interest to date of repurchase, less Lender's servicing fee, within 30 days after written demand from the Holder. Such demand will recite Lender's reasons for failure to repurchase within the period set forth in paragraph 7, and include a copy of the written demand made upon the Lender. The Holder(s) or its duly authorized agent will also include evidence of its right to require payment from FmHA. Such evidence will consist of either the original of the Loan Note Guarantee properly indorsed to FmHA or the original of the Assignment Guarantee Agreement properly assigned to FmHA without recourse including all rights, title, and interest in the loan. FmHA will be subrogated to all rights of Holder(s). The Holder(s) will include in its demand the amount due including unpaid principal, unpaid interest to date of demand and interest subsequently accruing from date of demand to proposed payment date. Unless otherwise agreed to by FmHA, such proposed payment will not be later than 30 days from the date of demand.

The FmHA County Supervisor will promptly notify the Lender of the Holder(s)'s demand for payment. The Lender will promptly provide the FmHA County Supervisor with the information necessary for FmHA's determination of the appropriate amount due the Holder(s). Any descrepancy between the amount claimed by the Holder(s) and the informatioln submitted by the Lender must be resolved before payment will be approved. FmHA will notify both parties who must resolve the conflict before payment by FmHA will be approved. Such a conflict will suspend the running of the 30 day payment requirement. Upon receipt of the appropriate informtaion, FmHA County Supervisor will review the demand and submit it to the State Director for verification. After reviewing the demand the State Director will transmit the request to the FmHA Finance Office for issuance of the appropriate check. Upon issuance, the Finance Office will notify the County Supervisor and State Director and remit the check(s) to the Holder(s).

9. *Lender's Obligations.* Lender consents to the purchase by FmHA and agrees to furnish on request by FmHA a current statement certified by an appropriate authorized officer of the Lender of the unpaid principal and interest then owed by Borrowers on the loan and the amount then owed to any Holder(s). Lender agrees that any purchase by FmHA does not change, alter or modify any of the Lender's obligations to FmHA arising from said loan or guarantee nor does it waive any of FmHA's rights against Lender, and that FmHA shall have the right to set-off against Lender all rights inuring to FmHA as the Holder of this instrument against FmHA's obligation to Lender under the Loan Note Guarantee.

10. *Repurchase by Lender for Servicing.* If, in the opinion of the Lender, repurchase of the assigned portion of the loan is necessary to adequately service the loan, the Holder will sell the assigned portion of the loan to the Lender for an amount equal to the unpaid principal and interest on such portion less Lender's servicing fee.

a. The Lender will not repurchase from the Holder(s) for arbitrage purpose or other purposes to further its own financial gain.

b. Any repurchase will only be made after the Lender obtains FmHA written approval.

c. If the Lender is unable to repurchase the portion from the Holder(s) FmHA at its option may purchase such guaranteed portions for servicing purposes.

11. *Foreclosure.* The parties owning the guaranteed portions and unguaranteed portion of the loan will join to institute foreclosure action or, in lieu of foreclosure, take a deed of conveyance to such parties.

12. *Reassignment.* Holder upon written notice to Lender and FmHA may reassign the unpaid guaranteed portion of the loan sold hereunder. Upon such notification, the assignee will succeed to all rights and obligations of the Holder hereunder.

13. *Notices:* All notices and actions will be initiated through the FmHA County Supervisor for _____ (county) _____ (state) with mailing address at the date of this instrument: _____

Dated this ____ day of ____, 19—.
Lender: ____
Address: ____
Attest:
____ [SEAL]
By ____
Title ____
Holder: ____
Address: ____
Attest:
____ [SEAL]
By ____
Title ____
UNITED STATES OF AMERICA FARMERS HOME ADMINISTRATION
By ____
Title ____
Address: ____
____

*Effective date.* This regulation shall become effective December 11, 1975.

NOTE.—It is hereby certified that the economic and inflationary effects of this regulation have been carefully evaluated in accordance with Executive Order No. 11821.

Dated: December 5, 1975.

FRANK B. ELLIOTT,
*Administrator, Farmers Home Administration.*

[FR Doc.75-33269 Filed 12-10-75;8:45 am]

## Title 12—Banks and Banking

## CHAPTER II—FEDERAL RESERVE SYSTEM

### SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Q]

### PART 217—INTEREST ON DEPOSITS

### Interest Penalty on Withdrawal and Minimum Deposit Requirements for Individual Retirement Accounts

On June 26, 1975, the Board invited public comment on several issues relating to Individual Retirement Accounts ("IRAs") and possible amendments to Regulation Q (Interest on Deposits) in view of the enactment of the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406), which provides, in part, for the establishment of IRAs by individuals not covered by employer pension plans (40 FR 28644). After review and consideration of all comments received, the Board has amended Regulation Q to facilitate the offering of IRAs by member banks.

The first amendment adopted will permit a member bank to pay all or a portion of an IRA time deposit in accordance with the payout terms of the IRA agreement prior to maturity without imposing the Regulation Q interest penalty when the individual for whose benefit the account is maintained attains age 59½ or upon the individual's disability. Existing provisions of Regulation Q permit member banks to pay time deposits before maturity without imposing an interest penalty upon the death of any person whose name appears on the time deposit passbook or certificate. The second amendment to Regulation Q adopted by the Board will permit member banks to waive the $1,000 minimum denomination requirement for time deposits with 4- and 6-year maturities at ceiling rates of 7¼ and 7½ per cent when such deposits are made pursuant to IRA agreements. The purposes of these amendments are to facilitate the establishment of IRAs pursuant to Congress intent to encourage individuals not participating in other pension plans to save for their retirement and to provide a convenient means for payout of such funds in the future.

The Board has determined that imposition of the Regulation Q penalty for withdrawals prior to the maturity of the time deposit in instances where withdrawals of IRA funds are legislatively authorized by the IRA statute (upon the individual's attaining the age of 59½ or upon disability or death) is generally inappropriate in view of Congress's intent to encourage individuals to save for their future needs. The Board also believes that elimination of the penalty for withdrawals under these circumstances will facilitate the orderly administration of IRA deposits by member banks. As a result of this amendment, member banks will be permitted to distribute the IRA deposit balance in a single sum payment without penalty when such distribution is made in accordance with the terms of the IRA agreement between the bank and the depositor. In addition, member banks may establish IRAs from which a depositor may receive periodic, annuity-like payments with no reduction in the rate of interest paid where funds are paid prior to maturity. The following example indicates the possible operation of this amendment:

An individual maintains his IRA funds in a time deposit that matures every six years. The IRA agreement between the bank and the individual may contain the provision that upon the individual's achieving age 59½ or upon his/her disability (defined in accordance with 26 U.S.C. 72(m)(7)), or upon his/her death, the bank agrees to pay the depositor or his/her heirs the deposit balance in the IRA or, on a periodic basis, a sum equivalent to a specified portion of the deposit balance for a period of years in accordance with the provisions of the Internal Revenue Code relating to distributions of IRA funds. During the payout period, the bank may continue to pay the contractually agreed-upon rate of interest on the funds remaining on deposit despite the fact that in order to satisfy the requirements of the payout schedule the funds may be required to be withdrawn prior to the stated maturity of the time deposit instrument.

The Board has determined that it is appropriate to waive the $1,000 minimum required to obtain 4- and 6-year time deposits at ceiling rates of 7¼ and 7½ per cent for funds deposited pursuant to IRA agreements in view of the long-term nature of IRAs and in view of Congress's intent to encourage individuals to save for their retirement. Since virtually all IRAs will ultimately contain in excess of $1,000 per account, the Board believes that waiver of the $1,000 minimum requirement will facilitate the operation of IRAs by eliminating the need for individuals to maintain IRA deposits at lower interest rates until the $1,000 minimum is obtained. Waiver of the minimum requirement will also permit member banks to pay higher rates on IRA funds at the inception of the IRA, thereby encouraging the establishment of IRAs in general.

The Board has also determined that member banks may amend IRA agreements established prior to the effective date of these amendments in order to incorporate the benefits of these provisions. Accordingly, the Board orders that member banks may increase the rate of interest paid on existing IRA time deposits and/or change the maturity of existing IRA time deposits without imposition of the Regulation Q penalty for early withdrawal.

The provisions adopted apply solely to funds deposited pursuant to IRA plans and not to HR-10 (Keogh) plans. The Board believes that the differences in the statutory provisions relating to the administration and operation of HR-10 (Keogh) plans require further study in order to determine whether the amendments adopted should be made applicable to deposits held by member banks pursuant to such plans.

In its notice of June 26, 1975, the Board requested public comment on whether member banks should be permitted to pay interest on IRA deposits at rates that are equal to those that may be paid by savings and loan associations and mutual savings banks. In view of Congress' intent to encourage individuals to save for their retirement and in view of the fact that IRA deposits will generally remain on deposit at financial institutions for long periods of time, the Board is continuing to examine the question of whether elimination of the differential in interest rate ceilings is appropriate for IRA deposits.

The amendments adopted by the Board are intended to encourage individuals to establish IRAs. In order to obtain the tax deferral benefits of IRA deposits for the year 1975, depositors must have established IRA agreements by December 31, 1975. In response to notice published in the FEDERAL REGISTER, the Board has received and carefully reviewed more than 350 comments concerning issues raised by member banks offering IRA plans under the Board's existing regulations. On the basis of these comments, the Board believes that it has obtained a broad and representative sampling of views and recommendations pertaining to the offering of IRAs by financial institutions. In view of the substantial public benefits resulting from adoption of the Board's amendments as soon as possible, the Board finds that notice and public procedure are impracticable and contrary to the public interest. Since the amendments are more permissive than existing regulations and relieve existing regulatory restrictions, and because of the need to adopt the amendments before year-end, the Board has determined that good cause exists to make the amendments effective immediately.

Pursuant to § 19 of the Federal Reserve Act (12 U.S.C. 371b), effective December 4, 1975, §§ 217.4 and 217.7 of Regulation Q (12 CFR 217) are amended as follows:

1. A new sentence is added to paragraph (d) of § 217.4, as follows:

**§ 217.4 Payment of time deposits before maturity.**

* * * * *

(d) *Penalty for early withdrawals.* * * *

Where a time deposit representing funds contributed to an Individual Retirement Account established pursuant to 26 U.S.C. (I.R.C. 1954) § 408 is paid before maturity when the individual for whose benefit the account is maintained attains age 59½ or is disabled (as defined in 26 U.S.C. (I.R.C. 1954) 72(m)(7)) or thereafter, a member bank may pay all or a portion of such time deposit without a reduction or forfeiture of interest as prescribed by this paragraph.

* * * * *

2. Footnote 2 to § 217.7(d) is redesignated as footnote 3 and a new footnote is added to § 217.7(b) (2) and (3) as follows:

**§ 217.7 Maximum rates of interest payable by member banks on time and savings deposits.**

* * * * *

(b) *Time deposits of less than $100,000*

* * * * *

(2) Member banks may pay interest on any time deposit of $1,000 or more, with a maturity of four years or more, at a rate not to exceed 7¼ per cent.[2]

(3) Investment Certificates—Member banks may pay interest on any time deposit of $1,000 or more, with a maturity of six years or more, at a rate not to exceed 7½ per cent.[2]

By order of the Board of Governors, effective December 4, 1975.

[SEAL] THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.75-33357 Filed 12-10-75;8:45 am]

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## CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

### SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

### PART 329—INTEREST ON DEPOSITS

### To Permit Payment of a Time Deposit or Portion Thereof Without Penalty Prior to Maturity in Certain Cases Involving the Death of the Depositor(s) or Owner(s)

1. On April 10, 1975, the Federal Deposit Insurance Corporation published at 40 FR 16219–16220 a notice of proposed rule making which would, under those circumstances where a depositor died and was at the time of his or her death the sole legal and beneficial owner of time deposit funds, permit withdrawal of such time deposit funds without penalty. On May 23, 1975 the proposed regulation was adopted by the Corporation's Board of Directors in final form with no change, with an effective date of May 26, 1975, and published in the Federal Register of May 29, 1975 (40 FR 23274).

In the period since adoption of the regulation, the Corporation has been strongly urged to further amend the regulation to permit withdrawal prior to maturity in the event of the death of the depositor as to jointly held as well as individually held funds in view of the fact that, particularly in situations involving spouses, it is quite common for accounts to be established in joint name to simplify disposition of funds upon the death of one of the spouses. In the opinion of the Corporation, the equities favoring such arguments outweigh the rationale for requiring a penalty for premature withdrawal in joint account situations.

Having consulted with the Board of Governors of the Federal Reserve System and with the Federal Home Loan Bank Board, the Board of Directors of the Corporation is amending § 329.4(d) effective December 15, 1975, to eliminate the penalty requirement for premature withdrawal of jointly owned time deposits upon the death of one or more of the joint owners.

This amendment also clarifies, in light of inquiries received by the Corporation, the definition of legal and beneficial ownership contained in the original amendment. The Corporation in that amendment required as a condition to the availability of the exception that the depositor, at the time of his or her death, be both legal and beneficial owner of the funds in question. This requirement for unity of legal and beneficial ownership was placed in the regulation in order to avoid the situation where, for example, a successor trustee under an inter vivos trust appointed upon the death of the original trustee sought to invoke the exception on behalf of the beneficiaries as to deposit funds comprising the assets of the trust, whether the exception was sought at the direction of the beneficiaries or was sought by the trustee independently in order to discharge his fiduciary duty to obtain the highest possible rate of return on trust investments.

Since adoption of the original amendment on May 26, 1975, the Corporation's staff has interpreted the requirement of legal and beneficial ownership to be met where withdrawal is sought upon the death of the owner of deposit funds, whether or not that owner is himself the depositor. For example, the requirement is met where an agent who is, in fact, the depositor seeks to withdraw upon the death of a principal since the funds are, in fact, owned by the principal. Similarly the requirement is met where the settlor of a revocable trust dies without exercising his power of revocation since he need only have exercised the power of revocation during his lifetime to have achieved absolute ownership of the deposit funds.

2. In § 329.4 of Part 329 of Chapter III, Title 12 of the Code of Federal Regulations, paragraph (d) is amended by striking the last sentence thereof and substituting the following:

**§ 329.4 Payment of time deposits before maturity.**

* * * * *

(d) *Penalty on payment of time deposits before maturity.* * * *

The prohibitions contained in this paragraph (d) shall not apply on the death of any owner of time deposit funds. For the purposes of this paragraph, an "owner" of time deposit funds is any individual who at the time of his or her death has full legal and beneficial title to all or a portion of such funds or, at the time of his or her death, has beneficial title to all or a portion of such funds and full power of disposition and alienation with respect thereto, including but not limited to a power of revocation with respect to any trust of which the funds comprise all or part of the assets, whether or not such owner is acting as trustee.

* * * * *

(Sec. 9, 64 Stat. 881, 12 U.S.C. 1819; Sec. 18, 64 Stat. 891, 12 U.S.C. 1828)

3. Since this amendment relaxes restrictions imposed by prior regulation, the requirements of sections 553(b) and 553(d) of Title 5 of the United States Code and §§ 302.1, 302.2, and 302.5 of the rules and regulations of the Federal Deposit Insurance Corporation with respect to notice, public participation and deferred effective date were not followed in connection with the promulgation of this amendment.

4. *Effective Date.* This amendment is effective December 15, 1975.

By order of the Board of Directors, December 5, 1975.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
*Executive Secretary.*

[FR Doc.75-33431 Filed 12-10-75;8:45 am]

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[No. 75-1096]

## CHAPTER V—FEDERAL HOME LOAN BANK BOARD

### INDIVIDUAL RETIREMENT ACCOUNTS

### Removal of Minimum Amount Restrictions on Certificates

DECEMBER 4, 1975.

The Federal Home Loan Bank Board considers it desirable to amend Part 526 of the Regulations for the Federal Home Loan Bank System, Part 545 of the Rules and Regulations for the Federal Savings and Loan System, and Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Parts 526, 545, and 563), in order to remove the minimum amount restriction on certificates held as Individual Retirement Accounts and extend the waiver-of-penalty authority to such Accounts in the event of withdrawal due to the death, disability, or retirement of the beneficiary.

Accordingly, the Board hereby amends Part 526 by adding a new subdivision (4) to § 526.5(b) thereof, Part 545 by adding a new subdivision (iii) to § 545.1-4(f)(4) thereof and a new subdivision

[2] The $1,000 minimum denomination requirement does not apply to time deposits representing funds contributed to an Individual Retirement Account established pursuant to 26 U.S.C. (I.R.C. 1954) 408.

(iii) to § 545.3–1(c)(6) thereof, and Part 563 by adding a new subdivision (iii) to § 563.3–1(d)(4) and a new subdivision (iii) to § 563.3–2(d)(3) thereof, to read as set forth below, effective December 12, 1975.

Since these amendments relieve restriction, the Board hereby finds that notice and public procedure with respect to said amendments are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. § 553(b), and a 30-day delay of effective date is similarily unnecessary under the provisions of 12 CFR 508.14 and 5 U.S.C. § 553(d).

## PART 526—LIMITATIONS ON RATE OF RETURN

1. Part 526 is amended by adding a new subdivision (4) thereof, to read as follows:

**§ 526.5 Maximum rates of return payable on certificate accounts of less than $100,000.**

* * * * *

(b) *Exceptions as to minimum amount.*

* * * * *

(4) With respect to certificate accounts which qualify as Individual Retirement Accounts under section 408(a) of the Internal Revenue Code of 1954, a member institution may pay a return as permitted by paragraph (a) of this section without regard to the minimum amount requirements contained in such paragraph.

* * * * *

## PART 545—OPERATIONS

2. Part 545 is amended by adding a new subdivision (iii) to § 545.1–4(f)(4) thereof, to read as follows:

**§ 545.1–4 Other savings deposits.**

* * * * *

(f) *Withdrawal prior to expiration of term.*

* * * * *

(4) A Federal association need not penalize a withdrawal of all or any portion of a fixed-term savings deposit prior to the expiration of its term if (i) such deposit is a "single-ownership account" (as the quoted term is used in § 564.3 of this chapter) and the withdrawal is made by the personal representative (including an executor or administrator) of the deceased owner of such account, (ii) such deposit is a single-ownership "testamentary account" (as the quoted term is used in § 564.4 of this chapter) and the withdrawal is made by the beneficiary of such account following the death of the owner thereof, or

(iii) such deposit qualifies as an Individual Retirement Account under section 408(a) of the Internal Revenue Code of 1954, and withdrawal is made to effect distribution of the funds in the Account following the Account beneficiary's death or disability, or retirement upon attaining not less than 59½ years of age.

3. Part 545 is amended by adding a new subdivision (iii) to § 545.3–1(c)(6) thereof, to read as follows:

**§ 545.3–1 Distribution of earnings at variable rates.**

* * * * *

(c) *Form of certificate.*

* * * * *

(6) A Federal association need not penalize a withdrawal of all or any portion of a certificate account issued pursuant to paragraph (b)(3) of this section prior to the completion of its time eligibility period if (i) such account is a "single-ownership account" (as the quoted term is used in § 564.3 of this chapter) and the withdrawal is made by the personal representative (including an executor or administrator) of the deceased owner of such account, (ii) such account is a single-ownership "testamentary account" (as the quoted term is used in § 564.4 of this chapter) and the withdrawal is made by the beneficiary of such account following the death of the owner thereof, or

(iii) such account qualifies as an Individual Retirement Account under section 408(a) of the Internal Revenue Code of 1954, and withdrawal is made to effect distribution of the funds in the Account following the Account beneficiary's death or disability, or retirement upon attaining not less than 59½ years of age.

## PART 563—OPERATIONS

4. Part 563 is amended by adding a new subdivision (iii) to § 563.3–1(d)(4) and a new subdivision (iii) to § 563.3–2(d)(3) thereof, to read as follows:

**§ 563.3–1 Fixed-rate, fixed-term accounts.**

* * * * *

(d) *Withdrawal prior to expiration of term.*

* * * * *

(4) An insured institution need not penalize a withdrawal of all or any portion of a fixed-rate, fixed-term account prior to the expiration of its term if (i) such account is a "single-ownership account" (as the quoted term is used in § 564.3 of this chapter) and the withdrawal is made by the personal representative (including an executor or administrator) of the deceased owner of such account, (ii) such account is a single-ownership "testamentary account" (as the quoted term is used in § 564.4 of this chapter) and the withdrawal is made by the beneficiary of such account following the death of the owner thereof, or

(iii) such account qualifies as an Individual Retirement Account under section 408(a) of the Internal Revenue Code of 1954, and withdrawal is made to effect distribution of the funds in the Account following the Account beneficiary's death or disability, or retirement upon attaining not less than 59½ years of age.

**§ 563.3–2 Certificates evidencing other accounts.**

* * * * *

(d) *Provisions relating to early withdrawal.*

* * * * *

(3) An insured institution need not penalize a withdrawal of all or any portion of a certificate account prior to the completion of its time eligibility period if (i) such account is a "single-ownership account" (as the quoted term is used in § 564.3 of this chapter) and the withdrawal is made by the personal representative (including an executor or administrator) of the deceased owner of such account, (ii) such account is a single-ownership "testamentary account" (as the quoted term is used in § 564.4 of this chapter) and the withdrawal is made by the beneficiary of such account following the death of the owner thereof, or

(iii) such account qualifies as an Individual Retirement Account under section 408(a) of the Internal Revenue Code of 1954, and withdrawal is made to effect distribution of the funds in the Account following the Account beneficiary's death or disability, or retirement upon attaining not less than 59½ years of age.

(Sec. 4, 80 Stat. 823, 12 U.S.C. 1425b; Sec. 5, 48 Stat. 132, as amended, 12 U.S.C. 1464; Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended, 12 U.S.C. 1725, 1726, 1730; Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR, 1943–48 Comp., p. 1071, 1947 Supp.)

By the Federal Home Loan Bank Board.

[SEAL] J. J. FINN, *Secretary.*

[FR Doc.75-33412 Filed 12-10-75;8:45 am]

## Title 14—Aeronautics and Space

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

[Docket No. 75-EA-74; Amdt. 39-2456]

## PART 39—AIRWORTHINESS DIRECTIVE

### Air Cruisers Life Rafts

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Air Cruisers Company life raft jet pumps.

There have been reports which demonstrate that separations have occurred in the hose connection fitting. Since this is a deficiency which can exist or occur in similar type life rafts, an airworthiness directive is being issued which will require an inspection and replacement where necessary and appropriate markings of the inspected connections.

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 issuing an Airworthiness Directive as follows:

AIR CRUISERS COMPANY. Applies to Life Raft Systems, P/N Series D23835, 17D23336, 21D23548, 21D23541, 12D11751, 18D23350, and Life Raft Asembly P/N 22D23528 with dates of manufacture from January, 1971, through August 193, 1975, inclusive.

Compliance is required, unless already accomplished, to eliminate the possibility of separation at the hose connection fitting-body juncture braze of inlet port assembly, P/N 15C18082.

No later than 90 days after the effective date of this AD, accomplish the inspection, replacement, where required, and marking of the above-mentioned part numbers in accordance with Air Cruisers Company Service Bulletin 114-74-1, Rev. No. 1, dated August 12, 1975, or an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is effective December 17, 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 December 3, 1975.

DUANE W. FREER,
*Director, Eastern Region.*

[FR Doc.75-33293 Filed 12-10-75;8:45 am]

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[Docket No. 75-EA-73; Amdt. 39-2455]

## PART 39—AIRWORTHINESS DIRECTIVE

### DeHavilland Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to DeHavilland DHC-6 type airplanes.

This amendment had been issued as an emergency airworthiness directive and transmitted by airmail, effective upon receipt, to all known owners of the subject airplanes.

There had been reports of electrical fires resulting from a welding of the contacts of the electrical reverse current relays. Since this deficiency can exist or develop in airplanes of similar type design, this amendment, as did the emergency dispatch, requires an inspection and replacement where necessary of the relay.

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 issuing a new Airworthiness Directive as follows:

Applies to all DeHavilland Model DHC-6 Series Twin Otter aircraft certificated in all categories.

Compliance required as indicated to preclude the hazards of an electrical fire due to contact welding of the reverse current relay(s), Hartman part No. A700AP or A700AAP.

1. For aircraft containing reverse current relays which have between 1,000 to 2,400 hours time in service since new or overhauled, or aircraft having reverse current relays which have less than 1,000 hours' time in service which have been used for cross generator engine starts, accomplish the following:

(A) Within the next 25 hours' time in service, after the effective date of this AD, unless already accomplished:

(I) remove the reverse current relays from the aircraft.

(II) examine relay for indications of overheat.

(III) inspect relay contact points under ten-power glass for signs of pitting, corrosion or other surface damage. If any of the above conditions 1(A)(II) or 1(A)(III) are present, replace relay with a serviceable unit before further flight.

2. This applies to aircraft containing reverse current relays with more than 2,400 hours' time in service since new or overhauled.

(A) Unless already accomplished, inspect relays in accordance with paragraph 1(A) of this AD.

(B) Unless accomplished, within the previous 2,400 hours' time in service after the effective date of this AD, conduct bench tests of reverse current relays within the next 100 hours' time in service after the effective date of this AD in accordance with DeHavilland of Canada Ltd. PSM 1-6-2, part 7 or PSM 1-63-2, chapter 24-30-00.

3. Within the next 10 flight hours, install the following placard in full view of the pilot:

"Cross generator engine starting is prohibited, except in an emergency".

4. Following a flight for which an emergency cross generator engine start was made, within the next 25 hours' time in service, accomplish the inspection required by paragraph 1(a) of this AD.

5. If any inspection required by this AD is not accomplished within specified time above, airplane may be flown in accordance with FAR 21.197 to a base where inspections can be made.

This amendment is effective December 17, 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 December 3, 1975.

DUANE W. FREER,
*Director, Eastern Region.*

[FR Doc.75-33292 Filed 12-10-75;8:45 am]

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[Airspace Docket No. 75-SW-78]

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

### Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to redescribe the Enid, Okla., control zone without reference to the Vance AFB outer marker beacon which has been decommissioned.

Since this change is editorial in nature and does not alter the control zone as described in Part 71 of the Federal Aviation Regulations, public comment is not considered necessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective upon publication in the Federal Register, as hereinafter set forth.

In § 71.171 (40 F.R. 354), the Enid, Okla., control zone is amended to read:

ENID, OKLA.

That airspace within a 5-mile radius of Vance AFB (latitude 36°20'20" N., longitude 97°55'00" W.); and within 2 miles west and 5 miles east of the Vance AFB ILS localizer south course extending from the 5-mile radius zone to 2.5 miles south of the 5-mile radius zone; and within 2 miles each side of the Vance AFB VORTAC 188° radial, extending from the 5-mile radius zone to 8 miles south of the VORTAC; and within 2 miles each side of the Vance AFB VORTAC 345° radial, extending from the 5-mile radius zone to 5.5 miles north of the VORTAC; and within 2 miles west and 3 miles east of the Vance AFB 17R/35L runway centerline, extending from the 5-mile radius zone to 6.5 miles north of Vance AFB; and within a 5-mile radius of Enid Woodring Municipal Airport (latitude 36°22'45" N., longitude 97°47'30" W.) and within 2 miles each side of the Woodring VOR 355° radial, extending from the 5-mile radius zone to 8 miles north of the VOR; and within 2 miles each side of the Woodring VOR 185° radial, extending from the 5-mile radius zone to 8 miles south of the VOR. This control zone is effective during the dates and times published in the Airman's Information Manual.

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

Issued in Fort Worth, Tex., on December 1, 1975.

ALBERT H. THURBURN,
*Acting Director,*
*Southwest Region.*

[FR Doc.75-33291 Filed 12-10-75;8:45 am]

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[Docket No. 15199; Amdt. No. 998]

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

### Recent Changes and Additions

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of

SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

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

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or cancelling the following VOR-VOR/DME SIAPs, *effective January 29, 1976.*

Dillingham, AK—Dillingham Arpt., VOR Rwy 1, Amdt. 5
Dillingham, AK—Dillingham Arpt., VOR/DME Rwy 19, Amdt. 3
Downingtown, PA—Bob Shannon Memorial Field, VOR-A, Original
Lone Rock, WI—Tri-County Arpt., VOR-A, Original
Talkeetna, AK—Talkeetna Arpt., VOR-A, Amdt. 7

*. . . effective January 22, 1976*

Natchez, MS—Hardy-Anders Field, Natchez-Adams County Arpt., VOR Rwy 17, Amdt. 6
Pascagoula, MS—Jackson County Arpt., VOR Rwy 18, Amdt. 6
Peachtree City, GA—Falcon Field, VOR/DME-A, Amdt. 1
Peachtree City, GA—Falcon Field, VOR/DME-B, Orig., cancelled
Venice, FL—Venice Muni. Arpt., VOR/DME-A, Amdt. 1

*. . . effective December 18, 1975*

Akron, OH—Akron-Canton Regional Arpt., VOR Rwy 23, Amdt. 1

2. Section 97.25 is amended by originating, amending, or cancelling the following SDF-LOC-LDA SIAPs, *effective January 22, 1976.*

Memphis, TN—Memphis International Arpt., LOC(BC) Rwy 27, Amdt. 16

*. . . effective January 1, 1976*

Austin, TX—Robert Mueller Muni. Arpt., LOC/DME(BC) Rwy 12R, Amdt. 2, cancelled

*. . . effective December 18, 1975*

Hillsboro, OR—Portland-Hillsboro, LOC-B, Original
Indianapolis, IN—Indianapolis Muni./Weir-Cook Arpt., LOC(BC) Rwy 22R, Amdt. 13, cancelled

3. Section 97.27 is amended by originating, amending, or cancelling the following NDB/ADF SIAPs, *effective January 29, 1976.*

Binghamton, NY—Broome County Arpt., NDB Rwy 34, Amdt. 13, Ft. Collins-Loveland, CO—Ft. Collins-Loveland Arpt., NDB Rwy 33, Amdt. 4
Talkeetna, AK—Talkeetna Arpt., NDB-B, Amdt 13

*. . . effective January 22, 1976*

Augusta, GA—Bush Field, NDB Rwy 35, Amdt. 22
Clarksdale, MS—Fletcher Field, NDB Rwy 18, Amdt. 2
Memphis, TN—Memphis International Arpt., NDB Rwy 9, Amdt. 20
Pascagoula, MS—Jackson County Arpt., NDB Rwy 23, Amdt. 1
Sanford, FL—Sanford Arpt., NDB Rwy 9, Amdt. 4
Smyrna, TN—Smyrna Arpt., NDB Rwy 32, Amdt. 2

4. Section 97.29 is amended by originating, amending, or cancelling the following ILS SIAPs, *effective January 29, 1976.*

Binghamton, NY—Broome County Arpt., ILS Rwy 34, Amdt. 17

*. . . effective January 22, 1976*

Augusta, GA—Bush Field, ILS Rwy 35, Amdt. 21
Memphis, TN—Memphis International Apt., ILS Rwy 9, Amdt. 18

*. . . effective January 1, 1976*

Austin, TX—Robert Mueller Muni. Arpt., ILS Rwy 12 R, Original

*. . . effective December 18, 1975*

Akron, OH—Akron-Canton Regional Arpt., ILS Rwy 23, Original
Indianapolis, IN—Indianapolis Muni./Weir-Cook Arpt., ILS Rwy 22R, Original

5. Section 97.31 is amended by originating, amending, or cancelling the following RADAR SIAPs, *effective January 29, 1976.*

Portland, OR—Portland Int'l Arpt., RADAR 1, Amdt. 20

*. . . effective January 22, 1976*

Greer, SC—Greenville-Spartanburg Arpt., RADAR 1, Amdt. 1
Saginaw, MI—Tri-City Arpt., RADAR 1, Amdt. 1

*. . . effective December 18, 1975*

Akron, OH—Akron-Canton Regional Arpt., RADAR 1, Amdt. 11

6. Section 97.33 is amended by originating, amending, or cancelling the following RNAV SIAPs, *effective January 29, 1976*

Lone Rock, WI—Tri-County Arpt., RNAV Rwy 27, Original

*. . . effective January 22, 1976*

Greer, SC—Greenville-Spartanburg Arpt., RNAV Rwy 21, Amdt. 1
Punta Gorda, FL—Charlotte County Arpt., RNAV Rwy 27, Amdt. 1
Sanford, FL—Sanford Arpt., RNAV Rwy 9, Amdt. 4

These amendments are made effective under the authority of Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, and Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c).

Issued in Washington, D.C., on December 4, 1975.

JAMES O. ROBINSON,
*Acting Chief,*
*Aircraft Programs Division.*

NOTE: Incorporation by reference provision in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969, (35 F.R. 5610).

[FR Doc.75-33290 Filed 12-10-75;8:45 am]

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[Docket No. 13668; Amdt. No. 103-26]

## PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS

### Carriage of Radioactive Material

The purpose of this amendment to the Federal Aviation Regulations is to revoke the provisions of Part 103 relating to the monitoring (scanning) of packages containing radioactive materials that are to be transported aboard aircraft. Those provisions (§§ 103.3(d)(3) and 103.23(c), (d), and (e)) were published on February 4, 1975 (Docket No. 13668, 40 FR 5140), and have an effective date of January 1, 1976.

Elsewhere in this issue of the FEDERAL REGISTER, the Materials Transportation Bureau is publishing a notice of proposed rule-making that would amend Part 103 by adding requirements relating to monitoring of packages containing radioactive materials that will replace the provisions being revoked by this document.

Since the amendment herein grants relief and imposes no additional burden on any person, I find that notice and public procedure thereon are impracticable and that good cause exists for making this amendment effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 103 of title 14, Code of Federal Regulations, is amended by revoking paragraph (d)(3) of § 103.3 and paragraphs (c), (d), and (e) of § 103.23.

(49 U.S.C. 1472(h)(1); 49 U.S.C. 1804; 49 CFR 1.53 (e), (h))

*Effective date:* This amendment takes effect December 11, 1975.

Issued in Washington, D.C., on December 5, 1975.

JAMES T. CURTIS, Jr.,
*Director, Materials*
*Transportation Bureau.*

[FR Doc.75-33322 Filed 12-10-75;8:45 am]

## Title 16—Commercial Practices

### CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

### PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

#### Discriminating in Credit Transactions

The Federal Trade Commission announces the following addition to and amendment of Part 13, Subchapter A of Chapter I of Title 16 of the Code of Federal Regulations.

The following new subpart and codification is added following Subpart—Discriminating Between Customers:

**Subpart—Discriminating in Credit Transactions on Basis of Marital Status and/or Sex**

§ 13.687 Discriminating in credit transactions on basis of marital status and/or sex.

13.687–5 Formal regulatory and/or statutory requirements

13.687–5(a) Equal Credit Opportunity Act

**Subpart—Neglecting, Unfairly or Deceptively, To Make Material Disclosure, Is Amended by Adding the Following Subsection Immediately After Section 13.1852 Formal Regulatory and/or Statutory Requirements**

13.1852–20 Equal Credit Opportunity Act

(Sec. 6(g), 5, 38 Stat. 722, 719; 15 U.S.C. 46, 45; sec. (a)(1), 80 Stat. 383, 5 U.S.C. 552)

By direction of the Commission dated December 3, 1975.

CHARLES A. TOBIN,
*Secretary.*

[FR Doc.75-33360 Filed 12-10-75;8:45 am]

## Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

### PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

#### Tylosin

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (97-567V) filed by Golden Sun Feeds, Inc., 111 South 5th St., Estherville, IA 51334, proposing safe and effective use of a 10-gram-per-pound tylosin premix for the manufacture of swine feed. The supplemental application is approved, effective December 11, 1975.

The Commissioner is amending § 558.625 (21 CFR 558.625) to reflect this approval.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness of data and information submited to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), § 558.625 is amended by revising paragraph (b)(17) to read as follows:

§ 558.625 Tylosin.

* * * * * *

(b) * * *

(17) To 021780: 0.8 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

* * * * * *

*Effective date.* This amendment shall be effective December 11, 1975.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: December 4, 1975.

C. D. VAN HOUWELING,
*Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.75-33294 Filed 12-10-75;8:45 am]

## Title 24—Housing and Urban Development

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-808]

### PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

#### Proposed Flood Elevation Determination for the City of Port Isabel, Cameron County, Texas

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (P.L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4(a)) hereby gives notice of his proposed determinations of flood elevations for the City of Port Isabel, Texas.

Under these Acts, the Administrator, to whom the Secretary has delegated the statutory authority, must develop criteria for flood plain management in identified flood hazard areas. In order to participate in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with the flood elevations determined by the Secretary.

Proposed flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Hall, Port Isabel.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Leo S. Sanders, P.O. Box 146, Port Isabel, Texas 78578. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community or ninety days from publication of this notice in the Federal Register, whichever is the later.

The proposed 100-year Flood Elevations are:

| Source of flooding | Location | Elevation (feet above mean sea level) | Width in feet from shoreline to 100-yr flood boundary |
|---|---|---|---|
| Laguna Madre | 4th St | 11 | (1) |
| | 2d St | 11 | (1) |
| | Manauton Ave | 11 | 1,600 |
| | Tarnave St | 11 | 550 |
| | Railroad Ave | 11 | (2) |
| | State Highway 100 | 11 | (2) |
| | Monroe St | 11 | (2) |
| Public Channel | Island Ave | 11 | 3,650 |
| | Basin St | 11 | 650 |
| | State Highway 100 | 11 | 1,250 |
| Port Isabel Channel | Port Rd | 11 | (3) 4,900 |
| | Jefferson St | 11 | 900 |
| | Madison St | 11 | 1,300 |
| Port Isabel Marina | Jefferson St | 11 | 5,400 |
| | Madison St | 11 | 6,050 |

[1] Corporate limits.
[2] To Port Isabel Channel.
[3] From old Railroad grade to corporate limits.

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

Issued: November 24, 1975.

J. ROBERT HUNTER,
*Acting Federal*
*Insurance Administrator.*

[FR Doc.75-33379 Filed 12-10-75;8:45 am]

[Docket No. FI-809]

## PART 1920—PROCEDURE FOR MAP CORRECTION

### Letter of Map Amendment for the County of New Castle, Delaware

On December 7, 1971, in 36 FR 23215, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the County of New Castle, Delaware, as an eligible community and included Map No. H 105085 08, which indicates that the lots in Piermont Woods Section I, New Castle County, Delaware, as recorded on Microfilm No. 2986, in the office of the Recorder of Deeds of New Castle County, Delaware, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Lots 13, 14, and 15, Block A, are within Zone B, and Lots 1 through 12 and 16 through 18, Block A; 19 through 33, Block C; and 34 through 56, Block B, are within Zone C, and are not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, effective June 6, 1970, Map No. H 105085 08 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

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

Issued: November 25, 1975.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.75-33380 Filed 12-10-75;8:45 am]

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[Docket No. FI-812]

## PART 1920—PROCEDURE FOR MAP CORRECTION

### Letter of Map Amendment for the County of New Castle, Delaware

On December 7, 1971, in 36 FR 23215, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the County of New Castle, Delaware, as an eligible community and included Map No. H 105085 08, which indicates that Lots 16 and 19, Glasgow Pines, New Castle County, Delaware, as recorded on Microfilm No. 2384, Sheet No. 8, in the office of the Recorder of Deeds of New Castle County, Delaware, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structures on the above mentioned property are within Zone C, and are not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, effective June 6, 1970, Map No. H 105085 08 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area.

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

Issued: November 25, 1975.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.75-33381 Filed 12-10-75;8:45 am]

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[Docket No. FI-239]

## PART 1920—PROCEDURE FOR MAP CORRECTION

### Letter of Map Amendment for the Village of Lindenhurst, Illinois

On April 11, 1974, in 39 FR 13147, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the Village of Lindenhurst, Illinois, as an eligible community and included Map No. H 170379 01 which indicates that Lot 37, Block 200, Seven Hills Unit No. 27, being 321 High Point Drive, Lindenhurst, Illinois, as recorded in Book 44 of Plats, Page 48 in the office of the Recorder of Lake County, Illinois, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structure on the above property is not within the Special Flood Hazard Area. Accordingly, effective April 5, 1974, Map No. H 170379 01 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area.

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

Issued: November 25, 1975.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.75-33382 Filed 12-10-75;8:45 am]

[Docket No. FI-326]

## PART 1920—PROCEDURE FOR MAP CORRECTION

### Letter of Map Amendment for the Town of Dennis, Massachusetts

On August 7, 1974, in 39 FR 28425, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the Town of Dennis, Massachusetts, as an eligible community and included Map No. H 250005 08, which indicates that Lot 2, in Plan 28243A, West Dennis, Massachusetts, as recorded in Land Registration Book 171, Page 83, in the Barnstable County Registry of Deeds, Massachusetts, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, effective July 26, 1974, Map No. H 250005 08 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area.

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

Issued: November 24, 1975.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.75-33383 Filed 12-10-75;8:45 am]

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[Docket No. FI-811]

## PART 1920—PROCEDURE FOR MAP CORRECTION

### Letter of Map Amendment for the City of Chesapeake, Virginia

On July 18, 1970, in 35 FR 11586, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Chesapeake, Virginia, as an eligible community and included Map No. H 510034 02 which indicates that Lots 2 and 3, Block 69, Norfolk Highlands Subdivision No. 1, Chesapeake, Virginia, as recorded in Map Book 10, Page 63 in the office of the Clerk of the Circuit Court, Chesapeake, Virginia, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structures on the above property are not within the Special Flood Hazard Area. Accordingly, effective July 18, 1970, Map No. H 510034 02 is hereby corrected to re-

flect that the structures on the above property are not within the Special Flood Hazard Area.

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

Issued: November 24, 1975.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.75-33384 Filed 12-10-75;8:45 am]

[Docket No. FI-810]

## PART 1920—PROCEDURE FOR MAP CORRECTION

### Letter of Map Amendment for the City of Hampton, Virginia

On March 24, 1970, in 35 FR 5009, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Insurance Rate Maps were available for public inspection. This list included the City of Hampton, Virginia, as an eligible community and included Map No. H 515527A 18 which indicates that Lot 6, Block B, Wythe Crescent Subdivision, being 120 Wythe Crescent Drive, Hampton, Virginia, as recorded in Book 325, Page 266 in the office of the Clerk of the Circuit Court of Hampton, Virginia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is within Zone B, and not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, effective March 24, 1970, Map No. H 515527A 18 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

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

Issued: November 24, 1975.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.75-33385 Filed 12-10-75;8:45 am]

[Docket No. FI-321]

## PART 1920—PROCEDURE FOR MAP CORRECTION

### Letter of Map Amendment for the City of Neenah, Wisconsin

On August 6, 1974, in 39 FR 28275, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Neenah, Wisconsin, as an eligible community and included Map No. H 550509 01, which indicates that Lot Nos. 3 and 4 of Block 13, on the Assessor's Plat of Blocks 8 and 13, Jones Plat of the Island, City of Neenah, Wisconsin, as recorded in Volume 12, Page 35, in the Winnebago County Registry Office, Wisconsin, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, effective June 28, 1974, Map No. H 550509 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

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

Issued: November 25, 1975.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.75-33386 Filed 12-10-75;8:45 am]

[Docket No. FI-229]

## PART 1920—PROCEDURE FOR MAP CORRECTION

### Letter of Map Amendment for the City of Oak Creek, Wisconsin

On March 27, 1974, in 39 FR 11267, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas and the map number and locations where Flood Hazard Boundary Maps were available for public inspection. This list included the City of Oak Creek, Wisconsin, as an eligible community and included Map No. H 550279 05, which indicates that Parcel 1 of the Southwest ¼ of Section 21, Township 5 North, Range 22 East, City of Oak Creek, Wisconsin, as recorded on Reel 802, Image 793, in the office of the Register of Deeds of Milwaukee County, Wisconsin, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, effective March 22, 1974, Map No. H 550279 05 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

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

Issued: November 24, 1975.

J. ROBERT HUNTER,
*Acting Federal Insurance Administrator.*

[FR Doc.75-33387 Filed 12-10-75;8:45 am]

# Title 39—Postal Service

## CHAPTER I—U.S. POSTAL SERVICE

## INCREASE IN FEES FOR INTERNATIONAL SPECIAL MAIL SERVICES

### Miscellaneous Amendments

*Correction*

In FR Doc. 75-32947 appearing on page 57212, in the issue of Monday, December 8, 1975, make the following change:

In the second column, page 57212, § 43.3(a), the entry "$15.01 to $50.00 ------$0.80" should have appeared as the second entry of (b).

## PART 111—GENERAL INFORMATION ON POSTAL SERVICE

### Increase in Fees for Domestic Special Services, Domestic and International Money Orders, and Other Nonpostal Services

*Correction*

In FR Doc. 75-32923, appearing at page 57212, in the issue for Monday, December 8, 1975, on page 57214 make the following changes:

1. At the top of the page, in the table, the entry in the second column of the line beginning "$1,000,000.01 to $15,000,000" now beginning "$253.30", should begin "$253.50".

2. In the table ADDITIONAL SERVICES, in the column *Extra fee (cents)*, the second entry now reading "80" should read "60", and the third entry now reading "26" should read "25".

# Title 41—Public Contracts and Property Management

## CHAPTER 14—DEPARTMENT OF THE INTERIOR

## PART 14-1—GENERAL

### Legal Review of Procurement Actions

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Chapter 14 of Title 41 of the Code of Federal Regulations is hereby amended.

Most procuring activities in the Department of the Interior now require, in varying degrees, legal review of their major procurement actions. However, some procuring activities require little or no review. Therefore, it has been determined that minimum requirements for legal review of procurement transactions within the Department of the Interior should be established.

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendment herein prescribes internal requirements concerning legal review of procurement actions and is entirely administrative in nature. Therefore, the

rulemaking process is waived in this particular instance and the amendment will become effective immediately. Implementing procedures established by each bureau and office will be issued within 90 days after the effective date of this amendment.

Dated: December 4, 1975.

JAMES T. CLARKE,
*Assistant Secretary of the Interior.*

1. The Table of Contents of Subpart 14–1.3 of Part 14–1 of 41 CFR is amended by adding the following entry:

Sec.
14–1.352 Legal review of procurement actions.

AUTHORITY: Sec. 205(c), 63 Stat. 389; 40 U.S.C. 486(c).

2. Subpart 14–1.3 of Part 14–1 of 41 CFR is amended by adding a new § 14–1.352 to read as follows:

**Subpart 14–1.3—General Policies**

**§ 14–1.352 Legal review of procurement actions.**

(a) *Policy.* It is the general policy of the Department of the Interior that selected procurement actions be reviewed for legal sufficiency by the Office of the Solicitor prior to the time of execution.

(b) *Implementation.* Each bureau and office with contracting authority shall, in cooperation and consultation with the Office of the Solicitor, establish a review program to implement the basic policy prescribed in paragraph (a) of this § 14–1.352. This program is subject to the approval of the head of the bureau or office and the Associate Solicitor for General Law. The programs shall provide, as a minimum, the procedures for the flow of documents during the review process, dollar threshold for actions to be reviewed, type of documents to be reviewed, point or points during the development of the procurement action when review will be made, and time frames within which the review is to be completed. The programs shall be published in the normal regulation or directive system of the procuring activity with assurance that all contracting officers are notified, and the requirements shall be rigidly enforced. Public notice in the FEDERAL REGISTER will be issued to identify the documents requiring legal review.

(c) *Consultation.* This policy does not alter in any way the right and responsibility of procurement officials to consult with legal counsel on any procurement action regardless of the dollar amount or other circumstances when, in their opinion, legal advice is required.

(d) *Contracting officer's responsibility.* Contracting officers are responsible for all procurement actions. If a contract or other document is determined by the Office of the Solicitor to be legally insufficient, and the issue cannot be resolved between the contracting officer and the legal reviewer, the contracting officer shall not execute or otherwise finalize such procurement action until the legal sufficiency is resolved by the head of the appropriate bureau or office and the Associate Solicitor for General Law.

[FR Doc.75-33285 Filed 12-10-75;8:45 am]

## PART 14–1—GENERAL POLICIES

### Protection of the Privacy of Individuals

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, Part 14–1 of Chapter 14 of Title 41 of the Code of Federal Regulations is hereby amended as stated herein.

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments herein implement amendments to 41 CFR Chapter 1 under the Privacy Act of 1974 (Pub. L. 93–579; 5 U.S.C. 552a) and provide a cross-reference to Departmental implementing regulations under that Act. Because the amendments are entirely administrative in nature, the public rulemaking process is waived in this instance and the amendments stated herein are effective immediately.

Dated: December 4, 1975.

RICHARD R. HITE,
*Deputy Assistant Secretary of the Interior.*

1. The Table of Contents of Subpart 14–1.3 is amended by adding new §§ 14–1.327 and 14–1.327–5 as follows:

* * * * *

§ 14–1.327 Protection of the privacy of individuals.
§ 14–1.327–5 Procedures.

* * * * *

2. Subpart 14–1.3 is amended by adding new §§ 14–1.327 and 14–1.327–5 as follows:

**Subpart 14–1.3—General Policies**

* * * * *

**§ 14–1.327 Protection of the privacy of individuals.**

**§ 14–1.327–5 Procedures.**

(a) The regulations of the Department implementing the Privacy Act of 1974 are set forth in 43 CFR Subtitle A, Part 2, Subpart D (see 40 FR 44504–44510, September 26, 1975, as amended). Copies of the regulations shall be made available to offerors and contractors upon receipt of a written request addressed to the Departmental Privacy Act Officer, Office of the Assistant Secretary-Management, Department of the Interior, 18th and E Streets, N.W., Washington, D.C. 20240.

(b) In accordance with § 2.53(b) of the regulations cited in paragraph (a) of this section, the head of each procuring activity responsible for a contract which provides for the operation by or on behalf of the Department of a system of records to accomplish a Department function shall designate a regular employee of the procuring activity to be the manager for a system of records operated by a contractor.

(c) The Privacy Act clause set forth in § 1–1.327–5(c) of this title shall be supplemented by adding thereto a paragraph (d) as follows:

PRIVACY ACT

(a) * * *

(d) The regulations of the Department of the Interior implementing the Privacy Act of 1974 are set forth in 43 CFR Subtitle A, Part 2, Subpart D. A copy of the regulations may be obtained by submitting a written request therefor to the Departmental Privacy Act Officer, Office of the Assistant Secretary-Management, Department of the Interior, 18th and E Streets, N.W., Washington, D.C. 20240.

[End of clause]

[FR Doc.75-33303 Filed 12-10-75;8:45 am]

## Title 43—Public Lands: Interior

## SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

## PART 2—RECORDS AND TESTIMONY

### Freedom of Information Fee Schedule

Appendix A to Part 2 of Subtitle A, Title 43, contains a schedule of fees to be charged to members of the public for services performed in locating and making available records or copies of records in connection with requests made under the Freedom of Information Act. Appendix A was adopted on February 20, 1975 (40 FR 7450) and, by its own terms, is scheduled to expire on November 30, 1975.

The Department of the Interior has under consideration adjustment of some of the fees contained in Appendix A and intends shortly to propose a revision of the Appendix. In order for there to be an adequate period for public consideration of and comment upon the revision, it is necessary to extend the period of effectiveness of the current Appendix for sixty (60) days. Accordingly, pursuant to authority granted by 5 U.S.C. 301 and 552, 31 U.S.C. 483a and 43 U.S.C. 1460, paragraph (15) of Appendix A is amended to extend the effective date of the Appendix to January 30, 1976.

Because this is an interim extension pending revision of the Appendix through notice and comment procedures, good cause for waiver of those procedures pursuant to 5 U.S.C. 553(b) exists. For the same reason, good cause for waiver of the 30-day waiting period for effectiveness exists.

Effective date: This amendment is effective November 30, 1975.

RICHARD R. HITE,
*Deputy Assistant Secretary of the Interior.*

DECEMBER 4, 1975.

**Appendix A [Amended]**

Appendix A, paragraph (15) is amended by deleting "November 30, 1975" and substituting "January 30, 1976."

[FR Doc.75-33377 Filed 12-10-75;8:45 am]

Title 45—Public Welfare

CHAPTER III—OFFICE OF CHILD SUPPORT ENFORCEMENT (CHILD SUPPORT ENFORCEMENT PROGRAM), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 302—STATE PLAN REQUIREMENTS

Cost Allocation Plans

Part 302 of Chapter III, Title 45 of the Code of Federal Regulations is amended to eliminate the requirement that a State have an approved cost allocation plan on file in the Regional Office as a condition of State plan approval.

The purpose of this regulation is to enable States to have their State plans approved prior to the approval of their cost allocation plans.

The basis of this regulation is the Department's belief that this regulation will ensure the proper and efficient administration of the Child Support Program.

Final regulations implementing Part B of Pub. L. 93-647, the Child Support Enforcement Program, were published on June 26, 1975 (40 FR 27154). These regulations require a State to have an approved cost allocation plan on file in order to have their State plan for Child Support Enforcement approved. (See 45 CFR 302.16.) If a State failed to meet this requirement, not only would the State be ineligible for Federal financial participation in the allocable costs of the program but it would also be prevented from claiming Federal matching for directly identifiable costs.

Federal matching for allocable costs will continue to be conditioned upon approval of a cost allocation plan. However, the revised regulation permits State plan approval without an approved cost allocation plan in order to allow Federal reimbursement for direct costs.

Good cause exists to dispense with proposed rule making procedures; the regulation must be changed immediately to facilitate the State plan approval process. Only after the State plan is approved can States be reimbursed for the expenditures they have made for the Child Support Enforcement Program.

However, any written comments, suggestions, or objections addressed to the Acting Director, Office of Child Support Enforcement, Department of Health, Education, and Welfare, P.O. Box 2382, Washington, D.C. 20013, and received on or before January 12, 1976, will be considered with a view to possible revision of this regulation.

Such comments will be available for public inspection in Room 5225 of the Department's offices at 330 C Street, S.W., 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 p.m. (area code 202-245-0950).

Section 302.16 is amended by revising paragraph (a), eliminating paragraph (b)(1) and redesignating paragraphs (b)(2) and (3) as (b)(1) and (2) respectively. As amended, § 302.16 reads as follows:

§ 302.16 Cost allocation.

(a) The State plan shall provide that:

(1) The IV-D agency will claim Federal financial participation in those costs of administration which require an allocation method only if the agency has an approved cost allocation plan on file with the Regional Office which identifies and describes the methods and procedures the State has established for properly charging the costs of administration, services, (excluding purchased services), and training activities under the plan in accordance with the Federal requirements set out in 45 CFR Part 74, Appendix C, and in Department and Office regulations and instructions.

(2) The cost allocation plan includes description of the functions and activities by organizational units or other cost centers prescribed in the State plan; estimated costs for an annual period by organizational units or other cost centers (unless specifically waived by the Regional Office); and the basis used for allocating the various pools of costs to programs and activities (with justification for each).

(3) The cost allocation plan contains such other information as is necessary to document the validity of the cost allocation methods and procedures and must include methods and procedures for:

(i) Allocating all such administrative costs of the State Department in which the IV-D agency is located between Federal and non-Federal programs;

(ii) Identifying, of the costs applicable to more than one of the Federal programs, those applicable to each of the separate programs, in accordance with program classifications specified by the Secretary; and

(iii) Segregating costs in paragraph (a)(3)(ii) of this section by classifications as are found necessary by the Secretary.

(4) The estimated costs are included solely to permit evaluation of the methods of allocation, and therefore approval of the cost allocation plan shall not constitute approval of these estimated costs for use in calculating claims for Federal financial participation.

(5) A State shall revise its cost allocation plan when the allocation method shown in the existing plan is outdated due to organizational changes within the IV-D agency, changes in Federal law or regulations, or other similar changes.

(b) *Federal financial participation.* (1) If a IV-D agency fails to revise its cost allocation plan as required by paragraph (a)(5) of this section within the quarter that such changes are effective, the Regional Office will defer payment of any overstated portions of expenditures which he determines to result from the IV-D agency using an outdated cost allocation method until the IV-D agency has submitted a revised cost allocation plan which is approved by him and the IV-D agency has revised its claim accordingly.

(2) If a IV-D agency does not have any cost allocation plan on file with the Regional Office, payment will not be made for those costs of administration which require an allocation method. Such payments will be deferred until such time as a cost allocation plan has been submitted and is approved by the Regional Office.

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

*Effective date:* The regulations in this section are effective on August 1, 1975.

Dated: October 17, 1975.

JOHN A. SVAHN,
*Acting Director, Office of Child Support Enforcement.*

Approved: December 5, 1975.

DAVID MATHEWS,
*Secretary.*

[FR Doc.75-33304 Filed 12-10-75;8:45 am]

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Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—PROCEDURES APPLICABLE TO THE PUBLIC

[CGD 75-182]

PART 5—SUSPENSION AND REVOCATION PROCEEDINGS

Appeal Procedures

As a result of the review of appeals from the decisions and orders of Administrative Law Judges in suspension or revocation proceedings, the Coast Guard has determined that the procedural regulations governing these appeals require clarification.

As currently written, § 5.30-1(c) assumes that all appellants will request a transcript of the record. Section 5.30-3(a) currently recognizes that not all appellants request transcripts, by providing alternate time periods within which to submit grounds to support an appeal, based on whether or not a transcript was requested.

Section 5.30-1(c) is revised by adding a sentence to point out that an appellant need only request a transcript if it is needed in the preparation of his appeal. An appeal may be prepared and processed without a transcript; the decision is left to the appellant.

Section 5.30-1(e) is rearranged for clarity only; it imposes no new or additional requirements on an appellant.

Since these amendments relate solely to agency procedure and practice, the notice of proposed rulemaking requirements in 5 U.S.C. 553(b) do not apply.

In accordance with the foregoing, 46 CFR Part 5 is amended as follows:

1. Section 5.30-1 is amended by adding the following sentence to the end of paragraph (c):

§ 5.30-1 Time for filing, contents, etc.

* * * * *

(c) * * * It is not necessary for the appellant to request a copy of the transcript of the proceedings unless the appellant needs the transcript to prepare his appeal.

* * * * *

2. Section 5.30–1 is amended by revising paragraph (e) to read as follows:

§ 5.30–1 Time for filing, contents, etc.

* * * * *

(e) The appellant must submit, in each appeal, a brief or memorandum containing legal and other authorities relied upon. If the appellant has received a transcript, each exception submitted must be identified by specific citation to pages in the transcript.

* * * * *

(14 U.S.C. 633; 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b)).

*Effective date.* These amendments become effective on January 12, 1976.

Dated: December 5, 1975.

E. L. PERRY,
*Vice Admiral, U.S. Coast Guard,*
*Acting Commandant.*

[FR Doc.75-33327 Filed 12-10-75;8:45 am]

[CGD 74-178]

## PART 12—CERTIFICATION OF SEAMEN

### Application for Documents

The purpose of this amendment is to delete the provision for the placing of fingerprints on the application form for a merchant mariner's document at the discretion of the applicant. There is no space on the present form for the placing of fingerprints, since the form has been revised. Fingerprints are submitted on a separate form compatible with the files maintained by the Federal Bureau of Investigation.

This amendment is issued without notice of proposed rulemaking. Since fingerprints are presently being submitted on a separate form, and the present provision may cause confusion, notice and public procedure are unnecessary, and the amendment may become effective in less than thirty days.

Accordingly, Part 12 of Title 46 of the Code of Federal Regulations is amended as follows:

§ 12.02–9 [Amended]

In § 12.02–9(a) by deleting the second sentence which reads: "The placing of fingerprints on the application shall be optional with the seaman."

(R.S. 4405, as amended (46 U.S.C. 375); R.S. 4462, as amended (46 U.S.C. 416); R.S. 4551, as amended (46 U.S.C. 672); 49 U.S.C. 1655(b); 49 CFR 1.46(b)).

*Effective date.* This amendment shall be effective December 11, 1975.

Dated: December 4, 1975.

O. W. SILER,
*Admiral, U.S. Coast Guard,*
*Commandant.*

[FR Doc.75-33328 Filed 12-10-75;8:45 am]

## CHAPTER III—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-228]

## PART 401—GREAT LAKES PILOTAGE REGULATIONS

### Authority of the Director of Great Lakes Pilotage To Dispatch Pilots

The purpose of this amendment is to amend § 401.720(b) of the Great Lakes Pilotage Regulations by changing the criteria the Director, Great Lakes Pilotage Staff, may use to order U.S. registered pilots to provide pilotage service.

The Coast Guard promulgated §§ 401.700(b) and 401.720(b) as part of the regulations on Great Lakes Pilotage, published September 8, 1975, (40 FR 41526). Upper Great Lakes Pilots Inc., brought an action in U.S. District Court, District of Minnesota, Fifth Division, seeking a declaratory judgment and injunctive relief on the grounds that these sections are vague and give the Director, Great Lakes Pilotage Staff, overly broad discretionary authority to dispatch pilots. Upper Great Lakes Pilots, Inc., and the Coast Guard agreed and stipulated that § 401.720(b), this amendment, would be promptly revised and promulgated as a regulation. It was further agreed that § 401.700(b), which directs the U.S. registered pilots to comply with the dispatching orders in § 401.720(b), remain unchanged.

Existing § 401.720(b) authorizes the Director to dispatch pilots when pilotage service is not provided by the pilot's association or when the association's Certificate of Authorization is under suspension or revocation. As revised, the Directory may still dispatch pilots when the association's Certificate of Authorization is under suspension or revocation or when the association is physically or economically unable to provide pilotage service.

Upper Great Lakes Pilots, Inc., requested in written comments and at a public hearing that § 401.720(b) be changed by limiting the broad discretionary powers of the Director to dispatch pilotage service. This amendment is within the scope of these comments and the rulemaking proceeding for the rules promulgated on September 8, 1975. Therefore, notice and public procedure on this amendment are unnecessary. This amendment creates no additional burden on any person and may be made effective in less than 30 days.

In consideration of the foregoing § 401.720(b) of Title 46 Code of Federal Regulations is amended as to read follows:

§ 401.720 Authority of the Director over operations.

* * * * *

(b) When pilotage service is not provided by the association authorized under 46 U.S.C. 216(b)(e) because of a physical or economic inability to do so, or when the Certificate of Authorization is under suspension or revocation under § 401.335, the Director may order any U.S. registered pilot to provide pilotage service.

* * * * *

(Sec. 4 and sec. 5, 74 Stat. 260 (46 U.S.C. 216b; 216c); sec. 6(a)(4), 80 Stat. 937, as amended (49 U.S.C. 1655(a)(4)); 49 CFR 1.46(a))

*Effective date.* This amendment becomes effective on December 11, 1975.

Dated: December 5, 1975.

E. L. PERRY,
*Vice Admiral, U.S. Coast Guard,*
*Acting Commandant.*

[FR Doc.75-33329 Filed 12-10-75;8:45 am]

## Title 47—Telecommunication

## CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20444; RM No. 2430; FCC 75-1316]

## VESSEL TRAFFIC SERVICES

### Designation of Frequencies

In the matter of amendment of Parts 2, 81 and 83 of the rules to designate in the Ports of New York and New Orleans the frequencies 156.55 MHz, 156.6 MHz and 156.7 MHz (very high frequency channels 11, 12 and 14) in the Maritime Mobile Service for exclusive use in the Vessel Traffic Services.

Amendment of Sections 2.106 and 2.303 of the rules to designate 156.55, 156.6 and 156.7 MHz for use in Vessel Traffic Services.

1. On April 23, 1975, we released a Notice of Proposed Rule Making (40 FR 18465, April 28, 1975) to amend our rules to designate frequencies, and provide for their use, in Vessel Traffic Services (VTS),[1] as requested by the Commandant of the U.S. Coast Guard, so that Title I of the "Ports and Waterways Safety Act of 1972" (Public Law 92-340, 86 Stat. 424, 46 U.S.C. 1551) could be implemented in the New York and New Orleans port areas. The notice provided for the filing of comments within a specified time, which has expired. Because of the decisions affecting Part 2 of the rules, which are reached herein, the caption has been modified accordingly.

2. In general, the proposed changes would designate the above captioned three channels for exclusive use in specified geographical areas, under Coast Guard control, only for VTS communications and permit the use of the channels outside the specified areas, as permitted elsewhere in the rules, provided there is

[1] The Coast Guard now identifies these operations as Vessel Traffic Services rather than Vessel Traffic Systems as stated in our Notice of Proposed Rule Making herein.

no interference to VTS communications within the designated VTS areas.

3. Comments were filed by the American Institute of Merchant Shipping (AIMS), the American Petroleum Institute (API), and the American Waterways Operators, Inc. (AWO). All the commenters favored the proposed rule changes in concept or generally, but stated they felt that VTS operations would impose an additional listening watch on vessel operators to which they are strongly opposed. The commenters said that vessels were already maintaining watches on as many as three maritime service channels and that if a VTS watch is to be required one of the presently required watches, such as on VHF channel 156.8 MHz, should be eliminated. They said that the maintenance of an additional watch would be unreasonable and counterproductive to maritime safety. In addition, AWO objected to the use for VTS purposes of the three specified frequencies which are now extensively used for navigational and port operations communications. AWO also asserted that channels 12 and 14 should not be dedicated for VTS uses before a proposed VHF communications system for the lower Mississippi River is established.[1] Finally, with respect to a statement in our notice that coast stations operating on VTS channels will be required to change to non-VTS channels, AWO asserted that we do not have the legal authority to require this.

4. We find that the public interest requires us to amend our rules as proposed and as set forth in the Appendix attached hereto. As explained in our notice of proposed rule making, the Coast Guard is implementing vessel traffic services systems as provided for in new legislation and we consider it incumbent upon us to provide maritime frequencies for use in the systems. Two of the channels selected by us, in coordination with the Coast Guard are port operations frequencies. These two channels are already used for communications which are closely related to VTS communications. The other frequency is now authorized for the exchange of commercial communications and may continue to be so used outside the VTS controlled areas. For stations using that commercial channel, there are 11 other channels available for this class of communications as shown in Section 83.359 of our rules. We recognize that the subject channels may be extensively used, particularly in certain crowded navigational areas, and that there may be a need for additional maritime mobile frequencies. These are not frequency use conditions, however, that are peculiar only to this service. A shortage of frequencies does not constitute sufficient reason for not designating frequencies for VTS purposes as we believe we are expected by law and the public interest to do in this instance.

5. We turn now to the question of additional listening watches on VTS channels, or of eliminating watches presently required by our rules. We are not requiring any additional watches by these rule changes herein. The purpose of the changes is, essentially, to make designated frequencies available, under conditions specified, for VTS use under Coast Guard control. The comments, therefore, concerning additional watches are not germane to this proceeding. Arguments in opposition to listening watches on VTS channels could more appropriately be made when and if the Coast Guard proposes such a requirement. With respect to the relaxation of listening watches now required by law or our rules, we do not contemplate such actions even if the Coast Guard later requires a VTS watch. Those watches are well established and are essential for efficient radio calling procedures. Without the watches there would be no effective way to contact a ship station to generate an exchange of communications on public correspondence, port operations, commercial, or other working frequencies.

6. Regarding our statement in paragraph 6 of the Notice of Proposed Rule Making that coast stations operating on VTS frequencies in or near the VTS protected areas would be required to change to non-VTS frequencies, we are not going to require that action. Developments since the release of our notice in this proceeding indicate that the operation of such coast stations should not constitute any significant problem for VTS systems. As licenses of coast stations in VTS areas expire, we will not renew the licenses for continued operations on the VTS frequencies and most have voluntarily applied for a change in frequencies in their own interests so that their working frequency will not be preempted by, or congested with, VTS traffic. Any problems to VTS systems caused by these coast stations should eventually disappear. The comment, therefore, of AWO with respect to our authority to require coast station licensees to terminate operation on the VTS channels is moot.

7. Subsequent to the release of our notice in this proceeding, the Coast Guard requested that we further amend our rules to permit the use of the vessel name only for a station identification in VTS systems. The Coast Guard said it provides a quicker and more positive way to identify vessels under those circumstances. Additionally, we understand that some foreign governments require this method of station identification in vessel traffic system operated by them, or at other times. We believe this method of station identification is reasonable and in the public interest and will still enable us to satisfactorily discharge our regulatory responsibilities under the controlled conditions existing in vessel traffic systems. Accordingly, we are amending §§ 2.303 and 83.364 of the rules to permit station identification by the name of the vessel in lieu of the assigned call sign, or by such other method as directed by a U.S. agency such as the Coast Guard or the Army Corps of Engineers or foreign authorities when vessels are operating under their control or jurisdiction. We are also making some minor editorial changes so that these sections will more closely conform with related provisions of the international Radio Regulations. As presently worded, the section appears to permit incorrectly, identification of radiotelephony ship stations and survival craft by telegraphic means, whereas it is our intention that only the survival craft stations may be so identified as provided for in the international regulations.

8. Accordingly, *it is ordered*, pursuant to authority contained in Sections 4(1) and 303 (b), (c), (d), (h) and (r) of the Communications Act of 1934, as amended, the Commission's rules are amended, as set forth below, effective January 15, 1976.

9. *It is further ordered*, That any application for modification of a station license to change from a VTS channel, may be filed without payment of the prescribed filing fee.

10. *It is further ordered*, That this proceeding in Docket No. 20444 (RM 2430) is terminated.

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

Adopted: December 2, 1975.

Released: December 9, 1975.

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

Parts 2, 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

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

1. In § 2.106, U.S. Footnote US 77 paragraph (c) is amended and a new paragraph (d) is added as follows:

**§ 2.106 Table of frequency allocations.**

* * * * *

US FOOTNOTES

* * * * *

US 77 * * *

* * * * *

(c) Intership use of 156.3 MHz on a simplex basis; and

(d) Vessel traffic services under the control of the U.S. Coast Guard on a simplex basis by coast and ship stations on the frequencies 156.55, 156.6 and 156.7 MHz.

2. In § 2.203 the form of identification, other than assigned call sign for a ship telephone class of station is amended, and a new identification for a survival craft station is added, as follows:

[1] Waterways Communications System, Inc. has on file with the Commission applications for eight new class III (VHF) public coast stations on the Mississippi River south of Cairo, Illinois, with a request for rule making or rule waiver to permit the operation of the stations as a radiocommunication system for vessels. The applications and proposals are opposed through petitions to deny by or on behalf of the existing public coast stations in that region. The matter is currently under study.

§ 2.303 Other forms of identification of stations.

* * * * *

| Class of station | Identification other than assigned call sign |
|---|---|
| * * * * * | |
| Aircraft survival craft. | * * * |
| Ship telephone---- | When an official call sign is not yet assigned: Complete name of the ship and name of licensee. On 156.65 MHz: Name of ship. When vessel is operated in vessel traffic system or on waterway under control of a U.S. agency or a foreign government: Name of ship or such other method as directed by agency or foreign government. |
| Ship survival craft station. | Same as ship telephone except that no identification is required if station is transmitting distress messages by automatic means. Identification may also be transmitted by telegraphy using A2 emission. |
| * * * * * | |

## PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

1. In § 81.356(a), a condition of use designator 1 is added for Channel 12 (156.600 MHz) and Channel 14 (156.700 MHz) under Port Operations, and for Channel 11 (156.550 MHz) under commercial; and in paragraph (b) of this section, a new subparagraph (1) is added to read as follows:

§ 81.356 Assignable frequencies in the band 156–162 MHz.

* * * * *

(b) * * *

(1) Available for use in U.S. Coast Guard designated controlled port areas only for Vessel Traffic Services (VTS) communications, and for use outside VTS radio protected areas described in § 81.357 for communications permitted elsewhere in these rules only on a noninterference basis to VTS communications, as provided for in § 81.357.

* * * * *

2. A new § 81.357 is added as follows:

§ 81.357 Frequencies available for use in Vessel Traffic Services Systems.

(a) In Coast Guard designated Vessel Traffic Services (VTS) control areas located within the radio protected areas specified and described in paragraph (b) of this section, and effective the dates indicated, the only use for the frequencies 156.55 MHz, 156.6 MHz and 156.7 MHz is for VTS communications under U.S. Coast Guard control.

(b) The U.S. Coast Guard designated radio protection areas for VTS purposes are as follows:

(1) New York, effective January 15, 1976: The rectangle between north latitudes 40° and 42° and west longitudes 71° and 74°30'.

(2) New Orleans, effective July 1, 1976: The rectangle between north latitudes 27°30' and 31°30', and west longitudes 87°30' and 92°.

(c) The use of the frequencies shown in paragraph (a) of this section, are permitted in areas outside the Coast Guard radio protection areas in accordance with the uses permitted elsewhere in this Part provided there is no interference to VTS communications within the control areas.

## PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.351(a), 83.361 is added in the See section column and a condition of use designator 58 is added in the Condition of use column opposite the frequencies 156.550 MHz, 156.600 MHz and 156.700 MHz; and a new subparagraph 58 is added to paragraph (b) to read as follows:

§ 83.351 Frequencies available.

* * * * *

(b) * * *

(58) Available for use in U.S. Coast Guard designated controlled port areas only for Vessel Traffic Services (VTS) communications, and for use outside VTS radio protected areas described in § 83.361 for communications permitted elsewhere in these rules, only on a noninterference basis to VTS communications, as provided for in § 83.361.

* * * * *

2. A new § 83.361 is added as follows:

§ 83.361 Frequencies available for use in Vessel Traffic Services.

(a) In Coast Guard designated Vessel Traffic Services (VTS) control areas located within the radio protected areas specified and described in paragraph (b) of this section, and effective the dates indicated, the only use for the frequencies 156.55 MHz, 156.6 MHz and 156.7 MHz is for VTS communications under U.S. Coast Guard control.

(b) The U.S. Coast Guard designated radio protection areas for VTS purposes are as follows:

(1) New York, effective January 15, 1976: The rectangle between north latitudes 40° and 42, and west longitudes 71° and 74°30'.

(2) New Orleans, effective July 1, 1976: The rectangle between north latitudes 27°30' and 31°30', and west longitudes 87°30' and 92°.

(c) The use of the frequencies shown in paragraph (a) of this section, are permitted in areas outside the Coast Guard radio protection areas in accordance with the uses permitted elsewhere in this part, provided there is no interference to VTS communications within the VTS control areas.

3. In § 83.364, paragraph (a) is amended to read as follows: a new paragraph (b) is added as follows: and the existing paragraphs (b), (c) and (d) are redesignated as paragraphs (c), (d) and (e) respectively.

§ 83.364 Identification of station.

(a) Station identification shall be made in the following manner:

(1) Ship stations using radiotelephony shall identify all transmissions by announcing in the English language the station assigned call sign. As an exception to the above, transmissions on the bridge-to-bridge channel 13 (156.65 MHz) may be identified by the name of the ship in lieu of the call sign; and stations on board ships operated in a vessel traffic service system or on a waterway under the control of a U.S. government agency, or a foreign authority, when communicating with such an agency or authority may be identified by the name of the ship in lieu of the call sign, or in such other manner as may be directed by the agency or foreign authority.

(2) Survival craft stations will be identified in the same manner as ship stations as provided for above, except that no identification is required when distress signals are being transmitted automatically. In addition, survival craft stations may be identified by telegraphy using A2 emissions.

(b) Ship and survival craft station identification shall be transmitted at the following times:

(1) At the beginning and upon completion of each exchange of communications with any other station;

(2) At the beginning and upon conclusion of each transmission made for any other purpose; and

(3) At intervals not exceeding 15 minutes whenever transmission is sustained for a period exceeding 15 minutes, except when a ship station is exchanging public correspondence communication in which case the identification may be deferred until the completion of the exchange of communications.

* * * * *

[FR Doc.75-33341 Filed 12-10-75;8:45 am]

[Docket No. 20519; FCC 75-1284]

## PART 87—AVIATION SERVICES

### Aeronautical Emergency Communications Requirements

In the matter of Amendment of Part 87, Subpart Q of the Commission's rules to satisfy the need, insofar as possible, of all stated aeronautical emergency communications requirements during national, state, and local emergency situations as well as civil defense activities. Subpart Q also makes provision for the Aeronautical Emergency Communications System (AECS) Plan.

1. The Commission on June 10, 1975, adopted a Notice of Proposed Rule Making in the above-entitled matter (FCC 75-683) which made provisions for interested persons to file comments and reply comments. The Notice of Rule Making was published in the FEDERAL REGISTER on June 24, 1975 (Volume 40,

Number 122, FR DOC. 75-16305). The deadline for filing comments was July 28, 1975 and reply comments were required by August 8, 1975.

2. The Notice of Proposed Rule Making was issued in response to a recommendation by the Aeronautical Communications Services Subcommittee of the National Industry Advisory Committee (NIAC) that the Commission adopt an Aeronautical Emergency Communications System (AECS) Plan. The AECS Plan as drafted on April 11, 1974 by the NIAC subcommittee, required amendment to Part 87, subpart Q of the Commission's rules to allow for certain unique communications to be carried out during emergency situations on a local day-to-day basis. The emergency situations included such occurrences as civil disorders, hurricanes, floods, earthquakes, acts of air piracy, and other similar emergencies.

3. In the Notice of Rule Making the Commission, having worked closely with government agencies and aeronautical industry representatives, proposed to adopt the NIAC recommendation by amending Part 87, Subpart Q of the rules and provide an AECS Plan to satisfy all aeronautical emergency communications requirements during national, state, and local emergency situations as well as civil defense activities.

4. The only comments received in response to the proposed rule making were jointly filed by Aeronautical Radio, Inc. (ARINC) and the Air Transport Association of America (ATA). Both ARINC and ATA supported the Commission's proposals to amend Subpart Q of Part 87 of the rules and to establish the AECS Plan. However, ARINC and ATA recommended editorial changes to the AECS Plan which would clarify the procedures under which participating entities would apply for priority certification for restoration of common carrier provided communication circuits necessary for continued operation during emergency situations. The only reply comments received were from the Aircraft Owners and Pilots Association (AOPA). The AOPA supported the proposed rules and AECS Plan with the addition of the editorial changes recommended by ARINC and ATA. The Commission believes that the recommended editorial changes are warranted for the purpose of clarification. Thus, the following changes have been incorporated into the AECS Plan (set forth below): (1) Under paragraph C, subparagraph e. *PRIORITIES*, the parenthetical sentence "(see paragraph G)" is added to direct users to paragraph G which explains the procedure for obtaining certification for priority restoration of common carrier provided circuits. (2) Under paragraph G, subparagraph c. the phrase "in accordance with Appendix A, Subpart D, Part 64 of the Commission's rules" is added to direct the user to appropriate Commission rules which institute the priority system for the restoration of common carrier provided intercity private line services.

5. In addition to the specific comments invited by the Notice of Proposed Rule Making, Commission staff has incorporated other minor editorial changes to the AECS Plan which have been concurred in by the Office of Telecommunications Policy and are strictly for the purpose of clarification. These changes include: (1) Under paragraph C, subparagraph e. *PRIORITIES*, the phrase "common carrier provided" is added to clarify the type of communication facilities to receive priority restoration. (2) Paragraph D. *ORGANIZATION* has been revised to be more concise and to allow for a broader approach to the development of detailed AECS Operational plans. (3) Under paragraph G., subparagraph c., the phrase "and must be identified in an approved Detailed Operational AECS Plan" is added to let the user know that a priority restoration will not be certified by the Commission unless the circuits to be restored are an intricate part of an existing Detailed AECS Plan.

6. The Commission believes that the rule amendment and the provision for the AECS Plan will provide the aeronautical industry with a good foundation for the development of emergency plans and procedures that will satisfy insofar as possible, all emergency communication requirements that effect the aeronautical industry.

7. In view of the foregoing, *it is ordered*, Pursuant to the authority contained in sections 1, 4(i), 4(o), and 303 (r) of the Communications Act of 1934, as amended, that effective January 15, 1976, Part 87 of the Commission's Rules and Regulations is amended as set forth below and the Aeronautical Emergency Communications System (AECS) Plan as set forth below is adopted by the Commission.

8. *It is further ordered*, That this proceeding is terminated.

(Secs. 1, 2, 3, 4, 303, 307, 403, 48 Stat., as amended; 47 U.S.C. 151, 152, 153, 154; 303, 307, 403)

Adopted: November 25, 1975.

Released: December 4, 1975.

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

Part 87 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

A. Section 87.257(e) is amended to read as follows:

**§ 87.257 Scope of service.**

* * * * *

(e) For communications with private aircraft engaged in organized civil defense activities in time of enemy attack or immediately thereafter, see Subpart Q, § 87.607(d).

* * * * *

B. Part 87, Subpart Q is revised to read as follows:

## Subpart Q—Emergency Communications

**§ 87.601 Scope and objective.**

(a) This subpart provides for an Aeronautical Emergency Communications System (AECS) Plan for all Aviation Service licensees of the Federal Communications Commission pursuant to Sections 1, 4(o), 301 and 303 of the Communications Act of 1934, as amended, and Executive Order 11490, as amended. Provision is made in the AECS Plan for the development and designation of facilities, mutually compatible operational arrangements, procedures and interconnecting facilities to satisfy vital emergency communications requirements in response to emergency situations declared by local, state, and federal authorities and management of the aviation industry.

(b) Sections 87.606 and 87.607 provide for continued radio service and operation of facilities to the extent necessary for the safety or control of friendly aircraft during emergency situations. It also provides for actions to be taken under the plan for the Security Control of Air Traffic and Air Navigation Aids (SCATANA) and the Detailed Operational Plan for the Security Control of non-Federal Air Navigation Aids to effect control of selected non-Federal VOR, VORTAC and TACAN Stations by Regional Commanders, North American Defense Command during periods of Defense Emergency and/or Air Defense Emergency.

(c) Section 87.607(c) is to provide for the operation of stations in the Aviation Services within the United States during any local emergency situation constituting a threat to safety of life and property when such a threat is not considered a national emergency.

**§ 87.602 Definition of terms.**

(a) Accurate Air Navigation Aids. Radio navigation stations in the following categories: Very High Frequency Omnidirectional Range (VOR), Very High Frequency Omnidirectional Range and Tactical Air Navigation (VORTAC) and Tactical Air Navigation (TACAN).

(b) Aeronautical Emergency Communications System (AECS) Plan. The AECS Plan provides for the operation of aeronautical communications stations, on a voluntary, organized basis, to provide the President and the Federal Government, as well as heads of state and local governments, or their designated representatives, and the aeronautical industry with an expeditious means of communications during an emergency situation.

(c) Air Defense Emergency. An emergency condition which exists when attack upon the continental United States, Alaska, Canada, or U.S. installations in Greenland by hostile aircraft or missiles is considered probable, is imminent, or is taking place.

(d) Defense Emergency. An emergency condition which exists when:

(1) A major attack is made upon U.S. forces overseas, or allied forces in any area, and is confirmed either by the commander of a unified or specified command or higher authority.

(2) An overt attack of any type is made upon the United States and is confirmed either by the commander of a command established by the Secretary of Defense or higher authority.

(e) Detailed Operational AECS Plans. These are plans developed to satisfy specific requirements of the aeronautical industry under regional, state, or local levels. They shall be considered supplements to the AECS Plan and shall be in conformity with the provisions thereof.

(f) Detailed Operational Plan for the Security Control of non-Federal Air Navigation Aids (Reference: SCATANA). A plan to establish the responsibilities, procedures, and general instructions for the security control of selected non-Federal VOR, VORTAC, and TACAN stations under the provisions of the SCATANA Plan, during a Defense Emergency and/or Air Defense Emergency or imminence thereof.

(g) Five-minute Control Time. The maximum time allowed to start and/or discontinue transmission from an air navigation aid.

(h) Emergency Situation. An emergency situation is a condition posing a threat to the safety of life and/or property on a national, state, or Operational (local) Level.

(i) AECS Authorization (AECSA). An authorization issued by the FCC to the licenses of aeronautical stations, subject to the provisions of this part, for operation in accordance with the Aeronautical Emergency Communications System (AECS) Plan, including the annexes and supplements to that plan and the Detailed Operational Plan for the Security Control of non-Federal Air Navigational Aids.

(j) Non-Federal Air Navigation Aids. VOR, VORTAC and TACAN stations licensed by the Federal Communications Commission.

(k) NORAD Region. A geographical subdivision of the area for which NORAD is responsible.

(l) North American Air Defense Command (NORAD). An integrated United States-Canadian Command. NORAD includes, as component commands, the United States Air Force Aerospace Defense Command, and the Canadian Forces Air Defence Command.

(m) SCATANA. The short title for the joint Department of Defense/Department of Transportation/Federal Communications Commission plan for the Security Control of Air Traffic and Air Navigation Aids.

(n) Tactical Air Traffic. Military flights actually engaged in operational missions against the enemy, flights engaged in immediate deployment for a combat mission, and preplanned combat and logistical support flights contained in Emergency War Plans.

(o) United States. The several States, the District of Columbia, the Commonwealth of Puerto Rico and the several territories and possessions of the United States (including areas of air, land, or water administered by the United States under international agreement), including the territorial waters and the overlying airspace thereof.

(p) CRAF. The short title for the Civil Reserve Air Fleet plan directed toward identification, organization, and development of a source of civil airlift capability readily available to augment the Department of Defense (DOD) in an airlift emergency.

(q) WASP. The short title for the War Air Service Program plan to make assignment of air carrier routes, service points and aircraft controlled by the Civil Aeronautics Board (CAB).

(r) SARDA. State and Regional Disaster Airlift. A plan for the use of non-air carrier aircraft during a national emergency.

(s) Local Emergency Situation. An emergency situation resulting from civil disorders, hurricane, flood, earthquake, an act of air piracy, or other similar emergencies including those unique to the aviation service, involving the safety of life and property and which do not constitute an immediate threat to National Defense or security.

### § 87.603 Aeronautical Emergency Communications System Authorization (AECSA).

An AECSA shall be issued by the FCC to the licensees of aeronautical stations to permit operation on a voluntary, organized basis during an emergency situation. Operation shall be consistent with the provisions of this subpart, the AECS Plan and the Detailed Operational Plan for the Security Control of non-Federal Air Navigation Aids.

### § 87.604 Criteria for eligibility for an Aeronautical Emergency Communications System Authorization.

(a) A radio station licensee in the aeronautical industry upon letter application to the FCC may be granted an AECSA which shall remain in effect concurrently with the terms of his regular authorization, so long as the licensee meets the following criteria:

(1) Is a participant in the AECS Plan and/or any Detailed Operational AECS Plan.

(2) Must be willing to cooperate with other aeronautical industry licensees in providing radio services, facilities, and personnel during emergency situations.

(3) The aeronautical station is necessary to the continued operation and security of the licensee's business or property, or in the interest of public safety and welfare, and for the security or rehabilitation of this country.

(b) Any station which is denied authorization to participate in an AECS Plan for any reason may appeal to the Federal Communications Commission for review.

### § 87.605 Activation and termination of an emergency situation.

(a) In local emergency situations communications elements of the AECS Plan may be activated by competent authority in accordance with Section 87.607(c).

(b) Circumstances may require independent activation or termination of CRAF, WASP, SARDA, and plans for airport operations and aircraft manufacturing, overhaul and maintenance. In the event that one or more of the above plans are implemented, the restrictions of SCATANA, when imposed, shall apply.

### § 87.606 Security control of air traffic and air navigation aids (SCATANA).

A plan for the Security Control of Air Traffic and Air Navigation Aids has been promulgated in furtherance of the National Security Act of 1947, as amended, the Federal Aviation Act of 1958, the Communications Act of 1934, as amended, and Executive Order 11490, as amended. The plan defines the responsibilities of the FCC for the security control of accurate non-Federal air navigation aids. SCATANA applies to radio navigation stations authorized by the Commission in the following manner:

(a) Upon receipt of notification from a Federal Aviation Administration Air Route Traffic Control Center (ARTCC) that an air defense emergency exists, or is imminent, each licensee of a radio navigation (VOR, VORTAC, or TACAN) station shall comply with the direction of the ARTCC with regard to beginning or terminating transmissions by the station.

(b) A NORAD Region Commander may impose any or all restrictions contained in the Detailed Operational Plan for the Security Control of Non-Federal Air Navigation Aids prior to the declaration of Defense Emergency or Air Defense Emergency when his region is under attack.

(c) Termination of the Defense Emergency or Air Defense Emergency declaration shall be issued by the NORAD Region Commander via the Federal Aviation Administration (FAA). This notice provides for the removal or reduction of restrictions on the operation of selected non-Federal air navigation aids in accordance with the provisions of the Detailed Operational Plan for the Security Control of non-Federal Air Navigation Aids. This action shall be taken when an attack phase is considered over. For those accurate non-Federal Air Navigation aids requiring more than 5 minutes control time, approval for resumption of operation must be obtained from the appropriate NORAD Region Commander before they can be returned to operation.

(d) Licensees of aeronautical radio navigation stations of the types specified in paragraph (a) of this section, may be requested by an ARTCC to participate in SCATANA tests. If such licensees elect to participate, testing procedures shall be in accordance with instructions issued by the Commission. However, the services of such radio navigation stations shall not be interrupted as a part of any SCATANA test.

### § 87.607 Emergency operation.

(a) Upon notification by competent authority, the AECS Plan shall be immediately activated and maintained in an operational status for the duration of the emergency situation, subject to the following conditions:

(1) *Domestic.* Air/ground communications within the United States shall be limited to those involving safety of flight and operational control; air/ground and aeronautical fixed communications on HF band frequencies shall be minimized consistent with safety of flight and operational control and then only when appropriate security measures are employed. Security measures shall include at least the following: (i) transmit safety of flight and operational control traffic only, (ii) identify by means other than clear text when directed by appropriate authority.

(2) *International.* Air/ground communications shall be limited to those involving safety of flight and operational control. Such communications in the HF band shall be discontinued, except that international air carriers arriving or departing from U.S. gateway airports may use HF band frequencies when VHF radio is inoperative, not available, or will not provide the range required. International aeronautical fixed communications may be conducted on HF band frequencies only when appropriate security measures are employed. Security measures will include at least identification by means other than clear text when directed by appropriate authority.

(3) *Weather Transmission.* Normally unscheduled weather reports and forecasts (not exceeding 2 hours ahead) may be transmitted, in clear text, only on VHF or higher frequencies. Scheduled weather information may be transmitted, in clear text, only on frequency bands other than the HF band. However, an isolated emergency situation may occur in the course of a particular AECS Plan operation in which the HF band may be employed for the transmission of clear text weather information.

(b) Upon receipt of the Defense Emergency or Air Defense Emergency declaration, or as directed by the appropriate NORAD Region Commander when his Region is under attack, the licensees of selected non-Federal air navigation aids shall comply with the provisions of the Detailed Operational Plan for the Security Control of non-Federal Air Navigation Aids (SCATANA). Detailed instructions shall be provided by the FCC to those concerned.

(c) The licensee of any aeronautical station, during a period of a local emergency situation involving the safety of life and property, may, at his discretion, utilize such station for emergency communications service for communicating in a manner other than that specified in the instrument of authorization (See § 87.123). Such emergency operations may include operation at other locations on the airport served by the authorized station, or with equipment, other than that specified in the instrument of authorization (as provided for in § 87.35(d)) and by personnel other than those authorized by the Federal Communications Commission to operate such a station provided that: (1) such operations are under the control and supervision of the licensee of the aeronautical station concerned, (2) the emergency use of the station will be discontinued as soon as practicable upon termination of the emergency, (3) in no event shall any station engage in emergency transmission on frequencies other than, or with power in excess of, that specified in the instrument of authorization or as otherwise expressly provided by the Commission, (4) an appropriate entry concerning the details of the emergency be properly recorded in the station log in accordance with § 87.99(a), and (5) these communications shall be coordinated with the FAA at a controlled airport.

(d) The frequency 122.8 MHz may be used, in addition to its normal purposes, for communications with private aircraft engaged in organized civil defense activities in time of enemy attack or immediately thereafter, and on a secondary basis for communications with private aircraft engaged in organized civil defense activities in preparation for anticipated enemy attack. When used for these purposes, aeronautical advisory stations may be moved from place to place or operated at unspecified locations, except at landing areas served by other aeronautical advisory stations or airdrome control stations.

NOTE: "civil defense" is defined, for this purpose, in accordance with section 3(d) of the Federal Civil Defense Act of 1950, Public Law 920, 81st Congress as follows:

The term "civil defense" means all those activities and measures designed or undertaken (1) to minimize the effects upon the civilian population caused or which would be caused by an attack upon the United States, (2) to deal with the immediate emergency conditions which would be created by any such attack, and (3) to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by any such attack. Such term shall include, but not limited to: (a) measures to be taken in preparation for anticipated attack including the establishment of appropriate organizations, operational plans and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters, shelter areas or control centers, and when appropriate, the nonmilitary evacuation of civil population; (b) measures to be taken during attack including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic and the control and use of lighting and civil communications; and (c) measures to be taken following attack including activities for fire fighting, rescue, emergency medical, health and sanitation services, monitoring for specific hazards for special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures and immediately essential emergency repair or restoration of damaged vital facilities.

(e) When notified by the proper authority the following plans shall be activated:

(1) Security Control of Air Traffic and Air Navigation Aids (SCATANA).

(2) Civil Reserve Air Fleet Plan (CRAF).

(3) War Air Service Program (WASP).

(4) State and Regional Disaster Airlift Planning (SARDA).

(5) Operational Plans, when developed, for Airport Operations, and for Aircraft Manufacturing, Overhaul and Maintenance.

## APPENDIX

### AERONAUTICAL EMERGENCY COMMUNICATIONS SYSTEM (AECS) PLAN

CONTENTS



#### A. PREFACE

1. This Aeronautical Emergency Communications System (AECS) Plan has been prepared pursuant to applicable provisions of Sections 1, 4(o), 301 and 303 of the Communications Act of 1934, as amended, and Executive Order 11490, dated October 28, 1969. This AECS Plan shall be reviewed annually as required by the Aeronautical Communications Services Subcommittee of the National Industry Advisory Committee (NIAC). Recommendations for revision of this AECS Plan shall be submitted to the FCC for consideration.

2. The AECS Plan, and supplements thereto, contains the designation of facilities, mutually compatible operational arrangements, procedures, instructions, and interconnecting facilities designed to satisfy, insofar as possible, all stated emergency communications requirements. It conforms with the Rules and Regulations of the Federal Communications Commission (FCC). The AECS Plan provides for emergency communications to meet the requirements of the Plan for the Security Control of Air Traffic and Air Navigation Aids (SCATANA), Civil Reserve Air Fleet (CRAF)[1], War Air Service Programs (WASP)[2] and, where applicable, State and Regional Disaster Airlift Planning (SARDA).[3] In addition, the following aero-

[1] The CRAF Plan is directed toward identification, organization, and development of a source of civil airlift capability readily available to augment the Department of Defense (DOD) in an airlift emergency.

[2] The WASP Plan provides for assignment of air carrier routes, service points, and aircraft controlled by the Civil Aeronautics Board (CAB).

[3] The SARDA Plan is to assure that adequate organization and means are available in time of emergency to effectively utilize non-air-carrier aircraft in support of survival operations and in the national economy.

nautical industry emergency communications requirements will be satisfied:

a. Intra-Industry Emergency Communications Requirements.

b. Inter-Industry Emergency Communications Requirements.

c. Industry-Government Emergency Communications Requirements.

Existing non-federal communications networks and facilities of the Aeronautical Industry, supplemented as required, shall be used to meet the communications requirements set forth, or inherent, in the above Plans. Government communications shall not be provided except as set forth in these Plans or as provided by the Federal Aviation Administration (FAA) and for DOD for air traffic control.

3. *Detailed Regional Operational AECS Plans.* Detailed Regional Operational AECS Plans, developed to satisfy the requirements of the aeronautical industry on a regional basis, are considered annexes to the AECS Plan and shall be in conformity with the provisions thereof and the FCC Rules and Regulations.

4. *Detailed State Operational AECS Plans.* Detailed State Operational AECS Plans, developed to satisfy the requirements of the aeronautical industry on a statewide basis, are considered annexes to the AECS Plan and shall be in conformity with the provisions thereof and the FCC Rules and Regulations.

5. *Detailed Local Area Operational AECS Plans.* Each state has been subdivided into geographical local areas in coordination with state authorities. Detailed Local Area Operational AECS Plans, developed to satisfy the requirements of the aeronautical industry on a local area basis, are considered annexes to the AECS Plan and shall be in conformity with the provisions thereof and the FCC Rules and Regulations.

6. *Emergency Operating Centers (EOC).* Management, operating and technical personnel from applicable Industry Advisory Committees shall be designated and accredited by the proper authorities. These personnel shall be given emergency duty assignments at the appropriate EOC and shall provide, consistent with national level guidance, continuing assistance, in the management, operational and technical areas of aeronautical communications. Details to accomplish the above shall be set forth in Detailed Regional, State and Local Area Operational AECS Plans.

## B. Purpose

1. This AECS Plan is to provide essential non-federal communications and navigational aids in an emergency for that portion of the aeronautical industry whose primary responsibility is transportation of people and freight and that portion vital to such operations and to other operations essential to public safety and welfare in time of local, state, regional and national emergency situations. These portions combined, include commercial air carriers, general aviation, airport operations, and aircraft manufacturing overhaul and maintenance. The words "Communications Facilities", as used herein, means "non-federal communications and air navigation facilities."

2. This AECS Plan, and supplements thereto, provides for using facilities and personnel of the aeronautical industry, on a voluntary, organized basis, to provide a functional emergency communications capability to be operated by the aeronautical industry, under appropriate government regulations, in a controlled manner, consistent with national security requirements, and the Rules and Regulations of the Federal Communications Commission.

3. The AECS Plan consists of the facilities and personnel of non-government aeronautical stations and other authorized facilities licensed or regulated by the FCC. Licensees participating in the AECS Plan shall be issued an AECS Authorization (AECSA) by the FCC which shall remain valid concurrently with the term of station license, so long as the licensee continues to comply with the Criteria for Eligibility (Annex III). An AECS Authorization shall permit a licensee, when required under the provisions of the AECS Plan or a Detailed Operational AECS Plan, to operate at locations or in a manner other than specified in the station license unless specifically prohibited by the Commission's rules. Licensees shall resume normal operations under the terms of the station license as soon as practicable upon termination of the emergency situation.

4. The approved Detailed Operational AECS Plans are adaptable for use on a voluntary, organized basis during local emergency situations posing a threat to the safety of life and property, including those conditions constituting a state of public peril or disaster. Such use during local emergency situations is in accordance with Section 1 of the Communications Act of 1934, as amended, which states that one of the purposes of that Act is to promote the safety of life and property through the use of wire and radio communication. Specific operational arrangements for airport operation, and aircraft manufacturing, overhaul and maintenance segments of the aeronautical industry shall be set forth in Detailed Operational AECS Plans. For the purpose of this AECS Plan, the detailed operational requirements for other segments of the aviation industry are met as follows:

a. U.S. International and Domestic Air Carriers: WASP and CRAF Plans.

b. General Aviation: SARDA Plan.

5. This AECS Plan, and supplements hereto, is addressed primarily to that portion of industry's emergency communications requirements to be accomplished on a voluntary, organized basis through the use of specific aeronautical communications facilities, and interconnecting systems, as set forth in Paragraph 3 and 4 above. The plan also outlines the procedure for obtaining other supplementary or supporting emergency communications services. It is recognized that participants may find it necessary to use Manufacturers and Business Radio Services Facilities as presently authorized, and certain additional facilities planned under each services emergency communications plans.

## C. General Considerations

1. During periods of national emergency, operational coordination of certain segments of the aeronautical industry is vital to the survival and recovery of the Nation.

2. Rapid transportation of people and material, while highly desirable during normal times, is mandatory during periods of national emergency. In addition, use of civil aircraft is vital for rescue and other essential operations in local, state, regional and national emergency situations. Communications facilities and electronic navigational aids are basic to the operation of the aeronautical industry. Therefore, it is incumbent on the aeronautical industry to prepare plans and procedures providing the highest order of reliability for normal as well as emergency operations. The ability of these communications facilities to survive and continue to operate after a catastrophe of the most severe nature should be considered as a primary requisite.

3. The aeronautical industry must have a capability to respond to an emergency situation on a national, regional, state or local basis on short notice, including those international operations of the United States aeronautical industry in support of the national effort. Regular operational tests and use of the communications facilities in natural disaster or other emergencies involving safety of life and property shall give adequate assurance that this capability exists and can be maintained. To this end, the following general features must be provided:

a. *Activation and Termination.* (1) During local emergency situations, communications elements of the AECS Plan may be activated or terminated by competent authority in accordance with Section 87.607(c) of the FCC Rules.

(2) Circumstances may require independent activation or termination of the detailed operations plan contained in paragraph B-4 of this AECS Plan. In such circumstances the restrictions of SCATANA, when imposed, shall apply. (Annex IV).

b. *Availability.* Once notified of an emergency situation under a. above the aeronautical industry shall immediately place in operational condition all emergency communications plans, procedures and facilities appropriate to the existing situation, including back-up, relocation, and other emergency communications arrangements, and shall remain in this status until terminated by appropriate authority.

c. *Reliability.* The emergency communications facilities of the aeronautical industry should be so constituted as to be able to provide industry-wide emergency service despite extensive damage. The emergency communications facilities of the aeronautical industry should be designed to be as survivable as is economically practicable.

d. *Requirements.* The aeronautical industry, in cooperation with the FCC, shall effect the specific actions required to accomplish at least the following:

(1) Modify individual communication facilities to provide required additional circuits, either owned or leased.

(2) Make communications interconnections.

(3) Operate communications facilities on additional frequencies as necessary.

(4) Provide adequate reliability for its own facilities under emergency situations.

(5) Provide means for communicating with appropriate agencies of the Federal Government.

(6) Provide required back-up facilities.

(7) Plan for and utilize certain high frequency channels during national emergency situations for special long distance transmission requirements, both domestic and foreign in accordance with Section 87.607 of the FCC Rules and Regulations.

e. *Priorities.* Priorities for use and restoration of common carrier provided communications facilities (see paragraph G) as well as priority for materials, manpower and financial aid should be assigned commensurate with the specific function of each licensee involved. The importance of this priority for use and restoration of communications facilities, manpower, financial aid and priority of material claimancy for procurement and restoration cannot be overemphasized—it is the very basis upon which this emergency plan must operate.

## D. Organization

1. *National Industry Advisory Committee:* A broad range of emergency contingencies and requirements dictates the necessity for the orderly development, approval, and implementation of operational emergency communications plans, systems, and procedures capable of expeditious emergency activation, and utilizing on a voluntary, organized basis, non-government personnel and Federal Communications Commission licensed and regulated facilities. To achieve these ends, the Federal Communications Commission has determined under the provisions of Public

Law 92-463 and Executive Order 11769 that the formation of a National Industry Advisory Committee is in the public interest. The National Industry Advisory Committee (NIAC) has been organized to advise and assist the Federal Communications Commission, and other appropriate authorities by studying and submitting recommendations for the development of emergency communications plans, systems, and procedures as provided in the Communications Act of 1934, as amended. The NIAC is also prepared to provide advice to industrial entities, if requested, in the development of their detailed operational emergency communications plans.

2. *State Emergency Communications Committee:* A State Emergency Communications Committee (SECC) has been organized in each of the fifty (50) States, Guam, Puerto Rico, Virgin Islands and the District of Columbia. One of the several functions of the SECC is to assist industry, if requested, in the preparation of coordinated detailed operational emergency communications plans which are in consonance with the FCC Rules and Regulations and in conformity with plans developed at the National level. If these plans involve interstate requirements, the SECC of the affected States may be requested to coordinate the plans with each other.

3. *Operational (local) Area Emergency Communications Committee:* Operational (local) Area Emergency Communications Committees (OAECC) have been organized in each of the Operational (local) Areas within each State as mutually determined by State authorities and the State Emergency Communications Committee. The OAECC functions as subcommittees of the SECC. One of the functions of the OAECC is to assist industry, if requested, in the preparation of coordinated detailed operational emergency communications plans for the Operational Area.

### E. Emergency Communications Requirements

1. Communications requirements of the aeronautical industry in an emergency may include but are not limited to:

a. Air/ground/air (including operational control) and point-to-point communications.

b. Between central maintenance depots and air terminal maintenance facilities.

c. Emergency notification of impending disasters and/or evacuation.

d. Fire fighting and other emergency safety procedures.

e. Between administrative offices, flight test, manufacturing and overhaul facilities.

f. Between flight test engineers or dispatchers and aircraft to provide for necessary testing.

g. Between ticket offices and air terminal offices.

h. Coordination between air carriers and movement and control of aircraft, passengers and freight.

i. Exchange of personnel, maintenance and equipment to facilitate air carrier operations.

j. Coordination and scheduling of resources and facilities necessary to sustain research, test and production operations.

k. Security of personnel, facilities and equipment and for alerting employees. These functions require communications between local management and local authorities.

l. Reporting damage assessment of the communications facilities of the aeronautical industry to the FCC for further transmittal to the Department of Defense and Office of Telecommunications Policy.

m. Requests for emergency authorizations to the FCC.

n. Requests to FCC for radio frequency assignments.

o. Requests to the FCC for financial credits or other financial assistance for communications facilities.

p. Requests to the FCC for conservation, salvage and rehabilitation of communications supplies and equipment.

q. Requests to the FCC for claimancy for communications materials, manpower, equipment, supplies and services.

r. Requests to the FCC for priority certification for the use of, or restoration of, leased private line common carrier services.

s. Requests to Federal Aviation Administration for flight authorizations and flight status information.

t. Requests to and coordination with appropriate government agencies and/or industries for financial credits or assistance; conservation, salvage and rehabilitation of supplies and equipment; claimancy for materials, manpower, equipment, supplies and services; and for reporting damage assessment where such requests and coordination do not pertain solely to communication services.

u. Issuance of regulations and orders controlling the scheduling, routing and distribution of air freight. (Civil Aeronautics Board).

v. Issuance of priority regulations for transportation of air travelers (Civil Aeronautics Board) via WASP.

### F. Conditions for Emergency Communications

1. During an emergency situation, aeronautical facilities are subject to the following conditions:

a. *Domestic.* Air/ground communications within the United States shall be limited to those involving safety of flight and operational control; air/ground and aeronautical fixed communications on HF band frequencies shall be minimized consistent with safety of flight and operational control and then only when appropriate security measures are employed. Security measures shall include at least the following: (1) transmit safety of flight and operations control traffic only, (2) identify by means other than clear text when directed by appropriate authority.

b. *International.* Air/ground communications shall be limited to those involving safety of flight and operational control. Such communications in the HF band shall be discontinued, except that international air carriers arriving or departing from U.S. gateway airports may use HF band frequencies when VHF and UHF radio are inoperative, not available, or will not provide the range required. International aeronautical fixed communications may be conducted on HF band frequencies only when appropriate security measures are employed. Security measures shall include at least identification by means other than clear text when directed by appropriate authority.

c. *Weather Transmission.* Unscheduled weather reports and forecasts (not exceeding 2 hours ahead) may be transmitted, in clear text, only on VHF or higher frequencies. Scheduled weather information may be transmitted, in clear text, only on frequency bands other than the HF band. However, an isolated emergency situation may occur in the course of a particular AECS Plan Operation in which the HF band may be employed for the transmission of clear text weather information.

d. *Defense Emergency or Air Defense Emergency.* Upon receipt of either a Defense Emergency or Air Defense Emergency declaration, or as directed by the appropriate NORAD Region Commander when his Region is under attack, the licensees of selected non-Federal air navigation aids shall comply with the provisions of the Detailed Operational Plan for the Security Control of Non-Federal Air Navigation Aids. Detailed instructions shall be provided by the FCC to those concerned.

2. When notified by the proper authority the following plans will be activated:

a. Security Control of Air Traffic and Air Navigation Aids (SCATANA).

b. Civil Reserve Air Fleet Plan (CRAF).

c. War Air Service Program (WASP).

d. State and Regional Disaster Airlift Planning (SARDA).

e. Operational Plans when developed, for airport operations, and for aircraft manufacturing, overhaul and maintenance.

### G. Procedure for Validation of Requests for Communications Service

1. Requests for communications services via common carrier facilities shall be handled as follows:

a. Those circuits utilized for the dissemination of emergency information for the aeronautical industry and those circuits earmarked for prearranged voluntary participation with the Federal Government during emergencies shall be identified to the FCC for priority restoration authorization.

b. A high order of priority for use and restoration of all approved interconnecting leased common carrier private line facilities involved herein shall be assigned by the FCC.

c. Requests for communications services, to be valid, shall be certified by the FCC in accordance with Appendix A, Subpart D, Part 64 of the Commission's rules and must be identified in an approved Detailed Operational AECS Plan.

d. Priorities for the various grades of leased service shall be assigned by the FCC and forwarded to the appropriate communications common carrier.

e. Each request for leased service shall be accompanied by a full description of the nature of the information to be transmitted, the preferred method of transmission (voice, teletypewriter, facsimile, digital data, etc.), geographical location, points of service, average number of transmissions per day, and average length of transmission.

f. *Urgent* requests for communications services may be handled completely at *the field level.*

### H. Liaison

1. Close liaison shall be maintained at all times between all participants and operational elements in the AECS Plan. All operational elements of the AECS Plan at the state, and local area levels are particularly encouraged to maintain close liaison with the FCC. All official instructions issued with respect to non-government elements concerned with the AECS Plan shall be issued by the FCC.

2. The Federal Communications Commission shall assist in the development of applicable Detailed Operational Aeronautical Emergency Communications Systems (AECS) Plans and procedures.

### I. Participation

1. An aeronautical industry licensee desiring to participate in the AECS Plan on a voluntary basis shall be granted an AECS Authorization by the FCC when it meets the Criteria for Eligibility contained in the AECS Plan, subject to the provisions of Part 87, Subpart Q, of the FCC Rules and Regulations.

2. Other non-government entities may be authorized to participate in the AECS Plan through the voluntary use of their privately owned or leased FCC licensed or regulated facilities, consistent with the provisions of the FCC Rules and Regulations and the provisions of this AECS Plan.

J. ANNEXES

1. Detailed information with regard to national level facilities, systems, and procedures and emergency operational arrangements at the national level are included as Annexes to this AECS Plan. Part 87, Subpart Q, of the FCC Rules and Regulations providing for the AECS Plan is also contained in Annex I.

2. Detailed information for the development of operational emergency communications systems, plans, and procedures at the regional, state, and local area levels shall be contained in Detailed Regional, State, and Local Area Operational AECS Plans which shall be included as Annexes to this AECS Plan.

3. Revised and additional Annexes to this AECS Plan shall be issued as required, after formal approval by the FCC.

K. APPROVAL AND CONCURRENCES

Pursuant to Executive Order 11490 and Sections 1, 4(i) and 303(r) of the Communications Act of 1934, as amended:

Approved by the Federal Communications Commission:

Concurred in by the Department of Defense:

Concurred in by the Department of Transportation:

Concurred in by the Office of Preparedness, General Services Administration:

Concurred in by the Office of Telecommunications Policy:

ANNEX I

Reserved for FCC Rules and Regulations Part 87, Subpart Q.

ANNEX II

EMERGENCY COMMUNICATIONS FOR THE AERONAUTICAL INDUSTRY DURING PERIODS OF NATIONAL EMERGENCY

STATEMENT OF REQUIREMENTS

This Statement of Requirements for the aeronautical industry has been prepared under the direction of the Federal Communications Commission (FCC) in cooperation with the National Industry Advisory Committee (NIAC) pursuant to Executive Order 11490, as amended, signed by the President of the United States on October 28, 1969.

A. *Introduction.* For the purpose of this annex, aeronautical industry activities are defined as the activities directly involved in the air movement of passengers and freight, general aviation, aircraft manufacturing, overhaul and maintenance, passenger and freight loading and unloading, ticketing, weather gathering activities, navigation activities, dispatching, aircraft fueling, food handling and air terminal operation and maintenance including other operations essential to the public safety and welfare.

B. *Basic Facts and Assumptions.* 1. During periods of national emergency, operational coordination and coordination of all segments of the aeronautical industry (hereinafter referred to as industry) and government is vital to the survival and recovery of the Nation.

2. Communications systems, plans, and procedures providing the highest order of reliability are required by industry to provide for normal as well as emergency operation. The ability of these systems to survive catastrophes of the most severe nature should be considered as a primary requisite.

3. The aeronautical industry has demonstrated its willingness to cooperate with the Government in further developing and improving its emergency plans. Industry shall provide personnel to cooperate in the formulation of plans for emergency communications systems.

4. Existing communications systems and facilities, including those of major aircraft manufacturers, used by industry for normal operations, shall be used as the basis for essential communications required by the industry during periods of national emergency.

5. Modification of, or addition to, some privately-owned or leased communications facilities may be necessary in order to provide essential interconnections with industry-Government communications at certain designated points.

6. A substantial amount of communications facilities are involved in normal day-to-day operations of industry. These facilities, modified as in "5" above, together with bypass and back-up arrangements through intra- and inter-system communications protected by appropriate leased circuit priorities should further insure a high probability of survival of such communications systems.

7. To further insure development of acceptable emergency communications policies, plans, systems, facilities and procedures, such emergency plans shall encompass a broad range of emergency contingencies posing a threat to the safety of life and property, including those international operations of the United States aeronautical industry in support of the national effort.

8. All emergency communications plans, systems, facilities, and procedures developed for industry shall be for the purpose of fulfilling the requirements of industry. These shall include certain emergency communications channels and arrangements for administrative liaison between industry and appropriate federal officials and various other state and local government authorities associated with the emergency operation of industry. Emergency communications between any departments or offices of any federal, regional, state or local government entity shall not be considered a valid requirement of industry.

C. *Planning Considerations.* The aeronautical industry under the auspices of NIAC shall, on a continuing basis, advise and submit recommendations and assist the FCC in the orderly development of operational emergency communications policies, plans, systems and procedures capable of expeditious emergency activation using, on a voluntary, organized basis, non-government personnel and FCC licensed and regulated facilities. The following planning considerations are appropriate:

1. *Activation and Termination* a. In local emergency situations communications elements of the AECS Plan may be activated or terminated by competent authority in accordance with Section 87.607(c) of the FCC Rules.

b. Circumstances may require independent activation of certain detailed operation plans indicated below.

(1) U.S. International and Domestic Air Carriers. (a) Civil Reserve Air Fleet Plan (CRAF).

(b) War Air Service Plan (WASP).

(2) General Aviation: State and Regional Disaster Airlift Planning (SARDA).

(3) Airport operations and aircraft manufacturing, overhaul and maintenance: Detailed operational plans when developed.

In the event that all or some of the above plans are implemented, the restrictions of SCATANA, when imposed, shall apply.

2. *Availability.* Once notified of an emergency situation the aeronautical industry shall immediately place in operational condition all emergency communications plans, procedures and facilities appropriate to the existing situation.

3. *Survivability.* The emergency communications system of the industry should be so constituted as to be able to provide communications for the necessary aircraft flights to transport the required personnel and material needed for the duration of the emergency, as well as for necessary support of all flight activities essential to the public safety and welfare. The emergency communications system of the industry should be designed to be as survivable as is economically practicable and should be protected by leased circuit priorities, where applicable.

4. *Determination of Design.* The management and technical personnel of industry, in cooperation with the FCC are best qualified to determine the location, type, capacity and other technical parameters of the required emergency communications system. Industry should develop operational procedures to implement and monitor the effectiveness of its emergency communications system.

5. *Safety and Special Radio Services.* Authorization, operation, and use of Safety and Special Radio Services facilities and personnel in the national interest in an emergency.

6. *Radio frequency assignment.* Assignment of radio frequencies to, and their use by, Commission licensees in an emergency.

7. *Electromagnetic radiation.* Closing of any radio station or any device capable of emitting electromagnetic radiation or suspension or amending any rules or regulations applicable thereto, in an emergency, except for those belonging to, or operated by, any department or agency of the United States Government.

8. *Investigation and enforcement.* Investigation of violations of pertinent law and regulations in an emergency, and development of procedures designated to initiate, recommend, or otherwise bring about appropriate enforcement actions required in the interest of national security.

9. *Priorities and allocations.* Systems for the emergency application of priorities and allocations to the production, distribution, and use of resources for which FCC has been assigned responsibility.

10. *Requirements.* Assembly, development as appropriate, and evaluation of requirements for assigned resources, taking into account estimated needs of military, atomic energy, civilian, and foreign purposes. Such evaluation shall take into consideration geographical distribution of requirements under emergency conditions.

11. *Evaluation.* Assessment of assigned resources to estimate availability from all sources during an emergency situation, analysis of resource availabilities in relation to estimated requirements, and development of appropriate recommendations and programs, including those necessary for the maintenance of an adequate mobilization base. Provision for data and assistance before and after attack for national resource analysis purpose.

12. *Claimancy.* Prepare plans to claim from the appropriate agency supporting materials, manpower, equipment, supplies, and services needed to carry out assigned responsibilities and other essential functions to the FCC, and cooperate with other agencies in developing programs to insure availability of such resources in an emergency.

13. *Warfare effects monitoring and reporting.* A capability, both at national and field levels, to estimate the effects of attack on assigned resources and to collaborate with and provide data to the FCC, as appropriate, in verifying and updating estimates of resource status through exchange of data and mutual assistance, and providing for the detection, identification, monitoring and reporting of such warfare effects at selected facilities.

14. *Salvage and rehabilitation.* Plans for salvage, decontamination, and rehabilitation of facilities involving resources under FCC jurisdiction.

15. *Research.* Research in areas directly concerned with carrying out emergency preparedness responsibilities, designating representatives for necessary ad hoc or task force groups, and providing advice and assistance to other agencies through FCC for research in emergency communications.

16. *Stockpiles.* Assistance in formulating and carrying out plans for stockpiles of strategic and critical communications materials, and survival items.

17. *Direct Economic Controls.* Cooperation with federal financial agencies in the development of emergency preparedness measures involving emergency financial and credit measures, as well as price, rent, wage and salary stabilization, and consumer rationing programs.

18. *Financial aid.* Plans and procedures in cooperation with federal financial agencies for financial and credit assistance to those segments of the private sector for which FCC is responsible in the event such assistance is needed under emergency situations.

ANNEX III

CRITERIA FOR ELIGIBILITY FOR AN AERONAUTICAL EMERGENCY COMMUNICATIONS SYSTEM AUTHORIZATION

A radio station licensee in the aeronautical industry upon letter application to the FCC may be granted an AECS Authorization which will remain in effect concurrently with the terms of his regular authorization, so long as the licensee substantially meets the following criteria:

1. The aeronautical industry licensee is a participant in the Aeronautical Emergency Communications System Plan and/or any Detailed Operational Aeronautical Emergency Comunications System Plan.

2. The aeronautical industry licensee must be willing to cooperate with other aeronautical industry licensees in providing radio services, facilities, and personnel during emergency situations.

3. The aeronautical station is necessary to the continued operation and security of the licensee's business or property, or in the interest of public safety and welfare, and for the security or rehabilitation of this country.

Any station which is denied an Aeronautical Emergency Communications System Authorization for any reason may appeal to the Federal Communications Commission for review.

ANNEX IV

Reserved for the plan for the Security Control of Air Traffic and Air Navigation Aids (SCATANA).

ANNEX V

Reserved for the Detailed Operational Plan for the Security Control of Non-Federal Air Navigation Aids. Reference: SCATANA.

ADDITIONAL ANNEX ATTACHMENTS

Reserved for Detailed Operational AECS Plans.

[FR Doc.75-33342 Filed 12-10-75;8:45 am]

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[Docket 19478; FCC 75-1288]

## PART 91—INDUSTRIAL RADIO SERVICES

### Policy Governing the Assignment of Frequencies

In the matter of amendment of Part 91 of the Commission's Rules and Regulations to expand the permissible uses of 450–470 MHz off-set frequencies in the Business Radio Service.

1. On May 25, 1973, the Commission issued a First Report and Order (41 FCC 2nd 8) addressing the hospital bio-medical telemetry aspect of this proceeding. The question of other possible uses of the off-set frequencies was left open pending further consideration, which has now been completed. Accordingly, our findings and conclusions are set forth herein.

2. Comments were filed by United Airlines, Inc. (UA), the National Association of Business and Educational Radio, Inc. (NABER), Reach Electronics, Inc., Gary J. Anderson, M.D., the Hewlett Packard Company (HP), the Central Committee on Communications Facilities of the American Petroleum Institute (API), the Land Mobile Communications Section of the Communications and Industrial Electronics Division of the Electronic Industries Association (EIA), the Utilities Telecommunications Council (UTC), Spacelabs, Inc., and the International Telegraph and Telephone Corporation (ITT). Reply comments were filed by Aeronautical Radio, Inc. (ARINC) and the Hewlett Packard Company.

BACKGROUND

3. The 450–470 MHz Business Radio Service off-set frequencies were made available for assignment on March 18, 1968, pursuant to the Second Report and Order in Docket 13847 (11 FCC 2nd 648). The use of these frequencies was limited to those stations located in areas termed "industrial complexes". In the First Report and Order of this proceeding, the off-set frequencies in the bands 460.650–460.875 MHz and 465.650–465.875 MHz were allocated and restricted to use by hospitals, medical and convalescent centers for one-way, non-voice bio-medical telemetry operations. The question of other appropriate uses of the off-set frequencies was left for disposition at a later date.

4. Originally, the purpose of the rule permitting the use of frequencies 12.5 kHz off-set from the regularly assigned 450 MHz frequencies in the Business Radio Service was to accommodate industrial communications requirements which previously had been satisfied through the use of Class B Citizens radio stations. At that time, as a result of the proceedings in Docket 13847, the Class B Citizens Radio Service was being discontinued. A licensee profile of the Class B Citizens Radio Service was conducted and it was found to be composed primarily of various manufacturing and petroleum refining concerns. In view of this and in view of the fact that the off-set frequency provisions were not in accordance with the 25 kHz channel spacing associated with the technical standards then being established, we thought it advisable to restrict the number of potential off-set frequency users to a relatively small number located in somewhat isolated areas in order to obtain practical experience with 12.5 kHz off-set operation. In selecting the term "industrial complex" (where they were made available), we wished to restrict off-set operation to well-defined areas of operation, thereby facilitating evaluation of any resultant interference. Experience has indicated that the interference potential to normally assigned frequency operations by off-set frequency users is not significant, and while a greater likelihood of interference to the off-set frequency users exists, it nevertheless appears that off-set frequency use in properly designed systems has satisfied the communications requirements of many restricted area radio users. Accordingly, while we believe that expanding the permissible uses of the off-set frequencies is appropriate; we also believe it is necessary to keep all such operation on a secondary, non-interference basis to regularly assigned frequency operations.

ELIMINATION OF THE "INDUSTRIAL COMPLEX" RESTRICTION

5. Reach Electronics, United Airlines, EIA, ITT, ARINC and Hewlett-Packard provided comment to the effect that the present "industrial complex" limitation is "unnecessarily restrictive". UTC requested that the definition of the term "industrial complex" be expanded to include all types of utility plant areas. API favored expanded use by "industrial users" but suggested that such use be authorized only in isolated areas, except for point-to-point telemetry operations in urbanized areas. NABER argued that the term, "industrial complex" should encompass "* * * any readily defined area where off-sets can be feasibly and effectively utilized". Others suggested that the off-set frequencies should be made available to all applicants eligible for operation in the Business Radio Service for any type of worthwhile communications activity, provided that the transmitter power and antenna height were restricted to appropriate levels.

6. These comments are in accord with the Commission's own observations in recent years. We agree that eligibility for the use of the off-set frequencies should be extended to include use in areas such as airports, stadiums, racetracks, office buildings, construction sites, shipyards, farms and similar applications. Furthermore, in consideration of the fact that interference arising from the operation of off-set stations has not been a problem because offset operation has and will continue to be on a purely secondary, non-interference basis to primary frequency operations, we have amended the Rules to eliminate the "industrial complex" restriction, thereby expanding the availability of the off-set frequencies in the Business Radio Service.

7. We have also considered whether frequency coordination should be required for applications involving use of the off-set frequencies. Because off-set frequency authorizations are issued on a secondary, non-interference basis to adjacent channel stations and must tolerate such interference from those stations as may be necessary, we see little, if any, advantage to frequency coordination. Even if the frequency coordination process was retained with a view toward as-

suring non-interference to existing regularly assigned frequency operations, there would be no guarantee possible to the off-set user that his operation would not interfere with the communications of a subsequently licensed, regularly assigned frequency user. Accordingly, we have eliminated the frequency coordination requirement.

EXPANDED USES OF THE OFF-SET FREQUENCIES

8. In reply to our inquiry as to what additional operating requirements could be satisfied through the proper use of the off-set frequencies, UTC, EIA, API and Reach Electronics commented on the yet unsatisfied need for additional channels to accomodate telemetry and control functions in industrial complexes and a variety of other applications. UTC suggested that such operation could be on a secondary, non-interference basis to mobile operations. United Airlines, while not specifically addressing such fixed operations, nevertheless suggests that the uses of the off-set frequencies should be virtually unlimited, thereby permitting the accomplishment of any reasonable Business Radio Service purpose. EIA expressed the belief that the 3 watt (input) power limitation should be considered as an adequate control for reasonable application, including non-voice usage, of the off-set channels.

9. We believe these suggestions have merit. In recognition of the need for additional frequencies for fixed operation, we have recently issued a Further Notice of Proposed Rule Making in Docket 20149, wherein it is proposed to allocate six band edge and "splinter" frequencies to certain radio services for non-voice applications requiring up to 50 watts output power at fixed stations, or one watt output power from mobile units. Nevertheless, we recognize that in some areas even these additional frequencies may fall short of the demand. In such cases, fixed operation on the off-set frequenecies under the existing antenna height and power limitations may satisfy the system requirements of many non-voice applications, thereby alleviating the demand for the limited number of higher powered frequencies.

10. In reviewing the proposals for fixed and other non-voice uses of the off-set frequencies, we have given considerable thought to the recommendation that all such use be on a secondary basis to voice use. However, in view of the low power permitted, and since both voice and non-voice systems on the off-set frequencies are on a secondary basis, we have concluded that further secondary designation of such systems is not appropriate.

11. Also considered in the matter of fixed station operation on the off-set frequencies was the interference potential to adjacent frequency "primary" assignments. In order to minimize the likelihood of any such interference, we are requiring that all fixed stations, in accordance with standard engineering practice, utilize directional antennas with front to back ratios not less than 15 dB, and are restricting fixed operations to those off-set frequencies adjacent to the mobile only frequencies in the 450–470 MHz band. While this action halves the number of off-set frequencies available for fixed operation, we feel that the 132 off-set frequencies so provided are more than sufficient for such applications.

ANTENNA HEIGHT AND OUTPUT POWER RESTRICTIONS

12. In the Notice of Inquiry in this matter, we also requested information as to what limitations, other than output power, should be placed on the use of the off-set frequencies. All of the comments received supported our indicated intention of retaining the existing input power limit of 3 watts. We feel, however, that it would be appropriate to update the rules to be more in keeping with present communications technology and transmitter measurement procedure. Accordingly, we have amended the transmitter power limitation to read "2 watts output power".

13. The comments generally supported the "20 feet above ground" antenna height restriction applicable to off-set systems. However, two exceptions were requested. The Electronic Industries Association has requested an exception in the case where a restricted radiation system, such as radiating transmission line, is utilized, since little or no external radiation would result. We have examined the radiation specifications of such transmission line and are inclined to agree, providing it is terminated in a non-radiating load and routed well into the interior of the building. Accordingly, we have made a provision for such use in the rules. We believe that this exception will provide for the communications needs of building security guards and other similar restricted area operations which would otherwise be subject to extensive interference from higher powered co-channel systems operating on the normal Business Radio Service frequencies.

14. The American Petroleum Institute has requested that an exception be made in the case of transmitters located distances of 50 miles or more from major urbanized areas. In these cases API suggests that the antenna height restriction be amended to permit mounting up to 20 feet above the antenna supporting structure, excluding structures designed for the primary purpose of supporting communications antennas. This, says API, would ". . . provide greater flexibility for the installation of transmitter antennas on existing structures such as offshore drilling and production platforms where the existing '20 feet above ground' limitation is simply not practical". In further support of their request, API makes the observation that there are generally few structures with substantial heights located outside of urbanized areas. Thus, the proposed relaxation of the antenna rule would not be likely to cause any serious interference problems in rural areas.

15. While we are inclined to agree with these arguments to a point, we feel that their overall thrust goes against our philosophy regarding the use of the off-set frequencies. Any increase in antenna height will result in an enlargement of the area of operation to a size we believe would be more appropriately achieved using the regularly assigned frequencies. In addition, off-set operation at increased antenna heights would, because of variations in terrain, result in greater unpredictability as to the extent of signal propagation. Even though the operation may occur in what is presently a rural area, future growth and development may result in the presence of numerous other eligibles having a legitimate need for the use of these frequencies. Accordingly, we believe that it would be inadvisable to make such a general provision for the use of increased antenna height at the present time.

16. Nevertheless, we believe that in the case of operations on offshore drilling and production platforms mentioned by API, and indeed any sea based operation, waiver of the antenna height restriction would be appropriate. Such operations are carried out in a demographically static environment and are largely fixed in nature. Additionally, it is clearly impossible for such stations to be installed in accordance with the 20 feet "above ground" limitation. (It has, however, been our policy in the case of sea based stations to interpret this requirement as meaning 20 feet above mean sea level). We have concluded that twenty feet is simply insufficient to guarantee that antennas associated with such installations will not be damaged by prolonged exposure to sea spray or actual inundation during turbulent weather. Therefore, in consideration of these factors, we will permit mobile stations serving as sea-based fixed and base stations to use antenna heights not to exceed 20 feet above the man-made supporting structures, excluding antenna structures.

CONSIDERATIONS REGARDING THE 460.650–460.875 AND 465.650–465.875 MHz BANDS

17. In the First Report and Order of this proceeding, we restricted off-set operation in the 460.650–460.875 and 465.650–465.875 MHz bands to biomedical telemetry within hospitals. Because the off-set frequencies in these bands are adjacent to low power frequencies reserved for land mobile operations in air terminals, the fears regarding adjacent channel interference to these operations have proven, as we expected, to be groundless. With respect to the co-channel interference question, however, we are inclined to agree with the opinion of NABER, which is representative of many others, that:

> On more than rare instances, these "industrial complexes" are located within critically close proximity to many hospitals. The higher powered Industrial user (3 watts vs. 100 milliwatts) could well penetrate into the hospital, thereby interfering with the latter's transmission.

This argument assumes even greater significance when considered in the light of

the widely expanded uses of the off-set frequencies to be permitted as a result of this proceeding. In consideration of the great number (132 pairs) of off-set frequencies being made available for general purpose use, it appears that the inclusion of those pairs presently allocated for in-hospital bio-medical telemetry applications is unnecessary. Accordingly, the frequency bands 460.650–460.875 and 465.650–465.875 will continue to be reserved exclusively for bio-medical telemetry use.

18. In concurrence with the foregoing, the Commission has determined that the public interest, convenience and necessity will be served by the amendment of its Rules to expand the availability and permissible uses of the off-set frequencies in the 450–470 MHz Business Band.

19. Accordingly, pursuant to authority contained in Sections 4(i) and 303 of the Communications Act, as amended, *it is ordered*, That effective January 11, 1976, Part 91 of the Commission's Rules and Regulations is amended as shown below. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended 1066, 1002; 47 U.S.C. 154, 303)

Adopted: November 25, 1975.

Released: December 2, 1975.

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

A. Part 91 of the Commission's Rules is amended as follows: 1. Section 91.8(a)(1) is amended to include a new subparagraph (x) which reads as follows:

**§ 91.8 Policy governing the assignment of frequencies.**

* * * * *

(a) * * *

(1) * * *

(x) Any application in the Business Radio Service for frequencies available pursuant to § 91.554(c).

2. Section 91.554(c) is amended, and two subparagraphs are added to read as follows:

**§ 91.554 Frequencies available.**

* * * * *

(c) Except for frequencies separated by 12.5 kHz from regularly assigned frequencies in the bands 460.650–460.875 and 465.650–465.875 MHz, mobile stations of two watts or less output power, when serving the function of a base, mobile relay or mobile station, may be assigned any frequency separated by 12.5 kHz from a regularly assigned frequency in the 450–470 MHz band listed in paragraph (a) of this section, and when used as a fixed station may be assigned any frequency separated by 12.5 kHz from a regularly assigned frequency in the band 465.875–469.975 MHz. All operation is on a secondary, non-interference basis to regularly assigned adjacent frequency operations and is entitled to no protection from such stations. Authorization for multiple frequency operation will be granted notwithstanding the provisions of § 91.8(c). Mobile stations, when used as fixed stations, shall be exempt from the limitations of § 91.103(b). Antennas of moblie stations used as fixed stations communicating with one or more associated stations located within 45 degrees of azimuth shall be directional and have a front to back ratio of at least 15 dB. Except as provided below, the height of the antenna used at any mobile station serving as a base, fixed or mobile relay station may not exceed 20 feet above ground.

(1) No limit shall be placed on the length or height above ground of any commercially manufactured radiating transmission line; *Provided that*, The transmission line is terminated in a non-radiating load and is routed at least 20 feet interior to the edge of any structure or portion thereof above ground level.

(2) Sea-based stations may utilize antennas mounted not more than 20 feet above the man made supporting structure, excluding antenna structures.

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[FR Doc.75-33343 Filed 12-10-75;8:45 am]

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[Docket No. 19312; FCC 75-1285]

## PART 91—INDUSTRIAL RADIO SERVICES

### Industrial Communications Emergency Plan

1. This proceeding concerns the adoption of the Industrial Communications Emergency Plan (ICEP) for meeting those essential communications requirements of certain industrial entities during National, State and Operational (local) emergency situations. The ICEP was initiated by adoption of a Notice of Proposed Rule Making September 8, 1971 which was recommended by the National Industry Advisory Committee (NIAC).

2. In this proceeding, the Commission adopts the revised rules set forth in Appendix I providing for the Industrial Communications Emergency Plan (ICEP), as well as the ICEP itself as provided below.

3. The purpose of this ICEP is to provide the policy, authority and guidelines for the emergency communications operations of the industrial entities eligible for a license under Part 91 of the Commission's rules, and to serve as a planning guide for the development and implementation of detailed Industrial Communications Emergency Operational Plans which will conform to, and become supplements of, this Industrial Communications Emergency Plan.

4. In addition to publication in the FEDERAL REGISTER, copies of the Notice of Proposed Rule Making were sent to twenty-six Government agencies, including the Office of Emergency Preparedness (now the Federal Preparedness Agency) and the Office of Telecommunications Policy, inviting them to file comments in the proceeding.

5. Seven comments were received in response to the proposal. Five were from the following trade organizations whose members include industrial entities licensed by the Commission in the Industrial Radio Services: The Special Industrial Radio Service Association; The Utilities Telecommunications Council (UTC); National Ski Patrol System, Inc.; and the National Association of Manufacturers (NAM). Southern Pacific Pipe Line/Black Mesa Pipe Lines, Inc., also filed comments regarding this proceeding. Two responses were from Federal Government Departments; one was from the Secretary of Defense, the other from the Department of the Interior.

6. Reply comments were filed by the Utilities Telecommunications Council, the Central Committee on Communications Facilities of the American Petroleum Institute, and the Special Industrial Radio Service Association, Inc.

7. Supporters of the proposal commented that, except for minor changes, the proposed revision to the Rules and Regulations and the ICEP would provide benefit to the public as well as to the State and local governments, by arranging for communications services to mutually assist industrial entities in meeting various degrees of emergency. Some suggested minor changes in the rules and in the ICEP; the NAM recommended expansion and recodification of the rules for clarification and ease of understanding.

8. The Department of Interior offered no objection to the ICEP as proposed, but requested the opportunity to review and comment on any future revisions or additional Annexes to the ICEP where they may be involved in view of the Department's responsibilities in the area of emergency preparedness as delineated in Executive Order 11490.

9. The Secretary of Defense, through the Office of the Judge Advocate General, Department of the Army, was in opposition to the proposed Industrial Communications Emergency Plan (ICEP) for 2 major reasons: first, because of an expressed deep concern that competing unintegrated industrial communications systems would impede more essential Federal Government communications needs in time of National emergency and, secondly, that Section 91.161 of the rules already provided for operation of stations during a National emergency or emergency condition constituting a threat to National security or to the safety of life and property.

10. After review of pertinent comments and reply comments in the matter, a new draft of the ICEP was prepared. Several recommendations of the responding industrial entities were incorporated into the ICEP.

11. Further, one other significant change was incorporated into the ICEP outside the purview of the Government and industrial comments. At the time of the Notice of Proposed Rule Making, the Emergency Broadcast System (EBS) was an element in the nation's National Defense Warning System. Accordingly, one of the methods of activating the ICEP was based on activation of the EBS. In April, 1972, based upon a recommenda-

tion of the Office of Telecommunications Policy, the Commission deleted the Home Warning function from the EBS. The present ICEP has been amended in accordance with OTP's recommendation. Specifically, EBS activation procedures were deleted and new methods of activation were incorporated into the ICEP.

12. On December 5, 1974, another meeting of the NIAC was held to discuss and recommend approval of the required revisions to the ICEP. Each of the changes was approved by the NIAC.

13. By letter of February 18, 1975, comments were solicited from interested government agencies including the Department of Defense (DOD) via the office of Telecommunications Policy (OTP). After receiving comments from the OTP, all of the pertinent recommendations, without exception, have been incorporated into the ICEP. Thus, the objections of DOD have been resolved and the ICEP has been approved by interested members of both industry and government.

14. In view of the foregoing, *It is ordered*, Pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, that effective January 15, 1976, Part 91 of the Commission's Rules and Regulations is Amended as set forth below and the Industrial Communications Emergency Plan (ICEP) as set forth below is adopted by the Commission.

15. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 505)

Adopted: November 25, 1975.

Released: December 3, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Secretary.*

Part 91 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

**§ 91.161 [Deleted]**

A. Section 91.161 is deleted.

B. New Subpart Q is deleted to Part 91 as follows:

## Subpart Q—Emergency Communications

**§ 91.801 Scope and objectives.**

(a) This subpart contains the rules and regulations providing for emergency operations for all Industrial Radio Service Licensees of the Federal Communications Commission, and an Industrial Communications Emergency Plan (ICEP) prepared pursuant to and by the authority of Sections 1, 4(i), 301, 303, 307, 308, 309, 312, 316, 318, 319, and 606 of the Communications Act of 1934, as amended, and Executive Order 11490, as amended.

(b) The Objective of this subpart is to provide for the development of detailed communications plans containing the designation of facilities, mutually compatible operational arrangements, procedures, and interconnecting facilities, for the continued operation of industrial radio stations on a voluntary, organized basis during times of war, grave national crisis, or other National, State or Operational (Local) emergency situations.

DEFINITIONS

**§ 91.802 Industrial Communications Emergency Plan (ICEP).**

The Industrial Communications Emergency Plan (ICEP) is a plan containing procedures for the development of detailed communications plans of Industrial Radio Service licensees based on essential communications requirements of industry, including communications with interested Government Agencies during emergencies on a National, State, or Operational (Local) Area level.

**§ 91.803 Emergency situation.**

An emergency situation is a situation posing a threat to the safety of life and/or property on a National, State, or Operational (Local) level.

EMERGENCY OPERATIONAL

**§ 91.804 Activation and termination.**

In an emergency situation communications elements of the ICEP may be activated and terminated by competent authorities as defined in the Detailed Operational ICEPs.

**§ 91.805 National, state and local emergency operation.**

Detailed data, information and instructions for emergency operation of mutually compatible facilities, systems and arrangements will be set forth in the Detailed Operational ICEPs which are considered a supplement to the ICEP.

**§ 91.806 Participation of class A citizens radio service licensees.**

Industrial entities may utilize their Citizens Radio Service Class A facilities, licensed to them under § 95.41(a) of the Commission's rules, in the operation of their own Detailed Operational Industrial Communications Emergency Plans as developed in accordance with the procedures established in this subpart.

AUTHORIZATION

**§ 91.807 Emergency Communications Authorization (ECA).**

(a) A radio station licensee in any industry covered by the Industrial Communications Emergency Plan (ICEP) may be granted an Emergency Communications Authorization (ECA) by the Federal Communications Commission. Each ECA shall remain in effect concurrently with the terms of the approved Detailed Operational Industrial Communications Emergency Plans provided:

(1) The licensee functioning within the terms of the ECA has demonstrated his willingness to cooperate with others by agreeing to provide service or interconnection as part of a communication emergency plan.

(2) The licensee is included in an FCC approved intra-company plan to utilize its radio facilities as emergency backup for other communications services used by the licensee.

(b) An ECA will be issued to each industrial entity for each communications system plan approved by the Commission.

(c) Any industrial radio service participating in the ICEP may withdraw from participation by giving thirty (30) days' written notice and by submitting his Emergency Communications Authorization (ECA) to the Federal Communications Commission for cancellation.

**§ 91.808 Tests of approved interconnecting systems and facilities.**

After detailed emergency communication systems plans are completed, or segments of the system are completed, system operational tests may be necessary. When deemed necessary, these tests shall be conducted as specified in the approved operational plans. Results of these tests shall be furnished to the FCC Engineer in Charge (EIC), the Chief, Emergency Communications Division of the FCC, and to others concerned. These tests would be used as training exercises for personnel at all levels.

APPENDIX

INDUSTRIAL COMMUNICATIONS EMERGENCY PLAN (ICEP)

CONTENTS



INDUSTRIAL COMMUNICATIONS EMERGENCY PLAN

A. PREFACE

1. This Industrial Communications Emergency Plan (ICEP) has been prepared pursuant to applicable provisions of the Communications Act of 1934, as amended, and as provided for in current Executive Orders, and the Federal Communications Commission's Rules and Regulations. The Plan is based on the requirements of the industrial entities. The National Industrial Advisory Committee (NIAC), Industrial Communications Subcommittee, has been appointed by the FCC to advise and assist in the initial preparation and periodic review of the Plan.

2. This Plan is prepared to provide the policy, authority, and guidelines, for the emergency communications operations of the industrial entities and to serve as a planning guide for the development and implementation of Detailed Operational Industrial Communications Emergency Plans which will conform to and become supplements of, this Plan. Necessary addenda and other supporting information and data relative to this Plan may be found in annexes which are a part of this Plan and attached hereto.

3. The industrial services covered by this Plan are: Power, Petroleum, Forest Products,

Motion Picture, Relay Press, Special Industrial, Business, Industrial Radiolocation, Manufacturing, and Telephone Maintenance as specified in Part 91 of the Federal Communications Commission's Rules and Regulations. Working groups comprised of one or more companies, or of a single industry, or of a group of related industries may prepare plans on their own initiative, or as designated by NIAC, subject to ICEP conditions.

4. Detailed Operational Industrial Communications Emergency Plans which shall contain the designation of facilities, detailed mutually compatible operational arrangements, procedures, instructions and interconnecting facilities to satisfy all of the requirements relative to each industrial entity or group are considered supplements to the Industrial Communications Emergency Plan and are in conformity with the provisions thereof, and the Rules and Regulations of the Federal Communications Commission. When developed, these described plans will be submitted to the FCC for approval.

### B. Purpose

1. This Industrial Communications Emergency Plan has been devised to provide for the designation of facilities, mutually compatible operational arrangements, procedures, and interconnecting facilities for continued operation of industrial radio stations during time of war, grave national crisis or other National, State or Operational (Local) Area emergency situation posing a threat to the safety of life and/or property.

2. This Plan provides for utilizing facilities and personnel of the industrial entities on a voluntary, organized basis to provide a functional emergency communications system to be operated by a designated industry group under appropriate government regulations and in a controlled manner consistent with industry operational requirements.

3. All industrial communications systems not committed to the formation and operation of emergency communication systems under this Plan shall continue operations consistent with the requirements of the individual companies, in accord with provisions of the Communications Act of 1934, as amended, and pertinent Federal Communications Commission Rules and Regulations.

4. The approved and authorized facilities incorporated into the Detailed Operational Industrial Communications Emergency Plans, under this Plan, may be used on a voluntary, organized basis by industries during war, grave national crisis or day-to-day situations posing a threat to the safety of life and/or property. Such use during day-to-day emergency situations is in accordance with Section 1 and other pertinent sections of the Communications Act of 1934, as amended.

### C. Role of Industry and Government

1. In order that adequate and workable industrial emergency communications plans and procedures may be developed and operating facilities and systems be established and maintained, full and free government and industry cooperation shall be accomplished.

2. The industrial entities are best qualified to determine the detailed technical arrangements and procedures necessary for the establishment of operational emergency communications systems under this Plan. These arrangements and procedures shall encompass studies to determine what modifications, additions, interconnections, and changes shall be required to accomplish emergency communications systems within the appropriate industry or industries, and to those governmental offices or agencies with which the industry or industries coordinate their activities.

3. Interested Federal Government Agencies, including the Federal Communications Commission, and industry shall cooperate in the compilation of listings of required industry-government interconnections of emergency communications systems supporting mutual national defense and other emergency preparedness responsibilities. Detailed Plans developed by industry shall define those industry-government interconnections of emergency communications essential for the effective operation of the plans.

4. Presidential Memorandum of August 21, 1963, "Establishment of the National Communications System", provides for meeting Federal Government communications requirements. Accordingly, these requirements shall not be considered in the Industrial Communications Emergency Plan.

5. The Federal Communications Commission shall effect, as appropriate, changes in Commission Rules and Regulations as well as changes in communications common carrier tariffs necessary to accommodate the objectives of this Plan. The FCC shall also undertake to obtain similar changes in the rules, regulations, and procedures, of other government agencies or entities, where necessary, to assure the success of the Plan.

### D. Emergency Communication Requirements

1. *Intra-Industry Communications*—Through cooperative action to the mutual benefit of their constituent companies, the participants in this Industrial Communications Emergency Plan shall be fully responsible for providing the operational emergency communications between their various components, both inter-company and intra-company, subject to the authority of and with the assistance of the Federal Communications Commission. The principal types of services are:

(a) Between companies'[1] offices, wherever located, and governmental agencies that are to coordinate operations, facilities and supplies.

(b) Between company emergency headquarters and industry operating control points.

(c) Between the various operating groups within each company.

(d) Between separate companies at various operating levels.

2. *Industry-Government Communications*—Industry recognizes the requirement for providing for the emergency communications between members of industry and certain government agencies. The agencies and principal types of requirements are:

(a) Between local management and local government agencies for the security of personnel and plants, and for notifying radio services employees.

(b) Between companies and their appropriate Federal Claimant Agency (OEP Cir. 8500.4A), and the Federal Communications Commission to obtain necessary communication authority and priority to provide essential emergency communications.

(c) Between a company or an industrial group and an appropriate Federal Government office. These communications, to be established consistent with the emergency preparedness plans of the Federal agency which has over-all responsibility for administration of the industry group involved under the terms of Executive Order 11490, encompass the full range of information: reports, requests for assistance, advice, approvals and orders, priority grants, manpower authorizations and other matters essential to the operation of the industry.

### E. General

1. *Industry Requirements*—The industry must have the capability to respond to an emergency situation on a National, State, or Operational (Local) basis on short notice. Regular operational systems tests and use of the system in natural disasters, or other emergencies involving safety of life and property, will give adequate assurance that this capability exists and can be maintained. To this end, the following specific features must be provided.

(a) Notification—In event of an emergency situation, as defined in Annex I, industries shall be notified by competent authority regarding which communications systems should be activated in accordance with the seriousness of the given situation.

(b) Availability—Once notified of an emergency situation, as defined in Annex I of the Plan, the Industry shall immediately place in operating condition all emergency communication arrangements, and shall maintain this status until termination of the emergency situation.

(c) In the development of the Detailed Operational Industrial Communications Emergency Plans, each industry group shall proceed, as it deems necessary, to: (1) Form cooperative communication arrangements and interconnections between critical portions of the industrial communications systems.

(2) Utilize radio frequencies in a manner that may differ from that provided by the FCC Rules and Regulations.

(3) Utilize certain HF radio channels during national emergency conditions for special short and long distance transmission requirements, both domestic (including Alaska and possibly Hawaii) and foreign.

(4) Interconnect with private systems of another service to provide mutual emergency circuits, where such circuits are an integral part of the emergency network.

2. *Federal Assistance to Industry*—The Federal Communications Commission shall render or obtain from other government entities direct assistance to individual companies participating in this plan. Such assistance shall be in accordance with established government policy and shall be of appropriate nature and magnitude to facilitate the objectives of this Plan. When required for efficient operation under Detailed Operational Industrial Communications Emergency Plans and when requested by industry from the appropriate Federal Agency, such assistance may include but not be limited to:

(a) Claimancy—Priorities of adequate level to assure the procurement of all equipment, materials, parts, services and supplies necessary to establish, operate and maintain the communications emergency system described herein.

(b) Priorities—A high order of priority for installation, use, restoration, maintenance and repair of all associated and interconnecting leased common carrier communications facilities and service involved herein. To be assigned a restoration priority in accordance with Appendix A, Subpart D, Part 64 of the FCC Rules and Regulations, interconnecting intercity private lines must be identified in an approved Detailed Operational Industrial Communications Emergency Plan.

(c) Manpower—The allocation and retention of sufficient qualified manpower to permit continued operation and maintenance of all emergency communications facilities and systems.

[1] Industrial entities, working groups, associations, etc.

(d) Radio Frequency Assignment—Assignment of radio frequencies to meet existing emergencies.

(e) Facilities Protection—Disaster preparedness to include records protection, emergency repair and dispersal of facilities.

F. Organization

1. *National Industry Advisory Committee:* A broad range of emergency contingencies and requirements dictates the necessity for the orderly development, approval, and implementation of operational emergency communications plans, systems, and procedures capable of expeditious emergency activation, and utilizing on a voluntary, organized basis, non-government personnel and Federal Communications Commission licensed and regulated facilities. To achieve these ends, the Federal Communications Commission has determined under the provisions of Public Law 92-463 and Executive Order 11769 that the formation of a National Industry Advisory Committee is in the public interest. The National Industry Advisory Committee (NIAC) has been organized to advise and assist the Federal Communications Commission, and other appropriate authorities by studying and submitting recommendations for the development of emergency communications plans, systems, and procedures as provided in the Communications Act of 1934, as amended. The NIAC is also prepared to provide advice to industrial entities, if requested, in the development of their detailed operational emergency communications plans.

2. *State Emergency Communications Committee:* A State Emergency Communications Committee (SECC) has been organized in each of the fifty (50) States, Guam, Puerto Rico, Virgin Islands and the District of Columbia. One of the several functions of the SECC is to assist industry, if requested, in the preparation of coordinated detailed operational emergency communications plans which are in consonance with the FCC Rules and Regulations and in conformity with plans developed at the National level. If these plans involve interstate requirements, the SECC of the affected States may be requested to coordinate the plans with each other.

3. *Operational (local) Area Emergency Communications Committee:* Operational (local) Area Emergency Communications Committees (OAECC) have been organized in each of the Operational (local) Areas within each State as mutually determined by State authorities and the State Emergency Communications Committee. The OAECC functions as subcommittees of the SECC. One of the functions of the OAECC is to assist industry, if requested, in the preparation of coordinated detailed operational emergency communications plans for the Operational Area.

G. Emergency Operation

1. Activation and Termination. In an emergency situation communications elements of the ICEP may be activated and terminated by competent authorities as defined in the Detailed Operational Industrial Communications Emergency Plans.

2. National, State and Local Emergency Operation. Detailed data, information and instructions for emergency operation of mutually compatible facilities, systems, and arrangements shall be set forth in the Detailed Operational Industrial Communications Emergency Plans which are considered a supplement to the ICEP.

3. Use of Class A Citizens Radio Service. Industrial entities may utilize their Citizens Radio Service Class A facilities, licensed to them under Section 95.41(a) of the Commission's rules, in the operation of their own Detailed Operational Industrial Communications Emergency Plans developed in accordance with the procedures established in Parts 91, Subpart Q and Section 95.121 of those rules.

H. Tests

After detailed emergency communication systems Plans are completed, or segments of the system are completed, system operational tests may be necessary. When deemed necessary, these tests shall be conducted as specified in the approved operational plans. Results of these tests shall be furnished to the FCC Engineer in Charge (EIC), the Chief, Emergency Communications Division of the FCC, and to others concerned. These tests would be used as training exercises for personnel at all levels.

I. FCC Liaison

Close liaison shall be maintained at all times among all participants in the Industrial Communications Emergency Plan. The participants shall cooperate with the National Industry Advisory Committee. All official instructions to the participants concerning this Plan shall be furnished to them through the offices of the FCC.

The FCC shall furnish detailed technical data and instructions to the State and Operational (Local) Emergency Communications Committees and radio services personnel for use in coordinating facilities to provide the requisite emergency communications and interconnections.

J. Emergency Communications Authorizations

The FCC shall grant an Emergency Communications Authorization (ECA) to licensees in the Industries who meet the criteria for eligibility as set forth in Annex I.

Those station licensees not participating in this Plan must not conduct an operation that will conflict or interfere with the functioning of those stations that are participating in this Plan.

K. Annexes

Revised and additional Annexes to the Plan shall be issued, as required, after (1) consultation as necessary with the responsible Federal agencies, (2) concurrence by the appropriate Resource Agency, and (3) formal approval by the FCC.

[FR Doc.75-33344 Filed 12-10-75;8:45 am]

## Title 49—Transportation

### CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

### PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS

**Carriage of Radioactive Material**

Cross Reference: For a document issued by the Materials Transportation Bureau, Department of Transportation, see FR document 75-33322, appearing elsewhere in this issue.

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

[Docket No. 75-1; Notice 3]

### PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

**New Pneumatic Tires for Passenger Cars**

*Correction*

In FR Doc. 75-30562, appearing at page 53033, in the issue for Friday, November 14, 1975, in the table on page 53034, the entry under Minimum size factor (inches) should read "37.42".

# 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

### Food and Drug Administration

### [ 21 CFR Part 102 ]

[Docket No. 75P-0250]

### FRUIT FLAVORED SWEETENED SPREADS

### Proposed Common or Usual Name

*Correction*

In FR Doc.75-30269, appearing at page 52616 in the issue for Tuesday, November 11, 1975, make the following corrections:

1. On page 52616, in the preamble, third column, in paragraph (c) (2) of the petitioner's proposed regulation, the word "part" in the equation should read "parts".

2. On page 52617, in the 22nd line of the first column, the word "customer" should read "consumer".

3. On page 52617, in the middle column, in the second line of the second full paragraph, the word "than" should read "that".

4. On page 52617, the equation at the bottom of the second and third columns should read as set forth below:

$$\frac{\text{Weight of fruit ingredient (or equivalent)}}{\text{Total weight of soluble solids before concentration or dilution}} \times \text{Percent soluble solids in the finished product} \times 100 = \text{Percentage of fruit ingredient in finished product.}$$

5. On page 52618, in the first full paragraph beginning in the first column, in the sixth line, insert the word "actual" after the word "the".

### [ 21 CFR Parts 600, 610, 640 ]

### BIOLOGICAL PRODUCTS

### Additional Standards for Single Donor Plasma (Human) Products

*Correction*

In FR Doc. 75-30271 appearing at page 52619 in the issue for Tuesday, November 11, 1975, make the following changes:

1. In the first paragraph of the document, in the last line, the date now reading "January 12, 1975" should read "January 12, 1976".

2. In § 640.34(h) (2), in the 6th line, the word "tissue" should read "issue".

### [ 21 CFR Parts 610, 660 ]

[Docket No. 75N-0308]

### BIOLOGICAL PRODUCTS

### Additional Standards for Reagent Red Blood Cells

*Correction*

In FR Doc. 75-30270 appearing at page 52621 in the issue for Tuesday, November 11, 1975, make the following changes:

1. In § 660.34(f), in the third line, the word "with" should read "was".

2. In § 660.36(a), in the third line, the number "800" should read "8800".

### [ 21 CFR Part 660 ]

[Docket No. 75-0313]

### BIOLOGICAL PRODUCTS

### Additional Standards for Blood Grouping Serum

*Correction*

In FR Doc. 75-30272 appearing at page 52623 in the issue for Tuesday, November 11, 1975, make the following changes:

1. In § 660.23(c), in the first line, between the words "frozen" and "blood", insert the word "red".

2. In § 660.28(a) (1), in the table under the heading *"Color of label paper"*, insert at the end of each entry "% tone".

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### [ 46 CFR Chapter I ]

[CGD 75-101]

### MARINE OCCUPATIONAL SAFETY AND HEALTH STANDARDS

### Extension of Comment Deadline

The Coast Guard published an Advance Notice of Proposed Rule Making in the August 11, 1975, issue of the FEDERAL REGISTER (40 FR 33681). This Advance Notice solicited comments on occupational safety and health standards for vessels and facilities that are under Coast Guard jurisdiction.

Comments have been received requesting that the comment deadline be extended due to the complexity of the issue involved and the desire to submit extensively researched comments. Since this is a reasonable request, the comment deadline for this Advance Notice is hereby extended until January 15, 1976.

Dated: December 8, 1975.

J. V. CAFFERY,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.75-33330 Filed 12-10-75;8:45 am]

### Materials Transportation Bureau

### [ 14 CFR Part 103 ]

[Docket No. HM-131; Notice No. 75-10]

### TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIZED MATERIALS

### Proposed Inspection and Monitoring Requirements for Radioactive Materials

The Materials Transportation Bureau is considering amending Part 103 of the Federal Aviation Regulations to require aircraft operators to perform certain inspection and monitoring of radioactive material shipments.

On April 25, 1974, a notice of proposed rule making (Docket No. 13668; Notice No. 74-18; 39 FR 14612) on this same subject was published by the Federal Aviation Administration (FAA). That proposal was finalized, with certain changes, on February 4, 1975, as Amendment No. 103-23, to have an effective date of June 30, 1975.

Numerous petitions were subsequently received by FAA requesting an extension of the June 30, 1975, effective date, citing unclear specifications as to the radiation monitoring instrument needed to perform the required monitoring of radioactive materials packages, stating that the criteria of plus or minus 20 percent accuracy was deficient, in the absence of specifying a range limit. The petitioners further stated that even when more definitive instrument specifications have been developed and published, that the instrument manufacturers and suppliers would require further time to supply the proper equipment to the aircraft operators, who, in turn, would need further time to properly train their cargo handling personnel in the use of such instruments.

The petitioners also stated that, as published, the rule was unclear as to which type of radiation, *i.e.*, gamma, beta, alpha, or neutron, or whether all four types were to be monitored. If the latter were to be the case, they stated that more than one type of instrument at each monitoring station would be required, since no single instrument was commercially available which had the capability of suitably detecting all of the types of radiation.

Several petitioners also requested reconsideration of the requirement for monitoring each package after its removal from the aircraft and prior to its next departure. They pointed out that the "planeside monitoring", which would be required as a result, presented serious, if not impossible, operational difficulties due to the nature of airline operations which involve short duration turnarounds and enroute stops, and are affected by factors such as weather conditions. They further pointed out that the monitoring of off-loaded packages could best be performed after transfer to the freight terminal. They argued that if such monitoring detected radiation or contamination in excess of some stated levels and the aircraft had already departed, monitoring of the aircraft could be performed at its next stop.

After consideration of the merits of the petitions, the FAA extended the effective date for compliance with the radiation monitoring requirements to January 1, 1976 (Amendment 103-25, Docket No. 14530, 40 FR 26673). FAA also announced at the same time that it had instituted a study to develop more realistic specifications for the radiation monitoring instrument.

Since March 1975, the Office of Hazardous Materials Operations of the Materials Transportation Bureau, in cooperation with the FAA, the Civil Aeromedical Institute, the Transportation Systems Center, and the U.S. Nuclear Regulatory Commission have studied the problem with the objective of clarifying the technical specification and use of the radiation monitoring instrument. Before arriving at a proposed clarification, it was the consensus of the above group that the objective of the monitoring had to be clearly identified. It recognized that there were two possible objectives in monitoring, *i.e.*, to detect levels of radiation or contamination resulting from the unusual and unlikely loss of shielding or breach of containment or to verify that the shipper's assigned transport index (T.I.) was in compliance. It was clearly recognized that either objective would dictate significantly different instrument specifications, and also that no single type of instrument could adequately detect all types of radiation. The group agreed that the principal objective of radiation monitoring by air carriers be to detect the radiation hazard situation and not to verify compliance of the T.I. The group also agreed that from the practical standpoint, gamma radiation was the most significant potential problem, recognizing that very few packages emitting only neutron radiation are transported, and also recognizing that alpha and beta radiation do not present an external radiation hazard. It was further recognized that monitoring for external gamma radiation alone might not in every case detect alpha or beta contamination from a leaking package.

The proposals herein afford an opportunity for interested persons to comment on what the Materials Transportation Bureau considers to be an appropriate and realistic instrument specification, as well as a practicable proposal for the application of the monitoring requirement.

Because these proposals on radiation monitoring are substantially different from the monitoring requirements finalized on February 4, 1975, and because the January 1, 1976, effective date for those requirements will pass before the proposals herein are finalized, the requirements of paragraph (d)(3) of section 103.3 and paragraphs (c), (d), and (e) of section 103.23, finalized on February 4, 1975 (Amdt. 103-23), have been revoked. (*See* Dkt. 13668 in this issue of the FEDERAL REGISTER.)

These proposals are substantially different from those finalized on February 4, 1975, in the following respects:

### ACTION LEVEL

As proposed herein, the "action level" in performing the radiation monitoring would be 15 milliroentgens per hour (mr/hr). As published in § 103.23(d)(2) (Amdt. 103-23), the aircraft operator would have been required to verify that the measured T.I. was in agreement with that as assigned to the package label by the shipper or zero in the case of white labeled packages. The "action level" of 15 mr/hr is being proposed on the basis of what the Bureau believes to be a reasonable value for the average measurement error that might be experienced in relation to the maximum transport index allowed to be assigned by the shipper to a package carried aboard an aircraft. The proposal recognizes the objective stated above that the principal purpose of the radiation monitoring is to detect those unlikely situations involving levels of gamma radiation which indicate a loss of shielding or a breach of containment. This is consistent with the Bureau's position that verification of transport indexes assigned by shippers is not the principal purpose of monitoring by air carriers. The proposed "action level" of 15 mr/hr also will be more conducive to the utilization of "fixed" radiation monitors in an automated scanning "pass by" type system in those stations handling significant numbers of packages. Such systems can also be very effective in reducing potential exposure to any package handling personnel who may routinely handle the monitoring and processing of radioactive shipments. It should be understood that in citing the 15 mr/hr "action level", it is not intended to imply that such a level of radiation would be "acceptable" with respect to the shipper's requirements. No change is being proposed with regard to the maximum transport index of 10 which applies to the shipper of radioactive packages. Rather, the proposed aircraft operator monitoring is intended to provide an additional or backup safeguard.

### INSTRUMENT SPECIFICATION

More definitive operating characteristics are being provided, specifying the required operational range, percent efficiency, energy range sensitivity, battery check capability, maximum response time, and nonsaturation feature at high levels of radiation.

### "OFF-LOAD" INSPECTION AND MONITORING

As proposed herein, a visual inspection of each package would be required after off-loading each package from an aircraft, prior to its departure. In the event this inspection reveals suspected leakage or damage to the package integrity, radiation monitoring would have to be performed immediately. After the visual inspection and transfer of the package into a freight terminal, and before release to another transport mode or to the consignee, the radiation monitoring would have to be carried out. In the event that the off-loaded package is to be transferred to another air carrier for carriage aboard an aircraft, the Bureau interprets the provisions of proposed § 103.23(c)(1) to require that the new air carrier monitor the package in accordance with § 103.23(d) before placing it in an aircraft.

The effective date for the amendments proposed herein would be six months after their publication. This would recognize the lead time necessary for manufacturers and suppliers of radiation monitoring equipment to deliver equipment to air carriers and for air carriers to train cargo handling personnel in the operation and use of the equipment.

In consideration of the foregoing, it is proposed to amend 14 CFR Part 103 by:

1. Amending § 103.3 by adding a new paragraph (d)(3) to read as follows:

**§ 103.3 Certification requirements.**

* * * * *

(d) * * *

(3) After (six months from date of publication of amendment), for radioactive materials, the inspection required by § 103.23(c) discloses that the radiation dose rate does not exceed any requirement set forth in § 103.23(d).

2. Amending § 103.23 by adding paragraphs (c), (d), and (e) to read as follows:

**§ 103.23 Special requirements for radioactive materials.**

* * * * *

(c) In addition to the inspection required by § 103.4 after (six months from the date of publication of amendment), the operator of the aircraft shall—

(1) Before placing any package of radioactive materials in an aircraft, monitor it in accordance with paragraph (d) of this section.

(2) After removal of any package containing radioactive materials from an

aircraft, and before the next departure of the aircraft—

(i) Examine the package in accordance with § 103.4(a)(1); and

(ii) If the examination required by paragraph (c)(2)(i) of this section discloses that there may be leakage of the contents or that the integrity of the package has been compromised, monitor the package in accordance with paragraph (d) of this section.

(3) As soon as practicable after removal of a package containing radioactive materials from an aircraft, prior to release to another transport mode or to the consignee, perform radiation monitoring in accordance with paragraph (d) of this section.

(d) In conducting the radiation monitoring required by paragraph (c) of this section, the operator of the aircraft shall—

(1) Use a radiation monitoring instrument that—

(i) Has a range such that 2 milliroentgens per hour (mr/hr) through 99 mr/hr can be measured;

(ii) When the meter of the instrument reads 15 mr/hr, or any other readings normally used when monitoring a radioactive material package at a distance of three feet from the package, the true exposure rate does not differ from the instrument reading by more than 60 percent for gamma energies of 70 kev to 1.2 mev;

(iii) At exposure rates that exceed the range of the instrument, up to at least 100 roentgen per hour (r/hr), the exposure rate indicator is maintained at the upper end of the range, or is otherwise designed so as to provide a positive response in the event of "saturation" to high level radiation;

(iv) Has a battery check capability;

(v) Has a response time not exceeding 12 seconds;

(vi) Will satisfy the specifications in paragraphs (d)(i) through (v) of this section over the ranges of temperature and humidity to which the instrument will be subjected during operational use.

(2) Monitor the package on all sides (including top and bottom). If the monitoring indicates an exposure rate exceeding 15 mr/hr at three feet from any exterior surface of the package, the package shall not be placed aboard an aircraft or released to another mode of transportation and the requirements as set forth in paragraph (b) of this section shall be initiated.

(e) In conjunction with the radiation monitoring requirements prescribed in paragraphs (c) and (d) of this section, the aircraft operator shall establish periodic instrument calibration and maintenance procedures which must be approved by the FAA District Office charged with the overall inspection of its operations.

Interested persons are invited to submit views and comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, Materials Transportation Bureau, U.S. Department of Transportation, Trans Point Building, Washington, D.C. 20590. All comments received before the colse of business on February 17, 1976 will be considered, and will be available in the docket for examination both before and after the closing date. Comments received after the closing date and too late for consideration will be treated as suggestions for future rule making.

(49 U.S.C. 1472(h)(1); 49 U.S.C. 1804; 49 CFR 1.53(e), (h); and paragraph (a)(3) of App. A to Part 102)

Issued in Washington, D.C., on December 5, 1975.

ALAN I. ROBERTS,
*Director, Office of Hazardous Materials Operations.*

[FR Doc.75-33323 Filed 12-10-75;8:45 am]

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## National Highway Traffic Safety Administration

## [ 49 CFR Part 571 ]

[Docket No. 75-16; Notice 04]

## FEDERAL MOTOR VEHICLE SAFETY STANDARDS

### Air Brake Systems

*Correction*

In FR Doc. 75-32812 appearing at page 56920 in the issue for Friday, December 5, 1975, the comment closing date appearing on page 56926, the third column, and in the highlights on the front cover, which presently reads "January 21, 1976" should read "February 23, 1976".

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# FEDERAL HOME LOAN BANK BOARD

## [ 12 CFR Parts 556, 571 ]

[No. 75-1083]

## STATEMENT OF POLICY

### Proposed Amendments Relating to Mergers

NOVEMBER 26, 1975.

*Summary*

I. *Present Regulations.* State the Federal Home Loan Bank Board's general policy on mergers involving Federal associations and insured institutions in separate statements of policy.

II. *Proposed Amendments.* Would revise the present merger policy statement in the Insurance Regulations to set forth the Board's current general policy on mergers involving an insured institution and rescind as unnecessary the separate merger policy statement in the Federal Regulations.

The Federal Home Loan Bank Board considers it advisable to propose to revise the statement of policy on mergers at § 571.5 of the Rules and Regulations for Insurance of Accounts (12 CFR 571.5) to set forth the Board's current general policy on mergers involving any insured institution and to rescind the present separate statement of policy on mergers involving Federal savings and loan associations at § 556.2 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 556.2). Significant new items in the Statement of Policy hereby proposed are noted below. Except as noted below, present § 571.5 would be substantially unchanged.

The present Statement of Policy states in part (subparagraph (c)(3) that mergers involving institutions of inefficient size or located in markets overpopulated with savings institutions, which result in economy of operation and management and more efficient service, will be regarded favorably insofar as the mergers are not anticompetitive. The proposal would state (paragraph (a)) that the Board neither encourages nor discourages mergers, but regards them as primarily business decisions to be made by the institutions involved.

The proposal would substantially revise and expand paragraph (e) of the Statement of Policy, which sets forth factors relating to fairness and disclosure of the merger plan.

Proposed subparagraph (e)(1) would state that a merger plan will be particularly scrutinized for fairness where the merger does not appear to be the result of arms length bargaining or, in the case of a stock institution, where controlling stockholders are receiving different consideration from other stockholders.

Proposed subparagraph (e)(3) would require that a merger application fully justify compensation to be paid to officers, directors, and controlling persons of the disappearing institutions by the resulting institution or a service corporation affiliate thereof. It would also state that any increase in such compensation exceeding the greater of 15% or $5,000 gives rise to presumptions of unreasonability and sale of control and require that an application for a merger involving such an increase include evidence sufficient to rebut such presumptions.

Proposed subparagraph (e)(4) would note that employment contracts of the resulting institution should conform with applicable provisions of the Federal Regulations or Insurance Regulations.

Proposed subparagraph (e)(5) would require that a merger application fully justify the need for, and the compensation to be paid to, an advisory board of the resulting institution consisting of officers, directors or controlling persons of the disappearing institution. It would set forth a number of guidelines and limitations as to advisory directors and fees paid to such advisory directors.

Proposed subparagraph (e)(6) would state that neither the resulting institution nor any service corporation affiliate thereof should agree, in connection with the merger, to retain any person performing professional service for the disappearing institution, and that any such retention should be by decision of the resulting institution or affiliate independent of the merger.

Proposed subparagraphs (e)(7) and (e)(8) would limit, respectively, certain lease and purchase transactions involved in a merger and certain fees paid in connection with a merger.

Proposed paragraphs (f) and (g) would require, respectively, that any treatment of goodwill in connection with a merger be in accordance with current accounting policies of the Board and that

any liquidating or similar dividend will be subject to § 531.10 of the Regulations for the Federal Home Loan Bank System.

Proposed paragraphs (h) and (j) would require, respectively, submission of non-inducement affidavits by certain persons and generally, except for mergers involving only mutual institutions, a tax ruling from the Internal Revenue Service.

Proposed paragraph (i) would provide that any continuation of a depository relationship of a disappearing institution should not be connected with the merger, but by decision of the resulting institution or affiliate independent of the merger.

Accordingly, the Board hereby proposes to rescind said § 556.2 and to revise § 571.5 to read as set forth below.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 320 First Street, N.W., Washington, D.C. 20552, by January 26, 1976, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address.

### Part 556—Statements of Policy

§ 556.2 [Rescinded]

1. Section 556.2 is rescinded.

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### Part 571—Statements of Policy

2. Section 571.5 is revised as follows:

§ 571.5 Mergers.

(a) *General policy.* This is a statement of the Federal Home Loan Bank Board's general policy on merger proposals. It does not ordinarily apply to mergers instituted for supervisory reasons. The term "merger" includes consolidations and bulk purchases of assets in exchange for assumption of savings accounts and other liabilities. Potential merger applicants are encouraged to review proposed mergers with the Supervisory Agent prior to proceeding with the formal application process. Generally, the Board neither encourages nor discourages mergers but regards them as primarily business decisions to be made by the institutions involved.

(b) *Legal considerations*—(1) *General.* The legality of a proposed merger is a precondition to further consideration by the Board. Applicable laws and regulations include the Federal antitrust laws (the Clayton and Sherman Acts), Section 408 (regulation of holding companies) of the National Housing Act, applicable State law, and the Board's own regulations. To enable the Board to make a legal evaluation of the possible anticompetitive impact of proposed mergers, applicants are required to submit certain information on Board-prescribed forms available at each Federal Home Loan Bank. In any case in which the Supervisory Agent believes it clear that no antitrust or competitive problem exists, a merger proposal may be submitted with relevant partial information short of the complete data called for by the schedules.

(2) *Acquisitions of insured institutions under section 408 of the National Housing Act.* Section 584.4 of the Regulations for Savings and Loan Holding Companies implements this statutory provision. It requires information as to competitive factors similar to that indicated in paragraph (b) (1) of this section. The regulation also requires information as to additional matters, including details of acquisition, financial and managerial resources, future prospects, and the convenience and needs of the community to be served.

(c) *Economic evaluation*—(1) *Evaluation of impact on competition.* The Board will examine the economic impact of the merger—adverse, neutral, or favorable—on competition. This will be done for each relevant geographical savings and mortgage market and submarket. All savings and mortgage firms reasonably competitive with the business of the merging institutions will be taken into account. The impact on competition will be evaluated on the basis of various economic indices of market structure and performance. Such indices will include, for each relevant savings and mortgage market and submarket: (i) market concentration and ranking of the resulting institution and of other competing institutions; (ii) number and size distribution of competitors; (iii) actual or potential competition significantly curtailed by the merger; (iv) trends toward concentration, especially as a result of mergers; (v) overlap of branch savings submarkets when two or more branch systems are to be consolidated; and (vi) extent to which rates paid on savings instruments and charges on mortgages appear to be competitively determined, consistent with statutory and regulatory constraints, and will continue to be so determined after the merger.

(2) *Other factors.* The Board will examine the extent to which the merger will affect the convenience and needs of the communities to be served in terms of savings facilities, types of loans available, and the impact, if any, on operating efficiency of the resulting institution. Account will be taken of the number of institutions of reasonably efficient size that can be supported by population, savings, and mortgage demand.

(d) *Managerial and financial aspects.* The Board's basic requirement is that the resulting institution have the managerial and financial resources to operate successfully. The experience and the performance record of the persons to be in control or in key managerial positions will be evaluated as to the probability of sound operation of the resulting institution. The overall operations and financial condition will be reviewed to determine the resulting institution's prospects of generating sufficient income to meet competition, making the required transfers to reserves, and conducting its affairs essentially free of supervisory concern. The adequacy of the net worth of the resulting institution, relative to the risks inherent in its assets, and economic and other factors will be considered. Intangible assets will be particularly scrutinized.

(e) *Factors relating to fairness and disclosure of the plan.* The Board will review the fairness and disclosure of a merger proposal on the basis of the following criteria:

(1) *Equitable.* The plan should be equitable to all concerned—savings account holders, borrowers, creditors and stockholders (if any) of each institution. The plan should properly recognize and protect their respective legal rights and interests. The plan will be particularly scrutinized for fairness where the merger does not appear to be the result of arms length bargaining or, in the case a stock institution, where controlling stockholders are receiving different consideration from other stockholders.

(2) *Full disclosure.* The application should make full disclosure of all written or oral agreements or understandings by which any person or company will receive, directly or indirectly, any money, property, service, or other thing of value, whether tangible or intangible, in connection with the merger.

(3) *Compensation to officers.* Compensation to officers, directors and controlling persons of the disappearing institution by the resulting institution or a service corporation affiliate thereof should not be in excess of that which is reasonable and commensurate with their duties and responsibilities. The application should fully justify the compensation to be paid to such persons. The plan will be particularly scrutinized where any of such persons is to receive a material increase in compensation above that paid by the disappearing institution prior to the commencement of merger negotiations. An increase in such compensation in excess of the greater of 15% or $5,000 gives rise to presumptions of unreasonability and sale of control. In the case of such an increase, evidence sufficient to rebut such presumptions should be submitted.

(4) *Employment contracts.* Any employment contracts should conform with § 545.25–1 of the Federal Regulations if the resulting institution has a Federal charter or with § 563.39 of the Insurance Regulations if the resulting institution has a State charter.

(5) *Advisory boards.* The application should fully justify the need for, and the compensation to be paid to, an advisory board of the resulting institution consisting of officers, directors or controlling persons of the disappearing institution. The application should describe the duties and responsibilities of such advisory board. Those duties and responsibilities should be consistent with the principle that the board of directors has the ultimate responsibility for operation of the resulting institution. The plan will be particularly scrutinized where proposed advisory board fees exceed the director fees paid by the dis-

appearing institution prior to the commencement of merger negotiations. Such an excess in advisory director fees gives rise to presumptions of unreasonability and sale of control. In the case of such an excess, evidence sufficient to rebut such presumptions should be submitted, unless, based on a schedule of 12 meetings per year, the advisory board fees do not exceed $100 per meeting attended in the case of a disappearing institution with assets of at least $10,000,000 or $50 if the less than $10,000,000. No advisory board fees should exceed the director fees paid by the resulting institution and no advisory board fees should be paid to salaried officers or employees of the resulting institution. If the disappearing institution experienced significant supervisory problems prior to the merger, the application should also fully justify any selection as an advisory board member of a person who was a director, officer or controlling person of the disappearing institution. Advisory board members should be elected annually for a term not exceeding one year.

(6) *Retention of attorneys and other professionals.* Neither the resulting institution nor any service corporation affiliate thereof should agree, in connection with the merger, to retain any attorney, law firm or other person performing professional services for the disappearing institution. Any such retention should be by decision of the resulting institution or affiliate independent of the merger.

(7) *Tie-in transactions.* Neither the resulting institution nor any service corporation affiliate thereof should agree, in connection with the merger, to purchase or lease any office building or space therein, or other property or business, from any officer, director or controlling person of the disappearing institution. However, this limitation does not apply to an assumption of an existing lease without change in its terms.

(8) *Fees paid in connection with mergers.* The application should state the name of each person or firm rendering legal or other professional services in connection with the merger. The fee expected to be paid to each such person or firm should be stated, together with a description of the services being performed, the time expected to be spent in performing such services, the hourly rate or other basis used for determining the fee, and any relationship between such person or firm and the disappearing or resulting institution. If a finder's or similar fee is to be paid in connection with the merger, the application should fully justify the payment and amount of the fee and state the name of the person or firm to whom the fee is to be paid. No finder's or similar fee should be paid to any officer, director or controlling person of the disappearing or resulting institution.

(f) *Accounting for goodwill.* The proposed treatment of goodwill in connection with the merger must be fully described in the application. The computation and amortization of goodwill should be in accordance with accounting policies of the Board at the time the application is filed.

(g) *Liquidating dividends.* Any liquidating or similar dividend will be subject to Bank Regulation § 531.10.

(h) *Non-inducement affidavits.* The application should include non-inducement affidavits on FHLBB Form 291 from each officer, director and controlling person of the disappearing institution, each attorney or law firm regularly serving the disappearing institution, and the chief executive officer of the resulting institution.

(i) *Depository relationships.* Neither the resulting institution nor any service corporation affiliate thereof should, in connection with the merger, agree to continue any depository relationship of the disappearing institution. Any such continuance should be by decision of the resulting institution or affiliate independent of the merger.

(j) *Tax liability.* A tax ruling from the Internal Revenue Service will generally be required, except in the case of a mutual to mutual merger. If a tax ruling is not being obtained, a tax opinion will be required.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended; 12 U.S.C. 1725, 1726, 1730. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] J. J. FINN, *Secretary.*

[FR Doc.75-33349 Filed 12-10-75;8:45 am]

## MARINE MAMMAL COMMISSION

### [ 50 CFR Part 520 ]

### FREEDOM OF INFORMATION ACT

### Proposed Implementation

Notice is hereby given that the Marine Mammal Commission (the "Commission") proposes to adopt a new Part 520 of 50 CFR, consisting of the regulations set forth below, to establish procedures under which the public may inspect Commission records, obtain copies of material, and appeal denials of requests for such inspection or copies. Uniform fees to recover the direct costs of search and copying also are proposed.

These regulations are proposed in accordance with the provisions of the Freedom of Information Act (the "Act"), 5 U.S.C. 552. In order to implement those provisions, the Commission is proposing to make available all final opinions and orders made in the adjudication of cases; all statements of policy and interpretations adopted by the Commission; staff manuals and instructions that affect the public; and other "reasonably described" records. The regulations are thus consistent with the Marine Mammal Protection Act, 16 U.S.C. 1402(c), which provides that all "activities of the Commission shall be * * * available to the public in accordance with Section 552 of Title 5, United States Code." That section also provides that Commission reports and recommendations "shall be matters of public record and shall be available to the public at all reasonable times." Material that is exempted from disclosure by 5 U.S.C. 552(b) shall not be made available for inspection, and shall not be furnished to the public pursuant to these regulations.

Initial requests are to be made to the General Counsel of the Commission, or his delegate, who shall determine whether to grant or deny access to, or copies of material. If a request is initially denied, appeal to the Executive Director of the Commission is available. Fees for search and copying are prescribed, based on the reasonable and direct costs for such services.

Interested persons may submit written comments regarding this notice to the Executive Director, Marine Mammal Commission, 1625 I Street NW., Room 307, Washington, D.C. 20006, for consideration by the Commission. Submissions received on or before January 15, 1976 will be considered by the Commission. All submissions will be available for inspection at the Commission offices during normal business hours.

Dated: December 2, 1975.

JOHN R. TWISS, Jr., *Executive Director.*

It is proposed to amend Chapter V, Marine Mammal Commission, of 50 CFR by adding a new Part 520 as follows:

### PART 520—PUBLIC AVAILABILITY OF AGENCY MATERIALS

Sec.
520.1 Purpose.
520.2 Scope.
520.3 Definitions.
520.4 Availability of materials.
520.5 Administrative appeal.
520.6 Extensions of time.
520.7 Fees.

AUTHORITY: 5 U.S.C. 552.

### § 520.1 Purpose.

These regulations implement the provisions of the "Freedom of Information Act," 5 U.S.C. 552. They establish procedures under which the public may inspect and obtain copies of non-exempt material maintained by the Commission, provide for administrative appeal of initial determinations to deny requests for material, and prescribe uniform fees to be charged by the Commission to recover direct search and duplication costs.

### § 520.2 Scope.

(a) These regulations shall apply to all final opinions, including concurring and dissenting opinions, as well as orders, made by the Commission in the adjudication of cases; to all statements of policy and interpretations which have been adopted by the Commission and are not published in the FEDERAL REGISTER; to the Commission's administrative staff manuals and instructions to staff that affect a member of the public; and to any other Commission records reasonably described and requested by a person in accordance with these regulations—except to the extent that such material is

exempt in accordance with paragraph (b) of this section.

(b) Requests for inspection and copies shall not be granted with respect to materials that are:

(1) (i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and

(ii) Are in fact properly classified pursuant to such Executive Order;

(2) Related solely to the internal personnel rules and practices of the Commission;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the Commission;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Constitute an unwarranted invasion of personal privacy,

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(v) Disclose investigative techniques and procedures, or

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

**§ 520.3 Definitions.**

As used in these regulations: (a) The term "Commission" means the Marine Mammal Commission;

(b) The term "Director" means the Executive Director of the Marine Mammal Commission;

(c) The term "exempt materials" means those materials described in § 520.2(b) of these regulations;

(d) the term "non-exempt materials" refers to all materials described in § 520.-2(a), but not included in § 520.2(b) of these regulations; and

(e) the term "General Counsel" means the General Counsel of the Marine Mammal Commission.

**§ 520.4 Availability of materials.**

(a) All non-exempt materials shall be available for inspection during normal business hours at the Commission offices, 1625 I Street NW., Room 307, Washington, D.C. Space shall be made available at that location for the use of any person who is granted permission to inspect such materials.

(b) Requests to inspect, and obtain copies of, any material maintained by the Commission may be made in person at the Commission offices, or submitted in writing to the Executive Director, Marine Mammal Commission, 1625 I St. NW., Room 307 Washington, D.C. 20006. Each request should include a reasonable description of the material being sought, and should contain sufficient detail to facilitate retrieval of the material without undue delay. The Commission staff shall assist to the extent practicable in identifying material that is imprecisely described by the person requesting such material.

(c) An initial determination whether, and to what extent, to grant each request shall be made by the General Counsel or his delegate within 10 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of that request. The person making the request shall be notified immediately of the determination made. In making such determinations, it shall first be considered whether the material requested is of a type described in § 520.2(a) of these regulations; if it is, the request shall be granted unless the material is exempted by § 520.2(b). If the material requested is not of a type described in § 520.2(a), or is the subject of one or more exemptions, the request shall be denied.

(d) If a determination is made to grant a request, the relevant material shall promptly be made available for inspection at the Commission offices. Copies of the material disclosed shall be furnished within a reasonable time after payment of the fee specified in § 520.7 of these regulations. Copies of less than 10 pages of material requested in person ordinarily will be furnished immediately following the determination to grant the request and payment of the fee. Larger numbers of copies may be furnished at the earliest convenience of the Commission staff, but must be furnished within a reasonable time following payment of the fee.

(e) Whenever required to prevent a clearly unwarranted invasion of personal privacy, the General Counsel or his delegate shall determine that identifying details shall be deleted from an opinion, statement of policy, interpretation, or staff manual or instruction to which access is granted or of which copies are furnished. Where portions of the requested material are exempt under § 520.2(b), and are reasonably segregable from the remainder of the material, those portions shall be excised from the material disclosed. Whenever details are deleted or portions are excised and not disclosed, the notification shall include the information specified in § 520.4(f).

(f) If a determination is made to deny a request, the notification shall include a statement of the reasons for such action, shall set forth the name and position of the person responsible for the denial, and shall advise the requester of the right, and the procedures required under § 520.5 of these regulations, to appeal the denial to the Director.

**§ 520.5 Administrative appeal.**

(a) An appeal to the Director of any denial, in whole or in part, of a request for access to and copies of material may be made by submission of a written request for reconsideration. Such requests must state specific reasons for reconsideration that address directly the grounds upon which the denial was based. Requests should be addressed to the Director at the Comission offices.

(b) The Director shall make a determination with respect to any appeal within 20 days (excepting Saturday, Sundays, and legal public holidays) after receipt of the request for reconsideration. The person making such a request shall immediately be notified by mail of the determination.

(c) If the initial denial is reversed by the Director, any material with which the reversal is concerned shall be made available for inspection, and copies shall be furnished, in accordance with § 520.4 (d) of these regulations.

(d) If the denial is upheld, in whole or in part, the Director shall include in the notification a statement of the requester's right of judicial review under 5 U.S.C. 552(a)(4), and the names and positions of the persons responsible for the denial.

**§ 520.6 Extensions of time.**

(a) Whenever unusual circumstances exist, as set forth in § 520.6(b), the times within which determinations must be made by the General Counsel on requests for access (10 working days), and by the Director on requests for reconsideration (20 working days), may be extended by written notice to the requester. The notice shall set forth the reasons for such extension, and the date on which a determination is expected to be made. The maximum extension of time allowed under this section shall be 10 working days, but shall be utilized only to the extent reasonably necessary to the proper processing of the particular request.

(b) As used in this section, "unusual circumstances" shall mean:

(1) The need to search for and collect the reuqested records from field facilities or other establishments that are separate from the Commission offices;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are the subject of a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

§ 520.7 Fees.

(a) The following standard charges for document search and duplication, based on the direct costs of such services, must be paid before access to, or copies of material will be granted under these regulations:

(1) Search: $4.00 per person-hour for clerical time; $8.00 per person-hour for professional or supervisory time;

(2) Duplication: $0.10 per page of photocopied material.

(b) The Commission shall furnish without charge, or at a reduced charge, copies of any material disclosed pursuant to these regulations, whenever the General Counsel or the Director determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

[FR Doc.75-33300 Filed 12-10-75;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### [ 25 CFR Part 178 ]

### MANAGEMENT OF TRIBAL ASSETS OF UTE INDIAN TRIBE, UINTAH AND OURAY RESERVATION, UTAH, BY THE TRIBE AND THE UTE DISTRIBUTION CORPORATION

### New Regulations To Provide Management in Same Proportion in Which Benefits Are Received

DECEMBER 5, 1975.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Notice is hereby given that it is proposed to add a new Part 178 to Subchapter P, Chapter I, Title 25 of the Code of Federal Regulations. The purpose of the addition is to implement the joint management of tribal assets by the Ute Indian Tribes and the Ute Distribution Corporation under the Ute Partition Act, approved August 27, 1954 (68 Stat. 868, as amended, 25 U.S.C. 677–677aa). These regulations are proposed pursuant to the authority contained in Sections 27 and 28 of the Act of August 27, 1954 (68 Stat. 868, 25 U.S.C. 677–677aa).

The purpose of these proposed regulations is to provide management of the undistributed assets of the Ute Indian Tribes in the same proportion in which the benefits are received. This will be accomplished by the establishment of a management committee to act as the authorized agent of both the Tribal Business Committee and the Ute Distribution Corporation.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections in connection with the proposed regulations to the Area Director, Phoenix Area Office, Bureau of Indian Affairs, P.O. Box 7007, Phoenix, Arizona 85011, on or before January 12, 1976.

It is proposed to add a new Part 178 to Subchapter P, Chapter I, Title 25 of the Code of Federal Regulations to read as follows:

### PART 178—JOINT MANAGEMENT OF TRIBAL ASSETS BY UTE DISTRIBUTION CORPORATION AND UTE INDIAN TRIBES, UINTAH AND OURAY RESERVATION, UTAH

Sec.



AUTHORITY: Secs. 27, 28, 68 Stat. 866 (25 U.S.C. 677–677aa).

§ 178.1 Purpose.

In accordance with the Ute Partition Act approved August 27, 1954, 68 Stat. 868, as amended, 25 U.S.C. 677–677aa, all unadjudicated or unliquidated claims against the United States, all gas, oil, and mineral rights of every kind, and all other assets not distributed in accordance with the terms of said act, shall be managed jointly by the Tribal Business Committee of the Ute Indian Tribes, Uintah and Ouray Reservation, Utah, and the Ute Distribution Corporation, a Utah Corporation as given in this Part.

§ 178.2 Management Committee membership.

The authorized agent of both the Tribal Business Committee and Ute Distribution Corporation shall consist of a Management Committee of Seven persons. Five of the Committee shall be members of the Ute Indian Tribes, Uintah and Ouray Reservation, and shall be elected to the Committee by the Tribal Business Committee. Two members shall be elected to the Committee by the Board of Directors of the Ute Distribution Corporation. The term of service for each person elected to the Management Committee shall be determined (a) by the Tribal Business Committee for the persons it elects to the Management Committee; and (b) by the Ute Distribution Corporation for the persons it elects to the Management Committee. The Management Committee is authorized to elect a chairman, vice chairman and secretary as needed. The term of service of officers of the Management Committee shall be as determined by the membership of the committee. Each member of the Management Committee shall serve without compensation.

§ 178.3 Management of undistributed assets.

All unadjudicated or unliquidated claims against the United States, all gas, oil and mineral rights of every kind, and all other assets not distributed pursuant to the Ute Partition Act of 1954, shall be managed by the Management Committee. The Committee Chairman or such other person as designated by the Committee is authorized to sign any contract or instrument contemplated by the 1954 Act as regards the management of those assets. Such contract or instrument is subject to the approval of the Secretary of the Interior or his designee.

§ 178.4 Meetings.

The Management Committee will meet once each three months as a minimum and more often as determined by the Committee Chairman. The place and time of meetings will be as determined by the Committee.

§ 178.5 Notice.

The Chairman of the Management Committee shall mail written notice of the holding of a Committee meeting to each member of the Committee; to the Tribal Business Committee, Ute Indian Tribes, Fort Duchesne, Utah; to Ute Distribution Corporation, Roosevelt, Utah; and to the Superintendent, Uintah and Ouray Agency, Fort Duchesne, Utah, all within seven days before any meeting is held. The time and place of meeting will be specified in the notice.

§ 178.6 Voting.

A quorum of the Committee shall consist of four members. Any affirmative action of the Committee shall require at least four votes in favor thereof.

§ 178.7 Minutes.

Minutes shall be made of all meetings showing that proper notice was mailed to each member of the Committee, the names of each Committee member present, all actions taken and the names of each Committee member for and against each issue presented. The Chairman will mail copies of said minutes of each member of the Committee; to the Tribal Business Committee, Ute Indian Tribes, Fort Duchesne, Utah; to Ute Distribution Corporation, Roosevelt, Utah; and to the Superintendent, Uintah and Ouray Agency, Fort Duchesne, Utah all within 10 days following any meeting.

§ 178.8 Authority of Area Director.

The authority of the Secretary under Section 26 of the Ute Partition Act of 1954, 25 U.S.C. 677y to execute contracts and other instruments; and the authority of the Secretary under Section 28 of the Ute Partition Act of 1954, 25 U.S.C. 677aa to proceed in any manner deemed by him to be in the best interest of the tribes and the Ute Distribution Corporation concerning the management of the undistributed assets when an agreement cannot otherwise be reached between the Tribes and the Ute Distribution Corporation has been redelegated to the Area Director, Phoenix Area Office.

MORRIS THOMPSON,
*Commissioner of Indian Affairs.*

[FR Doc.75-33302 Filed 12-10-75;8:45 am]

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### National Park Service

### [ 36 CFR Part 2 ]

### POWERLESS FLIGHT

### Restrictions on Launching and Landing

Notice is hereby given that pursuant to the authority contained in the Act

of August 25, 1916 (39 Stat. 535, as amended and supplemented; 16 U.S.C. 1 et seq.) and 245 DM-1 (34 FR 13879), as amended, it is proposed to amend Part 2 of the general regulations as set forth below.

On August 20, 1975 (40 FR 36378), the National Park Service published a proposed regulation which would have amended 36 CFR Part 2. This regulation would have prohibited the launching or landing of powerless flight craft in all areas of the National Park System, except for designated recreational areas. A period of 60 days was provided for public comment on the proposed regulation.

A very large number of written comments was received during the comment period. These comments came from both participants in the activities involved and from nonparticipating members of the public. Large numbers of these comments expressed the view that powerless flight activities, particularly hang gliding, were no more detrimental to park resources and atmosphere than a wide variety of other outdoor recreational pursuits which have traditionally been permitted or encouraged in many parks.

After an evaluation of these comments and an examination of the existing program of controlled hang gliding at Yosemite National Park, the National Park Service has determined that a modification of its position on powerless flight should be proposed. The regulation proposed below is an alternative to the earlier proposal and would provide a basis for permitting controlled powerless flight activities in parks at which such activities will not be detrimental to park protection or other visitor uses.

In recreational areas, such as national seashores, lakeshores, and parkways, Superintendents would be able to designate locations where the control of a written permit system would not be required. Such locations would normally be those at which no conflict with other visitor uses could be expected and at which safety hazards are minimal for participants and other persons.

General regulations regarding the use of aircraft in areas of the National Park System are contained in § 2.2 of 36 CFR. Under the proposed regulation, powerless flight devices classified as aircraft by the Federal Aviation Administration would continue to be permitted to utilize, without written permit, aircraft landing areas designated in park areas pursuant to § 2.2. Powerless flights in the airspace above park areas would not be limited by this regulation, so long as they begin and terminate outside the park.

Paragraph (b) of the proposed regulation provides criteria which would be used by Superintendents in establishing standards to be followed in granting permits for powerless flight. This information is incorporated in the regulation to provide for uniform treatment of this activity, insofar as uniformity is possible in parks with widely differing conditions. In following these criteria, the National Park Service intends that Superintendents will consult with representatives of organizations dealing with powerless flight activities in order to determine reasonable standards for the conduct of flights and the issuance of permits, particularly with regard to equipment and personal qualification standards.

A review of the environmental and other impacts of this proposed action has been made by the National Park Service. It has been determined that implementation of the regulation is not a major Federal action that would have a significant impact on the human environment in the context of Section 102(2)(c) of the National Environmental Policy Act of 1969. Therefore, no environmental impact statement is required.

It is the policy of the Department of the Interior, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Although a considerable amount of public comment on powerless flight in the National Park System has already been received as a result of the regulation proposed earlier, the action now proposed represents a substantial change from the original proposal and an additional period for public comment is deemed necessary. Accordingly, interested persons or organizations may submit written comments, suggestions, or objections to the Director, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240, on or before January 12, 1976. It is proposed to amend 36 CFR Chapter 1, Part 2, by the addition of § 2.36 as follows:

**§ 2.36 Powerless flight.**

(a) Except as provided in § 2.2 of this Part, the launching or landing of sailplanes, gliders, balloons, body kites, hang gliders, and other devices designed to carry persons or objects through the air in powerless flight is prohibited without a written permit from the Superintendent specifying the conditions under which such launching or landing is to be conducted; *Provided, however,* That in recreational areas the Superintendent may, by the posting of signs, designate locations where this type of use may be conducted without a permit.

(b) The granting of permits for powerless flight activities shall be in accordance with standards developed for each park and available, upon request, for public review. Permit standards shall be based upon the following criteria:

(1) The number, time, and location of flights shall be controlled so as to avoid:

(i) Infringement upon the enjoyment and rights of other park visitors.

(ii) Traffic or pedestrian congestion or disruption of normal park operations.

(iii) Injury to nonparticipants and damage to public or private property.

(iv) Damage to natural or historic resources of the park.

(v) Detraction from the primitive character of designated wilderness areas.

(vi) Unwarranted risk to participants due to inadequate equipment, lack of qualifications, weather, or other factors.

(2) Permitted flights shall be compatible with and subject to:

(i) Applicable laws or regulations imposed by appropriate Federal or other governmental agencies.

(ii) Applicable safety and equipment standards endorsed by responsible sanctioning organizations.

(3) Except in recreational areas, flights shall not be conducted as competitive events or primarily for the benefit of spectators.

(4) Additional permit standards necessary to meet conditions in an individual park area shall be established by the Superintendent, as necessary to protect park resources.

GARY EVERHARDT,
*Director, National Park Service.*

[FR Doc.75-33608 Filed 12-10-75;8:57 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

### Agency for International Development

### PEST MANAGEMENT ACTIVITIES

### Environmental Impact Statement

The Agency for International Development has determined to prepare an environmental impact statement in connection with those activities which it conducts, supports, finances and/or otherwise assists which are intended to control or eliminate pests, including such activities conducted, supported or otherwise assisted by it for the procurement or use of pesticides.

The Environmental Impact Statement will contain, *inter alia;*

a. Historical description of the pest management program, including the pesticide activities.

b. Description of the scope and nature of the current and reasonably anticipated pest management program.

c. Assessment of environmental impacts, including adverse environmental impacts which cannot be avoided.

d. Analysis of reasonable alternatives and their environmental effects.

e. Conclusions as to which pesticides AID will not and which pesticides AID will provide assistance for and the limiting factors applicable to those pesticides for which AID will provide assistance.

It is anticipated that the environmental impact statement will be made available for comment in draft form by August 31, 1976. Public and other comments on the draft environmental impact statement will be accepted within 60 days of the issuance of the draft. The final environmental impact statement will be issued within 45 days of the close of the comment period.

All parties who desire to offer comments on the scope and content of the proposed environmental impact statement should communicate their views as soon as possible to Mr. Henry A. Arnold, Director, Office of Science and Technology, Room 2841, New State, Agency for International Development, Department of State, Washington, D.C. 20523.

Dated: December 3, 1975.

CURTIS FARRAR,
*Assistant Administrator, Technical Assistance Bureau.*

[FR Doc.75-33301 Filed 12-10-75;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### USAF SCIENTIFIC ADVISORY BOARD

### Meeting

DECEMBER 3, 1975.

The USAF Scientific Advisory Board Division Advisory Group, Aeronautical Systems Division, will hold meetings on January 7, 1976 from 8:30 a.m. to 5:00 p.m. and January 8, 1976 from 8:30 a.m. to 5:00 p.m., at Wright-Patterson Air Force Base, Ohio, in Room #222, Building 14, Area B.

The Group will receive classified briefings and hold classified discussions on selected programs and projects relating to the missions of the Aeronautical Systems Division and Air Force Wright Aeronautical Laboratories.

The meetings concern matters listed in section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

JAMES L. ELMER,
*Major, USAF Executive, Directorate of Administration.*

[FR Doc.75-33282 Filed 12-10-75;8:45 am]

### USAF SCIENTIFIC ADVISORY BOARD

### Meeting

DECEMBER 3, 1975.

The USAF Scientific Advisory Board Foreign Technology Division Advisory Group, Air Force Systems Command, will hold meetings on February 24, 1976 from 8:00 a.m. to 5:00 p.m. and February 25, 1976 from 8:00 a.m. to 1:00 p.m., at Wright-Patterson Air Force Base, Ohio, in Conference Room #276, Building 828.

The Group will receive classified briefings and participate in classified discussions relating to the utilization of intelligence source data for the accomplishment of technical intelligence assessments.

The meetings concern matters listed in section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

JAMES L. ELMER,
*Major, USAF, Executive, Directorate of Administration.*

[FR Doc.75-33283 Filed 12-10-75;8:45 am]

### USAF SCIENTIFIC ADVISORY BOARD

### Meeting

DECEMBER 4, 1975.

The USAF Scientific Advisory Board Division Advisory Group, Aeronautical Systems Division, will hold meetings on January 22, 1976 from 8:30 a.m. to 5:00 p.m. and January 23, 1976 from 8:30 a.m. to 5:00 p.m., at Wright-Patterson Air Force Base, Ohio. The meeting on January 22 will be in Room 113, Building 15, Area B; the meeting on January 23 will be in Room 203, Building 14, Area B.

The Group will receive classified briefings and hold classified discussions on a proposed X-24C Hypersonic Research Program.

The meetings concern matters listed in section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

JAMES L. ELMER,
*Major, USAF, Executive Directorate of Administration.*

[FR Doc.75-33208 Filed 12-10-75;8:45 am]

## DEPARTMENT OF JUSTICE

### Antitrust Division

### UNITED STATES v. KOREAN HAIR GOODS ASSOCIATION OF AMERICA, INC.

### Proposed Consent Judgment and Competitive Impact Statement Thereon

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b) through (h), that a proposed Consent Judgment and Competitive Impact Statement as set out below have been filed with the United States District Court for the Southern District of New York in civil action No. 75 Civ. 3069, *United States of America v. Korean Hair Goods Association of America, Inc.* The complaint charged that the defendant and co-conspirators engaged in a combination and conspiracy to regulate the price and other conditions of resale of imported wigs, and agreed to prevent certain wig importers and distributors from obtaining wigs for resale. The proposed Judgment enjoins defendant, among other things, from fixing or influencing prices or other conditions of sale for wigs, from preventing any person from obtaining wigs for sale or from selling wigs to anyone, and from furnishing to any person any information concerning the pricing of wigs or sales practices of any other person. Public comment is invited on or before February 9, 1976. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Joel Davidow, Chief, Foreign Commerce Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

Dated: December 3, 1975.

THOMAS E. KAUPER,
*Assistant Attorney General, Antitrust Division.*

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

Civil Action No. 75-3069 (RJW)

United States of America, Plaintiff, v. Korean Hair Goods Association of America, Inc., Defendant.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever and the making of this stipulation shall be without prejudice to plaintiff and defendant in this and any other proceeding.

Dated: Dec. 3, 1975

For the plaintiff:

Thomas E. Kauper, Assistant Attorney General, Baddia J. Rashid, Charles F. B. McAleer, Joel Davidow, Attorneys, Antitrust Division, U.S. Department of Justice.

Stephen P. Kilgriff, C. Forrest Bannan, Mary K. Smith, Attorneys, Antitrust Division, U.S. Department of Justice.

For the Defendant: Rogers & Wells.

By: H. Allen Lochner, Attorneys for Defendant.

Stipulation approved for filing:

Dated: Dec. 3, 1975.

ROBERT J. WARD,
*United States District Judge.*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Civil Action No. 75-3069 (RJW)

United States of America, Plaintiff, v. Korean Hair Goods Association of America, Inc., Defendant.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on June 24, 1975, and the parties hereto, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect to any such issue:

NOW, THEREFORE, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and upon said consent of the parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter of this action and the parties hereto. The Complaint states claims against defendant upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Defendant" means the Korean Hair Goods Association of America, Inc. ("KWA");

(B) "KEA" means the Korean Hair Goods Export Association, an organization whose regular membership is composed of manufacturers and exporters of wigs in the Republic of Korea and any successor thereof;

(C) "Wigs" means goods designed to resemble human hair worn by men and women as replacements or substitutes for, or additions to, their natural hair; the term includes wigs, toupees, chignons and related products;

(D) "Person" means any individual, partnership, firm, association or corporation, or other business or legal entity;

(E) "Member" means any person who was or is a participant in Defendant.

III

The provisions of this Final Judgment shall apply to Defendant, its officers, directors, agents and employees and to its subsidiaries, affiliates, successors and assigns, and to all persons, including Members, in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant, whether acting unilaterally or in concert or agreement with any other person, is enjoined and restrained from:

(A) Entering into, adhering to, maintaining, furthering or enforcing, directly or indirectly, any agreement, understanding, plan, program, rule or regulation to raise, fix, stabilize, maintain, suggest, or influence prices, discounts, mark-ups or other terms or conditions for the sale of wigs;

(B) Preevnting, restricting, limiting, or attempting to prevent, restrict, or limit any person or Member from obtaining wigs for sale or from selling wigs to any person or class of persons;

(C) Publishing or distributing any bulletin or disseminating to its members or to any person any information relating to any agreement, understanding, plan, program, regulation or rule to raise, fix, stabilize, maintain, suggest or influence prices, discounts, mark-ups or other terms or conditions of sale for wigs, or to prevent, restrict or limit the persons or class of persons to whom wigs may be sold.

Defendant is enjoined and restrained from furnishing or communicating directly or indirectly to KEA any list indicating the Members of Defendant, and from furnishing or communicating to any person any information concerning the pricing of wigs or sales practices of any other person, except that Defendant, upon written request of a Member, may solicit and collect information relating to the credit standing of a United States customer or proposed customer of such requesting Member, provided such information is disseminated with an accompanying statement that the material is furnished for credit information purposes only and it is solely in the discretion of the requesting Member whether to deal with the person with respect to whom the information is furnished.

VI

Defendant is ordered and directed to admit to membership any applicant who meets reasonable and nondiscriminatory requirements which are not inconsistent with this Final Judgment.

VII

(A) Defendant is ordered and directed within sixty (60) days from the date of entry of this Final Judgment to conform its rules, regulations, by-laws, practices and policies to the terms of this Final Judgment.

(B) Defendant is ordered and directed to file within ninety (90) days of the date of entry of this Final Judgment with the Plaintiff a true copy of its by-laws, rules and regulations as amended.

VIII

Defendant is ordered and directed to require each committee established by it, or under its auspices, which is empowered to consider any of the following matters, to maintain minutes of each meeting of such committee:

(A) Members' complaints or commercial disputes to which any Member is a party;

(B) Market conditions, distribution channels, advertising policies and sales practices concerning wigs;

(C) Trade practices in the United States or Korea;

(D) Relations between the Korean and United States wig industries.

IX

(A) Defendant is ordered and directed to mail to each of its members a conformed copy of this Final Judgment within sixty (60) days from the entry thereof.

(B) Defendant is ordered and directed to distribute a copy of this Final Judgment to each person upon its admission to membership to Defendant.

For the purpose of securing or determining compliance with this Final Judgment, and for no other purpose, and subject to any legally recognized privilege:

(A) Any authorized representative of the Department or Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, or of the authorized representatives of either, and on reasonable notice to Defendant made to its principal office, be permitted:

(1) Access, during office hours of Defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of the Defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of Defendant and without restraint or interference from it, to interview officers, employees and agents of Defendant, who may have counsel present, regarding any matters contained in this Final Judgment.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, or of either of their authorized representatives, made to Defendant's principal office, Defendant shall submit such reports in writing under oath if requested, with respect to any of the matters contained in this Final Judgment as from time to time may be requested.

No information obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XI

Jurisdiction is retained by this Court for the purpose of enabling the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction of or carying out of this Final Judgment, for the modification of any of the provisions of this Final Judgment, for the enforcement of compliance therewith and for the punishment of the violations thereof.

XII

Entry of this Final Judgment is in the public interest.

Dated: ----------

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*United States District Judge.*

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

Civil Action No. 75-3069 (RJW)

United States of America, Plaintiff, v. Korean Hair Goods Association of America, Inc., Defendant.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act [15 U.S.C. § 16 (b)-(h) P.L. 93-528 (December 21, 1974)], the United States of America hereby files this Competitive Impact Statement relating to a proposed consent judgment in the above entitled action to be entered against defendant Korean Hair Goods Association of America, Inc.

(1) Nature and Purpose of the Proceeding.

This is a civil antitrust action by the United States against the Korean Hair Goods Association of America, Inc. (hereinafter called "KWA"). The complaint, which was filed on June 24, 1975, alleged that defendant KWA and various co-conspirators engaged in an unlawful combination and conspiracy to restrain foreign and interstate trade and commerce in the sale of wigs in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). Named as co-conspirators were the members of KWA, and the Korean Hair Goods Export Association and its members.

Defendant KWA is an organization incorporated in the State of New York with its principal place of business in New York City. The regular membership of KWA is composed of importers of wigs and related products (hereinafter called "wigs") and distributors of these products to wholesalers and retailers in the United States. The Korean Hair Goods Export Association is an organization whose regular membership is composed of manufacturers and exporters of wigs in the Republic of Korea.

The United States sought relief against the defendant enjoining the alleged violations, prohibiting the defendant from engaging in any other future conspiracy or program having a similar purpose or effect, and such other relief as the nature of the case might require.

(2) Practices and Events Giving Rise to the Alleged Violation of the Antitrust Laws.

Most wigs sold in the United States are manufactured out of synthetic fibers designed to resemble human hair and are worn by men and women as replacements or substitutes for, or additions to, natural hair. The vast majority of such wigs are manufactured in the Republic of Korea and imported into the United States.

The complaint alleged that beginning at least as early as 1972 and continuing thereafter up to and including March, 1974, the defendant and co-conspirators engaged in a combination and conspiracy to regulate the wholesale prices and conditions of resale of imported wigs, and agreed to prevent certain wig importers and distributors from obtaining wigs for resale.

The Government would have contended at trial that the charges alleged in the complaint were substantiated by evidence of illegal conduct by defendant and co-conspirators as follows: (1) the regulation of prices and marketing practices of KWA members; (2) agreement with the Korean Hair Goods Export Association that its members would not export wigs to certain importers and distributors in the United States unless they were members of the KWA and adhered to the prices and other marketing practices approved by it; (3) prevention of direct sales to retailers by the United States sales branches of members of the Korean Hair Goods Export Association and the exclusion of these sales branches from the United States.

The practices giving rise to this action were also investigated by a federal grand jury. The grand jury indicted the same defendant as in this action for violations identical to those alleged in the complaint. On October 15, 1975, defendant moved the Court in the criminal action to change its plea from not guilty to *nolo contendere*. The plea was accepted by the Court.

(3) The Proposed Consent Judgment and its Anticipated Effects on Competition.

The proposed consent judgment enjoins defendant from all activities alleged to have constituted the conspiracy. It is anticipated that the conduct prohibited by the judgment and the affirmative duties imposed on the defendant will promote price competition among wig wholesalers and distributors and will insure that the defendant will not in the future prevent any person from obtaining wigs for sale or from selling wigs to anyone.

If the proposed consent judgment is approved by the Court, the consenting defendant, whether acting unilaterally or in concert with any other person, will be enjoined and restrained from: (1) entering into, adhering to or enforcing any agreement or plan to fix or influence prices or other conditions of sale for wigs; (2) preventing or attempting to prevent any person from obtaining wigs for sale or from selling wigs to anyone; and (3) publishing or distributing any bulletin or information relating to any agreement, plan or program to do what is enjoined in (1) or (2) above.

Defendant is also enjoined and restrained from furnishing or communicating to the Korean Hair Goods Export Association any list indicating the membership of defendant, or furnishing or communicating to any person any information concerning the pricing of wigs or sales practices of any other person. The defendant is allowed, however, to solicit and collect information relating to the credit standing of a customer or proposed customer, if such information is requested specifically by a member. The information must be given with an accompanying statement that the material is furnished for credit information purposes only and that it is solely in the discretion of the requesting member whether to deal with the person with respect to whom the information has been furnished. Only that member which specifically requests such information will be entitled to it.

Defendant is ordered and directed to admit to membership any applicant who meets reasonable or nondiscriminatory requirements. Defendant is also ordered to conform its rules, regulations, by-laws, practices and policies to the terms of this Final Judgment and file with the Government a true copy of its by-laws, rules and regulations so amended.

Defendant is also directed to require that minutes be kept of each meeting of any committee established by it which is empowered to consider any of the following matters: (1) members' complaints or commercial disputes to which any member is a party; (2) market conditions, distribution channels, advertising policies and sales practices concerning wigs; (3) trade practices in the United States or Korea; and (4) relations between the Korean and the United States wig industries.

Defendant is also directed to notify each of its members of this judgment within 60 days and to distribute a copy of the judgment to each person upon its admission to membership to the association.

The judgment affords the Government methods of detecting any new violations by interviewing employees or by inspection of documents and records in control of defendant. Such documents and records shall be made available upon the Government's request. Any information obtained by the United States pursuant to the judgment shall not be divulged except as part of enforcement proceedings or as otherwise required by law.

The District Court retains jurisdiction of the case and may modify the provisions of the judgment or add thereto upon application of any of the parties to the consent judgment. Also, the District Court retains jurisdiction for the purpose of enforcing compliance with the consent judgment or punishing violations of it.

(4) Remedies Available to Potential Private Plaintiffs.

Any potential private plaintiffs who might have been damaged by the alleged violations will retain the same right to sue for monetary damages and any other legal and equitable relief which they would have had were the proposed consent judgment not entered. However, this judgment may not be used as *prima facie* evidence in private litigation pursuant to Section 5(a) of the Clayton Act as amended, 15 U.S.C. § 16(a).

(5) Procedures Available for Modification of the Proposed Consent Judgment.

The proposed consent judgment is subject to a stipulation between the United States and the consenting defendant which provides that the United States may withdraw its consent to the proposed judgment at any time before the Court has found that its entry is in the public interest. By its terms, the proposed judgment provides for retention of jurisdiction of this action in order, among other things, to permit either of the parties thereto to apply to the Court for such orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may, for a 60 day period prior to the effective date of the proposed judgment, submit written comments to the United States Department of Justice, Joel Davidow, Chief, Foreign Commerce Section, Antitrust Division, Washington, D.C. 20530, which will file with the Court and publish in the Federal Register such comments and its response to them. The Department of Justice will thereafter evaluate any and all such comments and determine whether there is any reason for withdrawal of its consent to the proposed judgment.

(6) Alternatives to the Proposed Judgment Considered by the United States.

In view of the fact that the consent judgment provides for relief that does not differ from that sought in the complaint, neither a substantially different judgment nor full trial on the merits was considered as an appropriate alternative to the settlement. The Government considered no alternative proposals which would have materially altered the relief granted in this judgment.

(7) Determinative Documents.

There are no materials or documents which the Government considered determinative, in formulating this proposed consent judgment. Therefore, none is being filed along with this competitive impact statement.

Dated: December 3, 1975.

JOEL DAVIDOW
STEPHEN P. KILGRIFF
C. FORREST BANNAN
*Attorneys, Department of Justice.*

[FR Doc.75-33280 Filed 12-10-75;8:45 am]

### Law Enforcement Assistance Administration

### ADVISORY COMMITTEE TO THE ADMINISTRATOR ON STANDARDS FOR THE ADMINISTRATION OF JUVENILE JUSTICE

#### Designation

Notice is hereby given that Richard Van Duizend, General Attorney (Research), National Institute for Juvenile Justice and Delinquency Prevention, has been designated as the Federal employee to carry out the duties pursuant to Section 10(e) of the Federal Advisory Committee Act (Pub. L. 92-463) for the Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice, a subdivision of the National Advisory Committee on Juvenile Justice and Delinquency Prevention created by Section 208(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. 93-415).

For further information, contact Milton Luger, Assistant Administrator of the Law Enforcement Assistance Administration for the Office of Juvenile Justice and Delinquency Prevention, 4th Floor, 633 Indiana Avenue, NW., Washington, DC 20531.

RICHARD W. VELDE,
*Administrator.*

[FR Doc.75-33286 Filed 12-10-75;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### BOISE DISTRICT ADVISORY BOARD

#### Meeting

Notice is hereby given that the Boise District Multiple Use Advisory Board of the Bureau of Land Management will meet at the Boise District Office, 230 Collins Road, Boise, Idaho at 9:00 a.m., January 8, 1976. The meeting will be devoted principally to the consideration of problems and programs associated with multiple use management of rangeland resources on the National Resource Lands. The meeting will consist of presentations and discussions on the following topics:

1. Kuna Farm Development Plan
2. Discussion of conflict between wild and licensed horses
3. Overview of grazing environmental impact statement program for Boise District.
4. Procedures for programming and reviewing Advisory Board financed range improvement projects.
5. Discussion of proposed Advisory Board tour

The meeting will be open to the public. Time will be made available beginning at 3:00 p.m. on January 8 for brief statements by members of the public. Such statements should be limited to matters set forth in the agenda. Those wishing to make an oral statement on an agenda topic should notify the District Manager, Bureau of Land Management, 230 Collins Road, Boise, Idaho by close of business on January 7, 1976. Any interested person or organization may file a written statement with the Board for its consideration. Such statements may be submitted at the meeting or mailed to the District Manager. Further information concerning the meeting may also be obtained from the District Manager. His telephone number is 342-2711, Ext. 2582.

D. DEAN BIBLES,
*District Manager.*

[FR Doc.75-33340 Filed 12-10-75;8:45 am]

(M 31915-B)

### MONTANA

#### Application

DECEMBER 4, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Kansas-Nebraska Natural Gas Company, Inc., has applied for a natural gas pipeline right of way for a 4-inch line across the following lands:

PRINCIPAL MERIDIAN
MONTANA

T. 31 N., R. 32 E., Sec. 15, NW¼NE¼; and Sec. 27, N½N½.

This pipeline will convey natural gas across 1.35 miles of national resource lands in Phillips County, Montana.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their names and address to the District Manager, Bureau of Land Management, P.O. Box B, Malta, Montana 59538.

ROLAND F. LEE,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.75-33335 Filed 12-10-75;8:45 am]

(NM 27106)

### NEW MEXICO

#### Application

DECEMBER 4, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½ inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN

NEW MEXICO

T. 19 S., R. 28 E.,
Sec. 35, E½NW¼.

This pipeline will convey natural gas across .419 of a mile of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, PO Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.75-33336 Filed 12-10-75;8:45 am]

(NM 27112 and 27113)

### NEW MEXICO

#### Applications

DECEMBER 4, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for two 4 inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN

NEW MEXICO

T. 14 S., R. 27 E.,
Sec. 35, S SE¼NE¼, S½NW¼, N½SE¼ and SW¼SE¼.
T. 15 S., R. 27 E.,
Sec. 3, lot 1.
T. 24 S., R. 26 E.,
Sec. 22, E½NW¼ and SW¼NW¼.

These pipelines will convey natural gas across 1.57 miles of national resource lands in Chaves and Eddy Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, PO Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.75-33337 Filed 12-10-75;8:45 am]

(NM 27119)

### NEW MEXICO

#### Application

DECEMBER 4, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gas Company has applied for one 4 inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN

NEW MEXICO

T. 16 S., R. 28 E.,
Sec. 19, SW¼NE¼ and W½SE¼;
Sec. 30, W½NE¼, SE¼NW¼ and E½SE¼;
Sec. 31, SE¼NW¼ and E½SW¼.
T. 17 S., R. 28 E.,
Sec. 6, lots 3, 5, 6, 7 and SE¼NW¼.

This pipeline will convey natural gas across 3.253 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, PO Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.75-33338 Filed 12-10-75;8:45 am]

(NM 26914)

**NEW MEXICO**

**Application**

DECEMBER 3, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for an 8 inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN

NEW MEXICO

T. 21 S., R. 27 E.,
Sec. 3, lot 15, N½SW¼, SW¼SW¼ and NW¼SE¼;
Sec. 4, SE¼SE¼;
Sec. 8, E½SE¼ and SW¼SE¼;
Sec. 9, N½NE¼, SW¼NE¼, S½NW¼ and NW¼SW¼;
Sec. 17, NW¼NE¼, N½NW¼ and SW¼NW¼;
Sec. 18, SE¼NE¼ and N½SE¼.

This pipeline will convey natural gas across 3.861 miles of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, PO Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.75-33339 Filed 12-10-75;8:45 am]

[Wyoming 53415]

**Bureau of Land Management**

**WYOMING**

**Notice of Application**

DECEMBER 5, 1975.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Glacier Park Company has applied for a crude oil pipeline right-of-way across the following lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 46 N., R. 63 W.,
Sec. 2.

The pipeline will convey crude oil from the Butte Pipe Line Station in sec. 2, to the applicant's proposed refinery in sec. 23, all in T. 46 N., R. 63 W., in Weston County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should send their name and address to the District Manager, Bureau of Land Management, P.O. Box 2834, Casper, WY 82601.

PHILIP C. HAMILTON,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.75-33299 Filed 12-10-75;8:45 am]

**National Park Service**

**ALIBATES FLINT QUARRIES AND TEXAS PANHANDLE PUEBLO CULTURE NATIONAL MONUMENT, TEXAS**

**Availability of Environmental Assessment and Notice of Public Workshops**

Two informal workshops designed to enable interested persons to review and comment upon an environmental assessment of four alternatives for the future preservation and development of Alibates Flint Quarries and Texas Panhandle Pueblo Culture National Monument, Potter County, Texas, will be held at Amarillo, Texas, at 7:00 p.m., on January 15, 1976 at Villa Inn Convention Center; and at Borger, Texas at 7:00 p.m., on January 16, 1976 at South Middle School.

Written statements will not be read at the workshops, but may be submitted before, and up to 30 days afterward, to the Superintendent, Lake Meredith Recreation Area, P.O. Box 1438, Fritch, Texas 79036. Extemporaneous oral statements are invited at the workshops.

Copies of the environmental assessment are available for review at Lake Meredith Recreation Area headquarters, 419 East Broadway, Fritch, Texas. They may be obtained by mail from the Superintendent, Lake Meredith Recreation Area, P.O. Box 1438, Fritch, Texas 79036; or from the National Park Service's Southwest Regional Office, P.O. Box 728, Santa Fe, New Mexico 87501.

Dated: November 25, 1975.

JOSEPH C. RUMBURG, Jr.,
*Regional Director, Southwest Region.*

[FR Doc.75-33351 Filed 12-10-75;8:45 am]

**NORTH CASCADES NATIONAL PARK SERVICE COMPLEX ROSS LAKE NATIONAL RECREATION AREA**

**Notice of Public Workshops**

Notice is hereby given that public workshops will be held to discuss a proposal to construct a public campground at Newhalem within the Ross Lake National Recreation Area. Various alternatives to the proposal will also be considered. Printed information regarding the proposed campground is available from the Superintendent, North Cascades National Park Service Complex, Sedro Woolley, Washington 98284.

The first meeting is scheduled at the Skagit County Public Utility Building in Mount Vernon, Washington, at 8:00 p.m., Wednesday, January 14, 1976. A second meeting will be held in Room 158 of Miller Hall at Western Washington State College in Bellingham, Washington, at 8:00 p.m., Thursday, January 15, 1976. The third meeting will be held at the Orcas Room in the Seattle Center at 8:00 p.m., Friday, January 16, 1976.

JOHN A. RUTTER,
*Regional Director, Pacific Northwest Region.*

[FR Doc.75-33350 Filed 12-10-75;8:45 am]

## DEPARTMENT OF AGRICULTURE

**Farmers Home Administration**

[Notice of Designation Number A271]

**NORTH CAROLINA**

**Designation of Emergency Areas**

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following North Carolina Counties as a result of the natural disasters shown below:

Halifax—drought conditions May 15 through July 3, 1975; heavy flooding July 4 through July 21; and drought conditions with excessively high temperatures July 21 through September 1, 1975.

Wayne—excessive rainfall July 3 through July 21, and a drought May 15 through June 30, 1975.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor James E. Holshouser, Jr., that such designation be made.

Applications for Emergency loans must be received by this Department no later than January 27, 1976, for physical losses and August 27, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 5th day of December, 1975.

FRANK B. ELLIOTT,
*Administrator, Farmers Home Administration.*

[FR Doc.75-33402 Filed 12-10-75;8:45 am]

[Notice of Designation Number A272]

## NORTH DAKOTA

### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Dunn County, North Dakota, as a result of severe storms (excessive rainfall and hailstorm) with tornado-type winds which occurred on July 1 and August 7, 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 Arthur A. Link that such designation be made.

Applications for Emergency loans must be received by this Department no later than January 27, 1976, for physical losses and August 27, 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 5th day of December, 1975.

FRANK B. ELLIOTT,
*Administrator,*
*Farmers Home Administration.*

[FR Doc.75-33403 Filed 12-10-75;8:45 am]

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## Food and Nutrition Service

## NATIONAL SCHOOL LUNCH PROGRAM, SCHOOL BREAKFAST PROGRAM, SPECIAL MILK PROGRAM, AND COMMODITY ONLY SCHOOLS

*Correction*

In FR Doc. 75-32770 appearing at page 57234 in the issue of Monday, December 8, 1975, make the following correction:

On page 57234 in the third column, the table entry for *Guidelines when increased by—25 percent* for "Family size—3" should have read $5,870.

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## Forest Service

## MILL CREEK UNIT PLAN

### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Mill Creek Unit Plan, Report Number USDA-FS-DES (Adm) R1-76-10.

The environmental statement concerns environmental impacts, presents resource information, resource allocation decisions, management guidelines, and documents public involvement for the Mill Creek Unit Plan, Clearwater and Salmon River Ranger Districts, Nezperce National Forest, Idaho County, Idaho.

The draft environmental statement was transmitted to CEQ on November 28, 1975.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., S.W., Washington, D.C. 20250.
USDA Forest Service, Northern Region, Federal Building, Missoula, MT 59801.
USDA Forest Service, Nezperce National Forest, 319 E. Main, Grangeville, ID 83530.
USDA Forest Service, Clearwater Ranger District, 319 E. Main, Grangeville, ID 83530.
USDA Forest Service, Salmon River Ranger District, White Bird, ID 83554.

A limited number of single copies are available upon request to Forest Supervisor, Don Biddison, 319 East Main, Grangeville, ID 83530.

Copies of the environmental statement have been sent to various Federal, state and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Don Biddison, Forest Supervisor, 319 E. Main, Grangeville, Idaho 83530. Comments must be received by January 28, 1975 in order to be considered in the preparation of the final environmental statement.

DON BIDDISON,
*Forest Supervisor.*

NOVEMBER 28, 1975.

[FR Doc.75-33333 Filed 12-10-75;8:45 am]

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# DEPARTMENT OF COMMERCE

## Federal Cochairman of the Coastal Plains Regional Action Planning Commission

## PRIVACY ACT

### Record Systems and Routine Uses

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a(e)(4) the Office of the Federal Cochairman of the Coastal Plains Regional Action Planning Commission hereby announces that it has no records or systems of records maintained or usable through individual identifier. Personnel records of employees of the Office of the Federal Cochairman are maintained as part of the single system of records of the Civil Service Commission. Other records pertaining to the Office of the Federal Cochairman are maintained as part of the following systems of records of the United States Department of Commerce and were so specified by the Department of Commerce in a notice published in the FEDERAL REGISTER on October 2, 1975, 40 FR 45619: Attendance, Leave, and Payroll Records of Employees (Commerce/Dept-1); Accounts Receivable Records (Commerce/Dept-2); Conflict of Interest Records (Commerce/Dept-3); Employees Applications for Motor Vehicle Operator's Card (Commerce/Dept-8); Travel Records (Commerce/Dept-9); Unfair Labor Practice Charges/Complaints (Commerce/Dept-11); Investigative Records—Contract and Grant Frauds and Employee Criminal Misconduct (Commerce/Dept-12); Litigation, Claims, and Administrative Proceeding Records (Commerce/Dept-14); Records of Cash Receipts (Commerce/Dept-17); and Employee Personnel Files Not Covered by U.S. Civil Service Commission (Commerce/Dept-18). The Department of Commerce regulations published therein shall govern all requests and processes under the Privacy Act. Questions concerning this matter may be addressed to the appropriate official of the United States Department of Commerce as identified in 40 FR 45634, or to the Federal Cochairman Coastal Plains Regional Action Planning Commission, Suite 414, 2000 "L" Street, NW., Washington, D.C. 20036.

RUSSELL J. HAWKE, Jr.,
*Federal Cochairman, Coastal Plains Regional Action Planning Commission.*

[FR Doc.75-33424 Filed 12-10-75;8:45 am]

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## Federal Cochairman of the Four Corners Regional Action Planning Commission

## PRIVACY ACT

### Record Systems and Routine Uses

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a(e)(4) the Office of the Federal Cochairman of the Four Corners Regional Action Planning Commission hereby announces that it has no records or systems of records maintained or usable through individual identifier. Personnel records of employees of the Office of the Federal Cochairman are maintained as part of the single system of records of the Civil Service Commission. Other records pertaining to the Office of the Federal Cochairman are maintained as part of the following systems of records of the United States Department of Commerce and were so specified by the Department of Commerce in a notice published in the FEDERAL REGISTER on October 2, 1975, 40 FR 45619: Attendance, Leave, and Payroll Records of Employees (Commerce/Dept-1); Accounts Receivable Records (Commerce/Dept-2); Conflict of Interest Records (Commerce/Dept-3); Employees Applications for Motor Vehicle Operator's Card (Commerce/Dept-8); Travel Records (Commerce/Dept-9); Unfair Labor Practice Charges/Complaints (Commerce/Dept-11); Investigative Records-Contract and Grant Frauds and Employee Criminal Misconduct (Commerce/Dept-12); Litigation, Claims, and Administrative Proceeding Records (Commerce/Dept-14); Records of Cash Receipts (Commerce/Dept-17);

and Employee Personnel Files Not Covered By U.S. Civil Service Commission (Commerce/Dept-18). The Department of Commerce regulations published therein shall govern all requests and other processes under the Privacy Act. Questions concerning this matter may be addressed to the appropriate official of the United States Department of Commerce as identified in 40 FR 45634, or to the Federal Cochairman, Four Corners Regional Action Planning Commission, U.S. Department of Commerce, Room 1898-C, Washington, D.C. 20230.

STANLEY WOMER,
*Federal Cochairman, Four Corners Regional Action Planning Commission.*

[FR Doc.75-33425 Filed 12-10-75;8:45 am]

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### Federal Cochairman of the New England Regional Action Planning Commission

### PRIVACY ACT

### Record Systems and Routine Uses

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a(e)(4) the Office of the Federal Cochairman of the New England Regional Action Planning Commission hereby announces that it has no records or systems of records maintained or usable through individual identifier. Personnel records of employees of the Office of the Federal Cochairman are maintained as part of the single system of records of the Civil Service Commission. Other records pertaining to the Office of the Federal Cochairman are maintained as part of the following systems of records of the United States Department of Commerce and were so specified by the Department of Commerce in a notice published in the FEDERAL REGISTER on October 2, 1975, 40 FR 45619: Attendance, Leave, and Payroll Records of Employees (Commerce/Dept-1); Accounts Receivable Records (Commerce/Dept-2); Conflict of Interest Records (Commerce/Dept-3); Employees Applications for Motor Vehicle Operator's Card (Commerce/Dept-8); Travel Records (Commerce/Dept-9); Unfair Labor Practice Charges/Complaints (Commerce/Dept-11); Investigative Records-Contract and Grant Frauds and Employee Criminal Misconduct (Commerce/Dept-12); Litigation, Claims, and Administrative Proceeding Records (Commerce/Dept-14); Records of Cash Receipts (Commerce/Dept-17); and Employee Personnel Files Not Covered By U.S. Civil Service Commission (Commerce/Dept-18). The Department of Commerce regulations published therein shall govern all requests and other processes under the Privacy Act. Questions concerning this matter may be addressed to the appropriate official of the United States Department of Commerce as identified in 40 FR 45634, or to the Federal Cochairman, New England Regional Action Planning Commission, U.S. Department of Commerce, Room 2606, Washington, D.C. 20230.

RUSSELL F. MERRIMAN,
*Federal Cochairman, New England Regional Action Planning Commission.*

[FR Doc.75-33426 Filed 12-10-75;8:45 am]

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### Federal Cochairman of the Old West Regional Action Planning Commission

### PRIVACY ACT

### Record Systems and Routine Uses

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a(e)(4) the Office of the Federal Cochairman of the Old West Regional Action Planning Commission hereby announces that it has no records or systems of records maintained or usable through individual identifier. Personnel records of employees of the Office of the Federal Cochairman are maintained as part of the single system of records of the Civil Service Commission. Other records pertaining to the Office of the Federal Cochairman are maintained as part of the following systems of records of the United States Department of Commerce and were so specified by the Department of Commerce in a notice published in the FEDERAL REGISTER on October 2, 1975, 40 FR 45619: Attendance, Leave, and Payroll Records of Employees (Commerce/Dept-1); Accounts Receivable Records (Commerce/Dept-2); Conflict of Interest Records (Commerce/Dept-3); Employees Applications for Motor Vehicle Operator's Card (Commerce/Dept-8); Travel Records (Commerce/Dept-9); Unfair Labor Practice Charges/Complaints (Commerce/Dept-11); Investigative Records-Contract and Grant Frauds and Employee Criminal Misconduct (Commerce/Dept-12); Litigation, Claims, and Administrative Proceeding Records (Commerce/Dept-14); Records of Cash Receipts (Commerce/Dept-17); and Employee Personnel Files Not Covered By U.S. Civil Service Commission (Commerce/Dept-18). The Department of Commerce regulations published therein shall govern all requests and other processes under the Privacy Act. Questions concerning this matter may be addressed to the appropriate official of the United States Department of Commerce as identified in 40 FR 45634, or to the Federal Cochairman, Old West Regional Action Planning Commission, Suite 426, 1730 "K" Street NW., Washington, D.C. 20006.

WARREN C. WOOD,
*Federal Cochairman, Old West Regional Action Planning Commission.*

[FR Doc.75-33427 Filed 12-10-75;8:45 am]

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### Federal Cochairman of the Ozarks Regional Action Planning Commission

### PRIVACY ACT

### Record Systems and Routine Uses

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a(e)(4) the Office of the Federal Cochairman of the Ozarks Regional Action Planning Commission hereby announces that it has no records or systems of records maintained or usable through individual identifier. Personnel records of employees of the Office of the Federal Cochairman are maintained as part of the single system of records of the Civil Service Commission. Other records pertaining to the Office of the Federal Cochairman are maintained as part of the following systems of records of the United States Department of Commerce and were so specified by the Department of Commerce in a notice published in the FEDERAL REGISTER on October 2, 1975, 40 FR 45619: Attendance, Leave, and Payroll Records of Employees (Commerce/Dept-1); Accounts Receivable Records (Commerce/Dept-2); Conflict of Interest Record (Commerce/Dept-3); Employees Applications for Motor Vehicle Operator's Card (Commerce/Dept-8); Travel Records (Commerce/Dept-9); Unfair Labor Practice Charges/Complaints (Commerce/Dept-11); Investigative Records-Contract and Grant Frauds and Employee Criminal Misconduct (Commerce/Dept-12); Litigation, Claims, and Administrative Proceeding Records (Commerce/Dept-14); Records of Cash Receipts (Commerce/Dept-17); and Employee Personnel Files Not Covered by U.S. Civil Service Commission (Commerce/Dept-18). The Department of Commerce regulations published therein shall govern all requests and other processes under the Privacy Act. Questions concerning this matter may be addressed to the appropriate official of the United States Department of Commerce as identified in 40 FR 45634, or to the Federal Cochairman, Ozarks Regional Action Planning Commission, U.S. Department of Commerce, Room 2099-B, Washington, D.C. 20230.

BILL H. FRIBLEY,
*Federal Cochairman, Ozarks Regional Action Planning Commission.*

[FR Doc.75-33428 Filed 12-10-75;8:45 am]

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### Federal Cochairman of the Pacific Northwest Regional Action Planning Commission

### PRIVACY ACT

### Record Systems and Routine Uses

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a(e)(4) the Office of the Federal Cochairman of the Pacific Northwest Regional Action Planning Commission hereby announces that it has no records or systems of records maintained or

usable through individual identifier. Personnel records of employees of the Office of the Federal Cochairman are maintained as part of the single system of records of the Civil Service Commission. Other records pertaining to the Office of the Federal Cochairman are maintained as part of the following systems of records of the United States Department of Commerce and were so specified by the Department of Commerce in a notice published in the FEDERAL REGISTER on October 2, 1975, 40 FR 45619: Attendance, Leave, and Payroll Records of Employees (Commerce/Dept-1); Accounts Receivable Records (Commerce/Dept-2); Conflict of Interest Records (Commerce/Dept-3); Employees Applications for Motor Vehicle Operator's Card (Commerce/Dept-8); Travel Records (Commerce/Dept-9); Unfair Labor Practice Charges/Complaints (Commerce/Dept-11); Investigative Records-Contract and Grant Frauds and Employee Criminal Misconduct (Commerce/Dept-12); Litigation, Claims, and Administrative Proceeding Records (Commerce/Dept-14); Records of Cash Receipts (Commerce/Dept-17); and Employee Personnel Files Not Covered By U.S. Civil Service Commission (Commerce/Dept-18). The Department of Commerce regulations published therein shall govern all requests and other processes under the Privacy Act. Questions concerning this matter may be addressed to the appropriate official of the United States Department of Commerce as identified in 40 FR 45634, or to the Federal Cochairman, Pacific Northwest Regional Action Planning Commission, 2435 Virginia Avenue, N.W., Washington, D.C. 20037.

JACK O. PADRICK,
*Federal Cochairman, Pacific Northwest Regional Action Planning Commission.*

[FR Doc.75-33429 Filed 12-10-75; 8:45 am]

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### Federal Cochairman of the Upper Great Lakes Regional Action Planning Commission

### PRIVACY ACT

#### Record Systems and Routine Uses

Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a(e)(4) the Office of the Federal Cochairman of the Upper Great Lakes Regional Action Planning Commission hereby announces that it has no records or systems of records maintained or usable through individual identifier. Personnel records of employees of the Office of the Federal Cochairman are maintained as part of the single system of records of the Civil Service Commission. Other records pertaining to the Office of the Federal Cochairman are maintained as part of the following systems of records of the United States Department of Commerce and were so specified by the Department of Commerce in a notice published in the FEDERAL REGISTER on October 2, 1975, 40 FR 45619: Attendance, Leave, and Payroll Records of Employees (Commerce/Dept-1); Accounts Receivable Records (Commerce/Dept-2); Conflict of Interest Records (Commerce/Dept-3); Employees Applications for Motor Vehicle Operator's Card (Commerce/Dept-8); Travel Records (Commerce/Dept-9); Unfair Labor Practice Charges/Complaints (Commerce/Dept-11); Investigative Records-Contract and Grant Frauds and Employee Criminal Misconduct (Commerce/Dept-12); Litigation, Claims, and Administrative Proceeding Records (Commerce/Dept-14); Records of Cash Receipts (Commerce/Dept-17); and Employee Personnel Files Not Covered By U.S. Civil Service Commission (Commerce/Dept-18). The Department of Commerce regulations published therein shall govern all requests and other processes under the Privacy Act. Questions concerning this matter may be addressed to the appropriate official of the United States Department of Commerce as identified in 40 FR 45634, or to the Federal Cochairman, Upper Great Lakes Regional Action Planning Commission, U.S. Department of Commerce, Room 2093, Washington, D.C. 20230.

RAYMOND C. ANDERSON,
*Federal Cochairman, Upper Great Lakes Regional Action Planning Commission.*

[FR Doc.75-33430 Filed 12-10-75; 8:45 am]

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## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Center for Disease Control

### NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

#### Statement of Organization, Functions, and Delegations of Authority

Part 9 (Center for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (39 FR 1461, January 9, 1974, as amended) is amended to reflect changes in the organization of the National Institute for Occupational Safety and Health (9C00), as follows:

1. Establishment of the Office of Extramural Coordination and Special Projects; Division of Criteria Documentation and Standards Development; Division of Biomedical and Behavorial Science; Division of Physical Sciences and Engineering; Division of Surveillance, Hazard Evaluations, and Field Studies; Appalachian Laboratory for Occupational Safety and Health; and Western Area Laboratory for Occupational Safety and Health.

2. Name change of the Office of Administrative Management to Office of Administrative and Management Services and Office of Planning and Resource Management to Office of Program Planning and Evaluation.

3. Consolidation and transfer of functions from Office of Technical Publications and Division of Occupational Health Programs to Division of Technical Services; from Office of Extramural Activities to Office of Extramural Coordination and Special Projects; from Office of Manpower Development to the Division of Training and Manpower Development; from Office of Research and Standards Development to Division of Criteria Documentation and Standards Development; from Office of Occupational Health Surveillance and Biometrics and Division of Field Studies and Clinical Investigations to Division of Surveillance, Hazard Evaluations, and Field Studies; and from Division of Laboratories and Criteria Development to Division of Biomedical and Behavioral Science, Division of Physical Sciences and Engineering, and Appalachian Laboratory for Occupational Safety and Health.

Section 9-B, *Organization and Functions*, is hereby amended by deleting the statement entitled "National Institute for Occupational Safety and Health (9C00)" and substituting the following heading and succeeding paragraphs:

NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH (9C00)

Plans, directs, and coordinates the national program to develop and establish recommended occupational safety and health standards and to conduct research, training, technical assistance, and related activities to assure safe and healthful working conditions for every working man and woman. Specifically: (1) Administers research in the field of occupational safety and health; (2) develops innovative methods and approaches for dealing with occupational safety and health problems; (3) provides medical criteria which will ensure, insofar as practicable, that no employee will suffer diminished health, functional capacity, or life expectancy as a result of work experience, with emphasis on ways to discover latent disease, establishing causal relationship between diseases and work conditions; (4) serves as a principal focus for training programs to increase the number and competence of personnel engaged in the practice of occupational safety and health; (5) develops and coordinates the appropriate reporting procedures which assist in accurately describing the nature of the national occupational safety and health problems; (6) consults with the U.S. Department of Labor; U.S. Department of the Interior; other Federal agencies; and, in cooperation with the PHS Regional Offices, State and local Government agencies and industry and employee organizations with regard to promotion of occupational safety and health.

*Office of the Director (9C01).* (1) Manages the operations of the Institute; (2) maintains liaison with, and provides advice and assistance to, the U.S. Department of Labor, the U.S. Department of the Interior, other Federal agencies, State and local government agencies, international health organizations, and outside groups; (3) provides liaison with PHS and Departmental components providing occupational health programs for Federal employees; (4) provides policy guidance and coordination to occupational safety and health activities in the HEW Regional Offices; (5) provides leadership and coordinates the Institute's planning, evaluation, resource al-

location, regulations, legislation, and administrative management activities.

*Office of Administrative and Management Services (9C19).* (1) Provides management information, advice, and guidance to the Institute; (2) coordinates management activities in the areas of financial management, administrative services, procurement, printing, and facilities; (3) provides technical leadership, guidance, and evaluation of management services performed at other geographic locations; (4) develops necessary policies, procedures, and operations; and provides special reports and studies as required in the administrative management area; (5) provides management systems consultation and analyses; (6) coordinates the utilization of data processing equipment and services within the Institute; (7) assures internal security and safety; (8) maintains liaison with the Executive Officer and Staff Service officials of the Center; (9) serves as the Institute focal point for personnel management activities.

*Office of Program Planning and Evaluation (9C21).* (1) Plans and coordinates the development of the strategy and philosophy of operation of the Institute regarding mission and objectives; (2) conducts or participates in special studies for program planning and evaluation; (3) conducts the necessary control functions to assure operational compliance toward program objectives within the Institute.

*Office of Extramural Coordination and Special Projects (9C24).* (1) Provides professional technical advice to the Director and other Institute organizational components; (2) advises the Institute on matters relating to the development and progress of Institute-supported grant research; (3) in cooperation with the offices and operating divisions of the Institute, stimulates research and demonstration grants in relevant priority areas; (4) administers the management aspects of the Institute's grants program by receiving, reviewing, analyzing, and evaluating all grant applications; (5) coordinates programming of research funded under special foreign currency program; (6) coordinates the Institute's research and scientific exchange conducted under bilateral international agreements; (7) maintains contact with professional associations, academic institutions, other Government agencies, and safety and health professionals in HEW Regional Offices; (8) assures Institute compliance with ethical scientific research procedures; (9) conducts or coordinates special short-term technical studies including evaluation of technical information transmitted to the Institute, issuing special advisories to the professional community as appropriate.

*Appalachian Laboratory for Occupational Safety and Health (9C41).* (1) Conducts and is the Institute focal point for clinical and epidemiological research on nonmalignant occupational respiratory disease; (2) provides legislatively mandated medical and autopsy services under the Federal Coal Mine Health and Safety Act; (3) conducts medical research to fulfill the Institute's responsibilities under the Federal Coal Mine Health and Safety Act; (4) develops and evaluates test protocols; and develops regulations for certification of personal protective devices, industrial hazard measuring devices, and quality control programs; (5) tests and certifies personal protective devices and occupational hazard measuring devices.

*Western Area Laboratory for Occupational Safety and Health (9C44).* (1) Provides routine analytical chemistry services; (2) designs and conducts research programs in agricultural and noncoal mining safety and health, developing analytical and associated field sampling methods; (3) conducts accident investigations and safety research designed to prevent or mitigate occupational trauma in all industries; (4) develops criteria for occupational safety and health programs unique to agriculture and noncoal mining.

*Division of Criteria Documentation and Standards Development (9C48).* (1) Develops from existing scientific information criteria for recommended occupational safety and health standards; (2) develops health standards under the Federal Coal Mine Health and Safety Act; (3) in cooperation with the U.S. Department of Labor, reviews and completes existing standards; (4) in coordination with the U.S. Department of Labor, establishes a priority system for conducting research for the development, support, and implementation of regulatory activities.

*Division of Surveillance, Hazard Evaluations, and Field Studies (9C51).* (1) Develops and maintains a surveillance system of the Nation's work force and its environs to make an early detection and continuous assessment of the magnitude and extent of job related illness, exposures, and hazardous agents; (2) conducts the legislatively mandated health hazard evaluation and industrywide epidemiological research programs through longitudinal record studies and clinical/environmental field studies and surveys to identify the occupational causes of disease in the working population and their offspring, and to determine the incidence and prevalence of acute and chronic effects from work related exposures to toxic and hazardous substances; (3) conducts epidemiological research for input to criteria for standards for the control of occupational health hazards; (4) provides, upon request and on a self-initiated basis, technical assistance, demonstrations, and consultation on technical matters pertaining to occupational safety and health to other Federal agencies, State and local agencies, other technical groups, unions, employers, and employees.

*Division of Technical Services (9C53).* (1) Develops technical assistance strategies and resources for program development at the Federal, State, and local level; (2) prepares and annually revises the legislatively mandated "NIOSH Toxic Substances List"; (3) conducts a clearinghouse for receiving, storing, retrieving, and disseminating technical information on occupational safety and health hazards; (4) develops guidelines for the classification of occupational disease in compensation programs; (5) promotes and provides technical guidance in the development of occupational safety and health programs at the State and local government level, as well as in industry; (6) analyzes and relates the practice of occupational medicine in industry with the total delivery of health services; (7) develops innovative methods, techniques, and approaches for dealing with occupational safety and health problems; (8) provides statistical services to institute research activities.

*Division of Biomedical and Behavioral Science (9C55).* (1) Conducts laboratory research for the development of criteria for standards in the areas of toxicology, behavioral science, physiology, ergonomics, and the effects of physical agents; (2) investigates new problems created by technology requiring ameliorative action; (3) develops medical criteria to assure that the work place is not responsible for diminished health, functional capacity, or life expectancy of workers; (4) develops means for identifying latent disease.

*Division of Physical Sciences and Engineering (9C58).* (1) Develops and evaluates performance criteria for environmental monitoring and personal protective equipment; (2) assesses control technology; (3) conducts research and development activities into equipment and procedures for the measurement and control of occupational health hazards; (4) provides for equipment development, analytical and sampling methods development, and equipment calibration within the Institute and as a service to the U.S. Department of Labor; (5) operates a quality control reference laboratory for analytical laboratories.

*Division of Training and Manpower Development (9C62).* (1) Designs, develops, plans, and conducts short-term training programs and activities for Federal, State, and local governments, private industry, organized labor, and other appropriate organizations in the field of occupational safety and health; (2) develops training course packages in industrial hygiene, safety, and occupational medicine and nursing; and arranges for cooperative training programs by qualified outside organizations; (3) determines occupational safety and health manpower needs on a Nationwide basis; defines and evaluates manpower certification/accreditation programs; and establishes career development guidelines for occupational safety and health occupations; (4) stimulates training grants and establishment of national manpower development resources supporting the defined needs.

Dated: December 3, 1975.

THOMAS S. MCFEE,
*Acting Assistant Secretary for Administration and Management.*

[FR Doc.75-33306 Filed 12-10-75;8:45 am]

## Office of Education

### NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

#### Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the National Advisory Council on Equality of Educational Opportunity will convene at 9 a.m. on Friday, January 16, until 5 p.m. and reconvene at 9 a.m. on Saturday, January 17, until 3:30 p.m. at the Kyoto Inn, Sutter & Buchanan Streets, San Francisco, California. On Thursday, January 15, at the Kyoto Inn, the Subcommittee on Special Projects will meet from 9:30 a.m. until 11:30 a.m. and the Subcommittee on Legislation will meet from 1:30 p.m. until 3:30 p.m.

The National Advisory Council on Equality of Educational Opportunity is established under section 716 of the Emergency School Aid Act (Pub. L. 92-318, Title VII, as amended by Pub. L. 93-380). The Council is established to advise the Assistant Secretary for Education with respect to the operation of programs under the Act, and to review the operation of such programs.

The meeting of the Council shall be open to the public. The Subcommittee Chairmen will give reports to the full Council on projected activities for the coming year. There will be a report from the National Institute of Education regarding activities in the area of desegregation and reports from the staff on the internal business of the Council.

Signed at Washington, D.C. on December 8, 1975.

LEO A. LORENZO,
*Executive Director.*

[FR Doc.75-33321 Filed 12-10-75;8:45 am]

### TEACHER CORPS PROJECTS

#### Rescission of Closing Date for Receipt of Applications

Pursuant to the authority contained in Part B-1 of the Education Professions Development Act of 1965, as amended (79 Stat. 1255-1258 as amended, 20 U.S.C. 1101-1107a), notice is hereby given that the U.S. Commissioner of Education has rescinded the previously announced closing date of December 15, 1975 for receipt of Fiscal Year 1976 Teacher Corps applications. This date was previously published in the FEDERAL REGISTER on July 18, 1975.

This rescission is necessary because the Teacher Corps funding criteria have not yet been approved for publication. A new closing date will be published simultaneously with the funding criteria at a future date.

Dated: December 4, 1975.

(Catalog of Federal Domestic Assistance Number 13.489; Teacher Corps—Operations and Training)

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

[FR Doc.75-33281 Filed 12-10-75;8:45 am]

## Food and Drug Administration

[Docket No. 75P-0277]

### LABELING OF PRESCRIPTION DRUGS FOR PATIENTS

#### Availability of Petition To Require Written Warning Labels on Prescription Drugs

The Commissioner of Food and Drugs is extending to March 8, 1976 the time for filing comments on the petition to require written warning labels on prescription drugs.

The Commissioner gave notice, in the FEDERAL REGISTER of November 7, 1975 (40 FR 52075), of the availability of the subject petition and requested comments thereon by February 5, 1976.

The Commissioner has considered a request from Consumers Union, one of the petitioners, to extend the comment period an additional 30 days.

The Commissioner hereby extends the time for filing comments, and interested persons may, on or before March 8, 1976, submit written comments (preferably in quintuplicate and identified with the docket number found in the heading of this notice) regarding the petition to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Dated: December 4, 1975.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.75-33296 Filed 12-10-75;8:45 am]

[Docket No. 75N-0184]

### CERTAIN DRUG PRODUCTS CONTAINING AN ANTICHOLINERGIC/ANTISPASMODIC IN COMBINATION WITH A SEDATIVE/TRANQUILIZER; ANTISPASMODIC DRUGS ALONE

#### Drugs for Human Use; Drug Efficacy Study Implementation; Permission for Drugs to Remain on the Market

*Correction*

In FR Doc. 75-30273, appearing at page 52644 in the issue for Tuesday, November 11, 1975, under the center heading "DESI 3265", in the second line of the paragraph numbered "3", the quantity "10 mg" should read "5mg/5cc".

## Social and Rehabilitation Service

### FAMILY MEDIAN INCOME BY STATE

#### Eligibility for Social Services Under Title XX of the Social Security Act, as Amended

Promulgation is made of the median income of a family of four for each State and for the States as a whole, applicable to the period October 1, 1976 through September 30, 1977, for the purpose of determining the extent of Federal financial participation (FFP) in State expenditures under Title XX of the Social Security Act, under the provision of sections 2002(a)(5)(B) and 2002(a)(6)(A) and (B) of that Act. These sections impose certain limitations with respect to the availability of FFP based upon the relationship of the income of the family of a service recipient to the median income of a family of four in the State, adjusted in accordance with regulations prescribed by the Secretary to take into account the size of the family.

Estimates of the median incomes of families of four persons for each State and the District of Columbia were developed by the Bureau of the Census. In developing the median income scale, the Bureau of the Census used as its base the "Detailed Characteristics" PC(1)D-1 through PC(1)D-53, Chart 199, dated 1970. This represented the most recent median income data by State by family size. Adjustments were made by using the Bureau of Economic Analysis "Per Capita Personal Income," by State and Region for Selected Years, dated August 1975; and unpublished data from the Census Bureau's Current Population Survey by State.

The methodology for adjusting median income for families of different sizes is specified in 45 CFR 228.60.

The median incomes for a family of four, by State, for fiscal year 1977—with calculations at the 80% and 115% levels—are set forth below for use by States in establishing income ceilings and fee schedules under Title XX of the Social Security Act:

*Median income for families of 4*

| State | Median income | 80 pct of median income | 115 pct of median income |
|---|---|---|---|
| Alabama | $12,805 | $10,244 | $14,726 |
| Alaska | 19,368 | 15,494 | 22,273 |
| Arizona | 15,230 | 12,184 | 17,515 |
| Arkansas | 11,890 | 9,512 | 13,674 |
| California | 15,931 | 12,745 | 18,321 |
| Colorado | 15,629 | 12,503 | 17,973 |
| Connecticut | 16,876 | 13,181 | 18,947 |
| Delaware | 15,231 | 12,185 | 17,516 |
| District of Columbia | 15,093 | 12,074 | 17,357 |
| Florida | 14,788 | 11,830 | 17,006 |
| Georgia | 13,666 | 10,933 | 15,716 |
| Hawaii | 17,069 | 13,655 | 19,629 |
| Idaho | 14,025 | 11,220 | 16,128 |
| Illinois | 16,350 | 13,080 | 18,803 |
| Indiana | 14,478 | 11,582 | 16,650 |
| Iowa | 14,371 | 11,497 | 16,527 |
| Kansas | 14,395 | 11,516 | 16,554 |
| Kentucky | 12,514 | 10,011 | 14,391 |
| Louisiana | 12,600 | 10,080 | 14,490 |
| Maine | 12,552 | 10,042 | 14,435 |
| Maryland | 16,650 | 13,320 | 19,148 |
| Massachusetts | 15,690 | 12,504 | 17,975 |
| Michigan | 16,174 | 12,939 | 18,600 |
| Minnesota | 15,792 | 12,634 | 18,161 |
| Mississippi | 11,562 | 9,250 | 13,296 |
| Missouri | 13,770 | 11,016 | 15,836 |
| Montana | 13,686 | 10,949 | 15,739 |
| Nebraska | 13,364 | 10,691 | 15,369 |
| Nevada | 15,357 | 12,286 | 17,661 |
| New Hampshire | 13,986 | 11,189 | 16,084 |
| New Jersey | 16,727 | 13,382 | 19,236 |
| New Mexico | 12,143 | 9,714 | 13,964 |
| New York | 15,109 | 12,135 | 17,444 |
| North Carolina | 13,183 | 10,546 | 15,160 |
| North Dakota | 15,005 | 12,004 | 17,256 |
| Ohio | 15,121 | 12,097 | 17,389 |
| Oklahoma | 12,645 | 10,116 | 14,542 |
| Oregon | 15,013 | 12,010 | 17,265 |
| Pennsylvania | 14,488 | 11,591 | 16,662 |
| Rhode Island | 14,404 | 11,523 | 16,565 |
| South Carolina | 13,035 | 10,444 | 15,013 |
| South Dakota | 12,824 | 10,259 | 14,748 |
| Tennessee | 12,788 | 10,230 | 14,706 |
| Texas | 13,924 | 11,139 | 16,013 |
| Utah | 14,003 | 11,202 | 16,103 |
| Vermont | 13,145 | 10,516 | 15,117 |
| Virginia | 15,130 | 12,104 | 17,400 |
| Washington | 15,401 | 12,321 | 17,711 |
| West Virginia | 12,569 | 10,055 | 14,454 |
| Wisconsin | 15,398 | 12,318 | 17,708 |
| Wyoming | 14,833 | 11,866 | 17,058 |

NOTE.—The median income for a family of 4 in the 50 States and the District of Columbia, applicable to the period Oct. 1, 1976, through Sept. 30, 1977, is $14,747.

Dated: November 17, 1975.

JOHN C. YOUNG,
*Acting Administrator, Social and Rehabilitation Service.*

[FR Doc.75-33220 Filed 12-10-75;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### COAST GUARD

[CGD 75-233]

### NEW YORK HARBOR VESSEL TRAFFIC SYSTEM ADVISORY COMMITTEE

#### Open Meeting

This is to give notice in accordance with Section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), of 6 October 1972, that the New York Harbor Vessel Traffic System Advisory Committee will conduct an open meeting on Wednesday, 14 January 1976, in the Auditorium of Building 108, Governors Island, New York beginning at 10:30 AM.

Members of the Committee and their positions are:

Admiral John M. WILL, USN (Ret.) (Chairman), State of New York Board of Commissioners of Pilots.
Mr. H. H. ANDERSON, Jr., Yacht Racing Association of Long Island Sound.
Captain H. C. BREITENFELD, United New York Sandy Hook Pilots' Benevolent Association.
Captain W. H. BURRILL, State of New Jersey Board of Commissioners of Pilots.
Mr. P. R. ELLIOTT, U.S. Environmental Protection Agency.
Commissioner V. J. FOSSELLA, P.E., New York City Department of Marine and Aviation
Captain H. E. FRITZKE, Jr., USN, U.S. Navy, Military Sealift Command.
Mr. A. GIALLORENZI, American Institute of Merchant Shipping—Petroleum Industry Representative.
Mr. A. HAMMON, Port Authority of New York and New Jersey.
Colonel T. C. HUNTER, Jr., USA, Department of the Army, Corps of Engineers.
Captain T. A. KING, U.S. Department of Commerce, Maritime Administration.
Captain T. J. McGOVERN, United New Jersey Sandy Hook Pilots' Benevolent Association.
Mr. R. W. SANDERS, New York Harbor Panel, Marine Towing and Transportation Industry.
Captain S. M. SELEDEE, American Institute of Marine Underwriters.
Captain J. G. STILLWAGGON, Interport Pilots' Associates, Inc.
Captain K. C. TORRENS, American Institute of Merchant Shipping.

The summarized agenda for this meeting consists of:

1. Report from the Executive Committee given by Captain K. C. TORRENS, Chairman of the Executive Committee.

2. Implementation Schedule Status for the New York Vessel Traffic System.

3. Presentation of the Operating Procedures for the New York Vessel Traffic System.

4. Comments or questions from the floor.

The New York Harbor Vessel Traffic System Advisory Committee was established by the Commander, Third Coast Guard District to advise on the need for, and development, installation and operation of a Vessel Traffic System for the New York Harbor. Public members of the Committee serve voluntarily without compensation from the Federal Government, either travel or per diem.

Interested persons may seek additional information by writing Commander D. A. SUMI, Project Officer, Vessel Traffic System, Building 400, Section N, Third Coast Guard District, Governors Island, New York, New York, 10004, or by calling (212) 264-0409.

Dated: November 25, 1975.

W. F. REA, III,
*Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.*

[FR Doc.75-33331 Filed 12-10-75;8:45 am]

[CGD 75229]

### EQUIPMENT, CONSTRUCTION, AND MATERIALS

#### Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from October 2, 1975 to October 23, 1975 (List No. 25-75). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and § 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 and 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

LIFEBOATS

Approval No. 160.035/311/4, 24.0' x 8.0' x 3.5' steel, motor-propelled lifeboat without radio cabin or searchlight, Class 1, 37 person capacity, Alternate 1: Westerbeke Four-107 engine, identified by drawing list DL-24-9E dated June 16, 1970 and general arrangement drawing 24-9E dated June 12, 1970, Alternate 2: Lister ST 2-MG(R) engine, identified by drawing list DL-S-24-L1 dated October 10, 1975 and general arrangement drawing S-24-L1 Rev. A dated October 10, 1975, 46 CFR 160.035-13(c) Marking, Weights: Alternate 1: Condition "A" = 4,085 pounds; Condition "B" = 11,182 pounds, Alternate 2: Condition "A" = 4,060 pounds; Condition "B" = 11,137 pounds, manufactured by Marine Safety Equipment Corporation, Foot of Wyckoff Road, Farmingdale, New Jersey 07727, effective October 20, 1975. (It reinstates and supersedes Approval No. 160.035/311/3 terminated August 3, 1975 to show alternate engine.)

Approval No. 160.035/410/8, 30.0' x 10.0' x 4.33' fibrous glass reinforced plastic (FRP), hand-propelled lifeboat, 78-person capacity, identified by general arrangement dwg. No. P-30-1H, revision N dated May 14, 1970, 46 CFR 160.035-13(c) Marking, Weights: Condition "A" = 5,010 pounds; Condition "B" = 19,149 pounds, uses "Type M" hand-propelled gear, Approval No. 160.034/18/0, manufactured by Marine Safety Equipment Corporation, Foot of Wyckoff Road, Farmingdale, New Jersey 07727, effective October 20, 1975. (It reinstates and supersedes Approval No. 160.035/410/7 terminated June 4, 1975.)

Approval No. 160.035/474/3, Model 1401 survival capsule, 11.2' diameter x 3.35' depth, fibrous glass reinforced plastic (FRP) motor-propelled, totally enclosed model, 14-person capacity, alternate for lifeboat, inflatable life raft or life float identified by master drawing list for Model 1401, revision C dated October 9, 1975, standard drawing list for Models 1401 and 1000, revision B dated October 9, 1975, and general arrangement drawing CA1401-101, revision B dated September 30, 1975, approved for use only on artificial islands, fixed structures, and drilling rigs, both self-propelled semi-submersible and nonself-propelled, Marking, Weights: Condition "A" = 2,310 pounds; Condition "B" = 5,483 pounds, manufactured by Whittaker Corporation, Survival Systems Division, 5159 Baltimore Drive, La Mesa, California 92041, effective October 20, 1975. (It supersedes Approval No. 160.-035/474/2 dated June 9, 1975 to show revision of drawing lists.)

Approval No. 160.035/480/2, Model CA2801, 14.0' diameter x 4.8' depth fibrous glass reinforced plastic (FRP) motor-propelled, totally enclosed "Brucker" survival capsule fitted with Farymann S30M engine, 28 person capacity, as alternate for lifeboat, inflatable life raft or life float identified by Master Drawing List Model CA2801, dated September 23, 1975 and by general & equipment arrangement drawing No. CA2801-101, revision B dated August 4, 1975, approved for use only on artificial islands, fixed structures, and drilling rigs, both self-propelled semi-submersible nonself-propelled, Marking, Weights: Condition "A" = 4,350 pounds; Condition "B" = 9,562 pounds, manufactured by Whittaker Corporation, Survival Systems Division, 5159 Baltimore Drive, La

Mesa, California 92041, effective October 20, 1975. (It supersedes Approval No. 160.035/480/1 dated June 6, 1975 to show revision of Master Drawing List.)

MARINE BUOYANT DEVICE

Approval No. 160.064/916/0, child medium, Model 173121, vinyl dipped unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 243, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121 for OMC Parts & Accessories, A Division of Outboard Marine Corporation, McClure Street, Galesburg, Illinois 61401, effective October 7, 1975. (It supersedes Approval No. 160.064/916/0 dated October 1, 1975 to show correction in address of distributor.)

Approval No. 160.064/967/0, child medium, Model No. 200-CS, vinyl dipped unicellular plastic foam "Sail and Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 242, Type III PFD, manufactured by Texas Recreation Corporation, Texas Watercrafters Division, 912 N. Beverly Drive, Wichita Falls, Texas 76307, for Rand Manufacturing Corporation, 14615 N.E. 91st Street, Redmond, Washington 98052, effective October 3, 1975. (It supersedes Approval No. 160.064/967/0 dated July 16, 1975 to show new Model No.)

Approval No. 160.064/968/0, child medium, Model No. 200-CM, vinyl dipped unicellular plastic foam "Sail and Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 242, Type III PFD, manufactured by Texas Recreation Corporation, Texas Watercrafters Division, 912 N. Beverly Drive, Wichita Falls, Texas 76307, for Rand Manufacturing Corporation, 14615 N.E. 91st Street, Redmond, Washington 98052, effective October 3, 1975. (It supersedes Approval No. 160.064/968/0 dated July 16, 1975 to show new Model No.)

Approval No. 160.064/969/0, adult, Model No. 200-S, vinyl dipped unicellular plastic foam "Sail and Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 242, Type III PFD, manufactured by Texas Recreation Corporation, Texas Watercrafters Division, 912 N. Beverly Drive, Wichita Falls, Texas 76307, for Rand Manufacturing Corporation, 14615 N.E. 91st Street, Redmond, Washington 98052, effective October 3, 1975. (It supersedes Approval No. 160.064/969/0 dated July 16, 1975 to show new Model No.)

Approval No. 160.064/970/0, adult, Model No. 200-M, vinyl dipped unicellular plastic foam "Sail and Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 242, Type III PFD, manufactured by Texas Recreation Corporation, Texas Watercrafters Division, 912 N. Beverly Drive, Wichita Falls, Texas 76307, for Rand Manufacturing Corporation, 14615 N.E. 91st Street, Redmond, Washington 98052, effective October 3, 1975. (It supersedes Approval No. 160.064/970/0 dated July 16, 1975 to show new Model No.)

Approval No. 160.064/971/0, adult, Model No. 200-L, vinyl dipped unicellular plastic foam "Sail and Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 242, Type III PFD, manufactured by Texas Recreation Corporation, Texas Watercrafters Division, 912 N. Beverly Drive, Wichita Falls, Texas 76307, for Rand Manufacturing Corporation, 14615 N.E. 91st Street, Redmond, Washington 98052, effective October 3, 1975. (It supersedes Approval No. 160.064/971/0 dated July 16, 1975 to show new Model No.)

Approval No. 160.064/972/0, adult Model No. 200-XL, vinyl dipped unicellular plastic foam "Sail and Ski Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD Report file No. MQ 242, Type III PFD, manufactured by Texas Recreation Corporation, Texas Watercrafters Division, 912 N. Beverly Drive, Wichita Falls, Texas 76307, for Rand Manufacturing Corporation, 14615 N.E. 91st Street, Redmond, Washington 98052, effective October 3, 1975. (It supersedes Approval No. 160.064/972/0 dated July 16, 1975 to show new Model No.)

Approval No. 160.064/973/0, child small, Model No. 205, cloth covered unicellular plastic foam "Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1924-34 N. Washtenaw Avenue, Chicago, Illinois 60647, effective October 23, 1975.

Approval No. 160.064/974/0, child medium, Model No. 205, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1924-34 N. Washtenaw Avenue, Chicago, Illinois 60647, effective October 23, 1975.

Approval No. 160.064/975/0, adult, Model No. 205, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1924-34 N. Washtenaw Avenue, Chicago, Illinois 60647, effective October 23, 1975.

Approval No. 160.064/976/0, adult, Model No. 205, cloth covered unicellular plastic "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 38, factory location: 308 S. William Street, Hazlehurst, Georgia 31539, Type III PFD, manufactured by Ero Industries, Inc., 1924-34 N. Washtenaw Avenue, Chicago, Illinois 60647, effective October 23, 1975.

SAFETY VALVES (POWERBOILERS)

Approval No. 162.001/262/0, Type 1910 GC consolidated safety relief valve, dwg. 1900 G, approved for 300-lb. ASA pressure temperature ratings with a maximum temperature of 450° F., manufactured by DRESSER, Industrial Valve & Instrument Division, P.O. Box 1430, Alexandria, Louisiana 71301, effective October 21, 1975. (It is an extension of Approval No. 162.001/262/0 dated November 3, 1970.)

Approval No. 162.001/286/0, Style HNP-MS-35-6 drum pilot safety valve, carbon steel body, maximum pressure of 900 p.s.i., maximum temperature 650° F., dwg. No. D-40015-2, approved for sizes 1½" and 2", drawing revised to show change in material specifications, manufactured by Crosby Valve & Gage Company, Wrentham, Massachusetts 02093, effective October 21, 1975. (It is an extension of Approval No. 162.001/286/0 dated November 16, 1970.)

SAFETY RELIEF VALVES, LIQUEFIED COMPRESSED GAS

Approval No. 162.018/32/2, Style JO-25 safety relief valve for liquefied petroleum gas and anhydrous ammonia service, full nozzle type metal to metal seat, 150 p.s.i. primary service pressure rating, approved for inlet diameters of 1 inch through 6 inches for a maximum set pressure of 300 p.s.i.g., drawing revised to show change in material specification, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective October 21, 1975. (It is an extension of Approval No. 162.018/32/2 dated November 18, 1970.)

Approval No. 162.018/59/0, Crosby style JB-25 safety relief valve for liquefied compressed gas service, approved for inlet diameters of 1½ inch through 6 inches for a maximum set pressure of 165 p.s.i. for orifices F, G, H, J, K, L, M, N, P, and Q, and a maximum set pressure of 100 p.s.i. for orifice R, with a maximum temperature of 450° F., drawing revised to show change in material specifications, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective October 21, 1975. (It is an extension of Approval No. 162.018/59/0 dated November 18, 1970.)

Approval No. 162.018/60/0, Crosby style JB-25-3 safety relief valve for liquefied compressed gas service, approved for inlet diameters of 1½ inch through 6 inches inclusive, for a maximum set pressure of 275 p.s.i. for orifices F, G, H, J, K, L, M, N, and P; 165 p.s.i. for orifice Q; and 100 p.s.i. for orifice R, with a maximum temperature of 450° F., drawing revised to show change in material specifications, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective October 21, 1975. (It is an extension of Approval No. 162.018/60/0 dated November 18, 1970.)

Approval No. 162.018/61/0, Crosby style JB-26 safety relief valve for liquefied compressed gas service, approved for inlet diameters of 1½ inch through 6 inches inclusive, for a maximum set pressure if 92 p.s.i., with a maximum temperature of 800° F., drawing

revised to show change in material specifications, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective October 21, 1975. (It is an extension of Approval No. 162.018/61/0 dated November 18, 1970.)

Approval No. 162.018/62/0, Crosby style JB–26–3 safety relief valve for compressed gas service, approved for inlet diameters of 1½ inch through 6 inches for a maximum set pressure of 275 p.s.i. for orifices F, G, H, J, K, L, M, N, and P; 165 p.s.i. for orifice Q; and 100 p.s.i. for orifice R, with a maximum temperature of 800° F., drawing revised to show change in material specification, manufactured by Crosby Valve and Gage Company, Wrentham, Massachusetts 02093, effective October 21, 1975. (It is an extension of Approval No. 162.018/62/0 dated November 18, 1970.)

HALON 1301 FIXED FIRE EXTINGUISHING SYSTEM

Approval No. 162.029/7/0, Halex 1301 Model 8.5, pre-engineered Halon 1301 marine type extinguishing system unit type, identical to that described in Underwriters Laboratories, Inc. report file EX2988 dated September 29, 1975, approved for use on recreational boats and certain other uninspected vessels, manufactured by Norris Industries, Fire and Safety Equipment Division, P.O. Box 2750, Newark, New Jersey 07114, effective October 20, 1975.

Approval No. 162.029/8/0, Halex 1301 Model 17, pre-engineered Halon 1301 marine type extinguishing system unit type, identical to that described in Underwriters Laboratories, Inc. report file EX2988 dated September 29, 1975, approved for use on recreational boats and certain other uninspected vessels, manufactured by Norris Industries, Fire and Safety Equipment Division, P.O. Box 2750, Newark, New Jersey 07114, effective October 20, 1975.

Approval No. 162.029/9/0, Halex 1301 Model 25, pre-engineered Halon 1301 marine type extinguishing system unit type, identical to that described in Underwriters Laboratories, Inc. report file EX2988 dated September 29, 1975, approved for use on recreational boats and certain other uninspected vessels, manufactured by Norris Industries, Fire and Safety Equipment Division, P.O. Box 2750, Newark, New Jersey 07114, effective October 20, 1975.

Approval No. 162.029/10/0, Halex 1301 Model 33, pre-engineered Halon 1301 marine type extinguishing system unit type, identical to that described in Underwriters Laboratories, Inc. report file EX2988 dated September 29, 1975, approved for use on recreational boats and certain other uninspected vessels, manufactured by Norris Industries, Fire and Safety Equipment Division, P.O. Box 2750, Newark, New Jersey 07114, effective October 20, 1975.

BACKFIRE FLAME CONTROL, GASOLINE ENGINES; FLAME ARRESTERS; FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 162.041/190/1, Barbron all brass flame arresters, Model No. suffixed by "B" Barbron all aluminum flame arresters, Model No. suffixed by "AA" Model No. indicates units size: first two digits indicate units diameter 57=5.7"): second two digits indicate element height (15=1.5") last two digits are base code,

| | | | |
|---|---|---|---|
| 571501 | 572020 | 571518 | 572018 |
| 571519 | 571520 | 575001 | 572001 |
| 572520 | 571721 | 573001 | 571003 |
| 573003 | 572002 | 572201 | 572501 |
| 572003 | 571503 | 571504 | 575003 |
| 571004 | 571204 | 571304 | 572007 |
| 572004 | 572005 | 572006 | 571507 |
| 572010 | 572008 | 571509 | 572009 |
| 571510 | 571212 | 575010 | 572011 |
| 572012 | 571112 | 571213 | 571512 |
| 571513 | 572013 | 571113 | 571517 |
| 572014 | 572015 | 571516 | 571317 |

the majority of these models were previously approved units, due to their similarities these units are grouped together to eliminate the long list of approval numbers which now exist for Barbron Corporation, Note: last two digits of drawing No. indicate particular base, manufactured by Barbron Corporation, 14580 Lesure Avenue, Detroit, Michigan 48227, effective October 2, 1975. (It supersedes Approval No. 162.041/190/0 dated August 25, 1975.)

BULKHEAD PANELS FOR MERCHANT VESSELS

Approval No. 164.008/73/0, "Asahi Marilite P" inorganic composition board type bulkhead panel identical to that described in Underwriters Laboratories, Inc. report R7709–1(75NK3921) dated September 24, 1975, approved as meeting Class B–15 requirements in a 19mm thickness, may not be used as a component in A–60 construction, dwg. forms a part of this approval, manufactured by Asahi Asbestos Company, Ltd., 10–6, 7-Chome, Ginza, Chuo-Ku, Tokyo 104, Japan, effective October 21, 1975.

Approval No. 164.008/83/0, Frigitemp Marine "FMD Lining System Panel" marine bulkhead lining system identical to that described in Underwriters Laboratories, Inc. test report R7749–1-(75NK5918) dated August 18, 1975, and Frigitemp letter of October 7, 1975, and as shown on Frigitemp's drawing BHD-STD–1, Rev. A approved as meeting Class B–15 requirements, may not be used as component in a Class A–60 configuration, plants located at: Plant #1, Bronx, New York; Plant #2, Woodridge, New Jersey; Plant #3, Gulfport, Mississippi; FMD Compton, Compton, California, manufactured by Frigitemp Marine, 585 Washington Street, New York, New York 10014, effective October 20, 1975.

Dated: December 4, 1975.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.*

[FR Doc.75-33332 Filed 12-10-75;8:45 am]

## Office of Hazardous Materials Operations

## HAZARDOUS MATERIALS REGULATIONS EXEMPTIONS

### Notice of Grants and Denials of Applications

In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted or denied from October 24, 1975 through November 21, 1975. The modes of transportation involved are identified by a number in the "Nature of Exemption or Denial Thereof" portion of the table below as follows: 1—Motor Vehicle, 2—Rail Freight, 3—Cargo Vessel, 4—Cargo Aircraft, 5—Passenger Carrying Aircraft.

Application numbers prefixed by the letters AK represent applications received in the State of Alaska, and those prefixed by the letters EE represent applications for emergency exemptions.

*Grants and denials*

| Application No. | Exemption No. | Applicant | Regulation(s) affected | Nature of exemption or denial thereof |
|---|---|---|---|---|
| AK75-63 | DOT E7119 | Spernak Airways, Inc., Anchorage, Alaska. | 14 CFR 103.19 and 103.31. | To transport compressed gases to remote sites where no other practical means of transportation is available. Expires Oct. 25, 1975. (Mode 4.) |
| AK75-64 | DOT E7120 | Alyeska Air Service, Anchorage, Alaska. | 14 CFR 103.9 and 103.33. | To transport flammable liquids in quantities in excess of those specified in the regulations to remote sites in Alaska. Expires Nov. 27, 1975. (Mode 4.) |
| AK75-65 | DOT E7121 | do | 14 CFR 103.19 and 103.31. | To transport flammable liquids, corrosive materials, compressed gases, and explosives in single pilot operation. Expires Jan. 15, 1976. (Mode 4.) |
| AK75-66 | DOT E7122 | Muna Northern Airlines, Inc., Nome, Alaska. | 14 CFR 103.9 | To transport flammable liquids in quantities in excess of those specified in the regulations to remote sites in Alaska. Expires Nov. 27, 1975. (Mode 4.) |
| AK75-67 | DOT E7123 | do | 14 CFR 103.31 and 103.19. | To transport flammable liquids, corrosive material, compressed gases, and explosives in single pilot operation. Expires Jan. 15, 1976. (Mode 4.) |
| AK75-68 | DOT E7124 | Frontier Flying Service, Inc., Fairbanks, Alaska. | 14 CFR 103.9 | To transport flammable liquids in quantities in excess of those specified in the regulations to remote sites in Alaska. Expires Nov. 27, 1975. (Mode 4.) |

*Grants and denials*—Continued

| Application No. | Exemption No. | Applicant | Regulation(s) affected | Nature of exemption or denial thereof |
|---|---|---|---|---|
| AK75-69 | DOT E7125 | do | 14 CFR 103.31 and 103.19. | To transport flammable liquids, corrosive materials, compressed gases, and explosives in single pilot operation. Expires Jan. 15, 1976. (Mode 4.) |
| AK75-70 | DOT E7126 | Fairbanks Air Service, Anchorage, Alaska. | 14 CFR 103.9 | To transport explosives in quantities in excess of those specified in the regulations to remote sites in Alaska. Expires Nov. 1, 1975. (Mode 4.) |
| AK75-71 | DOT E7127 | Winship Air Service, Anchorage, Alaska. | 14 CFR 103.9 and 103.33. | To transport flammable liquids in quantities in excess of those specified in the regulations without overpacking. Expires Nov. 29, 1975. (Mode 4.) |
| AK75-72 | DOT E7128 | do | 14 CFR 103.19 and 103.31. | To transport flammable liquids, corrosive materials, compressed gases, and explosives in single pilot operation. Expires Jan. 15, 1976. (Mode 4.) |
| AK75-73 | DOT E7129 | Sea Airmotive, Inc., Anchorage, Alaska. | do | Do. |
| AK75-74 | DOT E7130 | do | 14 CFR 103.9 | To transport flammable liquids in quantities in excess of those specified in the regulations to remote sites in Alaska. Expires Nov. 30, 1975. (Mode 4.) |
| AK75-75 | DOT E7131 | Fairbanks Air Service, Inc., Anchorage, Alaska. | do | To transport explosives in quantities in excess of those specified in the regulations to remote sites in Alaska. Expires Dec. 1, 1975. (Mode 4.) |
| AK75-76 | Denied | do | 14 CFR 103.33 and 103.19. | To transport flammable liquids without overpack in single pilot operation. Denied because supporting data as required by 49 CFR 107.103 was omitted or incomplete. Denied Oct. 31, 1975. (Mode 4.) |
| AK75-77 | DOT E7132 | Spernak Airways, Inc., Anchorage, Alaska. | 14 CFR 103.19 and 103.31. | To transport flammable liquids, corrosive materials, compressed gases, and explosives in single pilot operation. Expires Jan. 15, 1976. (Mode 4.) |
| AK75-78 | DOT E7133 | Sea Airmotive, Inc., Anchorage, Alaska. | 14 CFR 103.9 | To transport explosives in quantities in excess of those specified in the regulations to remote sites in Alaska. Expires Dec. 3, 1975. (Mode 4.) |
| AK75-79 | DOT E7134 | Anchorage Helicopter Service, Inc., Anchorage, Alaska. | do | Do. |
| AK75-80 | DOT E7135 | Alaska International Air, Inc., Fairbanks, Alaska. | do | To transport flammable liquids in quantities in excess of those specified in the regulations to remote sites in Alaska. Expires Dec. 4, 1975. (Mode 4.) |
| AK75-81 | DOT E7136 | Maxson Aviation, Kotzebue, Alaska. | do | To transport flammable liquids in quantities in excess of those specified in the regulations to remote sites in Alaska. Expires Dec. 5, 1975. (Mode 4.) |
| AK75-82 | DOT E7137 | do | do | To transport explosives in quantities in excess of those specified in the regulations to remote sites in Alaska. Expires Dec. 5, 1975. (Mode 4.) |
| AK75-83 | DOT E7138 | do | 14 CFR 103.19 and 103.31. | To transport flammable liquids, corrosive materials, compressed gases, and explosives in single pilot operation. Expires Jan. 15, 1976. (Mode 4.) |
| AK75-84 | DOT E7139 | Pacific Alaska Airlines, Fairbanks, Alaska. | 14 CFR 103.9 | To transport flammable liquids in quantities in excess of those specified in the regulations. Expires Nov. 7, 1975. (Mode 4.) |
| AK75-85 | DOT E7140 | Mr. M. O. Ehredt, Barrow, Alaska. | 14 CFR 103.9 and 103.33. | To transport flammable liquids in quantities in excess of those specified in the regulations without overpacking. Expires Dec. 5, 1975. (Mode 4.) |
| AK75-86 | DOT E7141 | do | 14 CFR 103.19 and 103.31. | To transport flammable liquids, corrosive materials, compressed gases, and explosives in single pilot operation. Expires Jan. 15, 1976. (Mode 4.) |
| AK75-87 | DOT E7142 | FELAIR, Inc., Barrow, Alaska. | 14 CFR 103.9 and 103.33. | To transport flammable liquids in quantities in excess of those specified in the regulations without overpacking. Expires Dec. 5, 1975. (Mode 4.) |
| AK75-88 | DOT E7143 | do | 14 CFR 103.19 and 103.31. | To transport flammable liquids, corrosive materials, compressed gases, and explosives in single pilot operation. Expires Jan. 15, 1976. (Mode 4.) |
| AK75-89 | DOT E7144 | SKS Outfitters, Anchorage, Alaska. | 14 CFR 103.9 and 103.33. | To transport flammable liquids in quantities in excess of those specified in the regulations without overpacking. Expires Dec. 6, 1975. (Mode 4.) |
| AK75-90 | DOT E7145 | do | 14 CFR 103.19 and 103.31. | To transport flammable liquids, corrosive materials, compressed gases, and explosives in single pilot operation. Expires Jan. 15, 1976. (Mode 4.) |

*Grants and denials*—Continued

| Application No. | Exemption No. | Applicant | Regulation(s) affected | Nature of exemption or denial thereof |
|---|---|---|---|---|
| AK75-91 | DOT E7146 | Reeve Aleutian Airways, Inc., Anchorage, Alaska. | 14 CFR 103.9 | To transport flammable liquids in quantities in excess of those specified in the regulations to remote sites in Alaska. Expires Dec. 6, 1975. (Mode 4.) |
| AK75-92 | DOT E7147 | do | do | Do. |
| AK75-93 | DOT E7148 | Mr. A. Dean Carroll, Anchorage, Alaska. | 14 CFR 103.3 and 103.33. | To transport flammable liquids in quantities in excess of those specified in the regulations without overpacking. Expires Dec. 7, 1975. (Mode 4.) |
| AK75-94 | DOT E7149 | do | 14 CFR 103.19 and 103.31. | To transport flammable liquids, corrosive materials, compressed gases, and explosives in single pilot operation. Expires Jan. 15, 1976. (Mode 4.) |
| AK75-95 | DOT E7150 | Nenana Fuel Co., Nenana, Alaska. | 14 CFR 103.9 | To transport flammable liquid in quantities in excess of those specified in the regulations to remote sites in Alaska. Expires after 1 flight on or about Nov. 6, 1975. (Mode 4.) |
| AK75-96 | DOT E7151 | Northern Air Cargo, Anchorage, Alaska. | do | To transport flammable liquid in quantities in excess of those specified in the regulations to remote sites in Alaska. Expires Dec. 11, 1975. (Mode 4.) |
| AK75-97 | DOT E7152 | Civil Air Patrol, Anchorage, Alaska. | 14 CFR 103.19 and 103.31. | To transport flammable liquids in single pilot operation. Expires Jan. 15, 1976. (Mode 5.) |
| AK75-98 | DOT E7153 | do | 14 CFR 103.9 and 103.33. | To transport flammable liquids in quantities in excess of those specified in the regulations without overpacking. Expires Jan. 15, 1976. (Mode 4.) |
| AK75-99 | DOT E7154 | Fairbanks Flight Services, Inc., Fairbanks, Alaska. | 14 CFR 103.19 and 103.31. | To transport flammable liquids, corrosive materials, compressed gases, and explosives in single pilot operation. Expires Jan. 15, 1976. (Mode 4.) |
| AK75-100 | DOT E7155 | do | 14 CFR 103.9 and 103.33. | To transport flammable liquids in quantities in excess of those specified in the regulations without overpacking. Expires Dec. 11, 1975. (Mode 4.) |
| AK75-101 | DOT E7156 | Alaska International Airlines, Inc., Fairbanks, Alaska. | 14 CFR 103.9 | To transport flammable compressed gas in quantities in excess of those specified in the regulations to the Alaska oil pipeline. Expires after 1 flight on or about Nov. 12, 1975. (Mode 4.) |
| AK75-102 | DOT E7157 | Santa Fe Air Service, Hooper Bay, Alaska. | 14 CFR 103.9 and 103.33. | To transport flammable liquids in quantities in excess of those specified in the regulations without overpack. Expires Dec. 13, 1975. (Mode 4). |
| AK75-103 | DOT E7158 | do | 14 CFR 103.19 and 103.31. | To transport flammable liquids, corrosive materials, compressed gases, and explosives in single pilot operation. Expires Jan. 15, 1976. (Mode 4.) |

*Emergency applications for exemptions*

| Application No. | Exemption No. | Applicant | Regulation(s) affected | Nature of exemption or denial thereof |
|---|---|---|---|---|
| EE75-104 | Denied | Hooker Chemical & Plastics Corp., Niagara Falls, N.Y. | 49 CFR 173.188 | To allow the transportation of phosphoric anhydride, a flammable solid, in foreign manufactured drums comparable to the DOT specification 37A drum. Denied on the basis of insufficient justification of emergency conditions. Denied Nov. 14, 1975. (Mode 1.) |
| EE75-105 | DOT E7069 | Deutsche Lufthansa, National Aeronautics and Space Administration, and Kuehne Nagel, Inc. | 14 CFR 103.9 | To transport two rocket motors, class B explosives, in quantities in excess of those specified in the regulations. Serious economic loss was basis of grant. Granted Nov. 14, 1975. (Mode 4.) |
| EE75-106 | Denied | FMC Corp., Philadelphia, Pa. | 49 CFR 107.109 | To renew special permit 5876 on emergency basis. Denied because of insufficient justification of emergency based on serious economic loss. Denied Nov. 17, 1975. (Modes 1, 2, and 3.) |
| EE75-107 | DOT E7074 | Allied Chemical Co., Morristown, N.J. | 49 CFR 173.273 | To allow the transportation of sulphur trioxide, stabilized, in a storage tank packed in dry ice. Granted due to potential danger to life at Hopewell, Va., if tank not moved from contaminated plant site. Granted Nov. 21, 1975. (Mode 1.) |

J. R. GROTHE,
*Chief, Exemptions Branch, Office of Hazardous Materials Operations.*

[FR Doc.75-33127 Filed 12-10-75;8:45 am]

## National Highway Traffic Safety Administration

### SAFETY-RELATED DEFECT PROCEEDING

### Denial of Petition Concerning Dodge Truck Wheel Nuts

This notice sets forth the reasons for denial of a petition by Mr. William J. Pierce to commence a defects investigation proceeding under authority of the National Traffic and Motor Vehicle Safety Act.

This notice is published in accordance with section 124 of the Act, 15 U.S.C. 1410a, which provides that the National Highway Traffic Safety Administration must grant or deny petitions within 120 days, and "If the Secretary denies such petition he shall publish in the FEDERAL REGISTER his reasons for such denial."

In his petition Mr. Pierce sought a proceeding to determine whether 1974 Dodge trucks were unsafe because the vehicles were manufactured with right-hand threaded wheel lugs and nuts. Mr. Pierce alleged that this design allows the lug nuts on a left-side wheel to loosen under normal usage, and that this leads to the loss of the wheel. A 1974 Dodge truck, owned by Mr. Pierce, nearly lost its left rear wheel when all of its wheel nuts came off.

Mr. Pierce's petition was denied because of the lack of evidence indicating that Dodge's use of right-hand threaded wheel lugs and nuts was a defect. The presence of right-hand threaded wheel lugs and nuts on Mr. Pierce's truck does not appear to have been the cause of the loss of the wheel nuts on the truck. The NHTSA has found that a more likely reason for the loss was the use of coned lug nuts rather than the flanged type recommended by Dodge, when Mr. Pierce had his truck, originally equipped with single rear wheels, modified to have dual rear wheels. A comprehensive records check by this agency did not reveal any other complaints of a similar nature among owners of 1971–1975 Dodge trucks

(Sec. 103, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392); Sec. 106, Pub. L. 93-492, 88 Stat. 1482 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8).

Issued on December 5, 1975.

ROBERT L. CARTER,
*Associate Administrator, Motor Vehicle Programs.*

[FR Doc.75-33307 Filed 12-10-75;8:45 am]

## AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

### AUDIO-VISUAL PRODUCTION

### "Count Me In"

Notice is hereby given that the American Revolution Bicentennial Administration (ARBA) has a 45-minute, sound and color audio-visual, multi-media production entitled "COUNT ME IN," available for promotion and exhibition in secondary schools throughout the Nation on a non-exclusive basis. This original multi-media stage show was developed under contract by the ARBA as a Bicentennial assembly program in secondary schools. The production includes film, music,

props, live performances and audience participation and is intended to stimulate awareness of the Bicentennial among high school students and to encourage their involvement in local Bicentennial activities. Interested organizations will be required to provide assurance of their professional and financial capability to stage the production including actual performances in a secondary school and other requirements as may be deemed necessary. The ARBA may include such terms and conditions as it deems appropriate in connection with any authorization for the presentation of the "COUNT ME IN" production. Inquiries should be directed in writing to the ARBA, 2401 E Street NW., Washington, D.C. 20276, Attention: William P. Butler, and postmarked no later than January 12, 1976.

JOHN W. WARNER,
*Administrator.*

DECEMBER 5, 1975.

[FR Doc.75-33324 Filed 12-10-75;8:45 am]

## CIVIL AERONAUTICS BOARD

### COMMUTER AIRLINE ASSOCIATION OF AMERICA

#### Notice of Meeting

Notice is hereby given that a presentation will be made by the Commuter Airline Association of America on December 19, 1975, at 2:30 p.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., concerning the problems and opportunities facing the commuter airline industry.

Dated at Washington, D.C., December 5, 1975.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.75-33404 Filed 12-10-75;8:45 am]

[Docket Nos. 25953, 22322]

### FEDERAL EXPRESS CORPORATION ET AL.

#### Notice of Prehearing Conference

In the matter of Federal Express Corporation and General Dynamics Corporation, control relationship, Docket 25953; and Lester Crown and Trans World Airlines, Inc. interlocking relationships, Docket 22322.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on January 22, 1976, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before Administrative Law Judge Frank M. Whiting.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before January 6, 1976, and the other parties on or before January 14, 1976. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., December 5, 1975.

[SEAL] ROBERT L. PARK,
*Chief Administrative Law Judge.*

[FR Doc.75-33405 Filed 12-10-75;8:45 am]

## CIVIL SERVICE COMMISSION

### FEDERAL EMPLOYEES PAY COUNCIL

#### 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 10:00 a.m. on Wednesday, December 31, 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, which are defined in section 5301 of title 5, United States Code.

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.75-33390 Filed 12-10-75;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-467-6]

### APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

#### Notice of Public Hearings

On October 31, 1975 (40 FR 40103) the Administrator of the United States Environmental Protection Agency published his proposed approval of numerous alternative and additional federal compliance schedules for stationary sources subject to the terms of 40 CFR 52.1594, 52.1595 and 52.1598. These regulations deal, respectively, with the storage of volatile organic liquids, organic liquid loading and gasoline transfer vapor control.

As provided in the publication of the Administrator's proposed approval, public hearings have been scheduled in order to afford the general public an opportunity to participate in this rulemaking. accordingly, announcement is hereby made of the following public hearings:

Thursday, January 15, 1976, 10:00 a.m.

Room Law Schol 103, Rutgers University, 4th and Penn Streets, Camden, New Jersey 08102.

Friday, January 16, 1976, 10:00 a.m.

Room 312, Institute Center, New Jersey Institute of Technology, 323 High Street, Newark, New Jersey 07102.

Any member of the general public may submit written comments concerning the compliance schedules before, during or immediately after the hearings. Comments may be mailed to Walter E. Mugdan, Legal Advisor, General Enforcement, Branch, Enforcement Division, U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007.

Copies of the compliance schedules proposed to be approved, along with copies of the New Jersey State Implementation Plan of which they are a part, are available for public inspection at the following locations:

United States Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10007.

United States Environmental Protection Agency, Division of Stationary Source Enforcement, 401 M Street SW., Washington, D.C. 20460.

Dated: December 5, 1975.

HERBERT BARRACK,
*Acting Regional Administrator, U.S. Environmental Protection Agency.*

[FR Doc.75-33284 Filed 12-10-75;8:45 am]

[OPP-240003; FRL 467-8]

### STATES OF LOUISIANA, IDAHO, AND TENNESSEE

#### Approval of Requests for Interim Certification To Register Pesticides To Meet "Special Local Needs"

On July 3, 1975, final regulations for the registration, reregistration, and classification of pesticides pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), were published in the FEDERAL REGISTER (40 FR 28241). These regulations became effective August 4, 1975. Since that date, States have been prohibited from issuing new registrations for pesticide products or uses of pesticide products which are not registered by the Environmental Protection Agency (EPA), except pursuant to certification from the Administrator in accordance with section 24(c) of FIFRA.

On September 3, 1975, proposed regulations for State Registration of Pesticides to Meet Special Local Needs under section 24(c), FIFRA, were published in the FEDERAL REGISTER (40 FR 40538). Since it did not prove possible to pro-

mulgate final section 24(c) regulations prior to the effective date of the FIFRA section 3 regulations, some interruption in the authority of States to register pesticides has occurred. In order to prevent further disruption of State registration programs (particularly in relation to minor uses), a procedure has been established by which States may request interim certification to register pesticides to meet special local needs until such time as the final section 24(c) regulations are promulgated. If such a request is granted, a State may register pesticides subject to the terms of the certification and other limitations set out in the Preamble to the proposed regulations. Interim certification will expire if the State has not submitted a plan pursuant to the final section 24(c) regulations within 60 days after the effective date of these regulations, or, if such a plan is submitted and it is disapproved by the Administrator, on the effective date of the Administrator's disapproval.

A state may request interim certification to register pesticides to meet special local needs at any time by having the Governor or Chief Executive Officer or their designee submit a request in writing to the Administrator. The request shall satisfy the requirements set out in the FEDERAL REGISTER announcement of the Interim Certification program (40 FR 40542), and the statutory standard set forth in section 24(c) of FIFRA.

The FEDERAL REGISTER announcement of the Interim Certification program provides that the Administrator shall notify the State of his approval or denial of a request for Interim Certification and publish notice of approval or denial in the FEDERAL REGISTER. The announcement further states that since the Agency expects Interim Certification to be of limited duration, it will not solicit public comment with respect to requests for Interim Certification. Adequate opportunity for public comment on State plans submitted pursuant to final section 24(c) regulations is provided for in proposed § 162.158(c).

The Agency has received Requests for Interim Certification to register pesticides to meet special local needs (Request(s)) from the States of Louisiana, Idaho, and Tennessee. After reviewing the Requests, the Agency found that they satisfy the requirements set forth in the FEDERAL REGISTER announcement, and that they demonstrate that each of the States is capable of exercising adequate controls to assure that special local needs registrations it issues pursuant to Interim Certification will be in accord with the purposes of FIFRA.

Accordingly, notice is hereby given that the EPA has approved Requests for Interim Certification from the States of Louisiana, Idaho, and Tennessee as described below, subject to the terms set forth in the FEDERAL REGISTER document of September 3, 1975.

### LOUISIANA, IDAHO AND TENNESSEE

The Louisiana, Idaho, and Tennessee Requests for Interim Certification sought authority to register "new products", as that term is defined in § 162.152(g) of the proposed regulations, to amend EPA registrations which involve "changed use patterns", as that term is defined in § 162.152(c), and to amend EPA registrations which do not involve changed use patterns. The Agency has found that the specific requirements of the Interim Certification program are satisfied in the Requests. Procedures for product hazard review and efficacy determination are part of the States' registration programs; these procedures are adequate to assure that special local needs registrations issued by these States will be in accord with the purposes of FIFRA. The State agencies which have been designated responsible for issuance of such registrations are, respectively, the Louisiana Department of Agriculture, the Idaho Department of Agriculture, and the Tennessee Department of Agriculture. These agencies were notified on December 3, 1975, that their Requests had been approved.

Copies of the Louisiana, Idaho, and Tennessee Requests for Interim Certification, along with letters reflecting the Agency's decision to approve the Requests, are available for public inspection at the following locations:

Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M St. SW., Washington, D.C. 20460.

Pesticide Branch, Hazardous Materials Control Division, EPA, 1600 Patterson Street, Suite 1100, Dallas, Texas 75201. (*Louisiana Request only*).

Pesticide Branch, Hazardous Materials Control Division, EPA, 1200 6th Avenue, Seattle, Washington 98101. (*Idaho Request only*).

Pesticide Branch, Hazardous Materials Control Division, EPA, 1421 Peachtree Street, N.E., Room 112, Atlanta, Georgia 30309. (*Tennessee Request only*).

Dated: December 4, 1975.

EDWIN L. JOHNSON,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.75-33419 Filed 12-10-75;8:45 am]

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[OPP-42010; FRL 467-7]

## STATE OF OREGON

### Submission of State Plan; Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), and 40 CFR Part 171 [39 FR 36446 (October 9, 1974) and 40 FR 11698 (March 12, 1975)], the Honorable Robert W. Straub, Governor of the State of Oregon, has submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval. Notice is hereby given of the intention of the Regional Administrator, EPA, Region X, to approve this plan on a contingency basis, pending promulgation of implementing regulations.

A summary of this plan follows. The entire plan, together with all attached appendices, may be examined during normal business hours at the following locations:

Oregon State Department of Agriculture, 635 Capitol St. NE., Salem, Oregon 97310.

Room 11C of the Park Place Building, 1200 Sixth Avenue, Pesticides Branch, Air & Hazardous Materials Division, Seattle, Washington 98101.

Room 401, East Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460 (Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs).

### SUMMARY OF OREGON STATE PLAN

The Oregon State Department of Agriculture has been designated as the State lead agency for the administration of the pesticide applicator certification program with the Pesticide Branch of the Plant Division responsible for the program's implementation. This includes coordinating a notification effort for prospective restricted use pesticide applicators, licensing of pesticide dealers and pest control consultants, enforcement activities and the coordination of field, laboratory, and office activities relating to pesticide regulation.

The cooperating agencies are Oregon State University (OSU) Cooperative Extension Service and the Department of Environmental Quality (DEQ). Personnel from the Extension Service have overall responsibility for the statewide pesticide applicator certification training program, including preparing training materials and conducting the training courses. DEQ has authority over disposal of pesticides and empty pesticide containers.

Legal authority for the program is contained in the following statutes and regulations: Oregon Revised Statutes (ORS), Chapters 634, 561 and 183 and Oregon Administrative Rules (OAR), chapter 603-57-(005-075, 110 (part I), 205 and 210) and proposed regulations thereto.

The plan indicates that the State lead agency and the cooperative agency have or will have sufficient qualified personnel and funds necessary to carry out the proposed programs. The funding in support of this program for the fiscal year 1976 is approximately $191,250.00, of which $97,000.00 is Federal funds.

The State estimates that 3,521 commercial applicators and 20,000 private applicators will need to be certified. Wallet size identification certificates containing all necessary information will be furnished to all applicators, and presented to dealers at the time of restricted use pesticide purchase.

The State lead agency will submit an annual report to EPA by April 30 of each year to cover the previous year's activities. Additional reports pertaining to specific needs will also be submitted as requested by EPA.

The commercial applicator categories proposed are those which are listed in 40 CFR 171.3. No new categories are

proposed. Several new subcategories are proposed for the following categories:

(1) Agricultural Pest Control:
  (a) Insecticide and Fungicide.
  (b) Herbicide.
  (c) Soil Fumigation.
  (d) Livestock Pest Control.
(3) Ornamental and Turf Pest Control:
  (a) Insecticide and Fungicide.
  (b) Herbicide.
(7) Industrial, Institutional, Structural and Health Related Pest Control:
  (a) PCO General.
  (b) PCO Structural Destroying Pests.
  (c) Grain Fumigation.
(9) Regulatory Pest Control:
  (a) Predator Control.

Since Oregon has been testing commercial pesticide applicators for thirteen years, the Department of Agriculture is requesting that persons presently holding commercial applicator licenses be certified on the basis of the examinations they originally took. However, they will be required to take an examination on applicable laws and regulations. It is Oregon's contention that the original examinations and the to-be-administered examination on laws and regulations meet the Federal standards (40 CFR 171.4(b) and (c) and 171.6).

Training for commercial applicators will consist of short courses conducted annually by the Cooperative Extension Service. In addition, refresher courses will be held throughout the State.

Performance testing will be required in the subcategory of predator control. A field training course covering safe use of the M–44 will be given.

The States of Oregon, Idaho and Washington have entered into agreement for reciprocal certification of commercial pesticide applicators. Persons who have been examined (starting in the fall of 1975) and who have received certification in one state may make application for certification in the other states without further examination. Information about the training courses and examination schedules may be obtained from the county agent (State Cooperative Extension Service) or by contacting the Senate Department of Agriculture, Pesticide Branch in Salem, Oregon (tel. 503–378–3776.).

Private applicators will be certified for the use of restricted use pesticides under one of the following procedures:

(1) For full certification the applicant must pass a written examination which will be based on information prepared by OSU and the EPA core manual. An examination will be given following completion of short courses offered by OSU Extension Service. These training short courses will be conducted and repeated in each county during the winters of 1975–1976 and 1976–1977 by County Extension Agents. Prior to the training courses, the participants will receive 100 study questions. They will be asked to complete the questions and bring them to the course. During the meeting the questions will be discussed. After the training period is over the participants will complete an examination of 30 questions selected from the 100 previously studied. Home study of the various written materials (available at county agent offices) followed by individual examinations at Oregon Department of Agriculture branch offices will be an alternative for those unable to attend the training course.

(2) Limited certification will be issued to persons wishing to be certified only for use of individual products. An "open-label" examination will be given at branch offices of the Oregon Department of Agriculture. Emergency certification will also be handled through the limited certification option.

Oral examinations will be made available on a product-by-product basis by the pesticide branch for private applicators with reading problems.

Training and examinations for the private applicator will cover the Federal standards as listed in 40 CFR 171.5 and 171.6 as well as information reflecting conditions found in Oregon. Oregon's State plan indicates that all commercial certified applicators will be retested at least every five years. Study materials and examinations will be changed and improved as new knowledge becomes available. To encourage participation in special training courses sponsored by the OSU Extension Service, the Oregon Department of Agriculture intends to exempt from retesting those applicators who attend three accredited training sessions within the five-year license period.

Private and commercial applicator certification programs will be made available to pesticide applicators on Indian Reservations in Oregon. Both Umatilla and Warm Springs Reservations have indicated that they will not be developing their own program and will utilize Oregon's. Letters to this effect are included in the plan.

Enforcement of the Oregon certification program will include product sampling and formulation site inspection, damage complaint investigations and pesticide residue surveillance of food products. Alleged misuses will be investigated to determine if legal action should be taken. Utilization of the cooperative enforcement agreement between EPA and the Oregon Department of Agriculture, and interagency cooperation within the State with the Oregon Fish and Wildlife Commission, the Health Division and the Department of Environmental Quality will supplement the Department's formal enforcement activities.

### Public Comments

Interested persons are invited to submit written comments on the proposed State Plan for the State of Oregon to the Chief, Pesticides Branch, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington, 98101. The comments must be received on or before January 12, 1976, and should bear the identifying notation [OPP–42010]. All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 8:30 to 3:30 Monday through Friday.

Dated: November 24, 1975.

L. Edwin Coate,
*Deputy Regional Administrator, U.S. Environmental Protection Agency, Region X.*

[FR Doc.75–33420 Filed 12–10–75;8:45 am]

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[OPP–240002; FRL 467–5]

## STATES OF TEXAS, OREGON, HAWAII, GEORGIA, MAINE, AND VIRGINIA

### Approval of Requests for Interim Certification To Register Pesticides To Meet "Special Local Needs"

On July 3, 1975, final regulations for the registration, reregistration, and classification of pesticides pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), were published in the Federal Register (40 FR 28241). These regulations became effective August 4, 1975. Since that date, States have been prohibited from issuing new registrations for pesticide products or uses of pesticide products which are not registered by the Environmental Protection Agency (EPA), except pursuant to certification from the Administrator in accordance with section 24(c) of FIFRA.

On September 3, 1975, proposed regulations for State Registration of Pesticides to Meet Special Local Needs under section 24(c), FIFRA, were published in the Federal Register (40 FR 40538). Since it did not prove possible to promulgate final section 24(c) regulations prior to the effective date of the FIFRA section 3 regulations, some interruption in the authority of States to register pesticides has occurred. In order to prevent further disruption of State registration programs (particularly in relation to minor uses), a procedure has been established by which States may request interim certification to register pesticides to meet special local needs until such time as the final section 24(c) regulations are promulgated. If such a request is granted, a State may register pesticides subject to the terms of the certification and other limitations set out in the Preamble to the proposed regulations. Interim certification will expire if the State has not submitted a plan pursuant to the final section 24(c) regulations within 60 days after the effective date of these regulations, or, if such a plan is submitted and it is disapproved by the Administrator, on the effective date of the Administrator's disapproval.

A State may request interim certification to register pesticides to meet special local needs at any time by having the Governor or Chief Executive Officer or their designee submit a request in writing to the Administrator. The request shall satisfy the requirements set out in the

FEDERAL REGISTER announcement of the Interim Certification program (40 FR 40542), and the statutory standard set forth in section 24(c) of FIFRA.

The FEDERAL REGISTER announcement of the Interim Certification program provides that the Administrator shall notify the State of his approval or denial of a request for Interim Certification and publish notice of approval or denial in the FEDERAL REGISTER. The announcement further states that since the Agency expects Interim Certification to be of limited duration, it will not solicit public comment with respect to requests for Interim Certification. Adequate opportunity for public comment on State plans submitted pursuant to final section 24(c) regulations is provided for in proposed in section 162.158(c).

The Agency has received Requests for Interim Certification to register pesticides to meet special local needs (Request(s) from the States of Texas, Oregon, Hawaii, Georgia, Maine, and Virginia. After reviewing the Requests, the Agency found that they satisfy the requirements set forth in the FEDERAL REGISTER announcement, and that they demonstrate that each of the States is capable of exercising adequate controls to assure that special local needs registrations it issues pursuant to Interim Certification will be in accord with the purposes of FIFRA.

Accordingly, notice is hereby given that the EPA has approved Requests for Interim Certification from the States of Texas, Oregon, Hawaii, Georgia, Maine, and Virginia as described below, subject to the terms set forth in the FEDERAL REGISTER document of September 3, 1975.

TEXAS, OREGON, HAWAII, AND GEORGIA

The Texas, Oregon, Hawaii, and Georgia Requests for Interim Certification sought authority to register "new products", as that term is defined in Section 162.152(g) of the proposed regulations, to amend EPA registrations which involve "changed use patterns", as that term is defined in Section 162.152(c), and to amend EPA registrations which do not involve changed use patterns. This Agency has found that the specific requirements of the Interim Certification program are satisfied in the Requests. Procedures for product hazard review and efficacy determination are part of the States' registration programs; these procedures are adequate to assure that special local needs registrations issued by these States will be in accord with the purposes of FIFRA. The State agencies which have been designated responsible for issuance of such registrations are, respectively, the Texas Department of Agriculture, the Oregon Department of Agriculture, the Hawaii Department of Agriculture, and the Georgia Department of Agriculture. These agencies were notified on November 20, 1975, that their Requests had been approved.

MAINE AND VIRGINIA

The Maine and Virginia Requests for Interim Certification sought authority to amend EPA registrations which involve changed use patterns, and to amend EPA registrations which do not involve changed use patterns. This Agency has found that the specific requirements of the Interim Certification program are satisfied in these two Requests. Procedures for product hazard review and efficacy determination are part of the States' registration programs; these procedures are adequate to assure that special local needs registrations issued by these States will be in accord with the purposes of FIFRA. The State agencies have been designated responsible for issuance of such registrations are the Maine Department of Agriculture and the Virginia Department of Agriculture and Commerce, respectively. These State agencies were notified on November 20, 1975, that their Requests had been approved.

Copies of the Requests for Interim Certification from Texas, Oregon, Hawaii, Georgia, Maine, and Virginia, along with letters reflecting the Agency's decision to approve the Requests, are available for public inspection at the following locations:

Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street, SW., Washington, D.C. 20460.

Pesticide Branch, Hazardous Materials Control Division, EPA, 1600 Patterson Street, Suite 1100, Dallas, Texas 75201. (*Texas Request only*).

Pesticide Branch, Hazardous Materials Control Division, EPA, 1200 6th Avenue, Seattle, Washington 98101 (*Oregon Request only*).

Pesticide Branch, Hazardous Materials Control Division, EPA, 100 California Street, Room 340, San Francisco, California 94111. (*Hawaii Request only*).

Pesticide Branch, Hazardous Materials Control Division, EPA, 1421 Peachtree Street, NE., Room 112, Atlanta, Georgia 30309. (*Georgia Request only*).

Pesticide Branch, Hazardous Materials Control Division, EPA, John F. Kennedy Federal Bldg., Room 2303, Boston. (*Maine Request only*).

Pesticide Branch, Hazardous Materials Control Division, EPA, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106. (*Virginia Request only*).

Dated: December 4, 1975.

EDWIN L. JOHNSON,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.75-33421 Filed 12-10-75;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[FCC 75-1260; Docket No. 20650, File No. BPH-8843; Docket No. 20651, File No. BPH-8988; Docket No. 20652, File No. BPH-9044; Docket No. 20653, File No. BPH-9175]

### BROADCASTERS AND PUBLISHERS, INC. ET AL.

#### Applications for Construction Permits

1. The Commission has before it the above-captioned applications which are mutually exclusive in that they seek the same FM Chanel in Gulfport, Mississippi.

2. Broadcasters and Publishers, Inc., has failed to indicate when its original community leader interviews were conducted. Thus, the extent of its compliance with the six-month requirement imposed by question and answer 15 of the Primer on the Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650 (1971), cannot be determined. In addition, although manufacturing contributes significantly to the Gulfport economy, the applicant has included no manufacturing representatives in its list of community leaders. In light of these factors, an ascertainment issue will be specified.

3. WGUF, Inc., has similarly failed to indicate when its original community leader interviews were conducted. Further, the applicant states that "general public members interviewed were selected at random in a house-to-house survey in Gulfport and on a random basis of on the street, face to face interviews." In the Report and Order accompanying the release of the Primer, the Commission stated that "a random selection [of the general public] may be taken from a city directory, or may be done on a geographical distribution basis." 27 F.C.C. at 667. It is therefore not clear whether the selection process used by WGUF, Inc., to assure randomness was consistent with the procedures required by the Primer. Accordingly, an appropriate issue will be specified.

4. The financial portion of the application of Mississippi Gulfshore Broadcasting Company [MGBC] indicates that it will require a total of $92,716 to construct and operate the proposed facility for a period of one year, without revenue, itemized as follows:

| | |
|---|---|
| Down payment on equipment | $8,600 |
| 1st-year payments on equipment with interest | 9,116 |
| Miscellaneous | 4,500 |
| Working capital | 70,500 |
| | 92,716 |

To meet this requirement, MGBC relies on a $100,000 personal line of credit from Mr. Marshall Watkins, a partner in the applicant. However, on his balance sheet, Watkins has failed to segregate current assets and current liabilities as required. In addition, neither the stocks and bonds listed, nor the exchanges on which they are traded are identified. Further, if all liabilities are deemed to be current, Watkins appears to have current liabilities well in excess of current assets. Finally, the letter evidencing the loan fails to state the collateral requirements involved, if any, and the specific rate of interest to be charged. In light of these factors, funds cannot be considered available from this loan, and a financial issue will be included.

5. The financial portion of the application of Gulf South Broadcasters of Mississippi, Inc. [Gulf South] indicates that it will require a total of $47,752 to construct and operate the proposed facility for a period of one year, without revenue, itemized as follows:

| | |
|---|---|
| Down payment on $26,000 for equipment | $1,810 |
| 13 additional payments at $603.20 (including interest) | 7,842 |
| Miscellaneous | 10,740 |
| Working capital | 27,360 |
| | 47,752 |

To meet this requirement, the applicant relies on a $7,000 stock subscription and a $50,000 personal loan, both from Mr. Joseph M. Costello, III, majority shareholder of the applicant. Costello's balance sheet shows current liabilities in excess of current assets, and no funds are therefore available from this source. However, the lender asserts that funds sufficient to meet his commitment will be available from the cash flow of WRNO (FM), New Orleans, Louisiana, of which he is the sole owner. The most recent financial data from WRNO indicate, however, that the station suffered a net loss in 1974,[1] and, therefore, $57,000 may not reasonably be considered available from that source. Finally, Costello has submitted a letter purportedly evidencing a bank loan to him personally. These funds would be made available to the applicant. However, the letter does not appear to be a firm commitment.[2] Accordingly, it does not appear that any funds will be available to meet the necessary expenses, and an appropriate issue will be specified.

6. With respect to the assertion, noted in paragraph 5, supra, that funds would be available from the cash flow of WRNO, it is noted that, for 1972 and 1973, the station reported to the Commission net profits of $53,305 and $40,160, respectively.[3] In 1974, the station suffered a net loss of $10,322. In contrast, Gulf South asserts that "profits [from WRNO] have exceeded $100,000 for each of the past three years." It is therefore apparent that the financial position of WRNO has been misrepresented to the Commission, either in the station's financial reports or in the instant application. In either case, a misrepresentation issue is warranted and will be specified. Cf. Radio New Jersey, 46 F.C.C. 2d 818 (1974).

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the efforts made by Broadcasters and Publishers, Inc., to ascertain the community problems of the area to be served and the means by which the applicant proposes to meet those problems.

2. To determine the efforts made by WGUF, Inc., to ascertain the community problems of the area to be served and the means by which the applicant proposed to meet those problems.

3. To determine whether Mississippi Gulfshore Broadcasting Company is financially qualified to construct and operate its proposed station.

4. To determine whether Gulf South Broadcasters of Mississippi, Inc., is financially qualified to construct and operate its proposed station.

5. To determine, with respect to the application of Gulf South Broadcasters of Mississippi, Inc.:

(a) Whether the financial position of WRNO has been intentionally misrepresented; and

(b) Whether, in light of the evidence adduced pursuant to (a), above, the applicant possesses the requisite character qualifications to be a Commission licensee.

6. To determine which of the proposals would, on a comparative basis, best serve the public interest.

7. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, 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 this Order.

10. It is further ordered, That the applicants herein 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, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: November 12, 1975.

Released: December 1, 1975.

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

[FR Doc.75-33345 Filed 12-10-75;8:45 am]

[FCC 75R-446; Docket No. 20503, File No. BPH-8695; Docket No. 20504, File No. BPH-8744; Docket No. 20505, File No. BPH-8918; Docket No. 20506, File No. BPH-9235]

## LEE J. COOPER ET AL.

### Applications for Construction Permits

By the Review Board: Board Member Emerson absent. Board Member Ohlbaum concurring in the result only and Board Member Zias dissenting with respect to addition of issue.

1. Before the Review Board is a motion to enlarge issues, filed July 7, 1975, by Community North Broadcasters, Inc. (Community) seeking the addition of various issues against C. Alfred Dick (Dick), Lee J. Cooper tr/as Ra-Ad of Soddy (Ra-Ad), and Teeter—Taylor Enterprises (Teeter-Taylor).[1][2]

STAFFING ISSUE

2. In support of the requested staffing issue, Community states that Teeter-Taylor's proposed itemization of salaries appears to indicate that no salaries are to be paid to partners Rheubin M. Taylor, Richard B. Teeter, and Claude E. Carson, who will serve, respectively, as the proposed station's full-time general manager, part-time program director/sales manager, and full-time chief engineer/public affairs director.[3] Accordingly, movant asserts, a substantial question is raised as to how each of the partners can afford financially to devote the amount of time to station operations which the application proposes. Moreover, Community maintains that none of the partners in question has cash reserves adequate to support him for a year.[4] Therefore, movant contends that the applicant should be required to show in greater detail the sources of income of the respective partners and how they intend to meet their financial needs during the year. Finally, Community claims that it is not clear whether the partners' commitments to perform clerical work, sales, general supervision of the station, and some on-the-air responsibilities are in addition to their aforenoted functions; therefore, movant argues, it is impossible to know the extent of the proposed involvement of the partners and to evaluate the reasonableness of the applicant's staffing proposal.

3. The Review Board will deny Community's request for a staffing issue. An amendment, filed August 14, 1975, by Teeter-Taylor and accepted by Order of the Presiding Judge, FCC 75M-1521, re-

[1] This information appears in the WRNO financial showing filed in Form 324.

[2] The letter reads in part: "Our understanding [that we would be agreeable to making a loan] is subject to the execution of a mutual, loan agreement which would contain the terms and provisions of the loan."

[3] See N. 1, *supra*.

[1] The applications of Ra-Ad and of Dick for new FM stations in Soddy-Daisy, Tennessee, were dismissed with prejudice by Orders of the Presiding Judge, FCC 75M-1498, released September 4, 1975 and FCC 75M-1683, released October 2, 1975 respectively. Consequently, Community's request for various issues against these applicants is now moot and we shall therefore discuss in this opinion only Community's requests for staffing, financial, and efficient use of frequency issues against Teeter-Taylor.

[2] Other related pleadings before the Board are: (a) opposition, filed August 14, 1975, by Dick; (b) Broadcast Bureau's partial opposition, filed August 22, 1975; (c) opposition, filed August 22, 1975, by Teeter-Taylor; and (d) reply, filed September 12, 1975, by Community.

[3] According to the original application, both Taylor and Carson propose to devote 40 hours per week to the station; Teeter proposes to devote 20 hours per week.

[4] Movant cites the partners' financial statements submitted in Exhibit E of Teeter-Taylor's application indicating $1,000 cash on hand for Taylor; $2,000 cash reserve for Carson; and $5,300 cash on hand for Teeter.

leased September 5, 1975, satisfactorily answers any questions raised concerning the feasibility of the applicant's staffing proposal. The amendment, which specifically describes the duties of each partner, indicates that Mr. Taylor will devote 30 hours per week to the station (amended from 40 hours) and will also continue to engage in the practice of law; that Mr. Teeter will continue to practice law as a full-time occupation and will be paid by commission for advertising sold; and that Mr. Carson is to be paid a $5,000 salary by the applicant and in addition has recently established a retail business and will receive income from it. It thus appears from the amendment that each of the principals in question will have a continuing source of income independent of the proposed station (and one principal, Carson, will earn a salary as well) and there is nothing to indicate that they could not meet their employment commitments to the applicant. *Cf. James B. Francis*, 41 FCC 2d 303, 27 RR 2d 1337 (1973). See also *WWKY, Inc.*, 44 FCC 2d 239, 28 RR 2d 1551 (1973).

Thus, we conclude, in accordance with established precedent that since effectuation of Teeter-Taylor's proposal is not inherently improbable, and no specific allegations demonstrating that the proposal cannot be carried out have been made, no issue is warranted. See *Radio Geneva, Inc.*, 42 FCC 2d 254, 27 RR 2d 1680 (1973); *Harold James Sharp*, 54 FCC 2d 1236 (1975).[5]

FINANCIAL ISSUES

4. Community first requests an issue to determine the ability of partners Teeter, Taylor, and Carson to meet their respective financial commitments to the enterprise.[6] In support, movant claims that since these partners will receive no salaries, or at best only minimal salaries for their work at the station, they will be forced to utilize their cash reserves in order to support themselves; therefore, Community argues, the cash reserves of these partners cannot be relied upon to support their pledges to the partnership. Community next asserts that Teeter-Taylor's representation that "clerical work will be handled by partners or persons under their employ for other purposes" necessitates specification of financial issues to determine who is to provide the funds for the station's clerical work. Movant asserts that if the salaries are to be paid by the partners, it must be determined whether they are financially able to provide such funds and how such a commitment would affect their ability to contribute remaining financial resources to the partnership. Community alleges that such an inquiry is particularly warranted in light of Teeter-Taylor's already questionable financial situation.[7] Community further claims that Teeter-Taylor's reliance on the availability of deferred credit from its equipment supplier is not at all assured. In support, movant refers to a letter from the supplier, dated August 16, 1974, stating the terms on which it would be willing to extend credit to Teeter-Taylor.[8] Movant contends that the contingent nature of the commitment raises a substantial doubt as to the availability of the credit, citing *Parkell Broadcasting, Inc.*, — FCC 2d —, 32 RR 2d 812 (1975). Finally, Community notes that general partner Ward Crutchfield pledges "to mortgage real estate or otherwise borrow or contribute funds to make a capital contribution in the amount of $45,000" while also pledging his real estate holdings as collateral to secure a bank commitment of $60,000 to the partnership. However, Community argues that Crutchfield's real estate holdings are inadequate to secure both a direct bank loan to the partnership and a personal loan to the partnership from Crutchfield. Accordingly, movant requests an issue to determine whether the proposed lenders are willing to rely upon Crutchfield's real estate holdings as collateral for the loans.

5. In opposition, Teeter-Taylor asserts that Community's allegations that its principals will have to rely upon their cash reserves to meet their personal needs is pure speculation and must be rejected in light of the August 14 amendment. In addition, the applicant maintains that Community has not established that the proposal to have personnel of an existing law firm, with which all of Teeter-Taylor's general partners are associated, do minor clerical work is unreasonable. With respect to the availability of deferred credit from its equipment supplier, Teeter-Taylor asserts that Community's reliance on *Parkell Broadcasting, Inc., supra*, is misplaced since that case deals with a bank loan rather than a letter of credit from an equipment supplier. Moreover, the applicant contends that the language in its equipment credit letter is similar to the language approved by the Commission in *Commercial Radio Institute*, 48 FCC 2d 323, 31 RR 2d 12 (1974). Finally, Teeter-Taylor asserts that any ambiguity concerning the adequacy of Crutchfield's assets to secure financing for the station has been resolved by the amendment of August 14, 1975.[9]

6. The Board will deny the requested financial issues concerning the principals' commitments to the partnership, the collateral for the bank loan, and funding for the clerical work. First, it appears that the partners' ability to meet their financial commitments to the partnership is already in issue in this proceeding. See note 7, *supra*. Second, according to its July 25, 1975 letter, the Pioneer Bank states that it is familiar with Crutchfield's real estate holdings and finds them to be acceptable collateral for the amount of the loan. And, third, we agree with the applicant that its clerical work proposal is reasonable and no showing to the contrary has been made by movant. However, we believe that the wording of the equipment supplier's letter of credit does raise a substantial doubt as to the availability of the credit. Although letters of credit customarily reserve the right to review the applicant's future financial condition, the wording of these reservations usually implies or expresses that the manufacturer has already examined and is satisfied with the applicant's current financial status. See *Snake River Valley Television, Inc.*, 26 FCC 2d 380, 20 RR 2d 644 (1970).[10] Such an implication cannot be found in the letter of credit in this case. It can only be inferred from the wording of this letter that the manufacturer has not as yet reviewed the applicant's financial status, or that it has done so and has not found the financial condition adequate for the issuance of the standard letter of credit. See *Tri-Cities Broadcasting Corp.*, 10 FCC 2d 490, 11 RR 2d 609 (1967). Therefore, the Board will specify an appropriate issue.

EFFICIENT USE OF FREQUENCY ISSUE

7. In support of its request, Community asserts that it proposed to operate 162 hours per week whereas Teeter-Taylor proposes to operate 112 hours per week. Therefore, Community contends, since Teeter-Taylor's proposed station will remain silent for one hour out of every three, its proposal is prima facie a less efficient use of the frequency than Community's proposal and either addition of an efficient use of frequency issue or consideration of this matter under the standard comparative issue is warranted. Movant urges that the considerations expressed in *Jones T. Sudbury*, 8 FCC 2d 360, 10 RR 2d 114 (1967), where AM/FM program duplication was found to be "wasteful, inefficient, and undesirable" are equally applicable to a proposal for less than full-time utilization of authorized broadcast hours.

8. The Board will deny Community's requested issue. Initially, as the Broad-

[5] We note that in its reply pleading Community concedes that the August 14, 1975 amendment effectively moots its requested issue.

[6] Movant claims that, according to its application, Teeter-Taylor relies, *inter alia*, upon cash reserves of $2,000 owned by Mr. Carson and $5,000 owned by Mr. Teeter to substantiate proposed contributions to the enterprise in those respective amounts. Additionally, according to Community, Taylor has pledged $10,000 to the enterprise and shows a cash reserve of $1,000.

[7] In the designation Order, financial issues were specified against Teeter-Taylor to determine whether the partners have sufficient assets to meet their respective commitments and the rate of interest of the bank loan relied upon by the applicant.

[8] The letter states: "This offer is, of course, contingent upon receipt of information indicating a satisfactory financial condition."

[9] The amendment indicates that Crutchfield's assets will be pledged as collateral for a loan in the amount of $85,000 from the Pioneer Bank of Chattanooga and that the applicant relies solely on this loan and the letter of credit from its equipment supplier. A copy of the bank letter, dated July 25, 1975, is included in the amendment.

[10] Compare *Commercial Radio Institute, Inc.*, 48 FCC 2d 323, 31 RR 2d 12 (1974), where the letter of credit found to be acceptable stated that the manufacturer's willingness to provide the deferred credit was ". . . subject to credit approval at the time the lease is due to be signed. . . ."

cast Bureau notes, the Commission's *Policy Statement On Comparative Broadcast Hearings*, 1 FCC 2d 393, 5 RR 2d 1901 (1965), speaks of efficiency as an engineering matter whereas Community's request relates only to the number of hours broadcast per week. Moreover, although Community has labeled its request an efficient use of frequency issue, it appears that Community is seeking essentially a comparative programming issue based upon the differences in hours of operation. However, movant has made no attempt to relate the differences in the proposed hours of operation to its ascertainment of community needs, and absent such a showing, an issue is not warranted. See *Eastern Broadcasting Corp.*, 31 FCC 2d 724, 22 RR 2d 966 (1971). Compare *Erway Television Corporation*, 8 FCC 2d 24, 9 RR 2d 1376 (1967), affirmed as modified FCC 67-926, *recon. denied* FCC 67-1566.[11]

ESTIMATED COSTS ISSUE

9. Community contends that Teeter-Taylor's estimated costs of operation are "patently understated." Specifically, movant notes that while the applicant stated it would have five staff employees, salaries for only four are listed. Therefore, according to Community, an additional first year salary expense of $4,160 (based on the Federal minimum wage and a 40 hour work week) must be assumed. In addition, Community contends that the applicant's intention to rely upon "TAB Bulletins" as a source for information of Commission rules indicates that Teeter-Taylor will join the Tennessee Association of Broadcasters. However, Community charges that the applicant has failed to allocate $100 for membership in that organization and $400 in license fees for ASCAP and BMI.[12] Community concludes that Teeter-Taylor's omission of at least $4,600 in essential costs demonstrates a lack of thoroughness on the part of the applicant and suggests the omission or understatement of other essential costs.

10. The Board will deny the requested issue. The applicant explained in its opposition pleading that the discrepancy in its application between the number of staff persons specified and the number of salaries listed was the result of an apparent error in completing the form.[13] In its amended application, this error is corrected. Therefore, Teeter-Taylor does not omit listing the salary of one employee and since movant has not shown that the applicant will be unable to operate its station with its proposed staff, there is no basis for allocating additional salary expenses. As to the ASCAP and BMI license fees, it is well established that music licenses are properly treated as revenue related expenses and need not be included in the proposed budget. See *WPIX, Inc.*, 22 FCC 2d 960, 18 RR 2d 1196 (1970); *Jerry J. Collins*, 50 FCC 2d 715, 32 RR 2d 649 (1975). Also, movant has not supported its contention that the applicant will become a member of TAB and there is no requirement that membership dues and subscriptions incurred at the discretion of the licensee be included in the budget. See *Sampson Broadcasting Co., Inc.*, 52 FCC 2d 954, 33 RR 2d 923 (1975); *Jerry J. Collins, supra*. Finally, Community has failed to support its speculative allegation that other essential costs may have been understated or omitted; therefore, no issue will be designated concerning this mater.

11. Accordingly, it is ordered, That the motion to enlarge issues, filed July 7, 1975, by Community North Broadcasters, Inc., IS GRANTED to the extent indicated herein, and IS DENIED in all other respects; and

12. It is further ordered, That the issues in this proceeding are enlarged to include addition of the following issue: "To determine the availability to Teeter-Taylor Enterprises of deferred credit from its equipment supplier and in light of the evidence adduced, whether the applicant is financially qualified."

13. It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof under the issue added herein SHALL BE upon Teeter-Taylor Enterprises.

Adopted: December 2, 1975.

Released: December 9, 1975.

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

[FR Doc.75-33346 Filed 12-10-75;8:45 am]

[11] Community's reliance on *Jones T. Sudbury, supra*, is misplaced since that case permitted a limited showing to be made under the standard comparative issue only where AM/FM duplication was proposed, without any reference to number of hours broadcast. Moreover, movant has not shown specifically how Teeter-Taylor's proposal would be inefficient.

[12] Movant supports its assertions with an affidavit from its President, Zollie D. Cantrell.

[13] In its reply, Community states that since the discrepancy was the result of apparent error, its requested issue is no longer warranted.

## FEDERAL MARITIME COMMISSION

### COMPUTER SERVICES AGREEMENT

#### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 31, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

David V. Ainsworth, Counsel, Matson Navigation Company, 100 Mission Street, San Francisco, California 94105.

Agreement No. 10208, entered into between Nippon Yusen Kaisha (NYK) and Matson Navigation Company (Matson), provides for the establishment of a cooperative working arrangement whereby Matson shall provide and coordinate all NYK Inventory Equipment Control System computing, telecommunications and supporting services in connection with NYK's U.S. Pacific Coast operations in accordance with the terms and conditions set forth in the agreement.

By Order of the Federal Maritime Commission.

Dated: December 5, 1975.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.75-33400 Filed 12-10-75;8:45 am]

### PORT AUTHORITY OF NEW YORK AND NEW JERSEY AND ECUADORIAN LINES, INC.

#### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 31, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circum-

stances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Albert B. Dearden, Deputy Chief, The Port Authority of New York & New Jersey, One World Trade Center, New York, New York 10048.

Agreement No. T-3158-1, between the Port Authority of New York and New Jersey (Port) and Ecuadorian Line, Inc., (ELI) modifies the parties' basic agreement providing for the eight-year lease to ELI of certain premises at Port Newark, New Jersey, to be used as a marine terminal facility. The purpose of this modification is to add area to the premises leased under Agreement No. T-3158, with a corresponding increase in the rental.

By Order of the Federal Maritime Commission.

Dated: December 5, 1975.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.75-33399 Filed 12-10-75;8:45 am]

## PORT OF SEATTLE AND AMERICAN PRESIDENT LINES, LTD.

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 31, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Agreement No. T-2577-2, between the Port of Seattle (Port) and American President Lines, Ltd., (APL) modifies the parties' basic agreement providing for the month-to-month lease of transit shed and open space for the purpose of stuffing, unstuffing, and storage of containers. The purpose of this modification is to increase the rental payable by APL and to provide security guard service at Pier 42, the cost of which will be shared equally between the parties.

By Order of the Federal Maritime Commission.

Dated: December 5, 1975.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.75-33398 Filed 12-10-75;8:45 am]

## STATE OF HAWAII; MATSON NAVIGATION CO. AND HILO TRANSPORTATION AND TERMINAL CO., INC.

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 31, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

E. Alvey Wright, Director, State of Hawaii, Department of Transportation, 869 Punchbowl Street, Honolulu, Hawaii 96813.

Agreement No. 9055-1, between the State of Hawaii (Hawaii) and Matson Navigation Company (Matson) modifies the parties' basic agreement providing for the forty-year lease of certain terminal property at Hilo, Hawaii, to Matson for the operation of a bulk sugar loading facility. The purpose of the modification is to withdraw certain areas from the leased property for use in the redevelopment of portions of Pier No. 1, Hilo Harbor.

Agreement No. 9055-A-3, between Matson Navigation Company (Matson) and Hilo Transportation and Terminal Co., Inc. (Hilo) modifies the parties' basic agreement which grants Hilo the right to occupy and use terminal property at Hilo, Hawaii, for the purpose of loading sugar on vessels operated by or approved by Matson. Agreement No. 9055-A refers to a "second 1950 agreement" between Matson and Hilo covering gantry equipment. The purpose of the modification is to withdraw certain areas from Agreement No. 9055-A and the second 1950 agreement for use in the redevelopment of portions of Pier No. 1, Hilo Harbor.

By Order of the Federal Maritime Commission.

Dated: December 5, 1975.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.75-33397 Filed 12-10-75;8:45 am]

## SAN FRANCISCO PORT COMMISSION AND CALIFORNIA STEVEDORE AND BALLAST CO.

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 31, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter)

and the statement should indicate that this has been done.

Notice of agreement filed by:

Robert A. Bobier, Chief Counsel, Port of San Francisco, Ferry Building, San Francisco, California 94111.

Agreement No. T-3190, between San Francisco Port Commission (Port) and California Stevedore and Ballast Company (CS & B), provides for CS & B, on behalf of Port, to operate: (1) a consolidation freight station, and (2) a cargo distribution service. As compensation, CS & B will pay a fixed monthly rental of $800. Port shall cooperate in the solicitation of customers and advertising of said services. Port will publish such tariffs as Port and CS & B find necessary or convenient. Charges for consolidation are established pursuant to Port of San Francisco Tariff No. 11. Said charges shall accrue to CS & B with no sharing with Port. Charges for distribution service will be in accordance with San Francisco Bay Carloaders T.B., Car Servicing Tariff No. IC, FMC-T No. 2, and amendments thereto. Port shall pay CS & B $10.50 per short ton for the delivery of cargo to piers except as set forth in the agreement. All payments by Port shall be made by credit on debts owed to Port by CS & B.

Agreement No. T-3190 supersedes Agreement No. T-2563 between the same parties, which was approved by the Commission on November 9, 1971.

By order of the Federal Maritime Commission.

Dated: December 5, 1975.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.75-33396 Filed 12-10-75;8:45 am]

## FEDERAL MEDIATION AND CONCILIATION SERVICE

### HEALTH CARE INDUSTRY LABOR-MANAGEMENT ADVISORY COMMITTEE

#### Meeting

Notice is hereby given that the Federal Mediation and Conciliation Service Health Care Industry Labor-Management 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 Monday, January 12, 1976, starting at 9:00 a.m., in Conference Room 1104 of the U.S. Customs Building, 14th and Constitution Avenue, NW., Washington, D.C.

The agenda will include presentations and discussions related to:

1. Reimbursement agencies and collective bargaining—the third party payor issue.

2. Training of Federal Mediation and Conciliation Service professional staff in health care negotiations.

3. Selection and training of boards of inquiry.

4. Review of 1976 health care collective bargaining calendar.

The meeting will be open to the public.

Communications regarding this meeting should be addressed as follows:

Mr. Lawrence B. Babcock, Jr., Advisory Committee Management Officer, Federal Mediation and Conciliation Service, Washington, D.C. 20427.

Signed at Washington, D.C., this eighth day of December 1975.

W. J. USERY, Jr.,
*National Director.*

[FR Doc.75-33378 Filed 12-10-75;8:45 am]

## FEDERAL RESERVE SYSTEM

### F. S. BANCOR, INC.

#### Formation of Bank Holding Company

F. S. Bancor, Inc., Mitchellville, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 63.2 percent of the voting shares of the voting shares of Farmers Savings Bank, Mitchellville, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 29, 1975.

Board of Governors of the Federal Reserve System, December 4, 1975.

[SEAL] GRIFFITH L. GARWOOD,
*Assistant Secretary of the Board.*

[FR Doc.75-33353 Filed 12-10-75;8:45 am]

### FIRST NATIONAL AGENCY, INC.

#### Order Approving Formation of Bank Holding Company and Retention of Insurance Agency Activities; Correction

In FR document 75-32406 appearing at page 55905 of the issue for Tuesday December 2, 1975, the fifth sentence of paragraph 4 should read: In situations where individuals are involved in more than one one-bank holding company, such as where individuals have established a series or chain of one-bank holding companies, the Board has indicated that such organizations should be analyzed under the more restrictive financial standards that are normally used in analyzing multi-bank holding companies.[2]

Board of Governors of the Federal Reserve System, December 3, 1975.

[SEAL] GRIFFITH L. GARWOOD,
*Assistant Secretary of the Board.*

[FR Doc.75-33314 Filed 12-10-75;8:45 am]

[2] See Board's Order dated October 17, 1975, approving the application of Commercial Bankshares, Inc., Grand Island, Nebraska, to become a bank holding company through acquisition of Commercial National Bank & Trust Company, Grand Island, Nebraska.

### REPUBLIC OF TEXAS CORPORATION

#### Order Approving Retention of Republic National Mortgage Corporation of Texas

Republic of Texas Corporation, Dallas, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to retain indirect ownership through its trusteed affiliate, Republic Enterprises Corporation, of the voting shares of Republic National Mortgage Corporation of Texas ("Company"), both of Dallas, Texas. Company engages in mortgage banking activities, including originating, selling, and servicing mortgage loans. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1) and (3)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (40 Federal Register 47540). The time for filing comments and views has expired, and the Board has considered all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)).

By Order dated October 25, 1973, the Board approved the formation of Applicant for the purpose of becoming a bank holding company through the acquisition of Republic National Bank of Dallas, Dallas, Texas ("Republic Bank"). Republic Bank was itself a bank holding company by virtue of the 1970 Amendments to the Act, and owned various bank and nonbank interests. At the time of its formation, Applicant also obtained indirect control of Republic Bank's various interests, including Company which was established as a de novo subsidiary pursuant to approval granted on July 12, 1972, by the Federal Reserve Bank of Dallas. Pursuant to the provisions of section 4(a)(2) of the Act, Applicant has two years in which to divest its nonbank activities or, in the alternative, to apply to the Board for approval to retain them. In this proposal, Applicant has applied to retain the shares of Company. The Board regards the standards under section 4(c)(8) of the Act for retention of shares to be the same as the standards for a proposed acquisition.

Applicant, the 4th largest banking organization in Texas, controls three subsidiary banks with aggregate deposits of approximately $2.8 billion, representing approximately 6.5 percent of the total deposits in commercial banks in the State.[1] Applicant engages in mortgage banking activities through its three subsidiary banks; however, Republic Bank's mortgage lending activities are essentially conducted through Company at the present time. In addition, Applicant engages indirectly through a group of corporations referred to collectively under the name of Howard Corporation, in various nonbanking activities which are described in a Board determination dated

[1] Banking data are as of December 31, 1974.

September 10, 1973, relating to the grandfather benefits of Republic Bank. The Board has previously ruled that Applicant would not be a successor to the grandfather benefits of Republic Bank, and Applicant has committed, and is required, to dispose of the nonpermissible activities within the two-year statutory period prescribed in section 4(a)(2) of the Act

Company, established de novo in September, 1972, operates one office in Dallas, Texas. Through June 30, 1975, Company originated $18.2 million in mortgage loans, primarily for the account of Republic Bank and three other permanent investors. In addition, Company serviced a mortgage loan portfolio for investors (principally Republic National Bank) of $43 million, 80 per cent of which were permanent mortgage loans on single family residences, the remaining 20 per cent of which were commercial mortgages. Company's mortgage loans are originated primarily from the Dallas-Ft. Worth area. In view of Company's small size and limited scope of operations, the fact that it was organized de novo, and the large number of alternative sources for mortgage loans in the Dallas-Ft. Worth area, the Board concludes that Applicant's retention of Company would not result in any adverse effects on competition in any relevant area.

There is no evidence in the record to indicate that the proposed retention of Company by Applicant would lead to an undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects. Company's continued affiliation with Applicant is likely to result in increased competition in the Dallas-Ft. Worth mortgage loan market, since Applicant proposes to expand Company's access to institutional sources of mortgage funds and to expand Company's activities to include making additional types of real estate loans.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable, and the application should be approved. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[3] effective December 3, 1975.

[SEAL] THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.75-33355 Filed 12-10-75;8:45 am]

[3] Voting for this action: Chairman Burns and Governors Mitchell, Bucher, Holland, Wallich, Coldwell, and Jackson.

## TEXAS AMERICAN BANCSHARES INC.

### Acquisition of Bank

Texas American Bancshares Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares), of the voting shares of Galleria Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 5, 1976.

Board of Governors of the Federal Reserve System, December 4, 1975.

[SEAL] GRIFFITH L. GARWOOD,
*Assistant Secretary of the Board.*

[FR Doc.75-33356 Filed 12-10-75;8:45 am]

# FEDERAL TRADE COMMISSION

## STATEMENT OF ORGANIZATION

### Denver Regional Office

On October 7, 1975, there was published in the FEDERAL REGISTER (40 FR 46361, corrected in 40 FR 52122) a notice announcing a reorganization of the Federal Trade Commission's regional office structure. The notice announced that a new regional office was to be established in Denver, Colorado. That regional office has now been established and will serve an eight-state area including Kansas, Nebraska, North Dakota, South Dakota, Wyoming, Colorado, Montana, and Utah.

Notice is hereby given that paragraph (b)(6) of Section 18 of the Statement of Organization is amended to include the address of the Denver Regional Office to read as follows:

**Sec. 18. The Regional Offices.**

(b) * * *

(6) *Denver Regional Office.* Federal Trade Commission, 128 U.S. Customs House, 721 19th Street, Denver, CO 80202.

By direction of the Commission dated December 3, 1975.

CHARLES A. TOBIN,
*Secretary.*

[FR Doc.75-33359 Filed 12-10-75;8:45 am]

# GENERAL ACCOUNTING OFFICE

## REGULATORY REPORTS REVIEW

### Notice of Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on December 1, 1975. See 44 U.S.C. 3512(c) & (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC forms are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed forms, comments (in triplicate) must be received on or before December 29, 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 NW., 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 for extension of approval of Form NRC-313R, "Application for Byproduct Material License—Use of Sealed Sources in Radiography" and 10 CFR 34.3, "Application for Specific Licenses." 10 CFR 34.3 provides that applications for specific licenses for use of sealed sources in radiography shall be filed on Form NRC-313R. The completed form is reviewed by technical staff of the NRC to determine that the contemplated use proposed by the applicant will meet NRC regulations. Respondents are companies wishing to utilize sealed sources containing byproduct material in the performance of various types of radiography. Respondent burden is estimated at 5 hours per response; 250 applications are filed annually. Thus, the estimated total respondent burden is 1250 hours annually.

Request for extension of approval of NRC Form-482, "Registration Certificate—Medical Use of Byproduct Material Under General License" and 10 CFR 35.31, "General License for Medical Use of Certain Quantities of Byproduct Material." 10 CFR 35.31 establishes a general license authorizing physicians to use certain quantities of byproduct material for specified diagnostic tests. Prior to using byproduct material under the general license the physician must file Form NRC-482 with the NRC and receive from the NRC a validated copy of Form NRC-482 with registration number assigned. Respondents are physicians who propose to use byproduct material under the general license of 10 CFR 35.31. Respondent burden is estimated at 5 minutes per response; 200 registration certificates are filed annually. Thus, the estimated total respondent burden is 17 hours annually.

NORMAN F. HEYL,
*Regulatory Reports, Review Officer.*

[FR Doc.75-33309 Filed 12-10-75;8:45 am]

## GENERAL SERVICES ADMINISTRATION

### Office of Federal Management Policy

### EXECUTIVE BRANCH POSITION ON COMMISSION ON GOVERNMENT PROCUREMENT

### Recommendations A–12, A–13, and A–14

Notice is given that the executive branch has accepted Commission on Government Procurement (COGP) Recommendations A–12, A–13, and A–14.

The COGP recommendations are as follows:

*A–12:* "Reevaluate the place of procurement in each agency whose program goals require substantial reliance on procurement. Under the general oversight of the Office of Federal Procurement Policy, each agency should ensure that the business aspects of procurement and the multiple national objectives to be incorporated in procurement actions receive appropriate consideration at all levels in the organization."

*A–13:* "Clarify the role of the contracting officer as the focal point for making or obtaining a final decision on a procurement. Allow the contracting officer wide latitude for the exercise of business judgment in representing the Government's interest."

*A–14:* "Clarify the methods by which authority to make contracts and commit the Government is delegated to assure that such authority is exercised by qualified individuals and is clearly understood by both those within the agencies and by the agencies' suppliers of goods and services."

*Implementation:* The Office of Federal Management Policy, in conjunction with the Office of Federal Procurement Policy, will conduct a survey of selected departments and agencies by questionnaire. This survey will request a description of the purchasing and contracting functions at all levels in the organizations, and will be followed by personal interviews as necessary. Results of the survey will be used to ascertain the current organizational placement of the procurement function and the role of the contracting officer. The data will be evaluated and specific recommendations will be formulated and discussed with the particular agencies involved.

This notice is being published by direction of the Administrator for Federal Procurement Policy, Office of Management and Budget.

Dated at Washington, D.C. on November 24, 1975.

WILLIAM W. THYBONY,
*Acting Associate Administrator.*

[FR Doc.75–33334 Filed 12–10–75;8:45 am]

## NATONAL COMMUNICATIONS SYSTEM

### TELECOMMUNICATIONS: BIT ORIENTED DATA LINK CONTROL PROCEDURES

### Proposed Federal Standard 1003

The Administrator of the General Services Administration (GSA) is responsible, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On 14 August 1972, the National Communications System (NCS)[1] was designated by the Administrator, GSA, as the responsible agent for the development of telecommunication standards for NCS interoperability and the computer-communications interface. The Federal Telecommunication Standards Committee (FTSC) was established under the administration of NCS to accomplish this mission. Additionally, the Secretary of Commerce is authorized, under the provisions of Public Law 89–306 to develop and establish uniform Federal automatic data processing standards.

This proposed Federal standard is part of a series of joint Federal telecommunication standards and Federal Information Processing Standards (FIPS) falling within the area of mutual responsibility of the NCS and the National Bureau of Standards (NBS) as defined in FIPS PUB 23[2] and NCS Circular 175–1.[3]

The proposed Federal standard and the companion FIPS publication will adopt the content of the American National Standards Institute (ANSI) document X3S34/589, 15 August 1975, with the exceptions set forth in paragraph 2, "Applicable Documents." The ANSI document specifies the data communication control procedures, which define the means for exchanging data between business machines (e.g., computers, concentrators and terminals) over communication circuits. The advanced data communication control procedures described are synchronous, bit oriented (i.e., use bit patterns instead of ASCII characters for control), code independent (i.e., capable of handling any data code or pattern) and interactive (i.e., have relatively high efficiency in an interactive application). The proposed ANSI document was developed by an ANSI task group with Federal Government participation and has been recommended for processing as a Federal standard by the FTSC with the concurrence of the National Bureau of Standards in response to requirements specified by various Government agencies.

Prior to submission of the finial endorsement of the proposed Federal standard and its companion FIPS publication to the Department of Commerce (DOC), the Office of Telecommunications Policy (OTP), Executive Office of the President, and GSA, it is essential that proper consideration is given to the needs and views of industry, the public, and state and local governments. The purpose of this notice is to solicit such views. Interested parties may submit their comments to the Office of the Manager, National Communications System, ATTN: NCS–TS, Washington, D.C. 20305. All comments should be submitted to NCS by 30 January 1976.

LEE M. PASCHALL,
*Lieutenant General, USAF, Manager.*

MAURICE W. ROCHE,
*Director, Correspondence and Directives, OASD (Comptroller).*

DECEMBER 8, 1975.

[FR Doc.75–33358 Filed 12–10–75;8:45 am]

[1] DoD Directive 5100.41, "Arrangements for Discharge of Executive Agent Responsibilities for the NCS"—filed as part of original document.

[2] Filed as part of original. Copies available from U.S. Government Printing Office, Washington, D.C. 22402 (order by SD Catalog No. C13.52:23)

[3] Filed as part of original. Copies available from Office of the Manager, NCS, Washington, D.C. 20305

## NATIONAL SCIENCE FOUNDATION

### COMMITTEE MANAGEMENT

### Notice of Determination Renewal of Advisory Panel for Metallurgy and Materials

The National Science Foundation (NSF) is renewing the Advisory Panel for Metallurgy and Materials in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) and the Office of Management and Budget (OMB) Circular No. A–63, Revised.

On December 31, 1973, the Advisory Panel for Engineering Materials was established to provide advice and recommendations concerning the Engineering Materials Program. On February 18, 1975, the name of the panel was changed to the Advisory Panel for Metallurgy and Materials and the scope and membership were broadened to encompass advisory functions for the entire Metallurgy and Materials Section. A Notice of Revision was published in the FEDERAL REGISTER and an addendum to the charter was filed with the Director, NSF and with Congress.

After review of the panel's activities, I have determined that renewal of the Advisory Panel for Metallurgy and Materials is necessary and is in the public interest in connection with the performance of duties imposed upon the National Science Foundation by the National Science Foundation Act of 1950, as amended and other applicable laws.

H. GUYFORD STEVER,
*Director.*

DECEMBER 8, 1975.

[FR Doc.75–33308 Filed 12–10–75;8:45 am]

## NUCLEAR REGULATORY COMMISSION

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON GENERAL ELECTRIC WATER REACTORS

### 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 General Electric Water Reactors will hold a meeting on December 29 and 30, 1975 in Room 1046, 1717 H Street NW., Washington, D.C. 20555. The purpose of this meeting is to review the status of investigations into the performance of Mark I, II, and III Containment Systems and of the development and review of the various versions of the General Electric Standard

Safety Analysis Reports (GESSAR).

The agenda for subject meeting shall be as follows: *Monday, December 29, 1975 8:30 a.m.* The Subcommittee will meet in closed Executive Session, with any of its consultants who may be present, to explore their preliminary opinions, based upon their independent reviews of the Mark I, II, and III Containment Systems and of the General Electric Standard Safety Analysis Reports. *9:00 a.m. until the conclusion of business on December 29, and 8:30 a.m. until the conclusion of business on December 30, 1975.* The Subcommittee will meet in open session to hear presentations by representatives of the General Electric Company, the NRC Staff, and their consultants, and to hold discussions with these groups pertinent to this review.

At the conclusion of the open session, the Subcommittee will caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the matters are ready for review by the full Committee. During the 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 Applicant matters involving proprietary information.

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 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 a readily reproducible copy 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 December 22, 1975 to Mr. J. C. McKinley, ACRS, NRC, Washington, D.C., 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. NW., Washington, D.C. 20555.

(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 December 24, 1975 to the Office of the Executive Director of the Committee (telephone 202/634–1371, Attn: Mr. J. C. McKinley) 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 physical 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, 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. J. C. McKinley, 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 January 7, 1976 at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 after April 1, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: December 5, 1975.

SAMUEL J. CHILK,
*Secretary of the Commission.*

[FR Doc.75–33320 Filed 12–10–75;8:45 am]

## COMMISSION SEAL

Pursuant to Section 201(a) of the Energy Reorganization Act of 1974, the Nuclear Regulatory Commission has adopted an official seal, the description of which is as follows:

An American bald eagle of brown and tan with claws and beak of yellow, behind a shield of red, white and blue, clutching a cluster of thirteen arrows in its left claw and a green olive branch in its right claw (similar to that of the Great Seal of the United States of America), positioned on a field of light blue with the words United States Nuclear Regulatory Commission in dark blue, and five gold stars outlined in dark blue encircling the eagle. The eagle represents the United States of America and its interests.

The Official Seal of the Nuclear Regulatory Commission is illustrated as follows:


The Secretary of the Commission is responsible for custody of the impression seals and of replica (plaque) seals.

(Sec. 201(a), Energy Reorganization Act of 1974, Pub. L. 93–438)

(1) NRC letterhead stationery.

(2) NRC award certificates and medals.

(3) Security credentials and employee identification cards.

(4) NRC documents. These documents include, without limitation, agreements with States, interagency or intergovernmental agreements, foreign patent applications, certifications, special reports to the President and Congress and, at the discretion of the Secretary of the Commission, other documents as he finds appropriate.

(5) Plaques. The design of the seal may be incorporated in plaques for display in NRC auditoriums, presentation rooms, lobbies, offices of senior officials, on the fronts of buildings occupied by NRC and in other appropriate locations at the discretion of the Secretary.

(6) The NRC flag (which incorporates the design of the seal).

(7) Official films prepared by or for the NRC, which the Director, Division

of Public Affairs or his designee determines warrant such identification.

(8) Official NRC publications which represent the achievements or mission of NRC as a whole or which are sponsored by NRC and other Government departments or agencies.

(9) Such other uses as the Secretary of the Commission or his designee finds appropriate.

b. Any use of the seal or replicas other than as permitted by this section is prohibited.

c. Any person who uses the official seal in a manner other than as permitted by this section shall be subject to the provisions of 18 U.S.C. 1017, which provides penalties for the wrongful use of an official seal, and other provisions of law as applicable.

Dated at Washington, D.C. this 5th day of December 1975.

SAMUEL J. CHILK,
*Secretary of the Commission.*

[FR Doc.75-33310 Filed 12-10-75;8:45 am]

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[Docket No. 50-293]

## BOSTON EDISON CO.

### Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating Licenses No. DPR-35 issued to Boston Edison Company (the licensee) for operation of Unit 1 of the Pilgrim Nuclear Power Station (the facility), a boiling-water reactor located near Plymouth, Massachusetts.

The amendment would revise the Technical Specifications to (1) add requirements that would limit the period of time operation can be continued with immovable control rods that could have control rod drive mechanism collet housing failures and (2) require increased control rod surveillance when the possibility of a control rod drive mechanism collet housing failure exists.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By January 12, 1976, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to interevne must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Dale G. Stoodley, Counsel, Boston Edison Company, 800 Boylston Street, Boston, Massachusetts 02199, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the Commission's letter to the Boston Edison Company dated September 23, 1975, and the attached proposed Technical Specifications and the Safety Evaluation by the Commission's staff dated September 23, 1975, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. The license amendment and the Safety Evaluation may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 3rd day of December 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
*Chief, Operating Reactors Branch No. 2, Division of Reactor Licensing.*

[FR Doc.75-33313 Filed 12-10-75;8:45 am]

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[Docket Nos. 50-254 AND 50-265]

## COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

### Proposed Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-29 and DPR-30 issued to Commonwealth Edison Company (acting for itself and on behalf of the Iowa-Illinois Gas and Electric Company) for operation of the Quad-Cities Station Units 1 and 2 (the facilities) located in Rock Island County, Illinois.

These amendments would revise the Technical Specifications to (1) add requirements that would limit the period of time operation can be continued with immovable control rods that could have control rod drive mechanism collet housing failures and (2) require increased control rod surveillance when the possibility of a control rod drive mechanism collet housing failure exists.

Prior to issuance of the proposed license amendments, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By January 12, 1976, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of these amendments to the subject facility operating licenses. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. John W. Rowe, Esquire, Isham, Lincoln and Beale, Counselors at Law, One First National Plaza, Chicago, Illinois 60670, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is re-

quested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to these actions, see the Commission's letter to Commonwealth Edison Company dated September 22, 1975, and the attached proposed Technical Specifications and the Safety Evaluation by the Commission's staff dated September 22, 1975, and Commonwealth Edison Company's letter dated October 8, 1975, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Moline Public Library, 504—17th Street, Moline, Illinois 60625. These license amendments and the Safety Evaluation may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 3rd day of December, 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
*Chief, Operating Reactors Branch #2, Division of Reactor Licensing.*

[FR Doc.75-33314 Filed 12-10-75;8:45 am]

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[Docket No. 70-1308]

## GENERAL ELECTRIC CO.

### Reissuance and Amendment of Materials License, Morris Operation Fuel Storage Facility

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commssion) has reissued Materials License No. SNM-1265 (the license) issued to General Electric Company (the licensee) for operation of the Morris Operation Fuel Storage Facility. Incorporated in the license are all previous license amendments 1 through 19 issued by the Commission. In addition, the license has been amended in accordance with the licensee's application for amendment, dated February 28, 1975, and the Commission's review thereof. The license is effective as of the date of its issuance.

The license, as amended, permits modification to the Fuel Storage Facility to increase the fuel storage capacity by the installation of new storage baskets and supporting grids.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the Safety Evaluation Notice of Consideration of Proposed Modification was published in the FEDERAL REGISTER on August 1, 1975 (40 FR 32386). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

For further details with respect to this action, see (1) the application for amendment dated February 28, 1975. (2) Materials License No. SNM-1265 dated December 3, 1975, (3) The Commission's related Safety Evaluation, and (4) the Commission's Negative Declaration dated December 3, 1975, which is being published concurrently with this notice, and associated Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Bethesda, Maryland, this third day of December, 1975.

For the Nuclear Regulatory Commission.

JAMES R. MILLER,
*Chief, Fuel Cycle Licensing Branch 2, Division of Fuel Cycle and Material Safety.*

[FR Doc.75-33315 Filed 12-10-75;8:45 am]

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[Docket No. 70-1308]

## GENERAL ELECTRIC CO. (MORRIS OPERATION FUEL STORAGE FACILITY)

### Negative Declaration Regarding Amendment of Materials License

The Nuclear Regulatory Commission (the Commission) has considered an amendment to Materials License No. SNM-1265 for the General Electric Company's Morris Operation Fuel Storage Facility located in Grundy County near Morris, Illinois. The amendment proposes modification to the Fuel Storage Facility to increase the fuel storage capacity by the installation of new storage baskets and supporting grids in accordance with the licensee's proposal dated February 28, 1975.

The U.S. Nuclear Regulatory Commission, Division of Fuel Cycle and Material Safety, has prepared an environmental impact appraisal for the proposed amendment to SNM-1265 for the Morris Operation Fuel Storage Facility. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the proposed action. The environmental impact appraisal is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois.

Dated at Bethesda, Maryland, this third day of December, 1975.

For the Nuclear Regulatory Commission.

RICHARD B. CHITWOOD,
*Chief, Fuel Cycle Environmental Projects Branch, Division of Fuel Cycle and Material Safety.*

[FR Doc.75-33316 Filed 12-10-75;8:45 am]

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[Docket No. 50-298]

## NEBRASKA PUBLIC POWER DISTRICT

### Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Facility Operating License No. DPR-46 issued to Nebraska Public Power District (the licensee) for operation of the Cooper Nuclear Station (the facility), a boiling-water reactor located in Nemaha County, Nebraska.

The amendment would revise the Technical Specifications to (1) add requirements that would limit the period of time operation can be continued with immovable control rods that could have control rod drive mechanism collet housing failures and (2) require increased control rod surveillance when the possibility of a control rod drive mechanism collet housing failure exists.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By January 12, 1976, the licensee may file a request for a hearing and any person whoes interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commissions regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory

Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Gene Watson, Attorney, Barlow, Watson & Johnson, P.O. Box 81686, Lincoln, Nebraska 68501 and Mr. Arthur C. Gehr, Attorney, Snell & Wilmer, 400 Security Building, Phoenix, Arizona 85004, attorneys for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the Commissions letter to Nebraska Public Power District dated September 22, 1975, and the attached proposed Technical Specifications and the Safety Evaluation by the Commissions staff dated September 22, 1975, which are available for public inspection at the Commissions Public Document Room, 1717 H Street NW., Washington, D.C. and at the Auburn Public Library, 1118–15th Street, Auburn, Nebraska 68305. The license amendment and the Safety Evaluation may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 4th day of December, 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
*Chief, Operating Reactors Branch #2, Division of Reactor Licensing.*

[FR Doc.75-33317 Filed 12-10-75;8:45 am]

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[Docket No. 50-263]

## NORTHERN STATES POWER CO.

### Proposed Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendment to Provisional Operating License No. DPR-22 issued to the Northern States Power Company (the licensee) for operation of the Monticello Nuclear Generating Plant (the facility), a boiling-water reactor located in Wright County, Minnesota.

The amendment would revise the Technical Specifications to (1) add requirements that would limit the period of time operation can be continued with immovable control rods that would have control rod drive mechanism collet housing failures and (2) require increased control rod surveillance when the possibility of a control rod drive mechanism collet housing failure exists.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By January 12, 1976, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Gerald Charnoff, Esquire of Shaw, Pittman, Potts and Trowbridge, 910–17th Street NW., Washington, D.C. 20006, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the Commission's letter to the Northern States Power Company dated September 24, 1975, and the attached proposed Technical Specifications and the Safety Evaluation by the Commission's staff dated September 24, 1975, and the Northern States Power Company's letter dated October 14, 1975, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at The Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. The license amendment and the Safety Evaluation may be inspected at the above locations, and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 4th day of December, 1975.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
*Chief, Operating Reactors Branch #2, Division of Reactor Licensing.*

[FR Doc.75-33318 Filed 12-10-75;8:45 am]

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[Construction Permit Nos. CPPR-77, CPPR-78]

## VIRGINIA ELECTRIC AND POWER CO. (NORTH ANNA POWER STATION, UNITS 1 AND 2)

### Order

DECEMBER 5, 1975.

Oral argument on the appeals taken by the Virginia Electric and Power Company (VEPCO) and the North Anna Environmental Coalition (Coalition) from the September 10, 1975 initial decision of the Licensing Board in this show cause proceeding[1] will be heard at *9:45 a.m.* on *Thursday, January 29, 1976* in the Nuclear Regulatory Commission's Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Maryland.

Giving due regard to the similarities and differences in the positions taken by the various parties to the appeals, the Board has determined that the following is the most reasonable order of presentation and allocation of time among those parties:

VEPCO—Two hours (including rebuttal)
Coalition—One hour (including rebuttal)
Commonwealth of Virginia—30 minutes
NRC Staff—One hour.

In order to obviate unnecessary repetition, the parties taking a common position on a particular issue presented by

[1] LBP-75-54, NRCI-75/9 498.

the appeals are encouraged to make an endeavor to reach agreement among themselves to have that position advanced by one counsel, rather than each counsel independently. To this end, a party may, if it so desires, agree to relinquish part of its allotted time to one of the other parties.

In preparing for argument, all counsel should bear in mind that the Board will be generally familiar with the initial decision under appeal, the record below and the arguments set forth in the briefs of counsel.

*It is so ordered.*

For the Atomic Safety and Licensing appeal board.

MARGARET E. DU FLO,
*Secretary to the Appeal Board.*

[FR Doc.75-33319 Filed 12-10-75;8:45 am]

## NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 75-36]

### SAFETY RECOMMENDATIONS AND RESPONSES

#### Availability and Receipt

*Safety Recommendations.* Investigation of a series of multiple-vehicle collisions near Corona, California, last February 28 has prompted the National Transportation Safety Board to issue seven Class II (priority followup) recommendations. The collisions occurred in fog and involved 84 vehicles; 23 persons were injured. Five of these recommendations, Nos. H-75-32 through 36, were issued December 2 to the National Highway Traffic Safety Administration. The Safety Board recommended that NHTSA (1) sample motor vehicle accident reports from States to determine the percentage of fatal and injury-producing accidents which have occurred under reduced visibility conditions; (2) review its multidisciplinary accident investigation files to identify the factors involved in reduced visibility conditions; (3) conduct a formal survey of driver educators to determine what is and what should be taught about driving under reduced visibility conditions and issue such guidelines for driver education courses; (4) revise FMVSS 108 to require that all new vehicles be equipped with a set of brake and turn lights mounted high enough above the pavement so a driver could see the lights of at least the two vehicles directly ahead; and (5) (a) survey those police agencies that employ convoy or escort procedures, (b) select from the procedures those that have proven to be most effective, (c) analyze the procedures and develop recommendations to assure maximum effectiveness of patrol procedures, and (d) compile and issue an operations manual that can be implemented by the States through Highway Safety Program Standard No. 15, "Police Traffic Services." Two recommendations, Nos. H-75-37 and 38, were issued by separate letter of December 2 to California's Business and Transportation Agency. The Board requested the Agency to (1) continue to work on a fog warning system to inform motorists of fog ahead and to provide an appropriate speed limit, and (2) conduct an engineering study in conjunction with the California Highway Patrol to determine the most feasible locations for the installation of such systems.

*Responses to Safety Recommendations.* Three letters were received last week from the United States Coast Guard, responding to the following Safety Board recommendations:

*69-M-40 through 43*, issued in the Board's 1969 "Study of Recreational Boat Accidents, Boating Safety Programs, and Preventive Recommendations." The USCG response, dated November 21, 1975, indicates that regulations governing fuel systems and electrical systems have been drafted, as has a level flotation regulation. Planned effective date for these regulations is August 1978. With specific reference to 69-M-43, USCG states that the first phase of the collision accident problem analysis has not revealed that visibility from the helm is a major contributor to boating accidents. Operator stress is presently being studied, according to USCG, and the research phase of this project will continue into FY 1978.

*72-M-17*, issued in the Board's "Analysis of the Safety of Transportation of Hazardous Materials on the Navigable Waters of the United States" (Report No. NTSB-MSS-72-2), wherein the Board recommended that the Coast Guard revise regulations concerning qualifications of tankermen and licensed officers who handle extremely hazardous materials to require special qualifications and endorsements for such specific materials. USCG's letter of November 24, 1975, states that regulation proposals addressing this recommendation have been developed, and that the substance of such proposals was presented at the last meeting of the Towing Industry Advisory Committee, September 15-17, 1975. This group is expected to comment by January 1, 1976. USCG will evaluate these comments and publish a Notice of Proposed Rulemaking within the next 6 months.

*71-M-20*, issued in Board study entitled "The Effectiveness of Investigations of Recreational Boating Accidents" (Report No. NTSB-MSS-71-1). The Coast Guard and State officials investigating boating accidents were asked to accord high priority to developing information useful in formulating preventive measures. The response of November 25, 1975, sums up USCG's efforts at compliance: A boating accident seminar was held at Wylie Laboratories in Huntsville, Alabama, May 19-23, 1975, stressing need for collecting boating accident information and discussing methodology of investigation; the International Association of Police Chief's Boating Accident Investigation Manual has been approved and is being printed for distribution; the Coast Guard Boating Accident Investigator's Manual is in complete draft form and is being routed for clearance; a special addendum sheet to the Recreational Boating Simplified Narrative (CG 4885 A) was promulgated in Commandant Notice 5912, July 24, 1975; and a study of the coding of boating accident information and the placing of such information in an Automated Data Processing system has been completed.

Also received last week was a letter from the Stroudsburg Gas Company of Stroudsburg, Pennsylvania, responsive to Board recommendations *P-75-12 and 13* (40 FR 50575). The letter, dated November 28, 1975, indicates that Company employees have had five training programs since June 17, 1975, featuring leak investigation proceedures from the initial report of a leak until it is repaired or elmiinated as one. The Company also states that training programs will be held from time to time to improve leak investigation techniques and to implement new procedures and equipment.

The two recommendation letters are available to the general public; single copies may be obtained without charge. A $4.00 user-service charge will be made for a copy of each recommendation response letter, in addition to a charge of 10¢ per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this notice in the FEDERAL REGISTER. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

(Sec. 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2172 (49 U.S.C. 1906))).

MARGARET L. FISHER,
*Federal Register Liaison Officer.*

DECEMBER 8, 1975.

[FR Doc.75-33352 Filed 12-10-75;8:45 am]

## NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

### MEETING

#### Addendum for Previous Notice

DECEMBER 8, 1975.

The agenda for the meeting previously announced for December 18 and 19, 1975, in the FEDERAL REGISTER of November 18, 1975, has been revised as follows:

*Thursday, December 18, beginning at 9:00 a.m.*

Briefing by the Environmental Protection Agency on their air pollution control program.

Reports on NACOA work in progress on the Sea Grant Program, weather and air safety, energy from the sea, weather and climate modification, coastal zone and OCS matters.

*Afternoon, beginning at about 2:30 p.m.*

Continuation of reports on NACOA work in progress.

*Friday, December 19, beginning at 9:00 a.m.*

Briefings on:

Issues and status of marine transportation—Maritime Administration.

Federal mariculture programs and progress—NOAA.

Recent progress in disaster warning capabilities—NOAA.

Continuation of reports on NACOA work in progress.

Plans for future NACOA meetings.

Adjournment at approximately 1:30 p.m.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225, Washington, D.C. 20230. The telephone number is (202) 967-3343.

DOUGLAS L. BROOKS,
*Executive Director.*

[FR Doc.75-33409 Filed 12-10-75;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 19288; 70-5772]

### Alabama Power Co. et al.

### FIRST MORTGAGE BONDS FOR SINKING FUND PURPOSES

### Proposal To Issue

Notice is hereby given that Alabama Power Company ("Alabama"), Gulf Power Company ("Gulf"), Georgia Power Company ("Georgia"), and Mississippi Power Company ("Mississippi"), all of which are public-utility subsidiaries of The Southern Company, a registered holding company, have 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(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Alabama, Georgia, Gulf and Mississippi propose to issue their respective First Mortgage Bonds ("Sinking Fund Bonds") and to surrender such Sinking Fund Bonds to the trustees under their respective Indentures for the purpose of satisfying the sinking fund (improvement fund, in the case of Alabama) requirements thereunder for 1976. The amounts and series of Sinking Fund Bonds proposed to be issued as follows:

| Name of company | Amount (in thousands) | Series |
|---|---|---|
| Alabama | $12,484 | 3½ percent series due 1985. |
| Georgia | 18,874 | 2⅞ percent series due 1980. |
| Gulf | 1,873 | 3¼ percent series due 1984. |
| Mississippi | 1,988 | 2¾ percent series due 1980. |

The Sinking Fund Bonds are to be issued on the basis of unfunded net property additions, thus making available for construction purposes cash which would otherwise be needed to satisfy the sinking fund requirements or to purchase bonds to be used for such purpose. It is stated that the delivery of the Sinking Fund Bonds is exempt from the competitive bidding requirements of rule 50 by reason of clause (a)(5) thereof inasmuch as such Bonds will not constitute obligations of the companies for the payment of money.

The fees, commissions, and expenses incurred or to be incurred in connection with the proposed transactions will aggregate $7,600, of which total fees for legal counsel will be $1,200. The Alabama Public Service Commission, the Georgia Public Service Commission, and the Florida Public Service Commission have jurisdiction over the issuance of the Sinking Fund Bonds by Alabama, Georgia, and Gulf, respectively. No other State commissions and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions

Notice is further given that any interested person may, not later than December 30, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission 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 declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the 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 such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.75-33361 Filed 12-10-75;8:45 am]

[File No. 500-1]

### CANADIAN JAVELIN, LTD.

### Suspension of Trading

DECEMBER 4, 1975.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from December 5, 1975 through December 14, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.75-33362 Filed 12-10-75;8:45 am]

[Release No. 19289; 70-5656]

### THE COLUMBIA GAS SYSTEM, INC. ET AL.

### Financing

DECEMBER 5, 1975.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its above-named wholly-owned subsidiary companies (hereinafter referred to as "Columbia of W. Va.", "Columbia of Ky.", "Columbia of Va.", "Columbia of Ohio", "Inland", "Columbia of Pa.", "Columbia of N.Y.", "Columbia of Md.", "Hyrocarbon", "Columbia Transmission", "Columbia LNG", "Development U.S.", "Development Canada" and "Coal Gasification") have filed a post-effective amendment to an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(b), 9(a), 10, 12(b), and 12(f) of the Act and Rules 43 and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amendment, which is summarized below, for a complete statement of the proposed transactions.

On May 9, 1975, the Commission issued an order (HCAR No. 18978) approving Columbia's plan for intrasystem financing. Among the transactions approved in the order was the sale by Columbia Transmission to Columbia of installment notes in an amount not to exceed $35,000,000. Columbia and Columbia Transmission now propose that the authorized amount of these installment notes be increased to $80,000,000. It is stated that the proposed increase reflects a $45,000,000 increase in Columbia Transmission's gas purchase advances and $35,000,000 for refunds to its customers pursuant to a rate case settlement agreement before the Federal Power Commission. The rate refund is to be made from a portion of the contingent revenues previously collected from September 1973 to present. However, such funds collected through that period were added to Columbia Transmission's general funds and used to satisfy

demands thereon, necessitating an increase in the amount of installment notes it is proposed to issue and sell to Columbia.

The order of May 9, 1975 and a supplemental order issued September 19, 1975 (HCAR No. 19180) contained reservations of jurisdiction, pending completion of the record, over the proposed sale by Columbia of New York to Columbia of installment notes in an amount not to exceed $800,000. The record has now been completed with respect to this transaction and Columbia of New York now proposes to sell and Columbia proposes to acquire, not later than March 31, 1976, unsecured installment notes in an amount not to exceed $406,000. The terms and provisions of the installment notes and the use of the proceeds thereof are as stated in the order of May 9, 1975. The sale of the notes has been approved by the New York Public Service Commission.

Due notice of the filing of said application-declaration, insofar as it applies to the issuance and sale of installment notes by Columbia of New York to Columbia, has been given in the manner prescribed by Rule 23 promulgated under the Act (HCAR No. 18929), and no hearing has been requested of or ordered by the Commission. Upon the basis of the facts in the record, it is hereby found, with respect to the above-described transaction, that the applicable provisions of the Act and rules promulgated thereunder are satisfied and that no public fundings are necessary; and that it is appropriate in the public interest and in the interest of investors and consumers that the amended application-declaration in respect of said transaction be granted and permitted to become effective:

It is ordered that the jurisdiction reserved in the supplemental order of September 19, 1975 as to portions of the record regarding the issue and sale of installment notes by Columbia of New York which were incomplete at that time be, and the same hereby is, released and that the proposed transaction may be consummated, without further order, in accordance with Rule 24.

Notice is further given that any interested person may, not later than December 30, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address; and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or 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.75-33363 Filed 12-10-75;8:45 am]

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[Release No. 19290; 70-5773]

## THE COLUMBIA GAS SYSTEM, INC. ET AL.

### Proposed Open Account Advances to Subsidiary Companies by Parent Company in Connection With Intrasystem Prepayment of Promissory Notes

DECEMBER 5, 1975.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its wholly-owned subsidiary companies listed above, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 6(b), 9, 10 and 12(b) of the Act and Rules 42(b)(2), 45 and 50(a)(3), promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

It is stated that during the winter heating season Columbia's distribution subsidiary companies generate substantial amounts of cash in excess of current requirements. During the same period, however, the transmission subsidiary companies generate lesser amounts of cash and have generally larger construction expenditures, requiring Columbia to advance funds to such subsidiary companies. In recent years, however, the Commission has authorized open account advances by Columbia to subsidiary companies and certain related transactions which are designed to alleviate this situation. The present filing requests authorization to continue such transactions during the calendar year 1976.

It is proposed that the subsidiary companies listed below will prepay from time to time prior to the end of 1976, with excess cash in aggregate amounts not to exceed the amounts set forth below, a portion of their outstanding installments promissory notes ("Notes") held by Columbia. The following amounts represent the estimated aggregate maximum excess funds that such companies are expected to accumulate at any one time during the year 1975:

| | |
|---|---|
| Columbia Gas Transmission Corp | $175,000,000 |
| Columbia Gas of Pennsylvania, Inc | 20,000,000 |
| Columbia Gas of New York, Inc | 5,000,000 |
| Columbia Gas of Maryland, Inc | 2,000,000 |
| Columbia Gas of Kentucky, Inc | 6,000,000 |
| Columbia Gas of Virginia, Inc | 3,000,000 |
| Columbia of West Virginia, Inc | 10,000,000 |
| Columbia Gas of Ohio, Inc | 55,000,000 |
| Columbia Gulf Transmission Co | 65,000,000 |
| Columbia Hydrocarbon Corp | 4,100,000 |
| The Inland Gas Co., Inc | 1,900,000 |
| Columbia LNG Corp | 35,000,000 |
| Columbia Gas Development Corp | 31,500,000 |
| Total | 413,500,000 |

The Notes ("Indebtedness") prepaid by the individual companies will be those bearing the highest interest rate or rates outstanding at the time of each prepayment. Interest on such Indebtedness will cease upon prepayment and recommence upon reissuance. As any of such companies require funds for construction and other corporate purposes after prepayment, it is proposed that advances be made to them on open account by Columbia, provided that at no time will the amount of such advances to any subsidiary exceed the amount of Indebtedness theretofore prepaid by it, less any current maturities applicable to prepaid Notes which would have matured subsequent to the date of prepayment.

The open account advances to any subsidiary company will bear interest commencing on the date of the advances, at the same rate or rates as borne by the equivalent principal amounts of Indebtedness previously prepaid by it during 1976, but in reverse order to that of the prepayments, i.e., beginning from the lowest rate payable on the Indebtedness previously prepaid to the highest rate. Interest on the open account advances will become due on June 30, 1976, and December 31, 1976, and/or on the date such advances are repaid by the issuance of debt. It is further proposed that advances on open account to individual subsidiary companies will be increased or decreased from time to time in accordance with variations in the cash flow o fthe individual subsidiary companies. The proposed advances will not be in excess of the Indebtedness prepaid theretofore. At such time as the advances to any subsidiary company equal the aggregate amount of the Indebtedness prepaid by it, or in any event not later than December 31, 1976, such prepaid Indebtedness will be reinstated in repayment of the outstanding open account advances.

Financing of construction or gas storage programs of any operating subsidiary company pursuant to Commission authorization will not be consummated until such time as advances have been made in amount equal to the amount of Indebtedness prepaid. Any subsidiary company which during 1976 has bor-

rowed on open account from Columbia an amount smaller than the amount of Indebtedness theretofore prepaid by it, will, on December 31, 1976, reinstate its Indebtedness to Columbia in an amount sufficient to discharge its open account borrowings, and the balance of its prepaid Indebtedness will be considered to have been permanently prepaid. Such permanent prepayment would be applied against Indebtedness bearing the highest interest rates and would be consummated only with respect to Indebtedness bearing interest at a rate equal to or in excess of the rate applicable to borrowings by subsidiary companies from Columbia as of December 31, 1976. In the event that a permanent prepayment by any subsidiary company would be indicated with respect to Notes bearing an interest rate less than the rate applicable to debt purchased by Columbia from subsidiary companies at December 31, 1976, such Notes will be reissued by the subsidiary company at or before the end of 1976.

It is stated that the proposed transactions are designed to achieve the following: (1) flexibility to prepay at the earliest possible date inventory loans with commercial banks and other short-term borrowings, (2) defer outside financing until aggregate system funds approach a minimum balance, (3) facilitate the internal financing of emergency requirements, and (4) allow subsidiaries, during any period in which they have excess cash, to temporarily prepay Notes owed Columbia, thereby decreasing their own net corporate interest expense.

Expenses to be incurred by Columbia and its subsidiary companies in connection with the proposed transactions are estimated at $4,500, including $2,000 for services, at cost, provided by Columbia Gas System Service Corporation.

It is stated that the Public Service Commission of West Virginia has authorized the prepayment and reissuance of prepaid Notes by Columbia Gas of West Virginia, Inc., that the Public Service Commission of New York has authorized the reissuance of prepaid Notes by Columbia Gas of New York, Inc., that the Public Service Commission of Kentucky has authorized the issuance of prepaid Notes by Columbia Gas of Kentucky, Inc., and that the State Corporation Commission of Virginia has authorized the issuance of prepaid Notes by Columbia Gas of Virginia, Inc. It is stated that no other State or Federal commission, other than this Commission has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 29, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such 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.75-33364 Filed 12-10-75;8:45 am]

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[File No. 500-1]

## CONTINENTAL VENDING MACHINE CORP.

### Notice of Suspension of Trading

DECEMBER 5, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 6, 1975 through December 15, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.75-33365 Filed 12-10-75;8:45 am]

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[Rel. No. 19285; 70-5771]

## GENERAL PUBLIC UTILITIES CORP.

### Proposed Issue and Sale of Short-Term Notes to Banks

DECEMBER 5, 1975.

Notice is hereby given that General Public Utilities Corporation ("GPU"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) thereof as applicable to the proposed transaction. All interested persons are referred to the application, summarized below, for a complete statement of the proposed transaction.

By orders dated June 29, 1970, November 4, 1970, August 23, 1971, December 27, 1973, June 4, 1974, June 13, 1974, December 24, 1975 and February 21, 1975 (HCAR Nos. 16670, 16892, 17243, 17829, 18433, 18457, 18730 and 18824), the Commission authorized GPU until December 31, 1975, (a) to issue and sell from time to time its unsecured promissory notes maturing not more than nine months after issue ("short-term notes") in an aggregate principal amount outstanding at any one time of up to $135,000,000 to a group of commercial banks pursuant to a credit agreement and (b) to issue and sell short-term notes in an aggregate principal amount of up to $50,000,000 to various commercial banks pursuant to informal lines of credit, provided that the aggregate principal amount of all of GPU's short-term notes outstanding at any one time shall not exceed $175,000,000.

GPU now requests that, for the period commencing on January 1, 1976 and ending on December 31, 1976, it be permitted from time to time to issue or renew its short-term notes to various commercial banks pursuant only to informal lines of credit, provided that the aggregate principal amount of such unsecured promissory notes outstanding at any one time shall not exceed $175,000,000. Each such note will bear interest at a rate not exceeding the "prime rate" which may be the floating rate, of each lending bank for commercial borrowing at the date of issue of such note, will be prepayable at any time without premium and will not be issued as part of a public offering. GPU proposes to use the proceeds of the short-term borrowing for investment in its operating subsidiaries.

Although no commitments or agreements for the proposed borrowings have been made, GPU expects that, to the extent its cash needs require, borrowings will be effected from among 15 designated banks. It is proposed that the maximum short-term credit made available by the banks will total $205,000,000, which exceeds by $30,000,000 the maximum amount for which authority is being requested. It is stated that the purpose of this excess amount of available credit is to provide flexibility with one or more particular banks (but without exceeding such authorized total from all banks) since some banks have indicated from time to time that it is not always convenient for them to renew outstanding notes at the time GPU requests them to do so.

It is anticipated that the banks from which borrowings will be made will require compensating balances at levels generally approximating 10% of the line of credit or 20% of the amounts actually borrowed, whichever is higher. Assuming compensating balances will equal 20% of the aggregate amounts borrowed and a prime of 7¼%, the effective cost of borrowing will be 9.06%.

It is stated that GPU's expenses in connection with the proposed transaction will be approximately $9,000, including legal fees of $6,500. It is also stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than De-

cember 30, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application 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 upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.75-33366 Filed 12-10-75;8:45 am]

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[File No. 500-1]

## GENERICS CORP. OF AMERICA

### Suspension of Trading

DECEMBER 5, 1975.

The common stock of Generics Corporation of America being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934, the 6% convertible subordinated debentures due July 1983 and all other securities of Generics Corporation of America being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from December 8, 1975 through midnight (EST) on December 17, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.75-33367 Filed 12-10-75;8:45 am]

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[Rel. No. 19287; 70-5770]

## JERSEY CENTRAL POWER & LIGHT CO.

### Proposed Issue and Sale of Short-Term Notes to Banks

DECEMBER 5, 1975.

Notice is hereby given that Jersey Central Power & Light Company ("Jersey Central"), an electric utility subsidiary company of General Public Utilities Corporation ("GPU"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) thereof as applicable to the proposed transaction. All interested persons are referred to the application, summarized below, for a complete statement of the proposed transaction.

By order dated October 17, 1974 (HCAR No. 18610), the Commission authorized Jersey Central, for the period ending December 31, 1975, to issue and sell to 30 commercial banks, as evidence of short-term borrowing therefrom, its unsecured promissory notes, maturing in nine months or less ("short-term notes") provided that the aggregate principal amount of such notes outstanding at any one time would not exceed $120,000,000. Jersey Central now requests (1) authority to increase the aggregate principal amount of its short-term borrowings to $125,000,000 and (2) an extension of such authority to December 31, 1976.

The short-term notes will bear interest at the lending bank's prime interest rate for commercial borrowing at the date of issue of the notes, will be prepayable at any time without premium, and will not be issued as part of a public offering. Although no commitments or agreements for the proposed borrowings have been made, Jersey Central anticipates that, to the extent its cash needs require, borrowings will be effected from time to time from among 37 designated commercial banks. It is also proposed that the maximum short-term credit made available by the banks will total $150 million, which exceeds by $25 million the maximum amount for which authority is being requested. It is stated that the purpose of this excess amount of available credit is to provide flexibility with one or more particular banks (but without exceeding such authorized total amount for all banks) since some banks have indicated from time to time that it is not always convenient for them to renew outstanding notes at any time Jersey Central requests them to do so.

It is anticipated that the banks, from which borrowings will be made, will require compensating balances at levels generally approximately 10% of the line of credit or 20% of the amounts actually borrowed, whichever is higher. Assuming compensating balances will equal 20% of the aggregate amounts borrowed and a prime rate of 7¼%, the effective cost of borrowing would be 9.06%.

Jersey Central proposes to use the proceeds of the short-term loans for its short-term working capital requirements, including repayment of other short-term borrowings, and for construction expenditures. Jersey Central states that it now has short-term notes outstanding in an aggregate principal amount of $15,200,000. The cost of Jersey Central's 1976 construction program is approximately $117,801,000.

It is stated that Jersey Central will incur approximately $8,000 in expenses in connection with the proposed transactions, including legal fees of $5,000. It is also stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 30, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advise 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.75-33368 Filed 12-10-75;8:45 am]

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[Rel. No. 19283; 70-5775]

## METROPOLITAN EDISON CO.

### Proposed Capital Contributions by Holding Company to Subsidiary

DECEMBER 5, 1975.

Notice is hereby give that Metropolitan Edison Company ("Met-Ed"), an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed a declaration with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(d) of the Act and Rule 45

promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Met-Ed requests that it be authorized to make, from time to time prior to December 31, 1976, cash capital contributions to its subsidiary, York Haven Power Company ("YHP"), of up to $500,000. Such cash capital contributions will be credited by YHP to its capital surplus account. These funds will be utilized by YHP for purposes of (i) acquiring from International Paper Company ("IPC") certain property, easements and related water rights comprising Project No. 2095 (the license for which under the Federal Power Act is now held by IPC), (ii) modifying such property in order to comply with the terms and conditions of the order, dated September 23, 1975, of the Federal Power Commission ("FPC"), and (iii) financing its business as a public utility.

The FPC order of September 23, 1975, authorized the amendment of YHP's license for Project No. 1888 to include the Project No. 2095 properties to be purchased from IPC pursuant to an Agreement of Sale, dated November 23, 1971, with IPC. Under a power supply amendment, dated April 30, 1974, which has been filed with and accepted by the FPC as an initial rate schedule, Met-Ed and YHP have agreed that Met-Ed shall purchase the total power and energy from Project No. 1888 on a rate based upon YHP's costs and expenses in generating and transmitting such power and energy plus an additional amount representing a rate of return on the net investment in Project No. 1888.

By order dated April 12, 1974 (HCAR No. 18374), Met-Ed was authorized to transfer to YHP substantially all the tangible and intangible project property comprising Met-Ed's York Haven hydroelectric project, as revised, licensed as Project No. 1888, and the license, as amended, for said project. The transfer reserved and excluded certain rights and property necessary for the construction and operation of the Three Mile Island nuclear generating station, in exchange for all the capital stock of YHP.

Met-Ed states that it must make cash capital contributions to YHP since YHP's internal cash generation under the power supply agreement has not been sufficient to provide the necessary funds in order to consummate the purchase of the IPC properties comprising Project No. 2095 as well as carry out certain modifications to the properties as required by the FPC order, dated September 23, 1975.

The fees and expenses to be incurred by Met-Ed in connection with the proposed transactions are estimated at $4,500, including legal fees of $2,250. The filing states that no state commission and no federal commission, other than this Commission, has jurisdiction with respect to the proposed transactions, except that the FPC has jurisdiction with respect to the amendment to the license for Project No. 1888 to include the properties consisting of Project No. 2095.

Notice is further given that any interested person may, not later than December 30, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission 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 such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.75-33369 Filed 12-10-75;8:45 am]

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[Rel. No. 19284; 70-5581]

## METROPOLITAN EDISON CO.

### Proposed Issue and Sale of Short-Term Notes to Banks

DECEMBER 5, 1975.

Notice is hereby given that Metropolitan Edison Company ("Met-Ed"), an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed a post-effective amendment to its application previously filed in this matter with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act as applicable to the proposed transaction. All interested persons are referred to the application, as amended by the post-effective amendment, summarized below, for a complete statement of the proposed transaction.

By Order dated December 24, 1974 (HCAR No. 18732), the Commission authorized Met-Ed, for the period January 1, 1975 to December 31, 1975, to issue or renew its unsecured promissory notes of a maturity of nine months or less evidencing short-term borrowings ("short-term notes") provided that the aggregate principal amount of such notes to be outstanding at any one time did not exceed the lesser of (A) $70,000,000 or (B) 10% of the sum of (i) the principal amount of Met-Ed's outstanding first mortgage bonds and debentures, (ii) the par value of Met-Ed's outstanding preferred stock, (iii) the stated value of Met-Ed's outstanding common stock, and (iv) the capital surplus of Met-Ed. The notes bear interest at a rate not exceeding the prime rate, which can be the floating rate of the lending bank for commercial borrowing at the date of issue of such note, are prepayable at any time without premium, and are not issued as a part of a public offering.

Met-Ed now requests an extension of such authority to December 31, 1976, and proposes to revise the list of banks from which it may make such borrowings.

Met-Ed proposes to revise the list of banks by adjusting the maximum short-term credit made available by three of the 36 designated banks. The aggregate maximum short-term credit made available by the banks will continue to be $90,000,000, which exceeds by $20,000,000 the maximum amount for which authority is being requested. It is stated that the purpose of this excess amount of available credit is to provide flexibility with one or more particular banks (but without exceeding the authorized total amount for all banks) since some banks have indicated that it is not always convenient for them to renew outstanding notes at the time Met-Ed requests them to do so.

Met-Ed anticipates that the banks will require it to maintain compensating balances equal to approximately 10% of the line of credit or 20% of the aggregate amounts borrowed. Assuming compensating balances equal 20% of the aggregate amounts borrowed, and a prime rate of 7¼%, the effective cost of borrowing would be 9.06%.

Met-Ed proposes to use the proceeds of the short-term loans to provide funds for its short-term working capital requirements, including repayment of other short-term borowings, and to provide a temporary source of funds for construction expenditures. Met-Ed states that at present it has no short-term notes outstanding. The cost of Met-Ed's 1976 construction program is estimated to be approximately $69,693,000.

It is stated that Met-Ed's expenses in connection with the proposed transaction will be approximately $6,500, including legal fees of $6,000. It is also stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 30, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application, as amended by such post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing

thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended by said post-effective amendment or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.75-33370 Filed 12-10-75;8:45 am]

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[Rel. No. 19286; 70-5582]

## PENNSYLVANIA ELECTRIC CO.

### Issue and Sale of Short-Term Notes to Banks

DECEMBER 5, 1975.

Notice is hereby given that Pennsylvania Electric Company ("Penelec"), an electric utility subsidiary company of General Public Utilities Corporation, ("GPU") a registered holding company, has filed with this Commission a post-effective amendment to its application previously filed in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6(b) thereof as applicable to the following proposed transaction. All interested persons are referred to the application as amended by the post-effective amendment, summarized below, for a complete statement of the proposed transaction.

By Order, dated December 23, 1974 (HCAR No. 18727), and Supplemental Orders dated March 20, 1975 (HCAR No. 18877) and June 24, 1975 (HCAR No. 19059), the Commission authorized Penelec, for the period January 1, 1975 to December 31, 1975, to issue or renew its unsecured promissory notes of a maturity of nine months or less evidencing short-term bank borrowings ("short-term notes"), provided that the aggregate principal amount of such notes to be outstanding at any one time did not exceed the lesser of (A) $88,000,000 or (B) 10% of the sum of (i) the principal amount of Penelec's outstanding first mortgage bonds and debentures, (ii) the par values of Penelec's outstanding preferred and common stock, and (ii) the capital surplus of Penelec. The notes are to bear interest at a rate not exceeding the prime rate, which can be the floating rate of the lending bank for commercial borrowing at the date of issue of such note, are to be prepayable at any time without premium, and are not to be issued as a part of a public offering. Penelec now requests (a) an extension of such authority to December 31, 1976 and (b) authority to increase its short-term borrowings up to a maximum aggregate amount of $98,000,000.

Although no commitments or agreements for the proposed borrowings have been made, Penelec anticipates that, to the extent of its cash needs, borrowings will be effected from time to time for among 49 designated commercial banks. It is also proposed that the short-term credit made available by the banks will total $130,000,000, which exceeds by $32,000,000 the maximum amount for which authority is being requested. It is stated that the purpose of this excess amount of available credit is to provide flexibility with one or more particular banks (but without exceeding such authorized total amount for all banks) since some banks have indicated from time to time that it is not always convenient for them to renew outstanding notes at the time Penelec requests them to do so.

Penelec anticipates that the banks will require it to maintain compensating balances equal to 10% of the line of credit or 20% of the amounts actually borrowed, whichever is higher. Assuming compensating balances equal to 20% of the aggregate amounts borrowed and a prime rate of 7¼%, the effective cost of borrowing would be 9.06%.

Penelec proposes to use the proceeds of the short-term loans to provide funds for its short-term working capital requirements, including repayment of other short-term borrowings, and to provide a temporary source of funds for construction expenditures. Penelec states that it now has no unsecured notes outstanding. The cost of Penelec's 1976 construction program is expected to be approximately $113,012,000.

It is stated that Penelec's expenses in connection with the proposed transaction will be approximately $6,500, including legel fees of approximately $6,000. It is also stated that no state commission, no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 30, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application as amended by said post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended by said post-effective amendment or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.75-33371 Filed 12-10-75;8:45 am]

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[File No. 500-1]

## TRANSJERSEY BANCORP

### Suspension of Trading

DECEMBER 3, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Transjersey Bancorp being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from December 4, 1975 through December 13, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.75-33372 Filed 12-10-75;8:45 am]

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[Rel. No. 9074; 812-3870]

## UNION BANK AND NAFCU SERVICES CORP.

### Application

DECEMBER 5, 1975.

Notice is hereby given that NAFCU Services Corporation (NAFCU) and Union Bank (the "Bank") (collectively referred to as "Applicants"), have filed an application pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting the Common Trust Fund of Union Bank for Credit Union Trusts (the "Fund") from all the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

NAFCU, a District of Columbia corporation, was organized in May 1975 for

the purpose of providing various administrative, financial and data processing services to credit unions. All of its outstanding shares are owned by the National Association of Federal Credit Unions, a California corporation.

Applicants have proposed the establishment of the Fund in order to permit credit unions to invest more efficiently in securities authorized by law for federal credit unions through the collective investment and reinvestment in a trust portfolio of securities which are exempt securities under Section 3(a)(2) of the Securities Act of 1933 (the "1933 Act"). The corpus of the Fund will consist of monies contributed by trusts ("Participating Trusts"), established by individual credit unions with the Bank as trustee. It is anticipated that the Fund, because of its size and ability to diversify investments, will provide a greater yield and liquidity to participating credit unions than could be obtained through individual credit union investments.

The Plan of Common Trust ("the Plan") provides that the Fund shall be open to credit unions organized under the Federal Credit Union Act, credit unions organized under the laws of the District of Columbia, or any state, territory or possession of the United States; and credit unions organized and operating under the jurisdiction of the United States Department of Defense. Applicants have applied for a ruling from the National Credit Union Administration, which supervises and administers federal credit unions, that, under the Federal Credit Union Act, federal credit unions may invest their funds in the Fund. If any state chartered credit union desires to participate in the Fund, approval of such participation by the applicable state agency responsible for administering such credit union will be sought.

The Comptroller of the Currency has reviewed the Plan and has found the Plan to be in compliance with Section 9.18 of the Regulations of the Comptroller of the Currency relating to collective investment funds.

No sales charge or load will be assessed against a Participating Trust for assets invested in the Fund. Contributions to or withdrawal from the Fund may be made at any time. Income and gains realized on investments of the Fund will not be distributed separately at fixed intervals but will, in effect, be paid pro rata to a participating trust only upon the withdrawal of its participation.

The Bank will supply investment management, safe keeping of assets, and bookkeeping services to the Fund. For these services the Bank will charge the Fund a fee of .00175 of the asset value of the Fund per year. The Bank will have ful discretionary powers with respect to investment and reinvestment of the assets of the Fund and may determine through a Trust Investment Committee the portfolio of securities to be acquired with the assets of the Fund.

Applicants anticipate that the purchases by the Bank of securities for the Fund will be executed through entities making markets in securities or by direct purchases upon the original issuance of such securities. No securities will be purchased on margin nor will there be any short sales. Customary commissions with respect to market purchases will be paid. The Bank in investing and reinvest the corpus of the Fund will seek to obtain the best execution. Investments of the Fund will be kept separate and apart from all other property belonging to the custody of the Bank. Each credit union establishing a Participating Trust and the Comptroller of the Currency will be provided with a yearly audited financial report on the Fund.

The Bank will be subject to the restrictions against self-dealing contained in Section 9.12(a) of Regulation 9 of the Comptroller of the Currency Regulation 9, which states that "Unless lawfully authorized by the instrument creating the relationship, or by court order or by local law, funds held by a national bank as fiduciary shall not be invested in stock or obligations of, or property acquired from, the bank of its directors, officers, or employees, or individuals with whom there exists such a connection, or organizations in which there exists such an interest, as might affect the exercise of the best judgment of the bank in acquiring the property, or in stock or obligations of, or property acquired from, affiliates of the bank or their directors, officers, or employees." Counsel for Applicants states that neither the instrument creating the relationship, court-order, or local law authorizes the Bank in its fiduciary capacity as Trustee of Fund to engage in the kind of self-dealing described in Section 9.12(a) of Regulation 9. Applicant's counsel states that it is his opinion, therefore, that such self-dealing is prohibited by Section 9.12(a) of Regulation 9 which the Bank has agreed to comply with pursuant to Section 1.5 of the Plan.

Pursuant to the Plan and to a letter agreement dated September 16, 1975, the Bank has retained NAFUC to provide technical advice and operation assistance to the Bank in operating the Fund. Such services will include but will not be limited to (i) technical advice concerning credit unions in general; (ii) technical assistance with respect to special problems involving participating credit unions, such as the handling of overdrafts; (iii) the preparation and dissemination of information concerning the mechanics of transferring money in and out of the Fund; (iv) conferences and dissemination of educational materials concerning the use of the Fund; and (v) the necessary liaison and conferences with federal and state agencies, including credit union supervisory authorities, relating to the operation of the Fund. It is anticipated that except for day-to-day money transfers and reporting obligations, NAFUC Services Corporation will be responsible for all communications with participating credit unions. For these services the Bank will pay NAFUC an annual fee equivalent to .00075 of that portion of the asset value of the Fund that is in excess of the portion essential for the Bank to aggregate an annual fee of $95,000 pursuant to its fee arrangement with the Fund.

Applicants submit that it is 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 for the Commission to enter an order exempting the Fund from all the provisions of the Act for the following reasons: (1) Participation in the Fund will be offered only to credit unions; (2) Participating credit unions would be subject to continuing reporting provisions, examination requirements and other regulations of federal and state agencies which limit investments by such credit unions to those government securities designated in the applicable enabling legislation; (3) The operation of the Fund and the Participating Trusts will be supervised and examined by the Comptroller of the Currency to assure compliance with Section 9 of the Regulations of the Comptroller of the Currency pertaining to fiduciary accounts and collective investment funds; (4) The Fund will involve organizations (credit unions) which are exempted by Section 3(c)(4) of the Act from regulation under the Act and the securities (government securities and government agency securities) in which the Fund will invest are exempt from the Securities Act of 1933 by Section 3(a)(2) of that Act; (5) The Fund will operate to carry out the congressional policy of providing "a further market for securities of the United States" (Preamble to the Federal Credit Union Act, Act of June 26, 1934, 48 Stat. 1216, 12 U.S.C. 1751 et seq); and (6) An additional layer of regulation will provide no additional protection and would cause only unnecessary burdens and expenses and duplication of effort contrary to the interests of the members of credit unions and the general public.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 26, 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 Appli-

cants at the addresses 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 December 26, 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.75-33373 Filed 12-10-75;8:45 am]

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[Release No. 34—11898; File No. SR-Amex-75-14]

## AMERICAN STOCK EXCHANGE, INC.

### Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 28, 1975, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. (the "Amex") proposes to amend Rule 576 and the Commentary thereto in order that it may improve the proxy solicitation procedures which have been established for member organizations under that rule.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

In general, the purposes of the proposed amendments to Rule 576 are to (a) expand the scope of this rule to require member organizations to transmit proxy material to shareholders who are beneficial owners of "street name" securities and who reside outside the United States and (b) improve and clarify the proxy solicitation procedures by revising the sample letters suggested for use by member organizations to (i) urge beneficial owners to instruct their brokers how they wish their shares to be voted and (ii) advise beneficial owners that their instructions will be followed by the member organization if received by the last business day before the shareholders' meeting.

Rule 576 presently provides that whenever a person soliciting proxies furnishes a member organization with copies of the proxy solicitation material and agrees to make reimbursement, the member organization is required to transmit such material to each beneficial owner of securities held by it in "street name", provided the owner resides within the United States. To provide foreign shareholders with the opportunity to participate in the corporate voting process, the Amex proposes to amend rule 576 to require proxy material to be transmitted to all beneficial shareholders, regardless of country of domicile.

As a guide to member organizations performing the notification duties specified in rule 576, commentary .20 thereto currently contains sample letters for use by member organizations in soliciting their customers' instructions relative to the manner in which their shares should be voted. The proposed amendments to commentary .20 would do the following:

First, member organizations would be permitted to adapt the transmittal letter format to suit their own needs, provided it contained all of the required information and instructions.

Second, the sample transmittal letters would be revised so as to urge beneficial owners to instruct their brokers as to how they wish their shares to be voted and to indicate that such instructions will be followed if received by the member organization no later than the last business day prior to the stockholders' meeting, notwithstanding the fact that the member organization may have already cast a vote on a discretionary basis. These changes are designed to alert beneficial owners to the importance of having their views represented at shareholders' meetings and to provide a reasonable "cut-off" time prior to the meeting so that instructions may be processed and voted accordingly.

Lastly, minor technical changes have been made in the text of commentary .20 to rule 576 as indicated in section 1. above to eliminate certain existing ambiguities.

The proposed elimination of commentary .70 to rule 576 is designed to conform the commentary to the text of the rule. The provisions of commentary .70 currently state that the rule is not applicable to beneficial owners located outside the United States.

The balance of the changes to the commentary to rule 576 reflect the renumbering necessitated by the elimination of commentary .70.

The proposed amendments to rule 576 described herein are designed to conform to the provisions of section 6(b)(5) of the Securities Exchange Act of 1934, as amended, which becomes effective on December 1, 1975 and which provides, in pertinent part, that exchange rules must be designed to protect investors and the public interest. The proposed Amex rule amendments if approved prior to that date, will be consistent with that section when it becomes effective.

The proposed amendments, if approved, will enhance the ability of public investors, regardless of country of domicile, to have their views represented at stockholders' meetings.

No comments were solicited or received from members or participants on the proposed rule change.

The proposed amendments were submitted to the Securities and Exchange Commission earlier in the year under then existing SEC rule 17a-8, and the staff of the Commission offered comments with respect thereto. The SEC staff suggested that the phrase in the sample transmittal letter "prior to the last business day" was somewhat ambiguous and recommended that this phrase be revised to "by the last business day". The Amex Board of Governors approved this revision on July 10, 1975.

The Amex has determined that the amendments to rule 576 will not impose a burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by January 12, 1975.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

DECEMBER 3, 1975.

[FR Doc.75-33374 Filed 12-10-75;8:45 am]

[Release No. 11903]

## STREET NAME STUDY

### Transmittal to Congress of Preliminary Report

The Securities and Exchange Commission today announced that on December 4, 1975, pursuant to section 12(m) of the Securities Exchange Act of 1934 (the "Act"), the Commission transmitted to Congress the preliminary report of the "Street Name Study."

Added to the Act by the 1975 Amendments, section 12(m) authorizes and directs the Commission to undertake a study and investigation of the practice of recording the ownership of securities in the records of the issuer in other than the name of the beneficial owner of such securities and to determine (1) whether such practice is consistent with the purposes of the Act with particular reference to sections 12(g), 13, 14, 15(d), 16, and 17A, and (2) whether steps can be taken to facilitate communications between issuers and the beneficial owners of their securities while at the same time retaining the benefits of such practice. The Commission is directed to report to Congress its preliminary findings by December 4, 1975, and its final conclusions and recommendations by June 4, 1976.

The preliminary report is divided into four principal sections. First, it describes the historical factors which gave rise to the practice of registering securities in other than the name of the beneficial owner and summarizes available information concerning the extent of the practice today. Second, it describes the effect of the practice on the purposes of the Act, including the issuer-shareholder communications process, the clearing and settlement process and other considerations. Third, it sets forth possible alternatives to the current practice. Finally, it describes the direction the study will take in the next six months.

Copies of the preliminary report are available to the public from the Commission's Office of Public Information, 500 North Capitol Street, Washington, D.C. 20549.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

DECEMBER 5, 1975.

[FR Doc.75-33376 Filed 12-10-75;8:45 am]

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[Release 34-11897; File No. SR-NASD-75-7]

## NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

### Self-Regulatory Organizations

Pursuant to Section 19(B)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 15 (June 4, 1975) notice is hereby given on December 3, 1975, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

NASD'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Board of Governors, pursuant to its obligation to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, has determined that no person may be involved in any way with a private securities transaction outside the regular course or scope of his association or employment, without prior notice to the member with whom he is associated.

TEXT OF PROPOSED RULE CHANGE

The following is the full text of the proposed amendments to the policy statement of the Board of Governors of the National Association of Securities Dealers entitled "Fair Dealing with Customers" appearing after Article III, Section 2 of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

Item 4 subsection (e), which reads as follows, shall be eliminated:

PRIVATE TRANSACTIONS

(e) Transactions by registered representatives which are concealed from their employers, or securities transactions outside registered representatives' regular employment, even if disclosed to state law.

The following is the full text of the proposed interpretation and explanation of the Board of Governors of Article III, Sections 1, 27 and 28 of the Association's Rules of Fair Practice, which shall appear after Section 27 of Article III of the Association's Rules of Fair Practice.

INTERPRETATION BY THE BOARD OF GOVERNORS

PRIVATE SECURITIES TRANSACTIONS

*Introduction*

The Board of Governors, under its obligation to "prevent fraudulent and manipulative acts, [and] practices and to promote just and equitable principles of trade," believes it should again emphasize to members their continuing responsibility to exercise appropriate supervision over associated personnel, and in particular to emphasize to such personnel their responsibilities of good faith to the member and its customers. For purposes of this interpretation, private securities transactions shall include securities transactions which involve a limited number of purchases or sales (as contrasted, for example, with transactions involving public offerings registered with the SEC) and other investment transactions involving associated personnel which may mislead customers or participants into believing the transactions are sponsored by the member.

Depending upon all the facts and circumstances, private securities transactions effected outside the usual or normal course or scope of employment and nowhere reflected on broker dealer books and records may expose the participants to charges of serious violations of federal securities laws as well as industry rules and regulations, and to civil liability. In some instances, severe sanctions have been imposed on registered and associated personnel for engaging in private securities transactions effected outside the scope of their association and nowhere reflected on broker/dealer books and records.

Persons associated with a member should also be aware that their involvement in private securities transactions outside the scope of their association with a member may raise serious questions regarding their need to register as broker/dealers and/or investment advisers under state and federal securities laws. In addition, effecting private securities transactions without disclosure to the member, deprives the member of an ability to supervise the securities transactions of persons associated with it, thereby making it difficult for the member to exercise its obligation of good faith in its dealings with its customers.

Accordingly, the Board of Governors has determined that no person may be involved in any way with a private securities transaction outside the regular course or scope of his association or employment, without prior notice to the member with whom he is associated. To insure compliance with this determination, the member may at its option request duplicate copies of all documents and statements related to such transactions. It shall be the duty of any person associated with a member to promptly comply with such a request.

Personal securities transactions with another member of the Association, which transactions are properly recorded on the books of the executing member and which are subject to the notification requirements of Article III, Section 28 of the Rules of Fair Practice, are not considered to be private securities transactions for the purposes of this interpretation.

The following Interpretation of Article III, Sections 1, 27 and 28 of the Association's Rules of Fair Practice is adopted by the Board of Governors of the Association pursuant to the provisions of Article VII, Section 3(a) of the Association's By-Laws and Article I, Section 3 of the Rules of Fair Practice.

INTERPRETATION

It shall be deemed conduct inconsistent with just and equitable principles of trade for any person associated with a member to engage in a private securities transaction outside the regular course of scope of his association or employment with a member, for himself or with or for any other person without prior written notification to the member. In order for that member to exercise supervision over such transactions, it may request duplicate copies of all confirmations and other documents or other information related to such transactions from the person notifying the member and it shall be deemed conduct inconsistent with just and equitable principles of trade for that person to fail to promptly comply with such request.

PURPOSE OF PROPOSED RULE CHANGE

It is the purpose of the Board of Governors in adopting an interpretation with regard to the private securities transactions of associated personnel to emphasize to members their continuing responsibility to exercise appropriate supervision over their associated personnel. Private securities transactions or other investment transactions involving associated personnel and effected outside the usual or normal course or scope of employment, and nowhere reflected on the books of the broker/dealer may mislead customers of the firm or participants in the investment transaction into believing that the transaction is sponsored by the member. In some instances in the past, serious violations of the federal securities laws as well as industry rules and regulations have resulted and civil liability has been imposed on registered and associated personnel for engaging in private securities transactions effected outside the scope of their association and nowhere reflected on the broker/dealer's books and records.

The purpose of this interpretation is to notify persons associated with a member and involved in private securities transaction outside the scope of their association with the member, of the possibility of their being required to register as broker/dealers or investment advisors under state and federal securities laws. The interpretation also notifies and reinforces the obligation of a member to supervise the securities transactions of persons associated with it as well as its obligation to develop and maintain an ability to supervise such transactions and insure satisfaction of its requirement of good faith in dealing with its customers.

Accordingly, the interpretation of the Board of Governors will require an associated person to give prior notice to the member of his involvement in any way with any private securities transaction or other investment transaction outside the regular course or scope of his association or employment that might result in customers or participants being led to believe the transaction is being sponsored by the member. To insure compliance with this determination, the member may, at its option, request duplicate copies of all documents and statements relating to such transaction.

Personal securities transactions with another member of the Association, when the transactions are properly recorded on the books of the executing member and which are subject to the notification requirements of Article III, Section 28 of the Rules of Fair Practice, are not considered to be private securities transactions for the purposes of this interpretation.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

Section 15A(b) of the Securities Exchange Act of 1934 provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that (6) the rules of the association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general to protect investors and the public interest. Further, the rules of the association must (7) provide that its members and persons associated with its members shall be appropriately disciplined for violation of any provisions of the act or the rules and regulations thereunder, or the rules of the Association, by the imposition of appropriate penalties.

The Board of Governors of the Association, pursuant to the provisions of Article VII, Section 3(a) of the Association's By-Laws and Article I, Section 3 of the Rules of Fair Practice of the Association adopted the above interpretation in acceptance of this responsibility imposed by the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON THE PROPOSED RULE CHANGE

Twenty comment letters were received from the membership on the proposed interpretation of the Board of Governors. Three of the letters expressed and unqualified support for the proposed amendments and explanatory material. The vast majority of responses, however, recognized a need for the supervision of "private transactions", but believed the language and/or the scope of the interpretation and/or the explanatory material should be modified. There were no unqualified objections to the concept of supervision of private transactions, but three qualified responses opposed the interpretation on the grounds that it would be an administrative "nightmare" if the interpretation were applied to insurance companies, and that it was not clear what the term "securities" encompassed for the purposes of the interpretation. The suggestions were considered and changes in the interpretation were adopted by the Board of Governors. Copies of all comment letters are attached as Exhibit 2.

BURDEN ON COMPETITION

This interpretation of the Board of Governors of the Association is an enunciation of the acceptance of the responsibility imposed by statute on the Association to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest. For the purposes of complying with the requirements of the Act, it is felt that there is no burden placed on competition as the result of requiring persons associated with a member to report private securities transactions and other investment transactions engaged in outside the regular course or scope of his association or employment with a member to that member. It is felt that this requirement is necessary in order for the member to exercise supervision over such transactions and thereby make it easier for the member to exercise its obligation of good faith in its dealings with its customers. Inasmuch as any regulatory proposal is a burden on competition because it restricts activity, the decision to allow the Association to burden competition that far was considered and approved by Congress. Consequently, it is felt that if any burden on competition is imposed by the proposed interpretation of the Board of Governors, it is necessary and is in furtherance of the purposes of the Act.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 12, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.75-33375 Filed 12-10-75;8:45 am]

## VETERANS ADMINISTRATION

### STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

#### Notice of Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on December 18, 1975, at 10:00 a.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building—U.S. Courthouse, Room A-220, 110 9th Avenue, South, Nashville, Tennessee, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Jett Beauty School, 524 South Cooper, Memphis, Tennessee, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: December 4, 1975.

R. S. BIELAK,
*Director,*
*VA Regional Officer.*

[FR Doc.75-33287 Filed 12-10-75;8:45 am]

## DEPARTMENT OF LABOR

### Wage and Hour Division

### FULLTIME STUDENTS AT INSTITUTIONS OF HIGHER EDUCATION

#### Certificates Authorizing Employment at Subminimum Wages

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938, as amended, the regulation on employment of full-time students at subminimum wages (29 CFR 519), and Administrative Order No. 621 (36 FR 12819), the institutions of higher education listed in this notice have been granted authority to employ their full-time students outside of the individual student's regularly scheduled hours of instruction at hourly rates not less than 85 percent of the applicable statutory minimum rate specified under section 6 of the Act.

The regulation provides for the authority to be effective on the date a properly completed application is forwarded to the Wage and Hour Division provided applicable conditions of the regulations are met. After review by the Division, the authority may be continued in effect for up to one year from the date the application was forwarded to the Division. The expiration date of the authority granted to a particular institution of higher education listed in this notice occurs between December 20, 1975 and June 19, 1976, inclusive.

The terms and conditions of the regulation further limit the authority to employ full-time students at subminimum wages to not more than 20 hours per week when school is in session, prohibit subminimum wage employment in unrelated trades or businesses such as apartment houses, stores, or other businesses not primarily catering to the students of the institution, and prohibit the hiring of full-time students at subminimum wages for work in a unit or units of the campus where abnormal labor conditions, such as a strike or lockout exist. The authority does not excuse noncompliance with higher standards applicable to full-time students under any other Federal law, State law, local ordinance, or union or other agreement.

Amherst College, Amherst, MA.
Brigham Young University, Provo, UT.
Bryant College, Smithfield, RI.
Central Oregon Community College, Bend, OR.
Chamberlayne School and Chamberlayne Junior College, Boston, MA.
Clark College, Vancouver, WA.
Eastern Oregon State College, LaGrande, OR.
Endicott Junior College, Beverly, MA.
Fort Wright College of the Holy Names, Spokane, WA.
Gonzaga University, Spokane, WA.
Idaho, College of, Caldwell, ID.
Judson Baptist College, Portland, OR.
Lewis and Clark College, Portland, OR.
Linfield College, McMinnville, OR.
Maine Maritime Academy, Castine, ME.
Multnomah School of the Bible, Portland, OR.
New Hampshire College, Manchester, NH.
Nichols College, Dudley, MA.
North Idaho College, Coeur d'Alene, ID.
Northwest Christian College, Eugene, OR.
Northwest Nazarene College, Nampa, ID.
Olympic College, Bremerton, WA.
Portland, University of, Portland, OR.
Puget Sound, University of, Tacoma, WA.
Randolph-Macon Woman's College, Lynchburg, VA.
Reed College, Portland, OR.
Regis College, Weston, MA.
Ricks College, Rexburg, ID.
Seattle Pacific College: Coupeville, WA; Seattle, WA.
Seattle University, Seattle, WA.
Southwestern Oregon Community College, Coos Bay, OR.
Toledo, University of, Toledo, OH.
Treasure Valley Community College, Ontario, OR.
Vassar College, Poughkeepsie, NY.
Vermont Technical College, Randolph Centre, VT.
Walla Walla College, College Place, WA.
Warner Pacific College, Portland, OR.
Westbrook College, Portland, OR.
Western Baptist Bible College, Salem, OR.
Western New England College, Springfield, MA.
Whitworth College, Spokane, WA.
Willamette University, Salem, OR.
Windham College, Putney, VT.
Wright State University: Celina, OH; Dayton, OH; Piqua, OH.

The authority has been granted to each institution of higher education upon the representations of the institution which, among other things, were that employment of full-time students at subminimum wages is necessary to prevent curtailment of opportunities for employment, the hiring of full-time students at subminimum wages will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under the authority, and such authority will not result in a reduction of the wage rate paid to a current employeee. The authority may be annulled or withdrawn in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the granting of the authority to any of the institutions listed may seek a review or reconsideration thereof on or before January 26, 1976.

Signed at Washington, D.C. this 5th day of December, 1975.

DONALD T. CRUMBACK,
*Authorized Representative of the Administrator.*

[FR Doc.75-33393 Filed 12-10-75;8:45 am]

### Office of the Secretary

[TA-W-340]

### CLIFTEX CORP.

#### Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 21, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing Workers of America on behalf of the workers and former workers of Cliftex Corporation, New Bedford, Massachusetts (TA-W-340).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's sportcoats and suits produced by Cliftex Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 18, 1975.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 21st day of November 1975.

MARVIN M. FOOKS,
*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc.75-33556 Filed 12-10-75;8:45 am]

[TA-W-169]

## CRESCENT KNITTING MILLS

### 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-169; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 19, 1975 in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers' Union (AFL-CIO) on behalf of workers and former workers producing men's and ladies' sweaters at Crescent Knitting Mills, Philadelphia, Pennsylvania.

The notice of investigation was published in the Federal Register (40 FR 44639) on September 29, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Crescent Knitting Mills, its customers, the U.S. International Trade Commission, U.S. 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 requrements 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 separate, 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

Employment of production workers at Crescent declined 16 percent in 1974 from 1973 and declined 55 percent in the first nine months of 1975 compared to the first nine months of 1974. Average weekly hours for production workers at Crescent declined six percent in 1974 and 12 percent in the first nine months of 1975 compared to the same period in 1974.

#### Sales or Production, or Both, Have Decreased Absolutely

Eighty percent of the sweaters produced at Crescent during 1973 and 1974 were men's sweaters. Production declined 15 percent between 1973 and 1974 and declined more than 62 percent in the first nine months of 1975 compared to the same period in 1974.

#### Increased Imports Contributed Importantly

Domestic production of knit sweaters has been adversely affected by both the economic recession and increased import competition. With the exception of one year during the 1970–1974 period, imports of men's and boys' sweaters increased in both absolute and relative terms. Imports in the first six months of 1975 were 60 percent greater than during the same period in 1974. Imports relative to domestic production were 24 percent in 1970, 33 percent in 1972, and 39 percent in 1974.

Major U.S. retailers have significantly increased their purchases of imported sweaters relative to purchases of domestic sweaters in the first six months of 1975. Firms such as Crescent which produce on a contractual basis have been particularly affected by increased imports in that their customers, most of whom also manufacture, are in many cases able to absorb their own sales declines by reducing purchases from their contractors.

#### Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with knit sweaters produced by Crescent Knitting Mills, Inc., Philadelphia, Pennsylvania contributed importantly to the total or partial separation of the workers of that firm. Section 223(b)(2) of the Trade Act of 1974 provides that a certification of eligibility to apply for worker adjustment assistance may not apply to any worker last separated from the firm or subdivision more than six months before April 3, 1975, the effective date of the new program. In accordance with the provision of the Act, I make the following certification:

All hourly, piecework, and salaried employees of Crescent Knitting Mills, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after October 3, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of November 1975.

Gloria G. Pratt,
*Director, Office of Foreign Economic Policy.*

[FR Doc.75-33558 Filed 12-10-75;8:45 am]

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[TA-W-171]

## LONDON KNITTING MILLS

### 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-171; investigation regarding certification of eligibility to apply for worker adjustment assistance as Prescribed in Section 222 of the Act.

The investigation was initiated on September 19, 1975 in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers' Union (AFL-CIO) on behalf of workers and former workers producing men's and ladies' sweaters at London Knitting Mills, Philadelphia, Pennsylvania.

The notice of investigation was published in the Federal Register (40 FR 44640) on September 29, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of London Knitting Mills, its customers, the U.S. International Trade Commission, U.S. 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 Secton 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

Employment of production workers at London declined 12 percent in 1974 compared to 1973, and declined 33 percent in the first eight months of 1975 compared to the same period in 1974. Average weekly hours for production workers declined eight percent in 1974 and 24 percent in the first eight months of 1975 compared to the same period in 1974.

#### Sales or Production, or Both, Have Decreased Absolutely

London Knitting Mills produced only men's and boys' sweaters during 1973–1975. Sales of men's and boys' sweaters by London increased four percent between 1973 and 1974. Sales then declined 53 percent in the first eight months of 1975 compared to the first eight months of 1974.

#### Increased Imports Contributed Importantly

Domestic production of knit sweaters has been adversely affected by both the economic recession and increased im-

port competition. With the exception of one year during the 1970–1974 period, imports of men's and boys' sweaters increased in both absolute and relative terms. Imports in the first six months of 1975 were 60 percent greater than during the same period in 1974. Imports relative to domestic production were 24 percent in 1970, 33 percent in 1972, and 39 percent in 1974.

Major U.S. retailers have significantly increased their purchases of imported sweaters relative to purchases of domestic sweaters in the first six months of 1975. A major customer of London indicated that its purchases from London have declined sharply in 1975 because many of its own customers at the retail level have switched increasingly to imported sweaters.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with knit sweaters produced by London Knitting Mills, Inc., Philadelphia, Pennsylvania contributed importantly to the total or partial separation of the workers of that firm. Section 223(b)(2) of the Trade Act of 1974 provides that a certification of eligibility to apply for worker adjustment assistance may not apply to any worker last separated from the firm or subdivision more than six months before April 3, 1975, the effective date of the new program. In accordance with the provisions of the Act, I make the following certification:

All hourly, piecework, and salaried employees of London Knitting Mills, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after October 3, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of November 1975.

GLORIA G. PRATT,
*Director, Office of Foreign Economic Policy.*

[FR Doc.75-33557 Filed 12-10-75;8:45 am]

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## Office of the Secretary

[TA-W-143]

## LEBOW BROTHERS, INC.

### 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-143; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 16, 1975 in response to a worker petition received on September 12, 1975 which was filed by workers formerly producing men's coats at the E. Monument Street plant, Baltimore, Maryland, and workers formerly producing men's suits, sportcoats and slacks at the E. Oliver Street plant, Baltimore, Maryland.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 44209) on September 25, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lebow Brothers, its customers, the U.S. Department of Commerce, the International Trade Commission, 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 and average weekly hours worked at the E. Monument St. plant declined 6.2 percent and 8.6 percent, respectively, in the first half of 1974 as compared to the like period in 1973. Workers at the E. Monument St. plant were terminated in October 1974. Average employment and weekly hours worked at the E. Oliver St. plant declined 35.5 percent and 17.4 percent, respectively, in the first half of 1975 as compared to the like period in 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales and production of men's suits and sportcoats declined 29.1 percent and 45.9 percent in the first half of 1975 as compared to the like period in 1974. While sales of men's slacks increased 39.2 percent, the combined production of men's suit pants and slacks declined 37.5 percent in the first half of 1975 as compared to the like period in 1974.

INCREASED IMPORTS CONTRIBUTED IMPORTANTLY

Imports of men's and boys' suits have increased relative to domestic consumption and production in each year from 1971 to 1973. In the first 7 months of 1975, the number of imports of men's and boys' suits increased 131 percent compared to the first 7 months of 1974.

Imports of men's and boys' sportcoats increased absolutely from 1972 to 1973 and relatively from 1973 to 1974. The ratios of imports to domestic production and consumption increased from 17.1 percent and 14.6 percent respectively in 1972 to 22.3 percent and 18.2 percent respectively in 1974.

Imports of men's and boys' tailored trousers decreased their relative share of domestic production and consumption from 25.7 percent and 20.5 percent in 1972 to 19.7 percent and 16.4 percent in 1974. In the first seven months of 1975 imports of men's and boys' tailored trousers increased 29 percent compared to the first seven months of 1974.

A survey of major apparel distributors including large retail chain stores indicates that the ratio of import purchases to domestic purchases of men's and boys' suits and sportcoats increased from 10.0 percent in 1973 to 12.0 percent in 1974, then declined slightly in the first seven months of 1975 compared to the like period in 1974. The ratio of import purchases to domestic purchases of men's and boys' slacks and pants increased from 13.0 percent in 1973 to 17.0 percent in 1974. Import purchases increased 33 percent in the first half of 1975 compared to the same period in 1974.

The evidence developed by the Department's investigation indicates that Lebow's sales have declined at a time when major customers have indicated that they are buying imported lower-priced leisure suits which are increasingly attractive to the younger generation and price conscious consumers.

The company transferred all its production of men's suit and sportcoats from its E. Monument Street plant to its other facility at E. Oliver Street in Baltimore, Maryland, because it could not compete at a profitable level with imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suits, sportcoats and slacks produced at the E. Monument Street and E. Oliver Street plants in Baltimore, Maryland contributed importantly to the total or partial separation of the workers at those plants.

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 men's suits, sportcoats and slacks at the Baltimore, Maryland plants on E. Monument Street and E. Oliver Street of Lebow Brothers, Inc., who became totally or partially separated from employment on or after October 3, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of November 1975.

GLORIA G. PRATT,
*Director, Office of Foreign Economic Policy.*

[FR Doc.75-33394 Filed 12-10-75;8:45 am]

## MODE KNITTING MILLS, INC.

### 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-160; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 19, 1975 in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers' Union (AFL-CIO) on behalf of workers and former workers producing men's and ladies' sweaters at Mode Knitting Mills, Inc., Philadelphia, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 44640) on September 29, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mode Knitting Mills, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, 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 separations, 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

Employment of production workers at Mode declined 14 percent in 1974 from 1973 levels, and declined 23 percent in the first nine months of 1975 compared to the same period in 1974. Average weekly hours for production workers declined six percent in the first nine months of 1975 compared to the first nine months in 1974.

#### SALES OR PRODUCTION, OR BOTH, HAVE DECEASED ABSOLUTELY

Production of sweaters by Mode, after increasing four percent in 1974 from 1973, declined 16 percent in the first nine months of 1975 compared to the first nine months of 1974. Mode produces sweaters on a contractual basis, using its customers' own material and specifications.

#### INCREASED IMPORTS CONTRIBUTED IMPORTANTLY

Domestic production of knit sweaters has been adversely affected by both the economic recession and increased import competition. With the exception of one year during the 1970-1974 period, imports of men's and boys' sweaters increased in both absolute and relative terms. Imports of women's, misses', girls', and infants' sweaters increased absolutely in each year during 1970-1974 and increased 15 percent in the first seven months of 1975 compared to the same period in 1974. The ratio of imports of such sweaters to domestic production increased from 93.7 percent in 1973 to 97.3 percent in 1974.

Major U.S. retailers have significantly increased their purchases of imported sweaters relative to purchases of domestic sweaters in the first six months of 1975. Major customers of Mode indicate that their purchases from Mode have declined because their own sales have declined at the retail level due to increased import competition. Firms which produce under contract such as Mode have been particularly hard hit by imports in that their customers, many of whom also manufacture, often attempt to maintain their own production at stable levels during periods of declining sales by reducing purchases from their contractors.

#### CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with knit sweaters produced by Mode Knitting Mills, Inc., Philadelphia, Pennsylvania contributed importantly to the total or partial separation of the workers of that firm. Section 223(b)(2) of the Trade Act of 1974 provides that a certification of eligibility to apply for worker adjustment assistance may not apply to any worker last separated from the firm or subdivision more than six months before April 3, 1975, the effective date of the new program. In accordance with the provisions of the Act, I make the following certification:

All hourly, piecework, and salaried employees of Mode Knitting Mills, Inc., Philadelphia, Pennsylvania who became totally or partially separated from employment on or after October 3, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of November 1975.

GLORIA G. PRATT,
*Director, Office of Foreign Economic Policy.*

[FR Doc.75-33395 Filed 12-10-75;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 98]

### MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

DECEMBER 5, 1975.

The following applications are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonbale compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Evidence respecting how equipment is expected to be returned to an origin point, as well as other data relating to operational feasibility (including the need for dead-head operations), must be presented as part of an applicant's initial evidentiary presentation (either at oral hearing or in its opening verified statement under the modified procedure) with respect to all applications filed on or after December 1, 1973.

If an applicant states in its initial evidentiary presentation that empty or partially empty vehicle movements will result upon a grant of its application, applicant will be expected (1) to specify the extent of such empty operations, by mileages and the number of vehicles, that would be incurred, and (2) to designate where such empty vehicle operations will be conducted.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 200 (Sub-No. 277), filed November 10, 1975. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, Mo. 64106. Applicant's representative: Ivan E. Moody, 12th Floor, Temple Bldg., 903 Grand Avenue, Kansas City, Mo. 64106. Authority sought to operate a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except in bulk), (1) from Buffalo and Geneseo, N.Y., to Crosby, Laredo, and Odessa, Tex., and (2) from Crosby, Tex., to Buffalo and Geneseo, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y., or Kansas City, Mo.

No. MC 409 (Sub-No. 58), filed November 10, 1975. Applicant: SCHROETLIN TANK LINE, INC., P.O. Box 511, Sutton, Nebr. 68979. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, from the terminal site of Agrico Chemical Company, located at or near Falls City, Nebr., to points in Iowa, Missouri, and Kansas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 1263 (Sub-No. 20), filed November 10, 1975. Applicant: McCARTY TRUCK LINE, INC., 17th and Harris, Trenton, Mo. 64683. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the construction site and plant of the Iatan Power Plant, located at or near Iatan, Mo., as an off-route point in connection with applicant's regular route operation to and from Kansas City, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 5623 (Sub-No. 27), filed November 12, 1975. Applicant: ARROW TRUCKING CO., a Corporation, P.O. Box 7280, Tulsa, Okla. 74105. Applicant's representative: J. G. Dail, Jr., 1111 E Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Liberty County, Tex., to points in Arkansas, Colorado, Kansas, Illinois, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Mexico, Oklahome, Texas, Utah, and Wyoming, restricted to shipments originating at the plant site and warehouse facilities of National Pipe and Tube Company.

NOTE.—If a hearing is deemed necessary, applicant does not state a location.

No. MC 20992 (Sub-No. 36), filed November 6, 1975. Applicant: DOTSETH TRUCK LINE, INC., Knapp, Wis. 54749. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation at or near Norfolk, Nebr., to points in Illinois, Indiana, Minnesota, North Dakota, South Dakota, and Wisconsin, restricted to the transportation of traffic originating at the facilities of Nucor Steel Division of Nucor Corporation at or near Norfolk, Nebr., and destined to the above named destinations.

NOTE.—See 13 other similar application filings in this notice. Common control may be involved. If a hearing is deemed necessary, appliacnt requests it be held at Omaha, Nebr.

No. MC 26825 (Sub-No. 13), filed November 6, 1975. Applicant: ANDREWS VAN LINES, INC., Seventh and Park Avenue, P.O. Box 79, Norfolk, Nebr. 68701. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., to points in California, Colorado, Idaho, Illinois, Indiana, Michigan, Minnesota, Missouri, Montana, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming restricted to the transportation of traffic originating at the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., and destined to the above named destinations.

NOTE.—See 13 other similar applications filings in this notice. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 28339 (Sub-No. 9), filed November 7, 1975. Applicant: BREMERTON-TACOMA STAGES, INC., 1936 Westlake Avenue, Seattle, Wash. 98101. Applicant's representative: Lawrence E. Lindeman, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special and charter operations, beginning and ending at points in Callam and Jefferson Counties, Wash., and extending to points in the United States, except Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Port Angeles or Seattle, Wash.

No. MC 47010 (Sub-No. 8), filed November 14, 1975. Applicant: BERRY TRANSPORT, INC., 5315 NW. St. Helens Road, Portland, Oreg. 97210. Applicant's representative: Brian S. Stern, Wilson Plaza Bldg. No. 327, 2425 Wilson Blvd., Arlington, Va. 22201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned goods, cans, can ends, cannery supplies, and machinery*, between Hammond and Astoria, Oreg., on the one hand, and, on the other, Vancouver, Wash.; (2) *canned goods, cans, can ends, tinplate, cannery supplies, and machinery*, between Salem and Portland, Oreg., on the one hand, and, on the other, Toppenish and Yakima, Wash.; and (3) *cans, can ends, cannery supplies, and machinery*, between Hammond, Oreg. and Toppenish, Wash., (1) (2), and (3) under a continuing contract or contracts with Del Monte Corporation.

NOTE.—Applicant holds common carrier authority in MC 133276 Sub 9, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Portland, Oreg. or Seattle, Wash.

No. MC 52953 (Sub-No. 46), filed November 6, 1975. Applicant: ET & WNC TRANSPORTATION COMPANY, a Corporation, 132 Legion Street, P.O. Box 1516, Johnson City, Tenn. 37601. Applicant's representative: H. M. Cook, P.O. Box 1516, Johnson City, Tenn. 37601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, in tank vehicles, and commodities the transportation of which require the use of special equipment), serving the plantsite and warehouse facilities of Arkansas Eastman Company, Independence County, Ark., as an off-route point in connection with applicant's regular route authority.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 59367 (Sub-No. 102), filed November 10, 1975. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort

Dodge, Iowa 50501. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate a a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water heaters, storage tanks, and parts therefor*, from the plantsite of Rheem Manufacturing Company, located at Chicago, Ill., to points in Iowa and points in Nebraska on and east of U.S. Highway 281, restricted to traffic originating at the above plantsite and destined to the above-named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 59856 (Sub-No. 64) (Correction) filed October 20, 1975, published in the FEDERAL REGISTER issue of November 20, 1975, and republished as corrected this issue. Applicant: SALT CREEK FREIGHTWAYS, a Corporation, 3333 West Yellowstone, Casper, Wyo. 82601. Applicant's Representative: John R. Davidson, Room 805, Midland Bank Building, Billings, Mont. 59101. 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, and household goods as defined by the Commission), between Idaho Falls, Idaho and West Yellowstone, Mont.: From Idaho Falls, Idaho over U.S. Highway 26 to the junction of U.S. Highway 191, thence over U.S. Highway 191 to West Yellowstone, Mont., and return over the same route, serving no intermediate points.

NOTE.—The purpose of this correction is to indicate the proper route description. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Idaho Falls, Idaho or Billings, Mont.

No. MC 69492 (Sub-No. 50), filed November 4, 1975. Applicant: HENRY EDWARDS, doing business as HENRY EDWARDS TRUCKING COMPANY, P.O. Box 97, Clinton, Ky. 42301. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), between Memphis, Tenn., and Clinton, Ky.: From Memphis over U.S. Highway 51 to Clinton, Ky., and return over the same route, serving no intermediate points, restricted against serving that part of the commercial zone of Memphis which lies in Mississippi, and further restricted against the handling of traffic which originates at, is destined to, or interlined at Union City, Tenn., Paducah, Ky., and St. Louis, Mo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Memphis, Tenn.

No. MC 72069 (Sub-No.), filed October 28, 1975. Applicant: BLUE HEN LINES, INC., Box 565, Milford, Del. 19963. Applicant's representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, D.C. 20005. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, in bulk, in dump vehicles, from Hopewell and Norfolk, Va., to Laurel, Del., points in Dorchester County, Md., and points in Kent County, Del.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 99695 (Sub-No. 11), filed November 10, 1975. Applicant: ATLAS TRANSIT, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: James W. Connor, P.O. Box 471, Akron, Ohio 44309. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Arkansas Eastman Company located in Independence County, Ark.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 104523 (Sub-No. 60), filed Nov. 6, 1975. Applicant: HUSTON TRUCK LINE, INC., P.O. Box 17, Friend, Nebr. 68539. Applicant's representative: David R. Parker, 2310 Colorado State Bank Bldg., 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., to points in Colorado, Illinois, Indiana, Kansas, Missouri, Montana, Oklahoma, South Dakota, and Wyoming, restricted to the transportation of traffic originating at the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., and destined to the above named destinations.

NOTE.—See 13 other similar application filings in this notice. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 106088 (Sub-No. 8), filed Oct. 28, 1975. Applicant: WM. O. HOPKINS, 528 South Milton Street, Rensselaer, Ind. 47978. Applicant's representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Wire spring assemblies, box spring frames, bed frames, plastic articles and parts and components* of wire spring assemblies, box spring frames, bed frames and plastic articles; and *wire carriers and damaged and rejected wire*, from the plantsites and warehouse facilities of Sealy Spring Corporation-East, located at or near Delano, Pa., and the plantsites and warehouse facilities of Sealy Spring Corporation-Indiana, located at or near Rensselaer, Ind., to points in the United States (except Alaska and Hawaii); (B) *such machinery, equipment, materials and supplies as are used by manufacturers and distributors* of wire spring assemblies, box spring frames, bed frames, plastic articles and parts and components of wire spring assemblies, box spring frames, bed frames and plastic articles, from points in the United States (except Alaska and Hawaii), to the plantsites and warehouse facilities of Sealy Spring Corporation-East, located at or near Delano, Pa., and the plantsites and warehouse facilities of Sealy Spring Corporation-Indiana, located at or near Rensselaer, Ind., restricted in (A) above, to traffic originating at the named plantsites and warehouse facilities, and (B) above is restricted to traffic destined to the named plantsites and warehouse facilities; (C) *wire and wire carriers*, from Pueblo, Colo., to the plantsites and warehouse facilities of Sealy Spring Corporation-West, located at or near Richmond, Calif., restricted to traffic destined to the named plantsites and warehouse facilities; (D) *wire spring assemblies, box spring frames, bed frames, plastic articles and parts and components* of wire spring assemblies, box spring frames, bed frames and plastic articles, from the plantsites and warehouse facilities of Sealy Spring Corporation-West, located at or near Richmond, Calif., to Portland, Oreg.; Phoenix, Ariz.; and Denver, Colo., restricted to traffic originating at the named plantsites and warehouse facilities; and (E) *wire carriers and damaged and rejected wire*, from the plantsites and warehouse facilities of Sealy Spring Corporation-West, located at or near Richmond, Calif., to Pueblo, Col., restricted to traffic originating at the named plantsites and warehouse facilities.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 106195 (Sub-No. 7), filed November 6, 1975. Applicant: CLARK BROS. TRANSFER, INC., P.O. Box 388, Norfolk, Nebr. 68701. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., to points in Illinois and Minnesota, restricted to the transportation of traffic originating at the facilities of the Nucor Steel Division of Nucor Corporation at or near Norfolk, Nebr. and destined to the above named destination points.

NOTE.—See 13 other similar application filings in this notice. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 106497 (Sub-No. 125), filed November 10, 1975. Applicant: PARKHILL TRUCK COMPANY, a Corporation, Post Office Box 912 (Bus. Rte I-44 east), Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, Post Office

Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical transformers and parts, and materials, equipment, and supplies*, used in the manufacture thereof, between Pine Bluff, Ark., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn. or St. Louis Mo.

No. MC 106644 (Sub-No. 219), filed November 7, 1975. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road, N.W., P.O. Box 916, Atlanta, Ga. 30309. Applicant's representative: W. Randall Tye, 1500 Candler Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and forest products*, from the plantsites of American Forest Products, Inc., located at Martell, Forestville, North Fork, Fresno (Bartonette), Stockton, Toyon and Johnsondale, Calif., to points in Alabmaa, Arkansas, Georgia, Florida, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either San Francisco, Calif., or Washington, D.C.

No. MC 106674 (Sub-No. 179), filed November 17, 1975. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Jerry L. Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* in bulk, from Owensboro, Ky., to points in Illinois, Indiana, Kentucky, Missouri, Tennessee, Ohio, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Indianapolis, Ind.

No. MC 107403 (Sub-No. 957), filed November 17, 1975. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum sulphate clay*, in bulk, in tank vehicles, from Little Rock, Ark. to Bastrop, La.; (2) *acids*, in bulk, in tank vehicles, from Norphlet, Ark., to Baton Rouge, La.; (3) *corn syrup, liquid sugar and blends of corn syrup and liquid sugars*, in bulk, in tank vehicles, from Reserve, La., to points in Kentucky; and (4) *water reducing admixtures*, in bulk, in tank vehicles, from North Judson, Ind., to points in Ohio, Michigan, Tennessee, Illinois, South Carolina, West Virginia, North Carolina, Missouri, and Georgia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 107496 (Sub-No. 1011), filed November 10, 1975. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid sugar, corn syrup and blends thereof*, from Memphis, Tenn., to points in Ohio; (2) *sugar, corn products and blends* containing cornproducts, in bulk, from Decatur, Ala., to points in the United States (except Alaska and Hawaii); (3) *lead oxide* (litharge), in bulk, from Indianapolis, Ind., to points in Iowa, Missouri, Illinois and Kentucky; and (4) *caustic soda*, in bulk, in tank vehicles, from St. Paul, Minn., to points in Montana.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 108207 (Sub-No. 427), filed November 10, 1975. Applicant: FROZEN FOOD EXPRESS, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery goods*, from Nashville, Tenn., to points in Kentucky, Ohio, Mississippi, Louisiana, Arkansas, Missouri, Illinois, Indiana, Michigan, Wisconsin, Minnesota, Iowa, Nebraska, Kansas, Oklahoma, Texas, New Mexico, and South Dakota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Memphis or Nashville, Tenn.

No. MC 110525 (Sub-No. 1136), filed November 7, 1975. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Ave., Downington, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vinegar*, in bulk, in tank vehicles, from Houston, Tex., to points in Louisiana; and (2) *cleaning and washing compounds* (except petroleum products, in bulk, in tank vehicles), from Garland, Tex., to Kentwood, La., and Conway, Ark.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Houston or Dallas, Tex.

No. MC 111401 (Sub-No. 455), filed November 17, 1975. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Alvin J. Meiklejohn, Jr., Suite 1600 Lincoln Center, 1660 Lincoln Center, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from the plantsite of Witco Chemical Corporation located at or near Houston, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Houston, Tex. or New Orleans, La.

No. MC 111594 (Sub-No. 69, filed November 17, 1975. Applicant: C W TRANSPORT, INC., 610 High Street, Wisconsin Rapids, Wis. 54494. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and storage facilities of the Cleveland Cliffs Iron Co., Forest Center Sawmill located at or near Munising, Mich., as an off-route point in connection with carrier's authorized regular-route operation to and from Munising, Mich.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Milwaukee, Wis. or Chicago, Ill.

No. MC 111729 (Sub-No. 586), filed November 7, 1975. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Pary, N.Y. 11040. Applicant's representative: John M. Delany (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Copiers, typewriters, industrial and business machine parts and supplies*, between Syracuse and Cortland, N.Y., restricted to the transportation of traffic having an immediately prior or subsequent out-of-state movement and, further restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day; (2) *exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising literature* (except motion picture film used primarily for commercial theatre and television exhibition), (a) between Chicago, Ill., on the one hand, and, on the other, points in Green, Kewaunee, Langlande, Lincoln, Oconto, Oneida and Sauk Counties, Wis.; and (b) between Cuyahoga Falls, Ohio and Bluefield, W. Va.; (3) *proofs, cuts, copy, artwork and advertising materials*, (a) between Cuyahoga Falls, Ohio and Bluefield, W. Va.; and (b) between St. Louis, Mo., on the one hand, and, on the other, Madison, Menasha and Milwaukee, Wis.; and (4) *business papers, records, audit and accounting media of all kinds*, (a) between Cuyahoga Falls, Ohio and Bluefield, W. Va.; and (b) between St. Louis, Mo., on the one hand, and, on the other, Madison, Menasha and Milwaukee, Wis.

NOTE.—Applicant holds contract carrier authority in MC 112750 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 112304 (Sub-No. 104), filed November 3, 1975. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: John D. Herbert (same address as applicant). Authority sought to operate as a *com-*

*mon carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers and equalizers* for air, gas or liquids, *machinery and equipment* for heating, cooling, conditioning, humidifying, demumidifying, and moving of air, gas or liquids; and (2) *parts, materials, equipment and supplies* used in the manufacture, distribution, installation or operation of those Items named in (1) above (except in bulk), between points in Monroe, Randolph, Perry and St. Clair Counties, Ill., on and south of State Highways 177 and 158, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to shipments originating at or destined to the plantsite and warehouse facilities of the Singer Company, located at Monroe, Randolph, Perry and St. Clair Counties, Ill.

NOTE.—Comon control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., St. Louis, Mo., or Chicago, Ill.

No. MC 112989 (Sub-No. 45), filed November 3, 1975. Applicant: WEST COAST TRUCK LINES, INC., Rt. 4, Box 194–R, Eugene, Oreg. 97405. Applicant's representative: John G. McLaughlin, 620 Blue Cross Bldg., 100 SW. Market Street, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products, wood products, and particleboard*, between points in Oregon, Washington and California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg.

No. MC 113254 (Sub-No. 4), filed November 17, 1975. Applicant: BREYER TRANSPORT, INC., Route 3, New Philadelphia, Ohio 44663. Applicant's representative: James Duvall, P.O. Box 97, 220 West Bridge St., Dublin, Ohio 43017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt, salt compounds, salt mixtures, salt products and pepper*, between points in Tuscarawas County, Ohio, on the one hand, and, on the other, points in the District of Columbia, Illinois, Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Virginia and West Virginia, under a continuing contract or contracts with Morton Salt Company, Division of Morton-Norwich Products; Watkins Salt Company and Cargill, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Washington, D.C.

No. MC 113267 (Sub-No. 327), filed November 12, 1975. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Rd., P.O. Box 30130 A. M.F., Memphis, Tenn. 38130. Applicant's representative: Lawrence A. Fischer (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs* (except in bulk, in tank vehicle), from Gulfport, Miss., to points in Alabama, Florida, Georgia, Illinois, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, La. or Memphis, Tenn.

No. MC 113678 (Sub-No. 603), filed Nov. 7, 1975. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City (Denver), Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpeting, or rugs; soft surface (pile) fabric, carpets, or carpeting; carpet or carpeting, floor, cloth combined with foam rubber not exceeding $\frac{3}{8}$" thick; carpet tile; soft surface (pile) fabric, power machine tufted; display advertising, store or window; carpeting, rugs, adhesive; carpeting or rugs made of synthetic fiber; carpet or carpeting, unwoven synethetic fiber, needle punched through woven synthetic base*, from Marietta, Pa., to Denver, Colo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 113678 (Sub-No. 611), filed November 7, 1975. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City (Denver), Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet and rugs, and carpet and rug padding*, (1) from the facilities of General Felt Industries, Inc., located at or near Dallas, Tex., and Shelbyville, Tenn., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming; and (2) from the facilities of General Felt Industries, Inc., located at or near Shelbyville, Tenn., to points in Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Dallas, Tex., Newark, N.J., or Denver, Colo.

No. MC 113678 (Sub-No. 612), filed November 7, 1975. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City (Denver), Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rendering house products*, from the plantsite of C.U.I. International, located at or near Boise, Idaho, to points in Arizona, California, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oregon, Utah, Washington and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 113828 (Sub-No. 235), filed November 13, 1975. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, Federal Bar Bldg. West, 1819 H St., NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magnetite*, from Kimballton, Va., to points in Alabama.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114273 (Sub-No. 240), filed November 3, 1975. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Bldg., 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Ohio and Wisconsin, restricted to the transportation of traffic originating at the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., and destined to the above named destinations.

NOTE.—See 13 other similar application filings in this notice. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115730 (Sub-No. 7), filed November 5, 1975. Applicant: THE MICKOW CORP., P.O. Box 1774, Des Moines, Iowa 50306. Applicant's representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation at or near Norfolk, Nebr., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Ohio and Wisconsin, restricted to the transportation of traffic originating at the facilities of Nucor Steel Division of Nucor Corporation at or near Norfolk, Nebr. and destined to the above named destination points.

NOTE.—See 13 other similar application filings in this notice. If a hearing is deemed necessary, applicant requests it be held at Omaha, Neb., or Washington, D.C.

No. MC 115841 (Sub-No. 508), filed November 12, 1975. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, Ala. 35201. Applicant's representative: Terry P. Wilson (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Milk substitutes and cheese whey* (except in bulk), in vehicles equipped with mechanical refrigeration, from Glasgow, Ky., to points in the United States (except Alaska, Hawaii, and Kentucky), restricted to traffic originating at and destined to the named points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Washington, D.C., or Birmingham, Ala.

No. MC 115904 (Sub-No. 42) (Amendment), filed October 22, 1975, published

in the FEDERAL REGISTER issue of November 20, 1975, and republished, as amended, this issue. Applicant: GROVER TRUCKING CO., a Corporation, 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from the port of entry on the International Boundary line between the United States and Canada located at Sumas, Wash., to points in Utah, Nevada, Wyoming and Idaho.

NOTE.—The purpose of this republication is to include the additional destination point of the State of Idaho. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho or Salt Lake City, Utah.

No. MC 117068 (Sub-No. 55), filed November 10, 1975. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation at or near Norfolk, Nebr., to points in Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin, restricted to the transportation of traffic originating at the facilities of Nucor Steel Division of Nucor Corporation at or near Norfolk, Nebr. and destined to the above named destination points.

NOTE.—See 13 other similar application filing in this notice. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 117664 (Sub-No. 11), filed November 11, 1975. Applicant: DENTON TRUCKING, INC., P.O. Box 33, Denton, Md. 21629. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Treated and untreated piling*, on special equipment, from Bridgeville, Del., Baltimore and Hollywood, Md., and Warsaw, Va., to points in Delaware, Maryland, Pennsylvania, New York, New Jersey, Connecticut, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 118142 (Sub-No. 108), filed November 10, 1975. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric storage batteries, and electric batteries spent, and materials and supplies* used in the manufacturing or distribution of electric storage batteries and advertising materials (except in bulk), (1) from Indianapolis, and Frankfort, Ind.; Owensboro, Ky.; Rayton, Mo., and Dallas and Tyler, Tex., to Salina, Kans.; and (2) from Salina, Kans., to points in Arizona, Colorado, Indiana, Kentucky, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Wichita, Kans., or Kansas City, Mo.

No. MC 118535 (Sub-No. 70), filed November 10, 1975. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, Mo. 64730. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 Northwest 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lead oxide*, in bulk, in tank vehicles, from Terrell, Tex., to Kansas City and St. Louis, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 118959 (Sub-No. 128), filed November 12, 1975. Applicant: JERRY LIPPS, INC., 130 South Frederick St., Cape Girardeau, Mo. 63701. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paints and stains*, from the plantsite of Olympic Stains, Inc., located at Louisville, Ky., to points in the United States, in and east of Montana, Wyoming, Colorado, and New Mexico.

NOTE.—Applicant holds contract carrier authority in MC 125664, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Louisville, Ky.

No. MC 118959 (Sub-No. 129), filed November 12, 1975. Applicant: JERRY LIPPS, INC., 130 South Frederick St., Cape Girardeau, Mo. 63701. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical junction boxes, troughing, wire ways, conduit and pipe, fasteners, accessories thereto, and materials and supplies* used in the distribution and installation thereof, from the facilities of Queen Products Company, Inc., located at or near Louisville, Ky., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* used in the manufacture, distribution and installation of electrical junction boxes, troughing, wire ways, conduit and pipe, fasteners, and accessories thereto, from points in the United States (except Alaska and Hawaii), to the facilities of Queen Products Company, Inc., located at or near Louisville, Ky.

NOTE.—Applicant holds contract carrier authority in MC 125664, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Louisville, Ky.

No. MC 119229 (Sub-No. 8), filed November 13, 1975. Applicant: ORLANDO TRUCKING, INC., P.O. Box 132, 10 Glory Rd., R.D. No. 3, Lebanon, N.J. 08833. Applicant's representative: Bert Collins, Suite 6193—5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used in the manufacture, sale, display, or modification of mattresses and upholstered furniture, and in connection therewith *equipment, materials, and supplies*, used in the conduct of such business (except commodities in bulk), between New York, N.Y., on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia, restricted to service to be performed under contract with Eclipse Sleep Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 120761 (Sub-No. 4), filed October 23, 1975. Applicant: NEWMAN BROS. TRUCKING COMPANY, a Corporation, 6559 Midway Road, Fort Worth, Tex. 76118. Applicant's representative: R. E. Newman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe*, when moving as oilfield equipment; (2) *oilfield equipment*, other than pipe, and (3) *pipe, trenching machines, tractors, drag lines, back fillers, caterpillars, road building machinery, batch bins, ditching machinery, bull dozers, heavy mixers, finishing machinery, power hoists, cranes, heavy machinery, pile driving rigs, paving machines and equipment, graders, construction equipment, boilers, scrapers, irrigation and drainage machinery, road maintainers, electric motors, pumps, transformers, circuit breakers, turbines, bridge construction equipment, shovels, planes, lathes, air compressors, rotaries, prefabricated houses, bulk station storage tanks, heavy tanks, pump machinery, erection machinery and equipment, refinery machinery and equipment, boats and prefabricated steel girders, threshing machines, sawmill machinery, telephone and telegraph poles, creosote and other pilings, heavy furnaces or ovens, pipe (including iron, steel, concrete, composition or corrugated), punches, presses, iron and steel girders, beams, columns, posts, channels and trusses, generators and dynamos, iron and steel castings, sheets, and plates, industrial hammers, industrial machinery, including laundry, ice making, air conditioning, baker, bottling, gin, crushing, dredging, mill, brewery, textile, water plant and wire covering, twisting or laving, derricks, hoists, steam or internal combustion engines, rollers, power shovels, safes, vaults, bank doors,*

*and gasoline, fuel oil and other storage tanks, when said commodities are not moving as oilfield equipment,* between points in Texas.

NOTE.—Applicant seeks by this application to convert its Certificate of Registration in MC 120761 (Sub-No. 1), to a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 123389 (Sub-No. 25), filed Nov. 7, 1975. Applicant: CROUSE CARTAGE COMPANY, a Corporation, P.O. Box 151, Carroll, Iowa 51401. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., to points in Illinois, Indiana, Iowa, Minnesota, Missouri, and Wisconsin, restricted to the transportation of traffic originating at the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., and destined to the above named destinations.

NOTE.—See 13 other similar application filings in this notice. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 123407 (Sub-No. 272), filed November 3, 1975. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Stephen H. Loeb (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing, building and insulating materials* (except commodities in bulk), from Medina County, Ohio, to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas; and (2) *materials, equipment and supplies* used in the manufacturing and distribution of the commodities described in (1) above (except commodities in bulk), from the above-described destination territory to Medina County, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 124692 (Sub-No. 157), filed Nov. 5, 1975. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, Mont. 59801. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., to points in California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, Utah, Washington, and Wyoming, restricted to the transportation of traffic originating at the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., and destined to the above named destinations.

NOTE.—See 13 other similar application filings in this notice. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 124813 (Sub-No. 135), filed Nov. 5, 1975. Applicant: UMTHUN TRUCKING CO., a Corporation, 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., to points in Colorado, Idaho, Illinois, Indiana, Iowa, Minnesota, Montana, Oregon, South Dakota, Utah, Washington, and Wyoming, restricted to the transportation of traffic originating at the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., and destined to the above named destinations.

NOTE.—See 13 other similar application filings in this notice. Applicant holds contract carrier authority in MC 118468 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 124813 (Sub-No. 136), filed November 10, 1975. Applicant: UMTHUN TRUCKING CO., a Corporation, 910 South Jackson Street, Eagle Grove, Iowa 51533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone and gypsum feed ingredients and soil conditioners*, (1) from points in Marion County, Iowa, to points in Arkansas, Colorado, Idaho, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Tennessee, Washington, Wisconsin, and Wyoming and (2) from points in Breckinridge County, Ky., to points in Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

NOTE.—Applicant holds contract carrier authority in MC 118468 Sub-No. 16 and other Subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr. or Kansas City, Mo.

No. MC 125433 (Sub-No. 60), filed November 3, 1975. Applicant: F-B TRUCKLINE COMPANY, a Corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V of *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 276, from the plantsite of Nucor Steel Division of Nucor Corporation at or near Norfolk, Nebr., to points in Colorado, Idaho, Kansas, Montana, Nevada, Oklahoma, Oregon, Utah, Washington, and Wyoming, restricted to the transportation of traffic originating at the plantsite or warehouse facilities of Nucor Steel Division of Nucor Corporation located at or near Norfolk, Nebr. and destined to points in the above named destination states (except for traffic moving in foreign commerce.

NOTE.—See 13 other similar application filings in this notice. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah or Lincoln, Nebr.

No. MC 128375 (Sub-No. 137), filed November 10, 1975. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Ken Adams (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts and accessories, and materials and supplies* used in the production and distribution of motor vehicle parts and accessories, (1) between Bayonne, N.J., Galloway, Ohio, Bensenville, Ill., and Lawrenceburg, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii) and (2) between Paulding, Ohio, on the one hand, and, on the other, points in Ohio, under a continuing contract with the Maremont Corporation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant reqeusts it be held at Lincoln, Nebr. or Chicago, Ill.

No. MC 129282 (Sub-No. 26), filed November 10, 1975. Applicant: BERRY TRANSPORTATION, INC., P.O. Box 2147, Longview, Tex. 75601. Applicant's representative: Fred S. Berry (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles* (except in bulk), from Monroe and West Monroe, La., to points in Oklahoma, and Beaumont, Dallas, Fort Worth, Houston, Longview, Lufkin, Nacogdoches, and Tyler, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Monroe or Shreveport, La., or Dallas, Tex.

No. MC 135364 (Sub-No. 25), filed November 7, 1975. Applicant: MORWALL TRUCKING, INC., Box 76C, R.D. 3, Moscow, Pa. 18444. Applicant's representative: J. G. Dall, Jr., 1111 E Street, NW., Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heating, cooling and air conditioning machinery*, between the facilities of The Trane Company, located in Lackawanna County, Pa., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract with The Trane Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135391 (Sub-No. 2), filed November 7, 1975. Applicant: WILDERNESS EXPRESS, INC., P.O. Box 6509, 525 Lake Street, South Duluth, Minn.

55801. Applicant's representative: Donald L. Stern, 530 Univac Bldg., Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pet food*, in cans and containers, from Kansas City, Kans., Joplin, Mo., and Momence, Ill., to points in Minnesota, North Dakota, South Dakota, and Wisconsin, restricted to traffic originating at the plantsites and warehouse facilities utilized by Strongheart Products Company, at the above named origins and destined to the above named destinations, under a continuing contract with Strongheart Products Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 135535 (Sub-No. 9), filed November 6, 1975. Applicant: EL DORADO TRANSPORTATION, INC., 206 North Concord, Minneapolis, Kans. 67467. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor homes, campers, fifth-wheel travel trailers and travel trailers;* (2) *motor homes*, in drive-away service; (3) *fifth-wheel travel trailers and travel trailers*, in tow-away service; and (4) *fifth wheel travel trailers and pickup trucks*, when moving in combination with fifth-wheel travel trailers in drive-away service, (a) between the plantsite and storage facilities of El Dorado Industries, Inc., at or near Minneapolis, Kans., on the one hand, and, on the other, points in Alaska, Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, and Washington; and (b) between the plantsite and storage facilities of El Dorado Industries, Inc., at or near Minneapolis, Kans., on the one hand, and, on the other, ports of entry on the International Boundary line between the United States and Canada, located in Idaho, Maine, Michigan, Minnesota, Montana, North Dakota, New York, Ohio, Vermont, Washington, and Wisconsin, under contract with El Dorado Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 135684 (Sub-No. 16), filed October 29, 1975. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, P.O. Box 391, Flemington, N.J. 08822. Applicant's representative: Herbert A. Dubin, Federal Bar Building West, 1819 H Street, NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Household cleaning products, industrial cleaning products, and water purifying products* (except in bulk), (a) from Bristol, Pa., to points in Connecticut, Massachusetts, Rhode Island, New Hampshire, Maine, Vermont, Maryland, Delaware, New Jersey, New York, and the District of Columbia; (b) from Philadelphia, Pa., to points in Maryland, Delaware, New Jersey, and New York; (2) *Material and supplies* used in the manufacture, sale, or distribution of the commodities named in (1) above (except commodities in bulk), (a) from points in the destination states named in (1a) above, to Bristol, Pa.; (b) from points in the destination states named in (1b) above, to Philadelphia, Pa.

(3) *Returned shipments* of the commodities named in (1) above, from points in the destination states named in (1a) above, to Bristol, Pa.; (4) *Household cleaning products, water purifying compounds, and dry acids* (except commodities in bulk), (a) between Philadelphia and Bristol, Pa., on the one hand, and, on the other, Tampa, Fla., Atlanta, Ga., New Orleans, La., and Dallas, Tex.; (b) between Atlanta, Ga., on the one hand, and, on the other, Tampa, Fla., New Orleans, La., and Dallas, Tex.; (c) from Atlanta, Ga., to points in Alabama, Florida, and that part of Tennessee on and east of a line beginning at the Tennessee-Kentucky State line and extending along U.S. Highway 31–E to Nashville, Tenn., and thence along U.S. Highway 31 to the Tennessee-Alabama State line, and to Savannah, Ga.; (5) *Materials and supplies* used in the manufacture, sale, or distribution of the commodities named in (4) above (except commodities in bulk), from the next destination territory described in 4(c) above to Atlanta, Ga.; (6) *Household cleaning products and swimming pool chemicals*, from the plant and warehouse site of Purex Corporation, Ltd., at Tampa, Fla., to points in Alabama, Georgia, Mississippi, North Carolina, and South Carolina.

(7) *Swimming pool chemicals and empty bottles*, between the plant and warehouse sites of Purex Corporation, Ltd., at Tampa, Fla., and Atlanta, Ga.; (8) *Plastic containers*, in cartons, *and closures therefor*, from Baltimore, Md., to Bristol and Philadelphia, Pa., and Salem, Va.; and (9) *returned shipments* of the named commodities in (8) above, from Bristol and Philadelphia, Pa., and Salem, Va., to Baltimore, Md.; (10) *Foodstuffs* (except in bulk), from Bristol, Pa., to points in Maryland and the District of Columbia; and (11) *Materials and supplies* used in the manufacture, sale, or distribution of the commodities named in (10) above, from points in the destination states named in (10) above to Bristol, Pa.

NOTE.—Applicant holds contract carrier authority in MC 87720 Sub 2 and others, therefore dual operations may be involved. The application duplicates permits issued in MC 87720 Subs 81, 98, 102, 121, and 125 which will be cancelled when permits are converted into a certificate. If a hearing is deemed necessary, the applicant requests it be held at Flemington or Trenton, N.J.

No. MC 136100 (Sub-No. 4), filed November 7, 1975. Applicant: K & K TRANSPORTATION CORP., 4515 South 24th Street, Omaha, Nebr. 68110. Applicant's representative: Einar Viren, 200 First West Side Bank Bldg., 222 South 72nd Street, Omaha, Nebr. 68114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, (1) between the plantsite and warehouse facilities of Paper Manufacturers Co. located at or near Philadelphia, Pa., Indianapolis, Ind., Newark, Calif., and Madison, Ga.; (2) between the aforesaid plantsites and warehouse facilities and points in the United States (except Alaska and Hawaii); and (3) between points in the United States (except Alaska and Hawaii) and the plantsites and warehouse facilities of Paper Manufacturer Co. located at or near points mentioned in (1) above, under a continuing contract or contracts with Paper Manufacturers Co. in paragraphs (1), (2), and (3).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 136343 (Sub-No. 61), filed October 31, 1975. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of Westvaco Corporation, at Tyone, Pa., to points in Nebraska, Illinois, Indiana, New Hampshire, Georgia, Tennessee, Kentucky, and Alabama.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 136408 (Sub-No. 31), filed November 10, 1975. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 60 Park Place, Newark, N.J., 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Surgical, health care and medical products*, between points in Middlesex County, N.J., Will and Cook Counties, Ill., and Grayson County, Tex., restricted to traffic originating at or destined to the plant or warehouse facilities of Johnson & Johnson, under a continuing contract or contracts with Johnson & Johnson, New Brunswick, N.J.

NOTE.—Applicant holds common carrier authority in MC 140828 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 138148 (Sub-No. 7), filed November 11, 1975. Applicant: JOSEPH J. SCHMIDT, an individual, 7499 Montevideo Court, Jessup, Md. 20794. Applicant's representative: Clyde E. Herring, Suite 1123, Munsey Bldg., 1329 E Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages*, between the facilities of the Miller Brewing Company located at or near Fulton, N.Y., on the one hand, and, on the other, Aberdeen, Baltimore City, and Frederick, Md. and points in Dorchester, Queen Anne's, Somerset, Wicomico, and Worcester Counties, Md.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Baltimore, Md.

No. MC 138283 (Sub-No. 3), filed November 12, 1975. Applicant: DANA TRUCKING CORPORATION, Round Lake, Minn. 56167. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *Cookies*, from the plantsite and storage facilities of Johnson Biscuit Company, located at or near North Sioux City, S. Dak., to points in the United States (except Alaska and Hawaii); and (2) *materials, supplies and equipment* used or useful in the manufacture, distribution and sale of cookies, from points in the United States (except Alaska and Hawaii), to the plantsite and storage facilities of Johnson Biscuit Company, located at or near North Sioux City, S. Dak., restricted to transportation originating at and destined to the above named facilities, and further restricted to a transportation service to be performed under a continuing contract or contracts with Johnson Biscuit Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Sioux City, Iowa or Omaha, Nebr.

No. MC 138308 (Sub-No. 10), filed October 28, 1975. Applicant: K.L.M. DISTRIBUTING, INC., 2102 Old Brandon Road, P.O. Box 6066, Jackson, Miss. 39208. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tile*, from Cleveland, Miss., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, Wyoming, and Utah; (2) *tile*, between Morrisville, Pa., and Cleveland, Miss.; and (3) *materials and supplies* (except in bulk), used in the manufacture of tile, from point in North Carolina, to Cleveland, Miss.

NOTE.—Applicant holds contract carrier authority in MC 128592 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Jackson, Miss., or Memphis, Tenn.

No. MC 138328 (Sub-No. 25), filed November 6, 1975. Applicant: CLARENCE L. WERNER, doing business as, WERNER ENTERPRISES, 805 32nd Avenue, P.O. Box 831, Council Bluffs, Iowa 51501. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., to points in California, Colorado, Idaho, Montana, Nevada, Oregon, South Dakota, Utah, Washington, and Wyoming, restricted to the transportation of traffic originating at the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., and destined to the above named destinations.

NOTE.—See 13 other similar application filings in this notice. Applicant holds contract carrier authority in MC 133233 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 138875 (Sub-No. 28) (Correction), filed October 29, 1975, published in the FEDERAL REGISTER issue of November 28, 1975, republished as corrected this issue. Applicant: SHOEMAKER TRUCKING COMPANY, a Corporation, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: Frank L. Sigloh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, composition board, treated or untreated poles, pilings, and cross ties*, from points in Idaho south of the southern boundary of Idaho County, to points in Utah.

NOTE.—The purpose of this republication is to correct the docket No. MC 138875 Sub-No. 28 in lieu of MC 138875 Sub-No. 26 which was previously published in error. If a hearing is deemed necessary, applicant requests it be held at either Boise or Meridian, Idaho.

No. MC 139084 (Sub-No. 7), filed November 6, 1975. Applicant: BIG VALLEY SUPPLY & ENTERPRISES, LTD., P.O. Box 8100, Station F, Calgary, Alberta, Canada T2J 2V2. Applicant's representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation at or near Norfolk, Nebr., to ports of entry on the International Boundary line between the United States and Canada located at points in Idaho, Minnesota, Montana, North Dakota and Washington, restricted to the transportation of traffic originating at the facilities of Nucor Steel Division of Nucor Corporation at or near Norfolk, Nebr. and destined to the above named destinations.

NOTE.—See 13 other similar application filings in this notice. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 139207 (Sub-No. 2), filed November 10, 1975. Applicant: MCNABB-WADSWORTH TRUCKING COMPANY, 1410 Lynn Garden Drive, Kingsport, Tenn. 37665. Applicant's representative: Herbert Alan Dubin, 1819 H Street, NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients* (except in tank vehicles), from points in Florida, to points in Tennessee, North Carolina, South Carolina, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 109), filed November 7, 1975. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refined sugar* in packages and bags, from Houma, La., to points in Texas, Oklahoma, Kansas, and Missouri.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 140024 (Sub-No. 56), filed November 6, 1975. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, Colo. 80022. Applicant's representative: John F. DeCock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., to points in Illinois, Indiana, Michigan, Ohio, and Wisconsin, restricted to the transportation of traffic originating at the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., and destined to the above named destinations.

NOTE.—See 13 other similar application filings in this notice. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 140434 (Sub-No. 15), filed November 7, 1975. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, Fla. 33902. Applicant's representative: Clayton Geer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, chinaware, earthenware, porclainware, stoneware, plastic bowls, cups, dishes or plates*, between Lake City and Jeannette, Pa., and Sebring, Ohio, on the one hand, and, on the other points in the United States in and west of New Mexico, Colorado, Wyoming, North Dakota, and South Dakota.

NOTE.—Applicant holds contract carrier authority in MC 134443 Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Pittsburgh, Pa., or Tampa, Fla.

No. MC 140992 (Sub-No. 1), filed November 14, 1975. Applicant: GEORGE SMITH TOWING, an individual, 6000 Passyunk Avenue, Philadelphia, Pa. 19153. Applicant's representative: Byron R. LaVan, 400–117 S. 17th St., Philadelphia, Pa. 19153. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, repossessed and/or stolen motor vehicles and/or trailers* (except trailers designed to be drawn by passenger automobiles) and *replacement*

*vehicles* for wrecked, disabled, repossessed and/or stolen motor vehicles and/or trailers (except trailers designed to be drawn by passenger automobiles), between points in New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa.

No. MC 141332 (Sub-No. 2), filed November 13, 1975. Applicant: MELVIN P. SPITZ AND EDWIN HYMAN, a partnership, doing business as, BEDLINE MFG. CO., P.O. Box 4956, Whittier, Calif. 90607. Applicant's representative: William J. Lippman, 1819 H St., NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Washington, Oregon and Idaho, to points in California, under contract with Dahlkey, Inc.; Cooperative Furniture Manufactures, Inc., d/b/a Haroldson Industries, Inc.; and Maher Forest Products, Ltd.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Seattle, Wash.

No. MC 141494, filed October 24, 1975. Applicant: C. O. LIVINGSTON, doing business as C. O. LIVINGSTON, 4301 Allied Drive, Columbus, Ga. Applicant's representative: C. E. Walker, P.O. Box 1085, Suite 307 First Nat'l Bank Bldg., Columbus, Ga. 31902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy machinery, machines, and scrap iron*, between points in Georgia, having a prior or subsequent movement by water or rail.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Columbus or Atlanta, Ga.

No. MC 141517, filed November 3, 1975. Applicant: CALIFORNIA CONTRACT CARRIER, INC., 5110 District Blvd., Maywood, Calif. 90270. Applicant's representative: Russell R. Jarmusch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Furniture*, knocked down, from Wright City, Mo., to points in Arizona, California, Utah and Washington; and (2) *particleboard*, from Union, Mo., to points in Texas, under a continuing contract with Permaneer Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C. or Los Angeles, Calif.

BROKER APPLICATIONS

No. MC 130350, filed November 6, 1975. Applicant: HURON COUNTY AUTOMOBILE CLUB, INC., 275 Benedict Avenue, Norwalk, Ohio 44857. Applicant's representative: Gerald P. Wadkowski, 85 East Gay Street, Columbus, Ohio 43215. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Norwalk, Ohio, to sell or offer to sell the transportation of *passengers and their baggage*, in all expense round trip tours, in special and charter operations, by motor, air, or motor carrier and rail, beginning and ending at points in Huon County, Ohio and extending to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus or Norwalk, Ohio.

No. MC 130351, filed November 5, 1975. Applicant: JEKYLL ISLAND PROMOTIONAL ASSOCIATION, 329 Riverview Drive, Jekyll Island, Ga. 31520. Applicant's representative: Marilynn P. Cheek (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Jekyll Island, Ga., to sell of offer to sell the transportation of *passengers and baggage* of passengers in the same vehicle with passengers by motor, rail, water and air carriers, bewteen points in Glynn County, Ga., on the one hand, and, on the other, Jacksonville, Fla. and points in Orange County, Fla.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Jekyll Island or Atlanta, Ga.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-33253 Filed 12-10-75;8:45 am]

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[Notice No. 928]

## ASSIGNMENT OF HEARINGS

DECEMBER 8, 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. No amendments will be entertained after the date of this publication.

MC 133189 Sub 8, Vant Transfer, Inc., now assigned January 15, 1976 at St. Paul, Minnesota; has been postponed indefinitely.

MC 61592 Sub 361, Jenkins Truck Line, Inc., application dismissed. W-78 Sub 12, The Valley Line Company, W-104 Sub 28 Union Mechling Corp. and W-377 Sub 15, Dixie Carriers, Inc., now being assigned February 9, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-33413 Filed 12-10-75;8:45 am]

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[Rule 19; Ex Parte No. 241; 12th Rev. Exemption No. 10]

## ATCHISON, TOPEKA AND SANTA FE RAILWAY CO., ET AL.

### Exemption Under Provision of Mandatory Car Service Rules

*It appearing*, That the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, 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 boxcars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 397, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44 ft. 6 in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

The Atchison, Topeka and Santa Fe Railway Company, Reporting Marks: ATSF.
Atlanta and Saint Andrews Bay Railway Company, Reporting Marks: ASAB.
The Baltimore and Ohio Railroad Company, Reporting Marks: BO.
Bangor and Aroostook Railroad Company, Reporting Marks: BAR.
Bessemer and Lake Erie Railroad Company, Reporting Marks: BLE.
*Burlington Northern Inc., Reporting Marks: BN-CBQ-GN-NP-SPS.
The Central Railroad Company of New Jersey Robert D. Timpany, Trustee, Reporting Marks: CNJ.
The Chesapeake and Ohio Railway Company, Reporting Marks: CO.
*Chicago and North Western Transportation Company, Reporting Marks: CGW-CMO-CNW-FDDM-MSTL.
*Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Reporting Marks: MILW.
*Chicago, Rock Island and Pacific Railroad Company, Reporting Marks: RI-ROCK.
Chicago, West Pullman & Southern Railroad Company, Reporting Marks: CWP.
The Denver and Rio Grande Western Railroad Company, Reporting Marks: DRGW.
*Erie Lackawanna Railway Company, Reporting Marks: DL&W-EL-ERIE.
*Louisville, New Albany & Corydon Railroad Company, Reporting Marks: LNAC.
Missouri-Kansas-Texas Railroad Company, Reporting Marks: MKT.
*Missouri Pacific Railroad Company, Reporting Marks: CEI-MI-MP-TP.
Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond and John H. McArthur, Trustees, Reporting Marks: NH-NYC-PAE-PC-P&E-PRR.
*St. Louis-San Francisco Railway Company, Reporting Marks: SLSF.
Soo Line Railroad Company, Reporting Marks: SOO.

*Southern Railway System, Reporting Marks: CG-NS-SA-SOU.
Union Pacific Railroad Company, Reporting Marks: UP.
Western Maryland Railway Company, Reporting Marks: WM.

*Effective 11:59 p.m., November 20, 1975,* and continuing in effect until further order of this Commission.

Issued at Washington, D.C., November 20, 1975.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.75-33417 Filed 12-10-75;8:45 am]

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[Exception No. 6 to Service Order No. 1221]

## CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO. ET AL.

### Exemption

NOVEMBER, 21, 1975.

*It appearing,* That the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW), Missouri Pacific Railroad Company (MP), and Southern Railway Company (SOU), have mutually agreed to the use of each other's *empty plain* cars having mechanical designations XM, FM-less than 200,000 lbs., GA, GB, GD, GH, GS, and GT, and bearing reporting marks owned by the aforementioned roads.

*It is ordered,* That pursuant to the authority vested in me by Section (a), Paragraph (1), Part (vii) of Service Order No. 1221, all *empty plain* cars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 397, issued by W. J. Trezise, or successive issues thereof as having mechanical designations XM, FM-less than 200,000 lbs, GA, GB, GD, GH, GS, and GT, and bearing the following reporting marks, are exempt from Section (a), Paragraph (1), Part (iii) of Service Order No. 1221 while on the lines of any of the above named railroads.

Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Reporting Marks: MILW.
Missouri Pacific Railroad Company, Reporting Marks: MP, C&EI, MI, and T&P.
Southern Railway Company, Reporting Marks: SOU, AEC, CG, GF, NS, and SA.

Effective November 20, 1975.

Issued at Washington, D.C., November 20, 1975.

[SEAL] R. D. PFAHLER,
*Chairman, Railroad Service Board.*

[FR Doc.75-33418 Filed 12-10-75;8:45 am]

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[Notice No. 136]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

DECEMBER 11, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before December 31, 1975. Pursuant to Section 17 (8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75810. By order of December 2, 1975, the Motor Carrier Board, on reconsideration, approved the transfer to Bulk Transport Service, Inc., Andover, Mass., of the operating rights in Certificates No. MC-31600 Sub-Nos. 471, 489, 524, 543, 550, 575, 588, 619, and 642 issued to P. B. Mutrie Motor Transportation, Inc., Waltham, Mass., authorizing the transportation of cement, from Thomaston, Maine, to points in Massachusetts (except Wilmington), New Hampshire, Rhode Island, and Vermont; from Wilmington, Mass., to points in New Hampshire and Rhode Island; from Worcester, Mass., to points in Massachusetts, Rhode Island, those in Hartford, Middlesex, New Haven, New London, Tolland, and Windham Counties, Conn., and those in Hillsboro, Merrimack, Rockingham, Sullivan, and Cheshire Counties, N.H., and from Wilmington, Mass., to points in Vermont; cement in bulk, in tank or hopper-type vehicles, from Wilmington, Mass., to points in Massachusetts; from Boston, Mass., to points in Massachusetts, Rhode Island, New Hamphire, and points in Tolland, Windham, and New London Counties, Conn., and York, Oxford, Cumberland, and Androscoggin Counties, Maine; between points in Connecticut; between points in Maine; between points in Massachusetts; between points in New York; between points in New Hampshire; between points in Rhode Island; between points in Vermont, and between Newark, N.J., and points within 15 miles thereof, on the one hand, and, on the other, points in New Jersey (the preceding eight paragraphs are restricted to shipments having an immediately prior movement by rail); cement, in bulk, from Wilmington, Mass., to East Haddam, Conn.; and dry cement, in bulk, from points in Massachusetts to points in Connecticut, Massachusetts, New Hampshire and Rhode Island (on traffic having an immediately prior movement by rail), and from the facility of the Atlantic Cement Company, Inc., located near Portland (Middlesex County), Conn., to points in New York, New Jersey, Pennsylvania, Connecticut, Rhode Island, Massachusetts, Vermont, and New Hampshire, Kenneth B. Williams, 84 State Street, Boston, Mass. 02109 Attorney for applicants.

No. MC-FC-75894. By order of August 18, 1975 Motor Carrier Board, on reconsideration, approved the transfer to Wyandotte Trucking Corporation, Wyandotte, Mich., of the operating rights in Certificate No. MC-106603 (Sub-No. 71) issued October 26, 1965, to Direct Transit Lines, Inc., Grand Rapids, Mich., authorizing the transportation of dry chemicals, in bulk, in tank, hopper, or dump vehicles, from the plant sites of Wyandotte Chemicals Corporation, at Wyandotte, Mich., to points in Delaware, Indiana, Iowa, Kentucky, Maryland, Minnesota, New Jersey, New York, Ohio (commodity restrictions), Pennsylvania, Tennessee (except points in that part of Tennessee on and east of U.S. Highway 27), Virginia, West Virginia, Wisconsin, Missouri, and Illinois (except points in those parts of Missouri and Illinois within the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, as defined by the Commission). The above grant of authority is restricted against the transportation of fertilizer to points in Indiana and service to the plant sites of Jones & Laughlin Steel Corporation at Putnum County, Ill., and Certain-Teed Products Corporation at Avery, Ohio. Rex Eames, 900 Guardian Building, Detroit, Mich., 48226 Attorney for applicants.

No. MC-FC-76182. By order entered December 4, 1975 the Motor Carrier Board approved the transfer to Wilbur Fideler, doing business as Fideler's Trucking, Delmont, South Dakota, of the operating rights set forth in Certificate No. MC-102570, issued September 11, 1974, to Norbert R. Peters, Delmont, S. Dak., authorizing the transportation of livestock, poultry feed, fertilizer, and building materials as described in Appendix IV to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, from, to, and between specified points in Iowa and South Dakota. Don A. Bierle, 322 Walnut St., Yankton, S. Dak. 57078, attorney for applicants.

No. MC-FC-76214. By order entered December 4, 1975 the Motor Carrier Board approved the transfer to Tiger Transport, Inc., Sayerville, N.J., of the operating rights set forth in Certificate No. MC-138418 (Sub-No. 4), issued July 24, 1974, to Standard Container Transport Corporation, and acquired by United Specialized Hauling, Inc., East Orange, N.J., pursuant to No. MC-FC-75887, authorizing the transportation of various specified commodities, from, to, and between points in New Jersey, New York, Pennsylvania, and Connecticut, Joseph R. Siegelbaum, 744 Broad St., Newark, N.J., attorney for applicants.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.75-33414 Filed 12-10-75;8:45 am]

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[Notice No. 140]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 8, 1975.

The following are notices of filing of applications for temporary authority

* Addition

under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub-No. 385TA), filed November 28, 1975. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay St., Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from the facilities of Nalco Chemical Company, at or near Sugar Land, Tex., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Nalco Chemical Company, Inc., 2901 Butterfield Road, Oak Brook, Ill. 60521. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

No. MC 21455 (Sub-No. 40 TA), filed November 24, 1975. Applicant: GENE MITCHELL CO., West Liberty, Iowa 52776. Applicant's representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed potato products*, in packages and containers, from East Grand Forks, Minn., to Albion, N.Y.; Atlanta, Ga.; Baltimore, Md.; Bedford Heights, Ohio; Brooklyn, N.Y.; Buena Park, Calif.; Buffalo, N.Y.; Chicago, Ill.; Columbus, Ohio; Dallas, Tex.; Denver, Colo.; Detroit, Mich.; Kansas City, Kans.; Los Angeles, Calif.; Milwaukee, Wis.; Oklahoma City, Okla.; Omaha, Nebr.; Pendleton, Oreg.; Pittsburgh, Pa.; Portland, Oreg.; Richmond, Va.; St. Louis, Mo.; San Francisco, Calif.; and Seattle, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: King of Spuds, Inc., P.O. Box 191, East Grand Forks, Minn. 56721. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 22254 (Sub-No. 83 TA), filed November 20, 1975. Applicant: TRANS-AMERICAN VAN SERVICE, INC., P.O. Box 12608, Fort Worth, Tex. 76116. Applicant's representative: Theodore A. Coulter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sailboats*, from the plantsite and facilities of Snark Products, Inc., 5816 Ward Court, Virginia Beach, Va., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Snark Products, Inc., 1 Riverside Plaza, North Bergen, N.J. 07047. Send protests to: H. C. Morrison, Sr., District Supervisor, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, Tex. 67102.

No. MC 25798 (Sub-No. 279 TA), filed November 24, 1975. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in glass containers, from Sonoma, Calif., to Tulsa, Okla.; Springfield, Mo.; Nashville and Knoxville, Tenn.; Atlanta and Savannah, Ga.; Jacksonville, Miami and Orlando, Fla.; and Lexington, Ky., for 180 days. Supporting shipper: Sebastiani Vineyards, 389 Fourth St., East, Sonoma, Calif. 95476. Send protests to: Joseph B. Teichert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 52709 (Sub-No. 335 TA), filed November 20, 1975. Applicant: RINGSBY TRUCK LINES, INC., 5773 South Prince St., Littleton, Colo. 80120. Applicant's representative: Robert P. Tyler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Las Vegas, Nev., and Junction U.S. Highway 40 and U.S. Highway alternate 50 near Wendover, Utah; from Las Vegas, Nev., over U.S. Highway 93 to junction U.S. Highway alternate 50, thence over U.S. Highway alternate 50 to junction of U.S. Highway 40 near Wendover, Utah, and return over the same route as alternate routes for operating convenience only, serving no intermediate points. Applicant intends to join its existing authority with MC 52709 Sub-Nos. 67 and 70, for 180 days. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 1961 Stout St., 2022 Federal Bldg., Denver, Colo. 80202.

No. MC 96444 (Sub-No. 1TA), filed November 24, 1975. Applicant: KENNETH HUSTEAD, doing business as HUSTEAD TRUCK LINE, Box 3, Baring, Mo. 63531. Applicant's representative: Marshall D. Becker, 530 Univac Bldg., Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), From Kirksville, Mo., to Chicago, Ill., and points in its commercial zone; Milwaukee, Green Bay and Eau Claire, Wis.; Cincinnati, Columbus, St. Marys, and Bellefountain, Ohio; Des Moines and Cedar Rapids, Iowa; Omaha, Nebr.; Kansas City, Kans.; and Minneapolis and St. Paul, Minn., for 180 days. Applicant has also filed an underying ETA seeking up to 90 days of operating authority. Supporting shipper: Anesi Packaging Co., Inc., P.O. Box 793, Kirksville, Mo. 63501. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 103993 (Sub-No. 861TA) (Correction), filed November 17, 1975, published in the FEDERAL REGISTER issue of December 2, 1975, and republished as corrected this issue. Applicant: MORGAN DRIVEAWAY, INC., 28615 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers designed to be drawn by passenger automobiles*, in initial movements, from the plantsite of Festival Homes of North Carolina, in Union County, N.C., to points in West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Festival Homes of North Carolina, Inc., P.O. Box 99, Marshville, N.C. 28103. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802. The purpose of this republication is to change sub number 861 in lieu of 362 which was previously published in error.

No. MC 103993 (Sub-No. 862 TA) (Correction), filed November 19, 1975, published in the Federal Register issue of December 2, 1975, and republished as corrected this issue. Applicant: MORGAN DRIVE-AWAY, INC., 28615 U.S. 20 West,

Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, and building sections* on undercarriages, from Lincoln County, N.C., to points in South Carolina, Virginia, West Virginia, Kentucky and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R-Anell Homes, Inc., P.O. Box 236, Highway 16, Denver, N.C. 28037. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne St., Room 204, Fort Wayne, Ind. 46802. The purpose of this republication is to change sub number 862 in lieu of 361 which was previously published in error.

No. MC 109584 (Sub-No. 162 TA), filed November 24, 1975. Applicant: ARIZONA-PACIFIC TANK LINES, 5773 South Prince St., Littleton, Colo. 80120. Applicant's representative: Don Bryce (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry sugar*, in bulk, in tank vehicles, From points in Butte and San Joaquin Counties, Calif., to Richmond, Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Holly Sugar Corporation, 1650 Borel Place, San Mateo, Calif. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 1961 Stout St., 2022 Federal Bldg., Denver, Colo. 80202.

No. MC 115162 (Sub-No. 314 TA), filed November 26, 1975. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cast concrete*, from the plantsite of Underwood Builders Supply Company, at Mobile, Ala., to points in Florida on and west of U.S. Highway 231 and points on U.S. Highway 90 between Gulfport, Miss., and the Alabama-Mississippi State Line, including Gulfport, Miss., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Underwood Builders Supply Company, Mobile, Ala. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 118142 (Sub-No. 110 TA), filed November 21, 1975. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen ice cream* (except in bulk), moving in temperature controlled equipment, from Hutchinson, Kans., to points in Georgia, Illinois, Indiana, Michigan, Mississippi and Pennsylvania, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: International Dairy Queen, Inc., 5701 Green Valley Drive, Minneapolis, Minn. 55437. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 124078 (Sub-No. 667 TA) (Correction), filed November 13, 1975, published in the FEDERAL REGISTER issue of November 28, 1975, and republished as corrected this issue. Applicant: SCHWERMAN TRUCKING COMPANY, 611 South 28th St., Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible animal oils and fats*, in bulk, in tank vehicles, from Cincinnati and Cleveland, Ohio, to Fayetteville and Greensboro, N.C., for 180 days. Supporting shipper: Carolina By-Products Company Inc., P.O. Box 20687, Greensboro, N.C. Send protests to: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203. The purpose of this republication is to change sub number 667 in lieu of 662 which was previously published in error.

No. MC 124813 (Sub-No. 138 TA), filed November 20, 1975. Applicant: UMTHUN TRUCKING CO., 910 South Jackson St., Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal*, in bulk, in pneumatic trailers, from Des Moines, Iowa, to points in Carroll County, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Meat Makers Mart, R. R. #2, Bosworth, Mo. 64623. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 125433 (Sub-No. 63TA), filed November 21, 1975. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: Alan R. Wilson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., to points in California, Idaho, Nevada, Oregon, Utah, Washington, Colorado, Montana and Wyoming, restricted to traffic orginating at the steel mill facilities of the Nucor Steel Division of Nucor Corporation, at or near Norfolk, Nebr., and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Nucor Steel Division of Nucor Corporation, P.O. Box 59, Norfolk, Nebr. 68701. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138.

No. MC 133106 (Sub-No. 53TA), filed November 25, 1975. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kans. 67901. Appplicant's representative: Frederick J. Coffman, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cans, oily waste cans, lab cans, safety cabinets, oil and gasoline containers*, from the facility of Eagle Manufacturing Company, at Wellsburg, W. Va., to points in California, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming, for 180 days. Supporting shipper: Eagle Manufacturing Company, Wellsburg, W. Va. 26070. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 133937 (Sub-No. 15 TA), filed November 24, 1975. Applicant: CAROLINA CARTAGE COMPANY, INC., P.O. Box 1075, Greenville, S.C. 29602. Applicant's representative: Henry P. Willimon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, requiring delivery at destination within 48 hours (except articles of unusual value, household goods as defined by the Commission, Classes A and B explosives, commodities requiring special equipment, commodities in bulk, motor vehicles), restricted to traffic having a prior or subsequent movement by air, or substituted for air service, further restricted to traffic moving only in aircraft-type containers, between Charlotte, N.C., and Atlanta, Ga., on the one hand, and, on the other, Dallas, Tex.; Los Angeles and San Francisco, Calif.; and Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 10 statements attached to the application, which may be examined at the Interstate Commerce Commission or copies thereof which may be examined at the field office named below. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Pickens St. Columbia, S.C. 39201.

No. MC 134323 (Sub-No. 78 TA), filed November 25, 1975. Applicant: JAY LINES, INC., 720 North Grant St., Amarillo, Tex. 79105. Applicant's representative: Gailyn Larsen, 521 South 14th, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, from the plantsites

and storage facilities of MBPXL Corporation, at or near Rockport, Mo., to points in Texas, under a continuing contract with MBPXL Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: MBPXL Corporation, P.O. Box 2519, Wichita, Kans. 67202.

No. MC 134449 (Sub-No. 9TA), filed November 26, 1975. Applicant: LESTER V. MOZNIK, 3753 Grandview Highway, Burnaby, British Columbia, Canada. Applicant's representative: Michael D. Duppenthaler, 607 Third Ave., Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pretzles*, from Visalia, Calif., via the United States-Canadian International Border at or near Blaine, Lynden or Sumas, Wash.; Eastport, Idaho; or Sweetgrass, Mont., to Vancouver, British Columbia, Calgary or Edmonton, Alberta, Canada, under a continuing contract with California Pretzel Co., for 180 days. Supporting shipper: California Pretzel Co., 930 98th Ave., Oakland, Calif. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 134734 (Sub-No. 26TA), filed November 25, 1975. Applicant: NATIONAL TRANSPORTATION, INC., 14031 "L" Street, P.O. Box 37465, Omaha, Nebr. 68137. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sauces*, from the plantsite and warehouse facilities of Kikkoman Foods Inc. at or near Walworth, Wis., to points in California, Oregon and Washington, under a continuing contract with Kikkoman Foods, Inc., for 180 days. Supporting shipper: Kikkoman Foods, Inc., Max Gay, Traffic Supervisor, Walworth, Wis. 53184. Send protests to: Carroll Russell, District Supervisor, Suite 620 Union Pacific Plaza, 110 North 14th St., Omaha, Nebr. 68102.

No. MC 135894 (Sub-No. 1TA), filed November 19, 1975. Applicant: RODGER COOPER, doing business as O. R. COOPER & SON, R.R. #1, P.O. Box 3291, Champaign, Ill. 61802. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bottles*, for the account of National Polymer Products, Inc., from Champaign, Ill., to Cincinnati, Ohio, under a continuing contract with National Polymer Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Polymer Products, Inc., R.R. #1, Box 3463, Champaign, Ill. 61802. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 138954 (Sub-No. 4 TA), filed November 24, 1975. Applicant: G. L. CREECH, doing business as TRUCK SERVICE HAULING AND RENTAL, P.O. Box 15891, Baton Rouge, La. 79815. Applicant's representative: James B. Thompson, III, 666 South Foster Drive, Baton Rouge, La. 70806. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel reinforcing rods*, from Baton Rouge, La., to Mobile County, Ala., under a continuing contract with Armco Steel Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Armco Steel Corporation, P.O. Box 7706, Houston, Tex. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 9038 Federal Bldg., 701 Loyola Ave., New Orleans, La. 70113.

No. MC 139261 (Sub-No. 4TA), filed November 21, 1975. Applicant: BUCKEYE EXPRESS, INC., Willis Day Industrial Park, Perrysburg, Ohio 43551. Applicant's representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, Wis. 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, chain grocery and food business houses, from points in Florida, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, New Jersey, New York, Pennsylvania and Wisconsin, to Maumee, Ohio under contract to Seaway Food Town, Inc. & Affiliates (Balduf Bakeries & Valley Farms Foods, Inc.), Maumee, Ohio, under a continuing contract with Seaway Food Town, Inc., & Affiliates (Balduf Bakeries & Valley Farms Foods, Inc.), for 180 days. Supporting shipper: Seaway Food Town, Inc., & Affiliates (Balduf Bakeries & Valley Farms, Inc.), 1020 Ford St., Maumee, Ohio 43506. Send protests to: Keith D. Werner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 140950 (Sub-No. 1TA), filed November 25, 1975. Applicant: BROOKVILLE TRANSPORT, LIMITED, P.O. Box 2332, Station C, St. John, New Brunswick, Canada. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Limestone and limestone products*, including ground and agricultural lime stone, in bulk and in bags, from ports of entry on the United States-Canadian International Boundary at or near Fort Kent, Fort Fairfield, Mars Hill, Houlton and Calais, Maine, to points in Maine, under a continuing contract with Brookville Manufacturing Company, Limited, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Brookville Manufacturing Company, Limited, Brookville, St. John, New Brunswick, Canada. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl St., Portland, Oreg. 04111.

No. MC 141501 (Sub-No. 1TA), filed November 26, 1975. Applicant: RICHARD PLANK, Route 4, Salem, Mo. 65560. Applicant's representative: George F. Hellmuth, 315 North 9th St., St. Louis, Mo. 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal*, in bulk, in dump vehicle, from the plantsite of Roaring Springs Charcoal Factory, located 6 miles east of Missouri Highway 19, following a route along state Highway A and County CC, Shannon County, Mo., to Memphis, Tenn., under a continuing contract with Roaring Springs Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Roaring Springs Corporation, 315 North 9th St., St. Louis, Mo. 63101. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th St., St. Louis, Mo. 63101.

No. MC 141538TA filed, November 19, 1975. Applicant: GEORGE BROS., INC., P.O. Box 492, Sutton, Nebr. 68979. Applicant's representative: Arlyn L. Westergren, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Grain bins, metal buildings, grain handling equipment and materials and equipment* used in the erection of grain bins and metal buildings, from the plantsite and facilities of Hymark Industries, Inc., at or near Henderson, Nebr., to points in Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, North Carolina, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Washington, Wisconsin, Wyoming; and (2) *augers, and grain handling equipment*, from Clay Center, Kans., to the facilities of Hymark Industries at or near Henderson, Nebr., under a continuing contract with Hymark Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert Mueller, President, Hymark Industries, Inc., Henderson, Nebr. 68371. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg., & U.S. Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-33415 Filed 12-10-75;8:45 am]

## MOTOR CARRIER APPLICATIONS SEEKING AUTHORITY TO TRANSPORT FREIGHT, HAVING A PRIOR OR SUBSEQUENT MOVEMENT BY MARITIME CARRIER, BETWEEN POINTS IN A COMMERCIAL ZONE OF A PORT CITY

Any motor carrier having an application pending before this Commission seeking the transportation of freight, having a prior or subsequent movement by a water carrier not subject to Part III of the Interstate Commerce Act, between points in a commercial zone of a port city is requested to inform this Commission's Office of Proceedings by letter of the identity of such application proceeding on or before January 9, 1976. The purpose of this notice is to ensure that applications of the type described above may be treated consistently and expeditiously.

By the Commission.

Dated: December 8, 1975.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.75-33416 Filed 12-10-75;8:45 am]

federal register

THURSDAY, DECEMBER 11, 1975


PART II:

# FEDERAL ELECTION COMMISSION

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## ADVISORY OPINIONS

## FEDERAL ELECTION COMMISSION

[Notice 1975-88]

### Advisory Opinions

The Federal Election Commission announces the publication today of four Advisory Opinions, 1975-46, 1975-69, 1975-82 and 1975-88. The Commission's opinions are in response to questions raised by individuals holding Federal office, candidates for Federal office and political committees, with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of the Federal Election Campaign Act of 1971, as amended, of Chapter 95 or 96 of Title 26 United States Code, or of sections 608, 610, 611, 613, 614, 615, 616, or 617 of Title 18 United States Code.

The Commission points out that these advisory opinions should be regarded as interim rulings which are subject to modification by future Commission regulations of general applicability. In the event that a holding in either opinion is altered by the Commission's regulations the persons to whom the opinions were issued will be notified.

ADVISORY OPINION 1975-46

FEE FOR THE TELEVISED APPEARANCE OF A MEMBER OF CONNGRESS

This advisory opinion is rendered under 2 U.S.C. § 437f in response to a request for an advisory opinion which was submitted by Rufus Myers, Administrative Assistant to Representative Barbara Jordan which was published as AOR 1975-46 in the September 3, 1975, FEDERAL REGISTER (40 FR 40677). Interested parties were given an opportunity to submit written comments relating to the request, but none were received.

The request generally asks whether the mnoey received by a Member of Congress for occasional televised commentary is to be treated as an honorarium, and thus be limited by the provisions of section 616 of Title 18, United States Code. Specifically, the facts of the request are that Representative Barbara Jordan has an oral contract with CBS to videotape editorial comment once a month for presentation on the CBS Morning News Show. In consideration for such services, Representative Jordan receives $150 for each taping. Mr. Myers asks whether this consideration is merely a salary for services for which a fee is traditionally required, and thus should not be subject to the limitations on honorariums in 18 U.S.C. 616.

It is provided in 18 U.S.C. 616 that:

Whoever, while an elected or appointed officer or employee of any branch of the Federal Government—

(1) accepts any honorarium of more than $1,000 * * * for any appearance, speech or article; or

(2) accepts honorariums * * * aggregating more than $15,000 in any calendar year;

shall be fined not less than $1,000 nor more than $5,000.

This provision clearly limits honoraria accepted for any appearance, speech, or article. The question then arises as to whether, for purposes of this section, money received for occasional televised commentary should be treated as identical to an honorarium accepted for an appearance or speech. In this case the Commission concludes that the word "honorarium" should be read narrowly to reflect only the obvious intent of the statute, and should not be interpreted as meaning a "stipend."

Accordingly, before a determination can be made as to whether the consideration which Representative Jordan receives for her television commentary constitutes an honorarium and thereby is subject to all applicable limitations on honorariums, it is necessary to distinguish between an "honorarium" and a "stipend." For purposes of 18 U.S.C. § 616, money received by an officer or employee of the Federal government is considered an "honorarium", regardless of whether it is offered gratuitously or as a fee, if it is accepted as consideration for an appearance, speech, or article. In addition, such money must be accepted as a payment for a single event or transaction and under circumstances which do not imply a continuing compensatory relationship between the parties for similar services. On the other hand, an officer or employee of the Federal government is considered to accept a "stipend" for purposes of 18 U.S.C. § 616, if the money is accepted in the form of fixed or regular compensation intended as consideration for the rendering of services, e.g., a salary.

After applying the appropriate rules of statutory construction and the Commission's policy distinction between an honorarium and a stipend, it is the opinion of the Commission that the consideration which Representative Jordan receives for her television commentary does not constitute an honorarium. The payment received fails to qualify as an honorarium because commentators appearing on the mass media customarily have received fixed and regular compensation; and even though Representative Jordan has only an oral contract with CBS which may be terminated at will by either party, this oral agreement is sufficient to show that the parties contemplate the possibility of a regular and continuing relationship for similar services. Clearly, the $150 which Representative Jordan receives for each taping represents a stipend as it is in the form of fixed or regular compensation which is intended as consideration for the rendering of services.

It should be emphasized that this opinion is not to be construde as Commission endorsement of the practice of some Members of Congress of receiving a stipend or salary from other than the Federal Government. Rather, this opinion simply represents a finding by the Commission that such stipends are not governed by the provisions of 18 U.S.C. 616.

It should be noted that the Commission will presume that the $150 which Representative Jordan receives for each taping is not a "contribution" as provided in 2 U.S.C. 431(e) and 434, or 18 U.S.C. 591(e), 608, 610, and 611, in the absence of evidence being presented to the Commission which shows that the C.B.S. Morning News, or any of its advertisers, paid the stated sum, "for the purpose of influencing the nomination for election, or election" of Representative Jordan to Federal office.

This advisory opinion is issued only on an interim basis pending the promulgation by the Commission of rules and regulations or policy statements of general applicability.

ADVISORY OPINION—1975-69

RETIRED LOANS—EFFECT WITH RESPECT TO CONTRIBUTION LIMITATIONS; EXISTENCE OF A WRITTEN INSTRUMENT OF OBLIGATION

This advisory opinion is rendered under 2 U.S.C. 437f, in response to a request for an advisory opinion submitted by Congressman Alvin Baldus and published in the September 22, 1975, FEDERAL REGISTER (40 FR 43664). Interested parties were given an opportunity to submit written comments pertaining to the request, but none were received.

The requesting party seeks an advisory opinion indicating whether if a loan is made to a political committee, and then repaid, it would be considered a contribution. Sections 431(e)(1) and 591(e)(1) of Titles 2 and 18, respectively, United States Code, define a contribution as, among other things, a loan. The Commissions' opinion is that when a loan creates a legally enforceable obligation to repay, a contribution remains outstanding only to the extent that the principal remains unpaid. While outstanding, a loan is a contribution which counts against the individual's $1,000 and $25,000 contribution limitations. Once it is retired, however, the loan (a contribution by defintion) is extinguished and no longer counts against these limitations.

The existence of a written instrument of obligation would have no effect on the foregoing interpretation. However, such an instrument could be determinative of the question whether the transaction was in fact a loan, rather than a gift, and therefore ceased to be a "contribution" when repaid to the lender.

This advisory opinion is issued on an interim basis only pending promulgation by the Commission of rules or regulations or policy statements of general applicability.

NOTE.—Commissioner Thomson voted against adoption of the foregoing opinion. His dissenting views are published as follows:

DISSENTING VIEWS OF COMMISSIONER THOMSON

In AO 1975-69, the Commission has ignored the clear language of the statute and ruled that a loan is a contribution only to the extent that the principal remains unpaid.

The definition of the term contribution in 18 U.S.C. 591(e) states:

"Contribution"—(1) means a gift, subscription, loan, advance, or deposit

of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, *which shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors*), made for the purpose of influencing the nomination for election, or election, of any person to Federal office . . . (emphasis added)

Thus, a loan made by a national or State bank is considered a contribution by any endorser or guarantor of such loan only to the extent of the unpaid balance. In addition, under 18 U.S.C. 608(a)(4), a loan or advance by a candidate or his family is subject to limitation only to the extent of the balance of such loan or advance outstanding and unpaid. While specific exemptions are made in each of these cases, there is no exception of this nature made for any other type of loan. Congress clearly intended that loans made by other than the candidate and his family or national or State banks would be considered contributions even after they were repaid. Otherwise, a specific exemption would have been made. Thus, the Commission has made the exemption the rule.

Dated: December 3, 1975.

VERNON THOMSON,
*Commissioner.*

ADVISORY OPINION 1975–82

FUNDRAISING IN 1976 TO RETIRE 1974 CAMPAIGN DEBT

This advisory opinion is issued pursuant to 2 U.S.C. 437f. The Request was published in the November 4, 1975, FEDERAL REGISTER (40 FR 51354). Interested persons were invited to submit written comments. No comments were received.

The request was submitted by Congressman Fred Richmond and pertains to the retirement of a 1974 campaign debt. Congressman Richmond indicates that his committee will conduct fundraising activities during the early months of 1976 to retire a pre-1975 campaign deficit. The Congressman inquires as to whether such fundraising activities would be charged against his 1976 reelection campaign fund limitations.

The Commission has issued a policy statement and several advisory opinions on pre-1975 campaign debts. (40 FR 32952 and particularly Advisory Opinions 1975–5 and 1975–6, 40 FR 31316.) In these opinions and statement, the Commission ruled that "election," as used in 18 U.S.C. 608(b) means any election occurring after January 1, 1975. Contributions made for the sole purpose of retiring campaign debts incurred incident to an election held before January 1, 1975, are not subject to the limits in 18 U.S.C. 608(b), as amended in 1974 and effective January 1, 1975. The expenditure of such contributions is, accordingly, not subject to the limits in 18 U.S.C. 608(c).

However, in order to assure that no abuses developed and to assure compliance with the Federal Election Campaign Act of 1971, as amended, the Commission required, among other things, that contributions to retire pre-1975 campaign debts be received by the debtor (candidate, former candidate, or political committee) no later than December 31, 1975, in order to avoid the possibility that such contributions would be counted toward individual contribution limits under the 1974 Act. In addition, the Commission indicated its expectation that contributions in excess of the amount needed to retire the debt would be returned to the donors.

In light of Congressman Richmond's request, the Commission has reviewed its policy on the retirement of pre-1975 campaign debts. Although the Commission had anticipated that candidates or former candidates would act quickly to extinguish past campaign debts, the Commission notes that there are still numerous outstanding debts from pre-1975 campaigns. The Commission recognizes the responsibility and obligation of candidates and committees to repay past campaign debts.

The Commission, has accordingly determined to modify its policy on the retirement of past campaign debts. Expenditures made after December 31, 1975, to raise or solicit contributions to retire pre-1975 campaign debts will not be subject to the expenditure limitations in 18 U.S.C. 608(c). The solicitation or other fundraising activities must be held separately from solicitations or activities for a 1976 election. All solicitations or requests for contributions must include clear notice that the funds are being solicited to retire a pre-1975 campaign debt.

Contributors giving in excess of $100 must expressly earmark the contribution (as by notation on a check) for initial use to retire pre-1975 debts. If the contributions are so restricted, they will not be subject to the contribution limits of 18 U.S.C. 608(b). The Commission notes, however, that the candidate and "immediate family" limits of 18 U.S.C. 608(a) were in effect for 1974 elections and are not waived or modified by this opinion.

Contributions and expenditures made in connection with an effort to retire pre-1975 debts must be reported separately from any 1976 campaign effort. Under 2 U.S.C. 434(b)(12) the committee which incurred and carries the 1974 debt must continuously report until the debt is extinguished. Contributions and expenditures related to retiring a 1974 debt must be received into and expended out of an account that is separate from any account used for the 1976 election. No transfers may be made bewteen accounts until all pre-1975 debts have been extinguished, and then only as provided in the following paragraph.

If excess funds remain after liquidation of the pre-1975 debts, they may be used in any manner consistent with 2 U.S.C. 439a. Moreover, if the donors give specific written authorization, excess funds remaining after the repayment of the 1974 debt may be turned over to the 1976 principal campaign committee. A turnover of excess funds is subject to the limits of 18 U.S.C. 608(b) as applicable to those donors to whom the excess is attributed. The principal campaign committee will be required to report the receipt of excess funds as contributions from the original donors to whom the excess is attributed and not simply as a transfer from the 1974 debt account or committee. The donors of the excess shall be those persons whose contributions were last received before the excess became evident and who expressly authorized the use of their contributions in connection with a 1976 election.

The Commission notes that this opinion, modifies the holding in AO 1975–52 (40 FR 52794, November 12, 1975), AO 1975–57 (40 FR 51611, November 5, 1975), AO 1975–64 (40 FR 52795, November 12, 1975), AO 1975–68 (40 FR 55601, November 28, 1975) as well as AO's 1975–5 and 1975–6 (40 FR 31316, July 25, 1975).

This advisory opinion is issued on an interim basis pending final promulgation by the Commission of rules and regulations or policy statements of general applicability.

ADVISORY OPINION 1975–88

USE AND REPORTING OF EXCESS FUNDS RAISED TO PAY 1974 CAMPAIGN DEBTS

This advisory opinion is issued under 2 U.S.C. 437f in response to a request on behalf of the Dodd for Congress Committee. This request was published as AOR 1975–88 on November 4, 1975 in the FEDERAL REGISTER (40 FR 51356). Interested persons were invited to submit written comments within 10 days of publication. No comments were received.

This request asks clarification of AO 1975–6 (40 FR 31316, July 25, 1975) as it relates to a later Policy Statement and an Interim Guideline (40 FR 32950 and 32952, August 5, 1975) issued by the Commission and published in the FEDERAL REGISTER. These publications deal with the treatment to be accorded past campaign debts as they relate to the disclosure provisions of the Act and to the limitations on conrtibutions and expenditures contained in Title 18.

In AO 1975–6, the Commission ruled that debts from a 1974 campaign could be liquidated from funds solicited in 1975 without application of the limitations on contributions or expenditures contained in 18 U.S.C. 608(b) and (c). It further indicated that any amounts raised in excess of the amount needed to retire the debt should be returned to the donor. The Interim Guideline and Policy Statement do not address the issue of what should be done with excess funds after payment of debts. The Dodd for Congress Committee has a surplus of funds after retiring debts from a 1974 campaign. It asks how these funds may be used and reported and, if they must be returned to the donors, what procedure must be followed.

In Advisory Opinion 1975–82, (40 FR 55596) the Commission modified its position stated in AO 1975–6 and the Policy Statement and Interim Guideline, supra.

with respect to the use of excess funds raised to retire 1974 debts. The Commission stated that such funds may be returned to the donor. Further, contributions which are authorized in writing for such purpose, may be transferred to a 1976 election campaign subject to the disclosure requirements of 2 U.S.C. 432 and 434, and the limitations of 18 U.S.C. 608(b). Lastly, under the provisions of 2 U.S.C. 439a, an incumbent Congressman may use excess funds to defray any ordinary and necessary expenses incurred in connection with his duties as a holder of Federal office, contribute to an organization described in 26 U.S.C. 170(c), or for any other lawful purpose.

In light of that opinion, the Dodd Committee may dispose of the excess funds as above-stated. Should the Dodd Committee decide to return the excess to the donors, the contributions last received should be the first returned on the assumption that the first contributions received are the first expended and that, therefore, residual funds represent the last contributions received. The Dodd Committee does not have to pro-rate the contributions received if it decides to return them, although it may do so.

This opinion is issued on an interim basis pending final promulgation by the Commission of rules and regulations or policy statements of general applicability.

Dated: December 3, 1975.

THOMAS B. CURTIS,
*Chairman for the*
*Federal Election Commission.*

[FR Doc.75-32270 Filed 12-10-75;8:45 am]

federal register

THURSDAY, DECEMBER 11, 1975


PART III:

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Office of Education

■

# STATE VOCATIONAL EDUCATION PROGRAMS

## Administrative Regulations

## Title 45—Public Welfare

## CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## PART 102—STATE VOCATIONAL EDUCATION PROGRAMS

### Administrative Regulations

A notice of proposed rulemaking was published on August 6, 1975, at 40 FR 33047, inviting public comments on regulations of the Secretary of Health, Education, and Welfare. The purpose of the proposed amendments was to conform the regulations promulgated pursuant to the Vocational Education Act of 1963, as amended (20 U.S.C. 1241 through 1393(f)), to existing Departmental policy and of insuring effective coordination of vocational education programs conducted under the Vocational Education Act with program activities provided under the Comprehensive Employment and Training Act (CETA), Pub. L. 93-203, (29 U.S.C. 801 *et seq.*) and the regulations issued thereunder by the Department of Labor (29 CFR Part 94).

1. *Summary of amendments to regulations.* Since there is considerable overlap in both CETA and vocational education target populations, the State's annual program plan required under the Vocational Education Act and the General Education Provisions Act shall provide for cooperative arrangements between the State board and the State Manpower Services Council established under the authority of section 107 of CETA. Section 102.40 has been amended to assure that the State Manpower Services Council will be provided an opportunity to comment on the provisions of the annual program plan which relate to manpower services prior to the public hearings mandated by § 102.31(e)(3), or at the public hearing.

Three other CETA related changes have been made. First, § 102.3 has been expanded to include, the definition of "Prime Sponsor," which is the governmental unit responsible for carrying out comprehensive manpower programs. Secondly, § 102.40(e) has been broadened in order to provide coordination with CETA prime sponsor manpower planners in the development of vocational education programs. Thirdly, § 102.51(a)(3) has been amended to indicate the repeal of the Manpower Development and Training Act of 1962 and to clarify the exclusionary language of this provision. Although an implication might be read into section 122(a)(3) of the Act that trainees under CETA and the Trade Expansion Act must be excluded from vocational programs, Congressional intention was precisely the opposite (109 Cong. Rec. 13476, 1963 (remarks of Representatives Perkins and Goodell)). The purpose for writing this exclusionary language was to prevent an overlapping in the actual availability of funds between vocational education and such other programs. Persons receiving training allowances under CETA and the Trade Expansion Act, therefore, are eligible for vocational education programs as long as funds authorized pursuant to such legislation supplement vocational funds rather than duplicate vocational funds.

Section 102.4 of the regulations has been revised to allow for related instruction to apprentices who are employed to learn trade skills. A list of assurances to be incorporated into the annual program plan is enumerated in § 102.4. These provisions should be read in conjunction with the Department of Labor's regulations on Apprenticeship (29 CFR Part 29).

Section 102.59(b) has been amended to require that the recommendations of the State advisory council be considered by the State board in developing the annual program plan for the ensuing year and that a response in writing to each recommendation be included in the annual program plan. All States now subscribe to this policy since this provision is identical to the addition of § 102.159 made in 37 FR 2822, but inadvertently omitted in the notice of proposed rulemaking published in the FEDERAL REGISTER on July 24, 1974 at 39 FR 27086 and the final regulations published February 25, 1975 at 40 FR 8076.

Finally, § 102.60(a)(2) has been modified in order that local educational agencies provide an assurance in their local application that any Federal funds received under Title VII of the Elementary and Secondary Education Act of 1965 (Bilingual Education) will be so used that expenditures for program purposes will supplement each other and not amount to a duplication of effort. This requirement is consistent with section 122(a)(4)(c) of the Vocational Education Act, as added by section 841(a)(5)(A) of Pub. L. 93-380 which requires that funding to the States for the purpose of vocational education programs for students of limited English-speaking ability be carried out in coordination with bilingual education programs under Title VII of the Elementary and Secondary Education Act of 1965, and bilingual adult education programs under section 306(a)(1) of the Adult Education Act.

2. *Comments.* The comments set forth in the following paragraphs represent the suggestions, questions, criticisms and objections which were submitted in writing in response to the proposed regulations. Most of the comments received were in support of the revisions. After the summary of each comment, a response is set forth stating the changes which have been made in the regulations or the reasons why no change is deemed necessary or appropriate.

*Comment.* Several commenters stated that the phrase ". . . the annual program plan shall set forth an assurance that the State Manpower Services Council will be provided with an opportunity to comment on the development of the annual program plan provisions which relate to manpower services . . ." might lead to misinterpretation. The basis for this view is that an opportunity for comment on the "development" of the annual program plan could, arguably, encompass involvement in the actual development of the plan.

*Response.* In accordance with section 123(a) of the Vocational Education Act, the State board, as the sole agency for administration of the annual program plan, has the responsibility for the development of the annual program plan. The Office of Education has no intention of eroding this statutory mandate by permitting the State Manpower Services Council to usurp the function of developing the plan. On the contrary, § 102.40(b-1) provides the State Manpower Services Council an opportunity to comment on the provisions of the plan which relate to manpower services. The rationale for this amendment stems from the need to eliminate conflict, duplication and overlapping between manpower services.

In an effort to mesh manpower programs to better meet the overall needs of the State, Congress authorized the establishment of State Manpower Services Councils (Section 107 of Pub. L. 93-203) as a mechanism to provide more effective coordination of manpower efforts. In addition to reviewing plans of prime sponsors, these Councils make recommendations to State agencies providing manpower services in order to improve the effectiveness of such programs.

Since vocational education is an important instrument of manpower policy, an effective manpower program in the State would benefit from cooperative arrangements between the State board and the State Manpower Services Council. The State board, therefore, should provide the opportunity to the State Manpower Services Council for comment on the annual program plan.

In order to eliminate any confusion as to what was intended, i.e., comment on those segments of the plan relating to manpower services, the words "the development of" have been deleted from the final regulations. This should create a clearer interpretation of the role to be performed by the State Manpower Services Council as it relates to the functions of the State board.

*Comment.* Many commenters also pointed out that cooperative linkages between CETA and the Vocational Education Act could be strengthened by the adoption of a provision in the CETA regulations which would require the State board for vocational education to be provided with an opportunity to comment on the provisions of the comprehensive manpower plan of prime sponsors relating to vocational training.

*Response.* Although cooperation is a two-way proposition in the sense that the State board for vocational education should be provided the same opportunities that are proposed for the State Manpower Services Councils, the U.S. Office of Education is not authorized to promulgate regulations for the Department of Labor. The staffs of both the Manpower Administration, Department of Labor and the Bureau of Occupational and Adult Education in the U.S. Office of Education, however, have been working together to clarify existing ambigui-

ties and avoid conflict in areas in which CETA and vocational education programs interface. Furthermore, copies of all comments received which deal with proposed changes in CETA regulations have been forwarded to the Department of Labor for its consideration.

*Comment.* One commenter has suggested that the State Manpower Services Council should be cognizant of the vocational education planning process and should be provided with the entire annual program plan for review. The comment states that it is inappropriate for the State board to unilaterally determine those elements of the annual program plan that will be of interest to the State Manpower Services Council. Such a policy could lead to an overly selective and narrow interpretation of "manpower-relatedness" that would be detrimental to the goal of program coordination. In support of this position, the commenter argues that under CETA, the State Manpower Services Council is mandated a responsibility for overall State manpower planning and manpower program coordination.

*Response.* There is a serious question as to the legal basis for this argument since there appears to be no provision in the CETA legislation for the State Manpower Services Council to be a vehicle for planning manpower programs or making program decisions. The basic responsibility of the State Manpower Services Council is comprehensive coordination of manpower activities. In the pursuit of this objective, the State board must provide an opportunity to the State Manpower Services Council to review those provisions of the annual program plan relating to manpower services. Although discretion as to which elements of the plan are appropriate for review is vested in the State board, it is highly unlikely that the State board would be overly selective in this matter. Therefore, no change has been made in the regulations.

*Comment.* A commenter suggested that a requirement for the State Manpower Services Council to comment prior to the public hearing be incorporated into the regulations.

*Response.* The proposed amendment, as set forth in § 102.40(b–1), provided for an opportunity for the State Manpower Services Council to comment "at the public hearing or prior to the public hearing mandated by § 102.31(c)(3)." The State boards are encouraged to make the plans available for review by the State Manpower Services Council prior to the hearing, but such an arrangement is not imperative. Accordingly, no change in the regulations is deemed necessary.

*Comment.* A commenter recommended that § 102.40(c) be revised to require coordination with both CETA prime sponsors and with "program agents" in balance of State areas.

*Response.* The term "prime sponsors" in the proposed amendment to § 102.40 (c) includes either grantees which have entered into a grant with the Department of Labor to provide comprehensive manpower services under Title I of the Comprehensive Employment and Training Act or subgrantees which have areas of substantial unemployment under Title II of CETA. Prime sponsors and program agents which are included in the comprehensive manpower plan, as well as prime sponsors and program agents in balance of State areas which are not included in the comprehensive manpower plan are organizations concerned with manpower needs of which § 102.40(c) directs its attention. Thus, no change is necessary.

*Comment.* A commenter recommended that § 102.40(c) be modified in order that the State board be required to provide cooperative arrangements with prime sponsors.

*Response.* Since the State Manpower Services Council has the statutory responsibility for reviewing the plans of each prime sponsor and making recommendations to the prime sponsors for more effective coordination, cooperative arrangements between the State board and the State Manpower Services Council indirectly impacts on all prime sponsors. Therefore, there is no necessity for imposing an additional and onerous mandate on the State board.

*Comment.* A commenter questioned the necessity of an express assurance which would provide the State Manpower Services Council an opportunity to comment on provisions of the annual program plan which relate to manpower services. The regulations now provide that "members of the public", which term includes the members of the State Manpower Services Council, may appear at the public hearings on the annual program plan to express their concerns. Furthermore, membership of the State advisory council on vocational education assures input from manpower administrators in the review of the annual program plans. The cooperative arrangements set forth in § 102.40(b–1) therefore, amount to a duplication of effort.

*Response.* As set forth above, an effective manpower program in the State would benefit from cooperative arrangements between the State board and the State Manpower Services Council. In order to accomplish this objective, § 102.40(b–1) allows the State Manpower Services Council to review the annual program plan at the public hearing, or prior to it. Since the State Manpower Services Council is the focal point for the coordination of the State's manpower efforts, the State boards are encouraged to submit the annual program plan to the State Manpower Services Councils prior to the public hearing.

*Comment.* A commenter suggested that the State Manpower Services Council be required to testify at the public hearing on the annual program plan, mandated by § 102.31(e)(3). This would enable the State Manpower Services Council to comply with their obligations set forth in section 107 of the Comprehensive Employment and Training Act.

*Response.* Since many State boards will opt for a review prior to the public hearing, no useful purpose would be served by requiring testimony on the part of the State Manpower Services Council. Additionally, the proposed language set forth in § 102.40(b–1) purposely provides for flexibility in this area of cooperative arrangement. Therefore, no change has been made.

*Comment.* A commenter questioned whether the reference to State Manpower Services Councils in § 102.40(b–1) should be construed to mean staff members or appointed members.

*Response.* The reference to the State Manpower Services Councils in this section encompasses both staff and appointed members.

*Comment.* Some commenters objected to the proposed requirement in § 102.–159(b) that the recommendations of the State advisory council be considered by the State board in developing the annual program plan for the ensuing year and that a response in writing to each recommendation be included in the annual program plan. The basis of these objections are reflected in the following comments:

(1) The State advisory council on vocational education is advisory in nature and thus the State board may reject their suggestions without any explanation.

(2) Compelling the State board to respond to the State advisory council on vocational education is making the State board subservient to the State advisory council on vocational education.

(3) Such a requirement would place the State advisory council on vocational education in the role of policy-making.

(4) The use of the word "shall" tends to place the advisory council in an administrative role.

*Response.* As set forth in the preamble to these proposed revisions in 40 FR 33048 (August 6, 1975), the amendments to § 102.159(b) are identical to the additions to the State Vocational Education Programs amendments which were inadvertently omitted in the notice of proposed rulemaking published in the FEDERAL REGISTER on July 24, 1974, at 39 FR 27086 and the final regulations published in the FEDERAL REGISTER on February 25, 1975, at 40 FR 8076.

The changes were made in the regulations in 1972 at the request of Congress since many State boards were ignoring the recommendations of the Councils. Since that time, all States have implemented a policy of requiring the recommendations of the advisory councils to be considered by the State boards in developing the annual program plan and responding to each recommendation in the annual program plan.

Congress mandated the existence of these councils in Pub. L. 90–576 in order to advise State boards on the development of the State plan and to submit to the State board an annual evaluation report. The existence of the State advisory councils was considered vital by Congress since they would provide the State board and the Federal Government with objective judgments and recommendations concerning vocational programs within the States. (1972 U.S. Code Cong. and Adm. News p. 2540).

Unless these recommendations are considered by the State board, the mis-

sion of the State advisory council on vocational education would be seriously eroded. These amendments do not imply that the State board must accept and implement every recommendation of the council, rather it requires the State board to set forth their reasons for accepting or rejecting the recommendation. Formalization of the response of the State board and requiring the response to be in the annual program plan will cause no hardship on the State board and will assure a flow of communication in those States where there is no established procedure.

*Comment.* A commenter suggested that the proposed amendment to § 102.60(a)(2) be modified in order to ensure that the content of the local application of the local education agency be formulated in conjunction with local CETA prime sponsors.

*Response.* The express purpose of revising § 102.60(a)(2) is to assure that funds received by local education agencies under Title VII of the Elementary and Secondary Education Act of 1965 (Bilingual Education) will be used to supplement any Part B funds expended for bilingual vocational programs. Section 122(a)(4)(c) of the Vocational Education Act of 1963, as amended by section 841(a)(5)(A) of Pub. L. 93-380, requires that funding to the States for the purpose of vocational education programs for students of limited English-speaking ability be carried out in coordination with bilingual education programs under Title VII of the Elementary and Secondary Education Act.

Although the suggested modification has no relevance to the substance of § 102.60(a)(2), subparagraphs (5) and (6) of this section require the local education agencies to set forth in their local application information indicating the manpower needs of students in the area. Therefore, local education agencies frequently work in conjunction with local CETA prime sponsors to determine exactly what the local manpower needs may be. No change has been made.

*Comment.* A commenter suggested several substantive changes be made to the classifications of registered and non-registered apprentices in § 102.4(e-1). This commenter stated that the proposed classifications might give unscrupulous employers an opportunity to exploit young persons by hiring them at a minimum rate and releasing them with practically no saleable training whatsoever. In addition, this commenter recommended the deletion of the word "or" in § 102.4(e-1)(4)(iii) since it might establish a dichotomy between technical and mechanical skills.

*Response.* The definitions of "registered" and "non-registered" apprentices set forth in § 102.4(e-1)(5) were reviewed, revised and approved by staff members of the Bureau of Apprenticeship and Training, U.S. Department of Labor. Furthermore, to ensure standards of acceptable quality, a cross-reference to the Department of Labor Apprenticeship Program Regulations (29 CFR Part 29) is provided for in § 102.4(e-1)(6). The recommendation to delete the word "or" in § 102.4(e-1)(4)(iii) has been accepted. Therefore, the skilled trade must involve manual, mechanical, technical skills and knowledge.

3. *Other changes.* Certain other minor and technical changes were made in order to correct, omissions and typographical errors printed in the proposed regulations. Some of these oversights were pointed out in the written comments.

4. *Effective date.* Pursuant to section 431(d) of the General Education Provisions Act, as amended, (20 U.S.C. 1232(d)) these regulations have been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance Nos. 13.493-395, 13.498-503; Vocational Education—Basic Grants to States, Consumer and Homemaking, Cooperative Education, Research, Special Needs, State Advisory Councils, Work Study and Innovation)

Dated: November 3, 1975.

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

Approved: December 5, 1975.

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

1. Section 102.3 is amended as follows:

**§ 102.3 Definitions.**

* * * * *

"Prime Sponsor" means a unit of government, combinations of units of government, or a rural Concentrated Employment Program grantee (as set forth in 29 CFR § 95.3), which has entered into a grant with the Department of Labor to provide comprehensive manpower services under Title I of the Comprehensive Employment and Training Act.

* * * * *

2. Section 102.4 is amended by adding the following paragraph at the end of paragraph (e).

**§ 102.4 Vocational instruction.**

* * * * *

(e-1) *Apprenticeship programs.* The annual program plan may provide for related instruction for apprentices who are employed to learn skilled trades. If such programs of instruction are offered, the annual program plan must set forth the following assurances:

(1) The vocational training is supplemental to the on-the-job training experience of the apprentice.

(2) The worker involved in the apprenticeable occupation must be at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law.

(3) The apprentice training agreement must specify a given length of planned work experience training through employment on the job which is supplemented by related instruction.

(4) The skilled trade must possess all of the following characteristics:

(i) It is customarily learned in a practical way through training and work on the job;

(ii) It is clearly identified and commonly recognized throughout an industry; and

(iii) It involves manual, mechanical, technical skills and knowledge.

(5) Apprentices will be classified as follows:

(i) *Registered.* (*a*) Where the program or the apprentice, or both are registered under the apprenticeship law of the State in which the apprentice is employed;

(*b*) Where the program or the apprentice, or both, are registered by a State apprenticeship agency operating under powers vested in it by legally responsible State authority; and

(*c*) Where the program of the apprentice, or both, are registered by the Bureau of Apprenticeship and Training, U.S. Department of Labor, under "standards" or "fundamentals" approved by the Federal Committee on Apprenticeship. Such registration or recognition exists only where neither conditions in paragraph (e-1)(5)(i)(*a*) nor paragraph (e-1)(5)(i)(*b*) of this section exist.

(ii) *Non-registered.* Where the program or the apprentice, or both, is not registered under any of the three conditions in paragraphs (e-1)(5)(i) (*a*), (*b*), and (*c*) of this section, but a non-certifiable apprenticeship program is conducted under an implied or written agreement between the apprentice and an individual employer, a group of employers, employer-employee committees, or a governmental agency.

(6) The standards of apprenticeship programs must adhere to the requirements outlined in 29 CFR Part 29 (Department of Labor Apprenticeship Programs).

(29 U.S.C. 50)

* * * * *

3. Section 102.40 is amended by adding the following paragraph at the end of paragraph (b) and by inserting the words "and prime sponsors" between the words "organizations" and "Copies" in paragraph (c).

**§ 102.40 Cooperative arrangements.**

* * * * *

(b-1) *With State Manpower Services Council.* The annual program plan shall provide for cooperative arrangements with the State Manpower Services Council created under the authority of section 107 of the Comprehensive Employment and Training Act (Pub. L. 93-203). In order to facilitate coordination of manpower activities within the State, the annual program plan shall set forth an assurance that the State Manpower Services Council will be provided with an opportunity to comment on the annual program plan provisions which relate to manpower services at the public hearing

or prior to the public hearing mandated by § 102.31(e)(3).

* * * * *

4. Section 102.51(a)(3) is revised to read as follows:

**§ 102.51 Allocation of funds to part B purposes.**

(a) * * *

(3) Persons who have already entered the labor market and who need training or retraining to achieve stability or advancement in employment. Persons receiving training allowances under the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq.) or the Trade Expansion Act of 1962 (19 U.S.C. 1801–1991) are eligible as long as funds authorized pursuant to such legislation supplement vocational education funds rather than duplicate vocational education funds.

5. Section 102.60, paragraph (a)(2), is revised to read as follows:

**§ 102.60 Content of local applications.**

* * * * *

(a) * * *

(2) A justification of the amount of Federal and State funds requested, and information on the amounts and sources of other funds available for the programs, services and activities. The local educational agency must also provide an assurance that any Federal funds received under Title VII of the Elementary and Secondary Education Act of 1965 (Bilingual Education) will be so used that expenditures for program purposes will supplement each other and not amount to a duplication of effort.

* * * * *

6. Section 102.159, paragraph (b), is revised to read as follows:

**§ 102.159 Annual evaluation report.**

* * * * *

(b) The annual evaluation report of the State advisory council may be accompanied by such comments of the State board as it deems appropriate. The recommendations of the State advisory council shall be considered by the State board in developing the State plan for the ensuing year. Response in writing to each recommendation shall accompany the State plan and may include among other matters, the results of evaluations by the State board of programs, services, and activities which support, supplement, or differ with the evaluation results of the State advisory council.

[FR Doc.75-33305 Filed 12-10-75;8:45 am]

federal register

THURSDAY, DECEMBER 11, 1975


PART IV:

# DEPARTMENT OF LABOR

## Employment and Training Administration

■

# FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Title 20—Employees' Benefits

## CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION

## PART 618—FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

### Revision of Regulations

On February 6, 1975, a document was published in the FEDERAL REGISTER (40 FR 5498) establishing a new Part 618 in Chapter V of Title 20 of the Code of Federal Regulations. Corrections to that document were published on February 25, 1975 (40 FR 8075). Part 618 implements the Federal Supplemental Benefit Program established under the "Emergency Unemployment Compensation Act of 1974" (Public Law 93–572, 88 Stat. 1869). The Act created a new, temporary unemployment compensation program, financed from Federal funds to furnish additional weeks of Federal Supplemental Benefits (FSB) to individuals covered by established unemployment compensation programs who are unemployed and unable to obtain work.

Although Part 618 was made effective upon publication in the FEDERAL REGISTER, comments were solicited through March 14, 1975. No comments on Part 618 were received.

Subsequent to the publication of Part 618, amendments to Public Law 93–572 were enacted in section 701(a) of Title VII of the "Tax Reduction Act of 1975" (Public Law 94–12; 89 Stat. 26, 65), and in Title I of the "Emergency Compensation and Special Unemployment Assistance Extension Act of 1975" (the Extension Act) (Public Law 94–45; 89 Stat. 236).

Part 618 has been reviewed in the light of the statutory changes in the Tax Reduction Act and Extension Act, and has been further reviewed. As a result of that review Part 618 has been substantially revised and includes the following significant changes:

1. Technical and clarifying changes are made throughout Part 618, including the addition of paragraph headings.

2. In § 618.1 the purpose of Part 618 is clarified, and two rules of construction have been added to preclude strict interpretation of the Act and Part 618, and to provide assurance of uniform interpretation of the Act and Part 618 in all States insofar as is possible. Another provision has been added for monitoring the application of the Act and securing uniformity.

3. A new § 618.2(1)(2) is added, defining "additional eligibility period" so as to accord with the amendment in section 101(d)(3) of the extension Act. This period is one in which an eligible individual who qualified for extended benefits or FSB during a Federal Supplemental Benefit Period continues to be eligible for FSB for up to 13 weeks after the end of the benefit period.

4. In § 618.2(r) the definitions of "week of partial unemployment" and "week of part-total unemployment" are amended by deleting from the definitions the clauses which require that a claimant's earnings be less than the earnings allowance prescribed by the applicable State law plus the claimant's weekly amount of FSB. These changes clarify the application of varying State law provisions on the calculation of rights to partial benefits.

5. Section 618.5 is revised to clarify the Federal and State unemployment compensation programs under which a potential FSB claimant must have exhausted all rights to benefits in order to qualify as an "exhaustee" for purposes of FSB.

6. Section 618.7 is revised so as to accord with amendments in sections 101(b), 101(f) and 106 of the Extension Act, and the provision of the Tax Reduction Act. Duration of FSB entitlement remains at 26 weeks throughout 1975, and thereafter would be 26 weeks during a 6-per centum period and 13 weeks during a 5-per centum period. The maximum amount of FSB payable to an individual is to be reduced by the amount of Special Unemployment Assistance paid to the individual in the 65 weeks preceding the first week in which the individual is eligible for FSB.

7. New §§ 618.9(b), 618.9(c), and 618.9(e) are added. Paragraph (b) provides for determinations of claims for weekly payments of FSB. Paragraph (c) contains the provisions on redetermination of entitlement to FSB which are moved from § 619.10(a). Paragraph (e) requires prompt payment of FSB.

8. Section 618.10 is revised to limit it to appeals and hearings on FSB claims, and to clarify its application. The provision on reconsideration in paragraph (a) is deleted and is now covered by §§ 618.9(c) and 618.9(f).

9. A new § 618.10(c) is added to provide expressly that the Secretary's "Standard for Appeals Promptness—Unemployment Compensation" (20 CFR Part 650) shall apply to FSB appeals, and to apply State law on advancement of unemployment compensation claims on judicial calendars to FSB claims.

10. New paragraphs (a), (b), (e), (f), and (g) are added to § 618.13; former paragraphs (a), (b), and (c) are relettered as (c), (d), and (h). The new paragraphs are added to state expressly the effect on entitlement to FSB of entitlement to or receipt of compensation, assistance, or allowances with respect to unemployment under other laws. They provide that compensation to which an individual is entitled under the Hawaii Agricultural Unemployment Compensation Law will be deducted from FSB entitlement; entitlement to unemployment compensation under the Railroad Unemployment Insurance Act will make an individual ineligible for FSB; receipt of compensation under unemployment compensation law of the Virgin Islands or Canada will make an individual ineligible for FSB; and entitlement to assistance or an allowance with respect to unemployment under the Trade Act of 1974 (19 U.S.C. 2271 *et seq.*, 29 CFR Part 91), the Disaster Relief Act of 1974 (42 U.S.C. 5177), or the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3243(d)), will not make an individual ineligible for FSB.

11. A new § 618.14 is added, providing for the denial of FSB to individuals who refuse to participate in or apply for occupational training, where the State determines that there is a need for such training and such training is available and satisfies the requirements set forth in the section. This new section implements the amendment in section 103(a) of the Extension Act.

12. The section on overpayments and penalties for fraud, renumbered as § 618.15, is amended to provide for the recovery of debts due the United States from FSB payable to an individual, and to provide that FSB payable to an individual may not be used in any manner for the payment of a debt of the individual to any State or any other entity or person.

13. A new § 618.16 is added, prohibiting waiver or assignment of rights to FSB, and any legal process against FSB except as provided in § 618.15; and to prohibit discrimination against FSB claimants in regard to employment, and obstruction of an individual's attempt to claim or receive FSB. These "inviolate rights to FSB" are substantially the same as the inviolate rights to State unemployment compensation which are requirements for State unemployment compensation laws under section 303(a) of the Social Security Act (42 U.S.C. 503(a)), and section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)).

14. A new paragraph (a) is added to § 618.17, formerly § 618.15, requiring State agencies to keep records under the Act, and paragraph (b) is amended to limit disclosure under the Act where such disclosure would conflict with the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act of 1974 (5 U.S.C. 552 (a)), or regulations of the Department of Labor promulgated thereunder.

15. Section 618.19, formerly § 618.17, is revised to provide for new "on" and "off" indicators for Federal Supplemental Benefit Periods after 1975, in accordance with the amendments in section 101(a) of the Extension Act.

16. A new § 618.20 is added, to prescribe when "5-per centum" and "6-per centum" periods begin and end. These changes implement amendments in sections 101(a) and 101(d) of the Extension Act.

17. Section 618.21, formerly § 618.18, is amended to provide that Assistant Regional Directors for Employment and Training are to be notified when "on" and "off" indicators are determined.

18. A new § 618.23 is added, providing for public inspection and copying of Agreements under the Act.

Accordingly, 20 CFR Part 618 is revised as set forth below.

Since the Extension Act was enacted on June 30, 1975, and some of the amendments to the Act became effective on that date or on July 1, 1975, it is essential to publish the revised Part 618 as quickly as possible. For this reason, I, as Secretary of Labor, find that it is contrary to the public interest to publish the revised Part 618 as a proposal with opportunity for comment, and further determine that 20 CFR 2.7 shall not apply to this document. For the same reason I find that it is necessary that the revised Part 618 shall become effective on De-

cember 11, 1975. Therefore, Part 618 as revised in this document shall take effect on December 11, 1975.

Although revised Part 618 is being published in final form and is made effective as stated above, it is the policy of the Department of Labor to solicit and consider comments on the regulations it issues. Therefore, comments will be received, just as though this document was a proposal, until January 12, 1976, after which time the comments received will be evaluated, and, if warranted, Part 618 will be appropriately amended. Meanwhile, in the interest of making revised Part 618 effective as stated above, it shall be in force upon publication in the FEDERAL REGISTER and shall remain in force until further revised.

Interested persons are invited to submit written data, views, or arguments on revised Part 618, to the U.S. Department of Labor, Employment and Training Administration, Room 7000, Patrick Henry Building, 601 "D" Street NW., Washington, D.C. 20213, on or before January 12, 1976. All material received in response to this invitation will be available for public inspection during normal business hours at that address.

Effective date: 20 CFR Part 618 is revised effective December 11, 1975.

Signed at Washington, D.C., this 8th day of December 1975.

JOHN T. DUNLOP,
*Secretary of Labor.*

Part 618 of Title 20, Code of Federal Regulations, is revised to read as follows:

Sec.



AUTHORITY: Pub. L. 93-572 (88 Stat. 1869); sec. 701(a), Pub. L. 94-12 (89 Stat. 26, 65); part A, title I, Pub. L. 94-45 (89 Stat. 236); title II, Pub. L. 91-373 (84 Stat. 695, 708); (5 U.S.C. 553).

### § 618.1 Purpose; rules of construction.

(a) *Purpose.* The "Emergency Unemployment Compensation Act of 1974" created a program of further extended unemployment compensation for individuals who have exhausted their rights to regular, additional, and extended unemployment compensation under permanent unemployment compensation programs. The benefits provided under the Act are hereafter referred to as Federal Supplemental Benefits, or FSB. The regulations in this Part are issued to implement the Act as it has been amended.

(b) *First Rule of construction.* The Act and the implementing regulations in this Part shall be construed liberally so as to carry out the purposes of the Act.

(c) *Second rule of construction.* The Act and the implementing regulations in this Part shall be construed so as to assure insofar as possible the uniform interpretation and application of the Act throughout the United States.

(d) *Effectuating purpose and rules of construction.* (1) In order to effectuate the provisions of this section each State agency shall forward to the United States Department of Labor, not later than 10 days after issuance, a copy of each judicial or administrative decision ruling on an individual's entitlement to FSB. On request of the Department, a State agency shall forward to the Department a copy of any determination or redetermination ruling on an individual's entitlement to FSB.

(2) If the Department believes a determination, redetermination, or decision is inconsistent with the Secretary's interpretation of the Act, the Department may at any time notify the State agency of the Department's view. Thereafter the State agency shall appeal if possible, shall not follow such determination, redetermination, or decision as a precedent; and in any subsequent proceedings which involve such determination, redetermination, or decision, or wherein such determination, redetermination, or decision is cited as precedent or otherwise relied upon, the State agency shall inform the hearing officer or court of the Department's view and shall make all reasonable efforts, including appeal or other proceedings in any appropriate forum, to obtain modification, limitation, or overruling of the determination, redetermination, or decision.

(3) A State agency may request reconsideration of a notice that a determination, redetermination, or decision is inconsistent with the Act, and shall be given opportunity to present views and argument if desired. If a determination, redetermination, or decision setting a precedent becomes final, which the Department believes to be inconsistent with the Act, the Secretary will decide whether the Agreement with the State shall be terminated.

(4) Concurrence of the Department in a determination, redetermination, or decision shall not be presumed from the absence of a notice pursuant to this paragraph.

### § 618.2 Definitions.

For the purposes of the Act and this Part:

(a) "Act" means the "Emergency Unemployment Compensation Act of 1974" (Public Law 93-572; 88 Stat. 1869, approved December 31, 1974), as amended by title VII of the Tax Reduction Act of 1975 (Public Law 94-12; 89 Stat. 26, 65), and title I of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975 (Public Law 94-45; 89 Stat. 236).

(b) "Agreement" means the agreement entered into pursuant to the Act between a State and the Secretary of Labor of the United States, under which the State agency of the State agrees to make payments of Federal Supplemental Benefits in accordance with the Act and the regulations and procedures thereunder prescribed by the Secretary.

(c) "Applicable State law" means the State law of the State which is the applicable State for an individual.

(d) "Base period" means, with respect to an individual, the base period as determined under the applicable State law for the individual's benefit year.

(e) "Benefit year" means the benefit year as defined in the applicable State law.

(f) "Extended benefit period" shall have the meaning assigned to the term by section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended (title II, Public Law 91-373; 84 Stat. 695, 708).

(g) "Compensation" means cash benefits (including dependents' allowances) payable to individuals with respect to their unemployment, and includes regular, additional, and extended compensation, as defined in this section.

(h) "Regular compensation" means compensation payable to an individual under any State law, and, when so payable, includes compensation payable pursuant to 5 U.S.C. chapter 85, but not including extended compensation or additional compensation.

(i) "Additional compensation" means compensation totally financed by a State and payable under a State law by reason of conditions of high unemployment or by reason of other special factors and, when so payable, includes compensation payable pursuant to 5 U.S.C. chapter 85.

(j) "Extended compensation" means compensation payable to an individual for weeks of unemployment in an extended benefit period, under those provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, (title II, Public Law 91-373; 84 Stat. 695, 708), with respect to the payment of extended compensation, and, when so payable, includes additional compensation and compensation payable pursuant to 5 U.S.C. chapter 85.

(k) "Federal Supplemental Benefits" means the compensation payable under the Act to individuals eligible thereunder for the payments, and which is referred to as FSB.

(l) (1) "Period of eligibility" means, in the case of any individual, the weeks in

the individual's benefit year which begin in an extended benefit period, a Federal Supplemental Benefit Period, or an additional eligibility period, and, if the benefit year ends within the extended benefit period, any weeks thereafter which begin in the extended benefit period, the Federal Supplemental Benefit Period, or the additional eligibility period.

(2) "Additional eligibility period" means, with respect to an individual, the thirteen-week period following the week in which a Federal Supplemental Benefit Period ends in a State, or such shorter period of weeks as exist between the end of the Federal Supplemental Benefit Period and the beginning of a new Federal Supplemental Benefit Period in the State, if either FSB or extended compensation was payable to the individual in the State for the week in which the Federal Supplemental Benefit Period ended. FSB or extended compensation shall be deemed to be payable to an individual for the week in which the Federal Supplemental Benefit Period ended if FSB or extended compensation is paid to the individual with respect to that week or if, as of the beginning of that week, there is any amount of a balance in the Federal Supplemental Benefit Account established for the individual pursuant to § 618.7 or in the Extended Compensation Account established for the individual pursuant to any State law in accord with section 202(b)(1) of the Federal-State Extended Unemployment Compensation Act of 1970 and § 615.5(b) of this chapter.

(m) "Secretary" means the Secretary of Labor of the United States.

(n) "State" means the States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(o) "State agency" means the agency of the State which administers the applicable State law.

(p) "State law" means the unemployment compensation law of a State, approved by the Secretary under section 3304 of the Internal Revenue Code of 1954 (26 U.S.C. 3304).

(q) "Week" means, for purposes of eligibility for and payment of FSB, a week as defined in the applicable State law, and, for purposes of computations of Federal Supplemental Benefit "on" and "off" indicators, the beginning and ending of a Federal Supplemental Benefit Period, and the beginning and ending of 5-per centum and 6-per centum periods, a calendar week.

(r) "Week of unemployment" means any week during which an individual is totally, part-totally, or partially unemployed. A week of total unemployment is a week in which an individual performs no work and earns no wages or has less than full-time work and earns not more than the earnings allowance prescribed in the applicable State law. A week of part-total unemployment is a week of otherwise total unemployment during which an individual has odd jobs or subsidiary work with earnings in excess of the earnings allowance prescribed in the applicable State law. A week of partial unemployment is a week during which an individual works less than regular, full-time hours for the individual's regular employer, because of lack of work, and earns more than the earnings allowance prescribed in the applicable State law.

### § 618.3 Effective period of the program.

(a) *Beginning date.* FSB shall first become payable under the Act and this Part with respect to the first week which begins after whichever of the following is the latest:

(1) December 31, 1974, or

(2) The week in which the State enters into an Agreement under the Act, or

(3) The date of enactment of the Act.

(b) *Ending date.* FSB shall not be payable to any individual with respect to any week of unemployment that ends after March 31, 1977.

(c) *Agreement as precondition.* Notwithstanding any other provision of the Act or this Part, FSB shall be payable solely through a State agency and only pursuant to an Agreement, and with respect to weeks in which an Agreement is in effect.

### § 618.4 Eligibility requirements for Federal Supplemental Benefits.

An individual is entitled to FSB for a week of unemployment which begins in the individual's period of eligibility, if, with respect to such week, the individual is an exhaustee as defined in § 618.5, files a timely claim for FSB, and satisfies the pertinent requirements of the applicable State law as provided in the Act and this Part.

### § 618.5 Definition of "exhaustee."

(a) *Definition.* An individual is an exhaustee with respect to a week of unemployment if the individual:

(1) Has exhausted all rights to regular compensation, as prescribed in § 615.4 (b) and (c) of this chapter, under the applicable State law;

(2) Has exhausted all rights to extended compensation; that is, the individual has received, prior to that week, all the extended compensation available under the applicable State law in the individual's most recent eligibility period, or the individual is not entitled to extended compensation because of the ending of the individual's eligibility period for extended compensation under the applicable State law prior to the beginning of that week; and

(3) Has no right to compensation, including regular, additional, and extended compensation, with respect to that week under the applicable State law or the State law of any other State; and has no right to unemployment compensation under 5 U.S.C. chapter 85 or the Railroad Unemployment Insurance Act or any other Federal unemployment compensation law; and

(4) Is not receiving compensation with respect to that week under the unemployment compensation law of the Virgin Islands or Canada.

(b) *Adjustment of week.* If it is subsequently determined as the result of a redetermination or appeal that an individual is an exhaustee as of a different week than was previously determined, the individual's rights to FSB shall be adjusted so as to accord with such redetermination or decision.

### § 618.6 Federal Supplemental Benefits: weekly amount.

(a) *Total unemployment.* The weekly amount of FSB payable to an individual for a week of total unemployment shall be equal to the amount of regular compensation payable to the individual for a week of total unemployment during the individual's current benefit year, or if the individual has no current benefit year, during the most recent benefit year. If the individual had more than one weekly amount of regular compensation for total unemployment during the benefit year, the weekly amount of FSB for total unemployment shall be the weekly amount payable under the applicable State law with respect to extended compensation in accordance with the Federal-State Extended Unemployment Compensation Act of 1970, as amended.

(b) *Partial and part-total unemployment.* The weekly amount of FSB payable for a week of partial or part-total unemployment shall be determined under the provisions of the applicable State law which apply to regular compensation, computed on the basis of the weekly amount of FSB payable for a week of total unemployment as determined pursuant to paragraph (a) of this section.

### § 618.7 Federal Supplemental Benefits: maximum amount.

(a) *Individual Account.* A Federal Supplemental Benefit Account shall be established for each individual determined to be eligible for FSB, in the sum of the maximum amount potentially payable to the individual as computed in accordance with paragraph (b) of this section. The amount established in the Federal Supplemental Benefit Amount of any individual shall be subject to the limitations on the maximum amount payable to the individual as provided in paragraph (c) of this section.

(b) *Computation of maximum amount potentially payable.* (1) The amount established in the Federal Supplemental Benefit Account of an individual, as the maximum amount potentially payable to the individual during the individual's period of eligibility, shall be equal to the lesser of—

(i) 100 per centum of the total amount of regular compensation payable to the individual during the individual's applicable benefit year; or

(ii) Twenty-six times the individual's weekly amount of FSB payable for a week of total unemployment, as determined pursuant to § 618.6(a); and minus the sum of any reduction under paragraph (b)(2) of this section.

(2) The reduction referred to in paragraph (b)(1) of this section shall be the sum of the amounts of Special Unemployment Assistance paid to the individual pursuant to title II of the Emergency Jobs and Unemployment Assistance Act of 1974 and Part 619 of this chapter for any week of unemployment which begins in the 65-week period preceding the first week of unemployment with respect to which FSB is payable to the individual under the Act and this Part. The reduc-

tion made in accordance with this paragraph shall not operate to reduce to less than zero the maximum amount potentially payable as computed in accordance with paragraph (b)(1) of this section, or so as to affect any amount of FSB paid or payable to the individual for any week of unemployment which began prior to July 1, 1975.

(c) *Maximum amount payable.* Notwithstanding the maximum amount potentially payable to an individual as established in the individual's Federal Supplemental Benefit Account, the maximum amount of FSB payable to the individual:

(1) With respect to weeks of unemployment in the individual's period of eligibility (as defined in section 105(2) of the Emergency Unemployment Compensation Act of 1974) that begin prior to January 4, 1976, shall be the maximum amount potentially payable to the individual as computed under paragraph (b) of this section; and

(2) With respect to weeks of unemployment in the individual's period of eligibility (as defined in § 618.2(1)) that begin during a 6-per centum period which begins on or after January 4, 1976, shall not exceed the lesser of—

(i) The maximum amount computed under paragraph (b) of this section; or

(ii) The amount of the balance in the individual's Federal Supplemental Benefit Account, as of the beginning of the 6-per centum period; and

(3) With respect to weeks of unemployment in the individual's period of eligibility (as defined in § 618.2(1)) that begin during a 5-per centum period which begins on or after January 4, 1976, shall not exceed the lesser of—

(i) 50 per centum of the maximum amount computed under paragraph (b) of this section; or

(ii) The amount of the balance in the individual's Federal Supplemental Benefit Account, as of the beginning of the 5-per centum period.

(4) Any amount in an individual's Federal Supplemental Benefit Account which is not paid to the individual with respect to weeks of unemployment which begin during a 5-per centum or 6-per centum period in a Federal Supplemental Benefit Period, shall remain available and payable to the individual with respect to weeks of unemployment that begin during any succeeding 5-per centum or 6-per centum period which occurs in the same or a subsequent Federal Supplemental Benefit Period, or any applicable additional eligibility period, within the individual's period of eligibility (as defined in § 618.2(1)), subject to the limitations on the maximum amount payable to the individual as provided in this paragraph (c).

(d) *Adjustment of Account.* If it is subsequently determined as the result of a redetermination or appeal that an individual was entitled to more or less of regular, additional, or extended compensation under the State law of any State, or to more or less of unemployment compensation under 5 U.S.C. chapter 85, the individual's status as an exhaustee shall be redetermined as of the new date of the individual's exhaustion, and an appropriate change shall be made in the individual's Federal Supplemental Benefit Account. The appropriate change in the individual's account shall be computed in accordance with this section and, insofar as applicable, § 618.6.

### § 618.8 Claims for Federal Supplemental Benefits.

(a) *Initial claims.* An initial claim for FSB shall be filed by an individual with respect to the individual's applicable State and according to the applicable State law on a form prescribed by the Secretary, which shall be furnished to the individual by the State agency.

(b) *Weekly claims.* Claims for payments of FSB for weeks of unemployment shall be filed with respect to the individual's applicable State at the times and in the manner as claims for regular compensation are filed under the applicable State law, and on forms prescribed by the Secretary which shall be furnished to the individual by the State agency.

(c) *Secretary's standard.* The procedures for reporting and filing claims for FSB shall be consistent with this Part and the Secretary's "Standard for Claim Filing, Claimant Reporting, Job Finding and Employment Services" (*Employment Security Manual*, Part V, sections 5000 et seq.).

### § 618.9 Determinations of entitlement; notices to individual.

(a) *Determination of initial claim.* The State agency shall promptly, upon the filing of an initial claim for FSB, determine whether the individual is eligible and whether a disqualification applies, and, if the individual is found to be eligible, the weekly and maximum amounts of FSB payable to the individual.

(b) *Determinations of weekly claims.* The State agency shall promptly, upon the filing of a claim for a payment of FSB with respect to a week of unemployment, determine whether the individual is entitled to a payment of FSB with respect to such week, and, if entitled, the amount of FSB to which the individual is entitled.

(c) *Redetermination.* The provisions of the applicable State law concerning the right to request, or authority to undertake, reconsideration of a determination pertaining to regular compensation under the applicable State law shall apply to determinations pertaining to FSB.

(d) *Notices to individual.* The State agency shall give notice in writing to the individual of any determination or redetermination of an initial claim and determinations and redeterminations of all weekly claims with respect to weeks of unemployment, and each notice of determination or redetermination shall include such information regarding the determination or redetermination and notice of right to reconsideration or appeal, or both, as is furnished with written notices of determinations and written notices of redeterminations with respect to claims for regular compensation.

(e) *Promptness.* Full payment of FSB when due shall be made with the greatest promptness that is administratively feasible.

(f) *Secretary's standard.* The procedures for making determinations and redeterminations and furnishing written notices of determinations, redeterminations, and rights of appeal to individuals claiming FSB shall be consistent with the Secretary's "Standard for Claim Determinations—Separation Information" (*Employment Security Manual*, Part V, sections 6010 *et seq.*).

### § 618.10 Appeal and hearing.

(a) *Applicable State law.* The provisions of the applicable State law concerning the right of appeal and fair hearing from a determination or redetermination of entitlement to regular compensation shall apply to determinations and redeterminations of eligibility for or entitlement to FSB.

(b) *Rights of appeal and fair hearing.* The provisions on right of appeal and opportunity for a fair hearing with respect to claims for FSB shall be consistent with this Part and with sections 303(a)(1) and 303(a)(3) of the Social Security Act (42 U.S.C. 503(a)(1) and 503(a)(3)).

(c) *Promptness on appeals.* (1) Decisions on appeals under the FSB program shall accord with the Secretary's "Standard for Appeals Promptness—Unemployment Compensation" in Part 650 of this chapter.

(2) Any provision of an applicable State law for advancement or priority of unemployment compensation cases on judicial calendars, or otherwise intended to provide for the prompt payment of unemployment compensation when due, shall apply to proceedings involving entitlement to FSB.

### § 618.11 Provisions of State law applicable to claims.

(a) *Particular provisions applicable.* Except where the result would be inconsistent with the provisions of the Act or this Part and the procedures thereunder prescribed by the Secretary, the terms and conditions of the applicable State law which apply to claims for, and the payment of, regular compensation shall

apply to claims for, and the payment of, FSB. The provisions of the applicable State law which shall apply to claims for, and the payment of, FSB include, but are not limited to:

(1) Claim filing and reporting;

(2) Information to individuals, as appropriate;

(3) Notices to individuals and employers, as appropriate, including notice to each individual of each determination and redetermination of eligibility for or entitlement to FSB;

(4) Determinations and redeterminations;

(5) Ability to work, availability for work, and search for work; and

(6) Disqualifications.

(b) *IBPP.* The Interstate Benefit Payment Plan shall apply, where appropriate, to individuals filing claims for FSB.

(c) *Wage combining.* The Interstate Arrangement for Combining Employment and Wages (20 CFR Part 616) shall apply, where appropriate, to individuals filing claims for FSB: *Provided*, That, the "Paying State" shall be the applicable State as prescribed in § 618.12.

(d) *Procedural requirements.* The provisions of the applicable State law which apply hereunder to claims for, and the payment of FSB shall be applied consistently with the requirements of Title III of the Social Security Act and the Federal Unemployment Tax Act which are pertinent in the case of regular and extended compensation, including but not limited to those standards and requirements specifically referred to in the provisions of this Part.

### § 618.12 The applicable State for an individual.

(a) *Applicable State.* The applicable State for an individual is the State with respect to which the individual is an "exhaustee" as defined in § 618.5 (a) and (b).

(b) *Limitation.* FSB is payable to an individual only by an applicable State as determined pursuant to paragraph (a) of this section.

### § 618.13 Restrictions on entitlement.

(a) *Hawaiian law or RRUI.* (1) An individual who is entitled with respect to a week to both FSB and unemployment compensation under the Hawaii Agricultural Unemployment Compensation Law, shall be entitled to a payment of FSB in the amount, if any, by which the FSB amount exceeds the amount to which the individual is entitled under the Hawaii Agricultural Unemployment Compensation Law.

(2) An individual who is entitled with respect to a week to unemployment compensation under the Railroad Unemployment Insurance Act shall not be entitled to a payment of FSB with respect to that week.

(b) *Virgin Islands or Canadian law.* An individual who receives compensation with respect to a week of unemployment under the unemployment compensation law of the Virgin Islands or Canada shall not be entitled to a payment of FSB with respect to that week.

(c) *MDTA allowance.* An individual who is entitled with respect to a week to both FSB and a training allowance under section 203 of the Manpower Development and Training Act of 1962, as amended (42 U.S.C. 2583), shall be treated the same as the individual would be treated if entitled to both regular compensation and such an allowance.

(d) *CETA allowance.* An individual entitled to the payment with respect to a week of unemployment of a basic weekly allowance under section 111(a) of the Comprehensive Employment and Training Act of 1973 (29 U.S.C. 821) shall not, by reason of entitlement to a payment under that Act, be ineligible for a payment of FSB to which the individual otherwise is entitled.

(e) *Trade readjustment allowance.* (1) An individual who is entitled, with respect to a week of unemployment which begins before April 3, 1975, to both FSB and a trade readjustment allowance under Chapter 3 of Title III of the Trade Expansion Act of 1962 shall be treated the same as the individual would be treated if entitled to both regular compensation and such an allowance.

(2) An individual who is entitled, with respect to a week of unemployment which begins on or after April 3, 1975, to a trade readjustment allowance under Chapter 2 of Title II of the Trade Act of 1974 (19 U.S.C. 2271–2322 and 20 CFR Part 91), shall not, by reason of entitlement to a trade readjustment allowance, be ineligible for a payment of FSB to which the individual otherwise is entitled with respect to that week.

(f) *Disaster Unemployment Assistance.* An individual who is entitled to a payment of Disaster Unemployment Assistance with respect to a week of unemployment under section 407 of the Disaster Relief Act of 1974 (42 U.S.C. 5177 and 20 CFR Part 625), shall not, by reason of entitlement to Disaster Unemployment Assistance, be ineligible for a payment of FSB to which the individual otherwise is entitled with respect to that week.

(g) *PWEDA assistance.* An individual who is entitled to a payment of _____ assistance with respect to a week of unemployment under section 903(d) of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3242(d)), shall not, by reason of entitlement to assistance under that Act, be ineligible for a payment of FSB to which the individual otherwise is entitled with respect to that week.

(h) *Disqualification.* If the week of unemployment for which an individual claims FSB is a week to which a disqualification for compensation applies under the applicable State law, or would apply but for the fact that the individual has no right to compensation, the individual shall not be entitled to a payment of FSB for that week.

### § 618.14 Required training for FSB claimants.

(a) *Statutory provision.* Section 102 (g) of the Act provides that FSB shall not be payable for any week to an individual who is not a participant in a training program approved by the Secretary if—

(1) The State determines that there is a need for upgrading or broadening the individual's occupational skills, and a program which is approved by the Secretary for such upgrading or broadening is available within a reasonable distance and without charge to the individual for tuition or fees; and

(2) The individual is not an applicant to participate in such a program.

(b) *Training programs.* For purposes of section 102(g) of the Act a training program is a program of instruction in vocational skills and related subjects to improve an individual's employability.

(c) *Approval of training.* For purposes of section 102(g) of the Act a training program shall be deemed approved by the Secretary if (1) such program is established pursuant to the Comprehensive Employment and Training Act of 1973, as amended (29 U.S.C. 801 *et seq.*), or (2) it is determined by the head of a State agency that such program meets each of the following criteria:

(i) The training program is reasonably calculated to improve the employability of individuals participating in such training program;

(ii) The training institution has suitable facilities, equipment, and qualified personnel; and

(iii) The training program is, with respect to an individual claiming FSB, appropriate training within the meaning of paragraph (d) of this section.

The head of a State agency shall not disapprove training which otherwise meets the criteria stated in this paragraph solely because the training institution is located outside the State or because all or some portion of the training program is conducted outside the State.

(d) *Appropriate training.* Training which is appropriate for an individual determined to be in need of training is training conducted in a training program described in paragraph (b) of this section which:

(1) Will provide the individual with additional occupational skills and knowledge, or upgrade or broaden the individual's existing skills, relevant to employment opportunities which reasonably may be expected to be or to become available in the area in which the individual resides;

(2) Is available without cost to the individual for tuition or fees; and

(3) Is conducted at a facility located within reasonable commuting distance from the individual's residence.

(e) *Determination of need for training.* The determination of whether there is a need for upgrading or broadening an individual's skills shall be made promptly following the filing of an initial claim for FSB by the individual. In making such determination a State agency shall consider whether the individual's prospects for obtaining suitable employment will be improved, with respect to employment opportunities which are or reasonably may be expected soon to become available in the area in which the individual resides, if the individual is provided with

additional occupational skills or knowledge or if the individual's existing skills are upgraded or broadened. The State agency also shall consider the following factors:

(1) The length of the individual's unemployment;

(2) The length of the individual's immediate past employment in a regular occupation;

(3) The individual's skill level;

(4) The individual's attachment to an employer or industry;

(5) The anticipated duration of the individual's unemployment;

(6) The individual's education and prior training; and

(7) Special skills possessed by the individual.

(f) *Application for training.* An individual determined to be in need of training under paragraph (e) of this section shall file with the State agency of the State in which the individual is filing claims for FSB an application for participation in a training program approved pursuant to paragraph (c) of this section.

(g) *Participation in training.* (1) An individual determined to be in need of training under paragraph (e) of this section shall enroll in and participate in a training program which has been approved under paragraph (c) of this section, if such program is available, as soon as reasonably practicable.

(2) Participation in a training program requires that the individual be in full attendance in the training program except for excused absences for good cause, and that the individual make satisfactory progress throughout the training program.

(h) *Disqualification.* (1) An individual shall be disqualified to receive payments of FSB commencing with the week in which the individual:

(i) Fails or refuses without good cause to file an application for training pursuant to paragraph (f) of this section, or to accept a suitable training opportunity, or refuses to apply for training to which he is referred by the Employment Service, or

(ii) Fails or refuses without good cause to report for or to participate in a training program pursuant to paragraph (g) of this section after having been accepted by a training institution, as manifested by failure or refusal to attend the training program, absenteeism without good cause which jeopardizes the individual's ability to succesfully complete the training program, failure without good cause to make satisfactory progress during any portion of the training program, discontinuance of training before completion, or any other action or omission found inconsistent with diligent participation in the training program.

(2) A disqualification imposed under paragraph (h)(1) of this section shall end with the week in which the individual:

(i) If disqualified under paragraph (h)(1)(i) of this section, commences participation in a training program approved under paragraph (c) of this section; or

(ii) If disqualified under paragraph (h)(1)(ii) of this section, commences or resumes participation in the training program under conditions affording a reasonable prospect of successfully completing the training program, or applies for and commences participation in a different or subsequent training program which has been approved under paragraph (c) of this section; or

(iii) Obtains employment reasonably expected to be of indefinite duration.

(i) *Determinations.* Determinations under paragraphs (b), (c), (d), (e), and (h) of this section shall be made by the State agency of the applicable State for the individual.

(j) *Procedural requirements.* (1) The provisions of paragraphs (c), (d), and (f) of § 618.9 shall apply to determinations and redeterminations made pursuant to this section.

(2) The provisions of § 618.10 shall apply to appeals and hearings with respect to determinations and redeterminations made purusant to this section.

(k) *Construction.* The provisions of paragraphs (a) through (h) of this section shall be interpreted and applied consistently with General Administration Letter No. 9–75 (U.S. Department of Labor, Manpower Administration, October 19, 1975) (40 FR 49541).

### § 618.15 Overpayments; penalties for fraud.

(a) *Finding and repayment.* If the State agency of the applicable State or a court of competent jurisdiction finds, after a determination and opportunity for a fair hearing thereon, that an individual has received a payment of FSB to which the individual was not entitled under the Act and this Part, whether or not the payment was due to the individual's fault or misrepresentation, the individual shall be liable to repay to the applicable State the total sum of the payment to which the individual was not entitled, and the State agency shall take all reasonable measures authorized under any State law or Federal law to recover for the account of the United States the total sum of the payment to which the individual was not entitled.

(b) *Recovery by offset.* (1) The State agency shall recover, insofar as is possible, the amount of any overpayment which is not repaid by the individual, by deductions from any FSB payable to the individual under the Act and this Part, or from any compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency, subject to the limitations in § 619.13(a)(3)(ii) of this chapter in regard to recovery from any Special Unemployment Assistance payable to the individual.

(2) A State agency shall also recover, insofar as is possible, the amount of any overpayment of FSB made to an individual by another State, by deductions from any FSB payable by the State agency to the individual under the Act and this Part, or from any compensation payable to the individual under any Federal unemployment compensation law administered by the State agency, or from any assistance or allowance payable to the individual with respect to unemployment under any other Federal law administered by the State agency, subject to the limitations in § 619.13(a)(3)(ii) of this chapter in regard to recovery from any Special Unemployment Assistance payable to the individual.

(c) *UCFE and UCX claimants.* In addition, the provisions of 5 U.S.C. 8507 shall be applicable in the event of fraudulent overpayments of FSB to former Federal employees and ex-servicemen and ex-servicewomen.

(d) *Debts due the United States.* FSB payable to an individual shall be applied by the State agency for the recovery by offset of any debt due to the United States from the individual, but shall not be applied or used by the State agency in any manner for the payment of any debt of the individual to any State or any other entity or person.

(e) *Recovered overpayments.* Overpayments recovered in any manner shall be credited or returned, as the case may be, to the appropriate account of the United States.

(f) *Application of State law.* Any provision of the applicable State law providing for waiver of recovery of overpayments of compensation shall not be applicable to FSB. However, provisions of the applicable State law relating to disqualification for fraudulently claiming or receiving a payment of compensation shall apply to claims for and payments of FSB.

(g) *Final decision.* Recovery of any overpayment of FSB shall not be enforced by a State agency until the determination establishing the overpayment has become final or the decision after opportunity for a fair hearing has become final.

(h) *Procedural requirements.*

(1) The provisions of paragraphs (c), (d), and (f) of § 618.9 shall apply to determinations and redeterminations made pursuant to this section.

(2) The provisions of § 618.10 shall apply to appeals and hearings with respect to determinations and redeterminations made pursuant to this section.

(i) *Fraud detection and prevention.* Provisions in the procedures of each State with respect to detection and prevention of fraudulent overpayments of FSB shall be, as a minimum, commensurate with the procedures adopted by the State with respect to regular compensation which are consistent with the Secretary's "Standard for Fraud and Overpayment Detection" (*Employment Security Manual*, Part V, sections 7510 et seq.).

### § 618.16 Inviolate rights to FSB.

(a) *Waiver of rights void.* Any agreement by an individual purporting to waive, release, or commute any right of the individual to FSB shall be void.

(b) *Assignment of rights void.* Any purported assignment, pledge, or en-

cumbrance of any right of an individual to FSB shall be void.

(c) *Legal process prohibited.* Except as provided in § 618.15 or by applicable statute of the United States or regulation of the U.S. Department of Labor, any right of an individual to FSB shall be exempt from levy, execution, attachment, garnishment, order for the payment of attorney fees, or any other remedy whatsoever provided for the collection of debt, and such remedies shall be precluded absolutely. This prohibition shall apply to sums payable to an individual and to sums paid to the individual.

(d) *Discrimination prohibited.* No person shall discriminate against any individual in regard to hiring or tenure of work or any term or condition of employment on account of seeking, claiming, or receiving any right to FSB.

(e) *Obstruction prohibited.* No person shall in any manner obstruct or impede, or attempt to obstruct or impede, any individual in seeking, claiming, or receiving any right to FSB.

**§ 618.17 Record keeping; disclosure of information.**

(a) *Record keeping.* Each State agency will make and maintain records pertaining to the administration of the Act as the Secretary requires, and will make all such records available for inspection, examination, and audit by such Federal officials or employees as the Secretary may designate or as may be required by law.

(b) *Disclosure of Information.* Information in records made and maintained by a State agency in administering the Act shall be kept confidential, and information in such records may be disclosed only in the same manner and to the same extent as information with respect to regular compensation and the entitlement of individuals thereto may be disclosed under the applicable State law. This provision on the confidentiality of information obtained in the administration of the Act shall not apply, however, to the U.S. Department of Labor, or in the case of information, reports and studies requested pursuant to § 618.24, or where the result would be inconsistent with the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a) or regulations of the U.S. Department of Labor promulgated thereunder.

**§ 618.18 Federal Supplemental Benefit Period.**

(a) *Beginning date.* A Federal Supplemental Benefit Period shall begin in a State on the first day of the third calendar week following the week for which there is a Federal Supplemental Benefit "on" indicator in the State, but in no event shall a Federal Supplemental Benefit Period commence with a week beginning before January 5, 1975.

(b) *Ending date.* Except as provided in paragraphs (c) and (d) of this section, a Federal Supplemental Benefit Period in a State shall end on the last day of the third calendar week after the first week for which there is a Federal Supplemental Benefit "off" indicator in that State.

(c) *Duration.* A Federal Supplemental Benefit Period which becomes effective in any State shall continue for not less than 26 consecutive weeks, but in no event shall FSB be paid for any week which is not within the effective period of the Federal Supplemental Benefit Program as specified in § 618.3.

(d) *Federal Supplemental Benefit Periods beginning before 1976.* No Federal Supplemental Benefit Period which began in any State prior to January 1, 1976, shall end prior to that date, notwithstanding any other provision of this Part.

(e) *Final termination of Federal Supplemental Benefit Periods.* No Federal Supplemental Benefit Period shall continue in effect in any State beyond the last week of unemployment for any individual that ends on or before March 31, 1977, notwithstanding any other provision of this Part. Any Federal Supplemental Benefit Period which is in effect in any State in the last week of unemployment for any individual that ends on or before March 31, 1977, shall terminate at the end of that week.

(f) *Additional eligibility periods for individuals.* (1) There shall be an additional eligibility period (as defined in § 618.2(1)(2)) for any individual who qualifies, following the week in which a Federal Supplemental Benefit Period ends in a State.

(2) No additional eligibility period shall begin or continue in effect for any individual in any State with respect to any week of unemployment that ends after March 31, 1977, notwithstanding any other provision of this Part. Any additional eligibility period which is in effect for any individual in any State in the last week of unemployment that ends on or before March 31, 1977, shall terminate at the end of that week.

**§ 618.19 Determination of "on" and "off" indicators.**

(a) *"On" indicator.* There is a Federal Supplemental Benefit "on" indicator in a State for a week if the Secretary determines with respect to that State that: (1) There is a State or National "on" indicator for the week as determined under subsection (d) or (e) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended; and

(2) In the case of a week applicable to the beginning of a Federal Supplemental Benefit Period as of any week which begins on or after January 1, 1976, the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 5 per centum, as determined by the State agency of the State in accordance with the Act and this Part.

(b) *"Off" indicator.* With respect to the ending of a Federal Supplemental Benefit Period as of the end of any week which begins on or after January 1, 1976, there is a Federal Supplemental Benefit "off" indicator in a State for a week if the Secretary determines with respect to that State that the rate of insured unemployment in the State (as determined by the State agency of the State in accordance with the Act and this Part) for the period consisting of such week and the immediately preceding twelve weeks is less than 5 per centum.

(c) *Computation of rate of insured unemployment.* The rate of insured unemployment, for the purposes of "on" and "off" indicators and 5-per centum and 6-per centum periods, shall be computed in accordance with § 615.14 of this chapter.

**§ 618.20 Per centum periods in Federal Supplemental Benefit Periods and additional eligibility periods.**

(a) *Per centum periods.* (1) Commencing with weeks beginning on and after January 4, 1976, a Federal Supplemental Benefit Period in a State shall consist of either a "5-per centum period" or a "6-per centum period" or of 5-per centum and 6-per centum periods in alternating order.

(2) The provisions of this section which apply to the beginning, ending, and continuation of per centum periods in a Federal Supplemental Benefit Period, shall apply to the additional eligibility periods of individuals which immediately succeed a Federal Supplemental Benefit Period, as if the additional eligibility periods were within the Federal Supplemental Benefit Period, except that no per centum period applicable to an additional eligibility period shall remain in effect beyond the end of the additional eligibility period.

(b) *5-per centum period.* (1) A 5-per centum period shall begin in a Federal Supplemental Benefit Period in a State on the first day of the third calendar week immediately following a period of thirteen consecutive calendar weeks, during which the rate of insured unemployment in the State averaged less than 6 per centum.

(2) A 5-per centum period shall not begin prior to (i) January 4, 1976, or (ii) the first day of the fourteenth consecutive calendar week after the last week in a preceding 5-per centum period in the same Federal Supplemental Benefit Period.

(3) A 5-per centum period shall end on the last day of the second calendar week immediately following a period of thirteen consecutive calendar weeks, during which the rate of insured unemployment in the State averaged not less than 6-per centum: *Provided*, That, a 5-

per centum period which begins in a Federal Supplemental Benefit Period shall remain in effect until a 6-per centum period begins in the same Federal Supplement Benefit Period; and, in the absence of a subsequent 6-per centum period in the same Federal Supplemental Benefit Period, the 5-per centum period shall remain in effect until the end of the Federal Supplemental Benefit Period even though a decrease in the rate of insured unemployment might otherwise trigger an earlier end to the 5-per centum period.

(c) *6-per centum period.* (1) A 6-per centum period shall begin in a Federal Supplemental Benefit Period in a State on the first day of the third calendar week immediately following a period of thirteen consecutive calendar weeks, during which the rate of insured unemployment in the State averaged not less than 6 per centum.

(2) A 6-per centum period shall not begin prior to January 4, 1976.

(3) A 6-per centum period shall end on the last day of the second calendar week immediately following a period of thirteen consecutive calendar weeks, during which the rate of insured unemployment in the State averaged less than 6 per centum: *Provided*, That, a 6-per centum period which begins immediately following a 5-per centum period in the same Federal Supplemental Benefit Period shall continue in effect for not less than thirteen consecutive calendar weeks, even though a decrease in the rate of insured unemployment might otherwise trigger an earlier end to the 6-per centum period, but a 6-per centum period shall not remain in effect beyond the end of the Federal Supplemental Benefit Period.

(d) *Determinations of per centum periods.* Determinations of the beginning and ending of 5-per centum and 6-per centum periods in a State shall be made by the head of the State agency in accordance with this Part.

**§ 618.21 Announcement of the beginning and ending of Federal Supplemental Benefit Periods and per centum periods.**

(a) *Publication in* FEDERAL REGISTER. (1) Whenever the Secretary determines that there is an "on" indicator in any State, the Secretary shall cause to be published in the FEDERAL REGISTER notice of the determination, and shall include in such notice the week for which there was an "on" indicator, the week when a Federal Supplemental Benefit Period will commence and information regarding the scope of the Federal Supplemental Benefit Program.

(2) Whenever the Secretary determines that there is an "off" indicator in any State, the Secretary shall cause to be published in the FEDERAL REGISTER notice of the determination, and shall include in such notice the week for which there was an "off" indicator, and the week when the Federal Supplemental Benefit Period will end.

(b) *Notifications.* The Secretary shall also cause to be notified the appropriate news media, the head of the State agency concerned, and the Assistant Regional Directors for Employment and Training, of the determination of an "on" or "off" indicator and of its effect.

(c) *Publicity in State.* Whenever the head of a State agency is notified of the Secretary's determination that a Federal Supplemental Benefit "on" or "off" indicator will begin or end a Federal Supplemental Benefit Period in the State, the head of the State agency shall promptly announce the Secretary's determination and the beginning or ending date of the Federal Supplemental Benefit Period through appropriate news media in the State. In the case of a Federal Supplemental Benefit Period that is about to begin, the announcement shall also describe clearly the unemployed individuals who may be eligible for FSB during the period; and in the case of a Federal Supplemental Benefit Period that is about to end, the announcement shall also describe clearly the individuals whose entitlement to FSB will be terminated, and the individuals whose entitlement to FSB will continue during their additional eligibility periods.

(d) *Notices to claimants.* (1) Whenever there has been a determination that a Federal Supplemental Benefit Period will begin in a State, the State agency shall provide prompt written notice of potential entitlement to FSB to each individual who is an exhaustee as prescribed in § 618.5.

(2) The State agency shall provide the same notice promptly to each individual who becomes an exhaustee, as prescribed in § 618.5, during a Federal Supplemental Benefit Period.

(3) Whenever there has been a determination that a Federal Supplemental Benefit Period will end in a State, the State agency shall provide written notice to each individual who is currently filing claims for FSB for the forthcoming end of the Federal Supplemental Benefit Period and its effect on the individual's entitlement to FSB. Notices to individuals who will have an additional eligibility period following the Federal Supplemental Benefit Period shall include notice of their potential entitlement to FSB during the additional eligibility period.

(e) *Publicity and notices of per centum periods.* (1) Whenever a State agency determines, pursuant to § 618.20, that a 6-per centum period will begin or end in the State, the head of the State agency shall promptly announce that determination through appropriate news media in the State and shall promptly notify the Secretary of such determination. Such announcement shall also describe clearly the effect on the entitlement of individuals to FSB during the ensuing 6-per centum or 5-per centum period.

(2) Whenever there has been a determination that a 6-per centum period will begin or end in a State, the State agency shall provide prompt written notice to each individual for whom there has been established a Federal Supplemental Benefit Account in that State of the beginning or ending of such period and its effect on the individual's entitlement to FSB.

**§ 618.22 Payments to States.**

(a) *Federal Supplemental Benefits.* The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State which has entered into an Agreement, either in advance or by way of reimbursement as the Secretary decides in each instance, such amounts as are deemed necessary by the Secretary to make payments of FSB in accordance with the Act and this regulation and the procedures thereunder prescribed by the Secretary; except that the amounts certified shall not include sums for which the State is entitled to reimbursement under the provisions of any Federal law other than the Act. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with the certifications, by transfers from the extended unemployment compensation account in the Unemployment Trust Fund to the account of the State in the Fund.

(b) *Costs of administration.* With the amount certified by the Secretary for payment to each State, pursuant to title III of the Social Security Act, for the purpose of assisting the State in the administration of the State law, there shall be included such amount as the Secretary determines to be necessary for the proper and efficient administration of the Act by the State. Sections 303(a)(8) and 303(a)(9) of the Social Security Act (42 U.S.C. 503(a)(8), 503(a)(9)) shall apply to amounts paid to a State for costs of administration of the Act.

**§ 618.23 Public access to Agreements.**

The State agency will make available to any individual or organization a true copy of the Agreement with that agency for inspection and copying. Copies of an Agreement may be furnished on request to any individual or organization upon payment of the same charges, if any, as apply to the furnishing of copies of other records of the State agency.

**§ 618.24 Information, reports and studies.**

State agencies shall furnish to the Secretary such information and reports and make such studies as the Secretary decides are necessary or appropriate for carrying out the purposes of the Act.

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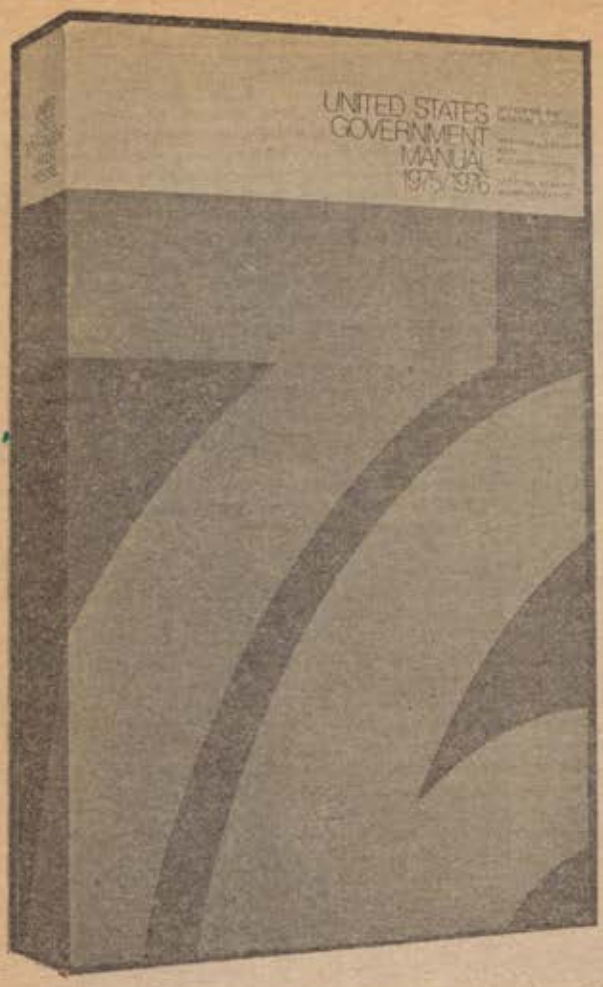


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